

Immigration and Refugee Board of Canada

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> Responses to Information Requests

Responses to Information Requests

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4 October 2012

RWA104195.E

Rwanda: Whether the gacaca courts are still operational; if not, the new mechanisms for solving issues that were under the jurisdiction of gacaca courts (July 2010-Sept. 2012)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Gacaca Courts

Gacaca courts are community-based courts that were set up to try cases related to the 1994 genocide (UN 2 June 2011; BBC 18 June 2012; Human Rights Watch 2011). These courts were introduced in 2001 (*The Guardian* 11 Jan. 2012; RNW 21 June 2012; Al Jazeera 19 June 2012). Sources report that the gacaca courts tried approximately two million cases (*The Independent* 29 June 2012; UN 18 June 2012; *The New Times* 19 June 2012).

2. Closure of Gacaca Courts

Sources indicate that the closure of gacaca courts has been postponed several times (LDGL 19 Sept. 2012; Human Rights Watch 2011). Various sources report that gacaca courts closed on 18 June 2012 (*The Independent* 29 June 2012; Al Jazeera 19 June 2012; LDGL 18 Sept. 2012; UN 18 June 2012). In correspondence with the Research Directorate, a lecturer in comparative and international politics at the School of Oriental and African Studies of the University of London, who published a monograph entitled *The Gacaca Courts, Post-Genocide Justice and Reconciliation in Rwanda: Justice Without Lawyers*, also stated that gacaca courts closed in June 2012 and explained that

[n]o further individuals will be summoned to gacaca. The courts were closed because the Rwandan government considered that they had completed their backlog of genocide cases and, after a decade of operation, the courts were proving too taxing on the domestic population, which played a central role in gacaca as locally elected judges and weekly participants in hearings. The government has now turned its attention to gathering and digitalising the millions of pages of gacaca records assembled during the lifespan of the courts. (lecturer 13 Sept. 2012)

Corroboration on specific reasons for the closure of the gacaca courts could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Mechanisms for Solving Issues that Were Under the Jurisdiction of Gacaca Courts

The *New Times*, a Kigali-based English language newspaper (*The New Times* 25 June 2011), reports that, according to the President of the Kigali Bar Association, cases that were not settled by the gacaca courts will be sent to the ordinary courts (ibid. 19 June 2012). In correspondence with the Research Directorate, a representative of the Great Lakes Region Human Rights League (Ligue des droits de la personne dans la région

des Grands Lacs, LDGL) similarly indicated that the prosecution and punishment of offences constituting the crime of genocide, which were under the jurisdiction of the gacaca courts, are now under the jurisdiction of the Intermediate Courts, the Primary Courts and the Mediation Committees (LDGL 18 Sept. 2012). There are 12 Intermediate Courts (Rwanda n.d.a), 60 Primary Courts (ibid. n.d.b) and 2,150 Mediation Committees across the country (ibid. n.d.c). According to the website of the Supreme Court, the Intermediate and the Primary Courts handle civil and criminal cases (ibid. n.d.a; ibid. n.d.b). The website of the Ministry of Justice indicates that the Mediation Committees "have jurisdiction over civil disputes of a low value and low category criminal cases. In practice, they typically deal with cases related to land, succession, family, paternity, matrimonial, domestic abuse, common assault and theft" (ibid. n.d.c). The Mediation Committees, also called Abunzi, were introduced in 2006 (Rwanda n.d.d). Similar to gacaca courts, the Mediation Committees were inspired by the traditional dispute resolution system in Rwanda, "particularly in the form of family meetings" (ibid.). The Rwanda Governance Board indicates that Mediation Committees provide "a framework for mandatory mediation prior to filing cases in ordinary courts hearing at first instance" (ibid.). Mediation Committees are meant to resolve disputes among individuals from the same community or the same family (ibid.). These courts are designed to decentralize justice and make it accessible (ibid.; ibid. n.d.c). According to the website of the Ministry of Justice, the Mediation Committees are composed of volunteers and the services they provide are free (ibid.).

