Rwanda: The minimum age that a person must have been at the time of the genocide in 1994 to be able to testify before the gacaca courts; cases of people who were asked by gacaca court authorities to bear false witness and recourse available to such people (2005-March 2010)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

Minimum age of witnesses

In correspondence sent to the Research Directorate on 12 March 2010, an assistant professor of political science at the University of South Carolina, whose doctoral thesis is on the gacaca courts, explained that Rwandan law on the gacaca courts does not specify a minimum age that a witness must have been at the time of the genocide in 1994 in order for that person to testify before the gacaca courts (Assistant Professor 12 Mar. 2010). According to an undated manual published by the Supreme Court of Rwanda regarding the law on gacaca courts, [translation] “even minors who might have information can participate” and speak before the general assembly of the gacaca court in the cell (Rwanda n.d., 34). The general assembly of the gacaca court in the cell is the most local gacaca court authority (ibid., 13), where the accent is on the participation of all those concerned or interested in [translation] “telling the story of the genocide “ and in [translation] “bringing the truth to light” (ibid., 34).

The Assistant Professor stated that in 2005, she personally observed a court proceeding in which a young girl of about 12 years old, who was therefore a baby at the time of the genocide, was authorized by the judges to testify (Assistant Professor 12 Mar. 2010). The Assistant Professor stated that the child had testified before a lower court a few months earlier (ibid.). Other examples of testimony from minors could not be found among the sources consulted by the Research Directorate. However, the minimum age that an accused person must have been during the 1994 genocide in order to be judged before a gacaca court is 14 years (ibid.; University Researcher 10 Mar. 2010; Rwanda n.d., 100).

False testimony

In correspondence sent to the Research Directorate on 10 March 2010, a university researcher from the Centre for Socio-Legal Studies at the University of Oxford who is an expert on gacaca courts stated that, despite his extensive research in Rwanda since 2003, he has never heard of people being asked to bear false witness by gacaca court authorities (10 Mar. 2010). The University Researcher noted however that both the accused and the survivors of the genocide sometimes
pressure witnesses into modifying or falsifying their testimony (10 Mar. 2010).

The Assistant Professor noted that she was not personally aware of any specific cases in which gacaca court authorities have tried to influence witnesses (or judges) (12 Mar. 2010). However, she stated that it is possible that that happens because representatives of the local political authorities “often intervene directly into local gacaca court processes” (Assistant Professor 10 Mar. 2010). According to the same source, that kind of intervention is more likely in cases that the government considers to be “sensitive” or in cases that could have political consequences (ibid.). The Assistant Professor also stated that some judges who were involved in certain cases over which they were presiding have manipulated the proceedings (ibid.). In one case, the president of a tribunal tried to suppress witnesses’ testimony against a member of his family in 2004-2005 (ibid.).

In its annual report, Human Rights Watch also indicates that “[c]orruption and undue influence by local authorities and other prominent community members marred gacaca proceedings, undermining trust among victims and the accused” (Jan. 2010). In an article published on 5 December 2009, the Rwandan daily, The New Times, reported that survivors of the genocide were accusing the Busanza gacaca court, in the district of Kicukiro, province of Kigali, of failing to act with impartiality because it was attempting to re-try a case and had stated that the witnesses had given false testimony (The New Times 5 Dec. 2009).

Information on recourse available to people who are forced to bear false witness could not be found among the sources consulted by the Research Directorate.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

References

Assistant professor in political science, University of South Carolina. 12 March 2010. Correspondence sent to the Research Directorate.


University researcher, Centre for Socio-Legal Studies, University of Oxford. 10 March 2010. Correspondence sent to the Research Directorate.

Additional Sources Consulted

Oral sources: Attempts to contact a representative of the Service national des juridictions gacaca du Rwanda were unsuccessful. Three experts on human rights or on Rwanda were not able to provide information within the time constraints for this Response.

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