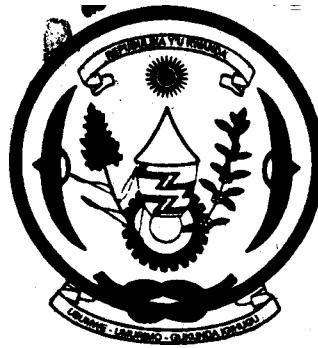


Year No. 43 Special of June 19, 2004



Official Gazette of the Republic of Rwanda

N° 16/2004 of 19/6/2004

Organic Law establishing the organisation, competence and functioning of Gacaca Courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between October 1st, 1990 and December 31, 1994

ORGANIC LAW N°16/2004 ESTABLISHING THE ORGANISATION, COMPETENCE AND FUNCTIONING OF GACACA COURTS CHARGED WITH PROSECUTING AND TRYING THE PERPETRATORS OF THE CRIME OF, GENOCIDE AND OTHER, CRIMES AGAINST HUMANITY, COMMITTED BETWEEN OCTOBER 1, 1990 AND DECEMBER 31, 1994

We, KAGAME Paul,
President of the Republic;

THE PARLIAMENT HAS ADOPTED AND WE SANCTION, PROMULGATE THE FOLLOWING ORGANIC LAW AND ORDER IT TO BE PUBLISHED IN THE OFFICIAL GAZETTE OF THE REPUBLIC OF RWANDA.

The Parliament:

The Chamber of Deputies, in its Cession of June 17, 2004;

The Senate, in its session of June 10, 2004;

Given the Constitution of the Republic of Rwanda of 04 June 2003, as amended to date, especially in its Articles 9 -1°and 2°, 61, 62, 88, 90, 93, 108, 118 -7°, 152 and 201;

Revisited the organic law n° 40/2000 of January 26, 2001, setting up Gacaca courts and organizing prosecutions for offences constituting the crime of genocide or crimes against humanity, committed between October 1, 1990 and December 31, 1994, as modified and completed to-date;

Revisited the organic law n°08/96 of 30th August 1996 on the organization of prosecutions for offences constituting the crime of genocide or crimes against humanity committed since October 1, 1990 ;

Revisited the decree-law n° 09/80 of July 7, 1980 establishing the Code of judicial organization and competence confirmed by the law n° 01/82 of January 26, 1982, as modified and completed to date ;

Revisited the decree-law n°21/77 of August 18, 1977 instituting the penal code as modified and completed to date ;

Revisited the law of February 23, 1963 on the Code of criminal procedure, as modified and completed to date ;

Considering the crimes of genocide and the crimes against humanity committed in Rwanda from October 1, 1990 to December 31, 1994 ;

Considering that such crimes were publicly committed in the eyes of the population, which thus must recount the facts, disclose the truth and participate in prosecuting and trying the alleged perpetrators;

Considering that testifying on what happened is the obligation of every Rwandan patriotic citizen and that nobody is allowed to refrain from such an obligation whatever reasons it may be;

Considering that the committed acts are both constituting offences provided for and punished by the Penal Code, and crimes of genocide or crimes against humanity ;

Considering that the crime of genocide and crimes against humanity are provided for by the International Convention of December 9, 1948, relating to repression and punishment of the crime of genocide.

Considering the convention of November 26, 1968 on imprescriptibility of war crimes and crimes against humanity ;

Considering that Rwanda ratified those Conventions with the decree-law no. 8/75 of February 12, 1975 ratifying different International Covenants on human rights, disarmament and preventing and suppressing actions that may result into conflicts among peoples and countries and published them in the Official Gazette of the Republic of Rwanda, without, however; providing for special sanctions for these crimes until the time when they were committed ;

Considering, consequently, that prosecutions must be based on the penal code of Rwanda ;

Considering the necessity to eradicate for ever the culture of impunity in order to achieve justice and reconciliation in Rwanda, and thus to adopt provisions enabling rapid prosecutions and trials of perpetrators and accomplices of genocide, not only with the aim of providing punishment, but also reconstituting the Rwandan Society that had been destroyed by bad leaders who incited the population into exterminating part of the Society;

Considering the necessity for the Rwandan Society to find by itself, solutions to the genocide problems and its consequences;

Considering that it is important to provide for penalties allowing convicted persons to amend themselves and to favour their reintegration into the Rwandan Society without jeopardizing the people's normal life ;

ADOPTS:

TITLE ONE: OFFENCES UNDER THE APPLICABILITY OF THIS ORGANIC LAW

Article one:

This organic law establishes organization, competence and functioning of Gacaca courts charged with prosecuting and trying the perpetrators of the crime of genocide and crimes against humanity, committed between October 1, 1990 and December 31, 1994, or other crimes provided for in the penal code of Rwanda, but according to the declarations from the Public prosecution or testimonies against the defendant, as well as the defendant's confessions in relation to criminal acts carried out with the intention of committing genocide or crimes against humanity.

Article 2:

The persons or their accomplices prosecuted for their participation in criminal acts that put them in categories 2 and 3, as defined by article 51 of this organic law, are answerable to Gacaca Jurisdictions referred to in Title II of this organic law. Gacaca courts apply the provisions of this organic law.

Persons who, by the virtue of acts committed, rank in the first category, as defined in Article 51 of this organic law, are tried before to ordinary courts which apply the common law content and procedure rules subject to exceptions provided for by this organic law.

As regards the subject of the action, only provisions of this organic law prevail.

Persons referred to in the preceding paragraphs, are tried before the courts defined in those paragraphs, even if their co-defendants are prosecuted by courts different from theirs. In that case, their co-defendants can only be summoned to testify in that trial.

TITLE II: SETTING UP, ORGANISATION AND COMPETENCE FOR GACACA COURTS AND RELATIONSHIP WITH OTHER INSTITUTIONS

CHAPTER ONE: SETTING UP AND ORGANISING GACACA COURTS

SECTION ONE: SETTING UP AND JURISDICTION

Article 3:

It is hereby set up the Gacaca Court of the Cell in each Cell, the Gacaca Court of the Sector and the Gacaca Court of Appeal in each Sector of the Republic of Rwanda. These courts are in charge of putting on trial, with the limits established by this organic law, the offences constituting the crime of genocide or crimes against humanity committed between October 1, 1990 and December 31, 1994.

Article 4:

Without prejudice to provisions of paragraphs two and three of article 6 of this organic law:

- 1° the jurisdiction for the Gacaca Court of the Cell is the Cell ;
- 2° the jurisdiction for the Gacaca Court of the Sector is the Sector ;
- 3° the jurisdiction for the Gacaca Court of Appeal is the Sector.

SECTION II : ORGANS OF GACACA COURTS

Sub-section one : General Provisions

Article 5:

The Gacaca Court of the Cell is made up of a General Assembly, a Seat for the Gacaca Court and a Coordination Committee.

The Gacaca Court of the Sector, as well as the Gacaca Court of Appeal are made up with a Sector General Assembly, a Seat for the Gacaca Court and a Coordination Committee.

The competent instance which has the powers to appoint the Seat members or the competent one to appoint members of the Coordination Committee, is also competent for their replacement.

Sub-section 2 : The General Assembly

Article 6:

The General Assembly for the Gacaca Court of the Cell is composed of all the Cell's residents aged 18 years above.

When it appears that within a given Cell, the number of inhabitants aged 18 years or above is less than two hundred (200), that Cell can be merged with another Cell of the same Sector, to make one Gacaca Court of the Cell. The same applies when it appears that the number of upright persons defined in Article 8 of this organic law, is not reached. The merged Cells proceed to new elections for appointing upright persons.

In case the merged Cells fail to meet the required number of upright persons, and there are no other Cells in that Sector, these Cells are merged with the Cell from the neighbouring Sector. The Sector to which the merged Cells formerly belonged is, in its turn, merged with the Sector for the cell with which those cells were merged.

The decision of putting the Cell in the jurisdiction of the Gacaca Court from another Cell, is taken by National Service in charge of the follow up, supervision and

coordination of the activities of Gacaca Courts, on its own initiative or on request of the Mayor of the District, Town, Municipality or City, with a copy to the Prefect of the Province or the Mayor of the City of Kigali.

