IBUKA Submission on the Working Document of the Justice, Reconciliation, Law & Order Sector Strategic Plan: July 2013 to June 2018

I Executive Summary

IBUKA applauds the Working Document of the Rwanda Justice, Reconciliation, Law and Order Sector (JRLOS) Strategic Plan: July 2013 to June 2018 ('Working Document') which documents that "the Sector will continue making efforts to prosecute alleged perpetrators [of the 1994 genocide against the Tutsi] and to seek ways and means to provide redress, including compensation for victims." This acknowledges the commitment made in the Economic and Development Poverty Reduction Strategy of 2008 – 2012 (EDPRS I) that "an effective system for compensating victims will be established by 2010" which has yet to be delivered.[1] As such, IBUKA and our member organisations document in this submission that it is critical to ensure that the new JRLOS II Strategic Plan not only reiterates that commitment, but also includes an effective means to monitor and track progress towards its delivery through an explicit output currently lacking in the working document.

II Introduction

In October 2012, IBUKA with seven of our member organisations submitted to the President of the Republic of Rwanda a discussion paper on "Recommendations for Reparation for Survivors of the 1994 Genocide against the Tutsi" (Discussion Paper) which outlined four possible mechanisms for the establishment of a compensation fund.[2] It concluded that to progress the issue it is critical that an independent Task Force on Reparation is mandated to generate a consensus view on deciding on the best way forward in providing genocide survivors with adequate reparation in the form of rehabilitation, restitution and compensation that is meaningful to survivors, feasible and adequately funded.

We have limited the focus of our submission to this matter, in particular responding and commenting on Outcome 3 of the Working Document, calling for an additional output that reflects the goal of EDPRS I, to "deliver an effective system for compensating victims of the 1994 genocide against the Tutsi" towards which the establishment of a Task Force on Reparation will be a critical first step.

References to the current draft of the JRLOS II Strategic Plan (as of 12th October 2012) are italicised with comments of IBUKA below.

[1] "The sector will consolidate the genocide memory and reinforce means of assistance to genocide survivors. Special attention will be given to the monitoring and protection of human rights in general, and those of women, children, PLHIV and vulnerable groups in particular. An effective system for compensating victims will be established by 2010, while those convicted of crimes will be helped to re-integrate into society after serving their sentences…." Page 85 (4.151), EDPRS 2008-2012: http://siteresources.worldbank.org/INTRWANDA/Resources/EDPRS-English.pdf

[2] For the discussion paper, see http://survivors-fund.org.uk/wp-content/uploads/2012/10/Right-to-reparation-Final.pdf

III Comments on Section 3.3 of JRLOS II Strategic Plan

3.3. OUTCOME 3: IMPUNITY FOR INTERNATIONAL CRIMES, AND GENOCIDE IDEOLOGY, EFFECTIVELY COMBATED, TRUTH-TELLING AND RECONCILIATION STRENGTHENED

The two outputs under outcome 3 are:

Outputs:
Output 1: Prosecution and enforcement of judgements for genocide and other grave crimes accelerated
Output 2: Community level dialogue, civic education and awareness raising to combat genocide ideology intensified

IBUKA commends the inclusion of both outputs in the JRLOS II Strategic Plan, but calls on the inclusion of a specific and explicit output to "deliver an effective system for compensating victims of the 1994 genocide against the Tutsi". At present Output 1 includes possible annual targets relating to this output, such as in year one a "Policy on the human right to redress, including compensation for victims of genocide, developed and adopted by Cabinet."[3] However, to ensure progress towards delivery of compensation for survivors, it requires more than policy alone. Execution of that policy is also critical, which must then be monitored to ensure that the failing of EDPRS I to deliver such an effective system for compensating genocide victims to date is not repeated.