The *Organic Law No 04/2012/OL of 15/06/2012 Terminating Gacaca Courts and Determining Mechanisms for Solving Issues Which Were Under Their Jurisdiction* stipulates that the following offences "constituting the crime of genocide perpetrated against Tutsi and other crimes against humanity" shall be tried at the first instance by an Intermediate Court:

1. offenses or criminal participation acts aimed at planning, organising, inciting, supervising and leading the crime of genocide or other crimes against humanity, committed by a person with his/her accomplices;
2. acts constituting the crime of genocide perpetrated against Tutsi and other crimes against humanity committed between October 1, 1990 and December 31, 1994 by a person who, at that time, was in the organs of leadership, at national and prefecture levels with his/her accomplices. (Rwanda 2012, Art. 4)

The law indicates that the following offences are in the jurisdiction of the Primary Court:

1. acts constituting the crime of genocide perpetrated against Tutsi and other crimes against humanity committed between October 1, 1990 and December 31, 1994 by a person who, at that time, was in the organs of leadership at sub-prefecture or commune level: in public administration, political parties, communal police, religious denominations, or illegal militia groups or encouraged other people to commit them, with his/her accomplices;
2. acts of rape or sexual torture, committed by a person with his/her accomplices;
3. homicide;
4. acts of torture;
5. dehumanising acts on a corpse;
6. serious attacks against others causing death;
7. causing injuries or committing other serious attacks against people, with intention to kill them, even if the objective was not accomplished;
8. other criminal acts against persons without any intention of killing. (ibid., Art. 5)

Article 6 of the law states that

[n]otwithstanding of the value of the subject matter and the address of the parties to proceedings, offences related to looting and damaging of property committed between October 1, 1990 and December 31, 1994, which were within the jurisdiction of Gacaca Courts shall be tried by the Mediation Committees applying laws governing these committees regardless that they were committed by civilians, *gendarmes* or soldiers. Offenders shall be ordered to pay compensation. (ibid., Art. 6)

According to Article 7 of the law,

[a]cts constituting the crime of genocide perpetrated against Tutsi and other crimes against humanity committed by a soldier or a gendarme between October 1, 1990 and December 31, 1994, which were within the jurisdiction of Gacaca Courts but not relating to looting and damaging property shall be tried at the first instance by the Military Tribunal. (ibid., Art. 7)

Article 10 of the law states that judgements rendered by the gacaca courts can be reviewed by a "competent court" in the following cases:

1. if a person is convicted of homicide by a Gacaca Court final judgment and after the person alleged to have been killed is found alive;
2. if a person is definitively convicted of homicide by a Gacaca Court and it is the only crime to which he/she is convicted, and later another person is convicted of the same crime where there is no complicity between the two;
3. if, after a person has been acquitted by a Gacaca Court final judgement, it is found beyond reasonable doubt that there is reliable information disclosed during the period of collecting information, unknown at the time of adjudicating the case and which however proves his/her criminal responsibility;
4. if a person has been convicted or acquitted by a Gacaca Court final judgement and later it is found that the bench which rendered the decision was corrupt, as decided by a competent court. (ibid., Art. 10)

Information on the cases related to genocide brought before the above-mentioned courts 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

Al Jazeera. 19 June 2012. "Rwanda Closes 'Gacaca' Genocide Courts." <<http://www.aljazeera.com/news/Africa/2012/06/201261951733409260.html>> [Accessed 31 Aug. 2012]

British Broadcasting Corporation (BBC). 18 June 2012. "Rwanda 'Gacaca' Genocide Courts Finish Work." <<http://www.bbc.co.uk/news/world-africa-18490348?print=true>> [Accessed 31 Aug. 2012]

The Guardian [London]. 11 January 2010. Homa Khaleeli. "Rwanda's Community Courts: a Unique Experiment in Justice." <<http://www.guardian.co.uk/world/2010/jan/11/Rwanda-gacaca-courts/print>> [Accessed 31 Aug. 2012]

Human Rights Watch. 2011. "Rwanda." *World Report 2011: Events of 2010*. <<http://www.hrw.org/world-report-2011/rwanda>> [Accessed 11 Sept. 2012]

The Independent [Kampala, Uganda]. 29 June 2012. "Out of Session-Gacaca Courts Formally Close as President Kagame Scoffs at ICTR." (Factiva)

Lecturer, University of London, UK. 13 September 2012. Correspondence with the Research Directorate.

Ligue des droits de la personne dans la région des Grands Lacs (LDGL). 19 September 2012. Correspondence sent by a representative to the Research Directorate.

