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### Analyzing the Social Impact of Gacaca Courts in the Reconciliation Process in Rwanda

Mary Thibodeau  
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**Analyzing the Social Impact of Gacaca Courts in the Reconciliation Process in Rwanda**  
SIT Rwanda & Uganda: Post-Genocide Restoration, Development & Peace Building- Fall 2020

Mary Thibodeau

December 2020

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## **Abstract**

Restorative justice is often misunderstood by Western academia in the context of community-based justice systems in African nations. The Gacaca courts used in Rwanda after the 1994 genocide against the Tutsi are frequently criticized for their procedures and outcomes. However, a majority of these criticisms come from Western authors without having engaged in conversations with Rwandans and observing the effects of the trials within the nation. The only people who know and understand the impact of the Gacaca courts are Rwandans. I have been researching how the Gacaca trials contributed to homegrown solutions and their impact within communities in Rwanda and allowing for reconciliation. There is little research beyond the planning period and start of the Gacaca trials to follow-up and see whether they were successful or lessons to learn from them.

Discussions with Rwandan citizens expanded beyond research capable within literature, showing the emotions and feelings of those who participated in the Gacaca courts. Only through conversations with real participants can one begin to understand its impacts within the community and the nation, without real conversations it is hard to prove the viability of a critique without these perspectives. Through a variety of data collection techniques, I have discovered more about reconciliation, at both a personal and national level, about the Rwandans faith in the fairness and justice dispensed by the Gacaca courts, and the positive impacts in healing made within communities and the nation as a result of the courts.

**List of Abbreviations**

AU = African Union

CNLG = National Commission for the Fight Against Genocide

HRW = Human Rights Watch

ICTR = International Criminal Tribunal of Rwanda

NURC = National Unity and Reconciliation Commission

SIT = School for International Training

TIG: Travaux d'Intérêt Général

UNAMIR = United Nations Mission in Rwanda

UN = United Nations

## **Chapter 1: Introduction and Background of the Study**

### **1.1 Background**

In April 1994, the Hutu government executed the genocide of over 1.2 million Tutsi. Post-genocide, jails were overfilled and the government had to find a faster way to have trials for the people and begin reconciliation. The International Criminal Tribunal for Rwanda (ICTR) could only try the higher-ups and planners of the genocide. The new government decided to reinstate the historical use of the Gacaca courts for community-based justice to be served and for the thousands of suspected perpetrators awaiting trial to have their cases sooner. Before the Gacaca courts were held, there was a period of data collection for witnesses and crimes committed, as well as training in communities on how the courts would run and for those who were voted judges to learn the job. Courts were split three levels: the cell, sector, and appeals levels for the establishment of 12,103 courts throughout Rwanda (National Service of Gacaca Courts, 2012).

A total of 1,958,634 cases were tried in Gacaca courts throughout Rwanda when President Paul Kagame called for the end of the courts. Trials were conducted by a panel of judges in front of all those in the community with the ability to attend. Suspects would go to the middle of the court to plead their case and for witnesses to come forth. If perpetrators gave the full-truth and themselves to the court, then they would receive a reduced punishment. Depending on their crimes they may not be sent to jail, but to the TIG program, community-service, or a mix of jail and TIG.

Western studies focus on the validity of the trials, leaving little known on the impact that they had/ whether they worked well in the context of Rwanda. This research aims to better understand the social impact the Gacaca courts had within the reconciliation efforts in Rwanda through personal discussions with a variety of participants roles in the trials.

## 1.2 Statement of the Problem

When researching the 1994 genocide against the Tutsi in Rwanda, the Gacaca courts will appear, though lacking in information of its successes and challenges faced. A majority of research found is from the beginning of the trials from Western researchers, debating the validity of the justice being served. The only people who know and understand the impact of the Gacaca courts are Rwandans. There is little to no research beyond the beginning of the Gacaca trials to follow-up and see whether they were successful or not. The reconciliation process in Rwanda has similarly experienced a lack in research and understanding in the international community.

## 1.3 Objective of the Study

Main Objective:

- To identify the role of the Gacaca courts in bringing reconciliation between perpetrators and survivors.

Specific Objective(s):

- To establish the different perspectives of justice from the perpetrators and survivors in relation to Gacaca courts.
- To analyze the impact of the Gacaca courts in the reconciliation process.

## 1.4 Scope of the Paper

This research project took place between November 16<sup>th</sup> and December 16<sup>th</sup> of 2020 in Kigali and surrounding districts. Interviews with Rwandan citizens were conducted in Kinyarwanda, requiring the use of a translator by the researcher. The translator was briefed on the study and used for all interviews throughout the research to allow for consistency in

translation. In planning sessions with the research director, the following categories of perspectives were used for planning interviews: survivors, perpetrators, rescuers, and judges. Variety in gender was also considered in the choice of interviews.

Within the realm of international relations, the study focuses on restorative justice in analyzing the social impacts of the Gacaca courts. The study covers the period of the Gacaca courts and personal accounts from the time period, as well as the period after the trials for observations of the courts impacts on daily life. Overall, the study covers the period from approximately 2005 to the present.

## **Chapter 2: Research Methodology**

### **2.1 Data Collection Techniques**

This research followed the methods of qualitative research through semi-structured interviews. Previous to the data collection, a literature review was conducted between September and early November of 2020. Interviews were planned within 4 categories of involvement in the genocide: survivors, perpetrators, rescuers and judges. Interviews within these 4 categories were planned through contacts from the Academic Director, Celine Mukamurenzi. Interviews with professors and organizations were planned by the researcher from contacts found by the researcher and aided by Mukamurenzi. Interviews were conducted at SIT when interviewees had access to transportation into Kigali. The interviewer and translator also conducted interviews outside of Kigali in the Eastern districts of Rwanda when interviewees had limited access to transportation. Interviews were conducted privately and individually, with the exception of one focus group held among female survivors.

### **2.2 Ethical Considerations**

One of the major considerations of this study is the risk of resurfacing trauma. The questions and topic are heavy for the entire community of Rwanda and may bring up psychological trauma endured due to the genocide. Before the scheduling of interviews, all interviewees were briefed on the content of the interview and ensured that they will be respected with their answers throughout the entire process. Every participant will be given full autonomy in ending an interview at the participants request with no negative consequences to the participant. In addition to consideration of trauma, every participant in the study will be given confidentiality. To ensure confidentiality, participants will be referred to in the research by their gender, role in genocide, and a number to distinguish them from others similarly interviewed: FS1= Female, Survivor, #1. Mt1= Male, Ex-Tigist, #1, FR1= Female, Rescuer, #1. MJ1= Male, Judge, #1. At publishing, no

names will be included in the research, unless the participant explicitly gives consent for their name to be included. However, no survivors, perpetrators, judges or rescuers will have this option; to ensure equity all will be made anonymous. Government workers, aid workers, professors, etc. will have the option of providing for their consent of the citation of their name within the research.

