

**ORGANIC LAW N<sup>0</sup> 40/2000 OF 26/01/2001 SETTING UP <<GACACA  
JURISDICTIONS >> AND ORGANIZING PROSECUTIONS FOR OFFENCES  
CONSTITUTING THE CRIME OF GENOCIDE OR CRIMES AGAINST  
HUMANITY COMMITTED BETWEEN OCTOBER 1, 1990 AND DECEMBER 31,  
1994.**

**We, Paul KAGAME,**

President of the Republic,

**THE TRANSITIONAL NATIONAL ASSEMBLY HAS ADOPTED AND WE SANCTION,  
PROMULGATE THE FOLLOWING ORGANIC LAW DECLARED TO BE IN HARMONY WITH  
THE FUNDAMENTAL LAW BY THE SUPREME COURT, SECTION OF THE  
CONSTITUTIONAL COURT, IN ITS RULING N<sup>0</sup> 47/11.02/00 PASSED IN ITS HEARING OF 18/01/2001,  
AND ORDER THAT IT BE PUBLISHED IN THE OFFICIAL GAZETTE OF THE REPUBLIC OF  
RWANDA.**

The Transitional National Assembly, meeting in its session of 12<sup>th</sup> October 2000;

Given the Fundamental Law of the Republic of Rwanda as modified and complemented to date, especially the Constitution of June 10, 1991 in its Articles 12, 33, 69, 91 and 97 as well as the Arusha Peace Protocol of Agreement on Power Sharing, especially in its Articles 3, 6-d, 16-3, 26, 39-c, 40, 72 and 73;

Given the revision of the Fundamental Law of October 5, 2000;

Revisited law-decree n<sup>0</sup> 09/80 of July 7, 1980 on the code of judicial organization and competence as modified to date;

Revisited organic law n<sup>0</sup> 08/96 of August 30, 1996 organizing prosecutions for offences  
constituting the crime of genocide or crimes against humanity committed since October 1,  
1990;

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

Revisited law-decree no.21/77 of August 18, 1977 instituting the penal code as modified and complemented to date;

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

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

Considering that the duty to testify is a moral obligation, nobody having the right to get out of it for whatever reason 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 genocide and the crimes against humanity are notably provided for by the convention of December 9, 1948 preventing and punishing the crime of genocide, by the Geneva convention of August 12, 1949 relating to protecting civil persons in wartime and the additional Protocols, as well as the convention of November 26, 1968 on imprescriptibility of war crimes and crimes against humanity.

Considering that Rwanda has ratified those three conventions and published them in the Official Gazette of the Republic of Rwanda, without however providing for sanctions for such crimes;

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

Considering the necessity, in order to achieve reconciliation and justice in Rwanda, to eradicate for good the culture of impunity and to adopt provisions enabling to ensure prosecutions and trials of perpetrators and accomplices without only aiming for simple punishment, but also for the reconstitution of the Rwandese society made decaying by bad leaders who prompted the population to exterminate one part of that society;

Considering that it is important to provide for penalties allowing convicted prisoners to amend themselves and to favour their reintegration into the Rwandese society without hindrance to the people's normal life;

## **ADOPTS:**

### **TITLE ONE : APPLICATION FIELD**

#### **Article 1:**

The purpose of this organic law is to organize the putting in trial of persons prosecuted for having, between October 1, 1990 and December 31, 1994, committed acts qualified and punished by the penal code and which constitute:

- a) either crimes of genocide or crimes against humanity as defined by the Convention of December 9, 1948 preventing and punishing the crime of genocide, by the Geneva Convention of August 12, 1949 relating to protecting civil persons in wartime and the additional protocols, as well as in the Convention of November 26, 1968 on imprescriptibility of war crimes and crimes against humanity;
- b) or offences aimed at in the penal code which, according to the charges by the Public prosecution or the evidences for the prosecution or even what admits the defendant, were committed with the intention of perpetrating genocide or crimes against humanity.

**Article 2 :**

The persons whose committed acts or criminal participation acts put in categories 2, 3 and 4 as defined by Article 51 of this organic law are answerable to << Gacaca Jurisdictions >> referred to in Title II of this organic law. <<Gacaca Jurisdictions >> exclusively apply the provisions of this organic law.

Persons coming under category 1 are answerable to ordinary jurisdictions which apply the common law content and procedure rules subject to exceptions provided for by this organic law.

Persons benefiting from the prosecution and jurisdiction privileges in accordance with the laws in force are, when they are suspected of having committed offences constituting the crime of genocide or crimes against humanity, prosecuted according to the procedure organised by this law and are answerable to jurisdictions which it provides for.

**TITLE II: SETTING UP, ORGANIZATION AND COMPETENCE OF <<GACACA JURISDICTIONS>>**

**CHAPTER ONE: SETTING UP AND ORGANIZING « GACACA JURISDICTIONS »>**

**SECTION ONE: GENERAL PROVISIONS**

**Sub-section One: Set up and jurisdiction**

**Article 3 :**

It is hereby set up, in each Cell, Sector, District and Province of the Republic of Rwanda, one <<Gacaca Jurisdiction>> in charge of knowing, within the limits established by this organic law, the offences constituting the crime of genocide and crimes against humanity committed in Rwanda between October 1, 1990 and December 31, 1994.

**Article 4 :**

Without prejudice to paragraph 3 of Article 6 of this organic law, The jurisdiction for the Cell's <<Gacaca Jurisdiction>> is the Cell;

The jurisdiction for the Sector's << Gacaca Jurisdiction >> is the Sector;

The jurisdiction for the District's « Gacaca Jurisdiction >> is the District;

The jurisdiction for the Province's <<Gacaca Jurisdiction >> is the Province.

**Sub-section 2: Organs for « Gacaca Jurisdictions»**

**Article 5 :**

Each «Gacaca Jurisdiction» is made up of a General Assembly, a Seat and a Coordinating Committee. The competent instance to appoint the Seat's and Coordinating Committee's members is also competent for their replacement.

## **Paragraph 1: The General Assembly**

### **Article 6:**

The General Assembly for the Cell's <<Gacaca Jurisdiction>> **is made up of all the Cell's inhabitants aged 18 years and above.**

**But a Cell of which the population counts more than 200 persons aged 18 years at least may be divided into as many Cells as none exceeds that figure.**

**When it appears that** within a given Cell the number of 24 honest persons in question in Article 9 of this organic law is not reached or when the Cell of which a majority of inhabitants aged 18 years and above have family relation with persons prosecuted for the crimes provided for by this organic law, the Cell is put within the jurisdiction for the neighbouring Cell's <<Gacaca Jurisdiction>> in the same Sector. In such a case, the merged Cells proceed to new elections for appointing honest persons.

The decision for subdividing or merging *cells* is taken by the department for <<Gacaca Jurisdiction>> within the Supreme Court, on submission of the case before the District administrator of the concerned District or any other relevant person.

### **Article 7:**

The General Assembly for a Sector's, District's or Province's <<Gacaca Jurisdiction>> is made up of at least 50 honest persons, delegated by its jurisdiction's immediately lower <<Gacaca Jurisdiction>> in accordance with the following Articles of this organic law.