Article 7:

The General Assembly for the Sector is composed of the members of the following organs:

- 1° The Seats for the Gacaca Court of the Cells constituting that sector;
- 2° The Seat for the Gacaca Court of the Sector;
- 3° The Seat for the Gacaca Court of Appeal.

Sub-section 3 : The Seat for the Gacaca Court

Article 8

Each Seat of the Gacaca Court is made up with nine (9) persons of integrity and 5 deputies.

Article 9:

Before exercising his or her duties, every member of the Seat for the Gacaca Court shall take the following oath:

"Isolemnly swear to the Nation that I shall:

- 1° diligently fulfill the responsibilities entrusted to me ;*
- 2° remain loyal to the Republic of Rwanda;*
- 3° observe the Constitution and the other laws ;*
- 4° work for the consolidation of national unity;*
- 5° conscientiously fulfill my duties of representing the Rwandan people without any discrimination whatsoever;*
- 6° never use the powers conferred on me for personal ends ;*
- 7° promote respect for the freedom and fundamental rights of human beings and safeguard the interests of the Rwandan people.*

Should I fail to honour this oath, may I face the rigours of the law: So help me God."

Article 10:

A member of the Seat for the Gacaca Court cannot judge or decide on a case in which he or she is a party or is prosecuted:

- 1° his or her spouse ;
- 2° his or her parent, grandfather and grandmother, relatives, children and grandchildren or those of his or her spouse ;

- 3° his or her uncles, aunts and maternal or paternal cousins ;
- 4° the person with whom it was already existing serious enmity;
- 5° the person with whom he or she has deep friendship relations ;
- 6° the person for whom he or she is a guardian;
- 7° any other relation considered incompatible with the honest person's independence.

In one of these hypotheses, the member of the Seat concerned shall decline to act in the case. Failure to do so, any person who knows about the existence of one of these causes informs, before the plea as to the content, the Seat which decides all matters ceasing.

However, the concerned person so objected to is admitted to testify for or against the prosecution.

Sub-section 4 : The Coordination Committee

Article 11:

Members of the Seat for a Gacaca Court elect among themselves, with a simple majority, the Coordination Committee made up with a President, a first Vice-President, a second Vice-President and two secretaries, all of them must know how to read and write Kinyarwanda.

The members of the Coordination Committee are elected for a one (1) year mandate which may be renewed.

The secretaries of Gacaca Courts shall be responsible for report making and assume the functions of secretaries for Gacaca Courts

Article 12:

The Coordination Committee shall carry out the following functions:

- 1° to convene, preside over meetings and coordinate activities of the Seat for the Gacaca Court;
- 2° to register complaints, testimonies and evidences given by the population ;
- 3° to receive files for the accused answerable to Gacaca Court;
- 4° to register appeals filed against judgments passed by Gacaca Courts ;
- 5° to forward to the Gacaca Courts of Appeal, files of judgments appealed against;
- 6° to register decisions made by organs of the Gacaca Court ;
- 7° to collaborate with other institutions in implementing decisions made by the Gacaca Court.

SECTION III: MEMBERS OF THE ORGANS FOR GACACA COURTS

Article 13:

The General Assembly for the Gacaca Court of the Cell elect, within itself; nine (9) persons of integrity constituting the Seat and five (5) deputies.

The General Assembly for the Sector elect, within itself, nine (9) persons of integrity to make up the Seat for the Gacaca Court of Appeal and their five (5) deputies, as well as nine (9) persons of integrity making up the Seat for the Gacaca Court of the Sector and their five (5) deputies.

Elections of persons of integrity for Gacaca Courts shall be organized and conducted by the National Commission.

A presidential decree determines the necessary instructions for elections of members of the organs for Gacaca Courts.

Article 14:

Members of organs for Gacaca Courts are Rwandans of integrity elected by General Assemblies for their Cells of residence.

Is a person of integrity, any Rwandan meeting the following conditions:

- 1° not to have participated in genocide ;
- 2° to be free from the spirit of sectarianism;
- 3° not to have been sentenced to a penalty of at least six (6) months of imprisonment;
- 4° to be of high morals and conduct;
- 5° to be truthful ;
- 6° to be honest;
- 7° to be characterised by a spirit of speech sharing.

Any person of integrity who is at least 21 years old and meeting all the conditions required by this organic law, can be elected a member of the organ for a Gacaca Court without any discrimination, such that based on sex, origin, religion, opinion or social position.

Article 15:

Cannot be elected member of the Seat for a Gacaca Court:

- 1° the person exercising a political activity ;
- 2° the person in charge of centralized or decentralized Government administration;
- 3° the soldier or the policeman who is still in active service ;
- 4° the career magistrate ;
- 5° the member of the leadership for a political party:

This ineligibility, however, is waived when the person's resignation from his or her position is confirmed.

Leaders referred to in the second point, first paragraph of this article, are the Prefect of the Province, the Mayor of the City of Kigali, other members of the Executive Committee of the District, Town, Municipality or Kigali City and members of political and administrative committee at the level of the Sector and Cell.

Cannot elect or be elected as a person of integrity, anybody who appears on the list of genocide suspects. However, those who committed offences against property only can elect.

Article 16

Any person elected as a member of the organs for Gacaca Courts shall be replaced for one of the following reasons:

- 1° to be absent from the meeting sessions of the organs of Gacaca Courts for three (3) successive times without giving any convincing reasons;
- 2° to be convicted of a crime punishable by a sentence of at least a six (6) months imprisonment ;
- 3° prompt sectarianism;
- 4° to exercise one of the activities provided for in article 15 of this organic law or occupying a position which is likely to impede participation in the sessions of the organs of Gacaca Courts ;
- 5° to have a serious disease likely to prevent him of her from participating in the sessions for the organs of Gacaca Courts;
- 6° to do any act incompatible with the quality of a person of integrity ;
- 7° resignation for personal reasons ;
- 8° death.

The decision to dismiss a member of the organs of Gacaca Courts who has been absent from their sessions for three (3) successive times, without convincing reasons, has instigated sectarianism, or has done an act incompatible with the quality of a person of integrity, is made in writing, by the members of the Seat for the Gacaca Court, after consultations with the General assembly of the home Cell. The member so dismissed is subject to an official warning before the General Assembly and cannot be elected again as a person of integrity.

Other reasons for replacement referred to in this article, are ascertained by that organ of the Gacaca Court.

SECTION IV: FUNCTIONING OF THE ORGANS OF GACACA COURTS

Article 17:

The General Assembly for the Gacaca Court of the Cell holds an ordinary meeting once a week and an evaluation meeting once every three months and an extraordinary meeting anytime deemed necessary.

It is convened and presided over by the President of the Coordination Committee, on his own initiative or on the request of at least one third (1/3) of the members of the Seat for the Gacaca Court.

When the President has a legitimate reason or refuses to convene the General Assembly, the latter is convened by one of his or her deputies.

Article 18:

The General Assembly of the Gacaca Court of the Cell only meets legitimately if at least one hundred members are present.

Article 19:

The General Assembly of the Sector shall meet once every three months in its ordinary sessions, and any time in its extraordinary session if need be.

It is convened and presided over by the President of the GACACA Court of Appeal, on its own initiative or on the request of one fourth (1/4) of its members. The President of the Gacaca Court of the Sector becomes the Vice-President.

When the President and the Vice-President have legitimate reasons or refuse to convene the General Assembly, the latter is convened by the elder person of integrity on the request of one fourth (1/4) of its members. The present persons of integrity choose, among themselves, the President.

Article 20:

The General Assembly of the Sector meets legitimately if at least two thirds (2/3) of its members are present.

Article 21:

Hearings for Gacaca Courts are public, except when there is a hearing in camera decided by the Gacaca Court, or on the request of any interested person and decided in a pronounced judgement for reasons of public order or good morals.

The decisions and deliberations of judges are made in secret.

Article 22 :

In the Gacaca Court of the Cell, the day and time for meetings are fixed by the General Assembly. In other Gacaca Courts, the day and time are determined by the Seat members of the Court and communicated to the population.