Another major consideration is the current international pandemic of COVID-19. All interviews have followed the directions and precautions set out by the Rwandan government. Physical distance was ensured and followed during all interviews between the interviewer, translator, and interviewee. Additionally, masks were required to be worn during all interviews, with the allowance of occasionally lowering when speaking to allow for understanding.

### **2.3 Limitation of Study**

There are several limitations to this study that must be accounted for in the consideration of the research. One consideration is the limited time given for the study, with 3 weeks to conduct interviews and a final week for completing writing and analysis. With time constraints included travel outside of Kigali throughout Rwanda was limited for a variety of interviews. Interviews were restricted to Kigali and minimal travel to an Eastern district outside of Kigali. With having interviews with older Rwandan citizens who experienced the genocide, all interviews were conducted in Kinyarwanda. As the interviewer doesn't speak Kinyarwanda, the use of a translator was necessary. While translation allows for the possibility of interviews with non-English speakers, meanings are still lost in translation, especially in consideration of Kinyarwanda proverbs. Additional limitations were faced in gaining interviews with a variety of genders and categories of interviewees due to time and access to willing participants. These gender imbalances were considered and extra care taken to extend interview invitations to as many varying citizens of gender and participation as possible.

Another limitation of the study is the status of the researcher as a white female from America who stands out as an outsider. In certain situations, being female allows for the other female survivors and perpetrators to feel more comfortable in speaking with another female. However, it can also make certain men withhold from exposing all of their stories and their need of healing to show masculinity. Additionally, as an outsider certain assumptions are made about the researcher in what they can achieve internationally with this research. In many interviews, participants asked for the researcher to be an “ambassador” for Rwanda internationally and to spread the truth of what is happening in Rwanda. Another aspect of being an outsider, some interviewees may feel uncomfortable showing the negatives of their country in wanting to show the most positive version of Rwanda.

## Chapter 3: Literature Review

### 3.1 Gacaca in Rwanda

Months after the genocide of the Tutsi in 1994, the jails within Rwanda were filling with suspected perpetrators of the genocide, and their conventional court system didn't have the time or capacity to keep up with the cases. Instead of slowly working through the cases, which would've taken decades of suspects waiting in overfilled jails, the Rwandan government set up community-based trials known as Gacacas. They would be run by local judges and involve heavy participation within the community to aid the reconciliation process within the nation. "One of the government's aims in encouraging community participation was to make ordinary Rwandans the main actors in the process of dispensing justice and fostering reconciliation" (HRW, 2011). After establishing laws as to how the trials would run, in 2002 the Gacaca's began. The first trial didn't begin until 2005, seemingly to end the trials in 2007, though extending until 2010 with a government declaration that the last trial had been completed.

### 3.2 Restorative Justice Within Gacaca

There are numerous speculations as to whether the Gacaca trials were beneficial to the reconstruction and reconciliation of Rwanda. A significant portion of the literature surrounding the Gacaca were published before or during the trials. Mark Drumbl in *Restorative Justice and Collective Responsibility: Lessons for and from the Rwandan Genocide* from 2002 discusses the positives and negatives of the implementation of the Gacaca trials and critiques the various possible outcomes. "A contextual, socio-legal approach to Rwanda post genocide may in fact suggest that Gacaca might be more successful in attaining the goals of building justice, a shared sense of citizenship, reconciliation, and reconstruction than are either the national or domestic trials" (Drumbl, 2002). Drumbl focuses on the legal arguments of the Gacaca trials and other

restorative projects the Rwandan government had invested in until 2002 and argues that the impact of such projects may not be successful. He concludes that a more diversified approach is necessary for the case of Rwanda to achieve impact restorative justice.

While Drumbl completed his analysis at the beginning of the trials, Clark Philip conducted his research in 2010 at the closing of the trials. Philip in his book, *The Gacaca Courts, Post-Genocide Justice and Reconciliation in Rwanda: Justice Without Lawyers*, conducts a wide overview of research into the various impacts and opinions on the Gacaca courts. In Chapter 8, “LAW, ORDER AND RESTORATION: PEACE AND JUSTICE THROUGH GACACA”, Phil goes into the varying views on the impacts of the genocide. Looking into restorative justice, the Gacaca courts focused on allowing for the future coexistence of communities in Rwanda with perpetrators and survivors. The government of Rwanda as Philip describes, see that Gacaca courts “will be the ‘stabilising’ of Rwandan society and ensuring citizens’ security by teaching them how to resolve their conflicts peacefully” (Philip, 2010). Though it may have been through forceful negative peace, the simple avoidance of violence, there is hope that the Gacaca courts will lead to long-term goals of peaceful unity amongst Rwandans.

Philip takes an in-depth approach to his research on the Gacaca trials, not looking only at the information available from Western critics and media, but including the views of Rwandan citizens and the Rwandan government. The view of the people on Gacaca trials is split amongst the perpetrators and the survivors. Perpetrators, as Philip’s describes, see the trials as the most basic level of “peace” and if they confess and ask for forgiveness, they will be allowed for an easier transition back into their communities. However, there is still fear of further reparations and altercations that will arise once they attempt to reenter the community. Survivors also continue to live with fear, however in that there may be further conflict against them as perpetrators move

back in amongst them. While this fear is present, survivors still argue that the Gacaca trials have been critical steps in moving the country forward and creating conversations that allow for reconciliation and healing. Similar to Drumbl, Philip's discusses the overwhelming negative reviews on Gacaca courts from commentators as they don't believe in the success in peacebuilding that will result from the Gacaca trials and believe that they will further instigate fights amongst the participants (Philip, 2010).

### **3.3 Early Knowledge and Criticisms of Gacaca Courts**

In 2003, Dr.'s Peter Uvin and Charles Mironko published "Western and Local Approaches to Justice in Rwanda" looking into the three major judicial systems handling the Rwandan criminal cases after the genocide. After discussing the UN's work with the ICTR cases, they dig into the corruption and decimation of the Rwandan national courts post-genocide leading to the creation of the Gacaca. Dr. Mironko visited Rwanda near the beginning of the trials and spoke with suspected perpetrators in jails who expressed how they were looking forward to the Gacaca courts to tell who else was involved and ensure everyone is punished, or to prove their innocence (Uvin, Mironko; 227). The article asks discusses the many criticisms of the courts and fears felt by Rwandans and the international community, however still with great anticipation for the success of the courts.

