

## **I. EDITORIAL.**

After going through ordinary courts of law in an effort to address genocide-related problems in the area of justice only to realize that if things keep going that way, trying the persons accused of involvement in the genocide will take scores of years, Rwanda established Gacaca Courts as a system of justice that is punitive, reconciliatory and likely to speed up genocide trials.

This programme started in 2000 with recruitment of staff and purchase of materials and equipment deemed necessary. In only a couple of years, all Gacaca Courts were supplied with equipment and materials as well as judges, called persons of integrity in this specific context.

To ensure easy follow-up of the functioning of those new courts, only a few of them were actually allowed to start their operations in order to see how they work and capitalize on strong points and move forward, and get their aim right in order avoid pitfall and even make amendments where appropriate for laws are enacted to govern and organize the human society.

On 18 June 2002, His Excellency the President of the Republic of Rwanda officially launched the activities of Gacaca Courts for the pilot phase. The following day, on 19 June 2002, Gacaca Courts of Cells in 12 Sectors identified in Provinces and the City of Kigali started collecting information.

Five months later, it was noted that things were moving forward rather smoothly and it was decided to increase the number operational Gacaca Courts, from 12 to 118 Sectors ; from that time, Gacaca Courts were operational in each District and municipality across the country as they stood at that time.

Activities of Gacaca Courts lasted quite a long time in those Sectors because trials had to commence right from the end of the phase of collecting information. The phase of trials started on 10 March 2005.

While trials went on in pilot phase, everywhere else in all the Cells of the country, Gacaca Courts were stepping in the first phase of their activities, namely the phase of collecting information which started on 15 January 2005.

In this report, we register the results achieved during this phase which extended over a whole year during which the Inyangamugayo (persons of integrity) carried that activity in collaboration with different leaders from bottom to the top of the State. Also mentioned in this report are the difficulties met all along the same period while collecting information. This report underscores the crucial work to be done during the trial phase as it shows the figures of persons accused of genocide across the country as per District, people still living inside the country and those who live abroad, persons who have never been detained and those who passed away before being tried, etc.

As it appeared that the number of accused persons increases, during the trials, mostly with regard to the trials of persons who confess their crimes plead guilty repent and apologize, figures currently available will undoubtedly increase as well.

We thank all the persons who took part in data collection exercise because, by so doing, they contributed to laying a firm foundation for Rwanda's reconstruction based on the truth, source of real unity and reconciliation of the people of Rwanda.

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## **I. INTRODUCTION**

We should recall that data collection started on 15 January 2005, in the whole country, in the Gacaca Courts Cells 8,262, which represents 92% of Gacaca Courts of all the Cells amounting to 9,013.

Data collection exercise also kept on in Gacaca Courts of some pilot Cells which had gone through a number of problems which resulted in delaying that activity. Data collection was conducted in two important steps, namely:

- Data collection at Cell level by the population and their leaders;
- Submission of collected information to the General Assembly of the Cell headed by Gacaca Court of the Cell for adoption and ownership.

Collected information is of the following three types:

- Information relating to the preparation of the genocide in the Cell;
- Information relating to implementation of the genocide and its consequences in the Cell;
- Information on the role of each accused person.

After collecting information, the next step consisted in establishing the lists of the accused, classifying them into different categories and preparing their judicial files (Sheet of the accused).

Judicial files of the accused persons falling in the first category are forwarded to the Parquet (Public Prosecution Office) of each Province and the City of Kigali; those of accused persons falling in the second category are forwarded to Gacaca Courts of the Sectors whereas those of accused persons falling in the third category are dealt with by Gacaca Courts of the Cell.

## **II. DIFFICULTIES MET**

Though backed by all national institutions, this programme of collecting information has gone through a number of difficulties, including the following:

- The genocidal ideology which was present almost everywhere in the country and was aimed at jeopardizing Gacaca Court activities;
- Endangering the security of genocide survivors, of persons who confessed their crimes and pleaded guilty as well as other witnesses and persons of integrity of Gacaca Courts ;
- Destruction of notebooks where collected data was recorded or notebooks thrown into latrines;
- Persons going into exile allegedly because of Gacaca Courts whereas they actually flee justice;
- A quite big number of persons elected as Inyangamugayo who were later on recognized as having committed genocide;

- The big number of officials who committed genocide and who used their positions in a bid to interfere with the smooth running of Gacaca Courts ;
- Persons who moved from areas where they used to live during the genocide in attempt to avoid being made accountable for the crimes they committed there;
- Using Gacaca Courts to intimidate other people in order to traumatize them and this attitude is detrimental to the objective of reconciliatory justice;
- Some leaders of Nyumbakumi who refused to preside over Gacaca Court meetings especially when they knew some top officials and their friends such as tradesmen or other persons were to be prosecuted;
- The fact that some high ranking authorities did not rush to give information so that often information was collected from local communities;
- Collecting information from some specific areas like secondary schools, the National University of Rwanda has often proved extremely difficult;
- Little attention paid to information given by persons who were under age at the time of genocide.