Through a disaggregation of this output in the JRLOS II Strategic Plan, it is hoped that there will be a harmonisation of the outputs with EDPRS II currently in development which will parallel this commitment and ensure a prioritisation of the issue which to date has been lacking. The case for restorative justice for survivors is documented in detail by IBUKA in the Discussion Paper which focuses on holding to account the perpetrators of the genocide and provide reparation to survivors, with a view to contributing to reconciliation and enabling survivors to rebuild their lives, in accordance with the purpose of JRLOS to combat impunity, promote a culture of peace and strengthen reconciliation.

Introduction

The National Unity and Reconciliation Commission (NURC) has defined unity and reconciliation as "a consensus practice of citizens who have common nationality, who share the same culture and have equal rights; citizens characterised by trust, tolerance, mutual respect, equality, complementary roles/interdependence, truth, and healing of one another's wounds inflicted by our history, with the objective of laying a foundation for sustainable development."[4] The reconciliation process in Rwanda focuses on reconstructing the Rwandan identity, consolidating civic education, promoting peace education as well as conflict prevention and management.

NURC reports progress and Rwanda Reconciliation Barometer 2010 has indicated that social cohesion has increased. However, the reconciliation process faces a range of challenges. These include the persistence of genocide ideology, misrepresentation of Rwandan history, the challenges of healing the physical and psychological wounds of individuals, groups and society; a past marked by multifaceted violent conflicts that culminated in genocide and armed conflict - and ***impunity and delay in execution of restitution judgements*** *(emphasis added).*

It is important that the JRLOS II Strategic Plan recognises the challenge of "impunity and delay in execution of restitution judgements." Ever since the first cases relating to crimes committed during the genocide were prosecuted before specialised chambers in 1996 through to the completion of gacaca in 2012, the delay or, in the majority of cases, the failure to enforce restitution - as well as compensation

[3] Page 41, JRLOS II Strategic Plan (12 10 10)
[4] As quoted in Rwanda Reconciliation Barometer (RRB) 2010.

awards - by ordinary as well as gacaca courts has been and remains to be a critical obstacle to reconciliation as long as it is not addressed.

The 1996 Organic Law on the *Organisation of Prosecutions for Offences Constituting the Crime of Genocide or Crimes against Humanity Committed Since October 1 1990"* provided that "the ordinary rules governing denunciations, complaints and civil actions are applicable to cases before the specialised chambers" and provided survivors with the possibility to commence a private prosecution.[5] Article 32 of this law furthermore provided that damages awarded to survivors who had not been identified should be deposited in a victims compensation fund, "*whose creation and operation shall be determined by a separate law."* Until the creation of such a fund, all damages awarded by the courts were to be deposited in a special account at the National Bank of Rwanda.[6]

From 1996 up to the establishment of gacaca courts in 2001, survivors participated in approximately 2/3 of all criminal cases before specialised chambers in ordinary courts as "*partie civile*" or civil parties (claimants). Approximately 50% of survivors who lodged complaints for compensation against individual perpetrators were awarded compensation for material prejudice and/or moral grief. Initially, courts awarded very generous amounts of compensation, with reportedly close to $100 million USD having been awarded after about 4,000 people had been tried.[7] The basis for awards is not clear, as court judgments differed substantially in the awards made (e.g. for the loss of a husband, courts awarded between 250,000 and 8 million Rwandan Francs (RWF) (approximately $400 and $ 13,000 USD), often without providing further explanation on how these awards were arrived at.[8]

Civil claimants also lodged claims for compensation against the Rwandan state. Even though the state was declared jointly liable with the accused in several cases, and compensation awards were made against the state, none of these civil verdicts against the state were enforced.[9]

To date, none of the compensation awards by national courts against individual perpetrators and/or the state have been fully enforced. This is due to a number of reasons, mainly the inability of indigent perpetrators to pay the awards or an unwillingness to pay the awards. In some instances, according to interviews with survivors carried out by SURF and REDRESS, perpetrators avoided payment by bribing those responsible for the enforcement of compensation awards.[10] Furthermore, none of the survivors and Government officials interviewed by REDRESS and SURF could confirm that any damages awarded by the courts had been deposited at the National Bank of Rwanda as provided for in the 1996 Organic Law.

