

Difficulties Faced by the Rwandan Community after the Genocide —From Field Research in Rwanda

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Introduction

Throughout my childhood, my grandmother repeatedly told me her story of the Pacific War. My interest in peace and conflict issues has evolved from a young age and this continued into my academic studies of International Relations. The story of the so-called “BANZAI” suicide attack, which Japanese soldiers “voluntarily” committed during the war shocked me, as well as the brutal crimes committed by Japanese soldiers in other countries at the time.

Among many issues relevant to peace and conflict studies, the issue of transitional justice is one of the most controversial topics, as it essentially provokes a theoretical and practical dispute. As is well-known, the Nuremberg and Tokyo tribunals were acknowledged as “Victor’s Justice” since it was the “victors” who took control of the trials and procedures, in which crimes of ‘their’ side have never been convicted internationally. Until today, the crime of atomic bombs dropped in Hiroshima and Nagasaki has never been prosecuted, though undoubtedly it accounts for a crime against humanity in current international criminal law¹. In addition, the immunity that was granted to the Emperor Hirohito may be one of the most important issues to be argued as those trials contributed to the establishment of international criminal law².

Given the situation of post conflict society, the transitional justice almost always evokes a debate between justice and interest of politics; the argument acknowledged as ‘prosecute or pardon’ and ‘peace or justice’. Moghalu (2005, 2008) argues that the controversial relationship between politics and international criminal justice is a question of whether political exemptions

1 In 2006, a mock tribunal was organised by lawyers and civic groups and found that former President Truman and former US military officials guilty of committing crime against humanity and violating international law by dropping atomic bombs on Hiroshima and Nagasaki (“Mock tribunal finds Truman guilty in dropping A-bombs on Japan”. BBC Monitoring Asia Pacific 2006, London)

2 Cassese discusses that these two international military tribunals, Nuremberg and Tokyo Tribunals, had critical importance in many respects. Firstly, they broke the monopoly over criminal jurisdiction concerning such international crimes as war crimes, until that moment firmly held by states. For the first time non-national, or multi-national institutions were established for the purpose of prosecuting and punishing crimes having an international dimension and scope. Secondly, whether or not accusation of crimes against humanity and crimes against peace were done in breach of the principle of *nullum crimen sine lege*, it is a fact that since 1945 those crimes gradually became the subject of international customary law prohibitions. Thirdly, military leaders and high-ranking politicians and other civilians are brought to trial. Accordingly, Cassese concludes that these factors contributed to the development of new legal norms and standards of responsibility. (Cassese, A. 2008. *International Criminal Law*. Oxford University Press. pp. 322-323; Cassese, A. 2010. International Criminal Law, in Evans (ed). *International Law*. Oxford University Press. pp. 720)

or pardons promote order, or whether justice -hence prosecuting crimes should be done in every deserving case³. As is illustrated in this argument, post-conflict society should deal with; whether or not, and in what capacity of the individuals should be convicted or granted amnesty of crimes committed during war time, yet there might be an appropriate level of amnesty according to the degree of commission of the crime. The prosecution of crimes in the past is necessary to establish a just society on one hand; however, it might cause a delay of social reconstructing process such as disarmament, demobilisation and reintegration (DDR), on the other. In Sierra Leone after the conflict, Lomé Peace Accord granted absolute amnesty to Foday Sankoh and other parties of crimes committed during the conflict in order to promote the DDR process, seeking a quick recovery of the order⁴.

The outbreak of internal conflicts after the Cold War has brought about a big challenge in transitional justice and peace-building processes as thousands of civilians are involved as victims and perpetrators. Furthermore, in many countries having experienced or currently confronting internal conflict, those who took part in the war would remain within the same country, sometimes even in the same community. Hence, bringing justice with prosecuting 'big-fish' in international or national level might not be sufficient to re-start a life for most of people involved in a conflict, in the case that victims and perpetrators would face each other in a daily life. As the issue is getting more controversial and complicated, transitional justice these days does not only rely on the international or national level trials, but also on the Truth and Reconciliation Commissions to promote social reconstruction and reconciliation in the local level. Rwanda is a remarkable case.

