

Wellesley College Wellesley College Digital Scholarship and Archive

Honors Thesis Collection

2014

"The Truth Heals": Punishment and Reconciliation at Rwanda's Gacaca Courts

Charlotte Hulme
chulme@wellesley.edu

Follow this and additional works at: <https://repository.wellesley.edu/thesiscollection>

Recommended Citation

Hulme, Charlotte, ""The Truth Heals": Punishment and Reconciliation at Rwanda's Gacaca Courts" (2014). *Honors Thesis Collection*. 212.
<https://repository.wellesley.edu/thesiscollection/212>

This Dissertation/Thesis is brought to you for free and open access by Wellesley College Digital Scholarship and Archive. It has been accepted for inclusion in Honors Thesis Collection by an authorized administrator of Wellesley College Digital Scholarship and Archive. For more information, please contact ir@wellesley.edu.

WELLESLEY COLLEGE

*“The Truth Heals”:
Punishment and Reconciliation at Rwanda’s Gacaca Courts*

Charlotte Hulme
Spring 2014

During the decade-long Gacaca process, billboards appeared around Rwanda reading, “Inkiko Gacaca—Ukuri Kurikiza,” or “Gacaca Courts—The Truth Heals.”

Contents

Acknowledgements 2

Part I—Turning to Gacaca after Genocide 3

Chapter 1. *Introduction and background* 4

Chapter 2. *Theorizing retributive-restorative transitional justice* 13

Part II—Empirical Findings 30

Chapter 3. *Expectations for the retributive component and restorative objective* 31

Chapter 4. *Truth-telling in the context of retributive punishment* 38

Part III—Analysis 53

Chapter 5. *Analyzing retributive-restorative justice at Gacaca* 54

Appendix—Interviews 64

Bibliography 97

Acknowledgements

I sincerely appreciate the support of the Jerome A. Schiff Foundation and the Barnette Miller Fund of Wellesley College. I am deeply thankful to Professor Stacie Goddard for lending her expertise and inspiration to this project, Sue Wagner for her generous efforts to help me realize my goal of visiting Rwanda, Gaspard Kagenza for his hospitality and kindness while supporting my research trip, and Tom Visel for giving his time and insight as the best possible research assistant. And to Mom and Dad for always encouraging me to pursue what I love, which seems to keep taking me on adventures to faraway places.

My deepest gratitude goes to the interviewees who so generously shared their experiences. I think of their wise words and inspiring lives every day and am a different student of Gacaca as a result of the time we spent together. I always have believed that it takes tremendous courage for people to discuss very personal experiences with a stranger. I shared this thought with one interviewee, who started a non-profit peace organization and who calls himself a peace-builder. His response was that although we may be separated by some cultural differences, it is impossible for us to be strangers, since we are all human beings.

Part I—Turning to Gacaca after Genocide

Chapter One—Introduction and background

From April to July 1994, between 800,000 and one million ethnic Tutsis (about 75% of the Tutsi population) and moderate ethnic Hutus died in Rwanda in what has been recognized as the “most efficient mass killing since the atomic bombings at Hiroshima and Nagasaki,” with the dead accumulating three times faster than Jews killed during the Holocaust.¹ The Rwandan genocide is exceptional for the brutal methods used to torture and kill, including cutting people down with machetes and nail-studded clubs, raping and then killing women with the same sharp implements, and burying victims alive. Just as notorious is the mass participation of between 200,000 and 600,000 people, some of whom were Hutu extremists and others more casual participants.²

The genocide itself is a singular event in recent history. But equally extraordinary is how the state approached transitional justice in the aftermath of such extreme atrocities. Soon after the genocide, the new Tutsi-led regime announced that addressing impunity would be a priority. However, it quickly became apparent that Rwanda’s ordinary courts would be unable to handle the overwhelming caseload, given that infrastructure had been destroyed and most lawyers and judges had been killed or had fled. In 2002, Rwanda embarked upon an unprecedented experiment in transitional justice, borrowing from tradition and reconfiguring an informal justice

¹ Mark Drumbl, “Punishment, Post Genocide: From Guilt to Shame to Civis in Rwanda,” *New York University Law Review* (2000): 1245-6, cited in Erin Daly, “Between Punitive and Reconstructive Justice: The Gacaca Courts in Rwanda,” *New York University Journal of International Law and Politics*, Vol. 34 (2002): 363.

² John Mueller claims that 200,000 is a high estimate, in “The Banality of Ethnic War,” *International Security*, Vol. 25, No. 1 (Summer 2000): 61. But Helen Hintjens places the “highest academic estimate” at between 350,000 and 600,000, in “Reconstructing Political Identities in Rwanda,” in Phil Clark and Zachary Kaufman (eds), *After Genocide: Transitional Justice, Post-Conflict Reconstruction and Reconciliation in Rwanda and Beyond*, Hurst Publishers (2008): 82.

tool called *gacaca* to address the need for justice while beginning the long process of national reconciliation.³

The state's post-genocide "reinvention" of *gacaca*, traditionally a community-based conflict resolution system, was controversial. Some scholars have been highly critical of the genocide Gacaca system for the ways in which it differed from the traditional model, including that the contemporary process leaned heavily on retributive punishment. Allison Corey and Sandra Joireman put it this way: while *gacaca* "in its traditional manifestation...brought reconciliation to communities, the assumptions and regulations of the contemporary *gacaca* process create an entirely different setting which will have different results."⁴ Max Rettig has observed that while the differences between the traditional and contemporary models "are neither inherently good nor bad," the important question is whether "this hybrid between Western and traditional Rwandan justice, operating in a highly charged political and social atmosphere, achieve[d] its ambitious goals".⁵ Arriving at the same conclusion as most of his peers, he argues that the answer is no, for the most part.

I offer this study to re-examine the assumption that Gacaca's retributive component necessarily hindered its restorative function and potential to contribute to reconciliation. My research approaches the task of evaluating Gacaca's strengths and limitations by viewing it as a retributive-restorative justice tool that had as good a chance as any of supporting reconciliation while responding to the unmet demand for justice. The case is exceptional because the number of Rwandans affected by the tragedy dramatically raised the stakes of the state's choices in charting

³ Except when quoting other scholars, I will distinguish between *gacaca* as the traditional model and Gacaca as the genocide model.

⁴ Allison Corey and Sandra Joireman, "Retributive Justice: The *Gacaca* Courts in Rwanda," *African Affairs*, Vol. 103 (2004): 84.

⁵ Max Rettig, "Gacaca: Truth, Justice, and Reconciliation in Postconflict Rwanda?" *African Studies Review*, Vol. 51, No. 3 (December 2008): 33.

a path toward justice and reconciliation. But it nonetheless is instructive in two questions of general significance. First, Rwanda challenges the conceptual dichotomy between the restorative and retributive justice paradigms, as well as the distinctions that have been drawn between “local” and “national” spheres of action and participation. Second, it sheds light on how states in similar situations may approach what Mahmood Mamdani noted was “Rwanda’s key dilemma” after the genocide: how to “build a democracy that can incorporate a *guilty majority* alongside an aggrieved and *fearful minority* in a single political community.”⁶

Chapter 1 presents a brief background of Gacaca’s origins and basic procedural features. Chapter 2 reviews scholarly treatments of restorative and retributive justice in transitional contexts. I highlight some of the shortcomings in the literature in conceptualizing the intersection between restorative and retributive justice elements. Chapters 3 and 4 present empirical findings from interviews, examining how some Rwandans perceived the compatibility between Gacaca’s retributive component and restorative objective, in theory and in practice. In Chapter 5, I consider how Gacaca contributes to a richer understanding of how retributive punishment can support reconciliation, as well as the features that help make a retributive process meaningful for communities and, ultimately, a nation.

Background

Early after the genocide, the new government, dominated by members of the Tutsi-led Rwandan Patriotic Front (RPF) that had defeated the Hutu authorities behind the genocide, “decided on a policy of maximum punishment to eliminate the culture of impunity that had taken root.”⁷ In December 1994, then-Vice President (now President) Paul Kagame announced that

⁶ Mahmood Mamdani, *When Victims Become Killers*, Princeton University Press (2002): 266, cited in Corey and Joireman 89; emphasis in original.

⁷ Rettig 30.

“[t]here can be no durable reconciliation as long as those who are responsible for the massacres are not properly tried.”⁸ But soon after embarking upon this ambitious agenda, the state realized that it faced serious constraints due to the fact that infrastructure had been demolished and most lawyers and judges had been killed or had fled. By the end of 1997, at least 125,000 Hutus were awaiting trial in prisons with appalling conditions. By 2002, there still were fewer than 50 lawyers nationwide, and at the pace at which cases were being processed it would have taken over 200 years to complete if Rwanda had relied upon the ordinary court system.⁹

But the state was not to be deterred and began looking for alternative ways to pursue accountability for genocide crimes. As William Schabas notes, “Everybody talks about battling impunity, but few societies have done this with greater determination or more stubborn resistance to compromise than Rwanda....While many other post-conflict societies have delayed, postponed, and even prevaricated, resisting the admonitions of various international organisations, personalities, and NGOs, Rwanda has insisted upon holding perpetrators accountable.”¹⁰ As early as 2000, the government considered Gacaca as a potential solution to the overwhelming caseload faced by the conventional courts. While the highest-level planners and leaders of the genocide still would be tried in ordinary courts, whether at the national or international level, the “vast majority” of suspects would be tried by local Gacaca courts. Some predicted that the courts could hear 75,000 cases per year, “thus alleviating prison overcrowding, reuniting prisoners with their families, and providing the antidote to impunity.”¹¹

⁸ Cited in Daly 375.

⁹ Daly 369-370.

¹⁰ William Schabas, “Post-Genocide Justice in Rwanda: A Spectrum of Options,” in Clark and Kaufman (eds), *After Genocide*: 207.

¹¹ Rettig 30.

As pilot programs were being launched in 2002, Erin Daly, observing the “enormous challenges to the project of rebuilding Rwanda” presented by the backlog of cases at the conventional courts, argued that the question “is not whether gacaca is a good idea, but rather how to make gacaca work.”¹² Indeed, the state recognized that the backlog was so great that even the Gacaca system could not entirely absorb the caseload; therefore, in January 2003, approximately 40,000 of the oldest and most infirm prisoners were released from national prisons and were sent either directly back home or to “solidarity camps” where they underwent “re-education.”¹³

Objectives and process

The Preamble of the 2001 Organic Law set forth Gacaca’s objectives, which included establishing the truth about what happened, “since residents shall be called upon as eyewitnesses,” accelerating the prosecution of genocide, and continuing the eradication of “the culture of impunity.” It stated that “once the truth is known, none of those who were complicit shall escape punishment, and the people will understand that an offence results in the conviction of the criminal without any exception whatsoever.” Additional objectives included reconciling Rwandans and strengthening their unity, since the system would “induce the residents...to collaborate in judging those who participated in the genocide, to discover the victims, and restore their rights to innocent people.” Finally, Gacaca would prove “the capacity of the Rwandan society to settle its own problems through a legal system based on Rwandan custom, since, although the cases that the ‘gacaca’ jurisdictions will have to hear... are different from those that

¹² Daly 370.

¹³ Corey and Joireman 82.

are normally resolved within the *gacaca* framework, these jurisdictions fit well into the custom of settling differences by arbitration, even amicable arbitration.”¹⁴

Gacaca, which in Kinyarwanda means ‘justice on the grass,’ traditionally brought disputing parties in front of a panel of *inyangamugayo*, or persons of integrity chosen by their communities to serve as judges. After hearing both sides’ arguments, judges “were given leeway to decide any punishment they wished within certain boundaries.”¹⁵ Sentences did not include imprisonment, because the overarching aim of the proceedings was to reintegrate perpetrators into their communities; instead, perpetrators might have had to pay reparations or provide the community with banana beer. There were no lawyers, “and the rules and regulations were not codified but passed down from generation to generation.”¹⁶ If the parties were not satisfied by the efforts to resolve the conflict at gacaca, a dispute could be taken to a conventional court. In that respect, gacaca was valuable not only for offering customary, community-based problem-solving but also for alleviating the burden on the ordinary courts, freeing them to handle more serious cases.

The Gacaca courts, which included three levels—cell, sector, and appeals—were, unsurprisingly, more complex. In October 2001, in cell-level elections held across Rwanda, nearly 255,000 *inyangamugayo* were elected as judges.¹⁷ Men or women could be elected if they had not been involved in the genocide, and also were chosen for being known as people of integrity in their communities. The judges usually sent the “better educated” among them to serve on the sector and appeals courts, with the rest remaining at the cell-level.¹⁸

¹⁴ Organic Law No. 40/2000 of January 16, 2001, cited in Schabas 223-4.

¹⁵ Corey and Joireman 82.

¹⁶ Rettig 30.

¹⁷ Corey and Joireman 83.

¹⁸ Rettig 31.

During the initial information-gathering stage, community members helped to establish “a basic record of what happened during the genocide.”¹⁹ Local leaders spoke with the community, establishing who had lived in a given area during the genocide, who was killed, what property was damaged, as well as who was suspected of participating in the genocide.²⁰ Next, cell-level judges separated suspects into categories according to the severity of their crimes. The first category included leaders of the genocide as well as those accused of committing sexual torture or rape. During the pilot phase of gacaca, military tribunals or conventional courts handled category one cases; eventually, however, some were transferred to sector-level gacaca courts. The second category included “notorious killers,” people accused of “committing torture or ‘dehumanizing’ acts on a dead body, ordinary killers, and accomplices to the above”; this category also “informally include[d] bystanders who did not offer assistance to Tutsis during the genocide.” Category two cases were moved to the sector-level. Category three included property offenses; these cases were handled at the cell level.²¹

During a hearing, someone would speak and testify about what they did, and anyone in attendance could challenge the account.²² Attendees “who had information on someone who committed a crime would present the information. If someone had something to say about it, they would either confirm or refute the testimony. The Gacaca leaders could then call more people to give information.”²³ Some of the interviewees with whom I spoke expressed that “it was very hard to control” when different witnesses offered competing accounts of what had

¹⁹ Rettig 31-2.

²⁰ Author interview, Number 7. See Appendix for compilation. All author interviews are cited in footnotes by a number corresponding to the order in which they are found in the Appendix.

²¹ Rettig 31-2.

²² 1A.

²³ 3.

occurred.²⁴ Judges had the difficult task of sorting through the testimonies to arrive at a verdict. Often, as one former *inyangamugayo* discussed, due to efforts to follow the “chain” of persons associated with a particular case, whether as primary suspects, accomplices, or witnesses, a single case could take up to three years.²⁵ Several interviewees pointed out that judges, after “carefully” hearing testimonies, “had their own sessions” to facilitate resolution and come to a decision.²⁶

At Gacaca, convicted persons faced “a number of possible sentences ranging from obligations of community service to life imprisonment,” but there was no death penalty, unlike in the national courts until 2007.²⁷ Although defendants could not have a lawyer at any phase, they could appeal a decision, with cases starting off at a Gacaca appeals court (held at the sector level) and sometimes moving all the way up to the national court system. In fact, Phil Clark estimates that about “40% of the Gacaca cases have been appealed, so there’s been an extensive use of the appeals process within the Gacaca system.”²⁸ Significantly, the 2007 Gacaca Law allowed “those who confess fully to serve half of their sentence through community work and [forgave] part of the prison term as well.” But the law also established that those who did not confess could “be sentenced to life imprisonment, depending on the severity of the crime.”²⁹

Summary

For the majority of persons accused of committing crimes during the genocide, their trials took place in Gacaca courts as opposed to national or international courtrooms. The premise of the traditional gacaca model carried over to genocide Gacaca, with respected community

²⁴ 1A.

²⁵ 5.

²⁶ 1A.

²⁷ Corey and Joireman 83.

²⁸ Steve Terrill interview with Phil Clark, “Gacaca’s legacy,” *The Independent*, May 29, 2012.

²⁹ Rettig 31.

members elected to decide cases of concern to the community. The process remained largely informal. But fundamental differences existed. The cases being heard were qualitatively different and the retributive dimension of Gacaca was much more pronounced, with the potential for severe punishments like life-imprisonment to be handed down by judges whose inexperience and insufficient training was concerning for many critics. The state seemed confident that despite the qualitatively different nature of cases being heard by genocide Gacaca as compared to its predecessor, the contemporary system would work for pursuing accountability and, ultimately, advancing the overarching objective of reconciliation.

Chapter 2 considers how the literature has approached some of the questions arising from Gacaca's blend of formality, informality, national-level organization, and local implementation. It frames these issues in terms of the false dichotomy that has arisen in the literature between retributive and restorative transitional models. As I argue, there is the need for a better understanding of how retributive punishment may be central to advancing restoration, as well as how the local context may be central to a meaningful retributive process. A clearer model of "retributive-restorative" transitional justice may be the first step toward understanding the significance of the Rwandan state's choice to reinvent a local-level, traditionally restorative forum to become the centerpiece of its ambitious agenda in the midst of an extremely fragile peace.

Chapter Two—Theorizing retributive-restorative transitional justice

Transitional justice refers to the measures implemented by societies to respond to “legacies of massive human rights abuses” after war, ethnic cleansing, or genocide.³⁰ Measures including reparations programs, truth commissions, or criminal prosecutions are broadly classified in two categories: as *retributive*, focused on satisfying legal principles and punishing criminals, or as *restorative*, focused on making amends to victims and reintegrating perpetrators into their communities. According to one scholar, despite often “heated” academic debates over these categories, the “current consensus is that the dichotomy between the two is false.”³¹ In practice, however, scholarly analysis continues to be informed and constrained by a dichotomized view of retributive and restorative justice. As a result, when considering transitional institutions like Gacaca, it can seem natural to view its retributive and restorative components and objectives as being at cross-purposes, although, as I will argue in Chapters Three and Four, this was not necessarily the case.

As I consider in this chapter, one explanation for the false dichotomy is that the literature has dissociated retributive punishment from the objective of restoration. Additionally, retributive justice generally has been linked with third parties associated with the formal legal system and thereby removed from the realm of informal, community-oriented settings. As a result, the literature has failed to recognize fully how retributive punishment can be an integral component to restoration, as well as how local actors—including victims—can contribute to a process incorporating retributive components and supporting reconciliation.

The central argument of my research is that there is the need for a more fully developed model of *retributive-restorative* transitional justice, where retributive punishment is a defining

³⁰ International Center for Transitional Justice, “What is Transitional Justice?”

³¹ Kerry Clamp, *Restorative Justice in Transition*, Routledge (2013): 17.

component of the process and restoration is one of the primary objectives, and where *national* post-conflict priorities are pursued in a *local* setting. As a transitional institution, Gacaca relied on retributive punishment to advance national restoration, among other overarching objectives including combating impunity and deterring future repression. (Recognizing that Gacaca had both retributive and restorative features in terms of process *and* objectives, I have chosen to focus on the relationship between the retributive component of the process and its restorative objective.) Its setting was oriented around victims, perpetrators, and communities, but its mandate came from the state. Some critics argue that its retributive component was incompatible with its restorative goals, specifically because the retributive aspect was pursued in a community-centered forum where victims could use the proceedings to pursue vengeance. To be sure, there were real concerns with the fairness of procedures and outcomes at any number of individual Gacaca courts. However, to appreciate that there was not an inherent incompatibility, as I argue in this research, it is necessary to reconsider both the extent to which retribution may be central to restoration *and* the importance of the local context in a meaningful retributive process.

This chapter considers the conceptual conflict between retributive punishment and restoration both as it has been discussed in theoretical terms and as it has guided critiques of Gacaca's process and outcomes. I begin by briefly outlining the transitional justice paradigm and then examine how restorative and retributive models have been considered in transitional contexts.

The transitional justice framework

Building on the legacy of the war crimes tribunals at Nuremberg and Tokyo, a post-World War II transitional justice framework was forged based on retributive justice, defined by

efforts to hold perpetrators legally accountable through criminal justice proceedings at the national and international levels. *Ad hoc* tribunals have included the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), while hybrid courts blending international and domestic law have included the Special Court for Sierra Leone (SCSL) and the Extraordinary Chambers in the Courts of Cambodia (the Khmer Rouge Tribunal). In 1998, the Rome Statute established the International Criminal Court (ICC) to investigate and prosecute individuals responsible for war crimes, crimes against humanity, genocide, and acts of aggression in instances where states are unwilling or unable to do so independently. These bodies have had mixed results both in terms of convictions and impact on national reconciliation processes. One of the most compelling arguments against these extremely costly initiatives is that victims either may not know about or may feel disconnected from the courts, since some of the most significant trials have been held outside of the country of concern. For example, the high-profile SCSL trial of Liberian ex-president Charles Taylor was held in the Hague, while the ICTR was located in Tanzania.

While in the 1980s and 1990s initiatives like Argentina's Commission on the Disappeared and South Africa's Truth and Reconciliation Commission (TRC) helped the transitional paradigm develop to place greater emphasis on restorative justice—focused on promoting reconciliation within communities and on a national level—some scholars argue that instruments focused on restorative justice are not acceptable alternatives to punitive action. Priscilla Hayner contends that there is “an acceptance among knowledgeable policymakers...that non-judicial truth-seeking cannot legitimately be considered an ‘alternative’ to replace criminal justice—and in particular for those perpetrators seen as most responsible for large-scale crimes.”

She comments that prosecuting the most serious crimes generally is the state's obligation, "grounded in both international and national law."³²

There have been exceptional cases, however, when the state chose neither retribution nor what traditionally has been considered a restorative approach. After the Mozambican civil war, for example, during which one million people died, the state extended a general amnesty to both sides of the conflict. There were no prosecutions or restorative measures like a truth commission as the state adopted a policy of what some scholars call "amnesia," a controversial approach that has been roundly rejected by scholars like Martha Minow and Jeremy Sarkin.³³

While criminal prosecution may be considered the norm in the transitional paradigm, there often is a gap between states' commitment to retributive justice in theory and in practice. Sarkin surmises that the "degree of justice possible" in any given context "is shaped by the nature of the past, the obstacles of the present, and the future needs of the society."³⁴ He writes,

The need of victims and the society as a whole to heal from the wounds inflicted upon them by the former regime often has to be balanced against the political reality in which the new government may have limited political power, and in which it may have inherited a fragile state.³⁵

Factors that may constrain a regime outwardly committed to holding perpetrators accountable include the "type and extent of crimes," the "public perception of the intention behind the trials and the effect the trials could have on reconciliation," and available resources.³⁶ Of course, the

³² Priscilla Hayner, *Unspeakable Truths: Facing the Challenge of Truth Commissions*, Routledge (2002): 92.

