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## **BURUNDI POLICY REFORM PROJECT**

### **ASSESSMENT: VICTIMS OF TORTURE COMPONENT JANUARY 2009**

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**Contract No. DFD-I-00-05-00219-00**

The authors' views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

## **Introduction**

The Burundi Policy Reform Program, requested a consultant from its subcontractor, BlueLaw International, to undertake an assessment and programmatic recommendations for implementation of the Victims of Torture Component. Highlights of the consultant's scope of work include the following:

- Undertake an assessment and analysis of the institutional and management capacities of civil society organizations in Burundi that have programs for victims of torture.
- Recommend a program of sub-grants to bolster and enhance the institutional capacities of civil society organizations to provide services to victims of torture.
- Recommend ways to promulgate effective advocacy against torture at community and national levels.
- Recommend a contractual arrangement through local organizations to provide technical assistance to selected civil society organizations for effective management and delivery of VOT services along with along with increased capacities for advocacy against torture.
- Recommend two sites for study tours in other countries for representatives of Burundian organizations involved in services or advocacy related to torture. Provide visit objectives along with selection criteria for participants.

## **Background**

Burundi is recovering from 14 years of civil strife, armed rebellion and instability. Torture exists in the country and is perceived by the international community as a human rights issue for Burundi. The number of incidents of torture is not known, but indigent human rights organizations are aware of cases throughout the country. Within Burundi's population there is a cultural acceptance that torture is tool of the powerful and people in uniform. Generally, acts of torture occur during arrests, during transport or while held in temporary lock-up. It rarely occurs in the prisons. Victims cannot, or will not, identify those who commit acts of torture. Normally, torture victims do not have access to medical assistance that can identify torture marks or scars, and perpetrators of torture undertake measures to cover-up or make physical evidence disappear.

Although Burundi is a signatory to the International Convention Against Torture (CAT), the country's penal code does not include the crime of torture. Burundian judges have not considered torture a serious crime. Many cases are dismissed along with a few lenient sentences. Victims are rarely compensated. A revised penal code that includes torture as a serious crime has been drafted and is expected to become law in the near future.

### **Assessment of VOT services in Bujumbura and other regions of Burundi (Tasks 5.3.1 & 5.3.2)**

There are approximately fifteen Burundian civil society organizations working in the human rights field that have varying degrees of experience and capacity in providing services and/or advocacy for victims of torture. These organizations include groups of lawyers, medical

personnel, women, Christians, volunteers and citizen activists. Each organization has its headquarters in Bujumbura, the capital, with field offices or branches in Burundi's interior. Some have been in existence for more than ten years, and many have had modest grants from international donor organizations. There is evidence of some degree of cooperation, coordination and consultation among the local human rights groups in terms of legal and rehabilitation services to victims of torture. Examples of services provided by these organizations include:

- Legal services to VOT
- Medical services to VOT
- Rehabilitation Services
- Psychosocial and mental health services
- Listening sessions for VOT
- Investigation into cases of torture
- Monitoring of prisons and holding facilities to prevent torture
- Training of social workers and public officials in the prevention, recognition and treatment of torture
- Information and education campaigns regarding VOT
- Advocacy campaigns against torture at community and national levels

Generally, the officers and staff working within the Human Rights CSOs are highly motivated, dedicated individuals. They are not highly compensated, and their posts are not prestigious. Many functions are undertaken by associate members and volunteers. Often, human rights work, and particularly in dealing with torture, is negatively viewed by authorities and persons in uniform. Issues and actions related to victims of torture must be undertaken with sensitivity and some caution in Burundi. Admittedly, there is currently a degree of acceptance and tolerance by authorities of human rights workers, but some fear that there will be less tolerance as the 2010 election period approaches.