The introduction of gacaca courts by Organic Law No. 40/2000 drastically reduced the opportunities for survivors to file complaints for compensation as civil parties. First, contrary to international law,[11] the Organic law declared civil actions against the State inadmissible *"on account of it [the government] having acknowledged its role in the genocide and that in compensation it pays each year a percentage of its annual budget to the Compensation Fund. This percentage is set by the financial law."*[12] This provision not only prevents survivors from claiming compensation from the state, but also led to the dismissal of

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[5] Organic Law No. 08/96 of 30 August 1996 on the Organisation of Prosecutions for Offences Constituting the Crime of Genocide or Crimes Against Humanity Committed Since October 1, 1990, Article 29 (1), (2), (3), ANNEX 3.

[6] Ibid, Article 32.

[7] International Crisis Group, Africa Report No 30, 7 June 2001, p.33, at:

http://www.crisisgroup.org/~/media/Files/africa/central-africa/rwanda/International%20Criminal%20Tribunal%20for%20Rwanda%20Justice%20Delayed.pdf.

[8] Stef Vandeginste, 'Reparation pour les victimes de genocide, de crimes contre l'humanite et de crimes de guerre au Rwanda', in 'L'Afrique des Grands Lacs. Annuaire 2000-2001', p.10.

[9] Ibid, pp.12-13.

[10] Interview with survivor, Kigali, 10 December 2010; interview with a civil party, Kigali, 21 December 2010.

[11] According to the principle of continuity, successor States can be held accountable for violations committed by the predecessor State, see for instance Menno T. Kamminga, 'State Succession in Respect of Human Rights Treaties', in European Journal of International Law (1996), pp. 469-484.

[12] Organic Law No 40/2000 Setting up Gacaca Jurisdictions and organising prosecutions for offences constituting the crime of genocide or crimes against humanity committed between October 1, 1990 and December 31, 1994, Article 91.

compensation awards issued against the State by the specialized chambers as the law was applied retroactively. Second, the law stipulated that aside from Category I suspects, accused of being most responsible for the genocide, all other genocide related cases were to be tried before gacaca courts. However, before these courts, survivors could only file claims for compensation in regards to material losses and bodily damages, as gacaca courts were not vested with the power to award moral damages.[13]

Gacaca courts were to draw up a list of victims who suffered material losses or bodily harm and make an inventory of those losses, as well as allocate damages. All judgments by both ordinary and gacaca courts awarding compensation for material and body damages were to be forwarded to *"the Compensation Fund for Victims of the Genocide and Crimes against Humanity", with the Fund to "fix the modalities for granting compensation".*[14] Accordingly, the establishment of a Compensation Fund would have enabled survivors to enforce their reparation award through it, rather than against the individual perpetrator, which would have helped to overcome the major obstacles to the enforcement of awards against individual perpetrators and/or the state. The Compensation Fund would have also assisted in providing reparation to survivors in cases where perpetrators had not been identified.

A subsequent reform of Organic Law No 40/ 2000 in 2004, provided that "*other forms of compensation for victims are to be determined by a particular law*," thereby opening up the possibility for survivors to claim for non-pecuniary damages, subject to the adoption of a particular law.[15]

In short, the promised Compensation Fund was a key component of the legislation establishing gacaca as it would have helped survivors to obtain reparation.

However, the Compensation Fund has still not been established. According to the National Service of Gacaca Jurisdictions (NSGJ), gacaca courts have not yet compiled a list of damages and losses.[16] The majority of survivors cannot enforce gacaca judgments and thus have not received any, or only a fraction of the actual compensation awarded for pecuniary damages. Research published this month by Legal Aid Forum (Rwanda) based on interviews with over 2,700 claimants of compensation in Rwanda confirms that awards by gacaca courts are the "hardest to enforce", with 92% of all genocide-related judgements yet to be enforced.[17]

