



Situation Report

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The Gacaca Process: Eradicating the culture of impunity in Rwanda?

Introduction

Rwanda is a country of hills, mountains, forests, lakes, laughing children, markets of busy people, drummers, dancers, artisans and craftsmen. We manage to squeeze thousands of hills and 8 million people into our 26,399 square kilometres.

Our land is rich and fertile, the climate pleasant. This has been our home for centuries. We are one people.

We speak one language.

We have one history.

In recent times though, genocide has cast a dark shadow over our lives and torn us apart. This chapter is a bitter part of our lives, but one we must remember for those we lost and for the sake of the future.

This is about our past and our future.

Our nightmares and dreams.

Our fear and hope.

Which is why we begin where we end, with the country we love.²

Eleven years have passed since as many as one million people were killed in the 1994 Rwandan genocide. During that time several initiatives aimed at bringing the perpetrators of the genocide to justice have been under way. These include the efforts of the International Criminal Tribunal for Rwanda (ICTR) headquartered in Arusha, as well as the efforts of Rwanda's own justice system. The latter began prosecuting genocide-related crimes in 1996, and it soon became apparent that the Rwandan judicial system was incapable of handling the volume of cases involved. Although new judges had been trained to augment the large number who had already resumed their functions, there were still far fewer than would be necessary to handle the caseload with any kind of expedition. At this stage, there were already more than 100,000 prisoners in Rwanda's jails accused of participating in the genocide, and many more suspects were still at large. Most prisoners had been incarcerated in the months and first few years after the genocide, but there were few with case files. Even fewer had had their cases heard. At the rate matters were going, it was estimated that it would have taken the Rwandan judicial system up to 150 years to try just these 100,000 cases.

Faced with this stark reality, the Rwandan government began to look for other ways of bringing to justice the perpetrators of the genocide. These efforts culminated in the promulgation on 26 January 2001 of the law creating the *gacaca* jurisdictions tasked with investigating and prosecuting crimes committed between 1 October 1990 and 31 December 1994.

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Implicit in the concept of eradicating the culture of impunity in Rwanda in order to eliminate the possibility of another genocide, is the fear that it may happen again. Certainly the competing needs for justice and reconciliation present a serious challenge to nation building in the post-genocide era, and raise questions surrounding the definition of 'justice' itself. Yet, if justice is perceived as one-sided, or as being influenced by the political considerations of one group, past resentments will fester and grow. Reconciliation must be inclusive in order to achieve the aim of lasting national reconciliation.

Introduction

Essentially, the *gacaca* jurisdictions are public tribunals whose organisation and functioning are based on traditional Rwandan conflict resolution mechanisms of the same name. In their original incarnation, the *gacacas* were *fora* for the resolution of minor infractions at the community level, such as the theft of cattle, or domestic disputes between husband and wife. The "head" of the *gacaca* was a well-respected member of the community whose authority was widely accepted by the population. The head of the *gacaca* was not officially elected to the position, but rather acquired it as a result of his or her reputation as a "sage".

Today, as will be discussed at length below, the *gacaca* judges are elected by the community, and not necessarily community leaders. Even young people can be elected as judges - as a result, not everyone has the same level of confidence in the judges as they might have had in the leaders of the traditional *gacacas*.³ Another key difference between the traditional *gacaca* system and the current one is that the aim of the *gacaca* was to reconcile the conflicting parties, not to punish.⁴ For the purpose of bringing to justice the perpetrators of the genocide, the *gacaca* courts have been made more sophisticated and have been given far greater powers, which include imposing prison sentences of up to 30 years.

Nonetheless, there is no doubt that the *gacaca* courts are a mechanism with which the majority of the Rwandan population, Hutu and Tutsi, remains familiar, even if they had fallen out of use over the past decades. They are also a mechanism which has traditionally had the respect of the population, and which is considered legitimate. As such, the courts are a useful mechanism for the administration of popular justice.

According to the January 2001 law, all cases that had not been referred to Rwandan courts prior to its promulgation⁵ were referred immediately to the *gacaca* tribunals. The principal exceptions were crimes classified under "category one", defined as involving the high-level organisation, implementation and supervision of the genocide. Class one crimes also include rape, which is considered to have been a deliberate instrument of terror during the genocide.

The choice of the *gacaca* system as a mechanism for popular justice evolved to a great extent out of an *ad hoc* attempt to address the problem of what are known as the *sans dossiers* or "those without files", a term used to describe prisoners for whom there were no complete case files. In 2001, the government launched a national initiative aimed at regularising each prisoner's file with the objective of accelerating the judicial process. In the course of this initiative, the attorney general for the Ruhengeri district, Jean Marie Vianney Mbarushimana concluded that in many instances there was far too little information on the accusations against the *sans dossiers*. In order to address this situation, he decided to present the prisoners to the population of the area from which the accused hailed with the aim of gathering more information about what they had been accused of doing. This initiative, which was generally hailed as a success, was later referred to as the pre-*gacaca*.⁶

The presentation of the sans dossiers revealed its importance in the discovery of the truth, one of the objectives of the gacaca, and thereby contributed to the provisional liberation of certain people who were detained without evidence

*against them, and to the continued detention of accused whose charges had been confirmed by the population*⁷.

By late 2002, a total of 8,356 people had been judged by the Rwandan courts.⁸ According to the Liprodhor (*Ligue rwandaise pour la promotion et la défense des droits de l'homme*) a Rwandan human rights organisation, the number of judgements increased annually from the start of the trials in 1997. It also seems that the severity of the judgements decreased over time; in 1997, the death sentence represented 30.8% of all judgements; this dropped to 3.6% in 2002. Concurrently, the percentage of those found guilty who were sentenced to fixed-term prison sentences increased from 27.7% in 1997 to 41.2% in 2002.⁹ During the same period, the percentage of people who were acquitted increased from 8.9% in 1997 to 27.6% in 2002. The fact that sentences decreased in severity, coupled with the overall increase in those who were acquitted suggests that the trials became less emotional and more legally rigorous as time passed. Local organisations indicate that the gradual increase in the number of trials is the result of a number of factors, including the training of magistrates, group trials and provision of assistance to the accused.¹⁰

The pilot phase

As the *gacaca* courts were launched at the national level only at the beginning of 2005, the pilot phase of the *gacaca* process remains the basis for this analysis. Consequently, the discussion to follow refers to the first laws on the process promulgated in 2001, designed to try individuals accused of committing crimes who fall into three separate categories:

- Category 2 crimes refer to those involved in deliberate injuring or killing,
- Category 3 encompasses the deliberate injuring of another person, or the act of injuring a person in order to divert the attention of authorities from the victim with a view to sparing them death;
- Category 4 encompasses damage to physical goods through looting, stealing, arson.¹¹

The *gacaca* courts were introduced in two waves during the initial 2-year pilot phase. In June 2002, the courts were launched in 12 districts throughout the country.¹² This was later extended to 106 districts in November 2002. During this phase, *gacaca* courts existed at the cell, sector, district and provincial level. The pilot phase of the courts was limited initially to the collection of information at the level of the *cellule*, the smallest municipal administrative level in Rwanda's territorial administration. The aim of this phase was to gather as much information as possible about what happened during the genocide, both to complement information about people who had already been accused and imprisoned, as well as to acquire new information not yet officially documented.