Article 23:

The Seat for the Gacaca Court can meet legitimately if at least seven (7) of its members are present.

When the quorum is not reached due to absences of members, the meeting is postponed.

When the quorum is not reached due to an absolute unavailability of the members for various reasons, it is completed by the deputies.

If the quorum is not reached, following objection or competence disclaimer from some of the Seat members, completed by their deputies until the last decision or the closure of hearings.

When all the Seat members are objected to or disclaim competence, the help of persons of integrity from the nearest Gacaca Court having the same competence is requested until the decision is taken or the closure of hearings.

This cannot withhold those persons of integrity from elsewhere to carry on their duties in their usual Court. The objected Seat, disclaiming Seat or any other person who is interested in the case, immediately informs the National Service in charge of the follow up, supervision and coordination of activities of Gacaca Courts in order to decide on the Gacaca Court from which the persons of integrity can be borrowed.

Article 24:

The Seat for a Gacaca Court shall decide by consensus, and failing this, it decides with the absolute majority of its members.

If simple majority is not reached, it is proceeded to a new vote; each member of the Seat for the Gacaca Court having, however, to choose between the two positions which previously obtained more votes.

Article 25:

Judgments must be motivated. They are signed or marked with a fingerprint by all members of the Court who have seated in the proceedings and ruled on them

Article 26:

Whenever need be, Gacaca Courts seek assistance from legal experts appointed by the National service in-charge of the follow up, supervision and coordination the activities of Gacaca Courts.

Article 27:

The Coordination Committee of the Gacaca Court meets as often as necessary, convened by its President, on his or her initiative or on request of at least two (2) of its members.

When the President has a legitimate motive for not summoning the Coordination Committee, the latter is summoned by one of his deputies.

Article 28:

To sit legitimately , the Coordination Committee shall bring together at least three (3) of its members.

Article 29:

Every Rwandan citizen has the duty to participate in the Gacaca courts activities.

Any person who omits or refuses to testify on what he or she has seen or on what he or she knows, as well as the one who makes a slanderous denunciation, shall be prosecuted by the Gacaca Court which makes the statement of it. He or she incurs a prison sentence from three (3) months to six (6) months. In case of repeat offence, the defendant may incur a prison sentence from six months (6) to one (1) year.

Is considered as refusing to testify on what he or she has seen or known, any person who apparently knew something on a given matter denounced by others in his or her presence, without expressing his or her own opinion.

Is considered as refusing to testify:

- 1° Anyone who, once summoned to testify before the Court after knowing that he or she is holder of a testimony, refuses to declare by avoiding to speak or deliberately evading the question put to him or her;
- 2° Anyone who, once summoned by the Court and does not appear deliberately without reasons, avoiding to be questioned in as much as the summons is clearly notified to him or her.

Is considered as a perjurer, anyone who gives a testimony ascertaining that he or she is telling only the truth and holds evidences for that, takes an oath and signs it ; but later on it appears to be false and done on purpose.

The perjury is prosecuted during the very hearing of the matter in which the prosecuted person has given the testimony, if it is discovered that the person did it or on purpose.

Article 30:

Anyone who exercises pressures, attempts to exercise pressures or threatens the witnesses or the Seat members of the Gacaca Court shall incur a prison sentence from three (3) months to one (1) year. In case of repeat offence, the defendant risks a prison penalty from six (6) months to two (2) years.

Is regarded as an act of exercising pressures on a Court, anything aiming at coercing the Seat into doing against its will, translated into actions, words or a behaviour threatening the Seat, and clearly meaning that if the latter fails to comply with, some of its members or the entire Seat may face dangerous consequences. However, when the pressure is performed, provisions of the penal code of criminal procedure are applied by ordinary courts.

Is considered as an attempt to exercise pressures on a Court, any behaviour translated into words or acts, showing that there has been an attempt to coerce a Court into taking a decision in a way or another.:

Is regarded as an act of threat on the Court or witnesses, words and actions threatening the witnesses or the Seat members of a Gacaca Court, aiming at winning acceptance for his own wish at all costs.

Are considered as threatening the Court or the witnesses, words or actions clearly meant to threaten the witnesses or the Seat members for a Gacaca Court, with the intention of winning acceptance for his or her wish.

Article 31:

Judgements given and passed according to articles 29 and 30 of this organic law, may be subjected to opposition or appeal in conformity with the provided for in this organic law.

Article 32:

The Seat for the Gacaca Court taking cognisance of offences stated in articles 29 and 30, decides all matters ceasing and retires to deliberate on whether it is an offence to be prosecuted according to these articles. When the prosecution of the offence is confirmed, the Seat announces the day of the hearing, notifies it to the defendant, and records it in the notebook of activities before carrying on the Court's activities.

When an offence is committed outside the Court, the plaintiff can file his or her complaint in a written form or during the General Assembly. When he or she declares before the General Assembly, the case is registered and put on the agenda for the next meeting.

In case it is notified to the President, he/she hands it to the secretary who records it in the notebook of activities, mentioning the plaintiff, motive, date of submission and the date of reception from the President. After recording, the President informs the General Assembly, and they decide on the date of examining the complaint.

On the hearing day, the President checks if the required number of persons of integrity, the accused and witnesses are present; their identities are registered, and after, reminds the provisions of the law, states the accusation and gives the floor to the defendant for presenting his or her defence and witnesses.

After their declarations, the President gives the floor to the witnesses for prosecution and any other interested person who wants to say something in the General Assembly, asks the accused to react to it, afterwards the Seat members retire for deliberations. The judgement is recorded in the notebook of activities and bears the signatures of all Seat members.

When the Seat takes an imprisonment decision, it fills out an arrest warrant which is forwarded to the nearest security organ or the representative of the National Service in charge of the follow up Gacaca Courts' activities for handing it over to the organs charged with arresting and detaining.

Detention pending trial is forbidden for the prosecuted persons whose offences are stated in articles 29 and 30 of this organic law, apart from persons referred to in article 30 when they are prosecuted by the public prosecution.

SECTION V : THE DUTIES OF GACACA COURTS

Sub-section one : The duties for the organs of the Gacaca Court of the Cell

Article 33:

The General Assembly of the Gacaca Court of the Cell exercises the following attributions:

- 1° Electing Seat members of the Gacaca Court of the Cell and their deputies ;
- 2° Attending the activities of the Gacaca Court of the cell for the non-members of the seat and take the floor only upon request ;
- 3° Assisting the seat of Gacaca Court in the establishment of a list of persons:
 - a) who reside in the cell;
 - b) who resided in the cell before the genocide, locations they kept shifting to and routes they took;
 - c) killed in their Cell of residence ;
 - d) killed outside their cell of residence
 - e) killed in the cell while they were not residing in it;
 - f) victimized and their damaged property;
 - g) alleged authors of the offences referred to in this organic law.

- 4° Presenting evidences or testimonies on all persons suspected of having committed the crime of genocide and on others who took part;
- 5° Examining and adopting activity report established by the Gacaca Court.

All residents of the Cell shall tell the facts of events which took place, especially in their home villages and give evidence, denounce the authors and identify the victims.

Article 34 :

The Seat for the Gacaca Court of the Cell exercises the following attributions:

- 1° With the participation of the General Assembly, to make up a list of persons:
 - a. who reside in the cell;
 - b. who were residing in the Cell before the genocide, locations where they kept shifting to and routes they took ;
 - c. killed in their Cell of residence ;
 - d. killed outside their Cell of residence ;
 - e. killed in the cell while they were not residing in it;
 - f. victimized and their damaged property;
 - g. who took part in the offences referred to in this organic law.
- 2° to receive confessions, guilt plea, repentance and apologies from the persons who participated in genocide ;
- 3° to bring together the files forwarded by the Public Prosecution ;
- 4° to receive evidences and testimonies and other information concerning how genocide was planned and put into execution ;
- 5° to investigate testimonies ;
- 6° to categorize the accused as per the provisions of this organic law;
- 7° to put on trial and judge cases for the accused whose crimes classify them in the third category;
- 8° to give a ruling on objection to Seat members for the Gacaca Court of the Cell ;
- 9° to forward to the Gacaca Court of the Sector, the files of the defendants classified in the second category ;
- 10° to forward to the Public Prosecution, the files for the defendants classified in the first category;
- 11° to elect members of the Coordination Committee.