### **Article 8:**

Each Cell, Sector or District is represented by a same number of delegates within the General Assembly for the immediately higher <<Gacaca Jurisdiction>>

The surplus of vacancies are distributed according to the number of the inhabitants in each Cell, Sector or District.

The General Assembly for the Cell's "Gacaca Jurisdiction" chooses within itself 24 honest persons, 5 of whom are delegated to the Sector's <Gacaca Jurisdiction >, while the remaining 19 form the Seat for the Cell's <<Gacaca Jurisdiction >>.

Honest persons delegated to form the Sector's <<Gacaca Jurisdiction>> appoint among themselves 5 to delegate to the District's <<Gacaca Jurisdiction>>; others constituting the General Assembly for the Sector's <<Gacaca Jurisdiction>>

Honest persons delegated to form the District's "Gacaca Jurisdiction" appoint

among themselves 5 to delegate to the Province's "Gacaca Jurisdiction"; others constitute the

General Assembly for the District's "Gacaca Jurisdiction"

When the number of honest persons who must constitute the General Assembly for the Sector's, the District's or the Province's <Gacaca Jurisdiction > is less than 50, general assemblies for lower << Gacaca Jurisdictions>> in its jurisdiction proceed to appointing, within themselves, a sufficient number of other honest people in order to reach the one required, according to the procedure established by paragraph 2 of article 14 of this organic law. The President of the Republic determines by means of order, the modalities of organizing elections for members of "Gacaca Jurisdiction's" organs.

**Article 10:**

Members of the Seats for the Cells' <<Gacaca Jurisdictions >> and of the general assemblies for Sectors', Districts' and Provinces' <<Gacaca Jurisdictions>> are honest

Rwandans elected by general assemblies for the Cells in which they are residing. Is honest, any Rwandan meeting the following conditions:

- a) to have a good behaviour and morals;
- b) to always say the truth;
- c) to be trustworthy;
- d) to be characterised by a spirit of sharing speech;
- e) not to have been sentenced by a trial emanating from the tried case to a penalty of at least 6 months' imprisonment;
- f) not to have participated in perpetrating offences constituting the crime of genocide or crimes against humanity;
- g) to be free from the spirit of sectarianism and discrimination. Any honest person, who has at least 21 years of age and meeting all conditions required by this organic law, can be elected member of a <<Gacaca Jurisdiction>>, without any discrimination notably of sex, origin, religion, opinion or social position.

**Article 11:**

Cannot be elected member of the Seat for the Cell's <<Gacaca Jurisdiction>> or of the General Assembly for the Sector, the District and the Province:

- the person in charge of centralized or decentralized Government administrations;
- the person exercising a political activity;
- the soldier who is still in active service;

- member of the national police or of the local defense force who is still in active service;
- the career magistrate, except that he/she may be called upon as legal adviser referred to in Article 30 of this *organic law*;
- the member of leading organs of political parties, a religious confession or a non-government organisation.

However, a person who is a member of the Cells' or Sectors' organs as well as the one who is a member of the Committee of a women's and youth organisation may be elected member of <<Gacaca Jurisdiction>> but, once elected, he/she must immediately resign from his/her post.

**Article 12:**

Any person appointed member of a <<Gacaca Jurisdiction>> shall be replaced for one of the following reasons:

- a) three unjustified successive absences in the sessions for the organs of <<Gacaca Jurisdiction>>;
- b) sentence to a penalty of at least a 6 month imprisonment;
- c) culture of divisionism;
- d) exercising one of the activities provided for in Article 11 of this organic law or occupying a post which is likely to impede participation in the sessions for the organs of <<Gacaca Jurisdiction>>;
- e) effects of a disease likely to prevent him from participating in the sessions for the organs of <<Gacaca Jurisdiction>>;
- f) fulfilling any act incompatible with the quality of a honest person;
- g) non-residence in the Cell, in the Sector, in the District or in the Province of work;
- h) resignation;
- i) death

Loss of the quality of member of <<Gacaca Jurisdiction>> for three unjustified successive absences in the sessions for the jurisdictions, for culture of divisionism and for any act incompatible with the quality of a honest person, is decided in writing by the members of the Seat of <<Gacaca Jurisdiction>> The member so relieved is subject to an official warning before the General Assembly and cannot be elected as an honest persons in any organ. Other reasons for replacement enumerated in this Article are

ascertained by the organ of «Gacaca Jurisdiction» of which was part the person to be replaced.

**Paragraph 2: The Seat for <<Gacaca Jurisdiction>>**

**Article 13:**

Each Seat for « Gacaca Jurisdiction» is made up of 19 honest people.

Honest people forming the Seat for the Cell's "GACACA Jurisdiction" are elected by and from among the Cell's inhabitants.

As regards honest people forming the Seat for the Sector's, the District's and the Province's "GACACA Jurisdiction", they are elected by the members of the General Assembly for "GACACA Jurisdiction", in accordance with Article 9 of this organic law.

Each Cell, Sector or District is represented by an equal number of delegates within the Seat for the immediately higher "GACACA Jurisdiction", with the exception of what is provided for in Article 8 of this organic law.

The surplus of vacancies which cannot ensure representation for each concerned administrative entity is distributed according to the number of inhabitants for each relevant Cell, Sector or District.

**Article 14**

When the number of matters is justifying it, "GACACA Jurisdiction" constitutes within itself, as many Seats as needed. Each new Seat appoints within itself members for the Coordinating Committee referred to in Article 17 of this organic law.

If it is necessary to constitute more than two Seats, the General Assembly for the concerned "GACACA Jurisdiction" invites General Assemblies for the immediately lower "GACACA Jurisdictions" of its jurisdiction to choose within themselves and delegate people in sufficient number in order to form the new Seats.

If need be, the Cell's "GACACA Jurisdictions" appeal to the candidates not retained at the time of elections to appoint members of "GACACA Jurisdictions", following the decreasing order of the obtained votes.

**Article 15 :**

Before exercising his ministry, every member of the Seat for "GACACA Jurisdiction" takes the following oath: "I..... , in the name of God Almighty, solemnly swear to the Nation, to honestly fulfill the mission entrusted to me by complying with the law, to be always guided by the spirit of impartiality and search for the truth, and to make Justice triumph".

The oath is taken before the General Assembly for "GACACA Jurisdiction". Its act is immediately drawn up in the register kept for that purpose and is signed or marked with the fingerprint of the "GACACA Jurisdiction's" concerned member.

**Article 16 :**

A honest person member of a Seat for “GACACA Jurisdiction” cannot seat in a matter in which is prosecuted:

- the defendant with whom himself or his wife is relative or related by direct marriage or up to the 2<sup>nd</sup> degree;
- the defendant with whom it was already existing a serious enmity; the defendant with whom he/she had deep friendship relations;
- the defendant for whom he/she was guardian.

In one of those hypotheses, the member of the concerned Seat must decline to act in the case. Otherwise, any person who knows about the existence of one of those causes informs, before the plea as to the content, the Seat which decides all matters ceasing. This decision is appealed against together with the judgement it refers to. However, the concerned person so objected to is admitted to give evidence for the prosecution or the defence.