In this paper, the grassroots trials *gacaca*, taken in Rwanda in order to deal with the past crimes and facilitate national reconciliation processes will be discussed on the basis of field research conducted in September 2011. I would conclude that *gacaca* as a tool for promoting national reconciliation faced many difficulties although it provided people opportunities to discuss about the past. On this point, I will present on the activities of a local NGO, the Reconciliation Evangelism and Christian Healing (REACH) which aims to rebuild destroyed ties within the community, which *gacaca* struggled to achieve.

1. Rwanda genocide and its reconstruction process

Following the crash down of the President Habyarimana's airplane on 6th of April 1994⁵ in Rwanda, the wide spread mass slaughters against ethnic minority Tutsi⁶ and

3 Moghalu, K (2005). *Rwanda's Genocide: The Politics of Glocal Justice*. Palgrave Macmillan; and Moghalu, K (2008). *Global Justice: The Politics of War Crime Trials*. Stanford University Press.

4 Kumar (2010) "United Nations peace process as a peacemaking and human rights exercise: Lessons from conflict resolution in Sierra Leone". *Crime Law Soc Change*, 54. pp. 303-323; The Lomé Peace Accord, Article IX: Pardon and Amnesty.

5 In local view of Rwanda, mass slaughter of Tutsis had begun before 1994; notably, in 1959, the year marked by a social revolution, that became known as the 'Hutu revolution' (Ingelaere. B. 2009. "Does the truth pass across the fire without burning? Locating the short circuit in Rwanda's Gacaca courts". *Journal of Modern African Studies*).

6 Hutu are the majority ethnic group with approximately 84 percent of the population, 14 percent of the population are Tutsi and 1 percent is Twa.

so-called moderate Hutus were launched and widely spread; approximately 800,000 people were murdered⁷ within 100 days.

After the genocide ended, several systems were established to deal with the crimes committed during the genocide. On an international level, the International Criminal Tribunal for Rwanda (ICTR)⁸ was established by the Security Council, acting under the Chapter VII of the Charter. This tribunal focuses on prosecuting the “big-fish” of the genocide, rather than focusing on the local perpetrators who physically committed the crimes.

The ICTR is regarded as a victor's justice by several researchers such as Peskin and Moghalu because the crimes of RPF, the present government regime, have never been prosecuted. Carla Del Ponte was working as a prosecutor of the ICTR from 1999 to 2003, and organised her own team to investigate the crimes of RPF committed within the jurisdiction of the ICTR. However, because of repeated resistance and pressure imposed by the Rwandan government and its refusal to cooperate with the tribunal, Del Ponte failed to bring RPF's crimes in trials. Furthermore, her position as a prosecutor in the ICTR⁹ was not renewed because of political reasons. As for the impact of the ICTR on locals, International Centre for Transitional Justice (2009) observed that it has done little outreach to Rwanda as most Rwandans remained poorly informed of the trials. 56 percent of Rwandans said that they were not well informed about the trials, while another 31 percent answered to be not informed at all¹⁰.

On a transnational level, several countries such as Canada and Belgium have recently arrested genocide perpetrators under the universal jurisdiction. The first trial under the Belgium's universal jurisdiction law was carried out against Sisters Gertrude and Kisito in 2001¹¹. In 2005, the Quebec court as a member of International Criminal Court convicted Désiré Munyaneza, a Rwandan immigrant who entered Canada more than a decade ago, on seven charges relating to genocide in Rwanda in 1994. This was the first case under the Canadian war crimes law to prosecute civilians for crimes committed outside of Canada¹².

On an internal level, the Rwandan government decided to deal with as many crimes committed in that period in order to combat the culture of immunity. Those who were arrested were detained in national prisons. However, due to a huge number of detainees and the slow judicial process, and a lack of resources to conduct trials, many of the accused had to wait for a

7 Ingelaere (2009); and Peskin, V (2011). Victor's Justice Revisited. In Straus and Waldorf (eds). *Remaking Rwanda: State Building and human Rights After Mass Violence*. University of Wisconsin Press. p. 152

8 I worked as an intern in the Prosecution office of the ICTR for three months, from April to June 2012

9 Peskin (2011), p.177-178

10 ICTJ (2009) Transitional Justice and DDR: the Case of Rwanda, p.177-178

11 Retting, M (2011:200). The Sovu Trials: the Impact of Genocide Justice on One Community. in *Remaking Rwanda: State Building and human Rights After Mass Violence*.