³³ See Martha Minow, *Between Vengeance and Forgiveness*, Beacon Press (1998):15; and Jeremy Sarkin, "The Tension Between Justice and Reconciliation in Rwanda: Politics, Human Rights, Due Process and the Role of the Gacaca Courts in Dealing with the Genocide," *Journal of African Law*, Vol. 45, No. 2 (2001): 143.

³⁴ Sarkin 147; Referring to the "degree of justice possible," Sarkin is speaking about *retributive* justice, as he is discussing criminal prosecutions.

³⁵ Sarkin 143.

³⁶ Sarkin 148.

“political reality” also can empower the new government, which may face relatively few domestic constraints to pursuing retributive measures.

Despite the political and practical challenges to pursuing retributive justice in the wake of mass atrocities, the “basic argument” in support of doing so is that “trials are necessary in order to bring violators of human rights to justice and to deter future repression. By holding past violators criminally liable, the transition from an oppressive to a just society is emphatically marked, and the new government is consolidated.”³⁷ Domestic incentives combined with international pressure give the new government ample reason to place a high priority on holding accountable at least the highest-level perpetrators.

Retributive justice is widely viewed as necessary in transitional situations, but, as I discuss in the following sections, the literature largely has excluded it from the realm of restorative objectives and settings. As a result, the conceivable roles for restorative justice mechanisms are limited to supporting what may be considered “soft” objectives, like forgiveness and community healing, while excluding “hard” objectives, like legal accountability and punishment. The prevailing view is that, even if retributive punishment *is* healthy and even necessary for reconciliation, it needs to be removed from the hands of victims and therefore from the realm of community-centric restorative justice. For critics of Gacaca, there was an inherent clash between its retributive component and restorative objective. I discuss these issues in the upcoming sections, focusing on the literature’s limited view of restorative justice in terms of the *setting* and *substance* with which it has been associated.

³⁷ Sarkin 147.

Local contexts and limited objectives

Restorative justice is associated with communities and broad participation; even in cases like South Africa's Truth and Reconciliation Commission, a national restorative effort, the defining feature was widespread participation by South Africans in giving testimonies. In *Restorative Justice in Transition*, Kerry Clamp separates reconciliation/restoration, resting with communities, from retribution, resting with the state or official bodies. The "guiding principles" of restorative justice include that the main stakeholders of conflicts are victims, offenders, and communities, "rather than the state and its practitioners"; that victims and communities are central to the process "and therefore should be offered the opportunity to become actively involved in the response"; and that the emphasis is on "repairing harm and restoring losses."³⁸

Clamp also outlines two ways of thinking about what lends justice a restorative quality. There is a *process*-focused approach which holds that the "act of bringing stakeholders...together and allowing them to collectively discuss the incident, its causes and its consequences, and to determine a course of action is what makes something restorative."³⁹ The second, *outcomes*-focused approach holds that the "impact or intent of the outcome is what determines whether or not restorative justice has taken place." Thus, even if victims and perpetrators come together in a restorative process, "we cannot state that restorative justice has taken place if the outcome of that interaction violates human rights and departs from restorative principles."⁴⁰ It seems that this would include outcomes involving retributive punishment, which, since it currently is excluded from the restorative paradigm, departs from "restorative principles."

³⁸ Clamp 4.

³⁹ Clamp 14.

⁴⁰ Clamp 15.

Clamp's approach to the setting and substance of restorative justice is closely linked with Minow's discussion of the boundaries of retribution, defined as "vengeance curbed by the intervention of someone other than the victim and by principles of proportionality and individual rights." Retribution, she argues, should be assigned to public prosecutors as opposed to individual victims.⁴¹ While doing so "does not guarantee appropriate or respectable results," third-party intervention introduces the constraints necessary for qualifying the response as retribution as opposed to vengeance.⁴² However, it is important to note, I argue, that third parties often remove "the response" from victims' communities, with trials occurring in urban centers or areas with functioning judiciaries, or in another country altogether. This creates additional boundaries between restorative justice—the realm of victims and communities—and retributive justice, the realm of national or international third parties. Finally, Minow notes that working "in the key of formal justice," a trial's main objective is *not* reconciliation, "except in the most abstract sense."⁴³ This reinforces the rigid association among formal justice, retribution, and third-party actors, leaving reconciliation to restorative, non-retributive contexts.

Capturing setting and substance: informal justice

The concept of *informal justice* helps capture restorative justice's *setting* (communities) and *substance* (non-retributive punishment) as it has been conceived of by scholars like Minow and Clamp. Informal justice has been defined broadly as "encompassing the resolution of disputes and the regulation of conduct by adjudication or the assistance of a neutral third party that is not a part of the judiciary as established by law and/or whose substantive, procedural or

⁴¹ Martha Minow, *Between Vengeance and Forgiveness*, Beacon Press (1998): 12.

⁴² Minow 12.

⁴³ Minow 26.

structural foundation is not primarily based on statutory law.”⁴⁴ Informal justice mechanisms may be anchored in customary or clan structures, local administrative authorities, or community forums.⁴⁵ Under informal schemes, “punishment does not usually involve incarceration....The rationale for this is that it serves the greater good of the community rather than separating the perpetrator from the community, and enhances reconciliation to a greater extent.”⁴⁶ What punitive action may be taken is aimed at rehabilitation of the offender and community restoration, rather than at retribution directed at satisfying legal principles like proportionality.

However, informal, community-centered restorative contexts may be linked with more formal, state-oriented actors and objectives. Scholars at the Danish Institute for Human Rights have recognized that there are “many forms” of informal justice mechanisms that are “tolerated, partially state-linked or recognized along the formal-informal continuum.”⁴⁷ Therefore, although informal justice is considered distinct from conventional court systems and formal statutory law, there can be explicit or implicit relationships between the state sphere of judicial authority and local justice mechanisms. As Rosalind Shaw and Lars Waldorf point out, false distinctions between informal and formal justice can take root when scholars and practitioners associate informal justice with the local, understanding the local as a “level” separate from the national and international levels (which are associated with formal justice). They argue that this understanding “obscures that no location in the world exists detached from national and global processes.”⁴⁸ This seems especially true in transitional contexts, where national and international forces have the potential to interact with local communities to a greater extent than in ordinary

⁴⁴ Fergus Kerrigan (ed), “Informal Justice Systems: Charting a Course for Human Rights-Based Engagement” (2012): 8. Published by the Danish Institute for Human Rights.

⁴⁵ Kerrigan 7.

⁴⁶ Rachel Kerr and Eirin Mobekk, *Peace and Justice: Seeking Accountability After War*, Polity Press (2007): 154.

⁴⁷ Kerrigan 8-9.

⁴⁸ Rosalind Shaw and Lars Waldorf, “Introduction,” in Shaw and Waldorf (eds), *Localizing Transitional Justice: Interventions and Priorities after Mass Violence*, Stanford University Press (2010): 6.

circumstances. For example, international and state actors organizing the Special Court for Sierra Leone pursued wide-ranging outreach efforts in communities throughout Sierra Leone to ensure that citizens were aware of the court's mission.

Shaw and Waldorf's observations begin to challenge two preconceptions of restorative justice as it has been discussed in terms of "local" contexts and objectives. The first is that local settings are separate from, or at least not hospitable to, national and international justice processes, whether in ordinary or transitional circumstances. The second is that the defining features of local justice settings in ordinary circumstances, including informality and limited (non-retributive) punishment, will remain unchanged in transitional circumstances. In other words, the question of how traditional, community-oriented forums may become integral to transitional circumstances remains under-explored. The assumption has been that these forums, whose primary function is conflict resolution for ordinary disputes, are neither effective nor appropriate in transitional settings. A closer examination of the implicit or explicit relationships between informal and formal justice spheres in ordinary circumstances could help scholars better conceive of the potential roles for traditional forums in transitional situations guided by the state.

The restorative potential of retributive punishment

In contrast to Minow and Clamp, Rodrigo Uprimny and Maria Paula Saffon argue that while in theory punishment (specifically, retribution) is not incompatible with restorative justice, the restorative paradigm holds that "punishment is contradictory to the objective of reconciliation."⁴⁹ Citing David Crocker, they argue,

[T]he problem of restorative visions is that they identify punishment with vengeance, and thus hide the important functions punishment can accomplish in a transitional

⁴⁹ Rodrigo Uprimny and Maria Paula Saffon, "Transitional Justice, Restorative Justice and Reconciliation. Some Insights from the Colombian Case," published in the "Coming to Terms" with Reconciliation—Working Paper Library, Global Studies, International Institute at the University of Wisconsin-Madison. Page 9.

process....[I]n certain contexts, the retributive component of punishment has a greater reconciliatory potential—even greater than that of forgetting and forgiving. Indeed, punishment publicly censures certain unacceptable actions, and thus generates a social reproach towards them. In that way, far from being opposed to reconciliation, in the transitional justice paradigm, punishment can be seen as an appropriate and even necessary mechanism for achieving reconciliation.⁵⁰

This observation reflects Minow’s point that retribution should not be equated with vengeance and in fact can be an important and necessary part of finding the middle ground “between vengeance and forgiveness.” However, as opposed to Minow, Uprimny and Saffon believe that retribution *can* play a role in restorative settings, with victims central to the process. Supporting this point, Duff argues that “restoration is not only compatible with the retribution and punishment, but requires it.” An offender being confronted and making a reparation “is necessarily both painful and burdensome and thus a ‘punitive process’ and ‘a punishment for the offender.’”⁵¹ The local setting is central to a meaningful retributive process, challenging Minow’s idea that retribution is best kept in the hands of third parties who may operate primarily in national or international spheres.

Summary of the theoretical debate

Uprimny, Saffon, and Duff argue that restorative justice *can* include retribution, while Minow and Clamp contend that although retribution is not inherently detrimental to restorative purposes, official third parties (generally related to the formal legal system) should manage trials. Left in the hands of victims, “retribution” quickly may become vengeance. As I consider in the next section, this discussion is relevant to scholars’ assessment of restoration and retribution at Gacaca. Two major modifications to the traditional gacaca system included making

⁵⁰ Uprimny and Saffon 9.

⁵¹ Antony Duff, “Restoration and retribution,” in A. Von Hirsch, J. Roberts, A. Bottoms, K. Roach, and M. Schiff (eds), *Restorative Justice and Criminal Justice: Competing or Reconcilable Paradigms?*, Oxford: Hart Publishing (2003): 83, 96. Cited in Clamp 17.

genocide Gacaca retributive, with judges having the power to hand down sentences including lifetime imprisonment, and limiting Gacaca's jurisdiction to crimes committed during the genocide, excluding those committed by Tutsi RPF soldiers in the broader context of the civil war. For most scholars, these changes were state-organized retribution—and even vengeance—exacted by Tutsis against the Hutu collective, and they compromised Gacaca's restorative potential. For a smaller group of scholars, however, these changes did not inherently make Gacaca retributive or vengeful.

Applying the restorative-retributive justice debate to Gacaca

As a transitional institution, Gacaca and its various formal, informal, local, and national elements belie a dichotomized view of retributive and restorative justice. To appreciate Gacaca's potential to contribute to reconciliation, it is necessary to arrive at a more fully developed model of retributive-restorative justice, one in which retribution is a component of the process and restoration is a primary objective.

Some scholars have argued that the Gacaca trials were a form of victor's justice exacted by the Tutsi regime against Hutus and that Gacaca became “distinctly punitive.”⁵² Others have focused less on the state's role, pointing out that since Gacaca “placed the power of law and justice in the hands of ordinary citizens, it fits the attributes of local justice well,” but still argue that Gacaca was reinvented to become a primarily “punitive justice mechanism.”⁵³ Significantly, these scholars perceive an inherent clash between a retributive process and a “local justice”

⁵² Rettig 31.

⁵³ Jennie Burnet, “(In)Justice, Truth, Reconciliation, and Revenge in Rwanda's *Gacaca*,” in Alexander Laban Hinton (ed), *Transitional Justice: Global Mechanisms and Local Realities after Genocide and Mass Violence*, Rutgers University Press (2011): 100.

forum. A less common perspective is that justice at Gacaca, including its retributive components, specifically was aimed at “reconciliatory ends.”⁵⁴

In this section, I examine these alternative interpretations of retribution at Gacaca in light of the competing perspectives within the theoretical debate presented in part one of this literature review: that retribution does not belong in victims’ hands in restorative settings, on the one hand, and that restorative forums *can* include retribution, on the other hand. As I demonstrate in Chapters Three and Four, Gacaca’s retributive process was not perceived to be inherently at-odds with its restorative mission and furthermore, its community-centric context bringing together victims and perpetrators was integral to a meaningful retributive effort.

Gacaca as misplaced retributive justice: vengeance among neighbors

Critics of Gacaca support Minow’s view that justice in the hands of victims may become vengeance as opposed to simply retribution. Theoretically, as Corey and Joireman argue, villagers’ “active participation” in the proceedings “contributes to political and personal reconciliation within the Rwandan population, since people are given the opportunity to confront their attackers, tell their stories and express pent-up emotions all in a secure environment.”⁵⁵ But in practice, Rettig observes, the “punitive model raised the stakes of participation”—arguably, both for Tutsis *and* Hutus—“and provided the opportunity for individuals in the community to use gacaca as a mode of personal revenge.”⁵⁶ When local justice depends on the community’s participation, he argues, it can succeed “if community trust is strong.” In this case, however, the genocide and civil war had “destroyed social capital...and the Rwandan government did not

⁵⁴ Phil Clark, “The Rules (and Politics) of Engagement: The *Gacaca* Courts and Post-Genocide Justice, Healing and Reconciliation in Rwanda,” in Clark and Kaufman (eds), *After Genocide: Transitional Justice, Post-Conflict Reconstruction and Reconciliation in Rwanda and Beyond*, Hurst (2008): 313.

⁵⁵ Corey and Joireman 84.

⁵⁶ Rettig 44-5.

rebuild social trust, or trust in government, before launching gacaca. Instead the government imposed a state-controlled system of local justice that threatens serious penalties against low-level perpetrators.”⁵⁷ Furthermore, the “politicized application of justice” at Gacaca excluded Tutsi-committed crimes, increasing the likelihood that the Gacaca process “will be interpreted more as revenge than as reconciliation.”⁵⁸

For some critics, there is a fundamental problem with using a restorative practice—truth-telling—in a retributive process. Shaw and Waldorf argue that whereas “truth telling originated as a human-rights tool *against* state repression, truth telling in the modern *gacaca* courts under the current regime has become a coercive tool of the state.” Given that Tutsis were excluded from the courts’ jurisdiction and that witnesses were threatened and sometimes killed by the accused or their associates, “the truth-seeking practices of gacaca form a site of particular fear, danger, and mistrust.”⁵⁹ This especially was the case, according to Corey and Joireman, given that villagers were “much more than mere spectators to the proceedings,” since “their descriptions and reports regarding the defendant directly affect[ed] the sentencing administered by the presiding judges.”⁶⁰

These critics support the point that retribution risks becoming vengeance if victims have the opportunity to play a direct role in punishing perpetrators (Minow). And at Gacaca, victims not only had this opportunity but were obligated to participate actively in the punitive process through their testimonies. But these critiques also highlight the limitations of Minow’s assumption that while states or third parties cannot guarantee acceptable trial results, on the whole they are better equipped than victims to do so. In the unique circumstances in Rwanda, the

⁵⁷ Rettig 46.

⁵⁸ Corey and Joireman 86.

⁵⁹ Shaw and Waldorf 11.

⁶⁰ Corey and Joireman 84.

state, lacking the means to address impunity on a large scale in the conventional court system, turned to Gacaca, empowering victims to participate in, and sometimes help lead, trials that became the state's signature effort at accountability.

Gacaca as retributive-restorative justice

The conventional wisdom holds that, in becoming a distinctly retributive system, victims had the opportunity to pursue vengeance and Gacaca's restorative potential was compromised. But other scholars evaluate Gacaca according to the position that retributive justice *can* be restorative and that restorative, community-oriented settings can support retributive (but non-vengeful) processes. According to Clark, for example, Gacaca "shows how a cliché of transitional societies can work in practice, namely, that there can be no reconciliation without justice. The key to understanding how *gacaca* breathes life into this cliché is to understand how it deliberately shapes justice toward reconciliatory ends."⁶¹ He argues that critics, especially human rights advocates, have misinterpreted Gacaca's goals as deterrent criminal justice (an objective of "retributive justice") and therefore have focused on how it has fallen short in meeting international standards for criminal justice. (Indeed, Corey and Joireman argue that from a "purely legal standpoint, the *gacaca* process is flawed."⁶²) It is important to point out that Gacaca's objectives *did* include deterring future repression and addressing impunity, goals associated with retributive justice. Although I support Clark's point that Gacaca had a specifically restorative goal, I argue that it is unnecessary and also inaccurate to characterize this as the sole objective.

Clark observes that Gacaca, "as an institution of restorative justice, punishes those convicted of genocide and crimes against humanity explicitly in order to promote

⁶¹ Clark 313.

⁶² Corey and Joireman 84.

reconciliation.”⁶³ The “discursive approach to justice in *gacaca*,” emphasizing discussion and engagement between participants and “as opposed to the strictly formal variety advocated by human rights observers[,] is one means to reconciliation.”⁶⁴ The forms of “reconciliatory punishment” Gacaca promoted through victim-perpetrator discourse included its plea-bargaining system, which offered perpetrators a path to reduced sentences, and compensation and reparation for victims. The local context of Gacaca, conducive to the “discursive approach to justice,” was *central* to a meaningful retributive process and therefore to the potential for a restorative outcome.

Summary

In this literature review, I have attempted to shed light on a shortcoming that has reinforced the conceptual dichotomy between retributive and restorative justice: dissociating the notion of retribution from the realm of restorative justice, with victims as direct participants in the process of holding perpetrators accountable to their communities. Although some scholars (Uprimny, Saffon, Duff) contend that punishment *can* and often *should* play a part in restorative justice, the current paradigm excludes punishment from the restorative realm. Instead, punishment belongs in the hands of third-party intermediaries between victims and perpetrators, thereby “staying the hand of vengeance” (a concept discussed by Minow and supported by Clamp).

Applying this broad debate to assessments of Gacaca, the lack of a strong framework for conceptualizing *retributive-restorative justice* that is tied to a *national* agenda of accountability but also is pursued in a *local* setting has led some scholars to view Gacaca’s retributive process as being at-odds with its restorative mission. Others, however, opposing the conventional

⁶³ Clark 300.

⁶⁴ Clark 315.

wisdom, argue that retribution was central to supporting a restorative outcome at Gacaca, with victims as central actors in searching for accountability; moreover, victims' participation in the process did not necessarily result in vengeance.

In Chapters Three and Four, I examine empirical evidence from interviews suggesting first, that Gacaca's retributive component was not perceived to be incompatible with its restorative objective, and second, that the local context was central to a meaningful retributive process with the potential to support reconciliation. I consider the results of blending retributive justice, which has been associated with formal justice settings and third-party actors, with truth-telling, which has been associated with informal justice settings and community actors, as the core components of the Gacaca process. These chapters will focus on the implications of this blended process for Gacaca's restorative potential. I highlight how interviewees' observations shed light on the need for a stronger model of retributive-restorative justice and on the lessons that can be drawn from Gacaca for future transitional justice initiatives attempting to pursue retributive punishment in a community-oriented setting with restoration as one of the overarching objectives.

Methodology

In January 2014, I conducted in-depth interviews with 21 Rwandans on their expectations for and evaluations of genocide Gacaca versus its outcomes. Interviewees included three former *inyangamugayo* ("persons of wisdom" elected by their communities to serve as Gacaca judges), ten persons currently involved in non-governmental organizations, a well-known genocide scholar and former member of Rwanda's Human Rights Commission, a former member of the National Unity and Reconciliation Commission, a village chief, and five persons currently unaffiliated with the current government or with non-governmental organizations and having no

official role in the Gacaca process. It is important to note that although we did not discuss interviewees' ethnic affiliations—it simply is not done today in Rwanda—I am confident that my sample includes more Tutsis than Hutus. This may have introduced biases into my study. Despite that ethnic identities no longer are used in Rwanda, it is impossible to deny their effect on how individuals experienced both the genocide and the Gacaca process.

Each interviewee was asked a set of prepared general questions, but our conversations proceeded differently depending on the individual's experiences. When an interviewee played a particular role in Gacaca or in a government-affiliated job during the process, he or she was asked questions specific to that role. A compilation of the complete interviews can be found in the appendix. The prepared questions were:

1. Did you participate in Gacaca, and if so, in what capacity and for how long?
2. What were your expectations for Gacaca, as well as your understanding of its objectives, before the process began? Over time, how, if at all, did those change?
3. What do you think was the effect of Gacaca on reconciliation in your community?
4. What were some of the greatest strengths and weaknesses of the Gacaca process?

In Chapters Three and Four, I discuss and interpret interviewees' insights and opinions to shed light on the central question of this research: how the retributive component intertwined with truth-telling to form a meaningful retributive process with the potential to support Gacaca's restorative objective.

Part II—Empirical Findings

Chapter Three—Expectations for the retributive component and restorative objective

The literature has drawn connections among retribution, formal settings, and third-party (national or international) actors, on the one hand, and restoration, informal settings, and community actors, on the other. A common critique of Gacaca is that its restorative potential was compromised by its retributive component, which was conceived by the state to target Hutus (excluding Tutsis who had committed crimes during the civil war).

This research argues that retributive punishment pursued in a community-oriented forum can be central to a meaningful retributive process that supports the objective of restoration. In this chapter, I consider the empirical evidence gathered from interviews suggesting that, at the outset, Gacaca's retributive aspect was expected to be compatible with its restorative objective. (In Chapter Four, I focus on the more controversial question: whether in practice these elements were compatible). I also examine how the particular forum offered by Gacaca was perceived to be *necessary*, given the caseload facing the conventional courts and the unmet need for justice. These findings suggest that, at least for some Rwandans as they look back on their varied experiences at Gacaca, there is the *potential* for a transitional justice model blending retribution with restoration, one mandated by the state but taking place in community-centric forums. Although there were significant concerns with implementation, as discussed in Chapter Four, the fact that interviewees of all persuasions seemed to share a belief in this model's potential to support restoration as one of its primary objectives is significant.

An important point guides the conclusions I draw from interviewees' comments on the issue of the perceived compatibility, at the outset, between Gacaca's retributive component and restorative objective. The state very clearly communicated that a retributive component would be a principal part of Gacaca, asserting in the 2001 Organic Law that "none of those who were

complicit shall escape punishment.”⁶⁵ The same law also spelled out the restorative objective, noting that Gacaca sought to “reconcile the Rwandans and strengthen their unity.”⁶⁶ The government’s clear intentions with Gacaca were well-publicized. Therefore, it is fair to assume that interviewees formed their first impressions and expectations of the Gacaca model aware that there would be a strong retributive component.