The Human Rights CSOs are relatively small organizations with minute staffs and operating budgets that depend on grants from donors. Generally one or two staffers, and no more than four, are devoted to providing legal or medical services for victims of torture. Only two of these organizations have indicated the receipt of grant funds amounting to more than \$100,000. (Both received funds from the previous USAID VOT project). Otherwise, program grants ranged from \$5,000 to \$50,000. Branch or field offices of all the CSOs are extremely austere and are constrained by the lack of staff, equipment and financial resources. Given the dearth of human and financial resources, it is clear that the management capacities of the CSOs working with victims of torture are relatively weak and must be strengthened before they can effectively address the issues related to torture in Burundi.

The majority of torture incidences occur in the interior provinces of Burundi. Many take place outside of the cities in the rural communes. The Burundian Human Rights CSOs all have branch or field offices in the provinces. For the most part, these offices are feeble in

institutional capacity and staffed by one or two persons who are assisted by associate members and volunteers. Given their responsibilities for information campaigns, monitoring, legal assistance, medical and other services to victims of torture, the field personnel are ill-equipped to effectively perform in the vast and far reaches of the countryside. On the positive side, these field offices provide visibility and serve as a deterrent to human rights abuses in the interior of the country. It is obvious that the sub-grants and technical assistance to be provided under the Burundi Policy Reform Project – VOT Component should be directed toward the strengthening and enhancement of institutional capacity of these field operations along with their ability to more effectively provide outreach to rural communes. In a broad assessment of CSO operations in Burundi relating to VOT issues, relative organizational strengths were identified as in the table below

VOT SERVICES	ORGANIZATIONS
Legal Assistance	<p>Burundian Assoc. for the Protection of Human Rights and Detained Persons – (APRODH)</p> <p>Lawyers Without Borders – (ASF)</p> <p>Burundian Human Rights League – (The League Iteka)</p>
Health Services	<p>Christian Action for the Abolition of Torture in Burundi – (ACAT)</p>
Psycho - social	<p>Trauma Healing and Reconciliation Services- (THARS)</p> <p>Transcultural Psychosocial Organization – (TPO Burundi)</p>
Rehabilitation and Social Reinsertion	<p>Burundian Assoc for the Protection of PrisonerRights – (ABDP)</p> <p>Burundian Assoc. for the Protection of Women’s Rights – (ADDF)</p> <p>Foundation for Peace, Unity and Democracy</p>

The table above also provides perspective on the diversity of organizations treating VOT. It was more difficult to assess the organizations’ abilities for effective advocacy related to torture as no advocacy campaigns were underway during the period of the consultants visit. Given the sensibilities surrounding overt publicity or advocacy related to torture practices, the CSOs’ preference is to undertake advocacy campaigns with other groups, preferably international organizations.

A proposal to the Human Rights organizations in Burundi to create a Consortium of Action against Torture (CACT) has the potential to considerably enhance the institutional capabilities of CSOs and provide coherence of actions in addressing torture issues. This proposal was launched in December, 2008 by the Project's VOT leader to create monthly meetings of VOT organizations along with a technical committee of United Nations and Government of Burundi officials from offices responsible for Human Rights issues. The results of the CACT could include coordinated actions in torture cases, improved cooperation with public officials, technical training for CSOs, a consolidated and more reliable data base on torture in Burundi and strengthened institutional capabilities of Burundian CSO. At the same time, this consultant and others are skeptical that the requirements of form, structure and protocol in the group will constrain its ability to undertake concerted and effective actions against torture. Several of the larger CSOs involved with VOT indicated reluctance to participate in the Consortium fearing that it could undercut their independence and operational effectiveness. It was clear that some participants in the newly formed Consortium believe that group activities will be financed by the Burundi Policy Reform Project. If the Consortium evolves into an effective and collaborative group, it will greatly benefit VOT efforts in Burundi. It is recommended, however, that Project not make substantial investments into the promulgation of this group.

