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Chapter

Forgive and Regret: A Comparative Analysis of the Role of Forgiveness in the US and Rwandan Criminal Justice Systems

Daniel Patten and Jeremy Storch

Abstract

Rwanda's reconciliation process after the 1994 genocide highlights the power of forgiveness in successfully reintegrating people who have committed serious harms back into society. In contrast, the US criminal justice system has struggled with successful prisoner reenter. One possible factor contributing to this struggle is American's levels of forgiveness and vengefulness. This study is a comparative analysis between Rwanda and the United States guided by a central research question: What are the sociocultural factors provided for a societal capacity of forgiveness? First, the importance of forgiveness at a societal and individual level and its consequences is documented. Then, through comparative analysis several key factors emerged as contributing to increasing societal forgiveness and/or decreasing societal vengefulness including violence in media and entertainment, a punitive criminal justice system including the highly publicized nature of crime and punishment, gender roles and gender equality, religion, and societal collectivism. Above all factors, the occurrence of a national tragedy such as the genocide in Rwanda was found to create the opportunity for radical criminal justice reform.

Keywords: Rwanda, genocide, forgiveness, criminal justice reform, gender equality, collectivism, religion, media, restorative justice

1. Introduction

One of Baz Dreisinger's stops when traveling to prisons around the world was Rwanda [1]. While there, she took several college-aged genocide survivors, many of which lost their parents in the genocide, to visit a prison where around 80 percent of the prisoners were perpetrators of the genocide. The idea that victims of a genocide would want to meet and speak face-to-face with the perpetrators is likely already shocking to an American audience. Most Americans would likely expect the victims to be enraged and speak with extreme hostility. Yet, when asked what do you want to do when you meet them, the young Rwandans replied, "Play football. Sing. Dance. Have debates. Watch movies. Comedy." Without meeting them, they had already

forgiven them for their past heinous crimes. After meeting them, it was no different. The young Rwandans declared the visit was “amazing”, stating “their ideas were really amazing”, “they are bright”, “they show us that they have new things to teach us”, and “they will come home and we all live in peace.” Crucially, the story Dreisinger tells is not an outlier about Rwanda. Nearly every Rwandan she interacts with espouses ideas of forgiveness.

From this story, the current research was born. By comparison with the United States, Rwanda sounds like a fairy-tale. What explains the seemingly radical difference in forgiveness between the two nations. Thus, the following is a comparative cases study of these two nations that seeks to answer the following research question: What are the sociocultural factors that provide for a societal capacity of forgiveness (as seen in Rwanda)? The study will start by briefly defining forgiveness, distinguishing between individual and societal forgiveness, and documenting the consequences of embracing forgiveness at an individual and societal level. Then, the major factors that help explain the difference in forgiveness seen in the United States and Rwanda will be discussed including the catalytic impact of tragedy, human nature, political influences on criminal justice, religion, collectivism, media, and gender. Finally, the study concludes by discussing the implications of its findings.

2. Defining forgiveness

Forgiveness is one such action that, while never clearly defined and perhaps changing from person to person, is a daily and normal action carried out in a society. To create a clear picture of what it is to truly forgive, a proper definition would be helpful in this pursuit, although the concept of forgiveness is part of an ongoing centuries old philosophical debate [2]. Montiel describes forgiveness as “remembering, not forgetting, the unjust act ... [b]ut the remembrance is experienced without bitterness,” and describes two different types of forgiveness, personal/private and sociopolitical/public [3]. These two types of forgiveness are what will be explored in the following pages: the concept of forgiveness at both the personal level and that of an entire group towards another. As forgiveness can vary from nation to nation, being heavily culture-laden, these definitions can never be precise in each instance. Montiel’s description, remembering the unjust act yet lacking bitterness, will be the most assumed definition when discussing forgiveness. It’s important to note that forgiveness is different from reconciliation, as one may reconcile but not forgive and vice versa [4].