Current legislation governing the jurisdiction of gacaca is silent on survivors' right to claim damages, as relevant provisions of Organic Law 40/2000 and subsequent legislation on gacaca have been repealed. Furthermore, since 2009, the right of survivors to take civil action against Category I suspects has been limited by the Law establishing the *Fond d'Assistance pour les Rescapés du Genocide* (FARG) which determines that: "Only the Fund is entitled to [bring a] civil action on behalf of the victims of the Tutsi genocide, and other crimes against humanity, against persons convicted of crimes classifying them in the first category."[18] FARG has yet to take such civil action on behalf of survivors, yet the provision is already of concern to survivors and lawyers seeking to act on their behalf in cases against Category I suspects. Lawyers interviewed by SURF and REDRESS in Rwanda believe that this provision is incompatible with Rwanda's Constitution which expressly provides victims of crime with a right to have

[13] Ibid, Article 90, limiting the possibility for survivors to claim reparation to restitution of property or, alternatively, claim for compensation for property and bodily related damage only.

[14] Organic Law No 40/2000 of 26 January 2001 Setting up Gacaca Jurisdictions and organising prosecutions for offences constituting the crime of genocide or crimes against humanity committed between October 1, 1990 and December 31, 1994, Article 90, ANNEX 4.

[15] Organic Law No 16/2004 of 19 June 2004 Establishing the organisation, competence and functioning of gacaca courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between October 1, 1990 and December 31, 1994, Art. 75, ANNEX 5.

[16] Interview with Interview with Domitilla Mukantaganzwa, Executive Secretary NSGJ, Kigali, 28 March 2012.

[17] Power Point Presentation at Conference convened by the Legal Aid Forum, Kigali, June 2012, copy on file with the organisations.

[18] Organic Law No 69/2008 of 30 December 2008 relating to the establishment of the Fund for the support and assistance to the survivors of the Tutsi genocide and other crimes against humanity committed between 1st October 1990 and 31st December 1994, and determining its organisation, powers and functioning, Article 20, ANNEX 6.

their case heard.[19] The provision also discriminates against survivors when compared to victims of 'ordinary crime' who are expressly entitled to file claims for compensation as civil parties under existing Rwandan law.[20] The unconstitutionality as well as discriminatory character of the FARG law has been challenged by IBUKA in a recent submission to FARG.[21]

Gacaca courts closed officially on 18 June 2012. Remaining genocide cases are to be prosecuted before ordinary or, where applicable, military courts. It is unclear how this will impact upon survivors' right to claim for compensation. Equally, it is as yet unclear how thousands of compensation and/or restitution awards by gacaca courts that have not yet been enforced will now be handled. IBUKA tabled a submission on the new law on the termination of gacaca, seeking clarification on the proposed articles,[22] yet it appears that only a few of its concerns unrelated to reparation, were taken into consideration.

What is clear, however, is that the vast majority of survivors to date have not received any of the compensation and/or restitution awarded by national courts and gacaca. The promises over the past eighteen years to establish an effective system of compensating victims of the genocide, such as that included in EDPRS I, have raised hopes and expectations among survivors that have yet to be fulfilled. The lack of enforcement of court and gacaca judgments has a significant adverse impact upon survivors' lives as well as on survivors' perceptions of the justice processes initiated by the Government - and third countries and the UN ("international community") - to date:

- Survivors interviewed by SURF and REDRESS expressed that justice has not been served, as it has not included compensation;

- Interviews and seminars organized by IBUKA and our partner organizations suggest that the inadequate responses to calls for compensation and restitution slows down if not hamper progress in reconciliation;[23]

- Survivors have expressed their fear that their right to compensation will never be addressed, especially now that gacaca is closing down and that the ICTR is coming to an end;[24]

In light of the above, IBUKA submits that the establishment of an effective system of providing adequate reparation to survivors is long overdue. It is a problem that affects hundreds of thousands of survivors in their daily lives, and it is necessary to progress with the establishment of such a reparation system and to ensure that the matter is prioritised in the JRLOS II Strategic Plan.

