The Case of *Gacaca*

A Flawed Project and the Hope for Transitional Justice

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In 2000 an ambitious new process of transitional justice was launched in Rwanda as a way to adjudicate crimes related to the genocide of 1994 at a local level. It took the name *gacaca* ("justice on the grass") from the traditional village courts on which it was based and between 2006-2010, almost one million cases were heard at gacaca courts throughout the country. Each court was led by a council of elected "people of integrity " and it considered a range of crimes, from thefts to murder, connected to the genocide; it also required the participation of all residents who, using informal language, voiced accusations, defended themselves, and served as witnesses. Gacaca was ambitious not just in scope, but also in the expectation that an informal process without the mediation of the legal experts could lead to outcomes perceived as legitimate both inside and outside of Rwanda. Now, after the conclusion of gacaca, the evaluations of its success are harsh and focus on the ways it failed to adequately punish perpetrators and became a tool of increasingly authoritarian propaganda about a unified Rwanda. While the critiques are well founded, I suggest that there are promising lessons from gacaca that are being overlooked in the scholarship and can be applied to normative models of justice and citizenship.

I will argue that in its ideal conception the process of gacaca could have been a productive response to two of the biggest challenges that face scholars of transitional justice. The first is the question of how to balance the needs of punishment with the challenge of strengthening the various relationships affected by the crime—this is the tension between retributive and restorative justice— and the second is the question of how to provide a direct link

between the work done during institutions of transitional justice and the possibility for cooperation and new alliances in the period that follows**.** The paper begins by considering the trajectory of the scholarship of gacaca, then considers its identity as a hybrid institution of justice that has divergent goals, and lastly looks at the case of Joanita Mukarusunga, whose experiences during gacaca serve as a compelling example of the benefits I am advocating.

The Three Stages

Thus far there have been three moments in the scholarship about the gacaca process in Rwanda and they are consistent with a familiar arc in regards to political institutions: the conventional wisdom has moved from tentative hopefulness to skepticism to disappointment. In my schematic, the first stage refers to the time early on in the process, before the courts had been fully implemented and the strengths and drawbacks of gacaca were conceptual, the second stage is where mixed responses to its effectiveness and impact began to be pronounced, and the third and current phase is marked by sustained and extensive criticism of the process as a failed experiment. I do not deny the critiques that have motivated the third wave, nor do I want to go back to the naïve optimism of the first stage, but the ideals allowed by the innovative structure of gacaca are still useful ways of envisioning what is possible during transitional justice.

The idea of using a traditional form of conflict resolution in villages as a response to the violence of 1994 did not emerge right away.[1] Rather, the national courts and the International Criminal Tribunal for Rwanda (ICTR), held in Arusha, Tanzania, were the primary formal mechanisms of punishment, but several reasons emerged to make a revised version of gacaca a possibility.[2] First, the existing institutions were not adjudicating the offenders quickly enough; over 100,000 were arrested shortly after the genocide and were being held in jail.[3] Up to 750,000

were eventually charged once property crimes were also included and there was no way that the national courts could manage the caseload.[4] The ICTR, funded by the United Nations, was only meant for the most influential and strategic leaders of the genocide and by April of 2011, 55 cases had been completed and 20 more were awaiting trial.[5] Second, President Paul Kagame's government saw in gacaca an opportunity to shape public opinion at the local level.[6] Kagame, a former leader of the Tutsi-based RPF, knew that his legitimacy, particularly in the rest of the world, would be connected to how he led a national response to the crimes of 1994. One aspect of this leadership was his commitment to a particular narrative of the genocide that emphasized that colonial powers were to blame for inscribing the categories of Hutu, Tutsi and Twa into everyday life and making them the basis of privilege. In reaction, the new Rwanda would be free of these categories, at least at the discursive level, and this perspective was formally codified in laws banning speech that promoted "divisionism." The charge is notoriously vague and could be used as a way to silence political opposition. The UNHCR describes the divisionist legislations as the following: "The use of any speech, written statement, or action that divides people, that is likely to spark conflicts among people, or that causes an uprising which might degenerate into strife among people based on discrimination." [7] The ambiguity inherent in the legislation was interpreted to mean that all speech which referred to an ethnic identity could potentially punishable by law. [8] Lastly, implementing gacaca would be a way to show the applicability and resilience of local responses to conflict.

In the eyes of its proponents, the purposes of gacaca, as listed on the official website, were broad and multi-faceted: (1) To reveal the truth of what happened, (2) To speed up legal proceedings, (3) To eradicate the culture of impunity, (4) To build reconciliation and unity, and (5) To prove that the Rwandan society has the capacity to settle its own problems through a

system of justice based on Rwandan customary law.[9] It is clear from this list that the goals of gacaca were not purely based on retributive ideas of punishment for particular crimes, the legitimacy of the state, as well as the creation of a new political culture (although not an explicitly democratic one) was also at stake. On a logistical level, the structure of gacaca was impressive, with the country divided into 10,000 cells, each with its own gacaca court and formalized appeals process.[10] Each cell elected people of integrity, the *inyangamugayo,* 254,000 in total, to act as judges and determine guilt and punishment.[11] They were not compensated for their work. It is important to note that women were elected as well, even though they were not included in the traditional format. The gacaca courts met weekly and attendance was required; this marked a change from other large institutions of transitional justice like the Truth and Reconciliation Commission in South Africa where only a fraction of the country was directly involved. While mandatory participation has been chronicled by scholars to have been considered a burden, and the threat of fines necessary for enforcement, it is difficult to imagine extensive participation otherwise and it is the basis for my argument about the possibilities of trust.[12]

In the spirit of gacaca as a *local* institution of conflict resolution, it was designed to be an informal process where each person could act as the prosecution or defense and would represent themselves without legal counsel as intermediaries. From the beginning, the stipulation that legal counsel would not be a part of the gacaca process met with skepticism on the part of the international human rights community, notably Human Rights Watch and Amnesty International, who registered concerns that a defendant's rights to a fair trial would be compromised because of false accusations and unfounded punishments.[13] They also highlighted concerns about the impact of a lack of knowledge about the judicial system and the potential for bias. These criticisms of

gacaca later led to a debate about whether focusing on formal rights was a way to emphasize western standards of legalism rather than accepting gacaca as a Rwandan institution with its own history and norms.[14] The debate is no longer active largely because the criticisms have become so far-reaching. A charge of Western bias, even if true, can only account for small number of the concerns that have plagued the proceedings. In short, from its inception, critics feared that the multiple goals of gacaca would provide a façade for a show trial that would serve primarily to validate the political power of the RPF and the leadership of Paul Kagame. In hindsight, many of these fears have been realized.