A victim referred to in point 1°- f is anybody killed, hunted to be killed but survived, suffered acts of torture against his or her sexual parts, suffered rape, injured or victim of any other form of harassment, plundered, and whose house and property were destroyed because of his or her ethnic background or opinion against the genocide ideology.

Sub-section 2 : The duties for the Gacaca Court of the Sector and the Gacaca Court of Appeal

Article 35:

The general Assembly for the Sector has the following attributions:

- 1° to supervise the functioning of all Gacaca Courts in the Sector, without meddling in their ways of conducting proceedings ;
- 2° to replace persons of integrity for the Gacaca Court of the Sector and the Gacaca Court of Appeal ;
- 3° to receive and solve problems of the functioning of Gacaca Courts, not related to proceedings;
- 4° to report to the National Service in charge of the following up, supervision and coordination of the activities of Gacaca Courts, and provide advice to it.

Article 36:

The Seat for the Gacaca Court of the Sector exercises the following remit:

- 1° making investigations, if necessary, on testimonies given;
- 2° receiving confessions, guilt plea, repentance and apologies from genocide perpetrators;
- 3° taking decisions relating to objections to the Seat members of the Gacaca Court;
- 4° putting on trial and ruling on cases falling in its competence according to this organic law, after making sure that the accused forwarded to it, have been categorized in conformity with the alleged offences, and those found in the first category are forwarded to the Public Prosecution.;
- 5° examining appeals against judgments passed by Gacaca Court of the Cell;
- 6° electing members of the Coordination Committee.

Article 37:

The Seat for the Gacaca Court of Appeal carries out the following attributions:

- 1° making investigations, if necessary, on testimonies given;
- 2° taking decisions relating to objections to the Seat members of the Gacaca Court ;
- 3° putting on trial and ruling on cases falling in its competence according to this organic law, after making sure that the accused forwarded to it have been categorized in conformity with their offences, and those found in the first category, are forwarded to the Public Prosecution ;
- 4° examining appeals against judgements passed by the Gacaca Court of the Sector ;
- 5° electing members of the Coordination Committee.

Article 38:

As regards offences relating to rape or acts of torture against sexual parts, the victim chooses among the Seat members for the Gacaca Court of the Cell, one or more to whom she submits her complaint or does it in writing. In case of mistrust in the Seat members, she submits it to the organs of investigations or the Public Prosecutor.

In case of death or incapacity of the victim, the complaint shall be secretly lodged by any interested party in the manner provided for by the paragraph one of this article.

The person of integrity entrusted with such a complaint, forwards it secretly to the Public Prosecution for further investigations.

It is prohibited to publicly confess such an offence. No body is permitted to publicly sue another party. All formalities of the proceedings of that offence shall be conducted in camera.

CHAPTER II : THE COMPETENCE OF GACACA COURTS

Article 39:

Gacaca Courts have competences similar to those of ordinary courts, to try the accused persons, on the basis of testimonies against or for, and other evidences that may be provided.

They may in particular:

- 1° Summon any person to appear in a trial ;
- 2° Order and carry out a search of or to the defendant's. This search must, however, respect the defendant's private property and basic human rights
- 3° Take temporary protective measures against the property of those accused of genocide crimes;
- 4° Pronounce sentences and order the convicted person to compensate ;
- 5° Order the withdrawal of the distraint for the acquitted person's property;
- 6° Prosecute and punish trouble makers in the court
- 7° Summon, if necessary, the Public Prosecution to give explanatory information on files it has investigated on;
- 8° Issue summons to the alleged authors of offences and order detention or release on parole, if necessary.

Article 40:

The National Service in charge of the follow up, supervision and coordination of the activities of Gacaca Courts, determines, on its own initiative or on the request of the Seat for the Gacaca Court concerned, or any person suffering encroachment, by means of regulations, the ways to rule on disputes relating to competences of Gacaca Courts and follows up its implementation. .

SECTION ONE: RATIONAE MATERIAE

Sub-section one: The Gacaca Court of the Cell

Article 41:

The Gacaca Court of the Cell deals at the first and last resort, with offences relating only to property. It deals also with the objection formed against the sentence it has pronounced in the absence of the accused authors.

The Gacaca Court of the Cell proceeds to the categorization of alleged authors for offences defined in articles one and 51 of this organic law.

Sub-section 2 : The Gacaca Court of the Sector

Article 42

The Gacaca Court of the Sector deals at the first level, with defendants whose offences classify into the second category and opposition made against sentences pronounced in the absence of the accused authors.

It deals also with appeal formed against judgements pronounced for offences provided for in articles 29 and 30 of this organic law and other decisions taken by the Gacaca Court of the Cell.

Sub-section 3 : The Gacaca Court of Appeal

Article 43 :

The Gacaca Court of Appeal deals with appeal formed against sentences pronounced at the first level by the Gacaca Court of the Sector.

In addition, it deals with objection formed against sentences pronounced in the absence of the accused authors.

SECTION II: RATIONAE LOCI

Article 44:

Is competent to deal with an offence, the Gacaca Court of the area where it has been, committed.

Persons who have committed offences in different places, are tried before to the competent Courts, in conformity with the provisions provided for in the preceding paragraph of this article.

Article 45:

When it appears in the file to communicate to the Gacaca Court in conformity with article 47 of this organic law, that the defendant has committed offences in different places, the Public Prosecution forwards it to each Gacaca Court of the Cell of where crimes were committed.

CHAPTER III: RELATIONSHIP BETWEEN GACACA COURTS AND OTHER INSTITUTIONS

SECTION ONE: RELATIONSHIP BETWEEN THE PUBLIC PROSECUTION AND GACACA COURTS

Article 46:

The organs of the Public Prosecution shall proceed to their mission of receiving denunciations and complaints, and investigating on offences referred to in this organic law.

However, before beginning such investigation, they will have to make sure that the Gacaca Court has not tried or has not begun to examine these cases so as to avoid unnecessary task.

The files investigated by the Public Prosecution in conformity with the first paragraph of this article, are forwarded to the competent Gacaca Court of the Cell.

Article 47:

The files investigated by the Public prosecution, but which were not yet forwarded to competent Courts by March 15, shall be forwarded to the Gacaca Court of the area where each crime was committed for the categorization of defendants.

The Public prosecution carry on communicating to Gacaca Courts of the Cell or to the Court called to recognisance of the case, evidences collected against prosecuted persons in the files it has investigated.

When the Gacaca Court of the Cell which has made the categorization, has already forwarded the file to the competent Court to hear the case before it receives the prosecution file, the concerned Public Prosecution forwards the evidences collected to the Gacaca Court of the Cell and its copy to the competent Gacaca Court which has competence to hear it.

In case it is clear that in the file that the accused committed the offences of rape or sex related crimes, the prosecution shall not refer the file to the Gacaca Court of the Cell.

Article 48:

The Prosecutor General of the Republic supervises the organs of the Public Prosecution in proceedings referred to in this organic law.

SECTION II : RELATIONSHIP BETWEEN ADMINISTRATIVE ORGANS AND GACACA COURTS

Article 49:

Leaders of administrative organs in which Gacaca Court function shall provide them with premises in which they shall perform their duties, as well as sensitize the population for their active participation. They exercise a steady monitoring of the functioning of Gacaca Courts and provide them with necessary materials, in collaboration with the National Service in charge of follow up, supervision and coordination of the activities of Gacaca Courts:

SECTION III: RELATIONSHIP BETWEEN THE GACACA COURTS AND THE NATIONAL SERVICE CHARGED WITH THE FOLLOW UP, SUPERVISION AND COORDINATION OF ACTIVITIES OF GACACA COURTS

Article 50:

The National Service in charge of follow up, supervision and coordination of the activities of Gacaca Courts, follows up, supervises and coordinates Gacaca Courts' activities in the country.