Although Belgium convicted those individuals of their crimes during genocide, the notion of universal jurisdiction law is still in debate whether it violates the rule of non-interference in domestic affairs. Besides, there still remains skepticism about little debate on the accusation against Belgium's violation of humanitarian law in colonial period (Maeda, A. 2002. *Genocide and Genocidal Rape*. Aoki-shoten)

12 Austin, I. (2009). Canadian Judge Convicts Rwandan in Genocide. The New York Times. Available at: <http://www.nytimes.com/2009/05/23/world/americas/23canada.html>; CBC News (2005). Toronto man charged with Rwandan war crimes. Available at: http://www.cbc.ca/news/canada/story/2005/10/19/rwanda_051019.html.

long time in a brutal prison condition to be brought to the trial¹³. In order to deal with the situation, the Rwandan government decided to employ a traditional local judicial system, *gacaca* to deal with a number of detainees awaiting trials¹⁴, as well as to promote national reconciliation.

2. *Gacaca* and national reconciliation

The government of Rwanda decided to employ *gacaca* in order to seek truth, facilitate national reconciliation among people involved in genocide, combat the culture of immunity, and promote trials for a huge number of suspects¹⁵. *Gacaca* is a traditional Rwandan judicial system which was used to deal with disputes within the community, mediated by elders in the community; however, *gacaca* conducted after the genocide had a different role to the traditional one as it had to deal with genocidal crimes¹⁶. In my research last year and this year, I tried to grasp the local perspective on *gacaca* and the reconciliation process, by staying in a local Rwandan's house. Since the genocide is such a naïve and sensitive issue, I chose to live in a Rwandan community in Kigali and start making relationships with people. Fortunately, as I already knew several Japanese persons working in Rwanda who have sufficient knowledge of local and government affairs, I had a pathway to get into the community located in Nyamirambo, the hottest and crowded place in Kigali. I had opportunities to listen to several people in Kigali, Kirehe and Butare, however, I prioritised listening to in-depth personal experiences rather than merely asking their experience through the genocide. It should be noted that the issue of national reconciliation and *gacaca* is still a big debate that people find difficult to talk about, especially to strangers. Given that Rwanda is a society where the genocide is not openly spoken of, it is difficult to assess the credibility of the research obtained. On this point, Thompson (2011) critically assessed the credibility of interviews taken with ordinary Rwandans about whether the *gacaca* courts are promoting a sense of national unity and reconciliation in their everyday lives, as unlikely to provide reliable answers¹⁷. Criticism of government policy is not only taboo, but sometimes leads to insecurity of people¹⁸.

In September 2011, I stayed in Nyamirambo, where many Tutsis had been killed during the genocide. Nyamirambo is known as a notorious city ghetto in Kigali, a place where many

13 The number of arrested reached 120,000 by 2004 causing the prisons' deadly conditions (ICTJ, 2009). Indeed, thousands died as a direct result of those environments (Tersakian, C. 2011. "All Rwandans Are Afraid of Being Arrested One Day": Prisoner's Past, Present and Future. in *Remaking Rwanda: State Building and human Rights After Mass Violence*).

14 Rwanda's domestic court addressed approximately 10,000 suspects between December 1996 and mid-2006 (ICTJ, 2009).

15 Scanlon, H. and Motlafi, N (2009). Indigenous Justice or Political Instrument? The Modern Gacaca Court of Rwanda. in Lekha, S. and Pillay, S. (eds). *Peace versus Justice? The Dilemma of Transitional Justice in Africa*. University of KwaZulu-Natal Press.