Dr. Felix Mukwiza Ndahinda, whose article *Revisiting the Legal, Socio-Political Foundations and (Western) Criticisms of Gacaca Courts* published at the end of the trials, argues that the making of predictions during and soon after the end of the trials on the impact that they will have within the Rwandan community are inappropriate and often uninformed. Dr. Ndahinda articulates the numerous social and judicial factors within the Gacaca courts, and examines the criticisms of Western academics. Western criticisms focus on judging the Gacaca courts against

the Western understanding of criminal justice and lacks the cultural and situational understanding of the genocide. As has been articulated by many of our authors, “Such criticism nonetheless fails to prescribe viable alternatives that would be acceptable to perpetrators, survivors and the Rwandan society in general” (Ndahinda, 2010). In a great amount of the literature reviewed, Western critics of the Gacaca courts are quick to impose their neo-liberal judgements without proposals of alternatives forms of justice.

Critic Max Rettig breaks this pattern of criticisms however. In his article, *Gacaca: Truth, Justice, and Reconciliation in Postconflict Rwanda?* from 2008, Rettig criticizes the Gacaca courts due to their inability to mitigate personal revenge and lies. Rettig, arguing the faults of the trials, recognizes their speed and ability in trials as a solution to the overcrowding of jails. In his conclusion, Rettig breaks pattern of Western critics and provides possible solutions and recommendations for reforms to the trials to improve their rate of finding the truth. In these solutions however, Rettig harshly criticizes the RPA government in their trials of rogue RPA soldiers’ crimes (Rettig, 2008).

While the literature focused on the Rwandan genocide against the Tutsi’s has been dominated by Western academia, a majority of the research was published at the precipice of the trials and little follow-up on criticisms having seen the outcomes. Few critics take the time to offer solutions/ recommendations to their criticisms, additionally lacking to recognize their and their countries role in the genocide. There are many authors, as demonstrated above, defending the Gacaca courts and providing more insights into the argument in favor of Gacaca. Additional research is necessary within the field of development and reconciliation to review the impact of the Gacaca courts and the role of homegrown solutions.

## Chapter 4: Analysis and Interpretation of Data

### 4.1 Introduction

The following chapter will be analyzing the results found from interviews conducted and documents found throughout the research period. Within this introduction I will provide base information on the Gacaca courts, demographic information on interviewees, and the organization of the analysis below.

#### 4.1.1 Gacaca Courts

The Gacaca courts are a traditional Rwandan judicial system, dating back to pre-colonial Rwanda, which rely on community participation and prosecution by community-elected judges. With the high-rate of imprisonment post-genocide of perceived perpetrators, the national courts couldn't handle the number of cases. The government of Rwanda established the "Organic Law n° 40/2000 of January 2001 governing the creation of Gacaca Courts and organizing the prosecution of Genocide crimes and other crimes against humanity committed between the October 1st 1990 and the December 31st 1994" (National Service of Gacaca Courts, 2012). According to Organic Law of 1996, genocide suspects were split into three categories. The following chart explains the categorizations with information quoted and summarized by the report on Gacaca Courts from the National Service of Gacaca Courts in 2012:

**Figure 4.1**

| Category: | First   | Second   | Third  | Fourth  |
|-----------|---|--|--|---|
| Crime:    | 1 "Any person who committed or was an accomplice in the commission of an offence that puts him or her in the category of planners | 1 "A notorious murderer who distinguished himself or herself in his or her location or wherever he or she passed due to zeal | 1 "Those who committed other serious violence to individuals". | 2 Any person who committed an offence related to property |

|  |   |  |  |  |
|--|---|--|--|--|
|  | <p>or organizers of the genocide or crimes against humanity”</p> <p>2 Any person who was at a national leadership level and committed crimes or incited crimes against humanity</p> <p>3 “Any person who committed the offence of rape or sexual torture together with his or her accomplice”</p> | <p>and cruelty employed, together with his or her accomplice”</p> <p>2 “Any person who tortured another even though such torture did not result in death”.</p> <p>3 “Any person who committed or aided another to commit an offence against another without intention to kill”</p> |  |  |
|--|---|--|--|--|

The Gacaca courts were established with the expected result “that the discovery of the truth through the admission of guilt begins a process of reconciliation between survivors and those convicted, who agreed to tell everything they did and benefited from Gacaca courts sessions to ask for forgiveness from their victims” (Rutayisire, 2012).

#### *4.1.2 Demographic Information of Interviewees*

A majority of the research relied on personal interviews and focus groups with members of the Rwandan community who had participated in the Gacaca courts. One focus group with 5 female survivors was conducted at the SIT headquarters, as well as 5 one-on-one interviews with perpetrators at SIT. Another 10 one-on-one interviews with judges, rescuers, survivors, and perpetrators were conducted in one of the Eastern districts outside of Kigali. In addition, interviews were conducted with professors and members of organizations in-person and virtually to gain Rwandan academic perspectives on the impacts of the Gacaca courts. Some of the professors and members representing their organizations also directly participated in the Gacaca courts.

<sup>1</sup>Figure 4.2

| Role in Gacaca Courts | Survivor (S) | Perpetrator/<br>Ex-Tigist (T) | Judge (J) | Rescuer (R) |
|-----------------------|--------------|-------------------------------|-----------|-------------|
| Male (M)              | 2            | 5                             | 2         | 2           |
| Female (F)            | 4            | 2                             | 3         | 0           |

For all interviews with the 20 Rwandan an identical set of questions was asked. The list of questions is included in the Appendix. Interviews with professors and organization representatives were asked modified questions to gain information based on their expertise.

#### *4.1.3 Organization of Analysis*

The following parts of the chapter will contain the analysis of the research. The analysis will be organized by themes with definitions of terms and discussions with interviewees. First, I will define reconciliation from answers given by interviewees to set how it will be used in the following parts of the analysis. Next, I will be analyzing the interviewees views on the fairness of the trials and role of justice within the courts. Lastly, I will discuss the impacts of the Gacaca courts on social reconciliation and views of Rwanda's ability to ascertain full reconciliation.