Forgiveness at the societal level is not only a key factor in this exploration but the importance and consequences of this forgiveness to society and the groups living in said society. What does forgiveness do to society? Is the act of forgiving an important factor in any aspect of a culture? These questions are vital to better understand the ways Rwanda has handled forgiveness compared to the United States. These consequences better help shape how forgiveness has been used, and whether it is due to any one cultural factor or multiple. At an individual level, forgiving does not only concern the one who is forgiven but also the mental state of the one who is doing the forgiving. The consequence of forgiveness is well documented, including that of the mental health of the forgiver. Most simply, forgiveness promotes positive mental health and character growth [5]. In the realm of interpersonal conflict, forgiveness seems to make the forgiver less likely to suffer mental disorders and more emotionally stable than failing to forgive any transgressors [6].

Mental health and forgiveness, while exclusively linked, are connected whereas an individual forgiving may experience less mental health strain, as seen by those of Rwandan genocide victims who had forgiven their offenders. These victims were reported, after the forgiveness process, to having “emotional liberation, a growing sense of well-being, self-esteem, and hope.”¹ The use of forgiveness, while the concept varies across cross-cultural and national institutions, the basic use of forgiveness seems to be similar. Forgiveness, seeking forgiveness, and forgiving oneself have been found to be similar across non-Arab Middle-Eastern Muslims, Africans, and Westerners [7]. Yet, as will be seen in Rwanda, African countries appeared to be more prone to forgive or seek forgiveness compared to Middle Eastern and Western countries.

3. Genocide and Rwanda’s response

Possibly the most important factor explaining Rwandan forgiveness stems from the events of the 1994 genocide. This atrocity served an integral role in shaping the nation. This genocide happened between April 7 and July 15, 1994, where it’s estimated between 800,000 deaths occurred, with some figures upward of over 1 million deaths [8, 9]. These deaths were carried out by Hutu militia groups, neighbors, police, and military, where Tutsi were targeted and killed over the course of 100 days [10]. While historically safe places for refuge, schools, churches, and stadiums were the target of the most intense killings and mass graves. These acts were not only carried out by the government or militia groups, but it was common for neighbors to turn on neighbors and ordinary citizens to turn on another. In addition to the murders, it is estimated that 250,000 to 500,000 people were raped during the genocide, along with survivors of assault suffering lifelong injuries such as missing limbs [11].

The end of the genocide occurred due to the Rwandan Patriotic Front (RPF) taking control of the major government buildings and structures, thus controlling Rwanda and ending the massacre. This movement led for many Hutus to flee to the nation of Zaire (Congo) and initiated the First Congo War, along with various other conflicts over the remaining few years of the 1990s [12]. Soon after the genocide, the need for justice was sought out by the Tutsi-led government. While the judicial court systems were inoperative, the need to convict those who took part in the genocide became a national issue for Rwanda. Created in 1996–1998, Rwanda recreated their national judicial court system to begin processing the more than 120,000 peoples arrested in connection with the genocide [13]. The initial response of the Rwandan government was retributive driven by a desire to harshly punish the perpetrators of the genocide. However, the enormous amount of cases overwhelmed the Rwandan justice system, thus Rwanda also created the legal practice of *Gacaca courts*, which were intended to be used by smaller communities to hold lower-level offenders accountable for their crimes. At the same time, the United Nations established the International Criminal Tribunal for Rwanda (ICTR), which focused on the higher level offenders, ending with the conviction and sentencing of 62 individuals [13].

With over 120,000 offenders sentenced, Rwandan prisons quickly became overcrowded and reports of inhumane conditions followed [14]. The response was to release low-level offenders back into the community and avoid creating new and larger prisons. Between 50,000 and 60,000 prisoners had been released since 2003 by the Rwanda government. The primary reason for the mass release was practical and logistical. Such a radical shift in criminal justice policy would need a stronger

cultural backing that was not in effect at the time of this shift. The Rwandan government appears to have recognized these needs in 1999 establishing the National Unity and Reconciliation Commission (NURC), with the mission to establish reconciliation between Rwandans through unity and truth [15]. The NURC played an integral role in resocializing Rwandans to embrace the radical criminal justice changes necessitated by the genocide. The NURC emphasized unity as a mechanism in response to the genocide. As seen in their various programs and mission statements, the NURC focused on national programs to promote unity between Rwandans, such as between victims and offenders [16]. One of the main goals of the response by the government has been the “eradication of divisionism among Rwandans” including the ethnic history of the Tutsi and Hutu which led to outlawing ethnic speech [15, 16].

