



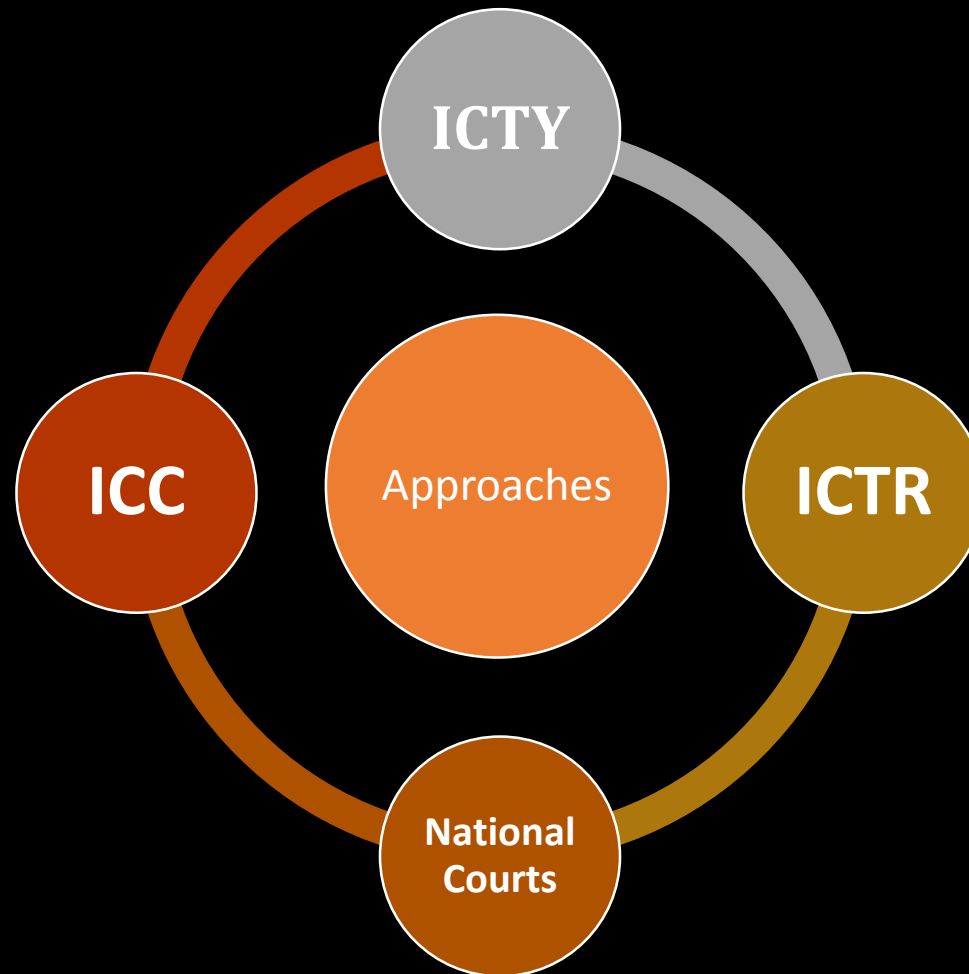
Photograph: Gacaca Hearing in Progress; Source: The New Times, 15/6/2017

INTEGRATING COMMUNITY-BASED JUSTICE MECHANISMS IN THE FIGHT AGAINST CONFLICT-RELATED SEXUAL VIOLENCE (CRSV)

A CASE STUDY OF THE TRADITIONAL GACACA JUSTICE SYSTEM IN RWANDA

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CONVENTIONAL PROSECUTORIAL APPROACHES & CRSV



SEXUAL VIOLENCE DEMOGRAPHICS

- Total number of *victims of sexual violence* during genocide: 250 000 – 500 000
- Total number of *suspects of sexual violence*: 500,000
- Total number of *suspects tried within gacaca*: 6 000+
- *Comparison with the ICTR*: Of cases that included rape charges only 10% were found guilty while 20% were acquitted because the prosecution did not present enough evidence to determine guilt.

FAILURES (ICTR)

- The prosecutors *dropped* charges of sexual violence for all suspects who pleaded guilty (Bianca, 2013, p. 143).
- *Convictions* for acts of sexual violence were also extremely low (Bianca 2013, p. 168).
- Nowrojee (2005): “an overwhelming 90 per cent of those judgments [handed down by the ICTR] contained *no rape convictions*..there were double the number of *acquittals for rape* than there were rape convictions” (p. iv).

IMPEDIMENTS

- *Stigmatization* of victims (Nowrojee, 2005, p. 17)
- Lack of the requisite *resources* needed to access justice.
- National courts in post-conflict societies tend to be *distant*, *slow* and in most instances, highly *corrupt* (Asia Foundation, 2001).
- Disillusionment with these “*offender-oriented*” models of justice.

THE GACACA OF RWANDA

- Gacaca
 - The Tradition
 - Organic Law:
 - Organic Law 40/2000
 - Organic Law No. 16/2004
 - Process and Progress
- Gacaca means “*judgment on the grass*”
- Purpose:
 - “sanctions the violation of rules that are shared by the community, with the sole objective of reconciliation” through restoring harmony and social order and reintegration of the person who was the source of the disorder”



WEAKNESSES & STRENGTHS PRESENTED BY GACACA

WEAKNESSES

- Social Stigma & Ostracism
- Lack of Independence and Impartiality by the Judges
- Intimidation of Victims and Witnesses

STRENGTHS

- Access to Justice: Accessibility, Affordability and Swiftness
- Participatory Approach
- Addressing Recidivism through Re-integrative Shaming

- ICTR was only able to complete about 70 cases since its establishment with an annual budget of over US\$200 million.
- Gacaca on the other hand was able to determine close to two million cases at a comparatively smaller budget of US\$65 million.

RECOMMENDATIONS ON INCORPORATION OF INFORMAL MECHANISMS

- Codification of the procedures and structures of informal mechanisms
- Counselling and psychological support
- Addressing due process concerns
- Ensuring upward and downward accountability
- Capacity building
- Engaging community-based non-profit organizations

CONCLUSION

- Traditional/religious dispute resolution mechanisms are a feature of almost every society in the world.

Examples:

- The Adat system in Indonesia,
- The Mato Oput practice in Uganda,
- Jirga in Afghanistan,
- The Barangay Justice System of the Philippines,
- Sulah in the Middle East and
- The Community Justice Liaison Unit of Papua New Guinea.
- Sharia law in Muslim countries could also present avenues for community-based justice in these countries