## **4.2 Defining Reconciliation**

After preliminary questions about the Gacaca courts during interviews, I asked each interviewee to define what reconciliation means to them. It is significant to understand the definition that each interviewee is using when referring to reconciliation in their answers towards its role in the courts. Interviews with the 20 Rwandan citizens that had participated in Gacaca gave definitions placing reconciliation on the personal and community level. In contrast, the professors

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<sup>1</sup> Judges of Gacaca courts are also survivors, however position as judge in courts differs than witnessing as a survivor.

and organizations members described reconciliation at the national level. Below each level of reconciliation will be defined.

#### *4.2.1 Personal/ Communal Reconciliation*

Few distinctions can be made between the definitions of reconciliation from the survivors, perpetrators, rescuers or judges. To these interviewees, reconciliation is when perpetrators come together with their victims, explain everything that they did, and ask for forgiveness. When the forgiveness is accepted by the victim, there is reconciliation between the two. During the focus group with the female survivors, they described that if they had been asked forgiveness and didn't accept it then it would be their hearts that weren't free. The asking of forgiveness must always be initiated by the perpetrator in approaching their victim, there is no responsibility on the victim to search out the perpetrator. If the perpetrator doesn't tell the full truth of what happened or ask for forgiveness, then there cannot be reconciliation. Truth-telling is significant to the process of reconciliation and healing for survivors; for them to know what happened to their families and where they were buried so that they can find them and give their deceased proper burials. Without this space for truth and mourning, survivors have issues reconciling what happened to them and their families in the genocide. This definition outlined by the interviewees relies on inter-personal communication fostered privately or in the community, as what occurred during the Gacaca courts.

A few of the interviewees gave differing definitions of reconciliation that are worth noting. One of the male perpetrators gave a definition similar to above, however adding that the two groups should be able to come together to have fun and "talk like before the genocide"<sup>2</sup>(MT1). This is an interesting comment considering the severe ethnic tensions that existed for decades leading up to

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<sup>2</sup> All quotes from the 20 Rwandan citizens who participated in the Gacaca courts have been translated into English

the genocide. It is curious what is meant by this and what their experience was before the genocide with their Tutsi neighbors. One female perpetrator didn't mention the reconnecting with survivors or forgiveness, but said that reconciliation is when one can meet with someone from another group without thinking bad things to them (FT6). This seems to be the very bare minimum of peaceful cohabitation and not necessarily reconciliation. As previously mentioned, leading up to the genocide there were decades of ethnic hatred and violence. Therefore, it is notable when people are able to move on from their systemic internal biases and hatred. However, I would argue that there is more to reconciliation beyond moving on from one's internal bias. For reconciliation, the affected parties must be able to work together and forgive, as described within the first paragraph in the sub-section.

Interviews with judges and rescuers also presented alternative definitions to reconciliation. A female judge, argued that in "general life, people need mediators" (FJ3), therefore when two groups can come together and work through their issues with a mediator there can be reconciliation. This definition follows closely to the methods of the Gacaca courts, where the perpetrators and survivors came together in front of their community, with the judges as mediators, to tell and learn the truth of what occurred. In stark contrast, one of the rescuer interviewees described the forgiveness process as not having to be in-person. MR2 said that for reconciliation, one has to forget everything that was done to them, then they can forgive the one that did bad to them without having to meet with them. This is a significantly different description of reconciliation from the other interviews. However, understanding that Rwanda experienced extremely gruesome humanitarian crimes during the genocide, everyone has their own unique healing process that they must undergo to find peace. For this interviewee, their process for healing and reconciliation was more internal in processing the events of the genocide and the forgiveness

of those crimes against him and his family. This shows, while many follow a similar path towards reconciliation through forgiveness, there are still different methods taken to achieve reconciliation on the personal and community level.

#### *4.2.2 National Reconciliation*

Seemingly unintentional, all of the professors and representatives of organizations that I spoke with defined reconciliation at the national level. Within their answers, there was a pattern of describing reconciliation as a ‘long process’ towards mending social relations beyond “peaceful cohabitation” (Pastor Antoine Rutayisire). This pattern is significant because defining reconciliation as a process that will take a significant period of time varies greatly from the responses from the above interviewees, who find reconciliation once they accept forgiveness. I believe this is because reconciliation by the professors is going beyond personal conversations, and recognizing the mass reconciliation that must occur within larger institutions and the nation as a whole. For decades the government of Rwanda and its society had deep ethnic barriers against the Tutsi, and it must be recognized that it will be a long process of rooting out these systemic barriers and promote unity.

A major facet towards national reconciliation includes the inclusivity of all Rwandans in equal rights. In a presentation at the CNLG, Dr. Gasanabo Jean Damascene described reconciliation as needing people to have equal rights to water, hospitals, infrastructure, schools, and security. This correlates to the larger roles of government officials and organizations in taking steps towards reconciliation and equal development. Dr. Rutikanga Bernard, a professor of history at the University of Rwanda, who also served as a judge for a period of the Gacaca, further discussed the need for societal management of equalities through reconciliation. Dr. Rutikanga stated that for reconciliation to be achieved there is a need to “eradicate or deal with causes of their

conflicts, hatred, violence, alienation, etc and manage to promote harmonious coexistence, peace, stability, unity, solidarity and other values which cement a better society”. This definition demonstrates the end goals of reconciliation and a harmonious state to be achieved, going beyond interpersonal peace but looking towards the national level.

In 2015, NURC published a report of the Rwanda Reconciliation Barometer, providing the most recent figures on the state of reconciliation in Rwanda. The report goes into the numerous features of reconciliation including justice, security, social conditions, education, and more. At the beginning of the report, NURC defines how they will be using the term reconciliation as stated below:

Reconciliation thus involves the changing of motivations, goals, beliefs, attitudes, and emotions of the society members regarding the conflict, the nature of relationship between the parties, and the parties themselves. Thus, unless at least a measure of reconciliation develops between the parties—at all levels of the society—there is a major risk of a recurrence of violence and of renewed conflict. If negative stereotypes or enemy image, conflicting attitudes, and mutual fears do not change, and anger, dislike, bitterness and hatred fester, the situation can easily turn destructive again. (NURC, 2015).

This statement summarizes well the social levels of reconciliation and the qualifiers needed in society for judging the state of reconciliation. The assurance of safety and security within a nation are major indicators of the state of a nation, as well as the personal motivations and emotions expressed within society. Positive increases of these levels of security and attitudes demonstrate the promising steps towards reconciliation.

For the context of this report, the term reconciliation will focus on the interpersonal relations of Rwandan citizens unless stated otherwise.