4. Role of forgiveness in Rwanda

The role of forgiveness plays a vital role in regard to how both offender and victims have responded to the reconciliation efforts by the government. Forgiveness is at the heart of the NURC, and it is the best example of the Rwandan government institutionalizing forgiveness into society [17]. This institutionalization appears to have occurred after the genocide best demarcated by the actions of the NURC, although cultural elements existed in Rwanda prior which laid the foundation for a successful institutionalization as grand and rapid as seen after the genocide. One such preexisting cultural characteristic of Rwanda was the philosophical, African notion of *ubuntu*, which is defined as a “worldview or a moral quality and depending on the context, it evokes notions of personhood, interconnectedness, communal harmony, ‘universal human interdependence, solidarity and communalism” [18]. *Ubuntu* likely helped ease the institutionalization of forgiveness and can be seen in most of the major efforts towards reconciliation after the genocide.

The more informal *Gacaca courts* that were established play a crucial role in resocialization. Without their success, it would have been much more likely for Rwandans to reject the criminal justice shift and view it as a top-down governmental maneuver. Instead, forgiveness was central to the *Gacaca* courts where those on trial were required to ask forgiveness to their victims and the community as a first step in the reconciliation process [17]. This communal or sociopolitical involves one group of people to forgive another [3].

While forgiveness begins with the offender and may be pushed by the government, it is the victims that must either choose to forgive and/or reconcile with the offenders. The type of justice that relies on reconciliation over punitive measures may never be possible without the acceptance of the victim which involves the restoration of a relationship between both victim and offender. The NURC effectively accomplished this by implementing the Association Modeste et Innocent (AMI), a program created in 2000 that primarily focused on creating sustainable and enduring relationships between offenders and victims of the genocide [19].

The AMI uses a three-step process of forgiveness that is essential to a successful dialog between victim and offender [19]. The first step involves the victims and offenders to express the truth of what happened and allowing each party to express themselves regarding the offense. The second step involves overcoming the initial reaction of the offense and allowing each party to express their feelings on the offense, for the hope of empathy and altruism to settle into the minds of both parties. The third and last step involves the commitment to the forgiveness process and

expressing such forgiveness. This process of forgiveness seems to be effective for both parties. See one example of an exchange between offender and victim:

“Now I feel free, joyful, and happy. I am 61 but when I see her, I feel like 18.”
(1A[ggressor]).

“I have forgiven him from the bottom of my heart. Before, I was sad; now we are well; forgiving has cleaned my heart; I feel after forgiving, my heart is free; I feel relaxed; now life is like normal.” (2V[ictim]).

“After forgiving him, we started to collaborate (joint projects); we have rebuilt trust with each other.” (3V[ictim]).

The AMI program is supported by evidence that positive mental health of genocide victims in Rwanda is linked to successful interpersonal reconciliation and unconditional forgiveness sentiments [20]. Even though the initial urge among many victims is not forgiveness, Rwanda's institutionalization of such programs and their successful resocialization has led to successes at a societal level, leading to more Rwandans seeing benefits, even if unnatural, of forgiveness.

5. Civil war: a comparative tragedy

The Rwandan genocide served as a catalyst altering the direction of Rwanda's criminal justice system and changed the way its people reacted to forgiveness [17]. The United States' comparable tragedy would be that of their Civil War, fought between 1861 and 1865 and is still the bloodiest and only true homeland war to take place in the country. It is estimated that between 650,000 and 850,000 deaths occurred, with over a million total casualties as a result, roughly 2% of the population died within those 4 years of fighting [21]. While the Rwanda genocide resulted in the death of over 10% of that nation's population at a much faster pace, such a death toll and homeland fighting (non-foreign conflicts) is significant and comparable [19]. Did this comparable tragedy lead to calls of forgiveness and reconciliation like in Rwanda?