16 Scanlon and Motlafi (2009)

17 Thompson (2011: 374). The Darker Side of Transitional Justice: The Power Dynamics behind Rwanda's Gacaca Court. *Africa*, 81 (3), pp. 373-390

18 According to Thompson (2011), criticising government subjects Rwandans to considerable sanction, including harassment, intimidation, imprisonment and in extreme cases, disappearance and even death (Thompson 2011: 374). Moreover, Thompson argues that the policy of national and ethnic unity disguises the government's effort to control its population and consolidating the political power of the RPF.

people live cramped in a small space. Even though a person might not be a direct killer of his/her family member, people generally have the knowledge of who was a perpetrator and who a victim in the genocide. Unlike several other sites, former perpetrators and victims are living together in Nyamirambo.

Female N, 25 years old, lost her family members in the genocide. She became my best friend, and told me her story during the genocide and her opinion on reconciliation. We had conversations regarding this issue several times during my stay in 2011, and May 2012 when she visited me during my internship at the ICTR, and June 2012 when I visited her at the end of the internship.

3. Female N's story (from the talk)

Before 1994, she had three sisters and two brothers. Her elder sister was married before 1994, and one of her other sisters was living in her aunt's house. When the perpetrators came to her house, they took her father, and the rest of family members were gathered in Kibagabaga. In Kibagabaga, four types of killings were taking place. Perpetrators firstly put Tutsis in line and killed one by one. Secondly, people were gathered in a car and throw into the river alive. Thirdly, the perpetrators gathered people, cut their Achilles tendon and attacked with grenades, then after killed with machete. Lastly, people were put into a toilet and attacked with bat until they died. Female N and her younger sister were attacked in the third attack and they were the only survivors.

Female N and her young sister were attacked with many others. After the grenade attack, criminals came to check if someone was still alive -unfortunately, almost all were dead. Female N was still alive and she put the blood from other dead bodies on herself, from a mother and a child who were lying next to her. Her young sister was under many bodies, allowing her not to be found by the perpetrators though she was alive. In this place, only Female N and her sister survived. Her older sister was killed in line attack, after she enforced to take off her clothes.

Female N's father was attacked several times; a group of perpetrators often came home and beat him. During the genocide, he was forcibly taken outside and killed, then thrown into a toilet. His body was found afterwards due to the confession of the perpetrator in the *gacaca* trial. The perpetrator also took his bank account card before they killed him, and had it until his trial in *gacaca*. Female N attended *gacaca* trial for her father's death and was shocked because of the perpetrator's easy manner to confess the crime he had committed. The perpetrator was a well-known colleague of her father, and she is still afraid of seeing him by chance. Female N explains that the victims' family had no choice other than forgiving perpetrator, as *gacaca*, in her perspective, was a forced reconciliation process. However, like several other informants, Female N told me that *gacaca* indeed helped find her father's dead body, even though her brothers' bodies are still unfound.

4. *Gacaca* as a tool to find be-loved bodies

For those who were struggling to find their family members, *gacaca* was effective in finding their be-loved family's bodies although it did not always help finding all of their lost family. Other informants whom I talked to at the Ntarama memorial site and Kigali memorial also agreed with this point. Male G, who is working in Ntarama church memorial, told me his story and perspective on *gacaca*.

Male G lost his mother, father and two of his brothers in the genocide. The perpetrators were neighbours. His father was murdered in front of Male G and crucified like Christ and brutally dragged on the ground by a car. His mother and brothers bodies were found due to the confessions made in *gacaca* trials, however, his father's body has never been found.

In his opinion, *gacaca* was effective in finding bodies and allowed them to rebury their be-loved family with dignity¹⁹. Without *gacaca*, he would have never found family's bodies. Furthermore, he recalled the *gacaca* trial was held in front of the community members, including the perpetrators themselves and co-perpetrators who might have witnessed the accused's alleged crime. In his opinion, this prevented the perpetrator from telling a lie.²⁰ However, in reality, telling a lie in the confession often occurred as eye-witnesses had been murdered or were hiding when crimes were committed so that nobody knew what he/she had 'exactly' done. This point is reinforced by the research conducted by Retting (2011) in Sovu district where more than 70 percent of non-survivors (usually Hutu civilians) and 90 percent of survivors said that people told lies at *gacaca*. Female N criticised that even though an individual has murdered 20 people for example, he/she could confess one of their crimes and ask for forgiveness²¹. Confession and asking forgiveness were essential in order to reduce sentence; if the confession was found to be a lie, that person was charged heavier sentence. She also emphasized that because perpetrators did not confess all the details of the crime, many bodies left unfound, sometimes houses were constructed over dead bodies without knowledge. Nevertheless, *gacaca* did achieve its function in finding many victims' bodies, although its function as a tool to promote national reconciliation is doubtful.

