

Justice returned to Genocide Survivors

Introduction

By the time the Genocide was brought to an end by the military intervention of the Rwandan Patriotic Front (RPF), the judicial system was badly damaged. The weak judicial system meant that investigations leading to the arrest and bringing to justice of perpetrators of crimes against humanity was extremely difficult.

In 1995, to help support the trial of Genocide perpetrators a number of associations of Genocide Survivors were set up to represent survivors' rights. These associations aimed to confront and overpower the problems that the Genocide left behind (such as trauma) and to bring to justice those who committed atrocities against survivors and their families. Some of those charged had already fled the country, which meant it was necessary to trace fugitives to where they had taken refuge.

The formation of IBUKA allowed many of these associations to be managed under one umbrella.

Establishing and developing the IBUKA Justice Division

In 1998, 4 years after the end of the Genocide, the search for justice remained one of the greatest challenges facing both IBUKA and the Rwandan Government. Some of the drawbacks of the justice program included: inefficient judicial staff (due to lack of training and insufficient infrastructure), document theft, (unwanted editing of dossiers and corruption amongst judicial staff), threats to survivor and witnesses security, and lack of judicial assistance for Genocide survivors.

To combat these issues IBUKA created the *Projet des parajuristes* (Paralegals Project). The *Projet des parajuristes* led to the development of 24 Justice Units, in all provinces across Rwandan. The Justice Units were in charge of providing judicial assistance and were under the supervised by IBUKA's Justice Division.

At the inception of the project, Genocide survivors faced the following problems:

- Lack of knowledge about their rights
- Little or no financial means to pursue legal redress
- Lack of information about when trials and judgments would take place
- Lack of advocacy skills and of trained advocates
- Ignorance of procedure, in particular of how charges could be brought or compensation sought.

The Justice Units provided survivors with training in basic judicial matters and gave assistance in stating their cases. The table below illustrates the provision that the Justice Division provided.

Issues that the Justice Division identified it needed to provide	Solutions to the issues developed by the Justice Division
Information	- Conferences and meetings were organized so that survivors could

<p>regarding the legal system and survivor's rights</p>	<p>discuss their problems.</p> <ul style="list-style-type: none"> - Training was given on basic human rights and peace culture. - Training was given on law no 08/96 of 30/8/1996, concerning instances of Genocide and the prosecution of other crimes against humanity perpetrated since 1 October 1990. - Training was given on how to apply for compensation through the judicial system. - Assisting survivors in dealing with these bodies - Information was given regarding property concerns: In 2008 and 2009, a report on property concerns was handed to the government. This detailed 543 cases where survivors' property was alleged to be in hands of non-owners.
<p>Assistance in Prosecution</p>	<ul style="list-style-type: none"> - Survivors were informed about their rights, the procedures and timeframes for bringing their appeals to justice. - Bringing extradition proceedings against genocide perpetrators. - Monitoring the effects of the Presidential pardon granted in 2003 and 2005, and ensuring that any cases not originally brought against perpetrators released were followed up. - Working closely with international prosecutors by providing them with testimonies and exhibits as required, and connected compensation claims: <ul style="list-style-type: none"> • Close interaction with the ICTR (International Criminal Tribunal for Rwanda). • Close interaction with Belgian Courts. - Close interaction with Canadian, Norwegian and German courts as regards bringing exiles to trial in their respective host countries. - Collecting and preparing testimonies that could be used in extradition and case proceedings in France and Belgium.
<p>Dealing with Problems</p>	<p>Among the duties and responsibilities of the IBUKA Justice Division was to record problems encountered by survivors during the justice process. They gave judicial advocacy on highlighted issues, brought survivors' problems to higher levels of judicial authority and gave assistance to survivors at those higher levels of governance when necessary.</p>
<p>Judgment and Case Management</p>	<ul style="list-style-type: none"> - Monitored cases and documenting judgments delivered. - Appealed for Lawyers to act for or represent survivors in court, working alongside: various lawyers' associations, Lawyers Without Borders and Danish Centre for Human Rights. - Briefing meetings to help those seeking compensation to prepare their cases. Providing briefing for claimants on how to claim their rights to compensation within districts (formerly communes). Connecting

