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Dilemmas of Justice and Reconciliation: Rwandans and the Gacaca Courts

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DILEMMAS OF JUSTICE AND RECONCILIATION: RWANDANS AND THE GACACA COURTS

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Abstract

Following the 1994 genocide, several justice initiatives were implemented in Rwanda, including a tribunal established by the United Nations, Rwanda's national court system and Gacaca, a 'traditional' community-run conflict resolution mechanism adapted to prosecute genocide perpetrators. Since their inception in 2001, the Gacaca courts have been praised for their efficiency and for widening participation, but criticised for lack of due process, trained personnel and attention to atrocities committed by the Rwandan Patriotic Front (RPF). To evaluate these criticisms, we present preliminary findings from a survey of 227 Rwandans and analyse their attitudes towards Gacaca in relation to demographic characteristics such as education, residence and loss of relatives during the genocide.

I. INTRODUCTION

Since gaining independence over forty-five years ago, Rwanda has been embroiled in a vicious cycle of violence and vengeance, culminating in the 1994 genocide. Between April and July 1994, unprecedented large-scale violence resulted in the deaths of at least 500,000 (and possibly up to 810,000) Tutsis and moderate

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Hutus.² Over fourteen years later, Rwanda is still struggling with the question of how to deal with its violent past. Rwanda is not alone in dealing with this type of problem: in the wake of civil war and/or large-scale violence, countries are often faced with the delicate and complicated issue of confronting the past and preparing for a peaceful future.³ While a great deal of comparative work has been done in this area, what is often missing is closer attention to the views of ordinary citizens.⁴ This article aims to fill this gap by looking specifically at the case of Rwanda and its 'indigenous' justice initiative, Gacaca. Since 1994, tens of thousands of Rwandans have been detained for their suspected participation in the genocide,⁵ and several justice initiatives have been implemented, including the International Criminal Tribunal for Rwanda (ICTR),⁶ Rwanda's national court system and the Gacaca courts. This article investigates the attitudes of the people most affected by the Rwandan genocide towards the various justice initiatives implemented, focusing particularly on Gacaca.

In 1996, the Rwandan government (GoR) passed a Genocide Law criminalising the act of genocide and began prosecuting genocide suspects in its national courts.⁷ Despite pressure from the international community to grant some sort of amnesty to genocide perpetrators,⁸ the GoR insisted on maximal accountability and pushed forward with national prosecutions. However, the shattered Rwandan justice system progressed at a painfully slow pace, even with help from various

2 The scholarly consensus for the number of victims ranges from 500,000 to 810,000 individuals, mostly Tutsi. Omar McDoom estimates that between 560,000 and 597,000 Tutsis lost their lives, the overwhelmingly majority of whom were killed in the last 100 or so days of the genocide. He also estimates that approximately 367,000 Rwandan civilians, or 19.5 per cent of the adult Hutu male population, committed an act of violence during the genocidal phase of the war. Omar McDoom, *Why Men Kill: Authority, Opportunity, and Security in Rwanda's Genocide* (unpublished manuscript). Also see A. Desforges, 'Leave None to Tell the Story: Genocide in Rwanda', *Human Rights Watch* (March 1999); International Crisis Group, 'Five Years after the Genocide: Justice in Question' Africa Report (7 April 1999), available at <http://www.crisisgroup.org/home/index.cfm?id=1412&l=1> (last visited 30 March 2009).

3 P. Hayner, *Unspeakable Truths: Confronting State Terror and Atrocity*, Routledge (2001), p. 4.

4 One notable exception is E. Stover and H. Weinstein (eds), *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, University of California Press (2004).

5 According to official figures, there were about 120,000 detainees in 1999; S. Vandeginste, 'Justice, Reconciliation, and Reparation after Genocide and Crimes against Humanity: The Proposed Establishment of Popular Gacaca Tribunals in Rwanda' (1999), p. 12. <http://www.grandslacs.net/doc/3666.pdf> (last visited 30 March 2009).