As the process began to be implemented, first with a pilot program and then with the full roster of courts, the criticism of gacaca began to be more pronounced (this is the period I refer to as the *second stage*).[15] Legal restrictions on speech were made more explicit and the *ingando* re-education camps became a central mechanism for disseminating the official narrative.[16] These camps, mandatory for perpetrators who wanted to enter society after being in prison, as well as schoolchildren and others were a way to indoctrinate individuals into thinking about the genocide in a way that was consistent with the goals of the government. The camps facilitated enforcement of laws concerning divisionism and education in a revised version of Rwandan history. It also became clear during this period that the courts would only consider Hutu crimes against Tutsi during the genocide and not RPF crimes against Hutus and others during the civil war.[17] Hutu suffering did not fit with narratives of the colonial legacy and even positing moderate Hutus as the exception was seen as a threat to the sanctioned narrative. The highly publicized denunciation by the state of Paul Rusebegina, the hotel manager at the Hotel des Milles Collines, depicted in the film *Hotel Rwanda*, as a self-serving entrepreneur is one example of Kagame's to minimize the achievement of Hutus.[18] Adding to the criticisms were charges of

corrupt judges and insensitivity to sexual violence.[19] While this wave of scholarship may have been tentative about proclaiming a fatalistic assessment, fears were mounting that the desire to expedite the process of justice, along with Kagame's increasing control of speech in civil society, would overwhelm gacaca's goals of documenting an accurate collective history and promoting "reconciliation."[20]

The recent scholarship (the *third stage*) has become increasingly strident in its characterization of gacaca as a failed project.[21] New data on false accusations, lack of interest in attending the trials, and the perception that guilty individuals are not being punished (at all or harshly enough) because they have confessed or offered to help identify the remains have fueled the argument. Critics have also focused on how the international community granted legitimacy to the process because gacaca was branded as a local response, even though its current incarnation diverged from the traditional gacaca in significant ways.[22] Waldorf writes, "Gacaca's failings underscore the need to look past such Pan-Africanism rhetoric and distinguish clearly between 'locally driven' conflict resolution and state-imposed informalism designed to expand the state's reach into local communities."[23] To him and similar critics, gacaca is best understood as a tool for state penetration under the cover of locally-derived legitimacy. Kasaija Phillip Apuuli's characterization is further representative of the third wave of scholarship:

> The Gacaca jurisdiction, being rooted in popular tradition, profoundly compromises the principles of due process as defined in human rights and criminal law instruments. The deficiencies inherent in the process include: lack of separation between prosecutor and judge; no legal counsel; no legally reasoned verdict; strong tendency towards self-incrimination; and a strong potential for major divergence in punishment. These deficiencies have raised doubts about the mechanism and indeed the distrust of this justice, has led to many Rwandans particularly of Hutu ethnic background, to flee from it.[24]

Apuuli's language is consistent with current perspective of gacaca that see the shortcomings as so pronounced and impossible to ignore, that a discussion of its merits feels beside the point. Official restrictions against the consideration of Tutsi war crimes have catalyzed the most serious types of concern. The failure to recognize that Hutus have also suffered suggests that the gacaca process may be fomenting resentment against Tutsi authority that will increase proportionately to propaganda proclaiming Rwandan unity. While it may be premature to say that the gacaca process will lead to ethnically motivated violence, it is important to recognize this dynamic as a significant legacy of the process. The charge of divisionism continues to affect political life and the legislation was evoked in relation to Kagame's opponents during the election in 2010 once again raising the question whether Kagame was using the language of reconciliation as a way to obscure political repression and implement anti-democratic processes.[25] I suggest that the exclusion of RPF crimes, along with the restrictions on speech, might be understood with respect to Bonnie Honig's concept of the remainder in which political stability is attempted by closing off what is acceptable in terms of content and emotion within political life for the illusion of consensus.[26] Yet, this closure can only be temporary because what is excluded will inevitably return to the political realm. The form the remainder will take is uncertain, but Honig's formulation suggests that the remainder is always prefigured by structures of exclusion. The manner and means of exclusion constitute the ideas and identities that will propel their way into politics. In this case, the restrictions on what types of crimes are acceptable and the tacit categorization of all Hutus as perpetrators will not be seamlessly assimilated into the propaganda of one Rwanda, the expunged stories will somehow find their way back into political life.

Retributive v. Restorative Justice

One of the biggest challenges of transitional justice is to simultaneously create and adjudicate new norms regarding justice and political participation in the wake of a compromised legal structure. Gacaca provides a fascinating case of an institution that included both retributive and restorative elements in its implementation of new norms, a compromise that has long vexed institutions of transitional justice. Despite its flaws, the type of restorative justice practiced in gacaca has much to contribute to scholarly thinking about future approaches. Although the need for both retributive and restorative approaches during periods of transitional justice is persuasive, one approach is often used in the scholarly literature to criticize institutions that favor the other, without the possibility of synthesis. While retributive justice is primarily concerned with the punishment of the perpetrator, restorative justices takes the relationships between the perpetrator, victim, bystander, and community as a central focus. Punishment may be a part of the process of repairing relationships, but restorative justice conceives of the process of justice to be much broader than the appropriate administration of punishment. Truth commissions, which do not assign criminal punishment but emphasize testimony and documenting a collective history, are the most prominent examples of restorative justice at the national level. In the introduction to their edited volume on the subject, McLaughlin et. al write, "According to restorative justice proponents, the established social system embodies and seeks to promote a dominant, traditional, hierarchical, and ostensibly mechanistic mode of governance. Restorative justice envisages radical transformation in favour of a 'Third Way,' that is partially decentralized, informal, participatory and communitarian."[27] Gacaca emerges as a strong example of restorative justice because of its grounding in universal participation and informal language, as well as its goal of building relationships between many different subgroups within the community. Gacaca was an evocative case of restorative justice for two additional reasons. First, it responded to the assertion

by critics that restorative justice is a return to pre-modern forms of justice, *kadi* justice in Max Weber's classification, plagued by irrationality and status hierarchy.[28] Just as the restorative justice tradition as a whole emphasizes a return to the role of the community while still paying attention to the formal ideals of equality and legal protection, gacaca itself was a re-envisioning of an indigenous form of conflict resolution that neither glorifies nor disdains the role of the community. The election of the *inyangamugayo*, people of integrity, not limited by gender or age, was a challenge to entrenched hierarchies.