State initiation of Gacaca

With the 2001 Organic Law establishing Gacaca, the state clearly communicated its objectives: establishing the truth, accelerating the prosecution of genocide, continuing to eradicate “the culture of impunity,” reconciling Rwandans, and proving Rwanda’s capacity to settle its problems through its own traditional legal system.⁶⁷ According to the description currently published by President Kagame’s office, the Gacaca system “is a traditional Rwandan conflict and disputes resolution procedure designed to be participatory and reconciliatory justice that has been modernized and to deal with a backlog of genocide cases.”⁶⁸

Interviewees agreed that Gacaca was instituted by the state to respond to the overwhelming caseload facing the conventional courts. Multiple people pointed to the estimate, commonly cited in the literature, that had the conventional courts been relied upon to handle the genocide cases it would have taken roughly 200 years to complete.⁶⁹ One man described Gacaca as stemming from “realism,” grounded in the widespread understanding that it would have been impossible to handle all the cases through the ordinary courts.⁷⁰

⁶⁵ Schabas 223-4.

⁶⁶ Schabas 223-4.

⁶⁷ Schabas 223-4.

⁶⁸ Office of the President, Official Website.

⁶⁹ See for example 1B, 15.

⁷⁰ 15.

While most interviewees pointed to the logistical reasons for the turn to Gacaca, several people approached the issue from the angle of government responsibility. One survivor noted, “Genocide was a crime by the government, and so reconciliation was a duty of the government.”⁷¹ Interestingly, he placed responsibility for reconciliation on the Tutsi government despite the fact that former President Juvenal Habyarimana’s Hutu government was responsible for planning and orchestrating the genocide. Another interviewee, in the unique position of having served on the National Unity and Reconciliation Commission, discussed Gacaca in light of the conflict between international and domestic interests after the genocide. He stated that, having realized that the international community was invested primarily in efforts at the ICTR, the government decided that handling the cases facing the conventional courts was “our problem.” Without donor funding “to hire lawyers and judges from other countries,” the government turned to Gacaca.⁷²

Even interviewees who were critical of Gacaca overall did not perceive that the state was motivated by the desire for vengeance. One critic explained that when the state first introduced the idea, it seemed like a positive development “because of the number of prisoners needing justice.”⁷³ Another stated that, prior to the start of Gacaca, she expected that the process would help bring to account criminals who had not been prosecuted, clear those who had been wrongly accused, and facilitate reconciliation.⁷⁴ Their perspectives recognize a retributive component *and* a restorative purpose and suggest that, even for critics of the end result, there was no inherent clash between these two elements.

⁷¹ 15.

⁷² 7.

⁷³ 8.

⁷⁴ 19.

However, several people shared concerns about “the top-down approach—the fact that [Gacaca] is really done by the government. This is a big issue. If Gacaca was really truly owned by the people, the solutions would have been different. The government appointed people in certain positions, so it feels like it is just another arm of punitive justice. A government plan. This has a serious negative effect on reconciliation.”⁷⁵ One man explained that before the Gacaca process began, he thought that “it was an immense surprise that the government took such a huge risk, this system in such a weak society.” He felt that “it was very innovative in the end” and “the best possible process, though imperfect,” given that there was “no other alternative for handling the situation we faced.” But when asked about the major weaknesses of the Gacaca system, he reported, “My only problem is that it was top-down, thought of at the national level and brought down. It should have been the other way around, with consultations throughout the country.”⁷⁶ Therefore, although there was not necessarily a perceived contradiction between Gacaca’s retributive component and restorative goal, and although most Rwandans may have recognized that there were few—if any—alternative options, the state’s dominant role in designing and implementing the courts was more problematic.

Anticipated challenges and benefits of reinventing a traditionally restorative forum

There are many potential challenges to reinventing a traditionally restorative forum to incorporate retribution, as well as questions about whether this approach is appropriate in response to mass atrocity. As one interviewee observed, as opposed to the traditional gacaca system handling “normal social issues” like “miscommunication and misunderstanding,” genocide Gacaca dealt “with death” and “with murderers.”⁷⁷ The 2001 Organic Law attempted to

⁷⁵ 17.

⁷⁶ 10.

⁷⁷ 18. See also 10, 12.

address this issue, stating that “although the cases that the ‘*gacaca* jurisdictions’ will have to hear...are different from these that are normally resolved within the *gacaca* framework, these jurisdictions fit well into the custom of settling differences by arbitration, even amicable arbitration.”⁷⁸

With just one exception, interviewees did not take issue with or spend much time discussing the fact that a traditionally “small-scale” conflict resolution tool was modified for use in a drastically different context. “People understood early on,” reported one man, that compared to the traditional model “genocide Gacaca would be different...It was very clear.”⁷⁹ The most prevalent attitude was that it simply would have been unrealistic to expect that the genocide system would have been exactly the same as the classic model, as traditionally it “was a process to deal with very minor issues—nothing of the magnitude of the genocide, so there was no way genocide Gacaca was going to be the same.”⁸⁰ One man pointed out that the traditional model, which was “very restorative and done by the community without any influence from authority, could not have worked in this situation and it would not have worked, looking at the killings and crimes committed. It is clear it was beyond the traditional model.”⁸¹

In addition to the Gacaca forum being perceived as necessary, for some interviewees it was especially well-equipped for its role. In discussing some of the merits of using a method like Gacaca in the genocide context, one interviewee speculated on using conventional court processes instead. It is worthwhile to quote in its entirety his explanation of some of the potential problems with doing so. He stated,

⁷⁸ Schabas 224.

⁷⁹ 18.

⁸⁰ 10.

⁸¹ 6.

With Gacaca, they ask ‘Who did this?’ or ‘Who saw John doing this?’ At conventional justice they ask, ‘What was the time? What was he wearing?’ Well, if it is at night, and he is dressed in red, it may look like black. The witness will say it looks like black...[But] John may say, ‘No, I was dressed in red.’ They also might ask for a rape case, say, ‘How did you feel?’ So if a woman says accidentally, ‘This is how I felt,’ the judges may say, ‘Ah! So you enjoyed it!’ At Gacaca with a rape case, they would never ask how it was, how did you feel, or something like that.⁸²

Another interviewee added to this point (the two men were interviewed together), noting that at Gacaca “the good thing...is that the community stands by the victim. It was given value, what the community says, which is different from where the conventional justice would ask such questions.”⁸³ Interviewee 1B, quoted at length above, suggested that *because* the crimes at hand were so severe, and because the process of uncovering them was so traumatic for survivors and witnesses, Gacaca, as opposed to the ordinary court system, was best-suited to handle cases through a more sensitive process.

Interviewees did not draw explicit connections between Gacaca’s retributive aspect and formalization of the traditional model, which challenges an association commonly made by scholars and practitioners. In fact, there was only one instance when someone spoke directly about formality, observing that Gacaca proceeded in “a formal way, where everything had to be written down....The formal justice brought about a new political aspect,” including that the eyes of the international community were on the proceedings. Therefore, “if Gacaca were to sentence someone to 20 years in prison, there needed to be a record of the reasons why.”⁸⁴

Summary

Evidence gathered from interviews suggests that, at the outset, Gacaca’s retributive component was expected to be compatible with its restorative objective. This was the sense even

⁸² 1B.

⁸³ 1A.

⁸⁴ 18.

among those who were highly critical of Gacaca overall. Interviewees also agreed that Gacaca was initiated by the state due to practical necessity and not because it sought vengeance against Hutus. For some, the “top-down” nature of Gacaca was problematic but also perhaps unavoidable given the lack of alternative transitional options.

These findings suggest that from the perspective of some Rwandans who experienced and evaluated Gacaca differently, there is the potential for a transitional model blending retribution with restoration, mandated by the state but taking place in community-centric forums. Furthermore, it *is* possible to modify these forums to be useful after mass atrocity; indeed, as compared to conventional courtrooms, they may be more sensitive to victims and thereby have the potential to produce better restorative results. These findings lend support to the model of retributive-restorative justice outlined in Chapter Two. Chapter Four considers the more controversial question: whether Gacaca’s retributive component and restorative objective were compatible in practice.

Chapter Four—Truth-telling in the context of retributive punishment

While Chapter Three focused on interviewees' discussion of their expectations of the retributive-restorative model before implementation, this chapter considers how they perceived it in practice. I examine their perspectives on the effect of blending *retributive punishment* with *truth-telling* in a community setting, which were intertwined components of a process aimed at supporting restoration among other objectives. Most interviewees specifically mentioned discovering the truth about the genocide as one of the core reasons why Gacaca was necessary. But they disagreed about the implications for reconciliation of incorporating a retributive component with truth-seeking.

On the one hand, using truth-telling as the primary tool for determining punishments was perceived to help lessen suspicions, individualize blame, reduce sentences for cooperative accused persons, and find elusive justice for some survivors. On the other hand, the process made participation mandatory when individuals' testimonies were required and thereby gave them no choice but to be involved in a high-stakes process, encouraged witnesses *not* to tell the complete truth in some cases, and sometimes produced unfair punishments. Considering whether the process ultimately achieved its restorative objective, interviewees offered two competing perspectives: that it advanced reconciliation, providing survivors with a sense of some justice while bringing them together with suspects as a first step toward interpersonal reconciliation, or that it hindered reconciliation, providing mixed results at best and sowing seeds of resentment at worst.

Potential benefits of truth-seeking in the Gacaca setting

Lessening suspicion and finding justice

Uncovering the truth about what had happened during the genocide was widely perceived as necessary and as one of Gacaca's principal objectives. A former *inyangamugayo* reported that with Gacaca what "the whole country was looking for was the truth."⁸⁵ Many people hoped that, first and foremost, truth-telling would reduce suspicions among neighbors. Before Gacaca, according to one interviewee, "because of strong government policy, people lived quietly together, but not face-to-face."⁸⁶ This was unsustainable because Rwanda is an "open society." There "is the fact that many people had family members killed by their neighbors and they had to live next door to them....[Because of the] nature of the local setting in Rwanda, with people living so closely next to each other...Gacaca was the only thing that could bring people face-to-face."⁸⁷ There were two issues surrounding the problem of suspicion after the genocide: the known killers back living in their communities and the unknown status of neighbors suspected of either participating in or having knowledge of crimes. For example, there was the issue of "some people masquerading around for 15 years in the community" with information about the genocide. In one instance, unbeknownst to his neighbors, a man had buried people in a pit behind his house; it only became public knowledge during the Gacaca process, when several incarcerated people testified against him, having been present when the people were buried.⁸⁸

For survivors, "the truth" entailed learning how and where their relatives had been killed. As one interviewee put it, "[Y]ou always hear people say that I would feel more comfortable if at least I had the remains of my people so that I can bury them in dignity. The Tutsis were being

⁸⁵ 5.

⁸⁶ 12.

⁸⁷ 17.

⁸⁸ 1B.

hunted, so they couldn't know where their loved ones went." He continued, "[F]rom a psychological point of view," it was beneficial for survivors to get this information at Gacaca.⁸⁹ Another interviewee explained, "I saw the differences between those who told the truth and those who did not. You see the look of relief on victims' faces when a perpetrator tells who was killed and where they were buried."⁹⁰

However, survivors faced a particularly challenging task in listening to the accounts offered by the killers of their loved ones and by witnesses to the killings, as there was not always adequate support in place to help them deal with the stress of learning such traumatic information. It was "shocking," according to one man, "when the accused would stand and use language that makes it sound like they are actually proud of what happened and what they did. We saw cases where someone would say, 'It was the morning and we came and took her and we just cut her'; there was a language which wasn't favoring people listening in a comfortable manner."⁹¹ Another interviewee agreed that "the most painful or difficult part was for a killer to meet someone and tell them, 'I killed your son, your daughter, your family.'"⁹² An interviewee discussing the negative features of Gacaca stated that after the truth is told, "it is traumatizing. People were not prepared and there was no mechanism for helping with the trauma. The government had no trauma sensitization programs—there was nothing prepared to help victims in dealing with the truth...The truth is good, but has its own consequences."⁹³ Truth-telling had the potential to lead to "a renewal of trauma as information was being revealed about how people

⁸⁹ 1B.

⁹⁰ 15.

⁹¹ 1A.

⁹² 13.

⁹³ 17.

were atrociously killed”;⁹⁴ in some communities, “truth-telling has reinforced wounds...and no one has followed up on the extent of these wounds and destruction.”⁹⁵

Individualizing blame

In helping to reduce suspicions among neighbors, Gacaca helped to individualize blame among Hutus. One of the primary concerns with Gacaca was the potential for collectivizing Hutu guilt. There was the fear that aggrieved survivors might “gang up” on Hutus and that Gacaca would become an exercise in victor’s justice or even vengeance. However, most interviewees who discussed the collective guilt issue noted that one of Gacaca’s strengths in practice was individualizing blame. They shared that after the genocide and prior to Gacaca, many Hutus who were not involved “had shame because of their families.” There also were Hutus “who did not believe that they would be seen as innocent people because they were of the same group as the killers.”⁹⁶ According to one man, before Gacaca “all Hutus were put in the same basket,” but the Gacaca process helped to individualize guilt.⁹⁷ One person stated that the government, as well as other actors in civil society and the media, helped to ensure that innocent Hutus would not feel that they would be implicated by association. Several people pointed out that one positive benefit of “community justice” like Gacaca is that if a man is proven guilty, “the community will protect his wife and children.”⁹⁸ At Gacaca, this meant that the families of guilty people would not be punished or ostracized by association.

In contrast, however, one man spoke about Gacaca “as a trial against these people who lost the war [Hutus]. It looked at one side but not at the other. But that kind of justice could not

⁹⁴ 19.

⁹⁵ 10.

⁹⁶ 1A.

⁹⁷ 10.

⁹⁸ 6.

be obtained for the other side [Tutsis who committed crimes during the civil war].”⁹⁹ From his perspective, the issue of individualizing blame at each Gacaca hearing was a non-starter, as the motivation behind the entire initiative was blaming the Hutu collective while ignoring Tutsi crimes. Although he represents an outlier among my interviewees, this may have been due to the fact that my sample did not include an equal number of Hutus and Tutsis, or people who generally were sympathetic to the Gacaca experiment and those who were not. His perspective represents a very important criticism in the literature and, it is likely, among many Rwandans.

Reducing sentences

Placing an emphasis on truth-telling also gave rise to a reduced penalty scheme for cooperative accused persons. Their willingness to speak truthfully was of primary importance in determining punishments, which ranged from incarceration to TIG (Travaux d'Intérêt Général, which means “work of public interest”).¹⁰⁰ One interviewee stated, “[p]unishments were not that tough. If the accused out of his heart said the truth, and admitted it, the punishment would be reduced.”¹⁰¹ A former *inyangamugayo* said that the “major encouragement was for Hutu to tell the truth and they would be forgiven. For example, we have one man imprisoned in '95. People called him to [ask] where some persons were buried. He told where. We had to dig and [it] took us two weeks to find [a man buried with his son]...Because [the incarcerated] helped us find them with all that pain, we reduced the sentence from ten years to three years.”¹⁰²

Finding justice

Interviewees explained that survivors either understood initially or came to understand—by being “educated to accept a lower level of justice”—that justice at Gacaca would not and

⁹⁹ 8.

¹⁰⁰ 9.

¹⁰¹ 9.

¹⁰² 5

could not match the severity of the crimes committed.¹⁰³ However, arriving at the justice that it *could* provide depended on the truth-telling component. Indeed, one woman stated that for “many people here, justice is not about sending people to prison for 20 years. It is about answers to questions like where their loved ones were killed and buried. Getting the story, getting the truth.”¹⁰⁴ Although this research does not focus on how different people interpreted “justice” after the genocide, her comment sheds light on the possibilities for breaking down the distinction that has been drawn between retributive and restorative models, often as the result of the literature equating punishment or “justice” with retribution.

The former member of the National Unity and Reconciliation Commission explained that President Kagame once called Gacaca a “‘bitter medicine’ that our people have to take in the sense that the victims could say that we have not received the justice that we expect, but for the survival of the nation they must take the bitter medicine.”¹⁰⁵ On the issue of survivors accepting or coming to accept limited justice for their relatives’ killers, one interviewee stated, “Of course, justice was not equivalent to the crimes committed but was based on the realities. People seemed understanding of the reality of the justice that was possible.” He added, “It would be madness to put in place punishments to fit the crimes that had been committed.”¹⁰⁶ Another person stated, “Even putting the perpetrator in jail does not bring anybody back. No punishment is enough or equivalent to the crime... ultimately, survivors need more than incarceration. But it’s not there. It is impossible to find.”¹⁰⁷

¹⁰³ 7.

¹⁰⁴ 17.

¹⁰⁵ 7.

¹⁰⁶ 15.

¹⁰⁷ 17.

Potential drawbacks of truth-seeking in the Gacaca setting

Truth-telling at Gacaca was widely perceived as being beneficial, although traumatic for some (especially survivors) given insufficient state resources to help victims through the difficult process of hearing the truth. But there were two potential obstacles to arriving at the truth through the Gacaca process, and these were amplified by the fact that truth-telling was intertwined with a retributive component. First, *not* telling the truth, always a possibility in transitional truth-seeking, might have become more attractive as the result of the high-stakes for both witnesses *and* accused persons. Second, if an individual's testimony was deemed necessary by authorities, he or she was required to provide it. Given the high-stakes nature of many cases, this opened witnesses to intimidation and reprisals, perhaps ultimately compromising Gacaca's restorative potential.

Associations and "keeping quiet"

Despite the possibility of punishment for failing to tell the whole truth, an interviewee noted that "there was a time where people [specifically, Hutus] would form associations. Say there is a village where Tutsis were killed and everyone who was there was not a survivor. Imagine a Gacaca with no survivors. There would be only people associated with the perpetrators...so they would form associations called 'keep quiet,' or *ceceka* in Kinyarwanda."¹⁰⁸ Members of associations promised not to testify against one another during the Gacaca process. Furthermore, if people (whether Hutus or Tutsis) called upon to provide testimony felt endangered by testifying against someone due to the lack of protection for witnesses, there was an incentive not to tell the truth. In my interviewees' experiences, this was not specifically an issue. One man noted that there *were* several documented cases of witness intimidation in rural

¹⁰⁸ 1A.

areas of which he knew, but he thought that these witnesses had testified at the ICTR and not at Gacaca.¹⁰⁹ However, there are documented cases, in other scholarly work, of intimidation of Gacaca witnesses.¹¹⁰ There certainly was a risk to individuals called upon as witnesses in not telling the truth or being uncooperative generally. If, for example, an attendee was asked the name of his brother or a close relative and he replied that he did not know, this was considered “ridiculous” and the Gacaca judges “would take those people’s information story by story, and if they would not give it the Gacaca court would have no choice but to find them guilty. Because the court was not supposed to coerce for information.”¹¹¹

Mandatory participation in testifying

One of the critiques in the literature is that, contrary to traditional gacaca, participation in the genocide Gacaca was mandatory. This raises the question of whether people really “decided to face the truth,” as one man asserted, or rather were compelled to do so.¹¹² The issue of forced participation is particularly significant in terms of Gacaca’s retributive component. If citizens were required to attend to give testimonies, they were required to be part of a truth-telling scheme that was “high-stakes” as the result of the retributive component of the process. Their testimonies contributed to judges’ deliberative process, which, given the possibility of heavy sentences, could have serious implications for perpetrators.

Interviewees’ attendance at Gacaca ranged from one time, to as often as possible given time constraints, to every session.¹¹³ Several people mentioned possible punishments or fines given as a result of non-attendance. The former member of the National Unity and

¹⁰⁹ 16.

¹¹⁰ See Rettig 39.

¹¹¹ 7.

¹¹² 1A.

¹¹³ 9, 10, 11.

Reconciliation Commission mentioned, “Everyone was obliged by law to attend...I think under the law people could be fined [for not attending]. Although the Gacaca was intended to be voluntary, the government obliged all citizens to attend.” He clarified that residents “were not forced to attend every day, but if the local leaders told you that you must attend and you refused, you would be in trouble. But if you had a good reason you could not attend or told them, ‘I can’t be there today, but can attend tomorrow,’ that is fine.”¹¹⁴

Citizens were required to participate specifically when their testimony was desired by persons of authority overseeing the Gacaca process. A man who currently serves as a village chief and was also in this role during the Gacaca process reported that if persons were needed to provide testimony but refused, first they were called by word of mouth, then by a written order, then by a note warning of a fine, and finally, they were punished. “The punishment,” he stated, “is all done by the government.”¹¹⁵ Another interviewee stated, all citizens “had to participate.”¹¹⁶

One survivor living in Kigali at the time of Gacaca noted that he chose not to return to his hometown of Kibuye to attend Gacaca, despite the fact that his family members were killed during the genocide. He reported that he was given the option of returning to Kibuye to attend Gacaca and speak with his mother’s killer, but that he “did not want to participate in that way.”¹¹⁷ He was not forced to return home to attend. This was because his *testimony* was not required—he simply was given the chance to confront his mother’s killer. Citizens were not required to participate in the restorative component of Gacaca’s process but *were* required to participate in the retributive component—testifying against accused persons—if their testimonies

¹¹⁴ 7.

¹¹⁵ 14.

¹¹⁶ 6.

¹¹⁷ 4.

were required. This can be interpreted in either a positive or negative light. Considering the restorative “non-requirement,” on the one hand it is impossible to force people to forgive; forgiveness is a personal process that no transitional initiative can compel. Thus, not forcing survivors to come to Gacaca simply to speak to their relatives’ killers can be considered a wise policy that helped avoid painful and unnecessary confrontations. But on the other hand, Gacaca provided a designated space for the difficult and, some would say, necessary task of confronting the past; for the process to achieve its objectives of discovering the truth and bringing communities together, people needed to attend.

Considering the retributive “requirement,” on the one hand there were risks to compelling people to testify against one another when the potential costs of doing so were high both for the accused person *and* for the witness. And these high costs were the result of intertwining truth-telling with Gacaca’s punishment scheme that included heavy sentences like life imprisonment. Witnesses who were not sufficiently protected opened themselves and their families to reprisals by convicted persons’ families or associates. But on the other hand, *not* requiring the attendance of witnesses or people with vital information would have compromised the whole objective of discovering the facts necessary for holding perpetrators accountable.

