



Justice Mechanism in Rwanda: Balancing Retribution and Reconciliation

The 1994 genocide in Rwanda that targeted the Tutsi population left deep scars on the nation, with over 800,000 lives lost in just 100 days. In its aftermath, Rwanda faced the monumental task of rebuilding its society while addressing the crimes committed during the genocide. The justice mechanisms implemented in Rwanda reflect a complex balance between retribution, reconciliation, and the need for national unity.

The International Criminal Tribunal for Rwanda (ICTR)

The International Criminal Tribunal for Rwanda (ICTR) was established by the United Nations Security Council in November 1994 under Resolution 955. Its mandate was to prosecute individuals responsible for genocide and other serious violations of international humanitarian law committed in Rwanda and neighbouring states between 1st January and 31st December 1994. Its headquarters were in Arusha, Tanzania, and it operated as an ad hoc international court, similar to the International Criminal Tribunal for the Former Yugoslavia (ICTY).

Objectives and Legal Contributions

The ICTR was instrumental in shaping international criminal jurisprudence, particularly in the areas of genocide, crimes against humanity, and war crimes. It became the first tribunal to deliver a conviction for genocide, setting a precedent that strengthened the enforcement of international criminal law. The ICTR clarified key

legal definitions, including the intent requirement for genocide and the role of incitement in mass atrocities.

One of the tribunal's landmark cases was Prosecutor v. Jean-Paul Akayesu, which established that rape and sexual violence could constitute acts of genocide when committed with the intent to destroy a particular group. This was a significant step in recognising gender-based violence as an integral

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The International Criminal Tribunal for Rwanda (ICTR) spent \$2 billion during its work in Arusha
PICTURE-ALLIANCE/DPA/L. LEE BECK

part of genocidal acts. Other high-profile convictions included former Rwandan Prime Minister Jean Kambanda, who pleaded guilty to genocide, and Colonel Théoneste Bagosora, considered one of the genocide's primary architects.

Challenges and Criticism

Despite its legal achievements, the ICTR faced significant obstacles

throughout its existence and is still criticised for its slow judicial process, as trials often took years to complete. This was partly due to the complexity of gathering evidence, securing witnesses, and ensuring due process in a post-conflict environment. The ICTR's bureaucratic structure and reliance on international funding also contributed to delays and inefficiencies.

Additionally, the tribunal was accused of being disconnected from the Rwandan people. Trials were held in Arusha, Tanzania, far from the communities most affected by the genocide. This geographic and cultural distance made it difficult for many Rwandans to engage with the justice process or feel a sense of closure. The ICTR also had limited jurisdiction, focusing solely on crimes committed in 1994, despite evidence that the roots of the genocide extended much further back in Rwandan history. This criticism persists even as the International Residual Mechanism for Criminal Tribunals (IRMCT), established in 2010, continues to complete the remaining work of the ICTR and the International Criminal Tribunal for the former Yugoslavia (ICTY).

Factions of the Rwandan government voiced strong objections to several aspects of the ICTR. It argued that the tribunal's failure to prosecute crimes committed by the Rwandan Patriotic Front (RPF), the rebel group that ended the genocide and later became the ruling party, reflected a biased and selective approach to justice. Critique about



The proceedings of the International Criminal Court for Rwanda (ICTR). Arusha, Tanzania
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the government, which was largely composed of members of the RPF, objected to the fact that the ICTR's mandate focused primarily on prosecuting those who committed genocide against the Tutsi, and did not extend to prosecuting alleged crimes committed by the RPF. They argued that this focus prevented a full and impartial examination of all atrocities. Moreover, Rwanda opposed the fact that convicted individuals were imprisoned outside the country, as it preferred to handle sentencing and incarceration domestically. Rwanda's preference was partly due to a desire to exert its own sovereignty over judicial matters and to ensure that sentences served within the country could contribute to domestic reconciliation efforts.

Transition to Domestic Justice Mechanisms

Frustrated with the ICTR's limitations, the new Rwandan government sought to establish its own legal frameworks to prosecute lower-level perpetrators more efficiently. This led to the implementation of national courts

and the revival of *Gacaca* courts, a traditional community-based justice system. While the ICTR played a crucial role in prosecuting high-level genocide leaders, the overwhelming number of cases, over 120,000, meant that Rwanda needed alternative mechanisms to process the individuals accused of participating in the killings.

In response to the overwhelming number of genocide cases following the 1994 genocide in Rwanda, the International Residual Mechanism for Criminal Tribunals (IRMCT) was established in 2010 to complete the work of the International



The trial of Jean-Paul Akayesu begins. On 2 September 1998, the Trial Chamber found Akayesu the former bourgmestre of Taba commune, guilty of genocide.