The information collection process was conducted in public during weekly general assembly meetings. People were asked to describe their experiences and could also confess at this stage. This caused a number of problems: frequently, people were too intimidated to speak openly about what they knew, and managing to get together the required quorum of 100 people at the *cellule* level was arduous and caused many delays.¹³

According to the 2001 law, the information collection process is divided into six sessions at which at least 100 people from the *cellule* must be present. During the first session, the judges explained the need for the *gacaca* courts to the general population. These initial sessions were usually very well attended.¹⁴ A general census of the population of the *cellule* was conducted during the second meeting. Again, it has been noted that these meetings were generally well attended. During the third and fourth sessions, the judges establish the list of those who were killed within the *cellule*, and of those who were killed in different places. These sessions were also generally well-attended and, in many instances,

allowed the families of the victims to learn more about the circumstances of the deaths of their family members.

The fifth assembly focused on drawing up an inventory of the physical damage done during the genocide. Finally, the sixth session focused on the establishment of lists of those accused of genocide crimes. At this stage, each participant was invited to testify about what he or she saw or heard during the genocide. During this stage, the judges also remind the general assembly that there were benefits to confessing to crimes.

Participation

Participation in the early stages of the *gacaca* pilot phases was quite high, primarily as a result of general curiosity about the process. As the sessions wore on, however, there was a gradual decline in the level of participation. Local organisations attributed this to the fact that later sessions focused on the establishment of lists of accused as well as of damaged physical goods, both of which intimidated people: "Some people were absent because they are scared of being denounced or of being invited to testify. Others remain absent due to a lack of immediate interest."¹⁵ There is the additional problem of time - for salaried employees as well as for people working in agriculture or in the informal sector, taking time off on a regular basis presents a problem, even if the government has made some provisions for this.

Election of judges

One of the first *gacaca* activities during the pilot phase was the election of nineteen *Inyangamugayo* or judges. The local population at both the *cellule* and district level elected the judges who generally represented the various socio-economic backgrounds of the inhabitants, with women constituting the overwhelming majority of those who stood for election.¹⁶ The population participated massively in the election of the judges - participation at the *cellule* level ranged from 65%-95%, at the sector and district levels, it was consistently above 95%.¹⁷

The successful applicants had to participate in six days of training aimed at helping them to understand the *gacaca* process, their role in it, as well as basic legal principles. In addition to the fact that many judges complained that they were not being compensated with a per diem for time thus spent, it was also generally agreed that the six-day training session was insufficient to allow the judges to acquire the skills they needed to effectively manage the *gacaca* process.¹⁸

In general, observers agree that the pilot phase of the *gacaca* tribunals was absolutely necessary to determine the positive and negative aspects of the process as well as what needed to be changed, streamlined or eliminated. As part of the improvement of the process, the government set up a new national body to administer the *gacaca* process. In early 2004, the DJG (*Departement des Jurisdictions Gacaca*), the government body responsible for the *gacaca* courts, was replaced by the SNJG (*Service Nationale de Jurisdiction Gacaca*). The SNJG continues to depend on the ministry of justice - the DJG constituted the Sixth chamber of the Supreme Court. However, in the interest of rendering it more efficient, it was given autonomy over its own financial and administrative management.¹⁹ It is hoped that this will also improve the SNJG's ability to oversee and assist the *gacaca* courts to function properly and efficiently.

Although this development was widely welcomed, PRI (Penal Reform International), the leading international NGO working on penal reform in Rwanda, expressed concern that the reform that led to the creation of the SNJG did not,

...strengthen the partnership which should exist between all the ministries and institutions involved in one way or another in the gacaca process. In

fact...the bill only prescribes that the SNJG must provide quarterly and annual reports on its activities and functioning of the gacaca courts to the executive (Presidency and Prime minister), legislative (Parliament) and judiciary (Minister of justice, Supreme Court and Attorney General) powers.²⁰

The Rwandan government's reluctance to open the *gacaca* process to the full range of relevant institutions is a criticism many non-government bodies continue to make. Although the *gacaca* trials are a government driven process, they draw on significant support from the NGO community, even though the government did not always necessarily desire or appreciate this.²¹ In fact, NGOs and civil society were able to participate in the discussion process during the pilot phase, but this was to a great extent a result of their persistence in lobbying the government for meetings and discussions.²²

Nonetheless, it does seem that in many instances, NGO's experiences and comments contributed to some of the key changes to the process and, more specifically, in the law regulating the *gacaca* courts. Even so, and according to some local NGOs, the relationship between the government and civil society on the question of the *gacaca* courts remains difficult. Local civil society leaders indicate that this is partly because the government does not seem to trust them.²³ This is of concern, as NGOs and civil society are often better able than government to gauge popular opinion. Moreover, they are more likely to raise awareness of the need to participate in the process for the sake of reconciliation rather than out of obligation.

The 2004 Gacaca Law: Key amendments

A number of key amendments have been made in the new *gacaca* law, which was published in June 2004. The main changes relate to the number of judges, the information collection process and the way in which crimes are classified. There has also been a key reform to the procedure for rape victims to testify. Finally, there has been a change in the scope of the crimes which are to be examined by the *gacaca* courts. The key amendments are as follows:

- The number of judges for the general assembly for the *gacaca* court of the cell, the seat for the *gacaca* court of appeal and the seat for the *gacaca* court of the sector has been reduced from 19 to nine, with five deputies.
- Information on who lived in the *cellule* at the time of the genocide, who was killed and who was responsible for the killings is now compiled by one person for every ten houses rather than in the general assembly of the cell.
- Crimes of genocide have been reclassified into three categories, reduced from four in the 2001 law. The *gacaca* courts are abilitated to try perpetrators accused of committing crimes which fall into categories 2 and 3:
 - Category 2.1. A person whose criminal acts or criminal participation place among killers or who committed acts of serious attacks against others, causing death, together with his or her accomplices;
 - Category 2.2. A person who injured or committed other acts of serious attacks with the intention to kill them, but who did not attain his or her objective, together with his or her accomplices;
 - 2.3. A person who committed or aided to commit other offences persons without the intention to kill them, together with his or her accomplices.
 - Category 3: A person who only committed offences against property. However, if the perpetrator and the victim have agreed on an amicable settlement on their own, or before the public authority or witnesses, he or she cannot be prosecuted.

Victims of rape or other acts of torture involving sexual parts are no longer

required, or allowed, to testify in public. The new law requires victims of rape or other acts of sexual violence to choose a judge from the bench of the *gacaca* court of the cellule to whom the victim then submits his or her complaint verbally or in writing. This testimony is then forwarded to the public prosecution service for further investigation. If the victim does not trust a sitting member, he or she can submit directly to the responsible organs of the public prosecution service. Rape and torture are Category 1 offences and can be prosecuted only by the Rwandan public prosecution authority.