Unfair punishment

There are two ways of looking at the issue of unfair punishment resulting from Gacaca’s process. For some, regardless of the extent to which the plea-bargaining scheme helped some perpetrators receive lessened sentences, the truth-telling process was defined by failing to facilitate careful deliberations and fair sentencing. One woman contended, “At the end of the process, it seemed that the retribution dimension, and sometimes vengeance, had taken over the reconciliation dimension. There were many cases where people were given heavy sentences,

where proof of guilt was dubious.”¹¹⁸ Perceptions of the “proof of guilt” problem stemmed from a lack of physical evidence as a result of the widespread destruction during the genocide and the need to rely on testimonies. Questioning about particularly sensitive crimes like rape did not probe into the same level of detail that might be considered essential in conventional court proceedings to “check the veracity” of testimony.¹¹⁹ Additionally, a person who failed to bring important information to Gacaca could be heavily sentenced, even if he or she had not committed a crime during the genocide.¹²⁰

Sentences often were considered to be unfair because of the lack of due process. But for others, they were unfair because some individuals “wanted more punishments.”¹²¹ Some people argued that survivors did *not* accept “limited” justice as being the best that could be hoped for given the circumstances. Gacaca’s punishment scheme did not go far enough. This is a different way of viewing the intersection between the restorative and retributive components of the Gacaca process, shedding light on a different interpretation of “unfairness” in terms of the punishments arrived at through the truth-telling process. Rather than the retributive piece making truth-telling a “high stakes” act, the primacy of truth-telling—the high value placed on arriving at the truth—*dampened* the retributive impact. For some, this could be considered a positive thing, as perpetrators had the opportunity to avoid heavy sentences by cooperating and telling the truth. For others, however, it diminished the restorative result, which depended on “sufficient” punishment for perpetrators. For example, one interviewee stated that from survivors’ perspectives, “although Gacaca has helped to bring to light some of the facts about how their

¹¹⁸ 19.

¹¹⁹ 1B.

¹²⁰ 1B.

¹²¹ 17.

relatives were killed and where they were buried, the sentences were not deemed commensurate with the crimes committed and the pain inflicted upon the victims.”¹²²

One potential source of the differences in satisfaction with the sentences reached is that the most serious cases were heard by the sector courts, while comparatively less serious crimes stayed at the cell level. As one man pointed out, although he believed that Gacaca delivered justice for victims, in his community “there were not many serious cases....There were no cases of killings convicted; it was more like people looking the other way when victims tried to ask for help.”¹²³ A question for further research is whether Gacaca attendees observing cell-level cases had a higher level of satisfaction with the sentences assigned to perpetrators as compared to those observing sector-level cases.

Contribution to Reconciliation

Positive contribution

Some interviewees expressed highly positive views of Gacaca’s role in bringing reconciliation to individuals and communities. Gacaca’s results, stated one man, “were encouraging and so helpful for the community. Not necessarily helpful for justice...but the main result was establishing the ground for a sustainable reconciliation process.”¹²⁴ In one community, Gacaca “was hugely beneficial in paving the way to reconciliation, bringing the survivor and the killer together. It gave the killer an opportunity to share and encouraged reconciliation by letting survivors respond. Gacaca was aiming to bring back that good behavior of the tradition in our society of mutual respect.”¹²⁵ A former *inyangamugayo* who lost 24 relatives during the genocide explained, “At first I never thought in my life I would live again with the killers of my

¹²² 19.

¹²³ 16.

¹²⁴ 18.

¹²⁵ 9.

family”; after Gacaca, however, she found herself doing just that, as a child of her family’s killer came to help with her cows “because [the child] had nobody.”¹²⁶

Another perspective on the issue of reconciliation was offered by a survivor who spoke with me on the very hill where he nearly was killed. He reported that for his community, Gacaca “was good because it reconciled the victims and the killers. They eat together, they solved everything, and they intermarry.” He told me that during the war, someone stole his property worth 750,000 francs, but he has forgiven the debt. But he noted, “It was my own decision to forgive him, not Gacaca. The other man was poorer than me. He had less land, less property.”¹²⁷ It is striking that this man differentiated between Gacaca’s role in reconciliation on a broader societal level—perhaps making possible renewed relationships between “victims and killers”—and *individuals’* decisions to extend forgiveness on a more personal level.

Mixed contribution

For one man who lost his entire family except for one brother, while Gacaca “came for the justice piece,” reconciliation “came from other initiatives.” Reconciliation will be a long-term process, he explained, and perhaps in the future Gacaca will prove to “play a kind of role.” For now, though, if reconciliation has come to Rwanda, “it is just because the state was strong” and came in “with order, with organization,” and with improving the security situation by generally “giving everyone the possibility of feeling secure.”¹²⁸

For another person, Gacaca’s “mixed” overall effect on reconciliation stemmed from the fact that since the beginning of the process there had been “tension between the need to expedite the justice process and the imperative of ensuring a fair and independent process,” with the result

¹²⁶ 13.

¹²⁷ 11.

¹²⁸ 4.

being that Gacaca “left behind...a feeling of [dissatisfaction] from all sides and, above all, renewed intensity of trauma and heightened tensions between communities.” However, this interviewee also pointed out that the process has offered some people and groups the chance “to take a bold step towards interpersonal reconciliation,” particularly through church-based associations bringing together survivors and perpetrators.¹²⁹ One person pointed out that it is not easy to know the “real impact” of Gacaca on reconciliation because people have not talked openly about it; furthermore, “social cohesion initiatives” in communities are not the result of Gacaca but of church and other social organizations.¹³⁰

Gacaca played an important part in reintegrating perpetrators into their communities. One representative of a non-profit organization explained that many ex-prisoners with whom she has worked “have gone through the Gacaca process. Everyone back in their communities is there because of Gacaca. Only through Gacaca did you have this community ownership, and people coming out of jail.”¹³¹ However, part of the reintegration process was dependent upon many perpetrators paying reparations to victims. The ongoing challenge of timely payment of reparations was an issue of concern for several interviewees. Noting that Gacaca “was just part of the effort” of reconciliation, making “a small contribution,” one interviewee pointed out that “most people convicted could not afford the reparations. Many were unable to pay back and it is having a very negative effect. The government should try to cover this gap. Some have sold off their property to pay back reparations—becoming landless—and this sows the seeds for a new conflict.”¹³² Another commented that when perpetrators have been unable to pay reparations, in some cases being obliged to sell their land to raise funds, “now perpetrators see survivors

¹²⁹ 19.

¹³⁰ 20.

¹³¹ 17.

¹³² 17.

enjoying land but they have none. This could have been more considered and the government now is encouraging people to forgive reparations debts.”¹³³ Clark has noted that compensation and reparation constitute one of Gacaca’s forms of “reconciliatory punishment.”¹³⁴ Therefore, if reparations were understood by survivors to be one of the “trade-offs” of accepting the commuted sentencing scheme, then the government’s ability to manage survivors’ expectations for still-owed reparations will continue to be of utmost importance.

In summary, some interviewees felt that the truth-telling process, intertwined with the retributive component, facilitated healing and individualized punishment for the guilty, but others thought that it resulted in false accusations made out of vengeance and heavy sentences even in cases where proof of guilt was dubious. There was a great deal of debate over Gacaca’s contribution to reconciliation. Among interviewees who had positive views of Gacaca overall, some were unreservedly enthusiastic about its role in reconciliation while others thought that its contribution was more limited, specifically as compared to other state initiatives or to individuals’ own efforts to extend forgiveness to their neighbors. Among those who had mixed views of Gacaca overall, its contribution to reconciliation was limited by the fact that all sides felt dissatisfied in some way, renewing tensions between communities.

¹³³ 18.

¹³⁴ Clark 315.

Part III—Analysis

Chapter Five—Analyzing retributive-restorative justice at Gacaca

In this chapter, I offer an analysis of the strengths and shortcomings of the Gacaca process, which blended a retributive component with truth-telling and whose overarching objectives included restoration. Gacaca was a successful experiment in retributive-restorative justice in its own right, not simply because it was the “least bad” among precious few options.¹³⁵ Its intertwined components of truth-seeking and retributive punishment supported the restorative objective, with the local setting lending itself to a meaningful retributive process bringing perpetrators and survivors together, often for the first time since the genocide. In this chapter, I consider how Gacaca contributes to a richer understanding of how retributive punishment can support reconciliation, as well as the features that help make a retributive process meaningful for communities and, ultimately, a nation.

The Gacaca experiment’s contribution to a stronger theory of retributive-restorative justice

Within the literature, retributive punishment has been linked with objectives like deterring future repression and addressing impunity, while dissociated from restorative justice and elements like community settings and informal processes. Removing retribution from the hands of victims is perceived as necessary to avoid the risk of “justice” becoming vengeance. However, the local context may be *central* to a meaningful retributive process; too often, national and/or international transitional efforts make retributive responses inaccessible to victims, with trials located in urban areas or in a different country altogether, thereby compromising trials’ potential contribution to personal and national healing processes.

The Gacaca process was innovative in pursuing retribution through a formal scheme codified by the state and implemented in a traditional community setting, where widespread

¹³⁵ See Uvin and Mironko, who argue, “Perhaps the strongest element in favor of gacaca is the lack of an alternative” (227).

participation in truth-telling, usually associated with non-retributive justice initiatives, played a central role. If community members *were* called upon to testify at Gacaca, they were expected to participate. Critics have claimed that Gacaca was coercive in this respect, undercutting its restorative potential since participation should be voluntary. Also, there was not always adequate support or protection for witnesses who suffered emotionally during their testimonies or, perhaps more seriously, who opened themselves to physical danger and intimidation by telling the truth. This was a real problem and one whose mitigation should be prioritized in future cases. Appropriate resources must be set aside for protecting the witnesses whose testimonies provide the bedrock of finding the truth and reaching accountability in a system like Gacaca. However, based on my empirical findings and research from other scholarly work, it appears that it is an overstatement to say that witness/participant intimidation was the norm.

If the majority of trials had proceeded in Rwanda's conventional courts, justice either would have been delayed or denied for survivors. (The same would have been true for the ICTR, but, like other international tribunals, its mandate was focused only on the highest-tier criminals.) The community-centric Gacaca trials helped to individualize guilt in a climate where unresolved suspicion among neighbors could have led people to fear and blame innocent people. By holding the trials at the local level, the process, blending a retributive component with truth-telling, helped lay the foundation for renewed relationships. This same result could not have been expected if the vast majority of cases instead were heard by conventional courts. Although witnesses still would have played an important role, it is less likely that other community members would have attended regularly, especially if they lived in more remote areas. Furthermore, any attendee at Gacaca, not only witnesses, could become part of the truth-telling process by disputing a testimony or asking accused persons or witnesses for clarifying

information. This procedural flexibility reflected Gacaca's traditional roots and would not necessarily have been a feature of formal trials in the conventional court system.

Politicizing justice?

The Gacaca courts' jurisdiction was limited to crimes committed during the genocide, excluding those committed in the broader context of the civil war. This, for critics, severely undercuts Gacaca's restorative potential by forging a permanent narrative of Tutsi victimhood and Hutu guilt. But I argue that it is more useful to consider Gacaca's limited jurisdiction as a "trade-off" that the state offered Hutus. The state promised that Gacaca would help individualize punishment so that all Hutus would not be considered guilty by association, helping to lessen the dangers and challenges of being an innocent Hutu in the aftermath of the genocide. But the implicit "trade-off" was that the Gacaca process did not look at crimes committed by the RPF during the civil war, narrowing its scope to events that happened during the genocide. Admittedly, if the state ever had intended to address impunity for crimes committed by the RPF—which likely it did not—Gacaca was its best opportunity. The resources had been marshaled, communities were participating in constructing a record of events, and it was the best chance for crimes committed during the civil war to be addressed in a timely fashion. Certainly there is a critique to be made of the state's failure to address civil war crimes at all, much less vigorously, and the long-term implications remain to be seen. But this failure does not invalidate the importance of the Gacaca courts hearing the limited cases that they did. The crimes committed specifically in the context of the genocide needed to be heard—however unfortunate and unfair it may be that civil war crimes were not handled alongside them—and Gacaca provided the opportunity.

The sheer number of cases undertaken by Gacaca can be interpreted as a move by the state toward vengeance against the Hutu collective. It is true that while Gacaca initially was instituted to alleviate the caseload problem, it ultimately processed 1.2 million cases, conservatively estimated. Indeed, while the 120,000 people imprisoned after the genocide “were those who chopped or stabbed,” according to one interviewee, there were others who participated in the genocide in various capacities and who since had returned to their communities.¹³⁶ There are different ways of interpreting the expansion of Gacaca’s jurisdiction beyond the cases of those persons already imprisoned after the genocide. It can be viewed as a “doubling down” of retributive efforts to achieve its goals of addressing impunity and deterring future repression (retributive objectives), perhaps even as moving toward vengeance against Hutus. From my perspective, however, the more likely explanation is that it reflected the *opposite* shift, toward a renewed emphasis on Gacaca’s *restorative* objective. Expanding the scope of the cases of interest helped establish as complete a record of events as possible and provided the chance for suspected persons to clear their names, while reducing suspicions among neighbors. Additionally, persons on trial who named their accomplices (thereby expanding the caseload) could receive reduced sentences in exchange for their cooperation.

Finally, on the issue of politicized justice at Gacaca, a common criticism in the literature and one echoed by several interviewees is the problem of the lack of due process, with Tutsi survivors having the power to decide the fates of Hutus by serving as witnesses or judges. Uvin and Mironko, considering the due process problem, observed that if “no principle of formal justice is to be compromised, reconciliation—and even substantive justice—will never be

¹³⁶ 1B.

achieved.”¹³⁷ Additionally, Clark has highlighted the role of *Hutu* judges; in fact, he argues that one of the “structural issues of Gacaca” is that, because Hutus comprised a majority of judges as well as of general attendees in a given Gacaca court, it was “a process of Hutu judging Hutu.”¹³⁸ These observations highlight first, that Hutus’ role in Gacaca was not limited to being accused or forced to testify against one another, and second, that while it is possible to argue that a due process problem existed, it is unfair to paint the picture as one of Tutsis singlehandedly deciding the fates of perpetrators.

An alternative to Gacaca

An important issue to recall in any critique of this unique approach to transitional justice is considering what alternative approaches the state might have taken. In fact, the real oversight made by critics is not failing to suggest viable alternative transitional justice mechanisms, which likely did not exist given the circumstances, but rather failing to consider that explicitly vengeful ways of handling suspected persons *did* exist. What is more, given the state’s staunch determination to punish wrongdoers, as well as the lack of a domestic political counterweight to its agenda, these measures might well have been adopted instead of the Gacaca experiment. As history has shown, it is a mistake to assume that any transitional justice effort is inevitable. Consider how, on April 24, 1998, “despite international condemnation, the government executed by firing squad 22 individuals convicted of genocide crimes. The executions were carried out in several stadiums around the country before large crowds of spectators, emphasizing the political purposes of implementing the sentence in this way.”¹³⁹ Human rights observers were horrified.

¹³⁷ Uvin and Mironko 225.

¹³⁸ Steve Terrill interview with Phil Clark, “Gacaca’s legacy,” *The Independent*, May 29, 2012.

¹³⁹ Alison Des Forges and Timothy Longman, “Legal Responses to Genocide in Rwanda,” p. 60-61, in Eric Stover and Harvey Weinstein (eds), *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, Cambridge University Press (2004).

But perhaps they should not have been so surprised. It is necessary to consider how such an approach might have become the norm for dealing with notorious suspects.

To be sure, there may have been reproaches from the international community if Rwanda had adopted more vengeful or uncompromising measures to address impunity or to punish Hutus collectively. But in choosing its approach, the state certainly did not feel beholden to the international community, whose inaction during the genocide compromised its authority to weigh in on what was fair in terms of punishing perpetrators. Rwanda crafted its approach to transitional justice with an eye to *Rwanda*, not to the international community. Although this research has not addressed the relationship between the state and the ICTR, it is important for considering Rwanda's position on its role in transitional justice relative to that of the international community. The chances of Rwanda accepting the ICTR's jurisdiction without addressing accountability in some way of its own were slim; there was bound to be a domestic component. In fact, for a time Rwanda pursued—in some cases successfully—some of the high-level criminals whose cases ultimately were taken up by the ICTR, whose chief prosecutor “exerted the international tribunal's primacy over national courts.”¹⁴⁰ Most importantly, as Uvin and Mironko have observed, is that the government had “no sympathy for the international community's desire to reaffirm its morality” through the ICTR after failing so miserably to intervene meaningfully during the genocide.¹⁴¹ This lack of sympathy almost certainly affected the weight given by the state to the international community's input over initially deciding how to punish perpetrators. Certainly the matter of international influence cannot be ignored entirely, since Rwanda depended on donors' support for Gacaca. In fact, a question for further research is

¹⁴⁰ Thierry Cruvellier, *Court of Remorse: Inside the International Criminal Tribunal for Rwanda*, University of Wisconsin Press (2010): 11.

¹⁴¹ Uvin and Mironko 221.

the degree to which donor preferences and inclinations guided the government's approach to Gacaca, however "behind the scenes" this influence might have been.

By failing to consider the harsher measures the state could have taken, critics focus on Gacaca's imperfections instead of on the restraint exercised by the state *and* by survivors. This is not to say that survivors wished to see the justice process bypassed to exact vengeance upon perpetrators. In fact, I was particularly struck by how many interviewees profoundly affected by violence did not express dissatisfaction, resentment, or anger with Gacaca's punishment scheme, which included commuted sentences for cooperative accused persons. As several interviewees pointed out, for some survivors there was the sense that since genocide is a matchless crime, there truly was no meaningful punishment that could be imposed, since no sentence could come close to being adequate redress for the crime committed.

Questions for future research

With over 10,000 courts located throughout the country, a significant question for future research is the extent to which the Gacaca process varied across communities. As Coel Kirkby has pointed out, one of the decisive factors in Rwandans' mixed experiences with Gacaca was the integrity of the *inyangamugayos* arbitrating hearings in a given community.¹⁴² Another question concerning variability across different communities is the extent to which the state was "in control" of Gacaca proceedings happening in villages far outside of Kigali. The conventional wisdom has concluded that Gacaca represented "state-imposed informalism," and that it was a "state institution intimately linked to the state apparatus of prosecutions and incarcerations, and applying codified, rather than customary, law."¹⁴³ The state may have initiated Gacaca, but it is

¹⁴² Coel Kirkby, "Rwanda's *Gacaca* Courts: A Preliminary Critique," *Journal of African Law*, Vol. 50, No. 2 (October 2006): 108.

¹⁴³ Waldorf, "Like Jews Waiting for Jesus," in Shaw and Waldorf (eds), *Localizing Transitional Justice*, 188.

unclear just how intimate the link between state and local spheres of authority was in practice, as well as how this varied across communities (especially comparing urban areas like Kigali with remote villages).¹⁴⁴ It also would be worthwhile to explore whether attending cell- versus sector-level Gacaca affected Rwandans' perceptions of the process and its outcomes, given that less-severe crimes tended to stay at cell courts while more serious crimes were forwarded to sector courts.

Gacaca was chosen given the impossibility of processing such an overwhelming number of cases through the conventional court system. The destruction was total and so extreme that, in retrospect, the choice seems natural. Another important question meriting additional research is the viability of Gacaca, or the likelihood of states choosing this option and its choice being welcomed domestically or internationally, in less extreme situations. In more "middle of the road" cases, are states likely to abandon pursuing accountability through ordinary courts? Should they, given the potential benefits of a Gacaca-type system as opposed to conventional trials? These are important questions that must be revisited and answered as new discoveries come to light about Gacaca's long-term effects on reconciliation in communities.

Conclusion

The state had clear retributive objectives with the Gacaca experiment, including aggressively addressing impunity and deterring future repression, but it also very clearly envisioned Gacaca contributing to reconciliation among Rwandans. Blending truth-telling with a retributive component in the courts' community-oriented settings was a major risk. In evaluating any transitional situation, it is impossible to find consensus on whether the truth will hurt more than heal. However, given the fact that so many people still did not have desperately-desired

¹⁴⁴ See Kirkby 111.

information about the fate of their relatives, years after the genocide, it was a necessary risk. Additionally, by bringing to light as many of the facts as possible, achieved by emphasizing truth-telling while punishing false testimonies, truth-telling increased the likelihood that not all Hutus would be viewed with suspicion, or worse, pursued and punished unfairly by private citizens. It also offered accused persons the chance at reduced sentences in exchange for information.

However, survivors who learned for the first time the details of their relatives' and friends' killings may have been dissatisfied with the corresponding punishments and pursued vengeance on their own. The retributive component also increased the stakes of truth-telling, both for accused persons *and* witnesses, thereby increasing the chances of untruths being told in some cases. Additionally, suspects, perpetrators, and innocent people hearing for roughly twelve years straight (2000-2012) a narrative explicitly focused on Hutu wrongdoing may have grown increasingly resentful of the process. But the alternative of not bringing to light or addressing often truly horrific crimes was untenable, given the sheer magnitude of the genocide and its far-reaching effects on all facets of Rwandan life.

Gacaca “struck a bargain” with perpetrators, showing greater leniency than likely would have been the case if their crimes had been processed through the conventional court system. It was concerning to hear, in several interviews, that life sentences were passed down to people who simply failed to bring forward information, although they never had committed a crime themselves. But for the criminals whose cases were heard by Gacaca, the sentences they received were less than what almost certainly would have been in store at the ordinary courts. First, the death penalty was in place nationally until 2007 and likely would have been used regularly to handle notorious criminals. Second, while it is easy to criticize Gacaca for its lack of due

process, it is very unlikely that accused persons would have fared better in the ordinary courts. The necessity to expedite trials would have prevailed over the desire to discursively build a record of events, which was prioritized at Gacaca. And, it is worth reiterating Clark's point: there were Hutu *inyangamugayo* working with Tutsi colleagues to sentence perpetrators. These were not simply "show trials" with Tutsi survivors determining a fate of their choosing for accused persons.

Some scholars are convinced that Gacaca's shortcomings sowed the seeds for "Hutu revenge" and retribution at some future point. It is impossible to foresee how Gacaca will be remembered by new generations of Rwandans whose lives were not directly affected by the genocide but who, having been educated by their families and the government never to forget, will have their own remembrances of Gacaca's effects on reconciliation. One of the most interesting unknowns is how ethnicity will continue to be remembered, discussed, and invoked in the context of the genocide and of Gacaca, especially now that ethnic identities no longer are permitted by the state to be used.

Although the genocide recedes in time, it is never far from Rwanda. As I was conducting research, interviewees reflected on the ongoing preparations for the upcoming 20th anniversary commemoration of the genocide in April 2014. Every year in April, life in Rwanda slows as the country pauses to remember the events of 1994. Although Rwandans hope that their country will not be defined solely by its tragic past, one man told me that "we never have to forget where we come from. I believe that as Rwandans...if we ever forget, it is very easy to fall into the same trap."¹⁴⁵ Remembering will continue to be shaped by how Gacaca's lasting effects are felt and understood, and by whether in the long-term the truth proves to be healing.