Once the end of the Civil War had been reached, the consequences were similar to that of Rwanda. A large portion of the population had been involved in not only unlawful acts, but inhumane and treasonous actions against fellow neighbors and citizens. While the actions can be viewed as similar, this is where the comparison ends between the two events. The United States, while leading towards more humane practices after the war, such as abolishing slavery, did little to unify the nation and peoples. The attempts of Reconstruction have been agreed upon by most scholars as a failure, doing little to remedy the bounds between the Southern and Northern states and the peoples in them [22]. Newly freed Black Americans were treated as second-class citizens under the *Black Codes*, and the economy of the wrecked Southern states never fully recovered, leaving a deep resentment and hostilities between Northerners and Southerners. The failure to properly unify and create equality between Northerners and Southerners, between Black and White Americans, can be viewed as opposite of the response by the Rwandan government and its unification between Hutu and Tutsi, between offenders and victims. Although the US government did institutionalize unity via its reconstruction efforts, an accompanying campaign to

resocialize citizens to be more forgiving and inclusive of their former enemies was not existent like in Rwanda.

5.1 United States: retribution over restoration

A national tragedy like genocide is less of a cause to creating unity and societal forgiveness, rather it appears to create a crucial opportunity for it. In other words, genocide (or comparable tragedy) is not a sufficient cause. The US Civil War did not spark a major change in the criminal justice system, and it was the Great Depression and the empowering of the Federal government that gave birth to a new and grand correctional system [23]. The creation of new prisons by the federal government, probation and parole systems, and indeterminate sentences started the country on a new path towards a national system to handle criminals. This system does not focus on the restoration of trust or mutual understanding between two parties, rather the victims of crimes are typically left out of the process entirely or seek retributive measures. The US correctional system focuses on a punitive response to crimes in order to reach justice [24]. It is not only the criminal justice system that focused on punitive measures, the rise of Jim Crow in the south and “separate but equal” outcome from *Plessy v. Ferguson*, led to use of violence throughout the country against Black Americans [25]. This “othering” of African Americans highlights the exact opposite of unity.

While the United States did focus on rehabilitative measures in the 1950s–1970s, with some work done on reconciliation between offender and victim, any real change was dismantled after the War on Drugs and “tough on crime” politics arose in the 1980s [23]. While there is a plethora of research done on these subjects, the end result is clear—mass incarceration became the main punishment for criminals in the United States. Since mass incarceration started in the 1980s, the prison population has quadrupled, whereas the United States population is only 5% of the world’s population yet makes up over 20% of the prison population in the world; it would take a 75% reduction to return the country’s prison population back to 1970s levels [26]. This truth has carried over into the twenty-first century for the United States, where mass incarceration and retributive measures of punishment are still at the forefront of the criminal justice system [24]. Restorative justice, leading to reconciliation and forgiveness, seems to be lacking in the United States, although current trends denote slow decarceration. It seems pertinent to ask if the United States needs a truth and reconciliation commission to address mass incarceration.

6. Factors for forgiveness

6.1 Human nature

Before exploring the various factors within Rwandan and American society, it is worth asking, “What is the natural state of humans?” Is seeking revenge or reconciliation the more natural instinct of humans when they experience some harm or grievance? One such explanation could be that of the natural aggression that one feels when they are wronged, with the natural instinct to lash out and seek some sort of revenge [27]. It has been shown that revenge may be pleasurable and even a natural instinct, but it comes with negative mental health associations and the pleasure typically only lasts during the initial reaction period [7]. Yet, this suggests the act of revenge and its rewards can be quite addictive. While understanding revenge as

a biological process is useful, it does not help us distinguish between Rwandans and Americans as there is no reason to suspect one would have these natural tendencies while the other would not. Judging from the responses to tragedy, it would seem Rwanda was better able to counteract this human nature.

6.2 The political dimension of criminal justice

One possible explanation of why the US has embraced punitiveness is often discussed within the context of “tough on crime” politics which typically refers to how the political system rewards more punitive approaches to punishment. One recent analysis highlights two crucial factors about the US system that explain its punitiveness [28]. First, responsibility is fractured across multiple levels of governance including city, county, state, and federal agencies which leads to a lack of accountability. Furthermore, this fragmentation leaves political leaders uncoordinated and often contradictory which can disrupt any reform efforts at other levels. Second, the US political system is designed to overreact to increases in crime and to underact to decreases in crime. Being too lenient on crime is much more politically damaging than being too harsh. Voters more likely to respond to fear associated with rising crime rates, rather than disgust with overincarceration. Add to this that voters who more commonly show up at the polls, wealthy, white, suburbanites, are voting with relatively little information about crime in urban areas and prison gerrymandering that gives more power to rural white voters, and the end result has been seen as punitive policy making.