### **Barriers to Reforms to Eradicate Torture (Task 5.3.3)**

The Burundian culture has generally accepted torture as the right of authority figures. Although Burundi is a signatory to the International Convention Against Torture, Human rights workers have not been able to successfully convince all levels of Burundian society that the act of torture constitutes a human rights violation. Military personnel, police, politicians and local officials all use forms of torture in the questioning, detention and arrests of suspects, criminals, rebels and opposition members. Currently, the Burundian judiciary does not treat torture as a serious offense although the penal code is in the process of modification to include torture as such. Cases involving torture are buried or move slowly through the bureaucracy. Perpetuators of torture are rarely punished. Generally, government authorities and politicians do not possess the political will to move forcefully against the act of torture in Burundian society.

Often, victims of torture cannot, or will not, identify those who torture them. Medical services after torture are considered to be an expense of the victim and, in most cases, are not available. Civil society organizations providing legal, medical, transport and rehabilitation services to victims are relatively weak and have little capacity in the interior of the country. Compensation is rarely provided to the victim. Rural communities and provinces other than Bujumbura, the capital, do not possess adequate surveillance and monitoring systems to prevent or report cases of torture. Torturers often hide or remove evidence of beatings and wounds of victims.

Please see Attachment A for a listing of organizations attending January 21, 2009 seminar to identify constraints to and priorities for reforms to eradicate torture in Burundi.

### **Priorities for Reforms Related to Torture**

The following suggestions were made as priorities for reforms and related action:

- Synergy and strategic actions to prevent torture and assist victims by civil society and government,
- The harmonization of legislation and the penal code against torture,
- Effective advocacy against torture at national, community and rural levels,
- Information. Education and outreach to rural communities on dealing with torture,
- Rural level monitoring and surveillance systems against torture, and
- Financial support to CSOs in the provision of legal, medical, transportation and rehabilitation services related to torture.

**Issue: Can Objectives of Tasks 5.3.1 and 5.3.2 be Combined?**

Task 5.3.1 of the Burundi Policy Reform - VOT Component is to implement a sub-award program to provide legal services or healing opportunities to at least 125 victims of torture. Task 5.3.2 provides managerial skills through a sub-award to civil society organizations working with victims of torture to expand the availability of legal recourses as well as healing opportunities.

As previously noted in this report, the management and institutional capacities of the civil society organizations currently working with victims of torture in Burundi are relatively weak. This reality along with the fact that the timeframe for achieving the desired results is very short (until the end of September) raises questions as to the viability of an effective sub-grant program. To assure program success, the grant management implications for the Project team will be substantial. The desired results of services and enhanced management skills included in the two tasks are not necessarily exclusive and could be approached jointly. The consultant recommends pairing those organizations receiving sub-awards for legal and medical services with technical assistance to bolster their management capacities and meet the sub-awards objectives. This approach would also facilitate oversight and monitoring of the sub-grants program by the Project. There is a question of whether USAID would accept overlap between the services and the management tasks. In conversations with USAID, the consultant understood that they would be amenable to the combined approach if it enhanced the probability of obtaining the desired results of the VOT Component objectives. Consultant recommends that the Project query USAID as to whether Tasks 5.3.1 and 5.3.2 are literally separate, or if they can be addressed through a combined approach.

**Recommendations for a Sub-grant Program to Civil Society Organizations (Task 5.3.1.)**

The Burundi Policy Reform Project wants to quickly move forward with a program of sub-grants to national civil society organizations addressing the issues of torture. For reasons related to fund disbursement constraints and earmarks, the sub-grant program must be completed by September 30, 2009. This means that services and results anticipated under the program are to be realized by the September deadline. Priorities and deliverables under the program are as follows:

- Direct assistance to 125 victims of torture in medical, legal, healing and/or rehabilitation services.