Secondly, gacaca demonstrated that restorative justice does not mean a complete lack of retributive punishment. While the term emerged as a critique of purely retributive views of punishment, it is not mutually exclusive from it and the local council of gacaca had the power to punish. When examining restorative and retributive justice together, it becomes clear that trade-offs are necessary because there is not one axis upon which the successful outcome will be measured. Rather, there are several ways of thinking about proportionality and the appropriateness of punishment in relationship to the possibility of greater trust between participants or attention to the needs of the victim (such as the desire for a formal burial). These decisions are made by those who have been elected by participants are embedded in the community; they understand local customs and prejudices. For those who think that impartial and strict guidelines for punishment (without plea bargains, etc.) are the most important purpose of transitional justice and should never be compromised for other ends, institutions like gacaca will never be persuasive. But for those who accept that compromises must be made when goals are as divergent as they were in the case of gacaca, a different calculation is necessary. This acceptance that institutions of transitional justice can include both approaches to justice within the process is surprisingly novel but this entails, however, the need for a different set of criteria

by which to justice the effectiveness of the process. This may be impossible in the direct aftermath of the proceedings.

Deliberative and Agonistic Conceptions

Gacaca also acts as a hybrid between two understandings of what constitutes legitimate democratic debate. The distinction between retributive and restorative justice refers to the legal orientation of the institution while that of deliberative versus agonistic democracy is concerned with the political practices of the demos. Within political theory the agonistic approach to politics is often contrasted with deliberative democratic models and the distinction stems from a debate over what types of communication are desirable within political communication, as well as the goals of this endeavor. Deliberative democrats emphasize the power of reasonable arguments and persuasion to achieve the goal of political decisions most can agree with (the mandate of consensus is a straw man when talking about deliberative politics, but works as a regulative ideal).[29] The central challenge for politics, they argue, is to arrive at a mutually beneficial and rationally justifiable decision about how to proceed despite disparate interests and in a manner that is inclusive of a wide range of participants. Procedural safeguards, such as described in Habermas's ideal speech situation, act as norms to balance inclusion with compromise. Agonistic thinkers, such as Chantal Mouffe, Bonnie Honig, William Connolly and others, have been frustrated with what seems to be lost or overlooked in this approach to politics.[30] Namely, it is the spirit of the agon, strife, and the struggle between competing interests that should make up the proper content of political debate. The dictates of reasonable argumentation within deliberative democracy suggest that all perspectives, properly formulated, are given an equal change at success. An agonistic approach would find the idea of "proper

formulation" unacceptably limiting because of the restrictions on the types of communication allowed, such as those grounded in the passions. Instead, an agonistic approach would want to excise the ideal of consensus altogether and accept that communication will include emotional, visceral, and passionate expression. Furthermore, an agonistic approach wants to draw attention to the remainders of politics and the need for direct engagement with it.

Agonistic politics, by its very presupposition, is difficult to institutionalize. It seems that any time formal mechanisms and constraints are put into place, the openness and contestation desired by proponents of agonism is lost. Easier to imagine, then, are incidents of non-institutionalized democracy: public demonstrations and protests that refuse to abide by established restrictions. In other work, I have suggested that victim testimony at truth commissions can be consistent with agonistic aspirations, provided that the commission is open and responsive to the most volatile and difficult emotions, notably anger, that have had an uneasy place in previous iterations.[31] Still, the incorporation of agonistic theory into actual practice, especially during transitional justice, is a conundrum.

Because of the nature of the criticism, the gacaca process is not an obvious choice for a discussion of agonistic politics, but I suggest that there could have been significant agonistic moments built into the process apart from the adversarial aspects of the criminal jurisprudence. These would have been moments to contest the official narrative promoted by the state through open discussion about the legacy of the genocide *and* the war crimes committed by the RPF, as well as a consideration of the ongoing effects of the categories of Hutu and Tutsi despite the rhetoric of a unified Rwanda. Such forums would also have been a space to express frustration at the lack of punishment or the fear of false accusations. These discussions would have embodied the spirit of agonistic democracy in that they would represent pluralistic and contestatory

perspectives not given attention elsewhere and central to the process of reckoning within transitional justice. More so than the other transitional justice institutions that have been established, the structure of gacaca could have allowed for an agonistic exchanges and yet, it also shows how they can be made to be tools of the state. To prevent this outcome, liberal democratic protections, such as those related to defendant rights are necessary. For agonistic ideals to be incorporated into formal institutions of transitional justice, special attention must be paid to the ways it can easily become co-opted (through censorship) or misdirected, protections of individual rights can be the countervailing force. The concerns of deliberative democrats thus do not go unheeded in the possibility of an agonistic forum; they are reminders of corruptibility and the need for liberal protections, but an agonistic framework is more appropriate for post-war political life because of the reality of conflicting accounts, the role of emotion, and its incorporation of upheaval as procedurally desirable.

Organizing this type of agonistic event at a national level is overwhelming and potentially chaotic, but at the level of gacaca it was a much more plausible undertaking. While the outcome of these discussions would not have been tied to an official decision, it should have been recorded and consulted in reference to future political actions. The concern with envisioning gacaca as this type of forum would be, as it often is in relation to potentially disruptive debate, that the agonistic atmosphere would undermine the functioning of the gacaca process by introducing subversive opinions. The agonistic component of discussion is exactly what the state may fear even as it is setting up an otherwise ambitious model of debate. This is the fear that an open airing of grievance of all types would puncture the legitimacy and make it difficult to proceed, but this is a risk that is necessary to allow the process to be participatory and inclusive of perspectives that are likely to become the remainder. In addition, the fact that gacaca

was grounded in repeated and informal interactions between citizens is an antidote to this frequent criticism of agonistic spaces. To contribute to trust, as I discuss the below, the divergences that may appear in agonistic exchanges should have the opportunity for reconsideration over time. The upheaval must have a post-script. [32] I argue that gacaca's orientation toward allowing a participatory process (moment of open debate) to contribute to the decision of the *inyangamugayo* (a closed decision) is a useful model for thinking about the institutionalization of retributive and restorative justice as well as agonistic politics.[33]

An agonistic struggle over the meaning of politics, impunity, and ethnicity was implied by several of the functions of gacaca, as articulated at its inception, but to achieve it would require a movement away from a narrow legalistic approach to the crimes and, even more emphatically, a movement away from an atmosphere of censorship. Agonistic communication requires a delicate balance— too much strife and it can become a chaotic altercation; too little and the communication is either stifled or lacking impact. Gacaca could have been a great example of this delicate balance. Gacaca as an example of agonistic politics is one that is imagined rather than grounded in the reality of the process, but it is still an important contribution to institutionalized visions of transitional justice.[34]

The Value of Informal and Face-to-face Interactions

Research has shown that "communities organized solely or primarily around concerns about crime are often short-lived" and I suggest that community involvement in crimes related to genocide would be even more likely to follow this pattern.[35] However, the possibility of building upon concern for past crimes in order to contribute to new types of relationships in everyday political life is one of the contributions of the gacaca model. The fact that the discussion at

gacaca could lead neighbors to see each other as potential allies is a significant contribution, even if it was only a rare occurrence. This connection has been hard to imagine in other types of transitional justice institutions including war crimes trials and truth commissions.

