

RECONCILIATION, INTERRUPTED: A LOOK AT POST-GENOCIDE RWANDA AND THE GACACA COURTS

DARA CRANDALL

Amidst the history of colonialism, dishonest government, civil conflict, and brutal genocide, the country of Rwanda is faring remarkably well. How is this possible? What were the methods of reconciliation put forward in the wake of the loss of over 100,000 citizens, and have they been effective? The Gacaca court proceedings have been highly controversial in their use of hard power and coercion. This paper offers a brief look into the use of power and the resiliency of a population.

There was a huge puzzle after the genocide. How do you pursue justice when the crime is so great? You can't lose one million people in one hundred days without an equal number of perpetrators. But we also can't imprison an entire nation. So forgiveness was the only path forward. Survivors were asked to forgive and forget. The death penalty was abolished. We focused our justice on the organizers of the genocide. Hundreds of thousands of perpetrators were rehabilitated and released back into their communities. These decisions were agonizing. I constantly questioned myself. But each time I decided that Rwanda's future was more important than justice. It was a huge burden to place on the survivors. And perhaps the burden was too great. One day during a memorial service, I was approached by a survivor. He was very emotional. 'Why are you asking us to forgive?' he asked me. 'Haven't we suffered enough? We weren't the cause of this problem. Why must we provide the solution?' These were very challenging questions. So I paused for a long time. Then I told him: 'I'm very sorry. You are correct. I am asking too much of you. But I don't know what to ask the perpetrators. 'Sorry' won't bring back any lives. Only forgiveness can heal this nation. The burden rests with the survivors because they are the only ones with something to give.'

-Paul Kagame, President of Rwanda
Humans of New York interview
Posted to Facebook, October 25th

How does a state heal, when reconciliation is mandated by government; when the deciding factor of who is victim and who is perpetrator is defined by race? How does one share one's story of survival when the government writes the script? These are all questions that rise to the surface when observing the implementation of the Gacaca courts in post-genocide Rwanda. The way in which these courts were mandated, conducted and organized has left an indelible footprint on Rwanda's citizens. For many scholars and international actors the efficacy of the Gacaca courts to bring about healing and reconciliation for the Rwandan people is questionable. In order to understand how and why these courts did, and did not succeed, one must look at the complex history of a nation at war with itself, its legacy of colonization, and its place in the international community. For better or for worse these three factors have played a sizeable role in the Rwandan government's approach to reconciliation.

Like most African countries, Rwanda has a colonial past, colonized first by the Germans and then by the Belgians. In the 1930s the Belgian colonizers classified Rwandans as Tutsi, Hutu, or Twa.¹ This classification, which acted more like a class or caste divide² rather than one based on race, created a hierarchy which awarded advantages to the Tutsi and excluded the Hutu.³ Prior to the genocide in 1994, Rwanda was struggling to allocate land resources to its dense population.⁴ The price of coffee had collapsed, affecting many landholders, and a low-level civil conflict broke out as Hutus tried to claim benefits and freedoms that were withheld from them due to their low status.⁵

In 1993, the president of Rwanda signed the Arusha Peace Accord and permitted a truth commission into human rights abuses and atrocities committed during the civil war period of 1990-1993.⁶ The legitimacy and potential of the truth commission was severely undermined due to acts of violence committed against those who were expected to give evidence.⁷ Between 300 and 500 people are said to have been killed in the days surrounding the truth commission.

On April 6th 1994, a plane crash killed Juvenal Habyarimana, the president of Rwanda, this is the event which precipitated the famous "100 Days of Killing." One million Rwandans were killed in these 100 days; the equivalent of "the World Trade Centre attacks being repeated five times a day in New York City, every day for 100

¹Sarkin, *Necessity and Challenges*, 772.

²McGarty, "Twenty Years After Genocide," 378.

³Sarkin, 772.

⁴Sarkin, 775.

⁵Sarkin, 775.

⁶Sarkin, 778.