¹⁴⁵ 1A.

Appendix—Interviews

1A and 1B. Interviews at a non-profit organization on 05 JAN 2014

Participants:

A: Rwandan Male (Interviewee 1A)

B: Charlotte

C: Rwandan Male (Interviewee 1B)

A: It was something that seemed really hard to bring all these [perpetrators] to justice and it would have taken really many years to bring them to justice. Actually the [traditional] gacaca is a sort of a form of justice where people are judged by the people, but by people who are considered to be people of integrity, highly believed by the community to be honest. So that's how we all thought of introducing the [genocide] Gacaca. I remember that the judges were given a sort of training to introduce and institutionalize this process, and then the Gacaca committees were sent all over the country.

B: Did the committees or the community pick the people who were the judges? How did that work?

A: Yes, the community decided who is going to be the judges. It had to be people who did not get involved in the genocide. That was a very big criteria. Traditionally, there is a power that is given to the community to actually decide the case. So the way I saw the process personally, I went to a lot of Gacaca meetings. People were coming from the prisons to give testimonies. Survivors were around...and the other people in the community who might not have been involved in the genocide....during the testimonies people talked about what they did, and some of these apologized and asked for forgiveness. And the rest of the community also testified.

B: That was a question I had--did anyone who showed up from the community actively speak in giving testimony, normally?

A: Definitely. You would be there and also speak, and in the community, and mostly at the beginning [during information gathering] it was very hard to control. So, someone spoke and testified about what they did, but then someone from the crowd would stand and say, "No, no, you actually tell lies, because on the 23rd, the date that you mentioned, we actually saw you somewhere else."

B: How did that work, if five different people had five different stories about what happened, how did it get resolved?

A: The judge facilitated that. They carefully heard the testimonies and had their own sessions.

B: To talk about which stories and testimonies made the most sense?

A: Yes. For the survivors it was a bit shocking because of listening to someone who is talking about a painful experience was not something easy to listen to. But [slowly] people were encouraged, and I think that it ended up getting a lot of success. People decided to face the truth and actually understand what happened.

B: Over time, do you think that people became more interested in becoming involved and going and more interested in the process?

A: Over time, people were a bit more interested because it was a pursuit of the truth and they wanted to know what happened. But again, there were some people who lost interest...But for the majority, the process was getting more interesting over time.

B: When you talk about the expectations, I think that is really interesting. What were some of those expectations? I'm sure different sides saw this issue differently.

A: For survivors, for example, it was to listen and to understand. Like how did this whole thing go and to get information about where the remains of their loved were put. It is always interesting in our tradition to trace how your family member was killed. So that was something that was important in this process. The people associated with perpetrators were expecting to get justice. Of course some who did not participate in the killings were suspected, so through giving testimonies that was how you could actually discover [the truth of who was innocent and guilty]. So people really were having different expectations. For example, I understand there were also some returnees, and for them they wanted to understand how the whole process started---like how someone killed, during the genocide, how did you become that violent personality, who killed?

B: By returnees, are you speaking about people who had fled before the events began?

C: The Gacaca had...three expectations. One, there is truth, two, there is justice, and then reconciliation. Or maybe truth, reconciliation, and justice. Those were the expectations for Gacaca. Even those who lost their loved ones, they never knew where they were dumped, and from a psychological point of view, if he or she knows where his loved one was buried, [this is beneficial].

B: That is so interesting, the importance of finding the missing pieces to the story.

C: Yes, you always hear people say that I would feel more comfortable if at least I had the remains of my people so that I can bury them in dignity. The Tutsis were being hunted, so they couldn't know where their loved ones went. So after the genocide, people wanted to know where the remains are. Coming back to what you said about the returnees, yes those are people who fled after the collapse of the government [and after the first republic; as early as 1960]. So, they couldn't imagine how all this happened. That is why they sought the truth of how it all started.

When you come to the justice part, at that time the prisons were overcrowded. We had almost 200,000 inmates, and prisons were meant for maybe 30,000 people. And if they were to have used the conventional justice, it would have taken 200 years! In the Rwandan context it is a bit complicated: a man killed a wife, the wife killed the children... The Gacacas had categories. The first was for the planners. The second was for government associates. The third was for those who were poor [who participated mainly for economic motivations, like gaining property].

B: So people even in the first category were brought to the Gacacas?

A: Everyone was brought to Gacacas, but those in the first category were sent to the courts of justice, like the ICTR.

C: Yes, but they would go through Gacaca to give information, because Gacaca wanted to give the truth.

B: And, just to recall, did you participate in Gacaca like [Interviewee 1A], attending to listen to testimony?

C: Yes, I attended once a week. Everything in the community would stop and everyone would attend. You have a zone, a cell, a sector, and the district. So cases would get transferred to different levels...I helped to make files for different Gacaca cases. It was a way of volunteering. Because the file load was very huge! You find that even if one person died, there were at least three other accomplices.

B: So for each case, there were many accomplices, which is how the numbers got so big?

C: Yes, exactly. So 120,000 people were put in prison after the genocide. Those people killed one million. Those who were in prison were those who chopped or stabbed, but there were others.

B: So those in prison did the actual killing, but there were many others involved in different ways?

C: Yes. At the Gacacas we were interested not only in those in prison but the others who had lived in their communities for 12 or 15 years since the genocide.

B: So even if they had been living in the communities, and been integrated, if they were accused at Gacaca, then they were punished just the same?

A: Of course, it depended on their contemporaries. And some of those had been serving in the government.

C: There were those who were free and working in the civil service even.

B: How did you both feel at the very beginning and very end of the process? How at all did your perspectives change in that time frame? Including your understanding of the goals and how it was going and the effect on the communities?

C: At the beginning, there were a lot of trainings. Then there was the actual process starting in 2002, but as the years moved on, and as cases shifted from the zone, cell, sector, and district, up to the province. But of course the challenge was that we started to have some people masquerading around for 15 years in the community, someone for example who had buried people in a pit behind his house. Those people who were in prison testified that "I was with so and so and buried people in this pit."

B: That must have been very shocking for people to learn.

C: Yes, it was shocking. People realized that it was someone they knew! A wife, a friend...There was a man with a Tutsi wife who fled. Some others sought refuge in his house, and then the killers came...But this man never testified about the person who sought refuge at his house before the killers came. So not until 2009 when people said that there is a man who sought refuge at your house and then the killers came after him. So the thing is, for all those 16 years, he had never told the wife that there was someone who sought refuge in their house; two, he never went to Gacaca to testify to give that piece of information. Because of that, he is now serving life in prison.

B: So really, he ended up in trouble for not telling the truth!

C: Yes! Imagine, for 16 years, not telling that. But the benefits [of Gacaca] are almost 95%. This was a traditional judicial system and now it was being used in the context of the genocide situation...But given the way it is today...people involved in other conflicts should use the challenges [lessons learned from Gacaca] for their own situations.

B: So something like this system could work in other places?

C: Yes, it could work.

B: It was a traditional system used in a much different, complex scenario. Did it function in much the same way? Was it challenging to try and use this traditional system in this setting, despite the problems you just mentioned?

C: Of course, some of the judges were not learned. But they were men of integrity. By men I also mean women! I just am using the biblical term "men."

B: I understand, it is inclusive!

C: Yes, men and women. They were not learned, but they judged. So at Gacaca, it was not corrupt with conventional justice, where you have this lawyer who comes, but with Gacaca, they ask "Who did this?" or "Who saw John doing this?" At conventional justice they ask, "What was the time? What was he wearing?" Well, if it is at night, and he is dressed in red it may look like black. The witness will say it looks like black, but during the day, it is red. So John may say, "No, I was dressed in red."

B: So what you're saying is that in the conventional, those details that could get confused could get rid of a case or wrongly involve someone else!

C: Yes! They also might ask for a rape case, say, "How did you feel?" So if a woman says accidentally, "This is how I felt," the judges may say, "Ah! So you enjoyed it!" At Gacaca with a rape case, they would never ask how was it, how did you feel, or something like that.

B: Why do you think there was such a lack of respect or sensitivity on these issues at the conventional courts?

C: Well, the western judicial system....you ask someone these type of questions to check the veracity of what they say. And that's what they did at the ICTR proceedings. In fact the widows of the genocide had a petition saying that if they didn't stop those type of questions [at the ICTR], they would not testify.

B: Was the petition successful?

C: It was. They also took steps to protect witnesses.

A: As you mentioned, that is sort of a technical aspect. Rape is something that might have more terribly affected the victim so that the victim might not be in a position to face those persons. So the good thing with the Gacaca is that the community stands by the victim. It was given value, what the community says, which is different from where the conventional justice would ask such questions...so Gacaca was really helpful in that way.

But, also, there is something to be said about the collective guilt. As people would be sitting in the community without expecting to know who participated in the genocide. But as the Gacaca was advancing, pressure was getting more increased and more people were being discovered, having had participated.

Reconciliation has its own different aspects. But the most important thing in Gacaca is listening. Listening is really important in this case, because when we saw people burning the houses and killing people, some were considered to be very victorious. But when Gacaca happened, it was a different thing as they came and faced the community, and also be listened to.

B: So, as they were listening, were people in the community for the most part receptive to listening to what an accused person had to say, and calmly taking it all in? That must have been difficult sometimes.

A: Yeah, it was pretty difficult. With my particular experience, it would be worse when the accused would start talking and they said things you knew were not what happened. It was shocking. Also, it was shocking when the accused would stand and use the language that makes it sound like they are actually proud of what happened and what they did. We saw cases where someone would say, "It was the morning and we came and took her and we just cut her"; there was a language which wasn't favoring people listening in a comfortable manner. So, it was not easy. I remember the judges were facilitating...and sometimes when there was a traumatizing moment we would stop and continue on at another time. But at least it was starting the healing process. So, it's not something that was really easy.

B: One question that I had: about cases moving up from the zone to the cell to the sector and so on, did people in the community ever lose track of the case? What happened if they had become really invested in a case and it moved out of the community and they weren't able to participate any more?

A: Well, they would follow the case often.

B: The other question I had was if a similar model was to be adopted in other countries, are there any particular challenges that you think the courts ran into that you think other communities could look out for?

A: Well, the first thing is to give the community a chance to understand what the process is and how it will go, to be clear from the start. Second, in the countries that are very corrupt, Gacaca will have more challenges. There is some corruption in Rwanda but it is very low.

B: Just affecting the outcome, or in what way?

A: Yes, it will affect the outcome. For instance, I remember that there was a time where people would form associations. Say there is a village where Tutsis were killed and everyone who was there was not a survivor. Imagine a Gacaca with no survivors [just Hutus]. There would be only people associated with the perpetrators...so they would form associations called "keep quiet," or *ceceka* in Kinyarwanda. Silence.

B: A promise to each other not to talk?

A: Yes.

B: You've mentioned the collective guilt problem a couple of times. In your own experiences, did you ever witness that being an issue? How did that affect people who maybe weren't involved but who became accused by association?

A: There were people who were not involved but who had the shame because of their families. But there are also people who did not believe that they would be seen as innocent people because they were of the same group as the killers. So, this created some guilt among these people. But of course, the government was facilitating the process at the start to make it clear that if someone is innocent they are free to do whatever, and may continue work, until something different is proven...No one would ever ask you about your status, so this actually kept making things change. If you applied for a job and you got it, your perception might change [of collective guilt being an issue for Hutus]. Keep in mind some of these people [Hutus] did not apply for those jobs in the first place.

B: So there was an effort to ensure that innocent people would not feel that they automatically would be accused. And the government helped with this?

A: Yes, and there were other actors, like civil society and media...Of course it was bad during the Gacaca process because most people were waiting for their time to arrive! But now things have evolved and gotten better.

B: As an outsider looking in, I think it really is remarkable and something to be proud of how much was accomplished in this respect, in such a short period of time.

A: And, we never have to forget where we come from. I believe that as Rwandans...if we ever forget, it is very easy to fall into the same trap.

2. Interview on 05 JAN 2014¹⁴⁶

Participants:

A: Rwandan Male

B: Charlotte

B: What were some of the challenges and strengths of Gacaca?

A: Well, the challenges were small, and overall we are reconciled. Ultimately it was successful in promoting reconciliation. At the ICTR though, overall it was good, but it gave only little punishments. In fact the top level planners of the genocide still are at the conventional courts or the ICTR.

B: Overall, what was the role of Gacaca on supporting reconciliation?

A: Some people still have darkness in their hearts, but mostly we have moved forward.

3. Interview at Virunga National Park on 05 JAN 2014

Participants:

A: Rwandan Male who participated in Gacaca in Ruhengeri (Musezi)

B: Tom Visel, research assistant

B: What was Gacaca?

¹⁴⁶ Interview cut short due to interviewee constraints.

A: It is a very old system for conflict resolution at the village level. After the genocide the government used this system to determine punishment for the people who committed genocide.

B: How many people participated in this area?

A: We had about fifty people who participated with six local people selected as the leaders of Gacaca. They didn't even get paid for their work.

B: How were they selected?

A: The villagers would vote on who was a man of integrity and wisdom. That person would hear all of the testimony and decide on the punishment.

B: What type of punishment was given?

A: Mostly work time, but also life imprisonment and even death.

B: How would the testimonies be given?

A: The local community came together at the Gacaca and anyone who had information on someone who committed a crime would present the information. If someone had something to say about it, they would either confirm or refute the testimony. The Gacaca leaders could then call more people to give information.

B: How did it work if someone did not return to their village, but returned somewhere else.

A: Really that happened! Someone would be in Kigali and say, "I saw so-and-so working in a mechanic shop." When they were in the village that person was a teacher, but now works in a mechanic shop? The Gacaca would send a note to find this person and bring him back to give information.

B: Was there a problem with jurisdiction when someone was living outside of the area controlled by the Gacaca?

A: No, there was no problem. If someone resettled in an area away from the village, the Gacaca would send a note to the Gacaca in his area asking for him to return to his village because they want information from him. If he did not return they could inflict punishments on him in that area.

B: How would punishments decided by the Gacaca be enforced?

A: The local security forces would enforce the punishments. The Gacaca would tell them the decision, like prison time or work, and the local security forces would arrest them.

B: Were there any cases that people were upset with the decision of the Gacaca?

A: Most people feel that the Gacaca was very good at finding justice. Some people, the majority [Hutus], were upset that the minority [Tutsis] was able to have a larger impact than their population size. The majority was also upset that families must still feed their husbands who were in jail for many years after the punishment was decided. This was a hardship on the families.

4. Interview at Hotel Umubano on 07 JAN 2014

Participants:

A: Rwandan Male

B: Charlotte

A: To have justice...it is so difficult. Let us begin with our history and our culture. By definition, genocide is extra-cultural, and we have nothing in any culture to respond to the genocide because culture tried to build a solution vis-a-vis things that can be accepted by a society. But at the same time, you can't just say that it is difficult; you need to

find a solution when there is no solution. I think this was the situation of this society. If we have problems—if for example my son kills your daughter—they call to the community. In the past, if there is that kind of problem in the society, they say, this problem is coming from the society, so the society needs to find solutions. They...sit down and say, “We talk until we find a solution.” And this was called Gacaca.

B: So in the past, this could be used for something as serious as something like a killing.

A: Yes, because we didn’t have a court, it could be used. Some people said that gacaca was special for ordinary crime, but that is not true. I took time to discuss it with many people who said that we didn’t have any other solutions for very serious crimes like killing people. This, we used to sit down and find solutions. Because the times we didn’t do that, there was revenge every time. And sometimes, at that time, if it was so terrible—for example, I kill your kid—they said, your family needs to choose somebody to be killed. So it was so serious. And then the family will decide to give somebody. And then after that, they can have some beer together, and said it is the end of our conflict.

B: So, in the old gacaca, exchanging a person for a person could happen?

A: Yes, but usually they used it to find a solution. A community solution, together. Then people said, okay, in the past people didn’t need to deal with the genocide, because there was no genocide. But now we can use the same situation because it [the genocide] came from the society, and the society needs to respond. And people need to sit down to choose the very adequate people in the population [to serve as persons of wisdom]. “We can trust them and they can guide us.”

B: So the community for the genocide Gacaca helped pick the judges for Gacaca, just like in the past. Did it seem that genocide Gacaca still very much was a community effort even though the situation was so extreme? Did it feel like the effort came from the community?

A: I think for everybody, even if you manipulate it, you know that “I can’t kill you”. I think everybody knew that. It is easy to say a politician asked us to kill people. Okay, that’s horrible, and I agree. But, coming from a family, you have friends, you have brothers, you have sisters. How can you go and kill kids, or a woman? And I think for me what was important in that situation was that people can sit down and say what happened...how can we be born to do such things? And just talk about that. It is important.

B: Did you think that the Gacacas were successful in establishing a record of what happened that everyone could be happy with, or at peace with? I’m sure many people had different accounts of what happened. How was that resolved, in your experience?

A: I think it is impossible that people had the same understanding and experience, because if for example, my dad is put in jail, my mom is put in jail, how can I ever appreciate that, even if my dad was a killer and my mom, etcera? But it is difficult to admit and accept that. Two, justice has its limitations. For example, everybody killed all of my family...they might say that the killers could have five years in prison, but I would say, look, this is not justice. It is not possible in that situation [to have justice that satisfies everyone].

B: Do you think that over time, as Gacacas continued to run...how did your expectations of what would come out of the process change?

A: I think that what was written down on paper was that Gacaca is coming first, for the issue of justice. Two, for the chance to tell truth. Three, to facilitate reconciliation. I think that justice was met, with limitations. There are a lot of limitations.

B: Almost the best that could be hoped for?

A: Yes, the best thing that could happen, that we can hope. Two, truth was said. Not the whole truth, but part of it. But reconciliation, I don’t think that came from Gacaca. Reconciliation came from other initiatives. Reconciliation...I don’t know, maybe for the future it can play a kind of role, but for myself, if reconciliation can come right now, it is just because the state was strong. Coming in with order, with organization, to undertake

different projects to the future. And talking about economic development, talking about opening schools and the same chance for everyone to go to school. These things helped a lot, in reconciliation. Not the Gacaca, from my view. Gacaca came for the justice piece.

B: Was there any way, from your view, that Gacaca could have contributed more to reconciliation? Did it have the potential to contribute to reconciliation?

A: It can have it, but not during the process itself. I have written an article in France with a friend of mine, it was about that situation, just trying to look in the deep mind of how people experienced this kind of situation. And I used that image, and I don't know if I will be able to translate it, but I said it is like if somebody is dead, he is dead, what we did was, we opened the body. It was difficult. And then we looked. And we tried to clean it. But we didn't close the body and then bury it. It is important, what we did. But we need to have another step to close in the right way and then to bury it. This is just an image but it is that kind of situation, because it is difficult to look on that. I remember they used to sensitize people to ask for forgiveness and then to have the penalty diminished. If you had had to go to jail for 10 years, you might go for 5 years, or something like this. But forgiveness is not just to open the mouth and say something....it is a process. A lot of people [asked for forgiveness] just like a song. I remember one time I was in my office, and it was a very terrible surprise. I got a call from somebody I didn't know, and they said... "You don't know me, but I am the president of Gacaca in the region of Kibuye [the interviewee's home region]." You need to visit Kibuye, it is a good region! It is not far from here. It's a good place. But and then, he said, "I have somebody who wants to talk to you," and I said, "Okay." The person said, "Hi, my name is...I was a teacher, you don't know me, and I killed your mom." And I said, "Why did you do that?" Just like this. There was just one minute of silence and then I said, "Why did you do that?" And he said, "I don't know," and then asked for forgiveness. And I said, "That's fine." And he passed me the president of Gacaca, and I said, "No problem, you can go ahead."

I was writing a text and stopped for a little bit, and thought, what a crazy situation...I didn't know at all who killed my mom or everybody, because my father, my mom, my brother, my sister, everybody was killed except one brother who was in Bujumbura by chance. He survived and came to join me in Switzerland. And people asked me if I could go and discuss with him [the interviewee's mother's killer]. To discuss what?

B: To go to Kibuye?

A: Yes.

B: So, you were here in Kigali, not in your hometown. Did you attend Gacaca here?

A: Yes, I did not want to participate in that way. I had the possibility to say I will come and we will deal with the situation with my presence. I used to go not very often to my village but just to discuss [his family's death] was not my interest.

The reconciliation is coming from other situations. Anyways, I think in this country, sometimes I used to ask myself, maybe we don't need to stop it very quickly, but it was so difficult that people [who had participated in Gacaca] were killed during the night...they were assassinated for knowing truth, and people were afraid to go there to Gacaca. My wife wrote a thesis on the rape situation in the genocide. It was so...the text was very hard to read. For example, some women were called in to testify that they were raped. It was another trauma.

I used to see patients in my office who would say they wanted to go and testify at Gacaca. And I would say, it is not about whether to go or not to go. If you need to go, or if it is others who need you to go there, then if you go, you need to have an objective. You need to look a little bit at the risk you are taking. What is most important is that, if it can help you, that's good. If not, take your time. It is not easy. But I think it was a kind of chapter that our country needed to pass through. And I think we did in our society, with the consequences of the aftermath of the genocide for a long time. Right now we are trying to prepare the 20th commemoration of the genocide here...Right now we are trying to think if it is a good idea to commemorate every year, or if we need to approach things differently...We never have any consensus on this, because you see different organizations have A and B interests, and the states and politicians, individuals and communities, have others. It is not easy. Every year, when we are near commemoration, we have a lot of traumatic crises—a lot of that.

B: A couple minutes ago, you mentioned justice, truth, and reconciliation, pointing out that the reconciliation piece was the one that Gacaca did not really support. You mentioned some initiatives like economic development that helped with reconciliation. Can you think of anything else that helped with reconciliation more than Gacaca?

A: I do believe that one thing that helped was the security situation for everybody. It is never for everybody—and that is everywhere, not only here—but in general, giving everyone the possibility of feeling secure. If you are a criminal or not, everybody needs security. This was a good thing because once you were in the security situation, it is possible to begin to think—to begin to look from the past to the future. You can ask questions about yourself and your neighbor. This was very important. Two, here in Rwanda, especially during my time before genocide, it was a very public discrimination about the right to go to school [discrimination against Tutsis]. And I remember when I was in primary school, very young, the last year of primary school, and from that year, you need to go to secondary school. I remember that I was a good student but I didn't have a chance to go to secondary school, and so I repeated the same year. In my class I was the first, number one. And I did it, two times.

B: You were number one, two times? Not bad!