I agree with scholars who connect the development of trust to shared vulnerability and the chance to hold in one's care what someone else views as important.[36] In his introduction to an edited volume on trust, Mark E. Warren writes, "Trust involves a judgment, however implicit, to accept vulnerability to the potential ill will of others by granting them discretionary power over some good. When one trusts, one accepts some amount of risk for potential harm in exchange for the benefits of cooperation." [37] The risks to which he refers would be salient during the gacaca process, but so too would be the process of judgment and the benefits of cooperation. I suggest that this calculation between vulnerability and the benefits of cooperation is both experienced firsthand and modeled normatively through the experience of gacaca. The question of how to build trust within societies is one of the most difficult tasks faced by theorists of transnational justice. With the case of trials, it is the legitimacy of the proceedings and the commitment to "stay the hand of vengeance" as articulated by Robert Jackson at Nuremberg that is meant to inspire trust in the proceedings, but it is not concerned with the relationship between the accused and the victims, nor the interpersonal foundation for future political cooperation.[38] The primary relationship is between the accused and a formal institution and the trust that is cultivated is a type of delegated trust directed to a third party or institutions.

What the format of gacaca could have fostered, at least in a few cases, is a type of direct trust between individuals that is based on "wholly personal criteria in deciding the costs and benefits of entering a relation of trust."[39] With restorative justice more generally, the emphasis is shifted to a direct interaction between the accused and victims with the help of a mediating party

and the particular needs and emotions of the victim become part of the process. They are not asked to make their claims consistent with formal rules that may have the danger of distorting the claim itself. A victim is also able to see firsthand how the accused is choosing to defend herself and react to this in a public way. This back and forth among different actors, drawing on past experiences of negotiation and compromise becomes the foundation for trust. It is also significant that these conversations take place over the course of repeated interactions.[40] This allows trust to increase incrementally without the potential resentment of assumed solidarity or strong ties from the beginning. Repeated, informal interactions between citizens also allow individuals to use their existing skills and intuitive mechanisms for determining trustworthiness, rather than relying on an intermediary institutions such as the media. They would also be able to observe subtle changes over time, including the authenticity, or lack thereof, of confessions or pleas for forgiveness. With these types of repeated interpersonal exchanges, many outcomes are possible, including the worsening of relations. Yet, this uncertainty cannot be precluded, in order to allow for the possibility of positively transformed relationships, transitional justice institutions must take on the risk of negatively transformed ones, a possibility that becomes clear with the examination of the agonistic characteristics of gacaca above.

Even with truth commissions, such as the South African TRC, informal and face-to-face communication between citizens was impossible. Most people watched the events on TV or listened on the radio and it was not the same community in the audience week after week. Also, while the language of testimonies at the Human Rights Violations committee hearing at the TRC was informal, the necessities of translation meant that it was difficult to communicate directly to the commissioners and the audience.[41] The informal language of the proceedings at gacaca seems to have been effective in preventing them from becoming dominated by elites. The lack of

legal counsel was a consistent basis for criticism but it also ensured that the language, forms of expression, and social norms emerged from the locality itself and not from distinctions based on education or legal training. This is not to say that the power relationships within a community are not reproduced within the procedure. Of course they are, and all participants may not feel equally entitled to speak, although they have the formal right to do so. This is part of the argument for the establishment of liberal individual rights as a precondition for agonistic debate and face-to-face interactions based on equality. I still consider the conditions of gacaca to be highly conducive for direct communication and, as I will explain below, the chance for a transformation in the social roles which had been defined by the violence.

The justification for informal language brings to mind one of Jürgen Habermas' contributions to democratic theory. While the decision to forgo formal legal representation was consistent both with gacaca's identity as an indigenous process of conflict resolution and with the practical concerns about funding such a high number of criminal trials, it has resonances with his emphasis on informal language, an important strand in the literature on deliberative democracy. Habermas's defense of the value of informal language has multiple valences, as it is tied to his understanding of universal validity and the self-generating norms that emerge from a process of rational debate. Furthermore, Habermas's emphasis on the informal language of practical discourse was, in part, a response to charges that oftentimes the formal constraints of procedure and expert language fatally weaken the possibility of participation by all those affected by a political concern, a prerequisite for democratic legitimacy. However, Thomas McCarthy notes, "It is fundamental to discourse ethics that rightness claims have cognitive and not merely volitional significance. Their validity, like the validity of truth claims, is based not on de facto acceptance but on the soundness of the reasons that can be offered in support of them."[42]

With this approach of “cognitive” and not “volitional” validity, Habermas explicitly rejects a more agonistic approach to deliberation, or its correlate in Richard Rorty's idea of abnormal discourses which can be the basis for edification and new paradigms, precisely because they lack the criteria for validity.[43] However, the hybrid nature of gacaca provided a way to simultaneously activate two types of legitimacy. The agonistic forum, discussed above, would not have been concerned with the closure on the basis of a shared will that emerges from cognitively sound reasons. Its purpose would be distinct from that end. The legal validity of the trials however have greater regulation, even with the expectations of informal language and participation, but an agonistic forum would exist within broader parameters. Although it would have occurred concurrently with the agonistic forum, the decision making process of the inyangmugayo still depends on stricter rules for evidence and a culling of relevant observations and sentiments.

My interpretation of the value of informal language in the gacaca process diverges from both Habermas and Richard Rorty. Rather than being the basis for legitimate discussions or edification, it is the basis for the possibility of transformed relationships between citizens. The language of testimony is a way to interpret the event of the genocide but is also a reflection on one's role in the new polity that is emerging in the transition. The lack of restrictions on the types of speech that are acceptable allows for such a transformation to a new citizen identity.

