

Relations 2005 Progress on the State of Gacaca Courts

LIPRODHOR, October 20, 2005

Progress of Gacaca Courts

After the crisis has crossed Liprodhor, monitoring the activities of courts continued across the country through the antennas League. As this crisis has shaken the structure of volunteer facilitators rights (AVDHs) who helped in monitoring , it took reinvigorate the latter forming the facilitators.

After the formation of 106 AVDHs (1 District), steps were undertaken with the National Service of Gacaca Courts (SNJG) also to obtain their permits observation. Obtaining this piece has more coverage of jurisdictions. It was appreciated that the NSGC no longer requires the guise of the National Commission on Human Rights (CNDP) to grant the permit observation, thus accelerating the achievement of the latter.

Liprodhor participated in a meeting organized by the SNJG with civil society organizations involved in the gacaca process on the draft amendment to the Organic Law Gacaca force.

In the meantime, the community service (TIG) began officially 25 September 2005. Liprodhor observed off and was able to visit sites of execution.

Some observations on the phase of collecting information

The reports of the antennae Liprodhor show some pertinent observations on the progress of Gacaca activities in areas covered by these antennas. According to the National Service of Gacaca Courts, at 30/06/2005, reports on the information gathering phase showed that 52.569 people had confessed and pleaded guilty in 9013 Gacaca courts in the country.

The activities of these courts are going well in general, but sometimes serious irregularities have been noted in some jurisdictions. These include :

- The confusion of the information gathering phase and the trial phase : the defendants tend to intervene to present their defense honest and often left to. It is the same for participants who harass the speaker questions or summit to explain as if it were the actual trial (This is not the case when the victim is subject to arrest), or who qualify as misleading or insufficient information supplied. Also noteworthy arrests and detentions on decisions of gacaca. The most famous were those of General Laurent Munyakazi Major of the gacaca sector Rugenge, Nyaru-

genge district, in the City of Kigali, and that of a Belgian Catholic missionary Theunis by the gacaca court of Ubumwe cell, sector Rugenge, Nyarugenge district in Kigali City. Emphasize that he was not allowed the accused to be assisted by his lawyer while Article 18 Rwanda's Constitution recognizes the right of defense .

In addition to the arrest of these individuals, one can also talk about mandatory appearances before the gacaca courts, imposed on large political and administrative personalities, religious, Military,... Who were serving under the former regime. Some are still in office. One can cite here the Archbishop of the Archdiocese of Kigali (Master Thadée Ntihinyurwa) who appeared before the gacaca court in Cyangu, Prime Minister Bernard Makuza, the Interior Minister Christophe Bazivamo, several deputies : J. Baptiste Butare, Kabanyana julienne, Bisengimana Elisha, Maybe Etienne, Desire Nyandwi, Nshizirungu Anselme (colonel), Senator Nzirasanaho, Mukezamfura Alfred then President of the Chamber of Deputies in the National Assembly. He was asked some of them to resign. This is J. Baptiste Butare, Kabanyana julienne, Magari and Etienne.

Also appeared of army officers who were in the Armed Forces ex Rwandaises (FAR) : General Marcel Gatsinzi (Current Defense Minister) which was convened by the gacaca court in Butare, Maj. Gen. Laurent Munyai, and Major Gatarayiha to mention only those.

Some prefects of the provinces have also been called : Hategeka Augustin of the province of Gitarama et Rucagu Boniface of the province of Ruhengeri. For the latter, It is said that he wanted to voluntarily provide information, but

his name came up often among those indicted for genocide.

- Arrestations et Detention abusives : some inyangamugayo (honest people) who do not know the law or interpret it wrong often led to the arrests and detentions. This is essentially the application of the law Articles 30 & 71. We should also mention here the case of a cell Sherb Shara, secteur Muganza commune, District Bugarama sent to jail for refusing to sit on the floor while holding the meeting gacaca. In some cases, it was enough for someone to be cited in the information provided to be taken to prison without his given time to explain. The case of Commissioner Lawrence Nkongolin of the National Commission of Human Rights illustrates the case. He was sentenced by the gacaca court of Bugarama-City sector 3 hours put in prison for taking notes during the hearing gacaca.

-Interference by administrative authorities is questioned : the case of honest judges of the gacaca court of the cell Nyakayogera, sector Nemba, district de Nyamugali, Ruhengeri Province, is more meaningful. Every seat has resigned after being forced by the police in connivance with the district coordinator gacaca, to sign a document to release a Mabonye sentenced to 3 months in prison by the same court, but released after 3 days . The reports of the antennae also leave a few cases seem to settle accounts between people.

- Threats and intimidation of witnesses : although the situation is not alarming, few cases where witnesses especially dependents were threatened were reported by the reports of antennae. The case of Ms. Privat Naramabuye threatened by the gacaca court in the cell Nyabishunju, sec-

teur Muganza commune, district de Bugarama (the 22/6/2005). There are few cases of false imprisonment as the merchant's Banguwiha Gaëtan cell Gatobotobo, secteur trail, Butare, subjected to threats and intimidation by people he had implicated in his testimony, before being sentenced unfairly 3 months in prison. His stories have involved some judges and their relatives inyangamugayo. Arrested 5/8/2005, He was released on 22/8/2005 through advocacy in collaboration with Liprodhor LDGL.