It also issues rules and regulations relating to the smooth running of Gacaca Courts, as well as the conduct of persons of integrity, without prejudice to the Gacaca Courts' ways of trying.

TITLE III: PROSECUTION OF OFFENCES AND PROCEEDINGS

CHAPTER ONE: PROSECUTED PERSONS

Article 51:

Following acts of participation in offences referred to in article one of this organic law, committed between October 1, 1990 and December 31, 1994, the accused can be classified in one of the following categories:

First Category :

1. The person whose criminal acts or criminal participation place among planners, organizers, imitators, supervisors and ringleaders of the genocide or crimes against humanity, together with his or her accomplices
2. The person who, at that time, was in the organs of leadership, at the national level, at the level of Prefecture, Sub-prefecture, Commune, in political parties, army, gendarmerie, communal police, religious denominations or in militia, has

committed these offences or encouraged other people to commit them, together with his or her accomplices;

3. The well known murderer who distinguished himself or herself in the location where he or she lived or wherever he or she passed, because of the zeal which characterized him or her in killings or excessive wickedness with which they were carried out, together with his or her accomplices ;
4. The person who committed acts of torture against others, even though they did not result into death, together with his or her accomplices ;
5. The person who committed acts of rape or acts of torture against sexual organs, together with his or her accomplices ;
6. The person who committed dehumanising acts on the dead body, together with his or her accomplices.

The Prosecutor General of the Republic publishes, at least twice a year, a list of persons classified in the first category, forwarded by Gacaca Courts of the Cell.

2nd Category

- 1° The person whose criminal acts or criminal participation place among killers or who commit acts of serious attacks against others, causing death, together with his or her accomplices ;
- 2° The person who injured or committed other acts of serious attacks with the intention to kill them, but who did not attain his or her objective, together with his or her accomplices ;
- 3° The person who committed or aided to commit other offences persons, without the intention to kill them, together with his or her accomplices.

3rd Category

The person who only committed offences against property.

However, if the author of the offence and the victim have agreed on their own, or before the public authority witnesses for an amicable settlement, he or she cannot be prosecuted.

Article 52:

The person in the position of authority at the level of the Sector and Cell, at the time of genocide, are classified in the category corresponding to offences they have committed, but their positions of leadership exposes them to the most severe penalty within the same category.

Article 53:

For the implementation of this organic law, the accomplice is the person who has, by any means, provided assistance to commit offences with persons referred to in article 51 of this organic law.

The fact that any of the acts aimed at by this organic law has been committed by a subordinate, does not free his or her superior from his or her criminal responsibility if he or she knew or could have known that his or her subordinate was getting ready to commit this act or had done it, and that the superior has not taken necessary and reasonable measures to punish the authors or prevent that the mentioned act be not committed when he or she had means.

CHAPTER II : PROCEDURE OF CONFESSIONS, GUILT PLEA, REPENTANCE AND APOLOGIES**SECTION ONE: ACCEPTANCE OF CONFESSIONS, GUILT PLEA, REPENTANCE AND APOLOGIES AND CONDITIONS REQUIRED****Article 54:**

Any person who has committed offences aimed at in article one of this organic law, has right to have recourse to the procedure of confessions, guilt plea, repentance and apologies.

Apologies shall be made publicly to the victims in case they are still alive and to the Rwandan Society.

To be accepted as confessions, guilt plea, repentance and apologies, the defendant must:

- 1° give a detailed description of the confessed offence, how he or she carried it out and where, when he or she committed it, witnesses to the facts, persons victimized and where he or she threw their dead bodies and damage caused;
- 2° reveal the co-authors, accomplices and any other information useful to the exercise of the public action;
- 3° apologise for the offences that he or she has committed.

Article 55:

Genocide perpetrators coming under the first category who have had recourse to the procedure of confessions, guilt plea, repentance and apologies for their offences before their names appear on the list drawn up by Gacaca Court of the Cell, shall enjoy commutation of penalties in the way provided for by this organic law.

Article 56:

Shall enjoy commutation of penalties in the way provided for by this organic law, persons in the 2nd category who:

- 1° confesses, pleads guilty, repents, apologises before the Gacaca Court of the Cell draws up a list of authors of genocide;
- 2° already appearing on this list, have had recourse to the procedure of confessions, guilt plea, repentance and apologies after publication of the list of authors of genocide.

Article 57:

If it is found out subsequently offences that a person has not confessed, he or she is prosecuted, at any time, for these offences and shall be classified in the category in which the committed offences place him or her, and is punishable by the maximum penalty provided for this category.

SECTION II: PROCEDURE OF CONFESSIONS, GUILT PLEA, REPENTANCE AND APOLOGIES**Article 58:**

The confessions, guilt plea, repentance and apologies are done before the Seat of the Gacaca Court, before the Officer for the criminal investigation or the Officer for the Public Prosecution in charge of investigating the case, in accordance with article 46 of this organic law.

The Seat for the Gacaca Court, the Officer for the criminal investigation or the Officer for the Public Prosecution in charge of investigating the case, must inform the defendant of his or her right and benefits from the confessions, guilt plea, repentance and apologies procedure.

Sub-section one : Procedure of confessions, guilt plea, repentance and apologies before the officer of the criminal investigation or before the officer of the public prosecution

Article 59:

For files which are not yet forwarded to the Gacaca Courts of the Cells, the criminal investigation Department or the public prosecution receives the confessions, guilt plea, repentance and apologies. The conclusions from confessions, guilt plea, repentance and apologies shall be received and transcribed by an Officer of the criminal investigation or by the Public Prosecutor. If confessions are forwarded in writing, the Officer of the criminal investigation or the Public Prosecution asks the petitioner to endorse it.

The petitioner signs or marks with a fingerprint the minute containing the confessions, guilt plea, repentance and apologies and confirms what has been approved, as well as the minute containing confessions, if there is any, before the Officer for the criminal investigation or the Public Prosecutor who also endorses them.

Article 60:

If the Public Prosecutor finds that the confessions, guilt plea, repentance and apologies are in conformity with the required conditions, he or she concludes the file by establishing a note of investigation containing the petitioner's declarations and forwards it to the competent Gacaca Court of the Cell.

In case he or she finds that the confessions, guilt plea, repentance and apologies do not meet conditions required, or that the investigation has revealed that the petitioner's confessions, guilt plea, repentance and apologies are false, he or she states in an explanatory note the elements missing, concludes the file, and forwards it to the competent Gacaca Court of the Cell.

The Gacaca Court of the Cell, after checking if the confessions, guilt plea, repentance and apologies done before the Officer for the criminal investigation or the Public Prosecutor are complete, accepts or rejects them.

Article 61:

The minutes containing confessions, guilt plea, repentance and apologies established by the Public Prosecutor the officer for the criminal investigation or in conformity with articles 59 and 60 of this organic law, forwarded to the Gacaca Court of the Cell of where the offence was committed, and read publicly, in case petitioner has reason beyond control preventing him or her to appear and apologise in public.

Sub-section 2 : Procedure of confessions, guilt plea, repentance and apologies before Gacaca Courts

Article 62:

The persons who committed crimes of genocide can have recourse to the confessions, guilt plea, repentance and apologies for the committed offences before the Seat of the Gacaca Court.

Without prejudice to the second paragraph of article 54 of this organic law, petitioners of confessions, guilt plea, repentance and apologies shall do it orally during the floor given to them, or by means of written declaration bearing his or her signature or fingerprint.

Article 63:

The confessions, guilt plea, repentance and apologies are subject to the minute established by the secretary of the Gacaca Court and signed or marked with a fingerprint by the defendant and members of the Court Seat.

The Seat for the Gacaca Court checks if the confessions, guilt plea, repentance and apologies fulfils conditions required and if the petitioner's declarations are true.