In addition, the 2004 *gacaca* law provides for three levels of *gacaca* courts, each with different competencies, as follows:

- The ***gacaca* court of the cellule** is the lowest level. Meetings of the *gacaca* court of the cellule take place once a week. General assemblies are held every three months or when convened by the president, but only if a quorum of at least 100 members are present. The duties and abilities of the *gacaca* courts of the cellule are to: conduct the information gathering phase of the *gacaca* process, to receive confessions and guilty pleas, evidence and information, to conduct investigations into such information, and to try those accused of crimes in the third category. Defendants accused of category one are referred to the public prosecution service, those accused of category two crimes are referred to *gacaca* court of the sector.
- The ***gacaca* court of the sector** meets when a quorum of seven judges or their deputies has been reached. Meetings take place when they are convened by a member of the bench of the *gacaca* court of the sector. Time and place are communicated to the population. The duties and abilities of this court include: investigation of testimonies, receiving confessions, guilty pleas and information conducting trials of defendants accused of category two crimes, and examining appeals against judgements passed by the *gacaca* court of the cell.
- The ***gacaca* court of appeal** meets when necessary. Its duties include: investigating testimonies, examining and ruling on appeals to rulings made by the *gacaca* court of the sector.

*Penalties handed down by the gacaca courts*²⁴

Category 2 defendants who:

- Refuse to confess, plead guilty, repent and apologise or whose confession is rejected, are sentenced to 25 – 30 years in prison;
- Confess after being accused, are sentenced to between 12 and 15 years in prison, half of which is served in prison and the rest of which is commuted into community service on probation;
- Confess prior to being accused, are sentenced to between 7 and 12 years, half of which is served in custody and the remainder of which is commuted into community service on probation.

Category 3 defendants who:

- Refuse to confess are sentenced to between five and seven years, half of which is served in custody and the remainder of which is commuted into community service
- Confess after being accused, are sentenced to three to five years in prison, half of which is served in custody and the remainder of which is commuted into community service on probation.
- Confess before being accused are sentenced to one to three years in prison, half of which is served in custody and the remainder of which is commuted into community service on probation.

As indicated in the box above, community service is a key component of the penal system. It was introduced both as a means to lessen the burden on the penitentiary system by lowering the length of prison sentences, and to act as a means of compensating genocide survivors. Although survivors have not warmed to the idea, because they see anything other than a prison term as being akin to amnesty, community service could actually become one of the most successful elements of the *gacaca* process if it is properly administered. The basic idea is that perpetrators regularly participate in community service that provides tangible benefits to the community or even individuals who were affected by the crimes he or she committed. Community service could go a long way towards alleviating the disappointment caused by the absence of any other type of compensation from the state, or the person who committed the crime. For the moment the programme is not yet fully up and running, though it is expected to be operational in the near future.²⁵

Participation

Participation in the *gacaca* trials is mandatory. Once a week, inhabitants of every *cellule* have to attend a *gacaca* session. They are officially excused by the government from work on the day that the *gacaca* session is held, however it is unclear to what extent employers are willing to accept this regular absence, in particular as it might mean that the full staff of a business - who live in different parts of a city or town - is never at work simultaneously. This system also weighs heavily on rural inhabitants, the majority of whom are small-scale farmers who lose valuable time in the fields. It also weighs on the economy as a whole, as business between towns is suspended on days when *gacaca* sessions take place.²⁶

So far, participation in the *gacaca* process has been patchy. The experience of the pilot phase indicates that participation was high to begin with and then tapered off with the loss of novelty. Many people choose to stay away from the *gacaca* courts because they are either afraid of being accused or afraid of testifying. People who are called to testify in a particular trial but refuse can be punished and sent to prison for a term of three months.

*Every Rwandan citizen has to participate in the gacaca court activities. Any person who omits or refuses to testify on what her or she has seen or what he knows, as well as the one who makes a slanderous denunciation, shall be prosecuted by the Gacaca Court which makes the statement of it. He or she may incur a prison sentence from three to six months.*²⁷

The government has been engaged in a massive awareness raising campaign aimed at getting people to participate in the *gacacas*. There are large billboards throughout the country, commercials on television and radio and advertisements in newspapers explaining the *gacaca* process.²⁸ Some civil society leaders have credited this campaign with increasing participation in the *gacaca* process throughout the pilot phases and in the early stages of the national process. Several months into the campaign, government officials are frequently seen in various districts of the country trying to convince people that they must not be afraid to testify and participate actively in the *gacaca* process.

It remains to be seen to what extent the population chooses to support the *gacaca* process. As the population at the national level benefits to some extent from knowledge of what happened during the pilot phases of the *gacaca* courts, there may be less curiosity about the process and it may be more difficult to get people to participate initially. For the moment, the process at the national level remains in the information gathering stage - which involves at least six meetings of the general assembly of the *cellule*.²⁹ This phase was due to end in March, however it has been extended and is now expected to end in

late-June early-July.³⁰ Participation could drop slightly as the more difficult phases of the trials of the accused approach.

Getting to the truth

Finding out what really happened during the genocide, and establishing the truth is an integral part of the *gacaca* process. It is also considered to be a paramount element of moving towards reconciliation. This is one reason why the confession procedure must be more seriously vetted. According to PRI, “testimony provided by the accused themselves, especially for crimes as serious as crimes of genocide, are always a source of problematic information.”³¹ As noted above, although there are provisions for the verification of confessions in the new law, there are concerns that the manner in which the *gacaca* courts obtain and verify information is not as rigorous as necessary in a restorative judicial process. The rigour of verification is, of course, the key element of the success of the whole process. Not only will it determine the accuracy of the truth, but it will be the only criterion that can lend the *gacaca* process the legitimacy that it needs in order to be accepted both as a vehicle for the administration of impartial justice and for reconciliation.

Four months after the start of the *gacaca* process on a national level, there is a growing sense of fear that judicial rigour may be sacrificed in order to plough ahead with the process. This is not to say that there will be deliberate attempts by government officials to obstruct or to subvert justice. Rather there are concerns that the nature of the *gacaca* courts, in particular the amateur status of the judges coupled with the participation of the population, may not be conducive to the establishment of impartial justice.

*One of the main problems is that the concept of the presumption of innocence is no longer a reality. If the accusation took place in front of a regular court, would you be able to prove the person's participation? All Rwandans think that they can get rid of their neighbour or someone else with whom they have a personal or economic dispute, by accusing them in front of the gacaca courts, and they also think that they could be accused for the same reasons. How do you convince people that this is not necessarily the case?*³²

There are strong incentives to falsify information during the *gacaca* trials both for offensive and defensive reasons. People who have been accused may in turn accuse their accusers of having committed crimes. Others may not wish to testify to what they know because they are afraid that the person they accuse may take revenge, while people who have disputes with one another may choose to settle their differences by accusing one another of participating in genocide crimes. Liprodhor makes a similar observation of the pilot phase of the *gacaca* courts:

*...certain people maintain a negative solidarity for the protection of theirs, while others fear eventual consequences linked to the testimony they might give, such as reprisals, or loss of friendship with family and friends.*³³

There have also been incidents in which survivors have falsified information against released prisoners who have returned home:

*Many of them [survivors] believe that the released prisoners do not have a right to return home, particularly if they have not been tried, and then feelings of fear, impotence, trauma and anger are sometimes so great, that the survivors try to do everything possible to have those they consider to be a threat re-arrested.*³⁴

Although there is a provision in the 2004 law for the punishment of people who commit perjury, the question is whether or not the *gacaca* courts have the capacity to identify when a person is committing perjury. That *gacaca* meetings are open to the public does not make false testimony more likely to be disputed. Since the *gacaca* courts rely almost 100% on the testimonies of individuals, and there is rarely any physical evidence, the verification of the truth is a challenging task.