If the most recent torture is the Rumanyika Aimable, Cell Gatare, Nyamirambo sector, district de Nyamirambo. He was intimidated, threatened before being severely tortured by Emmanuel Mugabowishema. He believes that this measure was sponsored by a group of 5 people (he has identified) for their refusing to acknowledge the genocide unfairly named Javan Rwamigabo.

-Exile of the population : since April 2005, there have been departures in exile to neighboring countries (Burundi, Tanzania, Uganda et RD Congo). The more massive headed to Burundi. The figures mentioned officially stood at some point in 8.000 refugees in Burundi only, from all districts and Kibingo Mugombwa province of Butare. According to statements by the refugees themselves, most have fled the gacaca courts after the information gathering phase.

Others have asserted that they had fled Liprodhor rumors of possible ethnic killings, in settling scores against the Hutu Tutsi. But authorities have contacted basic rejected these claims, Instead they pointed to other reasons for departures, ie :

- The fear of being indicted for genocide by the recently released by the

presidential press held. Some of these former prisoners would provide false testimony against their neighbors .

- Excessive poverty : people flee in search of kitchen equipment, pièces de plastic sheeting, rations, ... Provided by UNHCR.

- The common crimes such as theft, Debts, assault and battery, vandalism, ...

After multiple visits Rwandan political authorities for refugee camps in Burundi, many came home. Some of these returnees say they have been forced repatriation, This is also the opinion of some other sources of UNHCR and organizations human rights in Burundi, while the Rwandan authorities speak of voluntary repatriation after sensitization. Nevertheless, Recent reports indicate other departures respectively to Burundi and Tanzania.

Between July and September 2005, Saga District Mugombwa sector recorded 97 Departures, mostly young people including students from primary school. The departure of Tanzania 12 persons was reported in the district Gatore Rusumo (district frontalière) à Kibungo. It is said that such departures affect other border provinces such as Byumba, Ruhengeri, et Gisenyi.

- False testimony / accusations : Some people machineraient charges against neighboring pure hatred or enmity .

Phase judgments

This phase was launched on 10/3/2005 nationwide.

According to information from the Executive Secretariat of the National Service of Gacaca Courts, judgments rendered in the first degree by Ga-

caca Courts to 30 June 2005 amounted to 2052. Some 504 had appealed. At the same time, a significant number of honest judges and political and administrative authorities had been called into question. It was respectively 14.885 and 15.687. These authorities are all administrative levels, of nyumbakumi (Chief 10 households) the highest authorities of the country.

Judicial decisions concerning, 187 persons were acquitted. For the rest, penalties range from 1 to 30 years in prison. The lower the penalties range from 1 and 3 years in prison while the upper threshold is between 28 and 30 years. The table of judgments leaves out the sentence of imprisonment 30 years has been applied in almost all provinces of the country, except in Kibuye and Ruhengeri where the maximum penalty previously was applied 28 years in prison.

We must also mention the arrests made following the application of Articles 29 and 30 Organic Law of Gacaca. During this phase of judgments, 213 people came to be incarcerated 30 June 2005, cons 372 incarcerated during the phase of information gathering. On the same date, 211 persons were in detention decided by the Gacaca. Liprodhor observed trials in all districts and cities, through its branches and leaders of human rights.

The draft amendment to the Organic Law gacaca

At a meeting (15/9/2005) chaired by the Executive Secretary of the NSGC, it has brought to the attention of institutions involved in the process of gacaca the existence of a draft amendment to the Organic Law on Gacaca force. Ms. Domitilla Mukanta-

ganzwa said that the proposals on the new law provide for the establishment of a national gacaca court in each district may try defendants in the first category, which were usually tried by ordinary courts. The Executive Secretary of the NSGC also said that from January 2006, the trial will start in all countries of the gacaca. She also said that the draft of the new law proposes reducing the number of defendants in the first category by placing a portion of the second component in the. It also proposes the reduction 7 the number of judges and the minimum quorum 5, the creation of several seats in a gacaca, re-categorization of the defendants in the first category above, the downward revision of sentences and the introduction of the suspension. Asked what the law provides regarding the right to legal assistance, she replied that this right is forbidden anywhere in the existing law nor the proposed new law. Nevertheless, it was not appreciated that the preliminary draft of the new law has not been available to the Partnership for possible contributions from the latter.

The work of general interest (TIG)

The community service (TIG) were officially launched on 25/9/2005 District Ruyumba (Gitarama) where 935 convicted of genocide, all from the prison of Gitarama, pass 3 months in a solidarity camp. These prisoners will also be working to break stones for paving roads in the city of Kigali.

Liprodhor covered the official launch ceremony of GIT, and oversaw its coordinators and facilitators of antennas on Human Rights (AVDHs) to observe the progress of this work.

Conclusion

With the launch of gacaca trials planned for early 2006, Liprodhor continue monitoring for sectors and districts, trying as it has always been noted irregularities from which it will provide recommendations and advice to contact the National Service of Gacaca Jurisdictions.

Liprodhor plans to give its contribution to the authorized points of the Gacaca law bodies which need to be modified.

Liprodhor strengthened its antennae and AVDHs to centralize power from the most basic data and information on the Gacaca. With these AVDHs, Liprodhor hopes to follow the situation of these courts in all districts of the country. It also plans a thematic research at the end of which it will provide useful guidance to the Rwandan society in general and in particular SNJG, for possible changes or corrections within a reasonable time .

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