CHAPTER III: HEARING AND JUDGEMENT**SECTION ONE: HEARING AND JUDGEMENT BEFORE GACACA COURTS OF THE SECTOR AND GACACA COURTS OF APPEAL****Article 64 :**

In case of confirmed confessions, guilt plea, repentance and apologies, the hearing proceeds as follows:

- 1° the President of the session calls the case and invites defendants to the bar:
- 2° each defendant establishes his or her identity ;
- 3° the President of the session requests the plaintiffs identity;
- 4° the Court secretary makes known to the defendant every charge against him or her, and reads the minute of the defendant's confessions ;
- 5° the President of the session asks each defendant to comment on accusations ;
- 6° any interested person takes the floor to testify in favour or against the defendant ; responds to questions put to him or her. Every person taking the floor to testify on which he or she knows or witnessed, takes oath to tell the truth by raising his or her right arm, saying : "I take God as my witness to tell the truth";

- 7° the plaintiff describes all the offences suffered and how they were committed, if he or she has knowledge of them;
- 8° if the defendant is present, responds to the plaintiff's declarations ;
- 9° the Seat for the Gacaca Court establishes a list of the victims and offences each of them suffered, the defendant is given floor to respond ;
- 10° the Court secretary reads the statement of hearing, the Court checks the conformity of its content with the declarations and, if need be, the statement of hearing is corrected;
- 11° the Seat asks the plaintiff and the defendant if they have additional information ;
- 12° the parties to the trial and all the others who took floor during the hearing, together with members of the Seat put their signatures or fingerprints on the statement hearing containing the defendant's confessions;
- 13° the hearing is declared closed, unless the Seat deems it necessary to postpone it so as to check certain issues.

Article 65:

For files which do not contain confessions, guilt plea repentance and apologies or when the Gacaca Court has rejected them, the hearing proceeds as follows:

- 1° the President of the session calls the case and invites defendants to the bar ;
- 2° each defendant establishes his or her identity;
- 3° the President asks the plaintiff his or her identity ;
- 4° the secretary of the court makes known to the defendant every charge against him or her;
- 5° the President of the Gacaca Court reads out to the defendants, articles 54, 55 and 57 of this organic law so that they understand the confession, guilt plea, repentance and apologies procedure, and asks them if they want to use it. The interested persons in confessing, guilt pleading, repenting and apologizing, are asked to do it there and then, the hearing proceeds in the order provided for, for those who have confessed, pleaded guilty, repented and apologized.

For those who do not want to confess, plead guilty, repent and apologise, the hearing proceeds in the following way:

- a) the President of the session gives the summary of the nature of the case and reads the provided evidences establishing the defendant's guilt;
- b) the President of the session asks each defendant to give his or her defence;
- c) the Court hears witnesses for or against prosecuted persons, if need be, hears evidences from the Public Prosecution if it is summoned to the trial. Every person taking the floor to testify on what he or she knows or witnessed swears to tell the truth by raising the right hand up and saying: " I take God as my witness to tell the truth."
- d) the defendant gives his or her defence;
- e) any interested person, takes the floor and the defendant answers to questions put to him or her ;
- f) the Seat of the Gacaca Court establishes a list of the victims and offences that each of them suffered; the defendant is given floor to respond ;
- g) the secretary of the Court reads the statement of hearing ; the Court checks the conformity of its content with the declarations and, if need be, the statement of hearing is corrected ;
- h) the Seat asks the plaintiff and the defendant if they have additional information ;
- i) the parties to the trial and all the others who took floor during the hearing, together with the members of the Seat, put their signatures or fingerprints on the statement of hearing ;
- j) the hearing is declared closed, unless the Seat deems it necessary to postpone it so as to check certain issues .

Article 66:

For files of defendants with neither known address nor residence in Rwanda referred to in article 98 of this organic law, the hearing shall proceed as follows:

- 1° the President of the session calls the case and invites the defendants to the bar.
- 2° if he or she finds that they are present, the hearing proceeds in conformity with article 65 of this organic law. In case some are present and others are absent, those who are present shall be judged in accordance with the provisions of article 65 of this organic law.

In reference to the absentees as well as those who did not appear, the hearing shall proceed in the following manner:

- a. the President of the session asks the plaintiff's identity;
- b. the secretary of the court makes known to the defendant every charge against him or her ;
- c. the President of the session gives the summary of the nature of the case, reads out provided evidences establishing the defendant's guilt;
- d. the Court hears witnesses and, if necessary, hears the Public prosecution's evidences when it is summoned to the trial ;
- e. any interested person takes the floor on request ;
- f. the plaintiff describes all offences suffered and how they were omitted ;
- g. the Seat of the Gacaca Court establishes a list of the victims and offences suffered by each one of them;
- h. the secretary of the Court reads the statement of hearing ; the Seat checks the conformity of its content with the declarations and, if need be, the statement of hearing is corrected ;
- i. the Seat of the Gacaca Court asks the plaintiff if he or she has anything to add to the hearing ;
- j. the parties to the trial and members of the Seat put their signatures or fingerprints on the statement of hearing ;
- k. the hearing is declared closed, unless the Seat deems it necessary to postpone it so as to check certain issues.

As regards pronouncement, notification, appeal and objection to the judgements passed within such circumstances, provisions for judgements by default apply.

Article 67:

Any judgement passed by the Gacaca Court of the Sector or the Gacaca Court of appeal mentions the following;

- 1° the Court that has passed it ;
- 2° the names of Seat members who gave rulings ;
- 3° the identity of the parties to the trial;
- 4° charges against the defendant ;
- 5° the facts presented by the parties ;
- 6° the motives of judgement ;
- 7° the offence of which the defendant is found guilty ;
- 8° the penalties pronounced;
- 9° the identity of the victims and the inventory of suffered offences;
- 10° the presence or absence of the parties ;
- 11° if the hearings and the pronouncement of judgements were made public;
- 12° venue and date for judgement;
- 13° the provisions of this organic law which have been applied;
- 14° the legal period for appeal.

SECTION II : HEARING AND JUDGEMENT BEFORE THE GACACA COURT OF THE CELL

Article 68:

For files relating to the offences against property, the hearing proceeds as follows :

- 1° the President of the session states the household concerned with the case ;
- 2° the President of the session recalls the household's property damaged and known, on basis of the list of victims and damaged property;

- 3° the President of the session gives the floor to any person who has anything to add to the information on the list;
- 4° the seat for the Gacaca Court adopts the inventory of damaged property;
- 5° the President of the session reads the names of the defendants having damaged the household property, basing on the list of defendants ;
- 6° each defendant presents his or her identity ;
- 7° the President of the session requests the representative of the suffered household or any person interested to give his or her identity;
- 8° the secretary of the Court states each of the damaged property and their authors ;
- 9° the President of the session asks each defendant to react to the accusations and present his or her defence ;
- 10° the President of the session asks the household representative or any person who so wishes to react to the defendants' declarations ;
- 11° the Seat for the Gacaca Court adopts the list of the victims, damaged property and the authors, each defendant is given floor to react ;
- 12° the Seat of the Court explains to the convicted defendants, modalities for granting the compensation provided for by this organic law, by asking each defendant to decide on his or her means and the period of payment, in case of conviction;
- 13° the secretary of the Court reads the statement of hearing ; the Seat checks the conformity of its content with the declarations and, if need be, the statement of hearing is corrected ;
- 14° the Seat asks the plaintiff and the defendant whether they have anything to add to the hearing ;
- 15° the parties to the trial and the Seat members put their signatures or fingerprints on the statement of hearing ;
- 16° the hearing is declared closed, unless the Seat deems it necessary to postpone it so as to check certain issues.

Article 69:

The judgement for offences against property passed by the Gacaca Court of the Cell shall mention the following:

- 1° the Court that has passed it ;
- 2° the names of the Seat members who gave rulings;
- 3° the identity of the parties to the trial ;
- 4° the damaged property requiring reparation;
- 5° the facts presented by the parties ;
- 6° the motives of judgement ;
- 7° the damaged property which must be repaired and the defendants responsible ;
- 8° the identity of the victims and the inventory of their damaged property ;
- 9° the modalities and the period for reparation;
- 10° the presence or absence of the parties ;
- 11° if the hearings and the pronouncement of judgement were made public;
- 12° venue and date for judgement;
- 13° the provisions of this organic law which have been applied.

Article 70:

Once the hearings are closed, or when deemed necessary to take any decision, the Seat of the Gacaca Court retires for deliberations and takes decision on the same day the following day.