5. Relationship among neighbourhood after *gacaca*

Even though some people agree that *gacaca* played a functional role in dealing with genocide perpetrators, its role in promoting reconciliation is sceptical. Ingelaere (2009)

19 ICTJ (2009: 17-18) also emphasized this point as "what genocide survivors want most, apart from compensation, is to find the remains of their loved ones and to rebury them with dignity. One of the leaders of the largest survivors' organization credited *gacaca* with helping survivors to locate their dead".

20 Officially, one had to confess all of his/her committed crimes. If it is discovered that the confession was false, that person was given more severe penalty. However, usually nobody knew the exact number of crimes this person had committed. Or, witnesses often kept silence although they knew the truth, because they were afraid of being revenged. Indeed, there invoked a number of reprisal (more than 160 cases after 2000) killings by perpetrators on survivors, judges, witnesses, which made it difficult for witnesses to testify in *gacaca* (Slanlon and Motlafi, 2009)

21 This point needs to be further assessed since telling a lie was a big bargain for perpetrators themselves. Once it was found that their confession was a lie, they would be sentenced heavier.

conducted twenty months of fieldwork in 2002 and 2006 on *gacaca* focusing on 'truth-telling' in order to assess the impact of *gacaca*. From his research, he found that *gacaca* is positively appraised by the general population; 89 percent of people questioned on whether families of accused and of victims would reconcile 'after' *gacaca*, answered in a positive way. However, he critically assesses the result that this positive answer is because the question refers to a better relationship 'after' *gacaca*, not 'because of' *gacaca*, since other responses to questions relating to social cohesion, interpersonal and family trust revealed a perceived or experienced decrease in social well-being²². Nevertheless, 98 percent of people questioned answered that *gacaca* is an essential step towards unity and reconciliation in Rwanda²³.

On this point, Female N emphasized that she cannot re-establish a relationship with perpetrators anymore. She told me that everybody knows who the perpetrators were, and who were the victims, even though people are prohibited to claim their ethnicity (Tutsi, Hutu, Twa). Besides, her experience in school life²⁴ after the genocide had an impact on her attitude to make relationship with others. She always considers someone's background whether or not the person had the same experience as she did in the genocide, which affects her attitude to make friends, choose work place, and partner. Indeed, in the district Female N lives, I could feel ill-will among neighbours since some of them committed murder during the period. They kept tension between each other as one of them, for instance, tried to keep me from having conversations with Female N. Even though it cannot be generalised, the on-going tension among neighbourhood in this district could be explained by the information that Female N provided me.

Although *gacaca* is regarded as retributive justice as it aims to convict as many individuals who played a role in genocide, Female N criticised that *gacaca* was not sufficient to punish perpetrators because their sentences were reduced if they confessed their crimes. In addition, the difficulties people would face are different according to the place. For those living in the city, they might be able to avoid having a relationship with the 'other' side even though they still live in the same neighbourhood. In addition, many people living in the city came from other parts of Rwanda after the genocide, so usually they did not have a direct victim-perpetrator relationship -even though their 'origin' still kept them away from interacting with each other. In contrast, for those living in the villages, they had a necessity to reconstruct a relationship as former perpetrators usually came back to the same place as they lived before and during the genocide. Given the fact that many crimes were committed by neighbours in the community and those perpetrators came back after their sentences, those in villages would face more difficulties for establishing the relationship again, even though there was a necessity to do so in order to tackle shared poverty that many villages faced. On this point, I would like to introduce the Healing and Reconciliation Project by a local NGO called Reconciliation Evangelism and

22 Ingelaere (2009), p.511

23 Ingelaere (2009), p.512 "Table2 —Impact of the *gacaca* process (2002-2006)"

24 Students from victim's families were normally poor compared to perpetrator's ones. This point is related to lack of compensation for victims, perpetrators' lack of ability to compensate and return what they derived from Tutsi's house during genocide.