⁷Sarkin, 778.

days.”⁸ Many outside observers would like boil the atrocity of the genocide down to one issue: tribalism, the oppression of one group by another. However, doing so would truncate the vast complexities of Rwanda’s past and heed little attention to the consequences of this past.⁹

The massacre was well planned, methodically organized and there is evidence that those in power at the United Nations and abroad were informed about the planned genocide and chose inaction rather than a strong response.¹⁰ In fact, when genocide erupted the US blocked the deployment of supplemental troops and lobbied for the withdrawal of UN forces.¹¹ The *Interhamwe* (Hutu militia) were mobilized, carefully selected (some specifically for their HIV/AIDS status) and armed with machetes and farming implements.^{12, 13} One person from every 10 households was selected so that each Tutsi community member could be identified by personal connection and killed.¹⁴ On the other side of the violence, Hutus who did not wish to take part in the slaughter of their countrymen were often killed for their refusal to participate.¹⁵

The violence in Rwanda did not end after the genocide. A wave of killings over took the country, in 1996, with the forced repatriation of 600,000 Rwandan refugees from the Democratic Republic of Congo. Many Hutu refugees were identified as survivors of the genocide and killed by angry Tutsi victims.¹⁶ Many Hutus rose up against these acts of retributive violence and used them to justify their genocidal actions as acts of self-defense founded upon years of Tutsi oppression and violence.¹⁷

By 1997, approximately 120,000 Rwandan citizens we accused of participating in the genocide and awaited their fate in jail. The burden upon the judicial system to prosecute such a large number of defendants was too large for the country to bear, thus a truth and reconciliation commission was desperately needed.¹⁸ Truth and reconciliation commissions are useful in helping nations move from brutality to

⁸McGarty 379.

⁹McGarty, 378.

¹⁰Sarkin, 780.

¹¹Ensign and Bertrand, *Rwanda: History and Hope*, 7.

¹²McGarty 381.

¹³Sarkin, 781.

¹⁴Sarkin, 781.

¹⁵McGarty 381.

¹⁶Sarkin, 782.

¹⁷Sarkin, 783.

¹⁸Sarkin, 788.

understanding; they are tools which guard against ghosts from an unresolved past and collective amnesia.¹⁹

However, establishing a truth and reconciliation commission (TRC) in the small, landlocked country of Rwanda has proven to be an arduous task of nearly insurmountable proportions.²⁰ The need for spaces which allow victims and perpetrators equal ground to share their stories is essential for the rehabilitation and reconciliation of Rwanda. The tendency of Hutus to justify their killing as acts of self-defense against the oppression of the Tutsis only leads to self-serving grief. The tendency of labelling every Tutsi a victim leads to disproportionate accusations and overwhelming demands of retribution.²¹ A TRC should serve to make known the fates of victims, restore dignity to survivors, and allow them to participate freely in the post conflict society.²²

The method of how the government would heal the fracture of its people was in the form of national unity and reconciliation. “One Rwanda for all Rwandans”, was to become the mantra of this blood stained country. In the wake of genocide and in the establishment of the Gacaca Courts, the Rwandan government outlawed the use of racial labels²³ or public discussions of ethnicity.²⁴ State policies were put in place which controlled how victims were allowed to speak about their experiences during the genocide.²⁵ For everyday Rwandans, the state mandates of national unity and reconciliation became a source of sociopolitical exclusion (one is either victim or perpetrator, as identified by the state), economic inequality (only victims are entitled to certain social programs), and individual humiliation (guilty by association and not by deed).²⁶ The Rwandan government “collectivized Hutu guilt” in regards to the genocide and arrested anyone who was involved in the genocide regardless of motivation.²⁷ It also prevented anyone from being a victim other than the Tutsi, an act that took away the voices of bi-racial citizens, moderate Hutus, and those forced to kill to save their own lives, as well as countless others.²⁸

The Government created a number of memorials at mass burial and execution sites all over Rwanda, and every year on April 7th the country moves into a “tightly

¹⁹Sarkin, 799.

²⁰Sarkin, 799.

²¹Sarkin, 799.

²²Sarkin, 800.

²³McGarty, 382.

²⁴Thomson, *Whispering Truth into Power*, 108.

²⁵Thomson, 108.

²⁶Thompson, 110.

²⁷Thompson, 115.