The judgement or the decision taken are pronounced publicly in the meeting or in the next hearing, before starting that meeting or hearing.

SECTION III: MAINTAINANCE OF LAW AND ORDER DURING THE HEARINGS

Article 71:

The hearing shall be carried out in calmness. Any person who takes the floor, must be characterized by politeness in speech and behaviour before the persons of integrity, parties, witnesses and the audience at large.

The President of the session can interrupt any person not conforming to the speech taking modality without bawling or rushing him or her in a way or another.

If necessary, the President of session can give a warning to the troublemakers in the Court, eject or put him or her in detention for a period not exceeding forty eight (48) hours, according to the gravity of the offence. When the committed offence is a criminal offence, the Seat forwards the case to the security organs, for prosecution basing on the ordinary laws.

CHAPTER IV: PENALTIES

Article 72:

Defendants falling within the first category who refused, to have recourse to confess, plead guilty, repent and apologise, as stipulated in article 54 of this organic law, or whose confessions, guilt plea, repentance and apologies have been rejected, incur a death penalty or life imprisonment.

Defendants falling within the first category who confessed, pleaded guilty, repented and apologized as stipulated in article 54 of this organic law, incur a prison sentence ranging from twenty five (25) years to thirty (30) years of imprisonment.

Article 73:

Defendants falling within the second category referred to in points 1° and 2° of article 51 of this organic law who:

- 1° refused to confess, plead guilty, repent and apologise, or whose confessions, guilt plea, repentance and apologies have been rejected, incur a prison sentence ranging from twenty five (25) to thirty (30) years of imprisonment;
- 2° already appearing on the list of perpetrators of genocide established by the Gacaca Court of the Cell, have confessed, pleaded guilty, repented and apologised after the publication of the list, incur a prison sentence ranging from twelve (12) to fifteen (15) years of imprisonment, but out of their pronounced prison sentence, they serve half of the sentence in custody and the rest is commuted into community services on probation ;
- 3° confess, plead guilty, repent and apologise before the Gacaca Court of the Cell, draws up a list of perpetrators, incur a prison sentence ranging from seven (7) to twelve (12) years of imprisonment, but out of their pronounced prison sentence, they serve half of the sentence in custody and the rest is commuted into community services on probation;

Defendants falling within the second category referred to in part 3° of article 51 of this organic law, who:

- 1° Refused to confess, plead guilty, repent and apologise, or whose confessions, guilt plea, repentance and apologies have been rejected, incur a prison sentence ranging from five (5) to seven (7) years, but out of the pronounced prison sentence, they serve half of the sentence in custody and the rest is commuted into community services on probation;

- 2° Already appearing on the list of perpetrators of genocide established by the Gacaca Court of the Cell, have confessed, pleaded guilty, repented and apologised, after the publication of the list, incur a prison sentence ranging from three (3) to five(5) years of imprisonment, but out of the pronounced prison sentence, they serve half of the sentence in custody, and the rest is commuted into community services on probation;
- 3° Confess, plead guilty, repent and apologise before the Gacaca Court of the Cell, draws up a list of perpetrators, incur a prison sentence ranging from one (1) to three (3) years, but out of the pronounced prison sentence, they serve half of the sentence in custody and the rest is commuted into community services on probation.

Article 74:

Should a person who is serving community services sentence commit another crime, the period he or she has already served becomes void and he or she shall serve the remaining prison sentence in custody as well as be prosecuted for the new crime he or she committed.

Article 75:

Defendants who committed offences relating to property, are only sentenced to the civil reparation for what they have damaged.

Article 76:

Persons convicted of the crime of genocide or crimes against humanity in pursuance of this organic law are liable to the withdrawal of civil rights in the following manner:

- 1° Perpetual and total loss of civil rights, in conformity with the penal Code, for persons classified in the first category ;
- 2° Persons falling within the second category as prescribed in points 1° and of article 51 of this organic law, are liable to permanent deprivation of the right:
 - a) to vote ;
 - b) to eligibility ;
 - c) to be an expert witness in the rulings and trials, except in case of giving mere investigations ;
 - d) to possess and carry fire arms ;
 - e) to serve in the armed forces ;
 - f) to serve in the police ;
 - g) to be in the public service;
 - h) to be a teacher or a medical staff in public or private service.

3. Persons in the first and the second category shall be put on the list which shall be posted at the office of the Sector of their domicile.

Article 77:

When there is a material combination of offences each of which classifies the defendant in the same category, the maximum sentence provided for, the said category shall be applied.

However, the defendant having committed only offences placing him or her in the second category; part 3°, incurs the maximum penalty provided for, for defendants classified in that category, part 3°.

Article 78:

Persons convicted of the crime of genocide or crimes against humanity who, at the time of events, were fourteen (14) years or more but less than eighteen (18) years, are sentenced:

- 1° To a sentence ranging from ten (10) to twenty (20) years of imprisonment if they fall within the first category, but refused to confess, plead guilty, repent and apologise, or whose confessions, guilt plea, repentance and apologies have been rejected;
- 2° To a prison sentence ranging from eight (8) to ten (10) years of imprisonment, if they are classified in the first category but have confessed, pleaded guilty, repented and apologised as prescribed by article 60 of this organic law ;
- 3° When they fall within the second category, points 1° and 2° of article 51 of this organic law:
 - a) defendants who refused to confess, plead guilty, repent and apologise, or whose confessions, guilt plea, repentance and apologies have been rejected, incur a prison sentence of eight (8) to ten (10) years;
 - b) already appearing on the list of perpetrators of offences of genocide established by the Gacaca Court of the Cell, have confessed, pleaded guilty, repented and apologised, after the publication of the list, incur a prison sentence ranging from six (6) to seven and half (7½) years, but out of the pronounced prison sentence, they serve half in custody and the rest is commuted into community services on probation.
 - c) Confess, plead guilty, repent and apologise before the Gacaca Court of the Cell, draws up a list of perpetrators, incur a prison penalty ranging from three and half (3½) to six (6) years, but out of the pronounced prison sentence, they serve half in custody and the rest is commuted into community services on probation ;

4° When they fall within the second category, point 3° of Article 51 of this organic law:

- I. defendants who refused to confess, plead guilty, repent and apologise, or whose confessions, guilt plea, repentance and apologies have been rejected, incur a prison sentence ranging from two and half (2½) to three and half (3½) years, but out of the pronounced prison sentence, they serve half in custody and the rest is commuted into community services on probation;
- II. defendants already appearing on the list of perpetrators of offences of genocide established by the Gacaca Court of the Cell, have confessed, pleaded guilty, repented and apologized, after the publication of the list, incur a prison sentence ranging from one and half (1½) to two and half (2½) years, but out of the pronounced prison sentence, they serve only half in custody and the rest is commuted into community services on probation ;
- III. confess, plead guilty, repent and apologise before the Gacaca Court of the Cell, draws up a list of perpetrators, incur a prison sentence ranging from six (6) months to one and half (2½) years, but of the pronounced prison sentence, they serve half in custody and the rest is commuted into community services on probation.

Article 79:

Persons who were less than fourteen (14) years old, at the time of the charges against them, cannot be prosecuted, but they can be placed in special solidarity camps.

A Prime Minister's decree determines the modalities for conducting such solidarity camps.

Article 80:

In case of default by the convicted person to carry out community services, the concerned person is imprisoned for serving the remaining prison sentence in custody.

A presidential decree establishes and fixes modalities for carrying out community services.

Article 81:

While determining penalties, the sentence less than that provided for in this organic law, can not be applied under the pretext of mitigating circumstances. However, in case of such mitigating circumstances, it is proceeded to the lesser sentence of imprisonment or of the community services provided for in this organic law.

The person convicted of the crime of genocide who commenced serving the sentence, cannot be release on parole.

CHAPTER V : SUMMONS OF DEFENDANTS AND NOTIFICATION OF JUDGEMENTS

Article 82:

The summons are issued by the secretary of the Gacaca Court, through the grassroots organs of where the defendant resides or to the authority of where he or she is detained.

The summoned person who refuses to appear is brought by means of the forces of law and order.