One of the enduring critiques of testimony at truth commissions is the charge that witnesses are only heard as victims who are passive recipients worthy of pity, but not political agents who are seen as equals within political life.[44] Gacaca had the opportunity to challenge this critique because of the ways that the legal process became an extension of social and political life and allowed for a plurality of roles; the victim in one situation could also be a friend,

witness, or the accused in another. In trials, the roles of victims, perpetrators and bystanders are static. Their interaction within the institutional space is always mediated by this identity and this is part of the limited set of possible outcomes at its conclusion. While the emotions felt with regards to guilt or innocence may vary, the parameters of the decisions are already demarcated. In the context of truth commissions where amnesty is not an issue, the purpose of testimony is considerably broader and can include connections between past violence and future political participation, as well as commentary on what would be required for future trust. Yet, because of the national scale of the commission and the distance between the testimonies and actual communities, the institution cannot lead to the actual praxis of cooperative action. By cooperative action, I mean tasks or projects that arise from the discussions at gacaca. These could be personal such as helping with child care or political as related to the terms of the distribution of resources in the community. In the case I look at below, the transition to life outside gacaca occurs when the members of the community meet to unearth the remains of victims of the genocide after the end of a gacaca session.

The weekly gatherings that made up gacaca could have been more explicitly oriented to citizenship relations in the future. In an ideal version, this orientation may become salient when, for example, the proceedings revealed that many women in the village were looking for small loans to start entrepreneurial projects but they were not available. If someone in the village is either able to help directly or help arrange for a meeting with banks interested in micro-lending, a new alliance could be formed. To put it another way, although the proceedings were concerned with crimes of a particular period, the repeated interactions of participants, as well as the openness to informal communication suggests that the process could have generated an awareness of collective concerns and a chance for citizens to interact on issues other than those

that concern the punishment of crimes. Further research is necessary to assess the extent to which this was the case and the dynamic that followed.[45] Gacaca was not only about a re-creation of factual evidence, but through repeated interactions, grounded in informal language, it was also a way to allow a new political culture to emerge through the lived practices and participation of the citizenry.

In the Tall Grass

The documentary *In the Tall Grass* produced and directed by J. Coll Metcalfe in 2006 focuses on a single case heard at the gacaca court of the Mugera province. Joanita Mukarusanga, one of the few remaining Tutsis in the village, accuses her neighbor, Anastase Butera, a Hutu, of murdering her husband and three children in April of 1994. While she was later able to bury her husband, the bodies of her children had not been found. On the night in question, Joanita claims that Anastase Butera came with a group of Hutu men and asked to see her husband's identity card, which confirmed that he was Tutsi, and then killed him with a club and machete. The next day Joanita tried to run from the home with her children, but she says that Anastase Butera followed her and asked another person, Karenzi, to kill the children. Karenzi refused but Anastase Butera attacked Joanita with a machete until she fled. Then he attacked her children but she was not witness to their murders. When Anastase responds to the accusations, he admits to being at Joanita's house and asking for the identity card, as well as using a nail-studded club against Joanita's husband, but he denies using a machete or injuring him or the children to the point of death. Throughout his testimony, as they did with Joanita, audience members and members of the *inyangamugayo* ask clarifying questions.

During the next session, a neighbor comes forward and testifies that she saw Butera chasing the children in front of the house and then throwing them in a ditch nearby, at which point Joanita's daughter was dead, but the others were buried alive. [46] The witness also says that she knows where the remains are located. Butera is given the chance to respond to these charges and maintains that he did not participate in the murders. After the proceedings conclude for the day, a member of the audience suggests that they go to the site mentioned by the neighbor in order to look for the bodies of Joanita's children. This is an action taken by a group of neighbors that is not formally connected to gacaca, but emerges from the information revealed therein.

The film then shifts to a scene of a group of villagers using shovels to unearth a grove of banana trees. Butera is among them. They initially do not find the bodies, but the next morning, the children's bodies are found shallowly buried in a ditch close to Joanita's home. It is Butera who lifts out several of the remains and helps to rinse them to prepare them for the funeral, while Joanita gives him instructions. Another scene shows three small wooden caskets with the remains inside in preparation for a makeshift procession and funeral. During the funeral Joanita stands toward the back of the group, visibly shocked and exhausted; she places three wooden crosses on the graves.

Meanwhile, the *inyangamugayo* has met at a local schoolhouse and deliberated about the outcome of the case. We see footage of several members saying that they believe Joanita is telling the truth and that Butera was directly involved in the murders. The scene ends with the one person saying that the council finds Butera to be worthy of a Category One classification, that is, as a leader of the genocide. Due to the severity of the crime and the possibility for capital punishment, the adjudication of Category One crimes is outside of the jurisdiction of gacaca and happens only in national level courts. It is thus the recommendation of gacaca that he be re-

arrested and tried at the higher court. We are not shown footage of him finding out about this decision and as of April 2011, Butera had not been tried in the national courts.[47]

In interpreting this case, I want to suggest that there was a compromise between immediate retribution and restorative justice that was productive. It allowed for interactions between citizens that could contribute to a political culture of increased trust in the future. The relationship between Joanita and Anastase Butera, while not ideal, may be a realistic model for what can be achieved through institutions of transitional justice. "The only way gacaca will work is if Butera is brutally honest. That's where I stand, " Joanita says during the process, and this type of demand, alongside a desire for punishment, often motivates victims during institutions of transitional justice. They are, of course, two of the most difficult things for institutions to achieve. This case shows that the participatory and informal nature of gacaca can lead to the beginnings of trust even if these other two expectations are not fully met. While Joanita knew that finding her children's remains would bring her comfort, she could not have predicted how it would shape the way she interacted with Butera and others, as well as how she perceived gacaca. For Butera, too, it is striking to note that when he talks about receiving forgiveness or punishment in the film, he implies that he had confessed to a murder during gacaca and is worthy of mercy. This must be infuriating for all those involved because he made his case on *not* confessing, on vehemently maintain his innocence, but the sentiment may be revealing of his guilt. Butera did not want to confess to everything of which he was accused, but it seemed that he did not want to further alienate his neighbors, either. His participation in the burial, while at least partially instrumental to be sure, may also have been an opportunity for him to interact in a constructive way with Joanita Mukarusanga and his neighbors. His involvement symbolized an awareness that he will have to perform actions in order to begin to repair the relationships in this

community. With the decision of the inyangamugayo, retributive justice was deferred to the national level in this case and it is plausible to argue that there was a failure to punish and only the goals of restorative justice were served. This is not accurate; the deferral was a sign of the seriousness of the crimes and the need for punishment, if true. The threat of punishment was also necessary for the information about the case to emerge from Joanita, her neighbor, and Butera himself.