6.3 Religion

Another factor that may contribute to societal forgiveness is the cultural trends inside a nation, which can involve various socio-cultural factors. While it is difficult to isolate a single factor and its influence on societal forgiveness, a few are highlighted here. Religion is one such cultural aspect that tends to be at the forefront of forgiveness in American and Rwandan society. The United States and Rwanda share the context that both have a strong religious upbringing and religion tends to be integrated into much its culture, with Evangelical inputs found throughout American life and Catholicism in Rwanda. A review of a collection of studies by Choe reveal that there seems to be a strong link between forgiveness and religion/spirituality [7]. These studies, while focused on interpersonal forgiveness, would seem to imply that the major religious ties would appeal to forgiveness. Yet it is seen that in the United States, the evangelical approach seems to feed into the nation’s Puritan past and tough-on-crime attitude of harsh punitive punishment for crimes [29] For Rwanda, the Catholic church has been immensely invested in reconciliation, with an emphasis on opening up dialog and relationships between peoples [30]. So, while the research may show that forgiveness and religion/spirituality may have a correlation, it can be implied that the practices a religion teaches in society will affect the implementation of forgiveness.

6.4 Collectivism

Why is it that Christianity in the United States may have led to retribution while it has led to forgiveness in Rwanda? The answer may be Rwanda’s more collectivist society emphasizes reintegration while the individualism of the United States focuses

on personal responsibility. Thus, in the United States moral responsibility is placed at an individual level which would lead to individual punishments, whereas a more collectivist approach recognizes that moral responsibility at least in part lies with the structural conditions of a society. American culture was bred of the idea not to allow any one or group to control another, independence from the King of England, and all others who came after. Rwanda, post-genocide, seems to have embraced *Ubuntu* and a more collective ideology set forth by the government. Yet what do these two ideologies contribute to the concept of forgiveness? As explained by Worthington and Wade, collectivism involves placing precedent of the group over the one and limiting or eliminating personal competitiveness for the group to benefit [7]. Retribution, part of personal competitiveness, would be less beneficial to the group which would imply that forgiveness would be a better alternative to issues. While individualism allows, and arguably promotes, revenge and *enemyship*, it does little to see forgiveness as a beneficial tool. However, cross-cultural studies have not been this straightforward. Some collectivist societies have embraced retribution, particularly East Asian societies. In a series of studies comparing American to Chinese culture, while American retribution was fueled by an emphasis on the actor's agency, Chinese retribution focused on the severity of the crimes that were seen as existential threats to society [31]. In the case of Rwanda, there immediate response was intense retribution for the extremely serious crimes of genocide, but only later changed strategies to forgiveness. This shift may have had less to do with collectivism and more due to with the practical reality of punishing such a large number of offenders. Yet, their collectivist roots may have allowed them to look past the agency of the actor easier and move towards forgiveness.

6.5 Media and entertainment

The use of media, including news and entertainment, may have a factor in how a society views and inhibits the capacity for forgiveness. While there is little data showing the actual connection between media and forgiveness, the comparative analysis between Rwanda and the United States may at least start a dialog for future studies. Due to the capitalism economy of the United States, typically the press and media will try to maximize profits and present what sells, per business sense [32]. The introduction of yellow journalism, true crime in novels and television, violent crime headlines in newspapers, video games, and various other outlets deliver aggressive and naturally retributive outlooks on social issues; the criminal justice system in the media seems to be there merely for entertainment in the United States [23]. It may ultimately allow Americans to indulge their natural tendencies of desiring retribution rather than operate as a challenge or check to them. Studies investigating the impacts of these various media outlets including media coverage of real crime and Hollywood produced crime-related film and television tend to find a positive relationship between their consumption and more retributive attitudes of punishment [33]. In some cases, a relationship does not exist, but when it does it typically is positive.