Article 83:

At the closing of the hearing, the parties to the trial and the persons present in the hearing are informed of the day and the hour for the judgement pronouncement.

Article 84:

When the judgement is pronounced, parties present in the trial affix their signatures or their fingerprints in the register of the pronounced judgement. If they are not satisfied with the Court rulings, the parties declare their intention to appeal and it is registered.

Judgement passed by default, as well as that pronounced in the defendant's absence, is legally notified by a written notification of judgement, which the secretary of the Court forwards to the defendant through the Coordinator of the Sector of where he/she resides or to the authority of where he/she is detained.

The judgement passed against a person who has neither known address nor residence in Rwanda, is notified in the same way as he or she was subpoenaed as it is prescribed by article 99 of this organic law.

CHAPTER VI: MEANS OF APPEAL

Article 85:

The means of appeal recognized by this organic law are the following: Opposition, Appeal and Review of judgement.

SECTION ONE: OBJECTION

Article 86:

The judgements passed by default under the provisions of this organic law, opposition may be made against.

The objection is brought before the Court which has passed the judgement at the first level. The petitioner registers it to the secretary of the Gacaca Court.

The opposition is only admissible if the defaulting party pleads a serious and legitimate reason which impeded him or her from appearing in the trial concerned. The Court shall assess the ground of admissibility, admit or reject it.

Article 87:

The opposition period is fifteen (15) calendar days, starting from the day of the notification of judgement passed by default.

Article 88:

The party making opposition who does not appear cannot petition for another opposition.

SECTION II : APPEAL

Article 89:

Judgements relating to offences against property passed by the Gacaca Court of the Cell cannot be subject to appeal, but other cases are subject to appeal before the Gacaca Court of the Sector which gives a ruling in the last resort.

Judgments passed by the Gacaca Court of the Sector at first instance, are appealed against before the Gacaca Court of appeal which gives a ruling in the last resort.

Article 90:

Only the defendant and parties against him or her are entitled to lodge an appeal against a judgement passed by a Gacaca Court.

Article 91:

The time of lodging an appeal is fifteen (15) calendar days, starting from the day the judgement is pronounced if it was passed by default, or starting from the day following the notification of judgement passed by default against which he or she did not make an opposition. The case is judged in the same way as before.

Article 92:

If the Gacaca Court to which an appeal is referred, finds that the appellant has been classified in an inaccurate category, it classifies him or her in the category corresponding to offences of which he or she is accused and tries him or her at first and last resort. However, when it finds that he or she is classified into the first category, the Gacaca Court forwards the file to the Public Prosecution.

SECTION III: REVIEW OF JUDGEMENT

Article 93:

The judgement can be subject to review only when:

- 1° the person was acquitted in a judgement passed in the last resort by an ordinary court, but is later found guilty by the Gacaca Court ;
- 2° the person was convicted in a judgement passed by an ordinary court, but is later found innocent by the Gacaca Court;
- 3° the person was given a sentence contradictory to the legal provisions on offences of which is convicted.

The defendant or the parties against and their descendants can lodge a review of the judgement.

The Gacaca Court of Appeal is the only competent Court to review judgements passed under such condition

CHAPTER VII: COMPENSATION FOR DAMAGED PROPERTY AND OTHER FORMS

Article 94:

Cases relating to damaged property shall be brought before the Gacaca Court of the Cell or other courts before which the defendants appear. However, such judgements shall not be appealed against.

Article 95:

The reparation proceeds as follows:

- 1° Restitution of the property looted whenever possible ;
- 2° Repayment of the ransacked property or carrying out the work worth the property to be repaired.

The Court rules on the methods and period of payment to be respected by each indebted person.

In case of default by the indebted person to honour his or her commitments, the execution of judgement is carried out under the forces of law and order.

Article 96:

Other forms of compensation the victims receive shall be determined by a particular law.

TITLE IV: MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

Article 97:

The public action and penalties related to offences constituting the crime of genocide or crimes against humanity are imprescriptibly.

Article 98:

Courts dealing with cases of genocide and other crimes against humanity provided for by this organic law, can put to trial persons who have neither had address nor residence in Rwanda or who are outside Rwanda, if there are complementary evidences or serious guilt clues, whether they have previously been or not been cross-examined.

Article 99:

If the defendant has neither known address nor residence in Rwanda, the summons' period is one (1) month. The secretary of the Gacaca Court, or the court registrar in person or through other organs, displays a copy of the summon on the premises, of which must try the case and on the offices of Districts or Towns, and the Province or City of Kigali.

The copy of the summon can only be displayed in public places intended for that purpose.

Trials for persons so summoned, are brought before Gacaca Courts, in accordance with article 66 of this organic law, whereas before the ordinary courts, they follow the procedure provided for cases of defendants put to trial by default.

Article 100 :

The cases already forwarded to the courts before the publication of this organic law in the Official Gazette of the Republic of Rwanda, shall remain handled by the same courts. Provisions provided for by the ordinary laws shall apply thereto, without prejudice to special provisions of this organic law. As for the subject of the action, those courts shall apply provisions of this organic law.

However, if it appears that the person prosecuted in that manner, is charged with co-defendants who are in the same category, by the Gacaca Court, provisions of article 2 of this organic law shall apply.

Article 101:

The National Service in charge of the follow up, supervision and coordination of the activities of Gacaca Courts shall establish rules and regulations on the way the organs of Gacaca Courts formerly set up by Organic Law n° 40/2000 of January 26, 2001 organizing the prosecutions for offences constituting the crime of genocide and crimes against humanity, committed between October 1, 1990 and December 31, 1994, as modified and completed to date, are replaced by those set up by this organic law.

Article 102:

Elections to replace a person of integrity who cannot continue with his or her duties, due to any reason, are conducted by the Coordination Committee of the Court which hosts those elections.

However, when there are persons of integrity of the list of deputies, they assume their duties following the order of the list, without any other restriction.

Article 103:

The first meeting of the General Assembly for the Sector following the publication of this organic law in the Official Gazette of Rwanda is composed of all the persons of integrity elected from the Sector, either those formerly from the Gacaca Court of the Province or that of the City of Kigali, formerly from the Gacaca Court of the District or Town, formerly from the Gacaca Court of the Sector, as well as those making up Gacaca Courts of the Cells making up that Sector.

That meeting is only responsible for electing persons of integrity composing the Gacaca Court of Appeal and their deputies, as well as the Seat of the Gacaca Court of the Sector and their deputies.

Persons of integrity not elected go back to their Cells they were elected from so that, among them, are elected nine (9) persons of integrity composing the Gacaca Court of the Cell and their five (5) deputies.

Article 104:

Persons convicted by Gacaca Courts in conformity with articles 32 and 37 of the Organic Law n° 40/200 of January 26, 2001 organising prosecutions for offences constituting the crime of genocide and crimes against humanity, committed between October 1, 1990 and December 31, 1994, as modified and completed to date, serve their sentences in accordance with the provisions of this organic law. Those who have already served at least six (6) months of imprisonment shall be released immediately after the publication of this organic law in the Official Gazette of the Republic of Rwanda.

Article 105:

Organic law n° 08/96 of August 30, 1996 organizing proceedings for offences constituting the crime of genocide and crimes against humanity committed from October 1, 1990 and organic law n° 40/2000 of January 26, 2001 setting up Gacaca Courts and organizing prosecutions of offences constituting the crime of genocide and crimes against humanity, committed between October 1, 1990 and December 31, 1994, as modified and completed to-date, and all previous legal provisions contrary to this organic law, are hereby abrogated.

Article 106:

This Organic Law comes into force on the date of its publication in the Official Gazette of the Republic Rwanda.

Kigali, on 19/6/2004

The President of the Republic
KAGAME Paul
(sé)

The Prime Minister
MAKUZA Bernard
(sé)

The Minister of Justice
MUKABAGWIZA Edda
(sé)

The Minister of Local Government, Community Development and Social Affairs
BAZIVAMO Christophe
(sé)

Seen and sealed with the Seal of the Republic:
The Minister of Justice
MUKABAGWIZA Edda
(sé)