	<p>survivors with their lawyers. Assisting lawyers in the preparation of survivors' compensation claims.</p> <p>- Supporting Genocide trials</p> <p>Continuation of assistance in trials held outside the Gacaca court system:</p> <ul style="list-style-type: none"> ● Providing trial schedules ● Identifying appropriate lawyers ● Accompanying survivors at trial sessions ● Post-trial follow-up ● <p>- Supporting Common trials</p> <ul style="list-style-type: none"> ● Providing survivors with advocates ● Helping them to prepare their witnesses: <ul style="list-style-type: none"> ○ Each Friday, we accompany them to the Lawyers' Bar ○ Taking their letters to Lawyers without Borders (<i>Avocats sans Frontières</i>)
<p>Ensuring the safety of Survivors and Witnesses</p>	<p>One of the responsibilities of the paralegals was to follow the security concerns of the survivors and witnesses at the Gacaca court hearings, which required day-to-day monitoring of the security issues of survivors and the reporting of any issues to the relevant bodies, which include:</p> <ul style="list-style-type: none"> ● Police ● General Prosecution Office ● Ministry of Justice ● Headquarters of the Gacaca Jurisdictions ● Human Rights Commission ● Different organs of the government. <p>- Special and urgent reports on serious issues such as murders, to enable cases to be solved right away and before the problem spread on a large scale:</p> <ul style="list-style-type: none"> ● In 2008, a report recorded a total of 156 deaths between 1995 and 2008, information which was then reported to the higher echelons of the government

The IBUKA Justice Division today

Since its creation in 1998, the *Projet des parajuristes* has continued to work under difficult circumstances with limited materials and funding. Lack of funding has restricted the growth of the department and staff salaries remain unchanged since 1998. Until October 2010, the department has 24 people spread across 30 districts which was insufficient for the large number of survivors seeking assistance.

In the last 6 months, the project has faced extreme financial difficulties due to the Worldwide financial crisis. The crisis initially impacted on the department's operations when the primary

stakeholder, the Government Assistance Fund for Survivors (FARG) stopped supporting the project at the end of October 2010. FARG used to provide staff salaries and had to stop funding the project when they went through an internal restructuring process. Staff members from all districts were forced to stop working. The Justice Division now comprises one staff member who is now responsible for work that was previously performed by 24 people. This has left the Division unable to function because the demand for its work has not subsided. Genocide Survivors are still facing challenges related to their security, their property, and all other aspects of their life. The paralegals located in all the provinces of Rwanda report the following ongoing problems:

- Murders and attempted murders
- Torture and harassment
- Receipt of threatening messages
- Destruction of crops belonging to Genocide Survivors
- Destruction and/or burning houses of Genocide Survivors
- Killing of domestic animals reared by Genocide Survivors
- Throwing stones at Genocide Survivors' houses

The table below indicates the number of cases of each crime that was reported in 2008 alone¹.

Problem/ Province	South	East	West	North	Kigali City	Total
Murders	9	4	2	1	6	22
Attempted murders	5	3	2	0	3	13
Torture and harassment	19	8	6	3	5	41
Threatening messages	14	6	9	2	12	43
Destruction of crops	6	13	4	0	1	24
Destruction of houses	2	0	1	0	1	4
Killing of domestic animals	2	2	1	6	1	12
Throwing stones	19	14	16	6	24	79
Burning houses	1	1	0	0	2	4
Total	77	51	41	18	55	

In addition to ongoing security issues for Genocide Survivors, there are still challenges related to Gacaca jurisdictions. Cases of corruption have been reported, as have stories of the incompetence of Gacaca courts. Some Gacaca judges and local leaders have been involved in

¹ These cases were reported by paralegal assistants working in all the 30 districts of Rwanda.

corruption and have handled Gacaca cases in an unprofessional manner. Some perpetrators have been released even when there was sufficient evidence for a conviction. Some other cases have been finalized and there has been no follow up to ensure that the convicted perpetrators will face justice.

The department also provides advocacy for orphaned children, supporting their rights to maintaining property. Relatives, local leaders and other people have used their power and influence to take plots of land from these orphans. A plot of land is one of the major assets that some orphans inherited from their parents. These orphans are vulnerable in many ways and do not have access to lawyers to assist them in courts of justice.

These continued challenges faced by Genocide Survivors necessitate continued legal assistance and advocacy at all levels.

Looking towards the future of the Justice Division

The Justice Division was established in early 1995, at the very inception of IBUKA. It is a cornerstone of IBUKA's work, given that justice must come before any other issue. Any disturbance to the work of this division will substantially hinder the work of IBUKA, as well as our member organisations dealing with related matters.

Of course, this will undoubtedly result in long delays in dealing with matters of justice for survivors. This should not be considered as solely a problem for the Justice Division, but rather a problem for the whole organization and it must therefore be addressed with seriousness and by us all, collectively.

Survivors are citizens like any others, but their situations diverge to a degree from other cases - their case is of a special nature for a number of reasons. Any reluctance bringing justice for survivors could result in trauma and even other, more serious consequences, as considered in various reports. It is in everyone's interest for IBUKA to succeed in its mission, failures in dealing with welfare could have a serious negative impact on survivors. We cannot claim that the Gacaca courts have finally solved the issues of justice facing Rwanda. Many challenges persist - suspected genocide perpetrators still have not appeared before justice, land and property is still in hands of non-owners and so many others problems which have been listed here. This is the responsibility of a Justice Division that is diminishing over time under the weight of the financial crisis.