**Paragraph 3: The Coordinating Committee**

**Article17:**

The Coordinating Committee for each “GACACA Jurisdiction” is made up of 5 honest people elected with a simple majority by the members of the Seat within itself and who know how to read and write Kinyarwanda.

It chooses within itself, this with a simple majority, one chairperson and two secretaries having completed at least six years of the primary cycle of education. The other members of the committee become respectively and 2<sup>nd</sup> vice-chairperson, taking into account the number of votes obtained by each of them.

The chairperson for the Coordinating Committee and the vice-chairpersons are elected every three months. The secretaries are elected for a renewable one-year mandate. They ensure, in addition to the secretariat for the organs of” GACACA Jurisdictions”, the functions of secretaries for “GACACA Jurisdiction”.

**Article 18:**

The Coordinating Committee for each “GACACA Jurisdiction” shall carry out the following functions:

- a) to elect among its members, one chairperson and two secretaries;
- b) to convene, to preside over the meetings. and coordinate activities of the Seat and the General Assembly for “GACACA Jurisdiction”;

- c) to register complaints and denunciations, evidences and offers of proof given by the people;
- d) to receive and register files for answerable defendants of "GACACA Jurisdiction";
- e) to register declarations of appeal formed against trials by "GACACA Jurisdictions";
- f) to send to the immediately higher "GACACA Jurisdiction" the files of which trials are affected by appeal;
- g) to write decisions taken by the organs of "GACACA Jurisdictions";
- h) to prepare and send activity reports for "GACACA Jurisdiction";
- i) to implement the decisions of the General Assembly and those of the Seat for "GACACA Jurisdiction";
- j) to send to the immediately higher "GACACA Jurisdiction" the activity report adopted by the General Assembly for "GACACA Jurisdiction". However, the report from the Province's "GACACA Jurisdiction" is sent to the Department of "GACACA Jurisdictions" within the Supreme Court.

**Article 19:**

When a "GACACA Jurisdiction" has, in accordance with Article 14 of this organic law, constituted within itself several Seats, Coordinating Committees for those Seats set up a commission made up of 3 of their members of whom a chairperson, a vice-chairperson and a secretary, in charge of distributing the tasks enumerated in the previous Article or resulting from the provisions which follow, between different Coordinating Committees.

**Sub-Section 3: The functioning of "GACACA Jurisdictions"**

**Article 20 :**

Leaders for administrative entities in which are established "GACACA Jurisdictions" put at the disposal of these ones the infrastructures necessary for their functioning.

They convene and lead, each one at his district's level, the very first meeting during which the General Assembly for "GACACA Jurisdiction" must constitute the Seat.

In case of unforeseen difficulties, those leaders are replaced according to the rules in force governing their respective districts.

**Article 21:**

The General Assembly for each "GACACA Jurisdiction" holds an ordinary meeting once a month and extraordinary sessions wherever it is required by the good functioning of "GACACA Jurisdiction".

It is convened and led by the Chairperson for the Coordinating Committee, on his/her own initiative or at the request of at least one third of the members of the Seat for "GACACA Jurisdiction".

When the chairperson has a legitimate reason which prevents him/her from convening the General Assembly, this one is convened by one of the vice-chairpersons.

When the chairperson refuses to convene the General Assembly, the Seat for the jurisdiction meets at the request from at least 7 of its members.

The quorum to seat is 14 members who appoint within themselves the members who will convene the General Assembly.

However, when a "GACACA Jurisdiction" has constituted several Seats within itself, its General Assembly is convened by the person in charge of that commission referred to in Article 19 of this organic law or his assistant. When the person in charge of that commission refuses to convene the General Assembly, members of the Coordinating Committees constituted by the Seats for jurisdictions representing at least 2/3 of the committees for all the Seats for "GACACA Jurisdiction" meet, in order to appoint within themselves new members of the commission. The new person in charge of the commission immediately convenes the General Assembly.

**Article 22 :**

The purpose of the monthly meeting referred to in Article 21 is to evaluate the Seat's and Coordinating Committee's activities.

**Article 23 :**

The General Assembly for any "GACACA Jurisdiction" only sits legitimately if at least 2/3 of its members are present.

When the quorum of 2/3 of the members of the General Assembly is not reached, the latter is convened again, and the present members deliberate legitimately if they represent more than half the members of the General Assembly. Decision of the General Assembly are taken by consensus or otherwise at the absolute majority of its members.

**Article 24 :**

Hearings for "GACACA Jurisdiction" are public, except the hearing in camera requested by any interested person and pronounced by judgement for reasons of public order or good morals. Deliberation is secret.

**Article 25:**

**The seat for** any Gacaca jurisdiction holds its hearings at least once a week, upon convening by the chairperson, on his/her own initiative or at the request from at least three members of the Coordinating committee.

Hearings take place from 8.30 a.m. to 4 o'clock p.m. at the latest. The days for hearing are fixed by the

General Assembly for “GACACA Jurisdiction” by consensus or failing this, with the absolute majority of effective members.

Whenever there is a reason to postpone the date of hearing, the president and other members of Gacaca jurisdiction decide on a different day.

**Article 26:**

The Seat for “GACACA Jurisdiction” can only meet legitimately if at least 1 5 of its members are present. When this quorum is not reached, the General Assembly appoints within itself other honest people in a sufficient number to complete the quorum.

It will be the same when the quorum is not reached following objection from the members or the whole Seat for “GACACA Jurisdiction”.

**Article 27:**

The Seat for "GACACA Jurisdiction" shall decide by consensus and failing this, with the absolute majority of its *members*. If such a majority is not reached, it is proceeded to a new vote; each member of the Seat for “GACACA Jurisdiction” having however to choose between the 2 positions having previously obtained more votes.

**Article 28:**

Judgement is given and passed by “GACACA Jurisdiction” in public on the day which is fixed by the Seat for the jurisdiction.

Judgements must be motivated. They are signed or marked with the fingerprint by all members of the jurisdiction who have seated and participated in deliberation.

**Article 29:**

Whenever need be, <<Gacaca Jurisdiction>> can be assisted by judicial advisers appointed by <<Gacaca Jurisdiction>> Department of the Supreme Court.

**Article 30:**

The Coordinating Committee of the “Gacaca Jurisdiction” meets as often as necessary on summons of its Chairperson, by his initiative or on request of at least two of its members.

When the Chairperson justifies with a legitimate motive that he/she is hindered to summon the Committee, the latter is summoned by one of the deputy chairpersons.

**Article31:**

To sit conclusively, the Coordination Committee shall bring together at least three of its members of whom a secretary.

Its decisions are taken by consensus. Failing which, the issue in discussion is submitted to the “Gacaca Jurisdiction” Seat.

**Article32:**

Any person who omits or refuses to testify on what he/she has seen or on what he/she knows, or who makes a false or slanderous denunciation, is prosecuted by the “Gacaca Jurisdiction” which makes a statement on it.

