



Rwanda: Researched and compiled by the Refugee Documentation Centre of Ireland on 12 February 2010

Information on the Gacacca (Gacaca) courts in Rwanda.

The *US Department of State's* annual report on Rwanda states:

“Gacaca courts served as the government's primary judicial process for adjudicating hundreds of thousands of genocide cases and were created to ensure that those who participated in the genocide were brought to trial. (The government estimated that adjudicating the caseload in conventional courts would have taken decades.) Defendants in gacaca courts can present witnesses and evidence on their own behalf, although witnesses were sometimes reluctant to testify for fear of reprisals, mainly in the form of accusations of complicity in the alleged crimes at issue. Defendants can appeal gacaca proceedings at sector-level courts. Lawyers are not permitted to participate officially in gacaca but can testify as private citizens.” (US Department of State (25 February 2009) *Rwanda: "Country Report on Human Rights Practices 2008"*)

Human Rights Watch in its annual report on Rwanda states:

“Community-based gacaca courts and national conventional courts continued to try individuals for crimes committed during the 1994 genocide. Gacaca courts were expected to close in June 2009, but the National Service of Gacaca Jurisdictions (SNJG) unexpectedly began gathering new allegations in parts of the country and extended the deadline to December. While some Rwandans feel the gacaca process has helped reconciliation, others point to corruption and argue that the accused receive sentences that are too lenient, or are convicted on flimsy evidence. The government increasingly but unsuccessfully called for foreign jurisdictions, including the International Criminal Tribunal for Rwanda (ICTR) in Tanzania, and several European countries, to return genocide suspects to Rwanda. It vehemently rejected calls for the ICTR to prosecute crimes committed by the Rwandan Patriotic Front in 1994.

Gacaca Jurisdictions

Corruption and undue influence by local authorities and other prominent community members marred gacaca proceedings, undermining trust among victims and the accused. According to the SNJG, gacaca courts have decided nearly 1.6 million genocide cases since their start in 2002. Recent cases increasingly related to government silencing of political dissent and private grievances, rather than events from 1994, led many Rwandans to flee the country to escape condemnation or perceived threats of renewed prosecution.

Gacaca courts spent much of the year trying thousands of sexual violence and other particularly serious cases, and imposed mandatory lifetime solitary

confinement for convicted persons. In the absence of legislation setting out the implementation of this punishment, prison authorities did not isolate prisoners. Rape victims uniformly expressed disappointment at having to appear in gacaca rather than conventional courts, as gacaca proceedings-even behind closed doors-failed to protect their privacy." (Human Rights Watch (20 January 2010) *Rwanda: "World Report 2010"*)

Amnesty International in its annual report on Rwanda states:

"In October, an estimated 10,000 category one cases were pending before gacaca courts, whose procedures fail to meet international standards of fair trial. Category one cases involve the planners, organizers, instigators and supervisors of the genocide. Of these, at least 6,000 were rape cases which were transferred to category one in May 2008.

Gacaca trials were reportedly marred by false accusations and corruption. In addition, defence witnesses were reluctant to come forward because they feared that the authorities would level false accusations against them.

On 21 January, a gacaca judge in Karana sector was accused of trying to bribe a prosecution witness. The case was at the appeal stage and the accused had been sentenced to 27 years' imprisonment." (Amnesty International (28 May 2009) *Rwanda: "Annual Report 2009"*)

IRIN News reports:

"Gacaca courts have tried at least 1.5 million cases (with about 4,000 pending). However, at least 100 genocide survivors, have been killed - most of them after testifying against suspects in these courts, according to the umbrella organization for survivors, IBUKA.

"Most [survivors] who have testified in these courts are traumatized because genocide suspects and convicts single them out for revenge," said Theodore Simburudari, president of IBUKA." (IRIN News (23 June 2009) *RWANDA: Jury still out on effectiveness of 'Gacaca' courts*)

A report on judicial reform in Rwanda from *Human Rights Watch* states:

"When gacaca jurisdictions were established in 2001, they were meant to judge all but the most serious crimes of genocide (those of category one), which were left to the conventional courts. It was hoped that the gacaca process would speed the resolution of the huge backlog of cases, reduce the prison population, and contribute to reconciliation.

Gacaca jurisdictions brought together modified elements of customary practices for resolving conflicts and aspects of a conventional state-run punitive justice system.[23] In essence it involved popularly elected judges deciding cases related to the genocide before a gathering of the local population. The judges,

who were to guide the hearings and then finally to deliver the verdict of the community, were chosen on the basis of their integrity rather than their formal learning. Some did not read or write, although all received several days of training on the relevant laws and procedures. The transparency of the process and participation of the entire community was supposed to assure the legitimacy of the proceedings and to protect the rights of all participants, making unnecessary the kinds of fair trial guarantees provided by Rwandan law and international conventions. The accused had no access to counsel in gacaca jurisdictions, for example, although that right is guaranteed by the Rwandan constitution and by the International Convention on Civil and Political Rights to which Rwanda is party.[24]" (Human Rights Watch (July 2008) *Rwanda: "Law and Reality: Progress in Judicial Reform in Rwanda"*)

References

Amnesty International (28 May 2009) *Rwanda: "Annual Report 2009"*
<http://report2009.amnesty.org/en/regions/africa/rwanda>
(Accessed 12 February 2010)

Human Rights Watch (20 January 2010) *Rwanda: "World Report 2010"*
<http://www.hrw.org/en/node/87596>
(Accessed 12 February 2010)

Human Rights Watch (July 2008) *Rwanda: "Law and Reality: Progress in Judicial Reform in Rwanda"*
<http://www.hrw.org/en/reports/2008/07/24/law-and-reality?print>
(Accessed 12 February 2010)

IRIN News (23 June 2009) RWANDA: Jury still out on effectiveness of `Gacaca' courts
<http://www.irinnews.org/Report.aspx?ReportId=84954>
(Accessed 12 February 2010)

US Department of State (25 February 2009) *Rwanda: "Country Report on Human Rights Practices 2008"*
<http://www.state.gov/g/drl/rls/hrrpt/2008/af/119019.htm>
(Accessed 12 February 2010)

This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

Sources Consulted:

Amnesty International

European Country of Origin Information Network
Human Rights Watch
Immigration and Refugee Board of Canada
Online newspapers
Refugee Documentation Centre Library
Refugee Documentation Centre Query Database
UNHCR Refworld
US Department of State