All of these challenges impact upon JRLOS in one way or another and its history demonstrate that impunity for such grave crimes fuels future conflict. The present Strategy considers that key policy actions are needed to combat impunity and encourage productive and solution-oriented discussion of Rwanda's history of genocide and conflict. Such dialogue is needed at grassroots level to increase a

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[19] Constitution of the Republic of Rwanda, 4 June 2003, Article 19; REDRESS/ African Rights workshop organised with Kigali based lawyers, 15 August 2011.

[20] See for instance Law No 13/2004 of 17 May 2004 Relating to the Code of Criminal Procedure, O.G. Special No of 30 July 2004, Articles 9-17,at http://www.amategeko.net/display_rubrique.php?ActDo=ShowArt&Information_ID=1333&Parent_ID=30693517&type=public&Langue_ID=An&rubID=30693524#30693524.

[21] IBUKA and its constituent Member Organisations, 'Submission on the FARG Draft Report compiled by GPO Partners, Rwanda (May 2012)', Addendum 'Submission on No 69/2008 of 30/12/2008 Law relating to the establishment of the Fund for the support and assistance to the survivors of the Tutsi genocide and other crimes against humanity committed between 1st October 1990 and 31st December 1994, and determining its organisation, powers and functioning ANNEX 1.

[22] IBUKA submission to the Parliament of Rwanda on 'Draft Organic Law Terminating Gacaca Courts Charged with Prosecuting and Trying the Perpetrators of the Crime of Genocide and Other Crimes against Humanity, Committed Between October 1, 1990 and December 31, 1994, 26 March 2012, ANNEX 2.

[23] Interview with Kigali based lawyer, 5 January 2011; workshop organised by SURF, African Rights, REDRESS with IBUKA, AVEGA, AERG, GAERG, Solace Ministries, Kigali, on 8 November 2010; workshops organised by SURF and REDRESS with IBUKA in March 2012.

[24] Interview with IBUKA, Kigali, 4 November 2010; interview with AVEGA, Kigali, 4 November 2010.

human rights based understanding of Rwandaness as the national identity, rather than one formed from an exclusionary view based on ethnicity.

Analysing the causes and effects in relation to the problem of persistence of genocide ideology includes the following based on the analysis conducted during the Strategic Planning Exercise:

Causes of the persistence of genocide ideology and challenges to unity and reconciliation process:

- ***Lack of clear policy on compensation to the genocide victims [emphasis added]***
- *Process of judgement of genocide cases still on-going*
- *History of bad governance*
- *Political manipulation of ethnic groups*
- *Distortion and manipulation of Rwandan history (mind-set)*
- *Poverty and ignorance*
- *Generation mind-set change*
- ***Delays in execution of judgments (restitution)(emphasis added)***

Effects of the persistence of genocide ideology and challenges to unity and reconciliation

- ***Slow compensation of victims [emphasis added]***
- ***Existence of psychological trauma [emphasis added]***
- *Considerable number of vulnerable groups (orphans, widows, family of perpetrators)*
- *Negativism and revisionism regarding the genocide*
- *Distortion of social cohesion (loss of social values)*

IBUKA notes that the analysis conducted during the Strategic Planning Exercise confirms that the "Lack of clear policy on compensation to the genocide victims" and "Delays in the execution of judgments (restitution)" are contributing factors to "Causes of the persistence of genocide ideology and challenges to unity and reconciliation process". Furthermore, it is important to note that "Slow compensation of victims" and "Existence of psychological trauma" are "Effects of the persistence of genocide ideology and challenges to unity and reconciliation."

These findings underline the importance of prioritising the development and delivery of an effective system of comprehensive reparation for survivors, including through restitution, compensation as well as rehabilitation to address psychological trauma. That the draft of the JRLOS II Strategic Plan recognises that "impunity for such grave crimes fuels future conflict" is testament to how critical this output is to the strategy of fostering reconciliation in Rwanda.