He/she risks a prison sentence from 1 to 3 years maximum, but on the pronounced sentence, he/she spends half of it with no remission whilst what is left is commuted into services of general interest works.

**SECTION 2: PARTICULAR PROVISIONS**

**Sub-Section one Remit of the “Gacaca Jurisdiction” of the Cell**

**Article33:**

The general Assembly of the “Gacaca Jurisdiction” of the Cell exercises the following remit:

- a) Contributing to preparing a list of persons who lived in the Cell before the genocide and massacres and the list of victims of these offences and those of their perpetrators;
- b) Presenting means of evidence against or in favour in the trials of genocide or crimes against humanity;
- c) For no members of Seat, attend and speak whenever they so request, but without voting powers, in hearings of the “Gacaca Jurisdiction” of the Cell;
- d) Electing Seat members of the “Gacaca Jurisdiction” of the Cell and their deputies;
- e) Constituting, if necessary, additional Seats within the “Gacaca Jurisdiction” of the Cell;
- f) Electing members of higher ‘Gacaca Jurisdictions’;
- g) Examining and adopting activity report established by the Coordinating Committee.

All Cell inhabitants shall tell the facts which were produced in their village and give evidence on them. They denounce their authors and identify their victims.

Every inhabitant of the Cell shall indicate the place where he lived before and during the genocide and massacres.

**Article34:**

The Seat of the “Gacaca Jurisdiction” of the Cell exercises the following remit:

- a) Establishing lists of:
  - All persons who were staying in the cell before the genocide and massacres;

- Persons who have been, in the Cell, victims of crime of genocide or crimes against humanity;
  - Alleged authors of the offences referred to in this organic law;
  - Persons who lived in the Cell but who were killed in other places;
  - Persons who were hunted and whose whereabouts remain unknown;
  - Persons who still live in the Cell;
  - Persons who lived in the Cell but who have changed residence; this list having, if possible, to be completed by indications on the locations where the concerned persons have moved to;
  - Damaged assets.
- b) bring together the files forwarded by the Prosecution;
- c) taking cognizance of evidence and testimony offers;
- d) making investigations on given testimonies;
- e) making categorisation of defendants as per organic law n<sup>o</sup>08/96 August 30, 1996;
- f) knowing offences committed by defendants classified in the fourth category;
- g) giving a ruling on objection to Seat members of the “Gacaca Jurisdiction” of the Cell;
- h) receiving the procedure of confession and guilt speech for defense;
- i) forwarding to the “Gacaca Jurisdiction” of the Sector, the files of the defendants classified in the third category;
- j) forwarding to the “Gacaca Jurisdiction” of the District and Province the files of the defendants classified in the first and second categories;
- k) electing members of the Coordinating Committee.

**Sub-Section 2: Remit of the “Gacaca Jurisdiction” of the Sector, District and Province**

**Article 35:**

**The General Assembly of the “Gacaca Jurisdiction” of the Sector, District and**

**Province exercises the following remit:**

- a) electing Seat members of the jurisdiction and, for the “Gacaca Jurisdictions” of the Sectors and District, appoint among themselves, persons to delegate to immediately higher “Gacaca Jurisdiction”;

- b) electing deputies of held back members of the “Gacaca Jurisdiction” Seat;
- c) Constituting, if necessary, additional Seats within the “Gacaca Jurisdiction”;
- d) Providing for evidence means against or in favour in the trials of genocide or crimes against humanity;
- e) For non members of the Seat, attending and speaking whenever they request it, but without voting powers, in hearings of the Seat of the “Gacaca Jurisdiction”;
- f) Examining and adopting the activity report established by the Coordinating Committee.

**Article 36:**

The “Gacaca Jurisdiction” Seat of the Sector, District or Province exercises -! following remit:

- a) Making investigations, if necessary, on given testimonies;
- b) Receiving the procedure of confession and guilt speech for defense.
- c) Giving a ruling on objection to members of the “Gacaca Jurisdiction” Seat
- d) Knowing, after being ensured of the qualification correctness, offences of its competence in conformity with this organic law and, if need be, forward to competent ‘Gacaca Jurisdictions’, the files relating to defendants coming into their respective competence. However, the first category defendants’ files are forwarded to the ‘Gacaca Jurisdiction of the District’ which in turn will forward them to the Public Prosecution;
- e) Having recognizance of judgements appeal pronounced by the immediately lower “Gacaca Jurisdiction” of its jurisdiction;
- f) Electing Coordination Committee members
- g) Receiving and examining activity reports of immediately lower “Gacaca Jurisdiction” of its jurisdiction.

***CHAPTER 2: COMPETENCE OF GACACA JURISDICTIONS.***

**Article 37 :**

The “Gacaca Jurisdictions” exercise extended competences similar to those ordinary criminal jurisdictions have, to try defendants on basis of testimonies against or in favour.

They may in particular:

- Summon to appear before court any person they consider that his contribution should be necessary;
- Order or carry out themselves search of or to the defendant’s. This search shall however respect the defendant’s private property and basic human rights;

- Take protective measures;
- Pronounce sentences and fix damages to grant;
- Order the withdrawal of the distraint of acquitted persons' property; Order, if necessary, appearance before prosecution for information complement on files it has investigated on.
- Issue justice warrants to alleged authors of offences and order detention in prevention, whenever necessary. The "Gacaca Jurisdiction" prosecutes and sentences to the same penalties as persons who refuse to testify or make false denunciations, any person who exercises or attempts to exercise pressures on witnesses or members of the seat of the "Gacaca Jurisdiction".

**Article 38:**

Any demarcation competence is settled by the "Gacaca Jurisdiction" Department of the Supreme Court on its initiative or on the request of the concerned "Gacaca Jurisdiction" Seat or of any other interested person.

The President of the Supreme Court takes necessary measures for easy implementation of this Article.

**SECTION 1: REMIT COMPETENCE**

**Sub-section 1 "Gacaca Jurisdiction" of the Cell**

**Article 39 :**

The "Gacaca Jurisdiction" of the Cell deals at the first level, with the 4<sup>th</sup> category offences . It deals also with the appeal formed against the sentences it has pronounced in the absence of accused authors.

In addition, it proceeds to defendants categorisation alleged authors of offences defined in Article One and Article 51 of this organic law.

**Sub-section 2: "Gacaca Jurisdiction" of the Sector**

**Article 40:**

The "Gacaca Jurisdiction" of the Sector deals with offences of 3<sup>rd</sup> category and appeal formed against sentences pronounced in the absence of the accused authors.

**Sub-section 3: "Gacaca Jurisdiction" of the District**

**Article 41 :**

The «Gacaca Jurisdiction» of the district deals with the 2<sup>nd</sup> category offences, the appeal formed against sentences pronounced at 1<sup>st</sup> level or on opposition by "Gacaca Jurisdictions" of Sectors of its jurisdiction and of opposition formed against sentences that it has pronounced in the absence of accused authors.

**Sub-section 4 : "Gacaca Jurisdiction" of the Province**

**Article 42 :**

The “Gacaca Jurisdiction” of the Province deals with appeal of sentences pronounced at the first level or on opposition by “Gacaca Jurisdiction” of the District of its jurisdiction and of the opposition formed against sentences it has pronounced; in the absence of accused authors.