6 In 1994, the United Nations established an International Criminal Tribunal for Rwanda (ICTR) in Arusha to prosecute those responsible for genocide, crimes against humanity and other serious violations of international humanitarian law committed during 1994 in Rwanda or by Rwandans in other countries; UN Security Council Resolution 955 (8 November 1994), available at <http://www.un.org/ict/english/Resolutions/955e.htm> (last visited 30 March 2009).

7 Although Rwanda was a signatory to the Genocide Convention, genocide had never been incorporated into Rwandan law.

8 Amnesty International, 'Rwanda: Gacaca: A Question of Justice' (December 2002), available at <http://www.amnesty.org/en/library/info/AFR47/007/2002> (last visited 30 March 2009); C. Honeyman *et al.* 'Establishing Collective Norms: Potentials for Participatory Justice in Rwanda', 10(1) *Journal of Peace Psychology* (2004): 1–24; P. Uvin, 'The Introduction of a Modernized Gacaca for Judging Suspects of Participation in the Genocide and the Massacres of 1994 in Rwanda' (n.d.), available at <http://fletcher.tufts.edu/humansecurity/pdf/Boutmans.pdf> (last visited 30 March 2009).

NGOs and donors. By early 1999, approximately 1,800 judgements had been passed, but a staggering 125,000 detainees remained in prison.⁹ At that pace, legal observers and analysts estimated it would take a century to prosecute all genocide suspects awaiting trial.¹⁰ Requiring over 100,000 detainees to await trial in overcrowded prisons built for less than 50,000¹¹ also caused significant human rights abuses and put a considerable strain on the nation's economy. Consequently, the GoR's desire to pursue full accountability for the crimes of genocide had to be weighed against the reality of overcrowded prisons and a slow justice process. At the same time, ethical and political considerations rendered the government unwilling to allow thousands of genocide perpetrators to escape unpunished. It began to explore alternative justice mechanisms, and by mid-1999 it was considering plans to institute a system of 'people's justice', namely, the Gacaca courts, to quicken the pace of trials and encourage public participation.¹²

In January 2001, the government passed a law establishing Gacaca jurisdictions as a third method of administering justice. The state-established Gacaca courts meet once a week in each of Rwanda's approximately 9,013 cellules¹³ and 1,545 sectors.¹⁴ Community members are elected to act as judges while cellule and sector residents act as juries, witnesses, prosecutors and defence. There are two phases: information gathering and the trial. In a typical information-gathering meeting, people are encouraged to describe their experiences and tell/explain what they saw during the genocide.¹⁵ The focus is on collecting information/evidence to create files for genocide suspects/current prisoners. During trials, genocide suspects or released prisoners are summoned by the Seat (panel of elected judges) and questioned by the judges and community members regarding their activities during 1994. Witnesses and community members are invited to offer testimonies

9 Numbers regarding the number of genocide suspects tried by 1999–2000 are estimates and are often contradictory; see Vandeginste, 'Justice'. Other sources cite about 900 persons prosecuted by early 1999; see International Crisis Group, 'Five Years', p. 5. As of January 2008, about a million people have been tried for genocide-related crimes. See Hironelle News Agency, 'Government Plans to Shift all Genocide Cases to Gacaca Courts' (22 January 2008).

10 Vandeginste, 'Justice', p. 12; International Crisis Group, 'Five Years', p. 18.

11 The Rwandan prison system's capacity was about 10,000 in 1994, but with the help of NGOs and international funding by 1997 the prison capacity reached 50,000 by 2001. See Amnesty International, 'Rwanda: Gacaca'.

12 International Crisis Group, 'Five Years', p. 1.

13 A cellule is the smallest administrative unit in Rwanda. The number of cells in which Gacaca is active was confirmed by Domitilla Mukantaganzwa, Executive Secretary, National Service of Gacaca Jurisdictions (Interview Study, 27 January 2006) and reconfirmed during interviews and correspondence with a Ministry of Justice official in March 2007. Only 751 of these units began trials during the pilot stage, which ended mid-2005.

14 This is the second-smallest administrative unit; from an Interview Study with civil society leaders and lawyers groups, Kigali (November 2006).