### **III. DISTINCTIVE FEATURE OF THE CITY OF KIGALI**

In the City of Kigali, apart from problems identified in other Provinces, particular problems were registered essentially due to the fact that city dwellers are often away from their homes, live of various activities and are not independent workers, so much so that many efforts have had to be made in order to bring employers to understand and abide by their duty to authorize their employees to attend Gacaca Court meetings.

The City of Kigali has experienced the following problems:

- Weak participation as compared with the rural area;
- Some Cells registered so many delays that they are still at the data collection phase.

### **IV. SOME MEASURES THAT CONTRIBUTED TO FACILITATING DATA COLLECTION EXERCISE**

- Setting a day specifically dedicated to Gacaca Courts activities in each District;
- Quick replacement of Inyangamugayo of Gacaca Courts accused of involvement in the genocide;
- Removing from office all authorities who used their positions to interfere with the smooth running of Gacaca Courts ;
- Enhancing security measures around Gacaca Courts ;
- Carrying on the sensitization programme mostly with regard to confession and guilt plea procedure, repentance and apologies;
- Sensitizing all community members to attend and get actively involved in Gacaca Courts activities;

## **SECOND PART: ACHIEVEMENTS REGISTERED DURING DATA COLLECTION PHASE**

Lots of information were collected during this phase as evidenced by the figures recorded in this report. We deemed necessary to show those figures as per District and even by administrative Sector from time to time.

It should be noted that when we mention the administrative sector in the context of Gacaca Courts, one should understand Sectors as they stood before the administrative reform of December 2005, when the Rwandan territory was structured into 1545 Sectors.

Figures in this report essentially deal with the number of:

- Accused persons whose list was established by Gacaca Courts and then classified into three different categories;
- Genocide survivors;
- Persons arrested as accomplices;
- Accused persons who are not living in the country;
- Persons who committed genocide and who passed away.

All these figures are shown in the tables annexed to this report.

## CONCLUSION

The data collection phase, which extended over more than a year and a half, has faced various kinds of difficulties. Most significant ones are exposed in this report. Data collection also revealed that the role of a big number of persons registered on the list of the accused was brought to light by Gacaca Courts. This means that the latter are slowly but surely heading into the right direction of achieving their prime objective of establishing the truth about the genocide.

Though the ideology of genocide, mostly consisting in a strategy of silence evidenced by some people's refusal to disclose their own or their relatives' role in the genocide is still rampant in many areas of the country, many are accused persons determined to tell the truth before Gacaca Courts. By so doing, those people help the latter achieve their objective of speeding up genocide-related trials, as is the case for trials taking place in rural areas.

On the other hand, people who resolve to remain silent are interfering with the smooth functioning of Gacaca Courts, because their silence leads to their being sentenced to severe penalties, often reaching 30 years behind bars, thus tarnishing the image of Gacaca Courts as reconciliatory justice.

Analysis of the results from data collection led to some recommendations being made and which, obviously, were there implemented, would contribute to making this program successful. They include the following:

- Speeding up the process of amending Organic Law n°16/ 2004 of 19/06/2004 determining the organization, competence and functioning of Gacaca courts as this could pave the way for the establishment of many benches for Gacaca Courts, introduction suspension of punishment in the range of penalties to be imposed by Gacaca Courts, a better understanding of the roles of institutions,.... ;
- Toughening measures to ensure the security of witnesses and especially that of survivors and Inyangamugayo of Gacaca Courts;
- Putting in place mechanisms enabling grassroots authorities to encourage persons accused of having destroyed, damaged or looted other persons' property to hand them back or pay some compensation to their former owners in an amicable settlement;
- Hastening the setting up of the Compensation fund for Genocide Survivors;
- Continuing fighting against genocidal ideology.