**SECTION 2: TERRITORIAL COMPETENCE**

**Article 43**

Is competent, to know an offence, the jurisdiction of the place where it has been committed.

Defendants prosecuted for offences committed in different places are answerable for the competent jurisdiction, in conformity with the preceding paragraph of this Article, to know the facts they are charged of at the time they were arrested. However, jurisdictions of other tribunals are competent for offences for which they would not have been prosecuted.

**Article 44**

When prosecutions are taken against a person suspected of having committed offences in different places, the judgement of the case is suspended. The jurisdiction referred to informs immediately about it the Department of “Gacaca Jurisdictions” of the Supreme Court. The latter communicates the information to various “Gacaca jurisdictions” of the concerned cells which it invites to give evidence elements for or against.

At the request of “Gacaca Jurisdiction” of the concerned Cell, the defendant is taken to the spots. The Department of Gacaca Jurisdictions of the Supreme Court forwards the files constituted in this way to the jurisdiction referred to. The latter proceeds to a new categorisation of the dependant following collected additional elements and, if need be, forwards the file to the jurisdiction it considers competent.

**Article 45:**

When it is shown from the file to communicate to “Gacaca Jurisdiction” in conformity with Article 48 of this organic law that the defendant has committed offences in different places, the Prosecution forwards it to the “Gacaca Jurisdiction” of the Cell of its choice, giving priority to the one where the most serious crimes were committed.

**Article 46:**

The “Gacaca Jurisdictions” of the Cells the services of which are called upon in conformity with Article 44 of this organic law are informed by the “Gacaca Jurisdiction” Department of hearing dates. They can delegate some of their members who speak whenever they request it.

**CHAPTER 3: RELATIONSHIP BETWEEN THE “GACACA JURISDICTIONS” AND THE PUBLIC PROSECUTION.**

**Article 47 :**

The prosecutions and military courts will proceed to their mission of receiving denunciations and complaints,

searching for offences and performing investigation duties dealing with offences provided for by this organic law.

However, before beginning an investigation, they will have to make sure that the “Gacaca Jurisdiction” of the Cells have not yet tried or have not begun to study these cases.

The files investigated by the prosecutions and military courts in conformity with the paragraph one of this Article, are forwarded to “Gacaca Jurisdictions” of the Cells.

**Article 48 :**

The files investigated by the prosecutions and military courts but which are not yet forwarded to competent jurisdictions on the date of this organic law enforcement, shall immediately be forwarded to “Gacaca Jurisdictions” of the Cells for categorization.

The prosecutions and military courts communicate to “Gacaca Jurisdictions” of the Cells or to the jurisdiction called to recognisance of the case, evidences collected against persons prosecuted in the files it has investigated.

When the “Gacaca Jurisdictions” of the- Cell which has made categorisation has already forwarded the file to the competent jurisdiction to have recognisance of it, the prosecution or the concerned military court keep for it a copy of collected evidences.

**Article 49 :**

The General Prosecutor to the Supreme Court supervises the Prosecutions, the General Prosecutions and the Military Courts for the prosecution of offences coming into their competence provided for by this organic law.

**CHAPTER 4: INSPECTION AND COORDINATION OF ACTIVITIES OF “GACACA JURISDICTIONS”**

**Article50:**

The “Gacaca Jurisdictions” Department of the Supreme Court is in charge of control, inspection and Coordination of "Gacaca Jurisdictions" activities at the national level.

**TITLE III: OFFENCES PROSECUTION AND TRIAL**

**CHAPTER 1 : PROSECUTED PERSONS**

**Article51:**

Following acts of participation in offences in question in Article one of this organic law and committed between 1 October 1990 and 31 December 1994, the prosecuted person can be classified in one of the following categories:

***Category 1:***

- a) The person whose criminal acts or criminal participation place among planners, organisers, incitators, supervisors of the crime of genocide or crime against humanity;
- b) The person who, acting in a position of authority at the national, provincial or district level, within political parties, army, religious denominations or militia, has committed these offences or encouraged others to commit them;
- c) The well-known murderer who distinguished himself in the location where he lived or wherever he passed, because of zeal which has characterised him in killings or excessive wickedness with which they were carried out;
- d) The person who has committed rape or acts of torture against person's sexual parts.

As investigations are going along, a list of persons prosecuted or convicted of having committed acts putting them in the first category is established and updated by the General Prosecutor to the Supreme Court. This list will be published in the Official Gazette of the Republic of Rwanda twice a year, in June and December.

***Category 2:***

- a) The person whose criminal acts or criminal participation place among authors, co-authors or accomplices of deliberate homicides or serious attacks against persons which caused death.
- b) The person who, with intention of giving death, has caused injuries or committed other serious violences, but from which the victims have not died.

***Category 3:***

The person who has committed criminal acts or has become accomplice of serious attacks, without the intention of causing death to victims.

***Category 4:***

The person having committed offences against assets.

However, the author of the mentioned offences who, on the date of this organic law enforcement, has agreed either with the victim, or before the public authority or in arbitration, for an amicable settlement, cannot be prosecuted for the same facts.

**Article 52:**

The persons in the position of authority at the level of Sector or Cell at the time of genocide are classified in the category corresponding to offences they have committed, but their quality of leaders expose them to the most severe penalty for the defendants who are in the same category.

**Article 53:**

For the implementation of this organic law, the accomplice is the person who will have, by any means, assisted to commit offences to 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 superior from his criminal responsibility if he knew or could know that his 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 had means.

## **CHAPTER 2: CONFESSION PROCEDURE AND GUILT PLEA**

### **SECTION ONE : ACCEPTANCE, CONDITIONS AND DURATION**

#### **Article 54:**

Any person who has committed offences aimed at in Article one of this organic law has right to have recourse to confession procedure and guilt plea.

To be received as confession in the context of this chapter, the defendant's declarations shall contain:

- a) The detailed description on everything relating to the confessed offence, in particular the location where it has been committed, the date, the witnesses, the names of the victims and the damaged assets;
- b) The enquiries relating to co-authors and accomplices as well as any other enquiry useful to the exercise of public action;
- c) The apologies offered for the offences that he petitioner has committed.

#### **Article 55 :**

Shall enjoy commutation of penalties in the way provided for by this organic law persons of categories 2, 3 and 4:

- Who offer their confessions and guilt plea before the "Gacaca Jurisdiction" of the Cell draws up a list of authors of offences of genocide and massacres;
- Who already appear on this list, recourse to the procedure of confession and guilt plea after prosecution in a trial.

The persons who have not wanted to have recourse to confession procedure and guilt plea, do not enjoy this commutation.

#### **Article 56:**

The persons whose criminal acts or criminal participation place in the first category do not enjoy penalty commutation. However, the persons who will have offered confessions and guilt plea without their names being previously published on the list of persons of the first category referred to in Article 51 of this organic law will be classified in the second category.