The confession procedure

The confession procedure and the associated reduction in punishment was instituted by the government in an attempt to accelerate the judicial process, and,

...to strike a balance between the demands of restorative justice and those of reconciliation....By increasing the value of confessions through reduced or milder sentencing, they could at the same time encourage establishing the truth on the genocide events and reintegration of the accused into the society.³⁵

The confession procedure is, therefore, one of the cornerstones of the judicial process in Rwanda and has been in use since before the launch of the *gacaca* process. With the changes brought about by the 2001 creation of the *gacaca* courts, which took over the judicial process for category two, three and four of the accused, and the subsequent revision of the *gacaca* law in 2004, the following rules now govern the confession procedure.

Accused whose cases are still before the public prosecution service³⁶ must confess, apologise, plead guilty or repent before an officer of the criminal investigation or before the public prosecutor. Once the confession, guilty plea, repentance or apology has been deemed to conform with the approved requirements, it is forwarded to the relevant *gacaca* court of the *cellule* where the crime was committed.³⁷ If the public prosecutor concludes that the prisoner's statement is false or does not meet the stated requirements, he sends an explanatory note to this effect to the *gacaca* court of the cell. The *gacaca* court of the *cellule* then investigates the material sent by the public prosecutor and accepts or rejects it.³⁸

In cases that are referred to the *gacaca* courts and which do not contain confessions, guilty pleas, repentances or apologies, the president of the court summons the defendants and allows them to decide whether or not they would like to make an admission of guilt or wish to maintain their innocence. If the accused chooses to confess, this is done there and then. In cases of those who maintain their innocence, the summary of the case is read and the defendants then have the opportunity to present their defence. Witnesses before or against the defendants are heard, or any other interested party, is able to testify as to what they know. The parties to the trial and all others who made statements during the trial subsequently sign their names or put their fingerprints on the statement of the hearing before it is declared closed.³⁹

While the confession procedure and associated reduction in sentencing can be a useful incentive to motivate prisoners to come clean, and thereby to accelerate the judicial process, there are a number of contradictions associated with the process.

Firstly, there is the question of the effect of the confession on the survivors. According to a source cited in a report by PRI, the confession procedure is actually contrary to traditional law in Rwanda: "confessing in front of the victims is considered an insult and aggravating circumstance as it is considered as a show of force."⁴⁰

More importantly, there is a general impression that the confessions are neither sincere, nor reflective of appropriate remorse:

...the sincerity of the confessions must be questioned. Although all of the 'confessed' inmates say that they have told the entire truth, some of them admit, especially during interviews with people from outside the process, that the reality is very different and that, for example, the forgiveness they are asking for while in prison doesn't make much sense. This forgiveness is fake and only aimed at allowing them to 'earn' temporary release....if subsequent to this temporary release, the survivors feel that the forgiveness requested is artificial and without true expression of remorse, which is often the case in their opinion, then it is easy to understand how much this could jeopardise reconciliation. ⁴¹

This poses a significant barrier to reconciliation. Studies by PRI indicate that as long as survivors do not feel that the confessions they hear and the requests for forgiveness are sincere, there can be no real reconciliation between the two parties:

...the nature of the confessions made, either in detention or before the gacaca court, is often far removed from this "sincerity", an essential condition for participating in this necessary "symbolic healing". The majority of survivors see this inadequacy in the "quality of the confessions",. They consider the confessions of inmates and released prisoners to be neither sincere nor complete and that the truth about what occurred during the genocide does not come out enough. Consequently, they hesitate to forgive. They are then confronted with very strong social and political pressure to "reconcile" with the released prisoners who ask for it...Under these circumstances, forgiveness is experienced as an obligation and, in the same way that the sincerity of the confession is questionable, the sincerity of the forgiveness accorded must also be questioned.⁴²

There is no doubt that the rewards of the confession procedure also encourage false and partial confessions. Although the criteria for a reduced sentence are that the confession be complete, inmates frequently make partial or false confessions, mostly for the more minor infractions committed.^{xxiii} In some instances, prisoners or accused also attempt to shift the blame, accusing people who are dead or in exile. In fact, the desire to get out of prison is so great that some prisoners who are not even guilty of genocide crimes have attempted to confess in order to benefit from a reduction in their sentence. Perhaps more outrageous are reports that wealthy prisoners are attempting to pay others to plead guilty, a process known as *Kugura umusozi*, or 'buying a cell'.

In this business, one who feels he wants to admit his crimes takes bribes from those who are with him and are well off whether they are imprisoned or are still out and clears them by testifying that he is the one who murdered all the people the whole group is accused of having killed.⁴⁴

NGOs working on the *gacaca* process have also mentioned incidents in which prisoners sell or barter their guilt:

Others [prisoners] confess in place of the true perpetrators in exchange for bribes, to little effect, since the true perpetrators could very well be accused in the gacaca courts outside. Some inmates confess to crimes which they have not committed in order to benefit from temporary release.⁴⁵

A final concern is that the encouragement to plead guilty penalises those prisoners who are innocent and who firmly maintain their innocence. At the

moment, prisoners who have confessed are being accorded priority at the *gacaca* trials. Given the vast number of prisoners, this severely penalises those who maintain their innocence and are forced to pay for this by waiting longer for their case to be heard.

The question you ask if you are innocent is do I confess or do I remain in prison, and when will my case be heard? These people are not given any priority and may be pushed to admitting to abhorrent crimes just to get out of prison.⁴⁶

The question of the sincerity of the confession is no different whether the accused is a prisoner or someone who is still free and has been accused during the *gacaca* process. So far, those who have confessed have primarily been people who have already been imprisoned. This is to a great extent purely the result of logistics; prisoners have had the forum to confess for several years as part of the process of temporarily freeing a certain number of prisoners. On the other hand, the *gacaca* courts have only just started the information collection procedure at the national level and the stage at which accused who are free would confess has not yet been reached. The exception is in jurisdictions which participated in the pilot phase of the *gacaca* tribunals and which have proceeded to the trial stage at which a free accused person would confess.

It therefore remains to be seen to what extent people who are free and have been accused will actually take advantage of this procedure. Those who have already been imprisoned generally stand more to gain than to lose from confessing because it will mean a reduction in their sentence. In many cases, those who have confessed have already served many years and will simply be released from prison once their confessions have been accepted by the *gacaca* court. This, however, is not always a given. Now that the process has started on a national level, it should be more difficult for those accused, whether prisoner or not, to falsify information and get away with it, as the confessions will have to be supported by corroborating evidence from participants in the *gacaca* process.

On the other hand, there is little incentive to confess for those who are guilty and still free, as they will inevitably have to go to prison if they do.