_____. 18 September 2012. Correspondence sent by a representative to the Research Directorate.

The New Times [Kigali]. 19 June 2012. "Rwandans Reflect on Gacaca as Trials Come to an End." <<http://www.newtimes.co.rw/news/index.php?i=15028&a=54971>> [Accessed 20 Sept. 2012]

_____. 25 June 2011. "About Us." <[http://www.newtimes.co.rw/news/index.php?action=Pages&page=5&t=About Us](http://www.newtimes.co.rw/news/index.php?action=Pages&page=5&t=About+Us)> [Accessed 20 Sept. 2012]

Radio Netherlands Worldwide (RNW). 21 June 2012. Clive Muhenga. "Rwanda: Gacaca Courts Close but Genocide Wounds Still Open." <<http://allafrica.com/stories/printable/201206220254.html>> [Accessed 11 Sept. 2012]

Rwanda. 2012. *Organic Law No 04/2012/OL of 15/06/2012 Terminating Gacaca Courts and Determining Mechanisms for Solving Issues Which Were Under Their Jurisdiction*. Sent by a representative of the Ligue des droits de la personne dans la région des Grands Lacs to the Research Directorate.

_____. N.d.a. Supreme Court. "Intermediate Courts." <<http://www.supremecourt.gov.rw/sc/Supremecourt.aspx>> [Accessed 26 Sept. 2012]

_____. N.d.b. Supreme Court. "Primary Courts." <<http://www.supremecourt.gov.rw/sc/Primarycourts.aspx>> [Accessed 26 Sept. 2012]

_____. N.d.c. Ministry of Justice. "Mediation Committees." <<http://www.minijust.gov.rw/moj/mediationcommittees.aspx>> [Accessed 26 Sept. 2012]

_____. N.d.d. Rwanda Governance Board (RGB). "Abunzi." <<http://www.rgb.rw/main-menu/innovation/abunzi.html>> [Accessed 2 Oct. 2012]

United Nations (UN). 18 June 2012. Auke Lootsma. "Les tribunaux chargés de juger le génocide achèvent leurs travaux au Rwanda." <<http://www.undp.org/content/undp/fr/home/presscenter/articles/2012/06/18/genocide-courts-finish-work-in-milestone-for-rwanda-s-healing/>> [Accessed 28 Sept. 2012]

_____. 2 June 2011. Integrated Regional Information Networks (IRIN). "Rwanda: Rape, Justice and Privacy." <<http://www.irinnews.org/printreport.aspx?reportid=92876>> [Accessed 14 Sept. 2012]

Additional Sources Consulted

Oral Sources: Attempts to contact representatives of the following organizations were unsuccessful: Avocats sans frontières; La Commission nationale des droits de la personne; Ibuka; Rwanda – Embassy of Rwanda in Washington DC, Judiciary, Ministry of Justice, Office of the Ombudsman of Rwanda, Permanent Mission of Rwanda to the UN, Rwanda High Commission in Ottawa, Supreme Court in Kigali.

Attempts to contact academics of the following educational institutions were unsuccessful: Faculty of Law, University of Cambridge; Justice and Violence Research Centre, University of Sussex; Political Science and African Studies, Vassar College.

Internet sites, including: Amnesty International; Avocats sans frontières; La Commission nationale des droits de la personne; Consultancy Africa Intelligence; ecoi.net; e-International Relations; Europa World Plus; Factiva; Faculty of Law, University of Cambridge; Fédération internationale des ligues des droits de l'homme; Freedom House; Hironde News; *The Huffington Post*; Hunt Alternatives Fund; Ibuka; Inkiko-Gacaca; Institute for Security Studies; Institute for War and Peace Reporting; *Jane's Intelligence Review*; Lawyers Without Borders; Ligue des droits de la personne dans la région des Grand Lacs; Ligue rwandaise pour la promotion et la défense des droits de l'homme; Minority Rights Group International; Montreal Institute for Genocide and Human Rights Studies, Concordia University; National Centre for Peace and Conflict Studies, University of Otago, New Zealand; *New Internationalist Magazine*; Ottawa public library; Penal Reform International; *Political Handbook of the World*; Reporters Without Borders; Rwanda – Embassy of Rwanda in Washington DC, National Commission for the Fight Against Genocide, Legal Information Portal, National Public Prosecution Authority, Office of the Ombudsman, Permanent Mission of Rwanda to the UN, Rwanda High Commission in Ottawa; School of Oriental and African Studies, University of London; University of Ottawa library; UN – Integrated Regional Information Networks, Office of the High Commissioner for Human Rights, Refworld, UN Development Program, UN Women; US – Central Intelligence Agency, Department of State.

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