15 Personal observation, Butare and Gikongoro (June–August, 2005). See also S. Wolters, 'The Gacaca Process: Eradicating the Culture of Impunity in Rwanda?' ISS Situation Report (August 2005), available at <http://www.issafrika.org/AF/current/2005/050805rwanda.pdf> (last visited 30 March 2009); Penal Reform International, 'Research Report on Gacaca' (April–June 2002), available at <http://www.penalreform.org/resources/rep-2003-gacaca5CellPreparations-en.pdf> (last visited 30 March 2009).

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and/or substantiate accusations, and defendants are given an opportunity to defend themselves.¹⁶

The first stage of the Gacaca courts (data collection nationwide) was completed in December 2005, and trials began all over the country in August 2006¹⁷ (751 pilot courts had completed trials by December 2005, delivering over 4,000 judgements with about 500 acquittals). By the end of December 2006, 51,649 cases had been processed, averaging 10,000 cases a month.¹⁸ Recent media reports suggest that by mid-December 2007, about a million people had been tried.¹⁹

One should not assume that the current Gacaca is the 'traditional' system that existed in pre-colonial Rwanda. Gacaca is indeed based on a traditional dispute resolution mechanism, but the new jurisdictions differ significantly from the original (traditional) Gacaca format.²⁰ While the traditional Gacaca focused entirely on restoring social harmony and reintegrating offenders into the community, the current jurisdictions have an almost equal focus on criminal prosecutions and achieving justice. For instance, the decisions of the traditional Gacaca never comprised prison sentences, and its scope was limited to minor civil disputes.²¹ Today, Gacaca is handling what may be the gravest crime against humanity – genocide – and it is meting out prison sentences. Moreover, unlike the traditional Gacaca, the new Gacaca is established by state law and is expected to apply that law. As Stef Vandeginste points out, a potential effect of this dominant role of the state is that whereas social pressure was at the heart of the traditional system, state coercion (the ultimate feature of a formal state justice system) has been the engine for the restructured Gacaca tribunals.²²

The structure of the Gacaca courts is closely aligned with the state administrative structures: the cellule, the sector, the district and the province.²³ Rwanda is divided into four administrative levels, in a pyramid-like fashion. At the top are five regions (Northern region, Southern region, Western region, Eastern region and Kigali city). Each region consists of a varying number of districts. Altogether, there are thirty districts that are subdivided into 416 sectors²⁴ (formerly approximately 1,550), which contain about six cells each. The cell is the smallest administrative unit, each comprising between 200 and 800 Rwandans.²⁵

16 Personal Observation, Butare (July–August 2005); also from Study Interviews with Rwandans in Butare and Kigali; see Penal Reform International, 'Research Report', for initial comments on the first sessions of the pilot stage.

17 Francois Mugabo, Lawyers Without Borders, Study Interview and Correspondence, November 2006. Note that trials had been completed in 751 pilot Gacaca courts by December 2005.

18 Lawyers without Borders, Study Interview and Correspondence, Kigali-Rwanda (November 2006 and March 2007).

19 Hironnelle News Agency, 'Government Plans'.

20 L. Graybill, 'Pardon, Punishment and Amnesia: Three African Post-Conflict Methods', 25(6) *Third World Quarterly* (2004): 1123.

21 Vandeginste, 'Justice'.

22 Vandeginste, 'Justice', p. 26

23 Unless otherwise noted, the information contained in this section is drawn from the Organic Law of 2004. See Republic of Rwanda, Organic Law 16/2004, April 2004.

24 Numbers obtained from Rwandan and International NGOs, Kigali, November 2006.

25 Other sources say 200–1,000 individuals (Amnesty International, 'Rwanda: Gacaca', p. 45), or 800 individuals (Vandeginste, 'Justice', p. 20).