CREDIT: [HTTPS://UNICTR.IRMCT.ORG/EN/GENOCIDE](https://unictr.irmct.org/en/genocide)

Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the former Yugoslavia (ICTY).

Ultimately, the ICTR closed in 2015 after completing 93 cases, with 62 convictions. Although its legacy remains mixed, the tribunal played a pivotal role in strengthening international criminal law and reinforcing the principle that those responsible for mass atrocities would be held accountable. However, its challenges underscored the complexities of post-conflict justice and the need for mechanisms that balance international legal standards with local engagement and reconciliation.

Gacaca Courts: Community-Based Justice

The Rwandan government reintroduced the *Gacaca* court system in 2002. *Gacaca*, meaning “justice on the grass” in Kinyarwanda, was a traditional conflict-resolution mechanism that had historically been used to settle disputes at the local level. The government adapted this communal system to handle the massive caseload of genocide-related crimes, as Rwanda's formal judicial system lacked the capacity to process the more than 120,000 people accused of involvement in the killings.

Unlike conventional courts, which rely on trained judges, lawyers, and strict legal procedures, *Gacaca* courts were composed of locally elected judges (*inyangamugayo*, meaning “persons of integrity”) who had no formal legal training specific to this format. This structure was intended to create an inclusive, participatory process that would allow communities to hold perpetrators accountable while promoting reconciliation.

The Gacaca Process and Its Objectives

The Gacaca courts operated as a decentralised justice system, with thousands of tribunals established at the village, sector, and district levels. Cases were categorised based on the severity of crimes:

Category 1: Planners and organizers of the genocide, including political and military leaders. These cases were handled by conventional courts.

Category 2: Individuals who participated in killings or acts of serious violence. These cases were the primary focus of the *Gacaca* courts.

Category 3: Those who committed property crimes, such as looting and destruction.

The *Gacaca* process emphasised confession, apology, and reintegration. Accused individuals were encouraged to admit their crimes in exchange for reduced sentences, often involving community service instead of long-term imprisonment. The goal was not only to provide justice but also

to create an opportunity for truth-telling, healing, and social reintegration.

Trials were held outdoors in villages, where community members could provide testimony. The open nature of the process allowed victims to confront perpetrators and enabled entire communities to engage in discussions about the genocide. By incorporating local knowledge and participation, the *Gacaca* courts sought to establish a collective understanding of the events of 1994 and prevent future violence.

Achievements of the Gacaca Courts

The *Gacaca* courts achieved significant milestones in post-genocide Rwanda. Over 12,000 *Gacaca* courts processed approximately 1.9 million cases between 2002 and 2012, clearing the backlog that had overwhelmed the formal judiciary.

By involving local populations in the justice process, *Gacaca* fostered a sense of communal responsibility

criticisms and challenges. *Gacaca* judges had no formal legal training, and concerns arose about their ability to assess complex cases fairly. Defendants were not provided with legal representation, and decisions were often based on oral testimony rather than concrete evidence. This raised concerns about wrongful convictions, personal vendettas, and the potential for manipulation of the process.

Testifying in *Gacaca* was a dangerous endeavour for many victims and witnesses. There were reports of intimidation, threats, and even killings of individuals who spoke out against perpetrators. Without a robust witness protection system, many survivors feared retaliation, which discouraged them from participating fully in the process.

The *Gacaca* courts were overseen by the National Service of *Gacaca* Jurisdictions (NSGJ), a highly centralised body that critics argue was influenced by the Rwandan Patriotic Front (RPF), the ruling party. Many Hutu felt that the process was biased against them, as the *Gacaca* courts focused almost exclusively on crimes committed by Hutu perpetrators while largely ignoring alleged crimes committed by the RPF during and after the genocide. This one-sided approach led to accusations of “victors’ justice” and undermined the courts’ credibility in the eyes of some communities.

The Tension Between Justice and Reconciliation

In the aftermath of the 1994 genocide, Rwanda faced the difficult task of balancing justice and reconciliation in a deeply divided society. The genocide had left at least 800,000 dead, including Tutsi

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A genocide suspect standing trial before a *Gacaca* court. *Gacaca* means to sit down and discuss an issue.

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for addressing the past. Many perpetrators admitted to crimes they might not have otherwise confessed to in a conventional court, contributing to a more complete historical record of the genocide. While justice was a primary goal, *Gacaca* also emphasised reconciliation, allowing survivors and perpetrators to coexist within the same communities.

Criticism and Challenges

Despite its achievements, the *Gacaca* system faced serious

and Hutu who opposed the genocidal regime, and the new Rwandan government sought to hold those responsible accountable. However, the process of delivering justice was fraught with challenges, as it had to address the needs of both victims and perpetrators while maintaining long-term stability.