- Emphasis provided on increasing the institutional capacities of CSO field offices and making VOT services available in rural and remote communities,
- CSOs receiving grants under this program will also agree to utilize management and/or technical assistance that will also be contracted as a complementary intermediary to assist in the process of enhancing their institutional capacities. (This priority is valid if 5.3.1 and 5.3.2 are combined)

A grant program is always preceded by a registration process that assures applicant organizations are genuine and viable institutions. The registration process in the case of the Project's sub-grant program was fulfilled in the submission of detailed identification and information documents by the CSOs to the USAID Burundi Policy Reform Project. The institutional, financial and program operation information submitted by each organization can be considered as enough to register the eligibility of the organization to qualify for assistance under the sub-grant program (see Attachment B – Identification Information for those Organizations Supporting VOT).

The second step in the grant process is to request Concept Papers of 2 to 3 pages from those CSOs who are “pre-registered” and wanting to participate in the sub-grant program. The Concept Papers should contain the following information:

- Purpose Statement. How will this grant increase the capacity of your organization to provide VOT services in field offices and/or in rural communes?
- Personnel, resources and other partners to be used relative to the grant.
- Services, deliverables or project results to be achieved by 30 September 2009, and
- Provide a budget for your activity that will not exceed \$ 50,000.

The review process for the grant applications should be expeditious and consensual by the following individuals with approval and signature in the recommended sequence:

- 1) Gaudence Kabuyenge –VOT Component Leader
- 2) Karen Ottoni –Grant Manager
- 3) Sally Cameron – Chemonics Headquarters Backstop Officer
- 4) Jean Lavoie –Chief of Party
- 5) Chantal Ninteretse – USAID Cognizant Technical Officer

After signature by the USAID Officer, the sub-grant should be disbursed in one or two tranches to the approved CSO organizations. In the majority of cases, grant funds will be disbursed at the beginning of the activity and after a rapid review of progress made toward project objectives. There may be cases where a significant procurement or personnel action would require that the entire amount of the grant be disbursed at the beginning of the activity. If one anticipates between five and ten sub-grants to CSOs, the average grant would

approximate \$25,000. To assure that a range of legal and medical services are included in this grant program, no grant should exceed \$50,000.

### **Recommendations for Management and Technical Assistance to CSOs (Task 5.3.2)**

The consultant carried out a very brief survey in Bujumbura to determine the existence of local consultant firms and/or organizations that could provide the requisite management and technical assistance to CSOs that will be selected as sub-grantees under the VOT program. Interviews were held with representatives of these firms to assess the level of their capacities to provide training, organizational and management support to CSOs in the delivery of legal, medical and other services to victims of torture. Many of the surveyed firms have had prior contracts with international donor organizations, United Nations entities and international private voluntary organizations. They possess qualified consultants and associates and would rapidly respond to a Project's Request for Proposal for management and technical assistance to VOT sub-grantees.

It is recommended that the Project proceed to issue a Request for Proposals that would result in the issuance of two contracts for local management and technical expertise that will assist CSOs working with VOT. One contract will obtain management services that will include assistance to CSO sub-grantees in organizational and personnel management, financial management, project planning and results monitoring. The second contract will obtain technical services to provide training and technical advice to bolster CSO capacities in medical and psycho-social treatment to VOT, improved orientation and counseling services for VOT, rehabilitation services to VOT and approaches to communications and rural outreach. The emphasis in the managerial and technical contracts should be on enhancing the institutional capacities of sub-grantee CSOs to provide VOT services and advocacy through field or branch offices in the interior of Burundi.

Upon determination of the sub-grant awardees and the finalization of the two technical assistance contractors, representatives of the technical assistance firms should immediately meet with the sub-grantee CSOs and conduct a rapid assessment of the institutional capacities of each CSO awardee. A training and TA work plan should be agreed upon between the CSO and the TA providers. This plan should be submitted to the VOT leader for his rapid concurrence.

Technical expertise is also required to ensure the proper conduct of legal counseling and the addressing of VOT legal cases within the various stages of Burundi's judicial system. Given the limited availability of professional legal advisors (lawyers) working in the CSO community, this expertise should be obtained through a subcontract or grant award to one of the organizations that possesses more legal capability than others. The organization providing the legal expertise will devote one or two full time lawyers to compiling formal lists of VOT cases currently within the Burundian legal system. Tracking and reporting on these cases will be done on a monthly basis. Legal strategies will be devised to move cases forward and legal counseling and assistance will be provided to other CSOs involved in legal proceedings related to VOT.