### 4.3 Fairness

One of the major criticisms of the Gacaca courts is the level of fairness and justice that took place. As detailed in the literature review, Western academics were quick to criticize the processes of the courts and whether the trials could produce fair justice and punishments. The following section articulates the Rwandan point-of-view of the courts: their failures and successes, whether justice was served, and the preference of community-based justice versus the national courts.

#### 4.3.1 *Successes of Gacaca*

Three patterns emerged throughout the interview process when interviewees were asked of the successes that came from the Gacaca courts. The first pattern resulted from interviews with survivors, judges and rescuers: truth and healing. Interviewees within all of these categories discussed the exposure of truth in the courts from the perpetrators, allowing for the requesting and accepting of forgiveness. Thousands of family members had little-to-no knowledge of what happened to or where their other family members had been “buried”. Learning the truth of the events of the genocide “came as medicine” (MJ2) for healing for the survivors. Before the Gacaca courts, there was a lot of unease throughout the country as there was little information for survivors on their family members, as well as the unknown of who had and hadn’t committed crimes during the genocide. The courts took away, for the most part, the unknowns for survivors and eased the path towards reconciliation.

The second pattern that emerged from the interviews came from the perpetrators, also focusing on truth-telling, however with a different motivation. For the perpetrators, truth-telling was a notable success from the Gacaca courts, though instead of the motivation for healing, there was the motivation for gaining a reduced sentence. As a perpetrator during Gacaca, if one gave

themselves to the court, told the full truth of their crimes, and asked for forgiveness, then they would be given a reduced sentence. This demonstrates a significant difference from the survivors, being empowered towards the path of healing from truth-telling, from the perpetrators who had a personal focus on the severity of their punishments. This doesn't necessarily invalidate the place of truth within the courts, as both sides get what they are motivated to receive – it shows the varying motivations of survivors and perpetrators after the genocide.

Lastly, the third pattern appeared during interviews with professors and organization representatives. These interviewees focused on the speed of the courts. Before Gacaca, the judicial system had been destroyed and the prisons were overflowing with possible perpetrators. What was left of the national courts couldn't keep up with the demand of trials. "Although the Government of Rwanda had made remarkable efforts to rebuild the judicial system, in the ordinary courts approach, it would take more than a century to try all the detainees. As it is said "justice delayed is justice denied"" (National Service of Gacaca Courts, 2012). To combat this, the Gacaca courts were instituted to bring justice to Rwanda sooner. The professors agreed that the courts were successful in this goal of speeding to justice for the punishment of perpetrators and the beginning of the healing process for all. Speed of justice and punishments is significant towards rebuilding after a crisis, in ensuring that there is justice served. Once these punishments are doled out, development of infrastructural systems.

#### *4.3.2 Challenges of Gacaca*

While the courts were successful on many counts, they also faced many challenges. Each category of interviewees presented a different challenge they faced during the trials or things that they would have changed. The judges felt that the courts had issues with combatting lies told by perpetrators and gaining the full truth. MJ2 discussed how some perpetrators would confess to the

physical crimes they had committed, but lie about their part in the destruction of properties to avoid having to pay the survivor. This occurred because property destruction resulted in perpetrators having to pay back their victims for what they stole/destroyed. Many perpetrators and their families didn't have the capacity for paying for these properties and would therefore only admit to the physical crimes they committed that didn't result in a fine but in TIG/jail time. Beyond avoiding paying for properties, FJ1 discussed how some perpetrators "refused to tell truth so people can't find their families and mourn". Lying was a major concern within the courts and their ability to extract the truth. However, during numerous interviews survivors and others discussed how the truth was easier to obtain in the Gacaca courts because the entire community was there to witness, and many others knew the events of the genocide and would speak up if they found someone lying. It is also important to recognize that this issue is not Rwanda-specific, as all courts across the world face the problem of lies and getting to the truth. However, with community-based courts Rwanda found a way to significantly decrease the ability for perpetrators to lie.

For certain cases however lying wasn't the largest concern, as some perpetrators managed to escape the country. Interviews with rescuers exposed the issues and fears of perpetrators who escaped justice by fleeing the country after the genocide or before their exposure at the Gacaca courts. Escaped perpetrators have and continue to cause major issues for Rwanda, denying the genocide internationally and spreading lies of what occurred. MR2 discussed how they wish there could be an order to "countries to send back the escapees" to face Rwandan justice. This could help the many survivors who still don't know what happened to or where their family members are, not being able to mourn and reconcile.

The focus group with the female survivors discussed their disappointment in the lack of strong punishments for the perpetrators in addition to refusals of providing information by

perpetrators. At this question, many of the women in the group backpacked off one another's answers in their beliefs that the punishments weren't equal to the crimes that were committed. This lack of strong punishment was said to have caused issues and slow their healing process, as they faced their aggressors back in the community after a few years of the TIG program instead of prison. The women discussed their wish for the punishments to be longer for those who committed the physical violence/ murders. This demonstrates the frustrations still felt within the Rwandan community, especially amongst those who experienced the genocide. The traumas of the genocide will not be quick to fade, and the feelings of a lacking in punishment will not ease these tensions. However, with all this said, the women did express their appreciation for all the new government did for them and recognized that the punishments were fair in consideration of all that had happened and their wish to move on. As much as one may want revenge or punishment, for these women reconciliation was more important.

Interestingly, the perpetrators expressed no complaints of the genocide. They explained how nothing was bad about the courts and that everything went well for them. Some of those interviewed had served jail time and were in TIG, and others had only been in TIG. Even those that served long jail sentences agreed with their punishments and some argued that it was according to their crime. Many stated additionally of how serving their sentences helped them to reconcile and rejoin the community after spending that time away. This arguably demonstrates the success of the objective of the Gacaca courts, to not only punish the perpetrators (a significant objective) but to bring reconciliation amongst the perpetrators and survivors and get the country positively rebuilding.

Professors expressed varying opinions of the challenges of the courts. Some expressed that while everything wasn't perfect, one must look at how far the country has come and developed,

showing that the courts were ultimately successful. Others agreed with issues brought up by the rescuers and judges of the issues of lying in the court and those who escaped now denying the genocide. Pastor Antoine discussed the question of fairness with those who experienced the trauma of the genocide then serving as judges in the courts and whether all punishments were fair. However, recognizing this trauma, Pastor Antoine believes that by having the survivors and rescuers act as judges, the solution remains within Rwanda and run by those who understand what happened. In addition, those who served as judges were trained and voted upon as trusted members of the community who would be able to serve fair verdicts. This was a significant factor that many credited as a success of the courts, with Gacaca serving as a Rwandan solution, with Rwandans at the forefront of the courts, thus showing the international community their ability to serve justice.