*Among the free citizens who are participating in the *gacaca* jurisdictions, with the exception of the survivors, very few are prepared to testify or confess and if they do, the crimes involved are that of pillage and not of murder: they can't see any direct advantage in pleading guilty.⁴⁷*

The question of whether to confess or not can often be a function of whether the accused feels that there is overwhelming evidence against him. There are, of course, also those who do not make selfish calculations and who choose to confess for moral reasons. According to one genocide survivor who lives in a town that has already reached the trials stage of the *gacaca* process, people have been very hesitant to speak openly about what they did during the genocide:

...freed prisoners came to testify and denounced those who have also participated. Those who have not been in prison are too scared. First they stayed quiet, the second time they gave some information, the third time they told us what happened. Now they continue to testify. Some of them were afraid, they thought that if they said what they did, they would be killed...because they see that the freed prisoners haven't been killed, the prisoners showed them that even in prison they have what they need.⁴⁸

The case of Agathe

Agathe is a genocide survivor and leader of a women's group in Save, an area close to Rwanda's southern city of Butare. Five of her six children and her husband were killed in the genocide. She explains her reaction to finding out the truth about the killings,

I was very shocked to hear what happened. They told me that every time my husband tried to shift my five-year old son whom he was carrying one from one arm to another, they would hit him with the machete. This shocked me a lot, that they could be so cruel....Before I did not know who all the killers were. Those I knew of were in prison or in exile. They told me that they took the kids to the forest and put them in a ditch. I had heard that that was what happened, but I was not sure....The person who testified [at the gacaca hearing] was a close friend of the family. He had never said a word. Then he said 'I will tell you how we killed children and your husband.' He encouraged the others to talk, people I did not know had been involved in killing....At first gacaca scared us too, but we needed to know. We cry and that helps a little bit. One sees that life goes on.⁴⁹

She also emphasises the importance of hearing the confession of the person who killed her family:

It gives you the courage to go on, because if someone does not tell you and you find out that he killed your family that is even harder than if he tells you the truth. If people are lying, this hurts you. If they tell the truth, it means that they want to support you.⁵⁰

For Agathe, the *gacaca* process has been the cathartic experience that it is intended to be. She is completely receptive to the efforts at reconciling members of the community.

I cannot get my five kids back, I cannot get people to make up for what they have done. So, we reconcile, to continue with life. What can a survivor do alone? I have a little bar and restaurant, there is life around me.

Purpose and goals of gacaca

According to the Rwandan government, the primary driving force behind the organisation of the *gacaca* courts is to eradicate the idea of impunity in Rwandan society. This is predicated on the belief that the failure to punish those responsible for recurring waves of ethnic violence since 1959 was a key factor in enabling the 1994 genocide. The logic is that had people understood in the aftermath of earlier massacres that their actions would be severely punished, they would have been more reticent to participate in subsequent violence.⁵¹ The goal, then, is to ensure that ethnic violence will never again take on the magnitude of the 1994 genocide. This implies the process of punishing past perpetrators of murder and genocide in order to instil a deterring fear of retribution in future perpetrators of similar acts. This may seem obvious, but it is worth isolating the mechanisms of eradicating impunity in order to examine how compatible they may be with a concurrent process of national and ethnic reconciliation. It is also important to realise that fear of a recurrence of genocidal acts informs the desire for retribution to a great extent.

How does reconciliation fit into this paradigm? Another stated aim of the *gacaca* process is to create a Rwandan society in which all Rwandans feel safe and respect one another. Yet the very nature of the process is a stark reminder of one group's ability to dehumanise the other. It is all the more intense because the *gacaca*

sessions are held once a week, requiring participants to recall for a full day every week the darkest period of their common history - a period during which the two groups could not have been more at odds with one another. In addition, many survivors, and the family members of victims are discovering for the first time the full story of what happened during the genocide and are, in many instances, also discovering who was involved in crimes committed against themselves or their families.⁵² In some cases the people who killed family members turn out to be close family friends who did not previously have the courage to admit their crimes.⁵³ What this means on a practical level is that people who have been co-existing relatively peacefully for the past eleven years are now cast into roles of victim and perpetrator on a weekly basis. For some survivors, this is a form of catharsis, and this is most certainly one of the aims of the *gacaca* process. However, for others, this realisation is extremely traumatic, evoking anger and frustration.

Although everyone agrees that some sort of justice must be done, there are many differing opinions about whether or not the *gacaca* courts are the way to achieve lasting reconciliation in the country. "The success of the process depends on how it is handled. It is the government's responsibility, they need to manage the process so that it leads to reconciliation. [If they do not] it could also lead to disaster," indicates the leader of a local NGO involved in raising awareness of the *gacaca* process:

The government needs to help judges to manage delicate situations. It also needs to raise awareness about the process, not heat up tempers about it. The population needs to understand that it must communicate in a non-violent way. Finally, the situation is complicated by the fact that the survivors want everyone who is guilty to go to prison. If 750,000 people⁵⁴ are found guilty, there is no way to put them all into prison....But if we say that, then the survivors will abandon the process. This problem is also linked to the fact that there is no law regulating the payment of damages to survivors.⁵⁵

Other observers agree that for the *gacaca* process to succeed, certain conditions have to be met and difficult issues addressed. "The process is very complex, one has to consider it in the current political context. It is extremely difficult. We will accompany the process and try to improve the process so that it can reach some of its stated objectives. Still, certain conditions need to be met. It could work, but there is the risk that it could actually harm the [reconciliation] process," says Jean Claude Paras, the director of Penal Reform International (PRI), an international NGO which works on prison reform in Rwanda.

One-sided justice?

The perception that the *gacaca* courts are to some extent the administration of the justice of the victors is compounded by the fact that the 2004 *gacaca* law does not address war crimes committed by the FPR in the months leading up to its capture of Kigali, or in the immediate aftermath of its victory. This is an omission which is regularly criticised by Rwandans of both ethnicities,

The first law included the right to judge war crimes. In the second law, this is suppressed; the party that escapes justice is the FPR, because the FPR did not commit crimes of genocide, but war crimes. So, they suppressed the pursuit of crimes that violate the Geneva convention because that would have opened the FPR up to accusations....This justice risks not being good justice.⁵⁶

Others indicate that this is a reason why people remain reluctant to speak.

*There are non-genocide crimes which are not being considered. This is an insufficiency in the *gacaca* law. There were crimes of vengeance, massacres, just after the genocide, this is why people are not always willing to speak.⁵⁷*

This is an issue that will certainly continue to affect the *gacaca* process. The government is aware of the problem, but discussions on the matter continue to take place behind closed doors.

Including the RPF in the gacaca process should not be a reason to hold up the process. We have to move on and attack this question later. But, if we are to eliminate impunity, we have to address that too. I don't know if the government can handle that. The government is aware of the issue and they know that it could become an obstacle. It's an open matter, not an unspeakable one.

Volume of people to be tried

Using data from the *gacaca* pilot phases, the SNJG now estimates that some 800,000 people will be accused of some level of involvement in the 1994 genocide. This is a staggering number; in its previous estimates, PRI had put the figure at about 410,000.⁵⁸ Even then, the NGO had cautioned against the impact which this would have on the wider population and Rwandan social fabric:

It can therefore be presumed that much of the population will suffer the consequences of the judgements passed, and tensions may be rekindled among the population and the various Rwandan communities. This could happen, at least to begin with, as we have observed that over time, fear diminishes and a feeling of resignation takes over. Nevertheless, this situation would be damaging in the short term for coexistence and in the long term for reconciliation.⁵⁹

In addition to this concern, there is also the problem that the Rwandan prison system simply cannot accommodate such a large number of prisoners. Until recently, the International Committee of the Red Cross had been providing regular assistance in the form of food, medicine and clothing to 50 percent of the Rwandan prison population, but they are now reducing their level of assistance, considering that it is really the state's task to look after its prisoners.⁶⁰ This represents a significantly increased burden on the Rwandan government. At the moment, there are some 90,000 people who are imprisoned in Rwanda either because they have been found guilty of genocide or because they have been charged with involvement in the genocide.