At the heart of this tension was the differing perception of justice between the survivors – mostly Tutsi – and the Hutu population, many of whom feared collective punishment. For genocide survivors, accountability and punishment were necessary for healing and preventing future atrocities. However, many Hutu viewed the post-genocide justice system as a means for the ruling Rwandan Patriotic Front (RPF) to consolidate power and marginalise them politically and socially. This had the potential to create an enduring divide between the two communities, complicating efforts toward reconciliation.

The Perception of Victor's Justice

A central criticism of Rwanda's post-genocide justice system was the perception that it was biased in favour of the RPF, which had overthrown the genocidal regime and established itself as the governing party.

"For some survivors, seeing their attackers reintegrated into society so quickly undermined their sense of justice and security."

While there was overwhelming evidence of systematic killings orchestrated by the previous government, the exclusion of crimes allegedly committed by the RPF, including reprisal killings against Hutu civilians, fuelled the belief that justice was one-sided.



A genocide suspect standing trial before a Gacaca court in Zivu, Rwanda, March 10, 2005.

CREDIT: AP IMAGES AT [HTTPS://WWW.BRITANNICA.COM/TOPIC/GACACA-COURT](https://www.britannica.com/topic/gacaca-court)

Some Hutu felt they were being collectively punished while RPF members remained untouchable.

It's important to note that the RPF forbade revenge killings and stated that any such acts would be dealt with through an internal army justice system. However, the extent to which these internal processes were perceived as sufficient or transparent varied. The idea of "victor's justice" was further reflected in the structure and execution of Gacaca courts.

While these community-based courts were meant to foster truth-telling and accountability, many

personal or political motives rather than concrete evidence.

For Tutsi survivors, Gacaca courts and the broader justice system provided some measure of justice, but they also exposed them to renewed trauma. Survivors had to recount their experiences in public, sometimes in front of the very people who had attacked them. The open nature of Gacaca proceedings made it difficult to protect witnesses from intimidation and retaliation. There were documented cases of survivors being threatened, harassed, or even killed after testifying against perpetrators.

Additionally, many survivors felt that the sentences given to confessed perpetrators were too lenient. Under Gacaca, those who confessed to their crimes were often given reduced sentences, including community service or short prison terms. For some survivors, seeing their attackers reintegrated into society so quickly undermined their sense of justice and security.

Hutu felt they lacked impartiality. The judges (*inyangamugayo*) were locally elected, but because the RPF controlled the legal framework of Gacaca, critics argued that political pressure influenced verdicts. Some individuals accused of genocide were allegedly targeted based on

Reconciliation vs. Justice: A Fragile Balance

The post-genocide Rwandan government justified its strict control over the justice process by arguing that prioritising justice without reconciliation would only deepen divisions and potentially lead to renewed violence. However, critics contended that an overly state-controlled reconciliation process risked being superficial.

Ongoing arrests and trials, including international efforts such as those involving South Africa in apprehending and exposing



Fulgence Kayishema sits in the Cape Town Magistrate's Court in Cape Town on May 26, 2023.

RODGER BOSCH/AFP VIA GETTY IMAGE

"The Rwandan case offers important lessons for transitional justice processes worldwide,"

perpetrators, alongside international trials in countries like France and the process of extraditing wanted suspects, highlight the continued pursuit of justice. For instance, South Africa has been involved in cases such as the arrest of Fulgence Kayishema in May 2023, who is accused of participating in the killing of thousands of Tutsi refugees. Similarly, France has conducted trials related to the genocide, including the conviction of Laurent Bucyibaruta, a former Rwandan official, for complicity in genocide and crimes against humanity. As Rwanda continues its journey of healing, the legacy of its justice mechanisms remains a testament to the resilience of its people and the ongoing challenge of rebuilding a nation scarred by violence and division.

Ultimately, Rwanda's approach to post-genocide justice highlights the inherent challenges of rebuilding a fractured society after mass atrocities. The Rwandan case offers important lessons for transitional

justice processes worldwide, serving as both a model and a cautionary tale. The ICTR demonstrated the importance of international intervention and the potential for accountability on a global scale, even if imperfect.

Meanwhile, the *Gacaca* courts underscored the value of community-based approaches in post-conflict contexts, emphasising participation, confession, and reconciliation over purely punitive measures.

However, the Rwandan experience also serves as a cautionary tale about the complexities of balancing justice, fairness, and national unity. While these mechanisms brought some degree of closure to the nation, they also exposed the difficulties of addressing mass atrocity crimes in a way that satisfies both victims and broader society.

KRISTEN PETERS

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