While Joanita, Anastase Butera, and her neighbor are giving testimony, it seems that their roles in the community are fixed (as victim, accused, and bystander), as they would be in a trial or a truth commission. In those institutions their interaction with each other would have been circumscribed by what they offered to the evidence allowed by the trial or by their one appearance on the witness stand at a truth commission. This assumption of fixed identities is dramatically altered in gacaca in the scene where they are looking for the remains of Joanita's children. In this situation, a direct result of the neighbor's testimony, a subgroup of the participants at gacaca have gathered for a different purpose. Their identities have been transformed, Joanita is still the mother of the victim, but she is also a fellow villager who needs help in the present. Anastase Butera is the accused, but also an ally. The presence of Anastase is initially startling and immediately raised the question of his motives. He seems insistent on helping and is at the center of the mission when the bones are found. Speaking directly to the camera, Joanita say that she hopes his involvement with lead to "a change of heart." This indicates that she continues to believe that he is responsible, and his confession would still give her some comfort. We do not get a parallel interview with him revealing how he understands his involvement.

The Beginning of Trust

At the beginning of the film, Joanita says to the interviewer that she cannot be outside her home after dark because she is afraid that Anastase Butera will kill her so as to silence her testimony. This statement brings to the foreground what is at stake in this hybrid process of justice where the process of accusing someone is informal, but the consequences may be severe, and possibly violent. This sentiment of fear continues through the film, but after the funeral for her children, Joanita says, "I was very afraid, but today not so." This statement has multiple interpretations, but it is Joanita's transformation from fear to the beginnings of trust that may be most evocative of the potential that was present in gacaca. One interpretation of her statement could be that she was haunted by not knowing where her children were buried and this uncertainty was worse than a confirmation that Anastase Butera, her neighbor, was the killer. Another interpretation is that the involvement of Anastase Butera in the unearthing of the bodies caused her to be less fearful of him, although she was still frustrated by his denial of responsibility. By participating in the collective activity of the search, Butera may have indicated a desire and willingness to engage with Joanita and the rest of the community in a new way and thus mitigated her lingering fears. A cynical reading would be that he was using his participation as a way to shed his perpetrator identity without punishment. This may be true, but if the fluidity of identity is thought to be desirable for victims, as I suggest it is, we should also consider the implications of this possibility for perpetrators. A local process such as gacaca is better positioned to consider the costs and benefits of this fluidity and this discretion could also be the source of abuse. Still, Butera's apparent role as a leader in the killings arguably make him a poor candidate for transformation but it raises the question, if punishment is unlikely or not feasible, what is the next best solution for how a community should treat perpetrators? The case of Butera

is useful for thinking about the challenges living in a peaceable way, with, at least, some of the perpetrators, whether they were released as a result of time already served or the result of a plea bargain. The feeling that perpetrators have not been adequately punished is almost always a concern for societies after mass violence, and a legitimate one, but it may also be a hindrance to political cooperation and new alliances within a community.

After the Trial

Reflecting on the process, Joanita says that she values gacaca because "We talk and then go our own ways." It is hard to tell, because of context and translation, whether she is suggesting that her involvement with her fellow villagers has been distant in the aftermath of the case. If so, this may challenge my interpretation of it as a pivotal moment in changing patterns of interaction. It may also mean that gacaca is all the more necessary as a forum for addressing issues related to the genocide that would live in silence otherwise. Joanita's comment might also suggest that this task of adjudication does not need to be all encompassing for the community for days and weeks at a time. It is important during a certain period, but a preoccupation with the case should be limited and not define all future interactions.[48]

The case presented in *In the Tall Grass* could be said to exist in tension with my arguments about the possibility of informal communication and the possibility of new alliances as it suggests some skepticism about the general applicability of the case. The lack of an agonistic exchange and the ambiguousness of the outcome are important to note. Waldorf claims that, on the whole, very little emotion was on display during gacaca and he suggests that this is consistent with narratives encouraged by the official discourse connected to gacaca and the ones that are excluded by the culture of censorship around the topic of ethnic identity. Joanita's

testimony is restrained in terms of emotion, it is mostly sadness and resignation at the devastating loss of her family that is affectively communicated. She begins to cry while describing what has happened and while describing how she feels about Anastase Butera. The tribunal and the audience do not intervene when this happens, but let her finish speaking when she is ready. Anastase Butera speaks with notes and seems somewhat anxious in his demeanor. After he says that he was present but not responsible for the killing, audience members listen attentively and ask follow-up questions about the weapon he was carrying and the precise nature of his involvement. There is a contentious back-and-forth with the inyangamugayo after they are visibly incredulous at his account. When Joanita's neighbor comes forward, she speaks without much emotion.

One could also suggest that the case featured in *In the Tall Grass* is less novel than it first appears and is in line with the strong desire for families of victims to have their remains and give a proper burial. From *Antigone* to the South African Truth and Reconciliation Commission, the desire for formal mourning has always been prominent after mass violence and this case is no exception.[49] In this way, the circumstances of the case may speak less to the possibility of new alliances than the fact that punishment has often been leveraged in order to recover the truth about how someone died and where the body is located. The movement between gacaca and the search for the bones is not as significant to a larger argument about political culture because it is the exceptional case. One might argue that the search was an extension of the trial and the cooperation that was present is directly related to Joanita's status as the victim in the trial. I agree that the desire for a proper funeral and burial is exceptional and, in many ways, is the least controversial type of demand that a victim can make. Even those who disagree on the legitimacy of the violence that led to the deaths may be sympathetic to the desire to find the remains. Still,

even though it may not represent the forward-looking political alliance I suggest is possible, it is a substantial move in that direction. The move from the formal space of the gacaca trial to the informal mission to find the remains is indicative of the substantial possibilities for new patterns of citizenship within the gacaca process.