There has been some tacit acknowledgement of the prison system's inability to handle a large prison population: by early 2003, when the prison population linked to the genocide had reached 130,000, Rwandan President Paul Kagame ordered that prisoners in certain categories be provisionally released:

...within a month and in accordance with the law, the competent judicial authorities should examine the files of the prisoners who have confessed and if those confessions comply with the organic law on the gacaca courts, and any person has spent more time in prison than the period determined by the organic law, then that person should immediately be released provisionally while awaiting trial...the same measure is applied to minors between 14 and 18 years of age at the time the crimes were committed for which they are being prosecuted...All those people with the exception of the old and seriously ill will be released and will be transferred to the solidarity camps, and will then be reintegrated into society. However those who have confessed to crimes of genocide will respect the legal dispositions such as the community service programme.⁶¹

The provisional release of between 30,000 and 40,000 prisoners was welcomed by PRI because it would lead to a "reduction in the current serious overcrowding in the prisons and the bad living conditions that result."⁶²

If the prisons were already overburdened by a prison population of 130,000, it is

inconceivable that the existing penitentiary infrastructure would be able to sustain an estimated 800,000 prisoners. Contrary to expectations the Rwandan government has been shutting down prisons rather than improving existing facilities or building new ones in anticipation of the wave of new prisoners which will result from the *gacaca* trials. While four old prisons were shut down over the past three years, only one new one has been built, which is intended to house prisoners convicted by the International Criminal Tribunal for Rwanda.⁶³

NGOs involved in working for the improvement of the penitentiary system indicate that while the government is certainly aware that it lacks the physical infrastructure necessary to house such a large number of prisoners, it is quite simply ignoring the problem for the moment.⁶⁴ Government officials also try to minimise the problem by indicating that not all of those who are convicted will have to serve prison sentences:

The director of the peace building and conflict management department of the Commission for Unity and Reconciliation, Frank Kobukeye explained that it,

...is a challenge to accommodate people. We will have the travaux d'intérêt générale which will serve as an alternative form of penance, and it is likely that lots of people will do this community service. Also, there will be staggered judgements...There are 100,000 people in prison now, some of those people may get out [and create space].

In addition there is the question of actual time needed for such a process. According to PRI, if the latest official estimates are accurate, and 800,000 people will be tried by the courts, the entire process will take up to 20 years. This implies that every Rwandan will have to spend one day a week for the next twenty years attending a *gacaca* trial.

As recently as the end of July 2005, 36,000 prisoners were released following a Presidential Decree that provides for the release of suspects who have confessed their role in the genocide - including the elderly, the sick, and minors. The release is however provisional and dependent upon the outcome of proceedings at the *gacaca* courts. This once more highlights the enormous strain that the formal judicial system is currently undergoing.

Unresolved issues

Key unresolved issues include getting the population to participate in the process on a regular and sustained basis, the question of the collusion of elites in the process, the issues pertaining to war crimes, including crimes committed by the RPF (Rwandan Patriotic Front) and the structure of the judicial system. In addition, the current political context has to be considered. Rwanda remains, in practice, a one-party state which is not only heavily policed, but where political dissent is not tolerated. While the government is multi-ethnic, its leading figures are overwhelmingly Tutsi, and the government bears the strong hallmark of the RPF's original composition of refugees who fled to Uganda in 1959. Its profile is not therefore, one of inclusivity or even proportionate ethnic representation. Opposition parties, Hutu and Tutsi alike have been systematically repressed and much of the political opposition is in exile. Meanwhile, the few open critics of government that remain, as well as organisations and individuals who may be perceived as threats by the government are accused of "divisionism" at the slightest indication of dissent, where "divisionism" is loosely defined as an attempt to separate the two main ethnic groups.

There is little doubt that anyone who might choose to speak openly about the problems associated with the *gacaca* process would be accused of "divisionism". In this context of political oppression, there is therefore virtually no room for the type of debate that a national judicial process such as *gacaca* should, and is

naturally bound to, engender. This lends the process a slightly sinister and manipulative air in the perceptions of many Rwandans, and could undermine the intended reconciliatory nature of the *gacaca* process. Irene Bugingo, a researcher with the Institute for Research and Dialogue for Peace, an independent donor-funded Rwandan think-tank explains some perceptions of the *gacaca* process: “the Hutu Diaspora considers *gacaca* to be a way for the government to get revenge against the population. They see it as a sort of victor’s justice, a payback. The political opposition says that the *gacaca* process will allow neighbours or people with problems to abuse the process in order to denounce others with whom they have a dispute.”

Survivors’ attitudes to gacaca

There is a consensus among the survivors that there has to be some sort of process which will offer some form of recompense to the victims of the 1994 genocide. But there is also a level of dissatisfaction with the process. This dissatisfaction is largely the result of the fact that many survivors do not feel that the Rwandan government is punishing the perpetrators of the crimes severely enough. This sentiment has been amplified by the release of prisoners on temporary leave in January 2003. Many survivors expressed their unhappiness with this initiative. Similarly, there is a widespread impression that the confession procedure, which can reduce the prison sentence of a person by half, amounts to a *de facto* amnesty.

*...the government’s measures to incite people to confess such as offering advantages to those who confess, gives people the impression that gacaca is softening the punishments, they are not happy with this, as they see it as a hidden amnesty. This disappoints them.*⁶⁵

A matter which observers agree is intricately linked to the level of the survivors’ satisfaction with the judicial process, be it *gacaca* or the Rwandan judiciary, is the question of compensation for the survivors. Although discussions on setting up a national law on compensation for genocide victims have been continuing since 2000, the national assembly has yet to pass the law, or a related one establishing the FIND (*Fonds d’Indemnisation*), which was mooted in August 2002.⁶⁶ According to one local civil society leader, the law is now “sitting in the drawer somewhere.” It would appear that the contention on the matter of the compensation fund is quite simply related to the vast amounts of money which such a fund might have to pay, as well as to the fact that the government does not want to address the question of whether or not to compensate people who were wrongly imprisoned.⁶⁷ The director of one NGO reiterated the view that the lack of reparations could frustrate the process:

*As a judicial process, gacaca makes no sense. From a social and political perspective it is very important. Do you favour the judicial or the social process? This is a hybrid, but there can be no justice without reparations. Some punishments under gacaca are less severe than in the regular penal code. The perpetrators of the genocide are less punished than ordinary criminals. The gacaca process risks making the survivors feel like they have been abandoned by the government.*⁶⁸