Rwanda does not seem to value freedom of the press nearly to the extent of the United States, which can be seen at the various censorship laws and actions taken by the government over the last two decades [34]. While media censorship and governmental control over the press can be harmful to democracy, there may be a benefit. Post-genocide, the Rwandan government, with its reconciliation programs and initiatives, could use the media to turn public opinion towards forgiveness over revenge. Could the same be accomplished without strict government censorship? As

Moore puts it, the Rwandan “government plays a more direct role in the individual moral imagination than in the United States” [17]. While it is difficult to isolate any affects Hollywood or American media have on Rwanda, the infant Rwandan film-making industry is an interesting contrast. This industry was born out of the 1994 genocide and has been heavily influenced by the government’s mission of reconciliation. Currently, Rwandan film covering the genocide has and is becoming more and more nuanced, offering multiple perspectives and delivering deeper messages of explanation and understanding rather which has helped further reconciliation and fostered forgiveness [35].

6.6 Gender

One last cultural factor of potential importance is gender. Recently, social scientists have explored the role of toxic masculinity in US culture [36]. To briefly summarize, toxic masculinity is the cultural socialization of men towards problematic characteristics of masculinity such as violence, homophobia, sexism, and domination. Furthermore, toxic masculinity can lead to more revenge-oriented approaches to justice with US culture. The macho, aggressive mentality or toxic masculinity dates back decades in American culture, such as the use of wild west gunfighters, lynch mobs in the South, gang members in poor neighborhoods, aggression to look tough and survive in prisons, and so many other examples [23]. Despite this history, US society has trended towards gender equality which is a force that counteracts toxic masculinity.

Prior to the genocide, Rwanda was a patriarchal society, but it appears to have served as a catalyst for women’s empowerment leading to a change in women’s legal status and more political involvement [37]. However, this is not to imply Rwanda has achieved gender equality. For this study, the changes in gender catalyzed by the genocide may run parallel with the shift in punishment philosophy from retribution to forgiveness. Thus, it is difficult to decipher which factor played the larger role. It is important to note that no major strides towards gender equality occurred after the US Civil War. Was this a major reason why societal forgiveness was not adopted?

7. Conclusion

Forgiveness, the act of remembering an unjust act yet lacking bitterness towards it, is an action that seems to transcend any one nation or culture, with the ability existing all throughout the world. While forgiveness seems to be capable for any society, the capacity for it to exist varies in many different forms and in various conditions. As researched above, looking at Rwanda and the United States, one can begin to see what factors condition for forgiveness to exist and how it may be used in said society. The emerging factors that begin to distinguish between the United States and Rwanda were the response to a national tragedy, politicization of criminal justice, religion, collectivism, media, and gender.

Rwanda shifted its ideological focus of criminal justice dramatically after the genocide to a heightened emphasis on forgiveness. However, as seen in the United States after the Civil War, such a tragedy alone is not sufficient to produce this change. It was better explained by the way in which Rwanda deeply institutionalized forgiveness, unity, and reconciliation while also resocializing its citizens to be more favorably towards forgiving serious offenders. While the US attempted to institutionalize unity

with the reconstruction, it ultimately failed because the government was not able to convince its citizens, largely in the South, of its merits. In contrast, Rwanda's resocialization has had much more ubiquitous acceptance.

Future research should investigate what factors are most important in creating these successes. Given the benefits of embracing forgiveness, any society would be prudent to seek ways to increase it. However, fomenting a civil war or perpetuating a genocide are not morally responsible methods of producing forgiveness. One emergent factor from this analysis that may explain why forgiveness is more accepted at a national level was gender equality. The Civil War did not spur women equality while the Rwandan genocide did. This may be an important explanation of the differing outcomes. Empowering women and elevating more women in leadership roles may lead to more societal forgiveness. Yet, it is not as straightforward as women being more forgiving than men as gender studies have found mixed results [38]. It is possible that it is related to a more holistic version of equality including not only gender, but racial, class, and other forms of equality as well. Reducing "othering" and in-group/out-group divisions in a society should lead to a greater capacity of forgiveness. Reducing divisions could be influenced by a multitude of factor some explored here like media and religion, but this works both ways with media and religion also having the potential to increase divisions. The results of this study suggest that if we seek building societal forgiveness, we must focus on reducing barriers to unity whatever they may be.


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