Considering the country's past, JRLOS efforts are considered essential. Two outputs are recommended under this outcome to pave the way towards the JRLOS goal. For reconciliation to be effective, it needs to be based on justice for victims of acts of genocide as well as other international crimes. In addition, combating impunity for any crime, but especially these most grave ones, by bringing suspects before the courts and compensating victims are sine qua non conditions for an effective criminal justice system. Through this outcome 3, the Sector will continue making efforts to prosecute alleged perpetrators and to seek ways and means to provide redress, including compensation for victims.[25]

IBUKA applauds acknowledgement that "For reconciliation to be effective, it needs to be based on justice for victims of acts of genocide… by bringing suspects before the courts and compensating victims… and to seek ways and means to provide redress, including compensation for victims." However, in the draft JRLOS II Strategic Plan, the importance of this goal of "compensation of victims" is not reflected in the outputs of the strategy, under which compensation is referred to just once as a possible

[25] In this context it is noted that in November 2010 Rwanda (as part of its UPR) has undertaken to "*respond effectively to the request for information by the Human Rights Committee in 2009 regarding the follow-up given to the recommendations related to forced disappearances, assassinations, summary and extrajudicial executions*". See http://www.upr-info.org/-Rwanda-.html

annual target under Output 1 in the context of a "Policy on the human right to redress, including compensation for victims of genocide, developed and adopted by Cabinet."

To reflect the priority of achieving this goal of a policy on the human right to redress within the five years of JRLOS II Strategic Plan, IBUKA propounds that it is critical to disaggregate this goal into an explicit output, with its own target goals, some of which were included in the earlier draft of the JRLOS II Strategic Plan, but which have since been removed.[26] Developing an effective system for redress as a separate output, with its own targets, is not only merited in light of the importance of this issue, but will also enable effective monitoring of progress towards its realisation.

It is possible to envisage the development and delivery of such an effective system for redress within the timeframe of the JRLOS II Strategic Plan, which may include the following possible annual targets:

Year 1

- Establishment of a Task Force on Reparation mandated with responsibility for:
  - identifying the number of past compensation and restitution awards of national courts and gacaca that have yet to be implemented
  - identifying awards made where perpetrators were too poor to compensate;
  - exploring possibilities for reparation for victims whose perpetrators have not been identified;
  - consulting with survivors and survivor organisations throughout Rwanda to identify their needs and determine adequate measures of reparation;
  - establishing criteria for beneficiaries of reparation in regards to indirect victims;
  - recommending the establishment of a reparation programme that includes forms of reparation and types of disbursement of such reparation that are meaningful to survivors, feasible and adequately funded.
- Publication of the Task Force on Reparation report
- A national conference on reparation convened to discuss report
- Strategic Plan developed to deliver the effective system of reparation recommended

Year 2

- A reparation law to be drafted and enacted by Parliament in line with the recommendations of the Task Force on Reparation and in consultation with civil society, including survivors' organisations
- Redress plan, including compensation levels developed in accordance with agreed policy
- Funding secured so as to set up a meaningful reparation fund
- Execution policy determined for the disbursement of compensation awards

Year 3

- Redress (including compensation, restitution and rehabilitation) plan countrywide executed
- Annual review and report of the reparation system
- Refinement of the model and mechanism of disbursement of reparation to improve and strengthen process
- Documentation of the reparation system
- Further funding secured if required to extend the reparation scheme

[26] JRLOS II Strategic Plan (draft of 12 07 10), included the following possible annual targets under Output 1 of Outcome 3 (page 45):

Target Year 2

§ Redress plan, including compensation levels developed in accordance with agreed policy

§ Initial phase of redress plan, including compensation, executed

Target year 3:

§ Redress (including compensation) plan countrywide executed

Through recognising the delivery of an effective system of providing victims of genocide with reparation as Output 3 within Outcome 3 of the JRLOS II Strategic Plan, and explicitly including such targets as those proposed above, it will enable progress to be monitored to ensure realisation of this critical goal.