On the Role of Legal Representation

The footage of Anastase Butera defending himself raises the hypothetical question about what the influence of legal counsel may have been. Is seems that his demeanor as well as the inconsistencies in his story about how directly he was involved led the tribunal to doubt his story. He could not provide an alternative account of the murders. The other people who were references (Karenzi, among others) have passed away or otherwise not able to participate. A formal legal defense would likely have been able to tell a more consistent story about his involvement, or, perhaps, tried to use a confession to change the terms of the punishment, if they thought a Category One classification was likely. At the conclusion of the film, we are led to believe that he will have his chance for formal representation if and when he stands trial in the national court. However, in an ironic twist, Butera may have had the winning strategy. By achieving the Category One classification, Butera was not punished at gacaca and thus far, not been tried in the national courts. Although he spent some time in jail waiting for a trial in national court, he has been released.[50]

The gacaca process was undeniably flawed in its execution and the implications of these flaws may have a profound impact on future violence in Rwanda. The process may not appear to directly contribute to future violence, but the evidence suggests greater authoritarian control over

speech and the semblance of victor's justice. Yet, the structure of gacaca is still a useful way to imagine the possibilities for greater trust and new alliances between citizens. In light of this, the scholarly community interested in gacaca should have two goals, the first is to examine the potential that existed in the process of gacaca separate from the two major criticisms of the coercive influence of the laws against divisionism and the exclusion of RPF crimes. The second goal is to investigate particular moments that were promising as a way to build interpersonal trust. The moment when Butera participated in the unearthing of the bodies of Joanita's children captures the unique contribution of gacaca as a hybrid process of justice, not purely retrospective and retributive, but also the foundation for a future political culture not beholden to old relations of power. I am not saying that these possibilities were achieved in every case, or even in most cases, I cannot judge this, and the ethnographic research suggests otherwise. Still, possibilities for incorporating agonistic concerns and fostering interpersonal trust were present in ways we have not seen before in institutions of transitional justice on this scale, and this, at least, is a reason to investigate further.

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[1] Ian Fisher, "Massacres of '94: Rwanda Seeks Justice in Villages," *The New York Times*, April 21, 1999; 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* 45, no. 2 (2001); Marc Lacey, "After the horror, truth and some healing, maybe. (Gacaca or justice on the grass in Rwanda)," *The New York Times*, June 20, 2002.
[2] Alana Erin Tiemessen, "After Arusha: Gacaca Justice in Post-Genocide Rwanda," *African Studies Quarterly* 8, no. 1 (2004); Peter and Charles Mironko Uvin, "Western and Local Approaches to Justice in Rwanda," *Global Governance* 9 (2003).
[3] Samantha Power, "Rwanda: The Two Faces of Justice," *The New York Review of Books*, January 16, 2003.
[4] PRI Penal Reform International, *Eight Years On…A Record of Gacaca Monitoring in Rwanda* (2010), 28.
[5] "Status of Cases," International Criminal Tribunal for Rwanda, http://www.unictr.org/Cases/tabid/204/Default.aspx (accessed April 8, 1994).
[6] Kenneth Roth and Allison DesForges, "Justice or Therapy?" *Boston Review* (2002).

[7] "Rwanda: Legislation governing divisionism and its impact on political parties, the media, civil society and individuals (2004 – June 2007)," The UN Refugee Agency, http://www.unhcr.org/refworld/docid/474e895a1e.html (accessed May 3, 2011).
[8] Human Rights Watch notes, ""Genocide ideology" as such was made a crime only in a law adopted in June 2008 and still awaiting the presidential signature as of this writing, but the term has been used loosely for at least five years to mean several kinds of conduct referred to in the Constitution of 2003 and made criminal in the 2003 law punishing genocide." "Law and Reality," Human Rights Watch, http://www.hrw.org/en/node/62097/section/8 (accessed May 3, 2011).
[9] "Report on Trials in Pilot Gacaca Courts," National Service of Gacaca Jurisdictions, http://www.inkiko-*Gacaca*.gov.rw/En/EnIntroduction.htm (accessed April 20, 2011).
[10] PRI Penal Reform International, *Eight Years On…A Record of Gacaca Monitoring in Rwanda*, 15.
[11] Power, "Rwanda: The Two Faces of Justice"; Allison Corey and Sandra F. Joireman, "Retributive Justice: The Gacaca Courts in Rwanda," *African Affairs* 103, no. 410 (2004). In response to the Corey and Joireman article, Scheffer defends it on the grounds that the ICTR is better equipped to address Tutsi crimes during the civil war. David Scheffer, "It Takes a Rwandan Village," *Foreign Policy* 143 (2004).
[12] One of the most passionate defenders of gacaca at the beginning was Helena Cobban. Helena Cobban, "The Legacies of Collective Violence," *Boston Review* (2002).
[13] "Human Rights Watch Report 2003: Africa: Rwanda," Human Rights Watch, http://www.hrw.org/wr2k3/africa9.html (accessed April 20, 2011).
[14] William A Schabas, "Genocide Trials and Gacaca Courts," *Journal of International Criminal Justice* 3, no. 4 (2005).
[15] Chakravarty notes that at this time, PRI (Penal Reform International) was much more optimistic about Gacaca than either Human Rights Watch or Amnesty International. PRI's 2010 report suggests subsequent disillusionment. Anuradha Chakravarty, "Gacaca Courts in Rwanda: Explaining Divisions within the Human Rights Community," *Yale Journal for International Affairs* 1, no. 2 (2006); PRI Penal Reform International, *Eight Years On…A Record of Gacaca Monitoring in Rwanda*.
[16] Chi Mgbako, "Ingando Solidarity Camps: Reconciliation and Political Indoctrination in Post-Genocide Rwanda," *Harvard Human Rights Journal* 18, no. 201 (2005).
[17] Phil Clark, "When the Killers Go Home," *Dissent* 52, no. 3 (2005).
[18] Lars Waldorf, "Remnants and Remains: Narratives of Suffering in Post-Genocide Rwanda's Gacaca Courts," in *Humanitarianism and Suffering: The Mobilization of Empathy*, ed. Richard A. Wilson and Richard D. Brown (New York: Cambridge University Press, 2009), 296.
[19]Max Rettig, "Gacaca: truth, justice, and reconciliation in postconflict Rwanda?" *African Studies Review* 51, no. 3 (2008); Moses Gahigi, "Mixed Reactions as Gacaca Courts Near Closure," *The New Times*, June 29, 2009.
[20] Luc Huyse and Mark Salter, eds., *Transitional Justice and Reconciliation after Violent Conflict: Learning from African Experiences* (Stockholm: International IDEA, 2008); Rene Lemarchand, *The Dynamics of Violence in Central Africa* (Philadephia: University of Pennsylvania, 2009).
[21] Thomson and Nagy question whether the failures of gacaca are, in many ways, inevitable because of the impossibility of weak state administering fair and comprehensive policies during the period of transitional justice. Susan Thomson and Rosemary Nagy, "Law, Power and Justice:

What Legalism Fails to Address in the Functioning of Rwanda's Gacaca Courts," *International Journal of Transitional Justice* 5 (2011).

[22] Three areas of divergence included the leadership of women, the severity of the crimes considered, and the possibility of prison as punishment. In the traditional form of gacaca, punishment would take the form of cattle or beer bought for the community by the accused. Lars Waldorf, "'Like Jews Waiting for Jesus': Posthumous Justice in Post-Genocide Rwanda," in *Localizing Transitional Justice*, ed. Rosalid Shaw and Pierre Hazan Lars Waldorf (Palo Alto: Stanford University Press, 2010).