A: I was! And my father said, maybe I could not go to secondary school, because of the discrimination. And he began to look for other schools, a university called Andrews University, and he put me in that school. And then, I became able to go to secondary school, a private one. That was a very terrible situation. Now you have everybody the same, no matter your ethnicity. This government made many mistakes; I know we can criticize many things. But this was a very good action, for everybody until now; today, if nobody knows you but you are a good student, you will go to university. Forgetting what ethnic group you belong to—that was important for reconciliation.

Another thing: this country, even if it is poor, is committed to change things. Take cooperatives, which have Hutus and Tutsis. If they have the same goal, they forget what kind of ethnic group—they know, of course, but that is not the most important thing. That's really good. And what is a problem, I think, which could help for another step for reconciliation, is to change the community mindset, and to change as well the political leaders' mindset in having freedom of speech. Not just to talk the talk, but to learn how to talk, how to have critical thinking. This is a problem here in this country [I used to say what you would like me to say]...and this is one of the reasons why I decided to go into [my field]: just not to talk, but to help people by research to have some opinions, to express them, to use clear vision as a tool, and to help people discuss, and change the culture a little bit. It is not easy. You need time.

B: Well, you have found a wonderful calling to make that contribution and help make that happen! This has been absolutely fascinating, thank you so much.

5. Interview at Jambo Hotel and Restaurant on 07 JAN 2014

Participants:

A: Rwandan Male who served as a “Man of Wisdom” (*inyangamugayo*) on a Gacaca for five years

B: Charlotte

C: Rwandan Male

B: Do you feel comfortable if I record this conversation? If not, I will write it down.

A: I would prefer if you write only. Maybe I will ask permission and you can record. Even you can use my name. I chaired the court for five years so everyone knows.

A: First of all, do you know how Gacaca began? Gacaca comes from a long time before our parents were born. In the grasses near the building, people used to sit under the tree and say, “This man is guilty of stealing something.” This was gacaca. We still have it in families. Maybe my brother does something wrong. My brothers and sisters would sit down and solve it. So it still works even now. Maybe we are drinking and I do something wrong. Those who are there would get together and confront me and decide what should be done. So it still works.

B: Was this the first time since colonialism the gacaca system was used?

A: It was the first time on this scale. Because it would take two hundred years to process all the genocide cases using the normal courts.

B: How were you chosen as an *inyangamugayo*?

A: When choosing people, the community would look around and find someone who is a model person, who loves his country, is a genuine person, is honest in business, even has a good relation with the whites.

B: Elected by the community?

A: Yes. Elected by the community.

B: How did you feel when you were elected?

A: It was very difficult. The first night I didn't sleep because I knew it was a big decision. I was worried. Because it took five years. The whole time I had to keep the secrets and save all the documents from all the cases.

B: Was it a full time job?

A: Not full time. I worked on the court three days a week, but also had a job.

B: When did your job end?

A: Some two years back?

B: How did you decide to become a "Person of Wisdom?"

A: As someone who is a student of Rwandan history I felt an obligation to do something. We got a certificate.

A: Many Gacaca leaders did not make it the entire time. The number we started with at the beginning...when we finished was much fewer. Some people did not take the proper position and were removed. Some people took bribes and did not make it to the end.

B: What was your case load?

A: Gacaca involved the whole community, so they all participated. If someone tells you one million people died you can't imagine. But whenever you call people in the community that were there and they say they know those who were hunted and who the hunters were.

B: How did the Gacaca court work?

A: One person would accuse a person and say that someone was killed or missing. Another person would give a story about when they took him to a road block and he disappeared. So it would be a chain. We would see one thousand persons and then make a decision. So that's why it took five years. A single case took approximately three years. One person would say something and another person would defend him. So you made the right decision after much information.

B: What were people looking for in terms of justice?

A: What the whole country was looking for was the truth. First the teachings. Right now if I was chosen by people...[man's name] will one day sit in front of the people and have to tell the truth. Plus, of course, another thing: the remains. Plus another thing, those who survived to punish the killers. Plus to come out and discuss what happened.

B: Was the community glad to have participated?

A: The community was not supportive, but overtime...maybe you see a girl from '94-'95...and an old man might collapse. Not even with weapons...those fears would come back.

C: Because the most difficult thing was to live next to the killers of your own family.

B: Did people feel like justice was being done? What were the expectations from the victims' families?

A: The major encouragement was for Hutu to tell the truth and they would be forgiven. For example, we have one man imprisoned in '95. People called him to tell where some persons were buried. He told where. We had to dig and took us two weeks to find them. We found the man's driver's license and he was buried with his son. Because he helped us find them with all that pain we reduced the sentence from ten years to three years.

B: Would you consider the Gacaca a success?

A: Very much. I consider it a success because all those fears were out there. Do you know Chez Lando's? The owner of that building, his brother and family were killed. In that area people were drinking the beer and stealing the silverware. It saved the people in that area. Because RPF soldiers were in the other building - the parliament building. The people in that area were saved because by the time the soldiers forgot about the killing...after the beers...and by the time it ran out they moved them into the stadium and then the RPF captured the city.

B: Were there many changes to the old system?

A: [long pause] These are the laws. You know how they work. I think the Gacacas...the weaknesses are the people. It depends on how much people will tell you. They were better than the regular courts because they make the decision quick. But a Gacaca lawyer in court...soldiers would be there and provide testimony. Others would say he is a liar.

B: What were the challenges?

A: The documentation would give us a lot of headache. Years later someone would say, "Do you know of this case?" Because you would need to keep the paperwork. So you need to know every case.

B: Were you happy that you had this role?

A: Yes. But only when handing over the keys.

B: Was the community happy?

A: Yeah. Because when you pass by people they respect that you did your work as a person of integrity.

B: Do people still recognize you as a Person of Wisdom?

A: Yes. They want you to be on many different things. Because they know you.

B: I have come to the end of my list of questions that I had for you. Do you have any other thoughts that you may want to share with me?

A: Maybe another thing I will tell you about. The genocide began in the '50s. People said that the RPA, RPF...when they started to invade the country...they would bury you alive leaving your head out of the ground and birds would eat your eyes. That was another teaching of the RPF. Forget the killing in the '50s. Only from '94-'95.

C: One can add all these things about the Committee for Unity and Reconciliation. You can't have reconciliation without justice, can't have unity without reconciliation. All these...the Gacaca and others...work together. In

Kinyarwanda the word was [unknown]. It is the equivalent of “I am an American” as opposed to saying “I am from Michigan” or Texas.

A: Because with us the country has been divided with ethnic tensions, with hatred. To change this in twenty years takes a lot of effort.

A: [explanation of old ID card system identifying your ethnicity. Now you can't tell if someone is Tutsi unless you go back to the old records.]

C: With the new generation it doesn't matter. Growing up they would ask if that guy was Hutu or Tutsi. Now it doesn't matter.

A: I like to discuss these things. I like it because I wish everyone in the whole world could know what happened.

6. Interview at Chez Lando Hotel and Restaurant on 07 JAN 2014

Participants:

A: Rwandan Male

B: Charlotte

B: Did you participate in Gacaca?

A: All citizens had to participate, and I did so twice.

B: What were some of your expectations for Gacaca at the beginning of the process?

A: I hoped to see people convicted of wrongdoing genuinely asking for pardon. And when I went there I saw people just telling what they did, as though they were reading a story written by someone else. It was not heartfelt. I felt frustrated. People needed to acknowledge what they did and the harm they did to society. My perspective comes as someone who has been trained in peace-building and conflict resolution, so I know and understand what this should be. As a busy person, rather than going and sitting and listening to these stories, I could use my time to plan how to establish a restorative system. I avoid the word “justice” because a majority of people familiar with justice think about courts. Restorative means how to restore life when there is harm.

B: I'm so interested that you brought up restorative justice. I'm wondering if you can speak about restorative versus punitive justice in the Gacaca process.

A: It was supposed to be restorative but at the end it became like courts, with punishment. It became a retributive system. I always want to be clear: if it is restorative, let it be restorative. Same with retributive. It was not clear, as time went on, whether Gacaca was restorative or retributive.

B: What was the effect of the Gacacas on your community and prospects for reconciliation?

A: Rwanda was a divided society. For some people, depending on the sentences, each was received in a different way because of the divisions in society. Generally, the intention, philosophy, and orientation of Gacaca was good, but the way it was implemented sometimes caused many questions.

B: Can you elaborate on the question of implementation in terms of how the genocide Gacacas differed from the traditional model?

A: The traditional model was very restorative, done by the community without any influence from authority. Modernized Gacaca was shaped by government. But traditional could not have worked in this situation—and it would not have worked, looking at the killings and crimes committed. It is clear it was beyond the traditional model.

B: Could Gacaca work in other settings?

A: I always believe in restorative justice if it is effectively implemented and when it is not influenced by politics, with no political calculations inside. When politicians come in, they manipulate the system.

In the traditional gacaca, the restorative side was dominating the whole system. The purpose was to restore community. It was a continuation of the community's life and welfare. The restorative intention was really high; the major purpose was to restore the community, because it was the community which was harmed. In modern Gacaca, there were political calculations. The system was used to advance objectives....maybe by silencing one group.

B: That brings up an interesting question about the issue of collective guilt. Did Gacaca help reduce the potential for collective guilt, in other words, for blaming all Hutus for the crimes?

A: I always fix my spotlight on who is suffering. It is hard for me coming from a mixed marriage. I want to shame only those who did the killing. I don't want to extend guilt to the whole Hutu nation.

B: What do you think "justice" should have looked like in Rwanda?

A: I once was at a seminar where someone said that there was absolutely no link between the efforts at the international court [the ICTR] and grassroots reconciliation. In the conventional system, it is always repeating the song of the authority. Just animating the song of authority. For me as a peace worker, this is not effective and cannot help bring peace. The law declares: this is the winner, this is the loser. In restorative justice, at least, even the wrongdoer can acknowledge the wrong. But also as a wrongdoer, he is protected by the community. He is part of the body. We must support him. In restorative justice, they may punish, but also support. In retributive, there is a blunt line between wrong and good people. What I prefer in these circumstances is focusing on community. On peace coming from the community. What I appreciate is that the community takes responsibility. If x man does wrong, the community will protect his wife and children. But the current modern system would punish the father and the family.

B: Did your view of Gacaca change over time, from the beginning to end of the process?

A: The intention was good. I was behind it and supportive of it. But the implementation saw political dynamics and reports of corruption. Up until today, I still am asking if it was restorative or retributive. It is still unclear.

B: Did it seem that members of your community remained interested in the Gacaca process over time?

A: As the Gacacas were phased out, people were ready to let it go.

B: Do you think that Gacaca ultimately reached its objective?

A: I am not sure since I have not been involved in Gacaca. Reconciling is one of the goals. But just since Gacacas closed, does that mean reconciliation has been reached?

7. Interview at Chez Lando on 05 JAN 2014

Participants:

A: Rwandan Male, served on the National Unity and Reconciliation Commission

B: Charlotte

A: Gacaca was one of a number of homegrown tools to solve the problems they faced, but Gacaca was probably the first.

B: Did you participate in a Gacaca at all?

A: Well, I participated in Gacaca...everybody participated. Gacaca was reconciliatory justice, and so if you look at the names given to Gacaca, one is reconciliatory justice, another is transitional justice, and so on, but in Rwanda it was used as reconciliation justice. Because I was working in reconciliation, I have some information on Gacaca, but I am not very knowledgeable on the technical workings. In 1997 up till 1998, Rwanda tried to use the ordinary courts to deal with the genocide cases. They tried about 2,000 people, so they realized that if they used the ordinary courts, it would take eternity to complete all the cases, because at that time we had about 120,000 prisoners in various prisons in the country. It was estimated that it would probably have taken 180 years at that rate.

Now, people started saying, “Will this be justice?” So, they [the government] called a group of leaders and elders, in the president’s office. The people eventually looked at the question of reconciliation, governance, economy, and the welfare of the people, and came up with a homegrown solution. And that is the way Gacaca was born. It was also born as a solution to the problem of dealing with the cases of genocide that Rwanda had. So they said, our situation was unique. Where other genocides took place, it was probably a tribe fighting another tribe. It was a state fighting another state. It was a race fighting another race. But among Rwandans, it was a neighbor killing another neighbor, a relative killing a relative, a father killing his own children, children killing their own parents. So, it was really a different situation.

B: Do you think that even if the number of cases hadn’t been the big problem, just because of the unique nature of what you’re describing, Gacaca would have been used as opposed to a conventional court system?

A: Eventually we had a number of challenges. The international community would come and say, you are talking of reconciliatory justice. How does justice intermarry with reconciliation?

B: That is a really hard question!

A: Yes. People were asking how we would use justice for reconciliation. If you have reconciliation, it has to be total reconciliation—amnesty and the rest. So they asked why do you talk of justice and then talk of reconciliation? But in the Rwandan context, it was very difficult, because of what I just said. The people who killed the others were brothers, were neighbors, were relatives, were parents...their own children, and so on. So, how do you deal with such cases if you don’t involve reconciliation? Second, if you wanted to use reconciliation itself, you give amnesty, you forgive, you forget, and then you use the proper reconciliatory tools, what do you do with the injustice? With the impunity that existed over centuries? Over decades? How do you deal with that? Indeed I say, that many people still promote impunity. So what the government of Rwanda was trying to do was say, “We have had impunity, we have had people committing crimes and they are rewarded for the crimes they have committed, instead of being punished. We cannot go on. People have to be punished so that you show the difference: you are responsible for the crime you commit; if you commit a crime, you will be punished for it.”

But at the same time, how do you really handle...or really mete the kind of punishment that fits the crime in the case of brothers and sisters killing in the genocide case? It would mean probably finishing those who were suspected--killing them also. By that time we still had the death penalty, so again what kind of nation would we be building? You say, I’m not going to revenge, I’m going to reconcile people. And then you deal with such heavy cases, like cases of genocide....so the Rwandan government decided that we shall do it our way, we shall use Gacaca, to punish people but at the same time to reconcile people...

We didn’t really have resources. Probably one thing that I didn’t mention is that really, most of the people who would handle some of the problems had been killed or had gone into exile. So at the time, Rwanda had about 10 judges. So how do you handle those cases, again? So we said to the international community, come and help! They said no. They would use all excuses: “The people who are in prison are not the people who were killed,” “How do you prove that these are the people who killed?” Many many excuses. So Rwanda said, okay, this is our problem. We better handle it ourselves. Nobody is going to give us money to handle this, to hire lawyers and judges from other countries....The international community is there probably to deal with the major crimes, but how do we handle this? So they said, let us now turn to Gacaca.

The category system [categorizing crimes according to their severity] had its own problems. Classifying and deciding which crimes should go into which category. But at the same time, they had to look for judges. There was no punishing the genocide in Rwanda at that time. They had to train people to use the Gacaca law, so it was a long

process, it was a difficult process, but eventually the law was put in place, the judges were selected among the community, each village had to elect their own people to deal with the cases and so on. It was as difficult as that.

But eventually, Gacaca courts peaked and the tool was reconciliatory in the sense that sentences had to be reduced...because really, these are genocide cases, you wouldn't say "I'm going to give two years to a person who killed other people in the genocide"; it would be like no justice is done at all. So that is why there were those categories. This helps guarantee that Gacaca doesn't promote impunity but also the sentences won't be equivalent to what you did. For the purpose of the survival of the country, survivors were educated to accept a lower level of justice, which didn't meet the crime committed. Because justice that met the severity of the crime committed never was the intention to begin with.

B: A very difficult balance to find! Overall, do you think that Gacaca was successful?

A: Gacaca had objectives. The first was to speed up cases. The second was to reconcile Rwandans. The third was to stop impunity. The fourth was to reveal the truth about what happened. So that is why as the Gacaca courts went on, the Unity and Reconciliation Commission was involved in sensitizing prisoners to accept their crimes, ask for forgiveness, repent, and their penalty would be reduced on the fact that they have said the truth and have repented and confessed and so on. So, those who accepted that, their penalties were reduced by a half, I think.

But due to this, a lot of truth was revealed. And this is mainly what Rwandans wanted to know. Why did it happen the way it happened? How did it come? Because the truth couldn't bring back the people, but once you know the truth, you can have a way to prevent having it again in the future. And probably once you educate people about what they did, the wrong thing they did and the causes of those things...people would eventually have remorse and feel sorry.

But another objective was to remove collective guilt. If you talked of the people who had killed, Hutus [identified with that group]. "I'm also a Hutu." So there was that collective guilt— "all the Hutus killed."

B: So Gacaca tried to individualize the crimes?

A: Yes, Gacaca wanted to make the crime individual.

B: And was that a strength of Gacaca? Was that successful?

A: Yes, it was successful, because even your own child would eventually come and say, "Daddy, for me, I am innocent. Confess, accept your mistake, and remove this guilt from all of us." At that time, if you were in prison, people would begin calling your wife the wife of a killer. The children of a killer, and so on. But when Gacaca started, we [the national Unity and Reconciliation Commission] started also sensitizing people that crime was individual. So the children of this criminal were free and innocent children. The wife of this criminal was free and an innocent woman. So people could still live together in the same village. The surviving victims, those who were left behind by the perpetrators in prison, were going to live together, so we had to get in and say, "Look here. Let the crime be counted on that person who was involved in the crime. But don't make the others criminals, because they are free and innocent people who shouldn't pay for what their father did." So, one of the intentions of Gacaca was to remove that collective guilt.

But it did another thing that probably was not intended at the beginning. It healed the trauma. As people gathered in villages dealing with the particular cases dealing with a particular person, they would talk about what happened. And through talking, through revealing what happened, people get healed. So if I have been hiding the truth because I don't want to convict so-and-so, but if it is said in public and I give my own version of the story, saying what I saw, then I will feel relieved. The person who lost a person, once they told him, "Your person was killed by this person who was in this group, this other person finished him, this other person buried him," the surviving person would say, "If only you could tell me where their body is, I will feel relieved and I will forgive."

B: And they were able to get that from the talking?

A: Yes, and through that talking, there was healing of the trauma and the wounds of the genocide, which really was not an initial objective. But it did that.

Interview continued on 08 JAN 2014

A: Continuing with what we discussed before, today I want to talk about the weaknesses of the Gacaca system. Witnesses, judges, and the whole jury were people from the village where the crimes took place. The witnesses were called from the same village where the court is placed. At first they would get the number or the record of all people who lived in that village before the genocide. Then they would get the list of the people who were killed in that area from the people in the village.

B: What if there were no survivors? How did they get witnesses from crimes with no survivors?

A: It would be difficult to imagine a village where the people were all killed and there was no survivor. Because the village in Rwanda had a mixture of Hutu, Tutsi, and other groups. So when people were told to come back they were later told to give information. So you have people who moved far away and after the genocide they were facilitated to come back and encouraged to give information. You had to give information.

B: What if they did not give information?

A: According to the courts I attended, there were some people who you would ask, "What is the name of your brother?" And they would say, "I don't remember." So it was ridiculous that they claimed they don't know the name of a brother or close relative. The Gacaca would take those people's information story by story and if they would not give it the Gacaca court would have no choice but to find them guilty. Because the court was not supposed to coerce for information.

B: Were people required to participate in the courts? To testify?

A: Everyone was obliged by law to attend. According to my situation, I was working but on the day that the Gacaca was happening in my village I was allowed to go out and attend.

B: Would people be fined or receive a fine for not attending?

A: I think under the law people could be fined. Although the Gacaca was intended to be voluntary, the government obliged all citizens to attend. People were not forced but at the same time the government...people were obliged.

B: How did this affect the community's view of the project? Did people respond differently?

A: I think there was not much force because you didn't have to attend all times. You were given information to the time of the trial and people would inform you when you had to attend. The community also had meetings to discuss the purpose of the Gacaca and explained that it is for the good of the victims, the good of the perpetrators, and the good of the community. So I don't think people had a bad attitude about Gacaca because of that.

They were not forced to attend every day, but if the local leaders told you that you must attend and you refused, you would be in trouble. But if you had a good reason you could not attend or told them, "I can't be there today, but can attend tomorrow," that is fine. It wasn't very rigorous, so I do not think it was difficult.

B: We started today talking about witnesses. Were they a weakness or strength?

A: That was a strength because you had a collection of people from the villages and if someone has false information maybe another one would say some information that would make it clear to the court. I would say the Gacaca received 80% or 90% truth.

B: Was there a change of the Gacaca's goals from the beginning versus the end?

A: The actual goals that I gave you - five of them - did not change, but the procedures changed. One example: if someone wanted to give information on the case of rapes that person was supposed to meet the people that committed it. And I think [later] there were some cases where they could give information on camera.

B: So for sensitive cases you could provide information on camera?

A: You could testify and the information would be public but the testimony would not. This is for several reasons. First was the stigmatizing case of rape. Second was for giving security for the person giving information. There could be a case where people would go to the site where the crime was committed instead of the court. There were [changes in] procedures where they didn't change the law or the objective. I don't think they changed the objective.

A: Another situation was the people of wisdom were elected by the people so they wouldn't say someone was imposed on them. Because they would elect them. The solutions to the judgement would be given by the citizens. So the judges would say, "This case will be done in the manner and this manner. What do we do about it?" And the people would say, "You should call this person and this person and they have information." The people would make suggestions.

For the purpose of reconciliation again, I think the purpose of categorization of the crimes was very useful for a number of reasons. First, when people were accepted to give information about what happened their crimes were reduced. If someone tells a lie it justifies his own punishment, but a number of people told the truth. So if I was in Category 1 if I told the truth I might be reduced to Category 2. Second, when we talk about Gacaca to international people like you the concept of justice becomes number one. But for the sake of justice, the concept of reconciliation has to be number one. For example, if the court says you have five years in prison and five years community service, maybe a victim would say "no." If you would go to the court after five years then go to TIG maybe the victim would disagree. So the aim wasn't to punish equivalent to the crimes, it was can we show that impunity cannot be tolerated but can we also show that the impunity can also show correction. At the time of the Gacaca it was also intended to reduce the burden on the government.

B: You bring up an interesting point about the concept of justice. Do you think that some people did not feel that they received justice?

A: That could be probably traced in one of the President's speeches. There is a time he said the Gacaca is a bitter medicine that our people have to take in the sense that the victims could say that we have not received the justice that we expect, but for the survival of the nation they must take the bitter medicine. The Gacaca and reconciliation were working together. Surely there was no way you could expect to get something equivalent to the cost of the people you lost. There is no equivalent to the life of a human being. You could not get an eye for an eye or you would get genocide. For the purpose of the survival of this country you have to accept the decision of the court. So if the court says you have to get ten years then you have to accept it. The reason the government could not impose too much was, for example, a neighbor killed a neighbor. The wife of the killer and the killer's children live in the same place and the victim's family lives next door. So they continue to be neighbors. Do you count these children criminals? They say no. Is the woman not suffering the consequences? They say yes.