²⁸Thompson 116.

regulated” 100 “days of mourning”.²⁹ These “days of mourning” serve to remind the citizens of the loss of Tutsi life, but focus little attention on the non-Tutsi lives that were effected both before and after the fateful days in 1994.³⁰ Bullet holes and explosion damage on infrastructure remain unrepaired as reminders of the genocide;³¹ these memorial rituals politicize individual guilt and do not offer much recourse to those who do not meet the state sanctioned definition of “victim”.³² The government also created the *Ingando* re-education camps. These camps were where citizens were sent to learn the state mandated history of the genocide; that Hutus are the killers and Tutsis are the victims. Citizens stayed in these camps for varied lengths of time, in barrack-style accommodation, under military surveillance and supervision, as they learned how to unify and reconcile within their communities.³³

The Rwandan government’s way of handling the many murder and rape cases of the 1994 genocide was to establish a community court system called Gacaca. These are the arenas in which victims tell their stories, the accused stand, and determinations are made about the fates of those involved.³⁴ This process has been criticized for its negative impact on healing, traumatization of victims and lack of legal representation and right to an unbiased jury.³⁵ They seemed to “emphasize legal retribution over social reconciliation.”³⁶ This was the government’s strategy for truth and reconciliation.

The courts ran from 2005 until 2012. Participation in this process was compulsory, and often in attendance were state agents armed with AK-47s.³⁷ Research, at the time, concluded that the proceedings reawakened negative attitudes, emotions and social dynamics that were brought about during the genocide. This led to further distrust of the court proceedings, traumatization of victims, increased conflicts, and a deepening of resentment.³⁸

This surveillance, coupled with mandatory participation lead to self-preserving behavior and did little to foster reconciliation and willingness to reconcile outside of the formalities of the Gacaca proceedings.³⁹ The failing of these courts was two-fold: first, the government’s segregation of citizens into either victim (Tutsi) or

²⁹McGarty, 383.

³⁰Thompson, 117.

³¹McGarty, 383.

³²Thomson, 117.

³³Thomson, 120.

³⁴McGarty, 381.

³⁵McGarty, 382.

³⁶Thomson, 160.

³⁷Thomson, 163.

³⁸Ingelaere, *Inside Rwanda’s Gacaca Court*, 86.

³⁹Thomson, 162.

perpetrator (Hutu) forced a population to reconcile according to pre-defined roles; second it also failed because it forced reconciliation upon threats of punishment for non-compliance.⁴⁰ The proceedings forced the people of Rwanda to adopt a national image of unity and reconciliation, while many of those involved still suffered under the weight of the tragedies that had been inflicted upon them.⁴¹ The Gacaca Courts were a top-down process that forced citizens into roles which greatly differed from their lived experiences.⁴²

Despite being widely known for its history of violence, and its struggle to rebuild, Rwanda has become a country with a narrative of stumbling toward cultural reform and reclamation. It has become a country looking to shed its former identity and replace it with a new identity of recovery and survival.⁴³ The fact that there are still Tutsis and Hutus living side by side in Rwanda is proof that the genocide was a (positive) failure.⁴⁴

In recent years, Rwanda has grown by leaps and bounds. It has moved from 23rd place in growth and development (amongst African nations) to 6th place,⁴⁵ and it currently has the largest proportion of female legislators in the world.⁴⁶ As time marches on from the odyssey of the Gacaca courts, emotions have begun to settle and a healing peace has begun to take root. Many Rwandans still have mixed feelings about the Gacaca proceedings,⁴⁷ about whether they made life better or worse, but would agree that spaces have been established where people are beginning to learn to share again.⁴⁸ Compare Rwanda with post-genocide (1945) Europe, where there were few survivors to integrate back into society. Rwanda is doing just that; all while rebuilding an economy, modernizing infrastructure, and reestablishing political structures. This is a monumental task that has yet to be attempted at our point in history.⁴⁹

In the wake of civil war, failed truth commissions, a brutal genocide and a controversial reconciliation process, Rwanda is emerging as a country committed to healing. It is slowly shedding the bonds of caste and colonization and finding its strength in valuing ethnic unity. This unity is the key to future peace and security in Rwanda.⁵⁰

⁴⁰Thomson, 164.

⁴¹Thomson, 167.

⁴²Thomson, 169.

⁴³McGarty, 378.

⁴⁴McGarty, 384.

⁴⁵Margee and Bertrand, 9.

⁴⁶Margee and Bertrand, 1.

⁴⁷Ingelaere, 89.

⁴⁸Ingelaere, 90.

⁴⁹Margee and Bertrand, 7.

⁵⁰Thomson, 110.

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