[23] Lars Waldorf, "Remnants and Remains: Narratives of Suffering in Post-Genocide Rwanda's Gacaca Courts," 301.

[24] Kasaija Phillip Apuuli, "Procedural due process and the prosecution of genocide suspects in Rwanda " *Journal of Genocide Research* 11, no. 1 (2009).

[25] Jeffrey Gettleman and Josh Kron, "Doubts Rise as Rwandan Election is Held," *The New York Times*, August 8, 2010.

[26] Bonnie Honig, *Political Theory and the Displacement of Politics* (Ithaca, NY: Cornell University Press, 1993).

[27] Eugene McLaughlin et al., "Introduction: Justice in the Round," in *Restorative Justice: Critical Issue*, ed. Eugene McLaughlin, et al. (London: Sage Publications, 2003), 2.

[28] Max Weber, "Bureaucracy," in *From Max Weber: Essays in Sociology*, ed. H.H. Gerth and C. Wright Mills (New York Oxford University Press, 1946), 221.

[29] Amy Gutmann and Dennis Thompson, *Why Deliberative Democracy?* (Princeton: Princeton University Press, 2004).

[30] Agonistic critiques of identity and power come together in this quote by Chantal Mouffe: "An 'agonistic' approach acknowledges the real nature of its frontiers and the forms of exclusion that they entail, instead of trying to disguise them under the veil of rationality or morality. Coming to terms with the hegemonic nature of social relations and identities, it can contribute to subverting the ever-present temptation existing in democratic societies to naturalize its frontiers and essentialize its identities." Chantal Mouffe, *The Democratic Paradox* (London: Verso, 2000), 105.

[31] Citation withheld for blind review.

[32] Bruce Ackerman and James S. Fishkin, *Deliberation Day* (New Haven: Yale University Press, 2005).

[33] Dryzek and Schapp also emphasize the need for multiple space during periods of transitional justice so that different goals can be emphasized. Andrew Schaap, "Agonism in Divided Societies," *Philosophy & Social Criticism* 32, no. 3 (2006); John Dyrzek, "Deliberative Democracy in Divided Societies: Alternatives to Agonism and Analgesia," *Political Theory* 33, no. 2 (2005).

[34] My position is similar to Schaap in that I take the possibility of transformation from the deliberative approach, but value the process by which norms are debated and constituted through agonistic exchanges. Schaap, "Agonism in Divided Societies."

[35] Adam Crawford and Todd R. Clear, "Community Justice: Transforming Communities through Restorative Justice?" in *Restorative Justice: Critical Issues*, ed. Eugene McLaughlin, et al. (London: Sage Publications, 2003), 225.

[36] Annette Baier, "Trust and Antitrust," *Ethics* 96 (1986).

[37] *Democracy and Trust*, ed. Mark E. Warren (Cambridge, UK: Cambridge University Press, 1999), 1.
[38] Gary Jonathan Bass, *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals* (Princeton, NJ: Princeton University Press, 2000).
[39] I take this distinction from Patterson. Orlando Patterson, "Liberty against the democratic state: on the historical and contemporary sources of American distrust," in *Democracy and Trust*, 155.
[40] Pickering has argued that repeated interactions grounded in initially weak ties, such as those of co-workers, may be the best way to foster "cross-ethnic cooperative relationships." Paula M. Pickering, "Generating social capital for bridging ethnic divisions in the Balkans: Case studies of two Bosniak cities," *Ethnic and Racial Studies* 29, no. 1 (2006).
[41] Catherine M. Cole, *Performing South Africa's Truth Commission: Stages of Transition* (Bloomington: Indiana University Press, 2010).
[42] Thomas McCarthy, "Practical Discourse: On the Relation of Morality to Politics," in *Habermas and the Public Sphere*, ed. Craig Calhoun (Cambridge, MA: The MIT Press, 1992), 57.
[43] Jürgen Habermas, *Moral Consciousness and Communicative Action* (Boston, MA: The MIT Press, 1990), 13.
[44] For a philosophical treatment of this idea, see Wendy Brown, "Wounded Attachments," *Political Theory* 21, no. 3 (1993).
[45]My argument is similar to the one made by Aneta Wierzynska where she argues, using Robert Dahl's standards of participation and contestation, that gacaca can still be a tool for consolidating democratic practice, even if it fails on expectations of retributive justice or "reconciliation." Aneta Wierzynska, "Consolidating Democracy Through Transitional Justice: Rwanda's Gacaca Courts," *New York University Law Review* 79 (2004).
[46] In response to my inquiry about this, J. Coll Metcalfe said that Joanita and her neighbor had likely not talked about it before because there was a silence surrounding the genocide in this predominantly Hutu village. Email correspondence with J. Coll Metcalfe, filmmaker, April 15, 2011.
[47] Email correspondence with J. Coll Metcalfe, April 13, 2011.
[48] The creation and political involvement of Ibuka, a group for survivors, can be considered another contribution of gacaca to a transformed political culture. Victims groups are not new, in fact they have been instrumental in past institutions of transitional justice just as Las Madres in Argentina and Khulamani in South Africa. Still, the centrality of Ibuka to public discussions of gacaca makes them an exceptional case. They have been instrumental in documenting the deaths, registering complaints and challenging the state-sponsored narratives about gacaca. One way they have done so is through investigations into the judges, both at the international tribunal as well as in the local gacaca courts. At the ICTR, they revealed that one judge had connections to Hutu violence and at the local level, they identified eight justices in the Rusizi district who were accused of taking bribes in return for a not-guilty verdict. The fact the story ran in the New Times, a paper closely tied to the ideology of the state and vested in portraying gacaca in a positive light, speaks to the significance of Ibuka's efforts. Timothy Longman and Theoneste Rutagengwa, "Memory, Identity, and Community in Rwanda," in *My Neighbor, My Enemy*, ed. Eric Stover and Harvey M. Weinstein (Cambridge, UK: Cambridge University Press, 2004); Eric

Stover, *The Witnesses: War Crimes and the Promise of Justice in the The Hague* (Philadelphia: University of Pennsylvania Press, 2005).

[49] See Judith Butler, *Precarious Life: The Powers of Mourning and Violence* (London: Verso, 2004); Mark Sanders, *Ambiguities of Witnessing: Law and Literature in the Time of a Truth Commission* (Stanford: Stanford University Press, 2007).

[50] Email correspondence with J. Coll Metcalfe, April 13, 2011.