There were women in southern Rwanda...Butare...who were wives of perpetrators who were living side by side with widows. They were not talking...bitter enemies. And when they [the killers' wives] went to the market they were stoning them. But eventually they were meeting when they went to get food. A Catholic nun saw this and went to talk to them and showed them they were both victims. She showed them, "Don't you see that this woman who has no food and has to take her husband food everyday? So don't you women realize you are living in the same poverty?" She told them, "You have the same enemy - poverty. So why don't you come together and we will give you more aid." They formed a cooperative, the stoning stopped, a friendship developed, and they improved their lives together. I think this is a great example of reconciliation.

B: That's a great story.

A: There are some people who said they need that person's house because the husband killed their family. The government said, "No. You cannot take the house from that poor woman." They would instead take their meager resources and build another house or have them live together.

8. Interview at a non-profit organization on 08 JAN 2014

Participants:

A: Rwandan Male

B: Charlotte

B: Did you participate in Gacaca? What were your initial perceptions of the idea of Gacaca?

A: I participated three times in my village. When they were introducing the idea, I thought it was a good idea because of the number of prisoners needing justice. But when it started to be implemented, I realized it would be very difficult to find real justice for the accused.

B: What were some of the problems with implementation?

A: The first phase was information gathering. During that period, people were willing to talk, remembering the names of people who had been killed or involved. It was an interesting exercise. But when the justice actually started, rather than a reconciliation tool, it was like a court. And it was terrible. The people who were the judges never had been trained or, often, had never been to school. The accused did not have the right to a defense. Imagine someone accused of genocide being judged by the survivors! It can be considered as a trial against these people who lost the war. It looked at one side but not at the other. But that kind of justice could not be obtained for the other side [Tutsis]. Since justice was administered by survivors, in a lot of cases there were opportunities for revenge. For some people, it was an opportunity for survivors to make some money [by making accusations to get reparations]. There were threats: if you don't give me money, I will take you to the Gacacas.

B: Can you discuss some of the ways in which Gacaca could have been improved?

A: There should have been very strong monitoring systems; involving educated people as judges—including people who can read and analyze; and it should be been inclusive. Victims should not have administered! Justice should have had some kind of defense. For serious accusations, it should have been handled by other [conventional] systems. Someone who can't read handing down a sentence of 30 years in jail! Serious issues that should not be handled by ordinary people include justice and security. In these areas, nonprofessionals are not good. Giving these things to ordinary people means that they will do whatever they want. For example, why did genocide happen to the extent that it did? In some areas, ordinary citizens were organizing security!

B: Was Gacaca the best, if imperfect, model given the challenges facing the state of the conventional system at the time?

A: Gacacas started when the justice system *had* been rebuilt, despite some gaps. Just after the genocide, there were some people who had been trained, even if they were not professionals, and this would have been better than an ordinary citizen being able to sentence someone to life in prison. For example, I know of a medical doctor who was a candidate for president who was sentenced at Gacaca to 15 years by ordinary citizens! Imagine!

B: Were the objectives of Gacaca achieved?

A: Frankly speaking, Gacaca was a fiasco and a failure. A complete failure. There are people there in prison, and the way they ended up there is unfair. Traditionally, gacaca was designed for small cases. If for example I have a cow who goes to your plantation and destroys your crops, that is for gacaca. It is not an appropriate mechanism for genocide and crimes against humanity. Maybe it would have been successful if it had not tried to match the traditional side of it with modern justice. There are things that should not go to ordinary people. Survivors of a massacre judging people—you cannot imagine! In modern justice, there are appeals. There were appeals in Gacaca, but to whom? Citizens in the countryside who are poor and who have authority on your life!

B: I'm interested to hear your thoughts about the connection between the sort of justice pursued in Gacaca and its effects on reconciliation in your community.

A: If the justice were real justice, reconciliation could have happened. Not all people were killers. In my village, just 20 killers were involved, but they were organized, feared, and supported. If justice were real justice, innocents would not have been arrested, only killers. Real justice would have brought reconciliation.

B: Was collectivizing guilt a problem at Gacaca? Or did the process help to alleviate collective guilt?

A: What Gacaca tended to do is that they are not putting it [the burden of guilt] on the whole group [Hutus]. But individual criminals were known; they did their crimes in the daylight. These people were killers! If you didn't fear them, they killed you! It is important not to forget that this all was happening during a war period. The way we are exploiting what happened is sad and creating another cycle of violence, which is very bad. There are also political interests, which also is very bad.

B: Do you have any final thoughts you would like to share?

A: The upside is that even today, justice cannot happen. Even the ICTR...I don't know if they really addressed the issue. It was one-sided, with no talk of RPF involvement. With Gacaca, it was a failure. Maybe it was a homegrown experiment, but I don't know if there is time to correct the mistakes made. I don't know if it will serve as a lesson.

9. Interview at Chez Lando on 09 JAN 2014

Participants:

A: Rwandan Male

B: Charlotte

B: Did you attend or participate in Gacaca?

A: I only attended one time.

B: Can you speak about how Gacaca contributed to reconciliation in your community?

A: It was hugely beneficial in paving the way to reconciliation, bringing the survivor and killer together. It gave the killer an opportunity to share and encouraged reconciliation by letting survivors respond. Gacaca was aiming to bring back that good behavior of the tradition in our society of mutual respect. Even the killers have relief now. They go to victims' relatives and ask for forgiveness or for what they can do. They do this to restore the Rwandan spirit. One person might receive killers' gestures wholeheartedly, another might resist. It took enormous courage for many survivors to extend forgiveness. Many still are not convinced but we still are working top to bottom to heal.

B: What do you think of the type of justice pursued by Gacaca?

A: Punishments were not that tough. If the accused out of his heart said the truth, and admitted it, the punishment would be reduced. people would do TIG, or work of public interest, as punishment. Then they reintegrated back into the community. People in communities that went through Gacaca now are on good terms.

B: What were some of the strengths of the Gacaca process?

A: It saved time to solve these many cases on a small budget. The ICTR did so few cases on a huge budget; Gacaca did so much on a little budget. It has presented the process of reconciliation. Gacaca brings people together. Everyone talks, and this has really helped the process of reconciliation—through truth and trust.

10. Interview at Hotel des Mille Collines on 09 JAN 2014

Participants:

A: Rwandan Male

B: Charlotte

B: Did you participate in Gacaca? What were your initial expectations for the process and its outcomes?

A: I participated not every week because of time, but as often as I could, given that it is my area of interest. In terms of objectives...I wanted to see how the community could handle this very heavy process and how we can shift from traditional justice to a process about the demand for truth and justice. Neighbors had to look neighbors in the eye. There was a personal interest in justice for me. But no, to be honest I did not have high expectations. It was for me an immense surprise that the government took such a huge risk, this system in such a weak society. But it was very innovative in the end. We had no other alternative for handling the situation we faced. It was the best possible process, though imperfect.

B: What were some of the weaknesses of the system?

A: My only problem is that it was top-down, thought of at the national level and brought down. It should have been the other way around, with consultations throughout the country.

B: What was the effect of the modifications to the traditional system for Gacaca's role in reconciliation?

A: Traditional gacaca was a process to deal with very minor issues—nothing of the magnitude of the genocide, so there was no way genocide Gacaca was going to be the same. Traditionally, it was handled by respected elders. Genocide Gacaca lacked this level of legitimacy; even if judges were elected, they lacked the charisma, respect, and legitimacy of traditional elders. At the same time, it would have been very hard to find such qualified people after the genocide. The number of offences was very complex legally, and to give such a technical, complex situation to ordinary citizens was a big big problem.

B: What were some of the expectations for Gacaca of members of your community?

A: Gacaca gave expectations of reparation, which never has happened [in traditional gacaca], and being unable to fulfill those expectations is one of the biggest problems we have as a country, and a huge problem for reconciliation. Normal citizens participating in the genocide were very poor and cannot pay reparations. Another issue is social cohesion. For some, it can be interpreted that Tutsis are taking revenge against Hutus.

B: What were some of the strengths or successes of Gacaca?

A: One of the biggest successes of Gacaca was individualizing criminals. Before Gacaca, all Hutus were put in the same basket. Gacaca separated the innocent from the very guilty. Other strengths....it educated the society that killing is bad, emphasizing the issue of responsibility and accountability. In the family, if a dad confesses to killing, the Gacacas help to ensure that the child is not also guilty. Gacaca also helped provide information on what happened. At the same time, this information has not yet been systematically analyzed. Another merit is that it has reduced suspicion, mistrust, and anger among the people.

B: By the end of the Gacaca process, had your view of Gacaca changed, and if so, how?

A: By the end of the process, my view has changed positively, but I think that there is a *lot* that needs to be done. For example, truth-telling has reinforced wounds in some communities, and no one has followed up on the extent of these wounds and destruction.

B: What was Gacaca's role ultimately in advancing reconciliation?

A: Because of the number of criminals, no one except really serious criminals were put in prison, in the name of reconciliation. To reinforce the message, symbolically putting *some* people in jail would have been good, but not a high number—it would not have been affordable for the state and not good for reconciliation. Gacaca has reduced mistrust, and people had time to look each other in the face. Gacaca encouraged people to ask publicly for forgiveness.

B: Did you find that the community readily extended forgiveness?

A: The community absolutely was ready to extend forgiveness when perpetrators asked. But now today, there is the need to put in place another initiative like Gacaca, but with less accusations—just a space for reconciliation and talking.

B: Do you have any final thoughts about the weaknesses of the Gacaca process in terms of advancing some of the goals you have talked about, including reconciliation and forgiveness?

A: Every process has its weaknesses, like the fact that it was managed by unknown people, or political motivations, or using Gacaca to eliminate someone from the political scene. In response to the state's idea for Gacaca, here we are in a very hierarchical society. So if something comes with high support from the state, people will accept it. This is a structural problem. In fact there was a period where people fled the country because of Gacaca. So some feel that Gacaca was a political tool to weaken opposition.

11. Interview at Mwurire Memorial Site on 10 JAN 2014

Participants:

A: Rwandan Male who provided input to the Gacaca; interview translated by Rwandan male interpreter.

B: Charlotte

B: [introduction]

A: You are very young!

B: Well, I am very lucky to have the chance to be here and talk with you! Did you participate in Gacaca?

A: I had no specific role in Gacaca, but whatever information I would have, I would give.

B: How often did you participate?

A: I would be in every meeting.

B: What did you think of Gacaca when it first started going on?

A: I thought in my mind that Gacaca would give justice plus if the truth is revealed you would be given forgiveness.

B: Did you think that justice happened through Gacaca?

A: Very much. I was so happy with it.

B: What did the community think?

A: The Gacaca was good because it reconciled the victims and the killers. They eat together, they solved everything, they intermarry. Someone during the war stole 750,000 Francs of my property and I have forgiven him and we now live together.

B: Did you find it hard to forgive him?

A: It was my own decision to forgive him, not Gacaca. The other man was poorer than me. He had less land, less property. So he was poorer.

B: Did you think Gacaca was going to work to bring justice before?

A: At the beginning I thought it would not work at all. In time, I found that it was a good way to bring justice. It was a great decision from the President. The simple people did not understand how it would work at first but over time began to see.

B: Are there any other things you want to talk about?

A: People should forget the past and unite to work together, not continue with the problems of the past. During the war, two of my children were killed. I am now 58. At that time I was 39. Soldiers came and shot and fought until they were at this fence. Our wives tried to take their army vehicle that they left behind on the road to attack us.

12. Interview at a village in Mwurire on 10 JAN 2014

Participants:

A: Rwandan Male who served as *inyangamugayo* for five years (2006-2011); interview translated by Rwandan male interpreter.

B: Charlotte

D: Tom Visel, research assistant

B: How did you come into this role?

A: I was chosen by the villagers as a person of integrity.

B: How did you feel being chosen for this?

A: I felt an obligation because they [the villagers] felt I was a person of honor, so it was required.

B: You felt required?

A: It was a sacrifice for the problems Rwanda had.

B: What were the challenges? The good parts? The bad parts?

A: Problems cannot fail to rise, but there are very many. The major problem was when they bring a case...getting witnesses was difficult because some ran to different villages...we couldn't find people there. So the hard thing was finding witnesses.

B: Was it difficult to make a decision?

A: It wasn't difficult to find judgement because people who committed crimes and people who saw it were there face to face. So the people who committed crime and victim...even if the victim wasn't there the neighbors saw it. So they all sat together and made a decision.

B: When did you serve as Chairman of the Gacaca?

A: From 2006 to 2011.

B: During that time did the way you saw Gacaca change?

A: What Gacaca brought about to light was to eradicate suspicion. So that one person didn't suspect another. Because if you live in a village like this maybe you feel like maybe your neighbor committed a crime. What Gacaca did was get rid of fear.

B: Was it helpful?

A: Gacaca helped revealing the truth, getting out suspicion.

B: Compared to the traditional gacaca, what were the differences between Gacaca in the past and this Gacaca?

A: The difference is not there except the genocide Gacaca was for stronger crimes. Crimes related to genocide. But Gacaca was the same. The system was the same.

B: Were you here during the genocide? How did you survive?

A: First is God. God made me have the wisdom to hide in those bushes. I went into hiding for many days until the RPF soldiers rescued me. Genocide started on April 7th. The RPF soldiers arrived on the 18th of April. In that short time of less than two weeks the villagers were all killed. Because neighbors were involved it was very quick. Less than ten days only.

B: How many of your family survived?

A: In my family of ten only three survived.

B: What did you do for the rest of the war?

A: I lived normally on the land. My cows and bananas were taken. My house was destroyed. So I started from zero.

B: Do you have a family today?

A: Yes. Three kids.

D: How much time passed between when people started to come back to the village and when the Gacaca started here?

A: From 1994 to 2005.

D: How did the community's perceptions of Gacaca change before and after the process?

A: After Gacaca, the truth was revealed and life is better. Before Gacaca, because of strong government policy, people lived quietly together, but not face-to-face. Before Gacaca, some tried to reveal the truth. When Gacaca came, some people who had been suspected were let out of prison.

D: Was the pre-Gacaca system less effective because it lacked requirement to participate?

A: Before Gacaca, if someone was suspected, they'd go directly to normal courts.

D: What was the effect on the village when cases went to normal courts instead of Gacaca?

A: For 11 years after the genocide, only one person had been given judgement in the normal court. *Note: There were 390 people in this community (adults); 73 killed in genocide in this village (the killings took less than 2 weeks, beginning on April 7); and there was a total of 524 cases in this Gacaca subdistrict.*

D: Pre-Gacaca, without the authority of the government, was it eye-for-an-eye between families with grudges?

A: There was a very big change in peoples' togetherness. Before Gacaca, there were accusations, anger and denial; Gacaca lessened the suspicion. But ultimately, it was not the head of the Gacaca, but the community, that helped this lessening of suspicion to happen.

D: Have people become much friendlier, working together?

A: It was very easy to give pardon to a person who reveals to you how your father, or mother was killed and even shows you where they were buried.

D: Would you say that people in the community today are genuinely friends or simply not enemies?

A: At the start of Gacaca, people did not take it easily, but with time, people have come to know the truth and it is yielding friendships. In the first months of Gacaca, people would be hiding and feeling unsafe. As time went on and the truth was revealed, there was less fear.

13. Interview at Mwurire Memorial Site on 10 JAN 2014

Participants:

A: Rwandan Female who served as *inyangamugayo*; interview translated by Rwandan male interpreter.

B: Charlotte

B: How did you participate in Gacaca and for how long?

A: I was a chairlady for Gacaca.

B: What was your role and how did you decide to participate in that way?

A: First and foremost, I was elected by my fellow neighbors because they claim that I have truth. That I am a person of truth and am trusted. Once the Gacaca was started I had wisdom. Because we had the ability to sentence people to death, but decided only to use the courts and truth to change things [*Note: Gacacas could not sentence people to death; the interviewee may have misspoken or there may have been a miscommunication in translation.*]

B: What were the effects of Gacaca for reconciliation?

A: At first I never thought in my life I would live again with the killers of my family. Until some other people talked to me about reconciliation and I could find forgiveness from one of the camps. One of the kids from the person who killed my family came to help me with my cows because he had nobody.

B: What were some of Gacaca's strengths?

A: If Gacaca had not started there would be no living Tutsi. But now nobody considers each other to be a Hutu or Tutsi.

B: What were the challenges or difficulties?

A: At first the most painful or difficult part was for a killer to meet someone and tell them that, "I killed your son, your daughter, your family." But though he was corrupted, it would also corrupt the person hearing. So both are upset by knowing.

B: Do you have anything else you want to say?

A: I had 24 close relatives who died on this hill.

14. Interview at a village in Mwurire on 10 JAN 2014

Participants:

A: Rwandan Male who serves as a cell chief; interview translated by Rwandan male interpreter.

B: Charlotte

C: Interpreter

D: Tom Visel, research assistant

B: [Introduction] How did you participate in the Gacaca and for how long?

A: I had to participate as a local leader, not a leader of Gacaca. But as a local leader I needed to know what Gacaca was doing.

B: What were your expectations?

A: There was a lot of fear because nobody knew if people would tell the truth. Nobody knew if people would just be settling old grudges. People were tried in three parts: the killers were Interahamwe [Hutu paramilitary organization], those who killed, and those who observed.

B: Did people tell the truth?

A: No problem with people revealing the truth. The people who participated in genocide were the ones giving the truth.

B: As chief did you have to speak or only listen?

A: At first we were just listening, but later we had to ask questions on both sides.

B: What was your role in particular?

A: As a person who was not being hunted I know many things that took place. So I had to testify.

B: Did people's feelings change over time in the village?

A: There was proper justice because the killers, the victims, they were living in the same place. So they feel proper justice was given.

B: What were some of the strengths of Gacaca?

A: The first thing, the survivors were given information of how their people were killed and how their property was taken. So the killers realized later that they were wrong. And thirdly, they realized that they needed to give reconciliation.

B: What were some of the challenges?

A: The most difficult part was gathering information at first. Gathering information was difficult as the leader of the people. But over time it became easier.

B: Do people still discuss the Gacaca?

A: The people are happy with the Gacaca because the truth was revealed and when the truth was revealed many people who were wrongly in jail were released. But nobody talks about it for long now. But after the war many people were put in prison and then later when the truth came out they were released.

B: How did people feel about the sentences?

A: People were happy with it because whoever revealed the truth and told what happened...people that were in prison were happy that justice was done and people at home believed the sentences were just. There was a trust. It created trust between victims and killers.

C: Charlotte, I told him that I told you about his father and how he wants to get out of debt.

B: Has it been difficult with people knowing about your father?

A: My father is Hutu. He was among a group of people who were attacking houses. I am lucky that he didn't kill anyone. But I have to pay 500,000 Francs.

C: But he wants to get out of it.

D: What are your duties as a Chief?

A: Solving disputes, solving problems, reporting to higher authority [sector leadership].

D: What was your interaction with the Gacaca Chairman?

A: We were working together. I, as the leader, was calling people to go to the courts. I would start the meeting and would control the process. Even knowing information to bring the truth. And to follow up.

C: For security. For control.

D: If someone refused to provide testimony, does the Chief punish?

A: If you are called by word of mouth, they write you first, then send a note warning of a fine, then punishment. The punishment is all done by the government.

15. Interview at Belagio Hotel on 12 JAN 2014

Participants:

A: Rwandan Male, a survivor of the genocide and currently a genocide scholar; served on the Human Rights Commission from 1999-2006.

B: Charlotte

A: Although Gacaca is not my specific area of study as a scholar of genocide, maybe I can begin with some background of the traditional gacaca system.

B: That would be so helpful, and maybe you could answer one question that I have, which is whether the traditional system did in fact get shut down, essentially, during colonialism.

A: During colonialism, the system almost stopped completely, but it still was working in some areas. It was a traditional way of doing things. As a refugee living outside Rwanda, from the time I was old enough to understand disputes, I never heard of a Rwandese settling disputes in court. My father told me it happened in gacaca. I forgot about gacaca until 1994.

Traditionally, elders known to be fair would bring the two parties in front of people of integrity. There is a word in Kinyarwanda, *kurarama*, which means the act of looking up. In other words, these persons of integrity were *kurarama* in that they "looked up" [heavenwards] to pass judgment, without bias.

B: I'm interested to know your perceptions of the goals of the genocide Gacaca when the concept first was introduced in the late 1990s.

A: Well, I consider Gacaca to be a post-genocide mechanism of stitching the society together. After the decision was taken in 1998 to introduce Gacaca, it was based on realism [the reality of the overwhelming caseload facing the conventional court system]. If you had taken these cases through the ordinary system, it would have taken hundreds of years to complete. There would have been impunity and no establishment of the truth.

B: So although Gacaca was not perfect, was it the best system given the unique circumstances?

A: Rwanda is an entity that had to remain together. Since 1960, the government published documents to divide Hutu land from Tutsi lands, the beginning of irreconcilable divides. What do you do when you have one group that tried to exterminate the others? Can you punish everybody? It is not possible. Most crimes would have warranted a sentence, if you had tried to match sentences to the crimes. It would be madness to put in place punishments to fit the crimes that had been committed.

B: So at the very beginning of the Gacaca process, what was your outlook on Gacaca's goals?

A: Initially, I was reluctant to accept that Gacaca would provide justice to the victims. I was not very sure this would be a form of justice. But after a lot of discussions with friends and policymakers, I learned about features like the reduction of sentences for people who made confessions during the information gathering phase.

B: And did you participate in Gacaca?

A: I somewhat participated in the constitution-making process, but I was very much involved as a genocide survivor. I participated for five weeks, to follow cases day by day.

B: I'm interested to learn your thoughts about how establishing truth through Gacaca contributed to reconciliation.

A: The issue of truth became crucial. Reconciliation is a process; it is not a given. It needs several components. First, truth, to shed light on what happened. Second, remorse; if a perpetrator doesn't have remorse, it cannot give a genuine confession. And without remorse, there can be no truth. Of course, human beings are human beings, not imaginary angels. Most perpetrators would love impunity.

Third, there is justice. In this country for a long time, there were massacres against Tutsis. Perpetrators enjoyed impunity, and in fact were seen as patriotic, rather than as criminals. Fourth for reconciliation, there is forgiveness, which brings the victim closer to the perpetrator who feels remorse and who asks for forgiveness. But forgiveness cannot be offered in a vacuum; the hand has to be stretched.

This is the reality of Rwandan reconciliation. The difficulties emanate from the denials of crimes committed. Some people saw Gacaca as victor's justice, but it wasn't. The majority, the ordinary folk, those peasants manning roadblocks, were different than those planning the genocide.