#### **Article 57:**

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

**Article 58 :**

The procedure of confession and speech for defense for guilt will end after two years from the date of publication in the Official Gazette of the Republic of Rwanda of this organic law. This duration can be renewable, if necessary, by a Decree of the Minister having Justice in his remit.

**SECTION 2: PROCEDURE**

**Article 59**

The procedure of confession and guilt plea is proposed before the “Gacaca Jurisdiction” Seat or before the Officer of the Public Prosecution Department in charge of the investigation in accordance with Article 47 of this organic law.

The Seat of “Gacaca Jurisdiction” or the public prosecutor in charge of the investigation are bound to inform the defendant of his right and his interest to have recourse to the procedure of confession and guilt plea.

**Subsection one: Procedure of confession and guilt plea before the Public Prosecution**

**Article 60:**

For files which are not forwarded yet before the “Gacaca Jurisdiction”, the Public Prosecution receives the confessions and the offer of guilty plea. The confessions and the offer of guilty plea shall be received and transcribed by a public prosecutor. If the confessions are forwarded in writing, the public prosecutor Department requests its confirmation to the petitioner.

The petitioner signs or marks with a fingerprint the minute containing the confessions or the confirmation and, if there is any, the document containing the confessions forwarded in writing by the petitioner before the public prosecutor who has received them. The public prosecutor signs them with him/her.

**Article 61 :**

If the Public Prosecution Department realises that the confessions are correct and in conformity with the declaration made by the petitioner, it closes the file by establishing a note of investigation end containing the prevention’s established by the confession and forwards the file to the “Gacaca Jurisdiction” of the competent Cell.

In case of refusing the confession procedure failing to meet conditions required by the law or when the request has revealed that the defendant has not told the truth, the public prosecutor states it in an explanatory note, closes the file that he/she forwards to the “Gacaca Jurisdiction” of the competent Cell.

**Sub-section 2 : Confession Procedure and guilt plea before the “Gacaca Jurisdiction”**

**Article 62 :**

The persons depending on the 2<sup>nd</sup>, the 3<sup>rd</sup> and 4<sup>th</sup> category can have recourse to the procedure of confession and guilt plea before the Seat of the “Gacaca Jurisdiction” before which they appear.

They can do it orally or by means of written declarations signed or marked with their fingerprint.

**Article 63:**

The confession and the guilt plea are subject to a minute established by the secretary of the “Gacaca Jurisdiction” and signed or marked with a fingerprint of the defendant and by members of the jurisdiction Seat.

The Seat of the “Gacaca Jurisdiction” checks if the confessions and the speech for defense for guilt fulfill the conditions set by this organic law and if the petitioner’s declarations are correct.

**CHAPTER 3: HEARING AND JUDGMENT**

**Article 64:**

In case of procedure of confession and guilt plea in the files established by the Public Prosecution Department, the hearing is organised as follows:

1. The chairperson of the session calls the case and invites defendants to the bar;
2. Each defendant establishes his/her identity;
3. The chairperson of the session requests the plaintiff to establish his identity
4. The jurisdiction secretary states detention on suspicion and reads the minute of confession and of guilt plea;
5. The chairperson of the session invites each defendant to speak;
6. The members of the General Assembly of the “Gacaca Jurisdiction” and any person who want to do so, take the floor to testify in favour or against the defendant who, in his/her turn, answers to questions which are possibly asked to him. Any person intervening as witness must take the oath of telling the truth in raising his right hand to the sky and saying : “I take God as witness to tell the truth”;
7. the plaintiff takes his/her conclusions;
- 8 the defendant and, if need be, the person responsible under civil law, present

successively their defense on the civil action or any other declaration relating to their responsibility;

9. the “Gacaca Jurisdiction” Seat establishes the identity of persons having suffered material damages and the inventory of damages caused to their assets as well as the list of victims and the inventory of suffered body damages; the defendant is invited to react on **it**;

10. The jurisdiction secretary reads the statement of offence; the Seat checks the conformity **of** its content with the intervening parties’ declarations, and, if need be, the statement of offence is corrected;

11. The “Gacaca Jurisdiction” Seat successively requests the plaintiff, the defendant or the person responsible under civil law, if they have anything to add to the debates;

12. The parties to the trial and the members of the “Gacaca Jurisdiction” Seat put their signatures or fingerprints on the statement of offence containing the defendant’s guilt plea;

13. The debates are declared closed, unless the Seat orders any measure of complementary investigation it considers necessary to show the truth.

**Article 65 :**

In the files which do not contain the confession and the guilt plea or when the Public Prosecution Department has refused the procedure, the hearing is organised as follows:

1. The session’s chairperson calls the case and invites the defendants to the bar.

2. Each defendant establishes his identity;

3. The session’s chairperson requests the plaintiff to establish their identities;

4. The jurisdiction’s secretary states detention on suspicion;

5. The session’s chairperson reads, to the defendants’ attention Articles 54, 55 and 57 of this organic law so that they understand the advantages they can draw from the procedure of confession and guilt plea, and ask them if they want to have recourse to it. Those who wish to have recourse to the procedure of confession and guilty plea are immediately invited to speak. The hearing proceeds in, the order described in the preceding Article. For

those who do not want to have recourse to the procedure of confession or guilt plea, the hearing proceeds in the following way:

6. The session's chairperson summarizes the case. He/she reads the collected cases establishing the defendant's guilt;
7. The session's chairperson invites the defendant to present his/her defense;
8. The floor is given to persons who wish to testify for or against and, if need be, probably summoned Public Prosecution Department is heard. Any person intervening as a witness must swear an oath of telling the truth in raising the right hand to the sky and saying: "I take God as witness to tell the truth";
9. The defendant presents his means of defense;
10. The members of the General Assembly of the "Gacaca Jurisdiction" and any other person who so wish, speak, and the defendant answers to questions put to him/her;
11. The plaintiff takes their conclusions;
12. The defendant and, otherwise, the person responsible under civil law, successively present their defense on the civil action or any other statement relating to their responsibility;
13. The Seat of the "Gacaca Jurisdiction" establishes the identity of persons having suffered material damages and the inventory of damages caused to their property, as well as the list of victims and the suffered body damages; the defendant is invited to react;
14. The jurisdiction secretary reads the hearing's statement of offence; the Seat checks the conformity of its content with the intervening parties' declarations and, if need be, the statement of offence is corrected.
15. The Seat of the "Gacaca Jurisdiction" successively asks the plaintiff, the person responsible under civil law and the defendant, if they have anything to add to the debates;
16. The present parties and members of the "Gacaca Jurisdiction" Seat put their signatures or their fingerprints on the hearing's statement of offence;
17. The debates are declared closed, unless the Seat orders any further instruction measure which it deems necessary to show the truth.