Access to justice for victims of a crime includes the execution of a criminal judgement once it is rendered (see closely related outcome 2). Gacaca courts are phasing out, but the problem of executing Gacaca judgements is still a challenge. On the one hand, it is understood to be impossible for restitution to come from perpetrators alone due to the poverty of many such convicts. On the other hand, there are people who are not willing to pay recompense for what they damaged or illegally seized during the genocide. The present Strategy envisages creating a database of outstanding judgements not executed and evaluating individual income levels in order to assess the capability to pay restitution. Developing a clear policy on restitution including feasible compensation is a key policy action under this Strategy as the State is the primary duty-bearer with the obligation to address problems of restitution.

IBUKA applauds the recognition of the "the problem of executing Gacaca judgements." As we note above, through the research of the Legal Aid Forum, and separately by SURF and REDRESS, it remains a critical challenge for survivors which requires to urgent redress. A commitment to establish a database of outstanding judgements of gacaca will be a critical step in determining a possible disbursement policy for an effective system of compensating victims of genocide.

Due to the sensitivity of the judgements, and the potential ongoing threat to survivors from released perpetrators that retain a motive to continue targeting survivors to negate payment of compensation, it is critical to ensure that any documentation of judgements is handled with utmost delicacy. One proposal may be to consider survivors undertaking that documentation process.

Examples of activities that will be undertaken in support of key policy actions include the following. Development of a compensation policy and action plan based on a wide and inclusive consultation process countrywide. A national conference on the execution of Gacaca judgements (covering the experience in the various districts) to facilitate the process of restitution. An international conference to raise the awareness of the international community regarding the efforts made by Government of Rwanda to implement the human right to redress for victims of international crimes including acts of genocide. This issue of compensation for genocide victims is addressed under Outcome 2 – Output 5.

The issue of compensation for genocide victims is not addressed under Outcome 2 – Output 5 of the JRLOS II Strategic Plan. The output focuses on the improvement of execution of judgements, but does not specifically relate or reference gacaca judgements, nor address the issue that is most common in awards of compensation made in such cases, that the perpetrator is often indigent and thus unable (but also in many documented cases, often unwilling as well) to honour such awards.

However, as the previous paragraph notes "Developing a clear policy on restitution including feasible compensation is a key policy action under this Strategy as the State is the primary duty-bearer with the obligation to address problems of restitution." As this submission documents, the importance of the role of the State in addressing the issue of reparation – which includes rehabilitation and compensation, as well as restitution – is paramount if an effective system for compensating victims of the genocide is to be established.

The examples of activities noted here, such as a national conference on gacaca judgements, and an international conference to raise awareness of redress for victims of international crimes including acts of genocide, are important, but only in the context of an explicit output of delivering an effective system for compensating victims of the genocide. As such, the importance of recognising this output explicitly within the JRLOS II Strategic Plan.

Expected result of this outcome after five years: Impunity for international crimes, and genocide ideology, effectively combated; with truth-telling and reconciliation strengthened.

IBUKA submits that the expected result of this outcome should include restorative justice for victims of the 1994 genocide against the Tutsi, made possible and monitored through the proposed Output 3 to deliver an effective system of reparation for victims of the genocide.

As such, the expected result of this outcome after five years would be: "Impunity for international crimes, and genocide ideology, effectively combated; with truth-telling and reconciliation strengthened; and restorative justice for victims of the 1994 genocide against the Tutsi delivered.

The current Working Document makes important references to the need for survivors to obtain reparation in the forms of restitution, compensation and rehabilitation. It underlines that the failure to provide such reparation has negative repercussions not only on survivors themselves, but on society as a whole, as it is one factor preventing reconciliation and unity. These findings are concurrent with findings of IBUKA and other survivor and human rights organisations. In light of the important role reparation plays for survivors and society as a whole, and in line with the goals of the JRLOS to *'seek ways and means to provide redress, including compensation for victims'* we therefore urge the JRLOS working group to include the issue of reparation as a separate Output 3 with specific targets to effectively monitor and track progress towards the establishment of a comprehensive reparation policy.

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