*The concept of compensation was included in the 2004 draft law but was taken out before publication. There has since been extensive parliamentary debate on the matter, but the problem is that the state would have to pay in most cases as the vast majority of Rwandans - Hutu and Tutsi - are poor. According to PRI, many survivors experience this situation as a marginalisation of their group and they sometimes do not hesitate to show their anger.*⁶⁹

There are some people who go so far as to say that the government has set up the *gacaca* courts as a last resort by to appease survivors who are angry about not being compensated.⁷⁰ Whether or not this is the case, is beyond the scope of

this paper. It is clear, however, that the government finds itself in an uncomfortable position by having to keep its core constituency, the survivors of genocide, within its realm of influence but is at the same time unwilling or unable to compensate them financially. The government may also fear that if it pays genocide survivors, it will also be compelled to pay compensation to those who have been innocently imprisoned. Studies show that there is some agreement that it is not just the survivors of the genocide who should be compensated. A May 2004 study done by PRI cites the example of a meeting of the CNUR (*Commission Nationale d'Unité et de Réconciliation*) in December 2003 at which survivors and other participants agreed that the,

...creation of a compensation fund for genocide survivors must be accompanied by the creation of another fund to compensate the following: released inmates found innocent, beneficiaries of individuals deceased in prison who were innocent, beneficiaries of individuals killed after the genocide.⁷¹

Insecurity caused by the gacaca courts

There have been a number of documented cases in which people who have either made accusations, or are expected to, have been attacked or killed, have disappeared, or have had their homes destroyed. Some of these incidents have been reported in the press, amplifying the impression that witnesses, in particular genocide survivors, are easily targeted and eliminated by those they have implicated in crimes of genocide. Although the SNJG insists that this is not a widespread problem⁷², there is some evidence to suggest that concerns about security could become a deterrent to testifying in the *gacaca* courts. According to extensive data collected by the PAPG (*Projet d'appui de la Société Civile au Processus Gacaca*), a Rwandan NGO which monitors the *gacaca* process, human rights violations related to the 1994 genocide constitute a serious obstacle to achieving reconciliation in the country. PAPG also makes a number of recommendations urging the government to take urgent measures to protect witnesses and to investigate each case of intimidation, threat, attack or murder related to the *gacaca* courts.⁷³

For the moment there are no special measures in place to protect witnesses during the *gacaca* process. Existing security forces are made up of the Rwandan police and the local defense forces which are constituted of young men in each cellule and district.⁷⁴

Internal and regional consequences of gacaca

Many observers feel that because the *gacaca* process has been extended to the national level and the trials have become an everyday feature of people's lives, the dynamic in the country is changing. Previously, people were vaguely aware that the pilot phases were underway, but they were not themselves implicated in the process and were able to keep their distance. With the nationalisation of the process has come a spreading sense of fear within the Hutu population. An estimated 10,000 people⁷⁵ have already fled to neighbouring countries, and this number can be expected to increase steadily, though not necessarily dramatically, as the process continues. The area from which most people appear to have fled is Butare in the southern part of the country.

Since the *gacaca* process went national, there have been rumours that it could degenerate into Tutsi massacres of Hutu. In the southern part of the country, rumours were spreading that a Rwandan Patriotic Army (RPA) battalion that was training there ahead of its deployment to Darfur, was actually preparing to attack Hutus.⁷⁶ This may explain why most of those who fled did so from this region. Reports have ranged from this type of misunderstanding to the more extreme, the latter including reports that a "guillotine machine targeting members of the

Hutu community” was set up in Mpanga, in southern Rwanda.⁷⁷ An estimated 600 people fled as a result of this rumour. In a separate incident, the Mayor of Mugombwa district, Charles Nshimiyumukiza, told people that genocide suspects living in Burundi were clandestinely returning to Rwanda to warn people that the *gacaca* courts were being set up to kill them.⁷⁸

People in Rwanda offer an array of different opinions as to why these people would flee. Government officials downplay the matter, or accuse those who have fled of having “*l’ideologie genocidaire*”.⁷⁹

There are not very many people who are fleeing. Those who do have not understood. Wherever you go, you will be tracked. Gacaca is a reconciliation process, people need to assume their responsibilities. Most people have understood this.

The latter point in particular smacks of government propaganda. People may have understood that the process is aimed at fostering reconciliation, and many may even welcome the idea of unburdening themselves to the families of their victims, but it is a gross exaggeration to say that people are accepting of the legal consequences of their admission of guilt. The fact that only 10,000 people have fled so far is less indicative of the acceptance of the *gacaca* process than of the fact that the majority of Hutus who might be accused by the *gacaca* courts are poor rural inhabitants who do not have the means to uproot their families and relocate to a neighbouring country.

*People are just waiting [to see what will happen now]. Because of the [small] size of the country, if you flee where do you go? Everyone knows one another here. Crossing the border is expensive.*⁸⁰

In addition, current regional dynamics do not favour fleeing to neighbouring countries: Burundi is in the last stages of consolidating its peace process and preparing for local and presidential elections, while the DRC is attempting to do the same, and is already struggling with the contentious question of what to do with the existing Rwandan Hutu population living in the DRC. Tanzania is unlikely to want to add more people to its already considerable refugee population. In any case, those who do flee have no legal right to claim refugee status, as they are leaving their country of their own free will, and any country that did accept them on the grounds of their seeking political asylum would risk destroying its relationship with Rwanda. The only country that, therefore, might be willing to assist Rwandans fleeing the *gacaca* process, is Uganda.

In fact, Uganda has already made it clear that it does not intend to comply with the Rwandan government’s request to repatriate Rwandans who have recently arrived in the country. According to Richard Sezibera, Mr Kagame’s special envoy for the Great Lakes Region, the Rwandan government asked both Uganda and Burundi to refuse asylum status to Rwandans who have fled Rwanda since the national launch of the *gacaca* trials.⁸¹ Uganda has refused, however, saying that it “would be in contravention of international law for Uganda to turn away the Rwandans without ascertaining why they were running away from home.”⁸² This is an extremely delicate issue for the Rwandan government which contends that some of those who are fleeing are later being recruited by anti-Rwandan government groups. Protais Musoni, the Rwandan minister for local government indicated this, saying “we have information of some elements trickling in and out and mobilising these people.”⁸³ Rwanda has accused Uganda of allowing anti-Kagame elements to train and recruit in a refugee camp in Uganda, an accusation the Ugandan government has rejected.⁸⁴ Meanwhile, Burundi has repatriated an estimated 5,000 asylum seekers, in a bilateral pact that contravenes international law regarding refugees.⁸⁵

Conclusion

Eleven years after the genocide in Rwanda, the *gacaca* tribunals have been introduced on a national level in an attempt to accelerate the process of justice.

There is no doubt that some mechanism for justice needs to be instituted not only to ensure that such an event is never repeated, but also to ensure that genocide survivors may feel some sense of compensation and acknowledgement of their enormous loss. There is a general consensus among civil society, government, ordinary civilians and the international community that Rwanda cannot move forward unless it makes a serious attempt at addressing the recent past.