Overall, the Gacaca courts weren't perfect, however they were what Rwanda needed to move past their history of ethnic violence and treat the wound at its source. Rwandans have faith in the justice served in the courts, and while they didn't come without challenges, they agree that the Gacaca courts gave the country a space to learn the truth, reconcile, and start rebuilding their nation.

#### *4.3.3 Courts Successful in Justice*

When asked for opinions on whether the Gacaca courts served justice, there wasn't a single interviewee who said that the courts hadn't fairly served justice in their punishments. Many justified this as saying that they know that the courts successfully served justice because they were there either receiving, witnessing, or serving the verdicts. Their proof is those "now living in harmony" (MR2) and the "good relationship among" (FT7) all Rwandans. This complete unity demonstrates the effectiveness of the courts and their true success in distributing justice within Rwanda as it was healing.

While the two sub-sections above show the Rwandan perspective on the courts, and expressed their frustrations of the courts, in the end they all unanimously agreed that the courts were successful in giving all justice post-genocide. This is notable to the research in disproving the criticisms of the Western criticisms discussed in the literature review. Pre-Gacaca many critics questioned the courts ability to dispense true justice that was fair. However, when speaking to the recipients and participants of the courts, one can clearly see the success they had in being fair and just.

#### *4.3.4 Community-Based Courts v. National Courts*

The Gacaca courts, while not new to Rwanda, was a new system of justice in the restorative justice field that was put in place to deal with humanitarian crimes. Instead of following a large national court system, the Rwandan government relied on trying the crimes at a community level. The only alternative for Rwanda to the Gacaca courts were their national courts, which had shown to produce justice at too slow a rate.

During interviews with the 20 participants of the Gacaca courts, each interviewee was asked about their preference for either community-based courts, such as Gacaca, and the national courts. All interviewees preferred the community-based court systems over the national courts. Many view the national courts as being corrupt and there being little justice served. Statements of fear of corruption are valid as the decades of corruption pre-genocide within the national court system, however the new government has been working towards improving the national court system. In addition, the slowness of the courts after the genocide left many feeling that they were never going to receive justice for those crimes committed against them. Some interviewees mentioned how the national court “judges don’t know you” (MT2) and how some “can lie with

good lawyer” (MS6). This gets to a distrust of the general structure of the national court system, with fear of a lack of knowing ones’ character due to the level of the court.

As argued by the interviewees, in community-based courts, the “judges know you” (MS7) and “everyone knows you/your character” (FJ1). The Gacaca courts were able to accomplish this because they are at the lower levels and run by those in the community- by family, friends, and neighbors. Interviewees MJ4 and MR1 argued that community-based courts are fairer because they work in transparency with everyone involved and the verdicts are clear. With the innate trust of the elected judges and structure of community courts, the Gacaca courts were overall the preferred method of justice for Rwandans.

In summary of section 4.3, the fairness and role of justice have been frequently questioned across academia leading up to the Gacaca courts. This research with in-field interviews with participants of the Gacaca courts has shown that the courts in the view of Rwandans and Rwandan professors were highly successful in producing fair verdicts. While there were challenges faced on most sides of the trials, their successes outweighed these issues- giving perpetrators justice for their crimes and truth to the survivors and community.

#### **4.4 Impact of Gacaca on Reconciliation**

In addition to the assessment of the role of Gacaca in justice, it is crucial to analyze the impacts of the courts within the social reconciliation process in Rwanda. This section will discuss the impacts of the courts in Rwandans personal and community healing processes, the extent of the Gacaca courts role in reconciliation in Rwanda, and the beliefs of interviewees on whether Rwanda can achieve reconciliation.

#### *4.4.1 Impacts on Personal Healing*

A key objective of the Gacaca courts was to learn the truth of the genocide. While truth-telling was credited by many participants as a success of the courts, it also contributed to many citizens' healing. MS7 described how "listening to stories has helped me to heal". MJ4 discussed how learning the truth of "where the bodies of his people were" aided his healing process, as the years before Gacaca many kept quiet and survivors couldn't find their family members bodies. Some interviewees described Gacaca as 'medicine' which considerably aided their healing. The healing qualities of Gacaca are significant as they reconciled people, and expedited the healing process for many who felt in limbo of not knowing what was going to happen with the perpetrators, how they would be discovered, or how the country was going to move on. The Gacaca courts took away many of these uncertainties with the truth and set the country on track to heal. This is important in showing outsiders that the courts did more than dispensing justice to the perpetrators, but also majorly contribute to promoting healing after the humanitarian crisis.

Amongst the perpetrators, a significant division occurred between the genders when asked whether the Gacaca trials aided their personal healing processes. Alike the other interviews, the female perpetrators expressed how the Gacaca courts helped them to reconcile within their hearts and with those that they committed crimes against. In complete contrast, when the same question was asked to the male perpetrators, they laughed off the question. The translator expressed during each interview with the men that they had laughed at the question saying that they didn't need to heal because they were the ones that caused the hurt. Some came up with an answer that because they told the truth in the courts, they helped themselves and others to heal. This is a significant difference in the process of emotions after committed a crime and the overall events of the genocide.

The women were very open in recognizing that a heavy burden had been placed in their hearts after their crimes and how they needed healing, which was brought to them via Gacaca and their punishments. The men did not express these same emotions about their crimes, seeing Gacaca as only a place where they spoke the truth and gained forgiveness from the community. The interviews with male perpetrators occurred before those with the male survivors/judges/rescuers. I was curious whether this was going to be the response from all men as a result of societal expectations of men not expressing emotions of hurt and sadness. However, as seen above, this was not the case. All other male interviewees expressed their need to heal after the genocide and the Gacaca courts role in this. This is due to the societal allowance for the male victims of the genocide that experienced trauma and lost family members to express their emotions. This tolerance of emotion was not extended to the perpetrators, generally male or female. Many within the country don't believe that perpetrators can feel traumatized or be in need of healing due to their actions. The reaction of the male perpetrators towards the personal healing question therefore is multi-layered. The gender aspect within society in relation to the committing of crimes dictates how one is allowed to feel after-the-fact. Thus, the male perpetrators don't discuss their healing process as society sub-consciously regulates their expression of emotions.