### **TA to Generate Advocacy for Political Reforms to Eliminate Torture (Task 5.3.3)**

The eradication of torture in Burundi requires effective advocacy at several levels. At the national level, advocacy for the reform of laws and attitudes of politicians and officials is

necessary. At the community level, advocacy for the reform of social norms and activities relating to torture must involve primary stakeholders: victims of torture and the populace. BlueLaw International will provide technical assistance to produce advocacy materials and approaches that can be utilized in national and community level advocacy campaigns to eradicate torture in Burundi. The campaign materials will include the utilization of effective examples from other countries adapted to the Burundian context. At the national level the materials will consist of media packages, briefs and texts for politicians, parliamentarians and officials within the Ministries of Justice, Human Rights and Good Governance. An objective in the national advocacy campaign is to assure advancement of the penal code reform to include torture as an offense. At the community level, the advocacy approach will include an appropriate package of anti-torture information, education and communication materials. These materials will be crafted for use by stakeholders, local officials, local media and schools.

BlueLaw will complete and deliver the French language advocacy campaign materials by end of May. In early June, the BlueLaw advocacy consultant will travel to Burundi to deliver the advocacy materials. The consultant will conduct at least two training sessions on effective use of the materials. One training session will be devoted to national level advocacy strategies against torture, and the other to community-based advocacy along with anti-torture information, education and communication strategies. The advocacy materials will be conveyed to the CSO members of the CATC Consortium, and members of the Consortium will be invited to participate in the training sessions. The advocacy campaign materials should be available and featured in the June 26th International Victims of Torture Day in Burundi.

### **Victims of Torture Study Tours (Task 5.3.5)**

The Burundi Policy Reform - VOT Component objectives call for the participation of at least 25 members of victims associations in international study tours to bolster the capacities of their organizations to address torture-related issues at the community level. The consultant found that this is a valuable and necessary objective in the context of Burundi's current human rights situation. Given the condensed calendar for the initiation and completion of all activities under the VOT component, it was recommended that the study tours take place in the latter portion of the implementation schedule (July/August). The proposal to conduct the study tours at a later point in the VOT project implementation schedule is based on the following reasons:

1. To assure that the legal and medical services component of the awards program is met and to offer study tour participation to those individuals and/or organizations who successfully contribute to the objectives of the VOT program.
2. Host organizations of the study tour will have greater availability during the July/August timeframe.
3. There is a significant amount of preparatory work to assure the successful organization and conduct of the study tours.

BlueLaw proposes to immediately commence the planning process for the VOT study tours. Accordingly, Julie Merton and Sudhir Mahara will devote a total of 16 work days to this process. The objectives for the study tour planning will include:

- To propose and outline curriculum and specific activities for the study tours,
- To contact and confirm the roles and responsibilities of the host entities (organizations and individuals) that will be involved in the implementation of the tours,
- To develop itinerary of the study tours in the countries of South Africa and Cambodia,
- To provide task lists and check list for pre-departure preparations.
- To define deliverables of planned activities and reporting related to study tours, and
- To outline plans for the final events, such as seminar with study tour participants and other relevant ceremonies with public relations and capacity building value.

Upon return of the study tour participants, they will participate in a project-sponsored seminar to share information, findings, network and institutional contacts with the community of CSOs working on VOT issues in Burundi. The Consultant recommended, and it was generally agreed, that the study tour participants should include at least three Burundian public officials involved in human rights reform. It is recommended that these include one Parliamentarian, one member of the Executive Branch (Ministry of Human Rights, Ministry of Good Governance or Ministry of Justice) and one judge from the Judicial Branch. USAID officials agreed that appropriate persons from the three branches should be included in the study tours, and suggested that the Project formally amend its contract through a letter to the USAID CTO advising the change in composition of the study tour participants.