Christian Healing (REACH), which is providing various activities in Kirehe²⁵, in order to deal with the difficulties villagers have been experiencing after the genocide.

6. REACH's Project

REACH²⁶ has been engaged in grassroots reconciliation project through promoting restorative justice. Mr. Kazuyuki Sasaki, a Japanese, working in REACH kindly took us to the places where the projects are being conducted and gave us the opportunity to talk about the issue with people involved.

REACH covers a variety of activities in order to restore the destroyed ties between victims and perpetrators within the community. For instance, they arrange multiple seminars in order to provide a secure environment for those involved in the genocide. In these seminars, victims can share their traumatic experiences of the genocide with the perpetrators. Both women who lost their husbands and those whose partners are in prison can share their common problems though they may have had hostility towards each other in the beginning. Another activity, which is currently the main project of REACH, is house-building project organised and conducted by former perpetrators cooperating with victims. In this project, perpetrators rebuild houses that they destroyed in the genocide because most of the victims could not afford to do it by themselves.

Seminars began before housing-project started in June 2007, aimed to let perpetrators think and accept what they did to the victims during the genocide, and to heal victims through confession, apologizing, and reparation as a responsibility of what they did during the genocide. A female survivor talked in a seminar about her story in genocide. Her husband was killed and perpetrators took her to the communal office by holding her neck with rope, and after she was raped by those men. She was traumatized by this memory; she was suffering from insomnia, nightmare, fears against males, as many victims had the same problems after the genocide. Besides, she told them how she recovered from it. There were approximately 50 perpetrators in the seminar. At the end of the seminar, she encouraged them to visit victims, confess and accept what they did, and apologize. She told them that she herself forgave seven people who visited her.

On my second day in Rwanda, I visited a site where house-construction was taking place, and provided assistance to the workers. This project was initially started as a part of a labour penalty that criminals had to participate in after several years' imprisonment. Recently, the projects are carried out voluntarily by former perpetrators rather than as an obligation. In the place I visited, they were working in the place of a woman whose husband was killed, and house was totally destroyed by the perpetrators. In fact, those joining in the project killed her husband and destroyed her house, which means they are direct perpetrators and victims of the

²⁵ Kirehe is located in the distance of about 2 hours from Kigali. In Kirehe, crimes during genocide were committed within community as other places. Unlikely to the city, those perpetrators were returning to their village after their sentence, which means victims and their direct perpetrators had to live together.

²⁶ Reconciliation Evangelism And Christian Healing (REACH). Available at: <http://www.reach-rwanda.org/index.html>

action. Perpetrators told us that they often talk about what they did during the genocide. They also told us that they had no choice but attack Tutsis, otherwise they would have been regarded as enemies and killed. Nowadays, a woman cooks for lunch and they have lunch together.

Recently, REACH is conducting a small business by making and selling buckets and coffee. The money made from this business is put back into the local community to combat a shared problem of poverty.

Conclusion

With an increase in the number of internal conflicts often associated with brutal human rights violations such as genocide and massacre, the issue of transitional justice has become more complicated and challenging. The majority of victims today are civilians; Rwanda is a remarkable case. Since a huge number of ordinary people were involved in the genocide as perpetrators and commission of the crimes took place in the community and in neighbourhoods, Rwanda has been struggling to address the issues of national reconciliation and the huge number of crimes that occurred in that period.

With limited budget and resources, a traditional conflict resolution system, *gacaca*, was employed in order to deal with the vast number of criminals and to promote national reconciliation. Indeed, among several trials conducted to deal with crimes during the genocide, *gacaca* was the most well-known system by locals in which many people actually took part. However, its achievement as a tool of promoting reconciliation is critical as it faced many challenges in re-establishing the broken ties between the victims and perpetrators. Nevertheless, in my opinion, *gacaca* provided a primary pathway to bring people together and have a conversation regardless of whether or not it provided a secure environment for both victims and perpetrators.

In this respect, local NGOs such as REACH are playing a big role in providing opportunities for dialogue between the perpetrators and victims and in facilitating the healing process for those involved in the genocide, which *gacaca* failed to achieve.