JUDICIAL REFORM IN RWANDA

1. Introduction

In the early days of the 1st July 1962 Independence, there were transitional laws establishing judicial institutions to replace those that had been put in place by the Belgian colonial rule and a transitional constitution adopted before the first one passed by the Parliament on 24/11/1962.

Due to various political issues, the Judiciary had no law graduates among its staff to the only exception of the President of the Supreme Court. Political disagreements often led to the abolition and reinstatement of the Ministry of Justice.

For the same reasons, the 1979 Constitution abolished the Supreme Court that it replaced with four separate courts. As the department in charge courts management was transferred to the Ministry of justice, judicial independence was at stake.

On 10th June 1991, a new Constitution introduced a multiparty system and allowed the Judiciary to elect its representatives through the High Council of the Judiciary. However, a provision from 1979 Constitution survived this political reform and maintained that the High Council of the Judiciary was under the leadership of the President of the Republic.

In 1994, RPF-Inkotanyi liberated the country and put a halt to the genocide against the Tutsi. It established a leadership based on the Fundamental Law whose main texts were the 1991 Constitution and the 1993 Arusha Peace Agreement of 4/8/1993.The Supreme Court was reinstated as a strategy of creating a full independent judiciary.

New reform

In 2003, a new Constitution was adopted on 4/6/2003. It enhanced guiding principles for a judicial reform. It also limited the number of judges serving in the Supreme Court, which was made the highest court of appeal of the land. Judges are only trained lawyers. New courts were created as well. The High Court replaced the 4 courts of appeal. Tribunal of commerce and the High Court of Commerce were established. At the lower level, "Tribunaux de Canton" were abolished and replaced by Primary Courts whose jurisdiction was extended to criminal offences. Traditional mechanisms of dispute resolution, the Abunzi (Mediation Committee) were also introduced to handle with petty cases that were previously leading to case backlog and consume an unnecessary and considerable amount of time to ordinary judges. There was reform for special courts. The "Conseil de Guerre" was replaced by the Military Tribunal and the Military Court of Appeal became the Military High court. Gacaca courts were also introduced in 2001 to deal with cases of genocide after it become obvious that conventional courts failed to deal with them on appropriate time.

The new structure of courts whose pyramid is headed by the Supreme Court allows specialisation. There are divisions that deal with specific legal matters at the Intermediate level for example. Administrative cases, labour cases and cases involving children are dealt with in special chambers.

Recently a law also established a special chamber at the High Court to exclusively try cases of genocide against the Tutsi that are extradited or transferred from abroad.

The reform was also for institutions that are in the justice chain such as the Prosecution Authority for the first time, the Constitution establishes the governing principles of the National Public Prosecution Authority and the Military Prosecution department. In the same vein, the judicial reform was completed and in 2004 when the following laws were promulgated:

The law determining the organization, functioning and jurisdiction of courts and establishing the general inspectorate of courts;

The law establishing Gacaca courts;

- The law determining the organization, functioning and jurisdiction of a Mediation Committee ;
- The law relating to the civil, commercial, administrative and labour procedure ;commercial courts were established in 2007 ;
- The law determining criminal procedure ;
- The organic law regarding the High Council of the Judiciary ;
- The organic law regarding the judiciary and judicial staff ;
- The organic law related to the civil and military prosecutions.

Characteristics of the reform that started in 2003:

- The establishment of Gacaca courts enabled to try thousands of cases ;
- The recruitment of the judicial personnel who has graduated in law ;
- The recruitment of a few court personnel, well paid and performing well ;
- The rapid trial of cases, avoidance of backlog cases whereas before the reform, cases could wait even 20 years to be judged;
- The decentralisation of justice,
- The establishment of mediation committees so that people can settle their disputes themselves.

2. Conclusion

In general, the judicial reform started in 2004 and it has produced good results. Meanwhile, the State of Rwanda continued reforming the Constitution and other organic laws regarding the courts and the commercial procedure to complete the reform .Those courts enabled the commercial sector to build its capacity and to settle disputes quickly.

We can’t help talking about the mediation committees that performed as well as the courts because they helped to settle simple disputes that could have been a burden to formal courts.