**Article 66 :**

In the files of defendants with neither known address nor residence in Rwanda referred to in Article 93 of this organic law, the hearing shall proceed as follows:

1. The chairperson of the session calls the case and invites defendants to the bar. When defendants are present, the hearing proceeds in conformity with Article 66 of this organic law. In case of non-appearance, the hearing continues in the following order:
2. The chairperson of the session requests the plaintiff to give his/her identity;

3. The jurisdiction's secretary states detention on suspicion;
4. The chairperson of the session summarises the case. He states collected evidence establishing the defendant's guilt;
5. The floor is given to persons who have made statements and, where necessary, the Officer of the Public Prosecution who may have been summoned, is heard.
6. The members of the General Assembly for 'Gacaca jurisdiction' and any person who want to do so, take the floor;
7. The plaintiff takes their conclusions;
8. The person responsible under civil law, if there is any, presents his/her defense on the civil action or any other declaration relating to his/her responsibility;
9. The Seat for <<Gacaca Jurisdiction>> establishes the identity of persons having suffered material losses and the inventory of damages caused to their property as well as the list of victims and the inventory of suffered body damages;
10. The jurisdiction's secretary reads the hearing's statement of offence; the Seat checks the conformity of its content with the intervening parties' declarations and, if need be, the statement of offence is corrected.
11. The Seat for <<Gacaca Jurisdiction>> successively asks the plaintiffs and the person responsible under civil law, whether they have anything to add to the debates;
12. The parties to the trial and members of the Seat for <<Gacaca Jurisdictions>> put their signatures or fingerprints on the hearing's statement of offence;
13. The debates are declared closed, unless the Seat orders any further instruction measure which it deems necessary to show the truth. As regards pronouncement, notification and objection to the judgement passed within such circumstances, provisions applying to judgements by default are implemented.

**Article 67 :**

Any judgement passed by "GACACA Jurisdiction" mentions the following:

1. The Jurisdiction that has passed it;
2. The names of the Seat members who participated in deliberation;
3. The identity of parties to the trial;
4. Detention on suspicion against the defendant;
5. The summary of resources presented by parties to the case;

6. **The motives for judgement;**
7. The offence of which the defendant is found guilty;
8. The penalties pronounced;
9. The identity of persons who suffered material losses and the inventory of damages caused to their property, the list of victims and the inventory of suffered body damages as well as the allocated damages;
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;
14. The mention of the legal period for appeal.

#### **CHAPTER 4: SANCTIONS**

##### **Article 68:**

Defendants coming within the first category who did not want to have recourse to the confession and guilt plea procedure within conditions set in Article 56 of this organic law or whose confession and guilt plea have been rejected, incur a death penalty or life imprisonment. Defendants who have made recourse to the confession and guilt plea procedure within conditions provided for in Article 56 of this organic law are sentenced to imprisonment ranging from 25 years to life imprisonment.

##### **Article 69:**

Defendants coming within the second category **who:**

- a) Did not want to have recourse to the confession and guilt plea procedure or whose confession and guilt plea have been rejected incur a prison sentence ranging from 25 years to life imprisonment:
- b) Already appearing on the list of perpetrators of offences of genocide and massacres drawn up by the Cell's «GACACA Jurisdiction», have recourse to the confession and guilt plea procedure after being indicted in the trial, incur a reduced prison sentence ranging from 12 to 15 years to the maximum, but out of the pronounced sentence, they serve half of the sentence in custody and the rest is commuted into community services;
- c) Present their confession and guilt plea before the Cell's «Gacaca Jurisdiction» makes a list of perpetrators of offences of genocide and massacres, incur a reduced prison sentence ranging from 7 to 12 years to the maximum, but out of the pronounced sentence, they only serve half the sentence in custody and the rest is commuted into Community services.

##### **Article 70 :**

Defendants coming within the third category who:

a) Did not want to have recourse to the confession and guilt plea procedure or whose confession and guilt plea have been rejected incur a prison sentence ranging from 5 to 7 years but they only serve only half the pronounced sentence in custody and the other half is commuted into community services;

b) Already appearing on the list of perpetrators of offences of genocide and massacres drawn up made by the Cell's "Gacaca Jurisdiction", have recourse to the confession and guilt plea procedure after being indicted in the trial, incur a reduced prison sentence ranging from 3 to 5 years to the maximum, but out of the pronounced sentence, they serve only half in custody and the rest is commuted into community services;

c) Present their confession and guilt plea before the Cell's "Gacaca Jurisdiction" makes the list of perpetrators of offences of genocide and massacres, incur a reduced prison sentence ranging from one year to 3 years to the maximum, but out of the pronounced sentence, they only serve only half in custody and the rest is commuted into community services.

**Article 71 :**

Defendants coming within the fourth category are sentenced to the only civil reparation of damages caused to other people's property. The seat for "GACACA Jurisdiction" works out modalities for implementing such an obligation.

This provision does not apply where an amicable settlement was reached either between the perpetrator and the victim or before a public authority or in arbitration before this organic law comes into force.

**Article 72:**

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

a) Perpetual and total loss of civil rights, in conformity with the Penal Code, for persons in the first category;

b) Persons coming under the second category are liable to permanent deprivation of the right:

- to vote;

. to eligibility;

- to be expert, witness in the proceedings and to testify only by giving simple information;

- to possess and carry firearms;
- to serve in the armed forces.

However, they may be rehabilitated in conformity with prescriptions of the legislation in force.

**Article73:**

When there is ideal or material combination of offences each of which ranks the defendant in the same category, the maximum sentence provided for the said category will be pronounced.

**Article74:**

Children convicted of the crime of genocide and crimes against humanity who, at the time of events, were more than fourteen years old and less than eighteen years old are sentenced:

- a) To a reduced prison sentence of ten to twenty years when they come under the first category;
- b) When they come under the 2<sup>nd</sup> or 3<sup>rd</sup> category, the reduced prison sentence is equal to half the sentence provided for by this organic law for mature defendants of the same category.

Persons (under 18) who, at the time of the charges against them, were less than 14 years old, cannot be prosecuted but can be placed in rehabilitation centres.

**Article75:**

In case of a prison sentence with commutation of half the sentence into community services, the convicted prisoner may choose either to carry out the said community services or to serve the full sentence in prison. The convicted prisoner who chooses to serve the full pronounced sentence in prison shall notify the community services managing board within three months before the date of his release. However, he is free to request later from the same board, to carry out of community services for the remaining period.

In case of default by the convicted person released in order to carry out community services, the concerned person is rearrested so as to serve the full pronounced prison sentence.

A presidential order fixes modalities for carrying out of community services.

**CHAPTER5: DEFENDANT’S SUMMONS AND NOTIFICATION OF HEARING**

**Article 76:**

Gacaca jurisdiction summons are issued at its secretary's behest and secretary notified to the defendant through

the basic organs or those from the administration of the detention place. The summoned person who refuses to appear is subject to a warrant of arrest.

**Article 77:**

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

**Article 78:**

When judgement is pronounced, parties present in the trial affix their signatures or their fingerprints in the register for attendance to the pronouncement.

Judgement passed by default or pronounced in the defendant's absence is validly notified by a notification act which the jurisdiction's secretary forwards to the defaulting party through basic organs or those from the administration of the centre where he/she is detained.

The sentence passed against a person who has neither known address nor residence in Rwanda is notified according to the way provided for the summons referred to in Article 94 of this organic law.