B: By the end of the Gacaca process, had your view of the system changed, and if so, how?

A: By the end, I saw Gacaca as the first step to truth. I saw the differences between those who told the truth and those who did not. You see the look of relief on victims' faces when a perpetrator tells who was killed and where they were buried. Today you have survivors and perpetrators having dinners together. This tells you that it has been not just a change, but a transformation.

B: My last question goes back to the question of justice. I'm wondering if you felt that survivors were satisfied with the type of justice offered by Gacaca.

A: Truth, remorse, and justice, are the three big pieces of justice. Of course, justice was not equivalent to the crimes committed but was based on the realities. People seemed understanding of the reality of the justice that was possible. Genocide was a crime by the government, and so reconciliation was a duty of the government. They cannot run away from it.

16. Interview at Flamingo Restaurant on 12 JAN 2014

Participants:

A: Rwandan Male

B: Charlotte

B: Did you participate in Gacaca?

A: I participated as a resident mainly to observe, to hear witnesses saying what they knew, and also to hear those were accused--to hear how they defended themselves.

B: What did you think were the purposes and likely objectives of Gacaca?

A: The local leaders sensitized people through meetings and the local level, to explain the purpose of Gacaca and to eliminate fears. So by the time it started, people had been assured that no one would be victimized for giving information. The first purpose was so that victims could feel that justice had been done. Perpetrators could explain, and if they were forgiven they got a sort of healing from this tragedy.

B: And do you think that Gacaca was successful in achieving these purposes?

A: Yes. As it turned out, the fears people had about Gacaca causing further friction between people were unfounded.

B: What were some of the strongest features of Gacaca?

A: It was in the open. No one could dare stand and put false allegations against somebody. Also, people presiding were persons of integrity. Third, people disagreeing with the information given by a testimony could stand up and ask for clarifying information. Finally, it did not cost a lot of money.

B: Did Gacaca deliver justice for victims?

A: Yes. I believe this based on people who came out and really expressed satisfaction in public; they felt that it was good, a sort of healing process. They always felt something had to be done. But of course, there were not many serious cases in my community. There were no cases of killings convicted; it was more like people looking the other way when victims tried to ask for help.

B: Did your perspective of Gacaca change over time? What did you think by the end of the process?

A: At first, it looked like a huge task and we thought that the local uneducated people would not understand. The process ended up running smoothly. If we compare it with major things like the ICTR, which in a period of 15 years tried not more than 40 people and costed billions, Gacaca was comparatively cost effective and efficient. Early on, people had fears that Gacaca might not unite people and might cause splits, but this did not happen. There *were* a few instances in rural areas where witnesses were targeted, but they had testified at Arusha [the ICTR] and not at Gacaca. But the government took action to protect witnesses. And these were only a few isolated cases.

One other special thing about Gacaca is that people understood it, and accepted it readily, because it was based on the traditional way of resolving disputes--it was not imported.

17. Interview at a non-profit organization on 13 JAN 2014

Participants:

A: Rwandan Female

B: Charlotte

B: Did you participate in Gacaca?

A: I did not personally participate because I only returned to Rwanda in 2007. But I have had many conversations with people about Gacaca and so I will speak on what I know, which is the positive and negative aspects of Gacaca for reconciliation.

B: What were the positive components?

A: Gacaca had a big role in defining who was guilty and it proved to be more efficient than the classical justice system. This of course has a strong connection to the reconciliation process—justice for accused people. If you are still bitter with your condition—for example, being jailed for nothing—it becomes hard for you to look at the other side of the coin. Gacaca helped with this.

Many ex-prisoners that [this non-profit organization] has worked with have gone through the Gacaca process. Everyone back in their communities are there because of Gacaca. Only through Gacaca did you have this community ownership, and people coming out of jail. Gacaca gave a chance to guilty people to come out and lay the basis for forgiveness, which is necessary for reconciliation.

For many people here, justice is not about sending people to prison for 20 years. It is about answers to questions like where their loved ones were killed and buried. Getting the story, getting the truth. The conventional courts and the ICTR did not offer this.

B: How specifically did these positive components you have mentioned help lay the foundations for reconciliation?

A: The truth is a very important factor for forgiveness and reconciliation. We live in an open society in Rwanda, and this is very important. For example, there is the fact that many people had family members killed by their neighbors and they had to live next door to them. For some people, there was no choice but to forgive neighbors. The nature of the local setting in Rwanda, with people living so closely next to each other...Gacaca was the only thing that could bring people face-to-face. It has really contributed greatly, more than the conventional courts and the ICTR, to reconciliation. Airing it out in the community where everyone lives next to you is so important.

B: I am interested to know how the community received the type of justice offered by Gacaca.

A: Some individuals of course wanted more punishments. But many people forget that genocide is a special crime like no other, where families have been wiped out, and many people are hopeless, just wondering why they survived. Even putting the perpetrator in jail does not bring anybody back. No punishment is enough or equivalent to the crime. So, many people for example see TIG [community service] as a better punishment than the perpetrator getting to sit in jail for 10 years. Many people in fact think that jail would be a bit nice for the prisoners! But ultimately, survivors need more than incarceration. But it's not there. It is impossible to find.

B: I'm wondering what were some of the negative components or features of Gacaca that may have affected how it contributed to reconciliation.

A: Well, the first is the top-down approach--the fact that it is really done by the government. This is a big issue. If Gacaca was really truly owned by the people, the solutions would have been different. The government appointed people in certain positions, so it feels like it is just another arm of punitive justice. A government plan. This has a serious negative effect on reconciliation.

B: You mentioned the importance of truth-telling and establishing the facts of what happened in the genocide.

A: Yes, this brings me to the second negative feature of Gacaca. After telling the truth, it is traumatizing. People were not prepared and there was no mechanism for helping with the trauma. The government had no trauma sensitization programs--there was nothing prepared to help victims in dealing with the truth. In fact, to help victims and perpetrators telling the facts. The truth is good, but it has its own consequences.

The third negative point is that in information gathering for evidence, you [the accused] would have to mention who else was with you. But by implicating more people, this contributed to more divisions rather than reconciliation. People were encouraged to name others, but by involving more people, this hurts social cohesion. They [the government] never thought that this clause in the law [which required those testifying to name accomplices] would cause problems. As a result, the courts had to keep being postponed. They had only expected maybe 1 million cases but ended up with almost 2 million.

B: This has been such an interesting conversation and I wonder if you have any final thoughts you would like to share.

A: Reconciliation is a very complex process. Gacaca was just part of the effort. It made a small contribution, but there is still a lot that needs to be done, especially with regard to reconciliation. This brings me to one final negative point about Gacaca. Many people could not settle the reparation issues. This was because most people convicted could not afford the reparations. Many were unable to pay back and it is having a very negative effect. The government should try to cover this gap. Some have sold off their property to pay back reparations—becoming landless—and this sows the seeds for a new conflict.

18. Interview at a Christian non-profit organization on 13 JAN 2014

Participants:

A: Rwandan Male

B: Charlotte

B: Can you describe your participation in Gacaca and how you initially saw the courts and their objectives? Did your perceptions change as the courts proceeded?

A: Well, I attended several times and I listened only. Even before attending I had read about Gacaca. The first impression was that.... “I don’t know what will happen. Will this really achieve the objective, which is to offer justice and reconciliation?” From the Christian perspective, this was good, but we thought it would be better if it had been run by Christians. Seeing how people were afraid and uncertain of what it would be at the end, Christians may have helped people with talking about the truth.

B: So from your perspective, Christian community members should have led the Gacaca process?

A: Yes, in Rwanda there are many Christians who are “religious” but not necessarily....not thinking of Christianity in terms of conduct. So it may have been good in this respect.

B: Did your perspective change at all by the end of the process?

A: On the one side, Gacaca got some success, but on the other, there were some negatives. Judges could be corrupted in some cases. Considering the sensitivity of the Rwandan context, some people were not satisfied by Gacaca. Some Gacaca judges *were* Christians, but as I said, many Rwandan Christians are mostly religious [rather than focusing on Christianity in terms of a code of action].

B: That is such an interesting perspective. I am interested to know how your community perceived the type of “justice” offered by Gacaca.

A: Gacaca’s results were encouraging and so helpful for the community. Not necessarily helpful for justice—although it *did* help—but the main result was establishing the ground for a sustainable reconciliation process. I think most Rwandans, including myself, feel this way about Gacaca and justice: first, if we had waited and used formal courts, we could not have succeeded. Personally, I have conflicts about justice.

B: I do too! It is such a complex concept—it means so many different things to different people.

A: I am so glad someone else has conflicts about justice, too! Yes, there are many questions. To whom did we want to offer justice? Survivors? Victims? Perpetrators? Even if someone who has hurt you has been sentenced to life in prison, it does not heal your pain. And that is why I was so excited about Gacaca: it combined reconciliation and restoration of broken relationships.

It also helps to establish the truth, which was not possible otherwise. It helped survivors to hear and see the offenders say they were sorry and acknowledge that what they have done is bad. So, if justice is mainly to help survivors, the most help we could provide [through Gacaca] is giving survivors the chance to hear from the offender, since no punishment could bring victims back. And to help survivors know where and how relatives were killed.

B: Was Gacaca ultimately good for reconciliation?

A: Gacaca did not only help as a justice system but also as a social restorative system. Also, we had still some people in prison who were innocent. They were there as a result of false accusations by survivors, who accused certain individuals who were only associated with the real perpetrators. Gacaca helped to establish who was an offender and who was not and to help people get out of prison.

B: It sounds like there were many strong features of Gacaca, from your perspective, for the reconciliation process. What were some of the weaknesses of the system in this respect?

A: The genocide is a huge case, and many people involved as judges were involved in one way or another in the whole problem. Therefore, it was very hard sometimes to know if judges had been corrupted or were being led by their emotions.

And, something that still is going on is the problem of restitution. Perpetrators being unable to pay reparations...in some cases they have been obliged to sell their land to raise funds. So the whole family was affected. Now perpetrators see survivors enjoying land but they have none. This could have been more considered and the government now is encouraging people to forgive reparations debts.

B: Has the government's efforts been successful?

A: Not everywhere, but here in Kigali, this effort has been successful.

B: I'm curious about the differences between the traditional gacaca and the genocide Gacaca. Were there any differences that had an effect on the Gacaca's role in reconciliation?

A: The normal [traditional] gacaca court was just to deal with normal social problems, where two neighbors or brothers had problems. You might say, more "social" issues. In the case of genocide Gacaca, it was different. Traditionally, community members were not directly part of the problem. In the genocide, everybody was part of the problem.

Second, the traditional gacaca dealt with miscommunication and misunderstanding. Genocide Gacaca was dealing with death. With murderers.

Third, the traditional was dealing more with informal issues, compared with genocide Gacaca dealing with political aspects. It was a formal way, where everything had to be written down. This was not done in traditional gacaca. The formal justice brought about a new political aspect. I would add that not only the local community but also the international community had eyes on Gacaca, so if Gacaca were to sentence someone to 20 years in prison, there needed to be a record of the reasons why. Formerly, in traditional gacaca, it was just about solving social issues, not sentencing people. So, today's Gacaca is based on the traditional, informal way but it was...modernized? I don't know how to call it. Expectations and outcomes were totally different.

B: Do you get the sense that members of your community understood early on that the new Gacaca would be different in some important ways from the old model?

A: Yes, definitely. People understood early on that genocide Gacaca would be different. It was clear. It was very clear.

19. Interview by correspondence on 13 JAN 2014

Participants:

A: Rwandan Female, works for a non-profit organization.

B: Charlotte

B: Did you participate in Gacaca?

A: Yes, I did participate in some Gacaca sessions.

B: What were some of your initial expectations of the Gacaca process and objectives?

A: The truth about genocide crimes and who committed them, so that the criminals who so far were not prosecuted could be brought to account for their crimes, and those who may have been accused wrongly could be cleared. Also, speeding up the trials, which could not be completed by the classical court system before tens of years. Facilitating reconciliation and arbitration by government authorities in case of irregularities in the process.

B: By the end of the Gacaca process, how, if at all, had your view of Gacaca changed, including your expectations for what it would contribute to reconciliation?

A: At the end of the process, it seemed that the retribution dimension, and sometimes vengeance, had taken over the reconciliation dimension. There were many cases where people were given heavy sentences, where proof of guilt was dubious.

B: What were some of the strongest features of Gacaca? What features could have been improved?

A: The greatest features include: it was a community process; it helped try a very large number of people in a short time; it led to a renewal of tensions between the genocide survivors and the accused and their families; it led to a renewal of trauma as information was being revealed about how people were atrociously killed; in some cases, government authorities were reported to interfere with the process; and some cases of corruption were reported.

Featured that could have been improved include: the Gacaca judges could have been better trained to ensure that procedures are respected; there could have been better supervision of Gacaca judges to better ensure impartiality; and the right to representation could have been granted to the parties.

B: What was the overall effect of Gacaca on the reconciliation process in your community?

A: The overall effect on reconciliation was mixed. On the one hand, since the beginning there has been tension between the need to expedite the justice process and the imperative of ensuring a fair and independent process. The pressure to complete the process sooner rather than later worsened the concerns about the fairness of the process. The concerns were mainly justified by the fact that the process did not offer any of the guarantees of a fair trial known in the classical system, such as the right to representation, the right to contradictory debate, and in practice it did not respect basic principles such as the one which states that no one can be tried more than once for the same crime (“*non bis in idem*”).

From the perspective of the genocide survivors, although Gacaca has helped to bring to light some of the facts about how their relatives were killed and where they were buried, the sentences were not deemed commensurate with the crimes committed and the pain inflicted upon the victims. In addition, the fact that Gacaca judges were not trained in legal issues and their work is not paid means they are open to corruption and manipulation by different parties with an interest in the trials. Gacaca therefore left behind widespread reports of gross abuses, a feeling of [dissatisfaction] from all sides, and above all, renewed intensity of trauma and heightened tensions between communities.

That said, the process has been an opportunity for some people and groups to take a bold step towards interpersonal reconciliation with the support and accompaniment of especially church-based organizations. In this way, some genocide perpetrators who pleaded guilty in Gacaca courts approached the survivors whose family members were killed and asked for forgiveness. There are now here and there associations that bring together genocide survivors and genocide perpetrators who asked for forgiveness and who have been forgiven.

20. Interview by correspondence on 13 JAN 2014

Participants:

A: Rwandan who works for a non-profit organization.

B: Charlotte

B: Did you participate in Gacaca?

A: Yes, in the community mobilization where I was sensitizing women to take part in the gacaca process by accepting to be impartial judges, witnesses, and pillars of unity and reconciliation. Women were called to take the opportunity given by the law to intimately dialogue with their husbands and requiring those who they know to be genocide perpetrators to acknowledge their role during the period of October 1990 to December 1994 and to apologize.

B: What were some of your initial expectations of the Gacaca process and objectives?

A: My expectations of the Gacaca process were to know truth on what happened during the genocide, to punish the perpetrators but also to acquit innocent people who were arrested without facts evidence, and to engage community members in a dialogue with a purpose of reconciliation.

B: By the end of the Gacaca process, how, if at all, had your view of Gacaca changed, including your expectations for what it would contribute to reconciliation?

A: It contributes to many things and it come up with different and positive solutions, but at the end and in some areas, the Gacaca courts were not sufficiently independent and have contributed to enhanced social division where decisions were not based on the truth, or where testimonies for release were not taken into account. In other sites people declared [a higher cost/value] of their equipment and resources [in making claims about property damage]. Even if Gacaca is finished, the implementation of its resolutions is still another challenge. Survivors are still waiting for the compensation while perpetrators can't repair.

B: What were some of the strongest features of Gacaca? What features could have been improved?

A: Community mobilization and participation [was a strength]. Non skilled persons leading a process to deal with a subject which requires a certain expertise [was a weakness].

B: What was the overall effect of Gacaca on the reconciliation process in your community?

A: It is not easy to note the real impact of Gacaca to the reconciliation because usually people are not openly talking about that, some of them have been frustrated. And the social cohesion initiatives which are within the community are not the result of Gacaca but an effort of Churches and other actors who are continuously training and coaching different affected people.

Works Cited

- Betts, Alexander. "Should Approaches to Post-conflict Justice and Reconciliation be Determined Globally, Nationally or Locally?" *The European Journal of Development Research*, Vol. 17, No. 4 (2005).
- Burnet, Jennie. "(In)Justice: Truth, Reconciliation, and Revenge in Rwanda's *Gacaca*," in Alexander Laban Hinton (ed), *Transitional Justice: Global Mechanisms and Local Realities after Genocide and Mass Violence*, Rutgers University Press (2011).
- Clamp, Kerry. *Restorative Justice in Transition*, Routledge (2013).
- Clark, Phil. "The Rules (and Politics) of Engagement: The *Gacaca* Courts and Post-Genocide Justice, Healing and Reconciliation in Rwanda," in Clark and Kaufman (eds), *After Genocide: Transitional Justice, Post-Conflict Reconstruction and Reconciliation in Rwanda and Beyond*, Hurst (2008).
- Clark, Phil and Zachary Kaufman (eds), *After Genocide: Transitional Justice, Post-Conflict Reconstruction and Reconciliation in Rwanda and Beyond*, Hurst (2008).
- Corey, Allison, and Sandra Joireman, "Retributive Justice: The *Gacaca* Courts in Rwanda," *African Affairs*, Vol. 103 (2004).
- Cruvellier, Thierry. *Court of Remorse: Inside the International Criminal Tribunal for Rwanda*. University of Wisconsin Press (2010).
- Daly, Erin. "Between Punitive and Reconstructive Justice: The *Gacaca* Courts in Rwanda," *Journal of International Law and Politics*, Vol. 34 (2002).
- Des Forges, Alison, and Timothy Longman, "Legal Responses to Genocide in Rwanda," in Eric Stover and Harvey Weinstein (eds), *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, Cambridge University Press (2004).
- Drumbl, Mark. "Punishment, Post-Genocide: From Guilt to Shame to Civis in Rwanda," *New York University Law Review*, (2002). Cited in Erin Daly, "Between Punitive and Reconstructive Justice: The *Gacaca* Courts in Rwanda," *Journal of International Law and Politics*, Vol. 34 (2002).
- Duff, Antony. "Restoration and retribution," in A. Von Hirsch, J. Roberts, A. Bottoms, K. Roach, and M. Schiff (eds), *Restorative Justice and Criminal Justice: Competing or Reconcilable Paradigms?*, Oxford: Hart Publishing (2003). Cited in Kerry Clamp, *Restorative Justice in Transition*, Routledge (2013).
- Hayner, Priscilla. *Unspeakable Truths: Facing the Challenge of Truth Commissions*, Routledge (2002).
- Hintjens, Helen. "Reconstructing Political Identities in Rwanda," page 82, in Phil Clark and Zachary Kaufman (eds), *After Genocide: Transitional Justice, Post-Conflict Reconstruction and Reconciliation in Rwanda and Beyond*, Hurst Publishers (2008).
- Hinton, Alexander Laban (ed), *Transitional Justice: Global Mechanisms and Local Realities after Genocide and Mass Violence*, Rutgers University Press (2011).
- International Center for Transitional Justice, "What is Transitional Justice?"
- Karekezi, Alice Urusaro, Alphonse Nshimiyimana, and Beth Mutamba, "Localizing justice: *gacaca* courts in post-genocide Rwanda," in Eric Stover and Harvey Weinstein (eds), *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, Cambridge University Press (2004).
- Kerr, Rachel, and Eirin Mobekk. *Peace and Justice: Seeking Accountability After War*, Polity Press (2007).

- Kerrigan, Fergus (ed). *Informal Justice Systems: Charting a Course for Human Rights-Based Engagement*. Danish Institute for Human Rights.
- Kirkby, Coel, "Rwanda's *Gacaca* Courts: A Preliminary Critique," *Journal of African Law*, Vol. 50, No. 2 (2006).
- Mamdani, Mahmood, *When Victims become Killers*. Princeton UP (2002); cited in Allison Corey and Sandra Joireman, "Retributive Justice: The *Gacaca* Courts in Rwanda," *African Affairs*, Vol. 103 (2004).
- Minow, Martha., *Between Vengeance and Forgiveness*, Beacon Press (1998).
- Mobekk, Eirin, "Transitional Justice in Post-Conflict Societies—Approaches to Reconciliation."
- Mueller, John. "The Banality of 'Ethnic War,'" *International Security*, Vol. 25, No. 1 (Summer 2000).
- Organic Law No. 40/2000 of January 16, 2001, cited in William Schabas, "Post-Genocide Justice in Rwanda: A Spectrum of Options," in Phil Clark and Zachary Kaufman (eds), *After Genocide*, Hurst (2008).
- Rigby, Andrew. *Justice and Reconciliation: After the Violence*, Lynne Rienner (2001).
- Rettig, Max. "Gacaca: Truth, Justice, and Reconciliation in Postconflict Rwanda?" *African Studies Review*, Vol. 51, No. 3 (December 2008).
- Sarkin, Jeremy. "The Tension Between Justice and Reconciliation in Rwanda: Politics, Human Rights, Due Process and the Role of the *Gacaca* Courts in Dealing with the Genocide," *Journal of African Law*, Vol. 45, No. 2 (2001).
- Schabas, William. "Post-Genocide Justice in Rwanda: A Spectrum of Options," in Clark and Kaufman (eds), *After Genocide*, Hurst (2008).
- Shaw, Rosalind, and Lars Waldorf (eds). *Localizing Transitional Justice: Interventions and Priorities after Mass Violence*, Stanford University Press (2010).
- , "Introduction," in Shaw and Waldorf (eds), *Localizing Transitional Justice: Interventions and Priorities after Mass Violence*, Stanford University Press (2010).
- Stover, Eric, and Harvey Weinstein (eds), *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, Cambridge University Press (2004).
- Terrill, Steve. "Gacaca's legacy," *The Independent*, May 29, 2012.
- Uprimny, Rodrigo, and Maria Paula Saffon, "Transitional Justice, Restorative Justice and Reconciliation. Some Insights from the Colombian Case," published in the "Coming to Terms" with Reconciliation—Working Paper Library, Global Studies, International Institute at the University of Wisconsin-Madison.
- Uvin, Peter, and Charles Mironko, "Western and Local Approaches to Justice in Rwanda," *Global Governance*, Vol. 9, No. 2 (April-June 2003).
- Van Ness, Daniel, and Karen Strong, cited in Kerry Clamp, *Restorative Justice in Transition*, Routledge (2013).
- Waldorf, Lars, "Like Jews Waiting for Jesus," in Rosalind Shaw and Lars Waldorf (eds). *Localizing Transitional Justice: Interventions and Priorities after Mass Violence*, Stanford University Press (2010).