#### *4.4.2 Impacts on Relationships in Community*

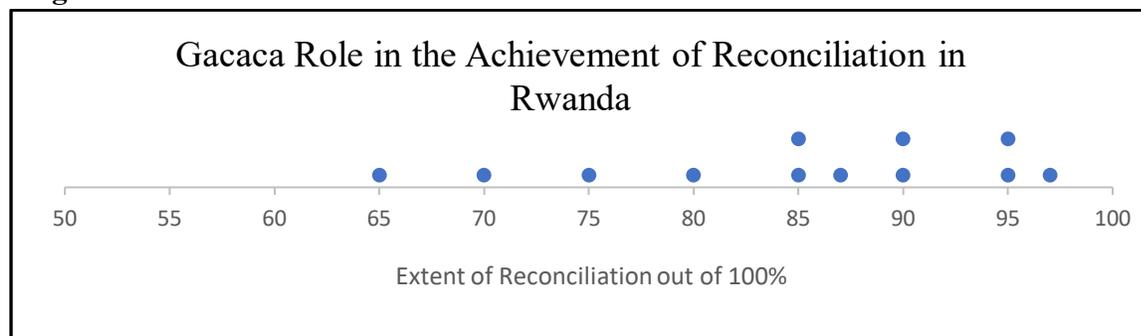
Moving beyond personal healing and reconciliation, all interviewees were asked to describe whether the Gacaca courts had made an impact within their relationships with neighbors, and if so by how much. Every interviewee passionately discussed how they were 'living well' with their neighbors and that their community gets along well. The "courts helped many to reconnect with neighbors" (FJ1) because "when you tell full truth, people can come and forgive you" (MT4). When the perpetrators told the truth in Gacaca and asked for forgiveness from their victims and

neighbors, they were able to build good relationships. Many interviewees discussed being friends with those who had/hadn't committed crimes, greeting one another and inviting one another to ceremonies. The Gacaca courts provided this space for forgiveness and healing, allowing the country to move-on from their tragic history and develop in positive ways. Looking back to the history of Rwanda and decades of ethnic violence, the level of development and peace that the nation has achieved in its communities is almost unbelievable, and a significant part of that success is thanks to Gacaca.

#### 4.4.3 Extent of Contribution of Gacaca Towards Reconciliation

For the assessment of quantitative statistics, each interviewee was asked the extent that they believe the Gacaca courts contributed towards reconciliation. The results varied between 65% and 97%. Some interviewees gave specific percent points for what they believed the contribution of Gacaca was and what the lingering percentage points made up. All expressed how it cannot be given 100%, as other programs headed by the Rwandan Government and non-profit organizations established significant methods of healing. The results have been compiled into the graph below, with the x-axis as the percentage points provided by interviewees. Percentages with multiple dots show the repetition of an answer by another interviewee.

<sup>3</sup>Figure 4.3



<sup>3</sup> Note: Each dot represents an answer from an interviewee

These results demonstrate a clear faith in the Gacaca courts' ability to aid reconciliation, with a mean of 84.5%. These statistics are backed with the proof of Rwandans living "in harmony" (MR2) thanks to Gacaca. MR1 discussed how "before Gacaca courts we would cross roads to avoid, after courts we can now talk and be together", further demonstrating the appreciation felt by Rwandans of the Gacaca courts. This is something that many critics miss in their analysis of the Gacaca courts, as their research lacks this community research in speaking to Rwandans who participated in the trials. Without these insights, the validity in passing judgements on the successes and failures of the courts are questionable.

#### *4.4.4 Can Rwanda Achieve Reconciliation?*

For those among the 20 participants of Gacaca, a significant majority stated how reconciliation has already been achieved in Rwanda. If they didn't say that reconciliation has been achieved, then it was described as a process that still needs some work, however is very close to completion. Referring back to sub-section 4.2.1, these interviewees are judging the achievement of reconciliation at a personal rather than national level. Looking at the intermarriages that have occurred, as well as development that Rwanda continues to make, the interviewees described that these couldn't have happened if Rwanda wasn't reconciled. MT2 discussed how if the government continues "to teach Rwandans about reconciliation, then they're on their way to achieving" reconciliation. MT5 furthered the argument that Rwanda had already achieved reconciliation because "otherwise we wouldn't have good education, security, health- all products of reconciliation". These points articulate the argument well to the extent at which reconciliation has been achieved in Rwanda, and the indicators those can look at for proof. Professor Rutikanga Bernard discussed how Rwanda "has reached an advanced stage. For the past 26 years Rwandan government, Rwandan population, civil societies, foreign governments, foreign individuals, international organizations and UN agencies have played a part in healing and reconciling the

society”. Faith in the government, Gacaca, and organizations aid the participation in their programs, which in turn further the levels of reconciliation in Rwanda. Many of the academics however had different opinions, utilizing their definition of national rather than personal reconciliation.

A representative from Never Again Rwanda agreed that reconciliation is achievable, however within a significant amount more of time. She described it as a trickle-down process from the government’s programs affecting the grassroots level. Never Again Rwanda goes into communities to work at the communal levels to create safe spaces and motivate the building of trust amongst neighbors. Organizations such as NAR additionally go into communities to work with youth to start at early ages in building relations and trust. They run programs to work with survivors and perpetrators of the genocide to create spaces for dialogue, with the hope of furthering the trust in that community. She believes that it will be a “long journey to achieve” reconciliation, but with the new generation there have already been positive changes.

Pastor Antoine similarly discussed the impact of new generations and the length of time he believes it will take for achieving reconciliation. He has a theory that it will take three generations for Rwanda to truly achieve reconciliation. For him, the meaning of reconciliation goes beyond “peaceful cohabitation”, but is where people can naturally interact, intermarry, and live every aspect of their lives together. He believes that this first generation that experienced the genocide will never truly achieve reconciliation, as there will always be internalized distrust amongst these Rwandans, even if not openly expressed. The second generation will make positive changes; however, they may experience inter-generational trauma from their relatives who lived through the genocide. It is at the third generation that the Pastor believes Rwandans will be able to be living beyond their historical trauma and trust one another. This process highlights the distrust still felt

by many Rwandans, who often lack the spaces or comfortability to express. Additionally, inter-generational trauma plays a significant role in reconciliation, as children may have trauma passed down to them in not understanding what happened to their family members during the genocide or having those family members anger/distrust passed down. Tackling this issue is a major task, something that NAR is attempting to combat as the new generation of Rwanda is growing up.