**CHAPTER 6: WAYS OF APPEAL**

**Article 79 :**

The ways of appeal recognized by this organic law are the following objection, appeal and appeal to the court of cassation which can only be made within hypotheses provided for in Articles 89 and 90 of this organic law.

**SECTION ONE: OBJECTION**

**Article 80:**

The court orders concerned by this organic law which have been passed by default, may be objected to. The objection is brought before the jurisdiction which has passed judgement by default. The plaintiff has his action recorded to the secretary of the "GACACA Jurisdiction". The objection is only admissible when the defaulting party pleads a serious and legitimate reason which has impeded them from appearing in the trial concerned by the decision contested by that way of appeal. The "GACACA Jurisdiction" shall assess beyond appeal the admissibility of reasons justifying the objection.

**Article 81:**

The objection period is 15 calendar days starting from the day of the notification of judgement passed by default.

**Article 82 :**

Objection upon objection is not valid.

**SECTION 2: APPEAL**

**Article 83**

Appeal for judgements passed at face value or upon objection by the Sector's "GACACA Jurisdictions" is brought before the Districts "Jurisdictions" which gives a ruling in **the** last resort.

Appeal for judgements passed at face value or upon objection by the District's "GACACA Jurisdiction" is brought before the Province's "GACACA Jurisdiction" which gives a ruling in the last resort.

**Article 84:**

Only parties to the trial are entitled to lodge an appeal against a judgement passed by a "GACACA Jurisdiction"

**Article 85:**

The time for lodging an appeal is 15 calendar days starting from the judgement's contradictory pronouncement or starting from the day following the notification of judgement passed by default which has not been objected to or pronounced in the absence of a party. The case is judged within the same forms as at face value.

**Article 86:**

Appeal for decisions classifying defendants within different categories may be filed before the jurisdiction to which the case has been referred. Judgements passed upon confession and guilt plea and confession cannot be subject to appeal.

**Article 87:**

If the "GACACA Jurisdiction" to which appeal is referred feels that the appellant has been classified in an inaccurate category, it classifies him in the category corresponding to offences of which he is accused and forwards the file to the competent jurisdiction which will try the defendant at face value.

The penalty already administered and executed is deducted from the incurred penalty.

**SECTION 3: APPEAL TO THE COURT OF CASSATION**

**Article 88:**

Except in the hypothesis provided for by Article 89 of this organic law, verdicts given by “GACACA Jurisdictions” cannot be subject to appeal to the court of cassation. Rulings passed by the courts of appeal against persons in the first category may be subject to appeal to the court of cassation. The period for appeal to the court of cassation is 15 calendar days starting from the pronouncement or, in case of a ruling passed by default, starting from the day of the notification of the ruling. Appeal to the court of cassation is filed and judged following the rules of common law.

**Article 89:**

Without prejudice to the provisions of the law on the criminal procedure code, the Prosecutor General to the Supreme Court may, on his initiative or on request, within a six month’s period following the pronouncement, inform the Court of Cassation and this, within the sole interest of a law that may have been infringed.

**CHAPTER 7: DAMAGES**

**Article 90:**

Ordinary jurisdictions and “GACACA Jurisdictions” forward to the Compensation Fund for Victims of the Genocide and Crimes against humanity copies of rulings and judgements they have passed, which shall indicate the following:

- . the identity of persons who have suffered material losses and the inventory of damages to their property;
- . the list of victims and the inventory of suffered body damages;
- . as well as related damages fixed in conformity with the scale provided for by law.

The Fund, based on the damages fixed by jurisdictions, fixes the modalities for granting compensation .

**Article 91:**

Criminal liability for persons of the first category takes both personal liability and liability binding on all parties for all losses caused in the country, due to the acts committed, or criminal participation whatever the place where offences were committed. Persons of the second, third or fourth category incur personal liability for the criminal acts they have committed.

Any civil action lodged against the State before the ordinary jurisdictions or before “Gacaca jurisdictions” shall be declared inadmissible on account of its having acknowledged its role in the genocide and that in compensation it pays each year a percentage of its annual budget to the Compensation Fund. This percentage is set by the financial law.

The provisions of the previous paragraph only apply to legal actions lodged after the enforcement of this organic law, to cases currently pending before jurisdictions and to court orders not yet executed for the heard case.

As for the court orders which have acquired the authority of the heard case, their enforcement will, as regards damages to be paid by the State, comply with the scale fixed by the law governing the Compensation Fund.

## **TITLE IV: DIVERSE, TRANSITIONAL AND FINAL PROVISIONS**

### **Article 92:**

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

### **Article 93:**

Jurisdictions called on to try, by virtue of this organic law, offences of genocide and massacres, may try public actions filed against persons who have neither had address nor residence in Rwanda or who are outside Rwanda, when there are conclusive evidences or serious guilt clues, whether they may have previously been or not been cross-examined.

### **Article 94:**

When the defendant has neither known address nor residence in Rwanda, the summons' period is one (1) month.

The secretary of GACACA Jurisdiction's or the clerk of the competent jurisdiction, in person or through other organs, has a copy of the writ displayed on the wall of the facility housing the jurisdiction which must try the case and on the walls of District and provincial offices within their province. The copy of the writ may also be displayed only in places intended for that purpose. Preparation of a case to the hearing for persons so summoned is made, before "GACACA Jurisdictions", in the order established in Article 66 of this organic law and, before the jurisdictions of common law, according to the order followed in the cases to be judged by default.

### **Article 95:**

Testimony made on offences of the crime of genocide and crimes against humanity committed between October 1, 1990 and December 31, 1994 can never serve as a basis to take proceedings against its author charging him with the offence of failure to render assistance.

### **Article 96:**

Specialised Chambers for the Courts of First Instance and military courts and the public prosecution governing them as per organic law n<sup>0</sup>08/96 of August 30, 1996 organizing proceedings for offences of the crime of genocide and crimes against humanity committed from October 1, 1990 are repealed.

However, all cases forwarded to these specialised chambers by the public prosecution shall remain handled by the same courts which these chambers belonged to.

Organic Law n<sup>0</sup>08196 of August 30, 1996 organising proceedings for offences of the crime of Genocide or crimes against humanity committed from October 1, 1990 remains applicable for the aforesaid cases.

However, should anyone be involved in this case, is accomplice of defendants tried by Gacaca jurisdictions, the case is automatically dealt with by the relevant Gacaca jurisdiction.

**Article 97:**

Pending publication of a law governing in general the proceedings for offences of the crime of genocide or crimes against humanity, whoever commits, after December 31, 1994, one of the acts constituting such crimes, shall be punished with penalties provided for by the criminal code and cannot benefit from reduction of penalties as provided for by this organic law

**Article 98**

The President of the Supreme Court shall formulate internal regulations for “GACACA Jurisdictions”.

**Article99:**

All previous provisions contrary to this law are hereby abrogated.

**Article 100:**

This organic law comes into force on the day of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on 26/01/2001

The President of the Republic

**Paul KAGAME**

(sé)

The Prime Minister

**Bernard MAKUZA**

(sé)

The Minister of Justice and

Institutional Relations

**Jean de Dieu MUCYO**

(se)

Seen and sealed with the Seal of the Republic:

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