However, there is also a growing fear that the *gacaca* process may end up doing more harm than good, that it may open up old wounds as well as create new ones. There are also concerns that the nature of the process may polarize Hutus and Tutsi more than reconcile them. As one Rwandan expert on the subject put it: “the *gacacas* are an unfortunate institution. The Hutus don’t like it because it threatens them, the survivors think it is a process which gives the *genocidaires* amnesty, and the west thinks it’s too flawed.”⁸⁶

Yet, only a few months into the process at a national level, hope that the *gacacas* may yet achieve what they are intended to is far from lost. Many agree that while the *gacaca* process is not perfect, it is the best available solution, and stress that it could yet succeed if the government remains vigilant and flexible. “If we had another solution, I would not choose the *gacaca* process. But we have to do with what we have.”⁸⁷

- 1 Stephanie I. Wolters is a freelance journalist and currently writes the Economist Intelligence Unit’s DRC Quarterly Country Report. Between 2001 and 2003 Stephanie was Chief News Editor of MONUC’s Radio Okapi in the DRC. Stephanie has written extensively on the Great Lakes as a consultant to the African Security Analysis Programme at the Institute for Security Studies.
- 2 Kigali Memorial Centre, First panel of the exhibit on the Rwandan genocide.
- 3 Interview with Gloriose Bazigaga, regional director of *Pro Femme Twese Hamwe*, Kigali, April 2005.
- 4 Ibid.
- 5 The law was officially gazetted in March 2001.
- 6 Ligue Rwandaise pour la promotion et la défense des droits de l’homme (Liprodhor), *Juridictions Gacaca. Potentialités et Lacunes Révélées par les Débuts, Rapport du Centre de documentation et d’information sur les procès de génocide* (CDIPG), Kigali, July 2003, p 14.
7. Ibid, p 15.
8. Ibid, p 10.
9. Ibid, p 11.
10. Ibid, p 12.
11. Interview with Innocent Musafili, public relations and communications officer, *Service National de Juridictions Gacaca*, Kigali, April 2005.
12. Interviews with Bazigaga, Musafili, Kigali, April-May 2005.
13. Ibid.
14. Liprodhor, *Juridictions Gacaca*, p 27.
15. Ibid, p 29.
16. Ibid, p 16.
17. Ibid.
18. Interviews in Kigali, April - May 2005.
19. Penal Reform International, *From Camp to Hill, The reintegration of released prisoners*, Research Report on the Gacaca, Report IV, May 2004, p 4.
20. Ibid. PRI suggests that the SNJC should also communicate regularly with the ministries of local administration, community development and social affairs, as well as the ministry of security, youth, sports and culture, and the ministry of health, as well as the national commissions of unity and reconciliation, and human rights, and the executive secretariat of community service.
21. Interview with civil society leader, Kigali, April- May 2005.
22. Ibid.
23. Ibid.
24. Organic law No 16/2004, p 52.
25. Interviews in Kigali, April-May 2005.
26. Personal observation, Butare, Save, May 2005.
27. Organic law no 16/2004 of 19/6/2004, p 39.
28. Personal observation.
29. Liprodhor, *Juridictions Gacaca*, pp 26-28.
30. Interview with Musafili, Kigali, April-May 2005.
31. Penal Research International, *Gacaca and Reconciliation: Kibuye Case Study*, Research report on Gacaca courts, May 2004, p 12.

32. Interview with director of NGO.
33. Liprodhor, *Jurisdictions Gacacas*, p 31.
34. Penal Reform International, *From Camp to Hill*, p 55.
35. Penal Reform International, *Gacaca and Reconciliation: Kibuye Case Study*, op cit , p 18.
36. Whose cases have already been prepared by the public prosecutor prior to the institution of the *gacaca* courts.
- 37 Organic law no 16/2004 of 19/6/2004 Establishing the organization, competence and functioning of *gacaca* courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between October 1, 1990 and December 31, 1994. *Journal Officiel*, No special, 19/6/2004, p 47.
38. Ibid, p 48.
39. Ibid, p 49.
40. Ntampaka Charles, “*Rwandan gacaca, participative, repressive justice*”, RDO, 2001, in Penal Research International, *The Guilty Plea Procedure*, January 2003, p 3.
41. Penal Reform International, *Gacaca and Reconciliation*, op cit, p 19.
42. Ibid, page 12.
43. *Genocide business and bribery*, *Rwanda Newslines*, Vol. III, No. 4, April 19-26, 2005, p 5.
44. Inmates from Gisovu as cited in Penal Reform International, *Gacaca and Reconciliation*, op cit, p 12.
45. Interview with PRI team, Kigali, May 2005.
46. Penal Reform International, *The guilty plea procedure, cornerstone of the Rwandan justice system*, PRI Research on *gacaca* report, Report IV, January 2003, page 10.
47. Interview with Agathe, Save, May 2005.
48. Interview with Agathe.
49. Ibid.
50. Interviews with officials of the SNJG, Kigali, April-May 2005.
51. Interviews with survivors, Kigali, Butare, Save, May 2005.
52. Interview with Agathe, genocide survivor, Save, May 2005.
53. The official estimate of how many people will be found guilty by the *gacaca* courts is 800,000
54. Interview with civil society leader, Kigali, April, May 2005.
55. Interview with journalist, Kigali, April 2005.
56. Interview with civil society leader, Kigali, April- May 2005.
57. Penal Reform International, *From Camp to Hill*, op cit, p 8.
58. Ibid.
59. Interview with Jean Claude Paras, director, PRI, Kigali, May 2005.
60. General magistrates and Supreme Court: “Instructions concerning the implementation of the presidential communiqué of January 1st 2003 regarding the provisional release of inmates from different categories” Kigali, January 9th 2003, in Penal Reform International, *The guilty plea procedure*, op cit, p 10.
61. Ibid, page 11.
62. Interview with Paras, Kigali, May 2005.
63. Interviews with NGOs in Kigali, April - May 2005.
64. Interview with Irene Bugingo, IRDP, Kigali, April 2005.
65. Penal Reform International, *Gacaca and reconciliation*, op cit, p 21.
66. Interviews in Kigali, April - May 2005.
67. Interview with Maximilien Nshimayezu, National Coordinator for the *Projet d’appui de la société civile au processus gacaca* (PAPG), Kigali, April 2005.
68. Penal Reform International, *Gacaca and Reconciliation*, op cit.
69. Interviews in Kigali, April-May, 2005.
70. Penal Reform International, *Gacaca and reconciliation*, op cit, p 21.
71. Interview with Peter Karasira, Director of Documentation and Communication, *Service National de juridiction gacaca* (SNJG), Kigali, May 2005.
72. Ibid, page 62.
73. Interview with Karasira, Kigali, May 2005.
74. Official estimates put the total number of those who fled at about 10,000 by mid-May.
75. Interview with civil society leader, Kigali, April-May 2005.
76. Kwizera Richard, ‘*Guillotine machine*’ rumour leads to exodus, *The New Times*, April 27-28, 2005, p 5.
77. Ibid.
78. Loosely translated as “genocidal ideology”.
79. Interview with Gabriel Gabiro, Rwanda correspondent, Hirondelle News Agency, April 2005.
80. Wakabi Wairagala, *Uganda won’t stop fleeing Rwandans*, *The East African*, May 2-8, 2005, page 3.
81. Ibid.
82. Ibid.
83. Ibid.
84. Ibid.
85. Irene Bugingo, Kigali, April 2005.
86. Interview with civil society leader, Kigali, May 2005.