Peacebuilding worker and researcher in Rwanda Franck Kobukeye rejected the idea of establishing a timeline for reconciliation, as it is an ongoing process and unknown as to when it may be achieved. As levels of development increase in Rwanda and there are reductions in poverty, the level of reconciliation can continue to climb as considered at the national level. He described a large interconnected web of good-governance practices, security, development, and other initiatives that all work simultaneously to build levels of reconciliation. As long as these practices continue, reconciliation will be an “aspiration for the future” (Franck Kobukeye). It is significant for outsiders, such as myself, to recognize the definitions and indicators that Rwandans use to analyze reconciliation, as they have the inside knowledge of the varying states of the nation and the emotions of the people.

One interviewee discussed their belief of reconciliation being something that is impossible to achieve. In his CNLG presentation, Dr. Gasanabo made an interesting point about his beliefs of Rwanda, and all countries, ability to achieve full reconciliation. He stated that while he believes that Rwanda has achieved reconciliation, as seen through its development and peaceful inter-relations of all Rwandans, he also discussed how the process is still not completed, and may never be. He defended this as there is no country where everyone gets along or there is full reconciliation amongst groups. This point is extremely significant and valid, using the United States as an example and the ethnic violence that has lasted centuries against Native American and Black

communities. Unfortunately, there will always be prejudice in societies. This doesn't mean that there cannot be peace or that there will be another genocide in Rwanda, it means that there will always be people with personal prejudice that deny the genocide and further ethnic hatred. However, with the programs promoted by the government, including Gacaca, and organizations such as Never Again Rwanda, the path towards peace is strong and unifying.

In summary of section 4.4, the Gacaca courts went beyond providing services of justice and punishment, and significantly aided the reconciliation process in Rwanda. The report of the Reconciliation Barometer from 2015 estimated that "94% of Rwandans believe that reconciliation in Rwanda is possible" (NURC, 2015), followed by testimonies of Rwandans belief in reconciliation. Statistics and testimonies above demonstrate the crucial impacts of the Gacaca courts within the communities personal healing and nation, providing Rwanda the opportunity to rebuild and develop its infrastructure and economy, which work simultaneously to improve spaces for reconciliation.

## Chapter 5: Conclusions & Recommendations

### 5.1 Conclusion

At the beginning of this research, I was led by the curiosity of the methods and success of restorative justice, and surprised at the lack of knowledge of Rwanda in academia. As I began studying in the country myself, I started learning more about the Gacaca courts and looking around for publications on the subject. Again, I was surprised to find that little research had been done on the Gacaca courts, journals mainly only being published in the early 2000's as the courts were being planned. There are few publications that have done work analyzing the successes and challenges of the courts, and what can be learned from them. This was something that I wanted to find out. Moving forward, I used the following research question to guide my research and questions to learn more about the courts:

How did Gacaca trials contribute to the reconciliation of Rwandans after the 1994 Genocide against Tutsi?

Using this question, I explored what Rwandans thought of the fairness/justice served in the courts and whether they had an impact on their reconciliation. What I found was groups of people excited to share their stories to an outsider and for their voices to be heard internationally to get people to see what their country has achieved after the genocide.

I found the expansive definitions that can be given for reconciliation, getting into levels of personal, communal, and national. Understanding one's definition of reconciliation is significant in following a conversation about reconciliation brought about by Gacaca or other programs. Interviews with participants of the genocide exposed the fairness of the trials along with explanations of truth-telling and peace brought to survivors who could find their family members and mourn properly. It is important to recognize that while the courts were not perfect, as no

judicial court is, there were no other options for the Rwandan people. The ICTR was only trying a limited number of the larger planners of the genocide, and the national courts couldn't keep up with the number of cases and prisons were overwhelmed. The Gacaca courts were a historical system of justice in Rwanda, and were a Rwandan solution to a Rwandan issue. The courts were able to work through just under 2 million cases in a limited number of years, dispensing justice and punishments to the perpetrators through methods of forgiveness and openness, which in turn crucially aided the nation in moving forward. The Gacaca courts allowed for a time of listening, forgiving, and healing amongst communities, fostering communal growth of education programs, health care systems, security, and overall development of the nation. After the courts, Rwanda gained noteworthy speed in increasing their development strategies and rebuilding peace. While many of the participants discussed that reconciliation has already been achieved, arguably at the personal level, with time and continued work for peace, Rwanda has the capacity to achieve national reconciliation. All of this would not have been possible without the punishments of the perpetrators and discovery of truth, brought about by Gacaca.

## **5.2 Recommendations**

Based on the research findings of the successes of the Gacaca courts, I would recommend that nations similarly experiencing or coming out of humanitarian crises should evaluate the positives of community-based justice. Not only does community-based justice, like Gacaca, provide punishments for crimes, but they also allow for the healing of the community and a method of reconciliation for the nation. Similarly, I think that organizations such as the UN and AU look at the impacts of the Gacaca courts and ways that they may be able to aid countries in ways that are more culturally appropriate and within the context of the culture of a nation. Analyzing the

success, challenges, and recommended improvements can aid such nations and organizations in strengthening their court systems.

Beyond the recommendations to nations, I hope and recommend that researchers and academia spend more time analyzing the steps that Rwanda has taken emerging from a brutal genocide to now 26 years later being a strong developing country at peace. There is so much to learn from the people here, if only one has an ear to listen.

For the purposes of future studies, I would recommend spending an extended amount of time building relations with citizens throughout Rwanda. I wish that I had had more time to spend in various rural locations to learn more from those with varying experiences of the genocide. Different parts of the country experienced the genocide differently, due to their geographical features and populations, and therefore their experiences in the courts could arguably also vary. In addition, I would also recommend trying to go into the prison system and speaking with those who are still jailed, as well as those who ran the TIG program, to gain further varying perspectives. I cannot know whether the results would be different, however further research is necessary with an increased number of interviews to gain a larger understanding of the impacts of the Gacaca courts.

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## Appendix

### Gacaca Interview Questions:

1. Did you participate in Gacaca courts? What was your role?
2. What did you like the most about Gacaca? What do you think did not go well in your view?
  - a. Would you have changed anything about the courts?
3. How have you been impacted by the gacaca's?
  - a. Did gacaca impact your healing process?
  - b. Did gacaca impact your relationship with your neighbors in your community?
  - c. To what extent do you think gacaca contributed to reconciliation of Rwandans?
4. How do you define reconciliation?
5. Do you believe Rwanda can achieve reconciliation?
  - a. If not already achieved, how long will it take?
  - b. How did gacaca's help with reconciliation in your community (and the nation)?
6. Do you believe the gacaca courts were successful in serving justice?
  - a. Why do you believe this?
7. What do you think about community-based courts like Gacaca versus national courts?
  - a. Do you believe the Gacaca courts helped your community?