A process for the selection of study tour participants will be utilized to assure quality participation and transparency. Several criteria and a point system have been proposed in a preliminary manner (see Attachment C, Selection Criteria for Participation in Study Tours). BlueLaw International will review the proposed criteria and submit revisions and/or additional recommendations to the VOT leader after review of this report.

BlueLaw International is in the process of concretizing arrangements for the VOT Study Tours. We recommend that South Africa be the site of the regional tour and Cambodia be the site of the international tours. Both countries have histories, institutions and civil society organizations that address support for torture victims as well as advocacy around the prevention and punishment of torture. Both are utilizing international standards in their work. We believe that both countries will provide an appropriate context for the Burundian study tour participants along with opportunities for relevant institutional and personal networking. Among others, South Africa contains the following institutions relevant to the study tours:

- The Center for the Study of Violence and Reconciliation
- The South African No Torture Commission
- Institute for Healing of Memories
- Khulimani Support Group, Contact Center
- The Southern Africa Center for Survivors of Torture
- The Trauma Center for Survivors of Violence and Torture
- The South Africa Human Rights Commission

- University of the Western Cape

Cost considerations could limit the South African trip to either Johannesburg or Cape Town. BlueLaw International will determine which site will best accommodate the Burundi delegation and advise as arrangements are finalized. Cambodian institutions include:

- The Center for Victims of Torture
- Transcultural Psycho-Social Organization
- International Rehabilitation Council for Torture Victims
- Project Against Torture of LICADHO (Cambodian League for the Promotion and Defense of Human Rights)

The courts of Cambodia have issued a recent ruling allowing victims of torture and civil society participation in proceedings. This will be interesting and relevant for the Burundi participants. In addition to the seminar in Burundi where four participants will discuss findings and implications of the study tours, BlueLaw International will provide a report to the VOT leader on persons and sites visited along with our perspective of the trip's benefits to Burundi's human rights efforts related to torture. Given the many details in processing and preparing participants for the study tours, BlueLaw International will engage a local contract individual to work with the VOT leader on pre and post trip arrangements. Study tour participants should be selected by early June. The tours will occur in July and August 2009, and the seminar including returned participants and the Human Rights CSO community will be held in September as a concluding activity to the VOT project.

### **Follow-on work by BlueLaw International**

Based on the consultant's discussions with Project staff in Burundi, follow-on actions by BlueLaw related to assisting Burundian CSOs in capacity building and advocacy are recommended. They include:

1. A consultant to develop advocacy and media communication approaches related to torture prevention that is effective in the Burundian political and social context and will be utilized by Human Rights CSOs working there.
2. In June, the consultant will return to Burundi to conduct an informal mid-term evaluation on the sub-grants to CSOs. He will determine if there is progress toward objectives and anticipated results. He will also observe and participate in activities commemorating the International Day for Victims of Torture on June 26th. He would be accompanied by a French speaking BlueLaw attorney to assess attitudes and progress related to legislative and judicial reform on torture issues.
3. BlueLaw will contract with a local individual who will coordinate with and process study tour participants. This person will conduct and participate in CSO training exercises as directed by the VOT leader. Finally, the contractor will assist in organizing the seminar for returned study tour participants. He will send a report to

Chemonics and BlueLaw on the seminar, participant's inputs, and generally reaction of others to tour participant's reports

4. A BlueLaw specialist will accompany the study tour participants on the trips to South Africa and Cambodia.

BlueLaw will submit the following details to Chemonics for approval:

- Terms of Reference for advocacy technical assistance along with level of effort to be utilized by BlueLaw under 5.3.3.
- Terms of Reference for a BlueLaw local contractor to assist with inputs related to advocacy campaign and processing of study tour participants.
- Terms of Reference for informal sub-grant program evaluation trip to Burundi by Golden in June, 2009 and,
- Proposed realignment of total BlueLaw LOE under the VOT Component.