The administrative structure recently underwent extensive reforms (the structure changed from 12 provinces to 5, from 154 districts to 30, from 1,550 sectors to 416; and the number of cells have probably changed from 9,013).²⁶ Nevertheless, the National Service of Gacaca Jurisdictions (the agency in charge of oversight and supervision of the Gacaca courts) maintains that the reforms did not affect the actual structure of the Gacaca courts.²⁷

Since its inception, Gacaca has been acknowledged as an alternative approach to justice and reconciliation while being subject to considerable criticism by domestic and international actors²⁸ such as Amnesty International and Human Rights Watch. Critics focus on the lack of due process,²⁹ the design and procedures of the tribunals, the lack of attention to atrocities committed by members of the ruling RPF³⁰ and allegations that the government is using Gacaca as a mechanism of state control.³¹ Advocates point out that prisons have become considerably less congested, as approximately 60,000 prisoners have been conditionally released to participate in the Gacaca trials (reducing the prison population to approximately 60,000 from about 125,000).³² Gacaca also enables the public to play a larger role in the administration of justice, a feature neither the ICTR nor the national court system can offer. Advocates also argue that several problems attributed to Gacaca already existed in the other judicial systems before Gacaca was set up. For example, in the national court system, where most genocide cases would have been tried, there is a great deal of corruption,³³ the personnel are barely qualified,³⁴ due process rights are not guaranteed,³⁵ and the government (and affluent private

26 Numbers of districts and sectors obtained from correspondence and interviews with civil society members and Rwandans in NGOs. November 2006.

27 Domitilla Mukantanzwa, Executive Secretary, National Service of Gacaca Jurisdictions, Study Interview (January 2006).

28 See Amnesty International, 'Rwanda: Gacaca'; Human Rights Watch, 'World Report 2006, Rwanda Section', available at <http://hrw.org/doc/?t=africa&c=rwanda> (last visited 31 March 2009); also from Study Interviews with Rwandans in Butare and Kigali; for more comments, see A. Corey and S. Joireman, 'Redistributive Justice: The Gacaca Courts in Rwanda', 103 *African Affairs* (2004): 73–89; J. Sarkin, 'The Tension between Justice and Reconciliation in Rwanda', 45(2) *Journal of African Law* (2001).

29 Amnesty International, 'Rwanda: Gacaca'.

30 Human Rights Watch, 'World Report'; Amnesty International, 'Rwanda: Gacaca'; Eugenia Zorbas, 'Reconciliation in Post-Genocide Rwanda', 1 *African Journal of Legal Studies* (2004): 29–52; Corey and Joireman, 'Redistributive Justice'; E. A. Tiemessen, 'After Arusha: Gacaca justice in post-genocide Rwanda', 8(1) *African Studies Quarterly* (2004); P. Uvin, 'Western and Local Approaches to Justice in Rwanda', 9 *Global Governance* (2003): 219–231.

31 L. Wardof, 'The New School, Reconciliation and Revenge through Rwanda's Gacaca Trials, Presentation at the African Studies Association Conference (17 November 2005).

32 Domitilla Mukantanzwa, 'Rwanda Releases 9,000 Prisoners', Study Interview, BBC News, (19 February 2007); 'Gacaca Courts to Change Structure', *New Kigali Times* (7 January 2007).

33 P. Uvin, 'Difficult Choices in the New Post-Conflict Agenda: The International Community in Rwanda after the Genocide', 22(2) *Third World Quarterly* (2001): 177–189; see also Sarkin, 'Tension', p. 158.

34 Study interview with NGOs in Kigali (January 2006). In fact, many only have secondary school diplomas; see Barbara Oomen, 'Donor Driven Justice: The Case of Rwanda', 36(5) *Development and Change* (2005); Uvin, 'Difficult Choices', p. 183.

35 Interview with Rwandan human rights activist, 17 March 2006; see Sarkin, 'Tension', p. 157; Amnesty International, 'Rwanda: Gacaca', pp. 10–15; Vandeginste, 'Justice', p. 11; Uvin, 'Difficult Choices', p. 183.

Rwandans) may exert undue influence on the judicial staff.³⁶ Lastly, Gacaca is considerably cheaper than either the ICTR or the national court system, and in a resource-poor country such as Rwanda, this is an important consideration.

II. EVALUATING GACACA

Arguments against and in favour of Gacaca (as well as its alternatives) reflect two general orientations in the literature concerning justice and reconciliation: *legalism*, which is based on the applicability of universal norms and high standards in criminal justice, and *pragmatism*, which suggests adaptation to indigenous needs and local conditions.³⁷ On the one hand, ‘legalists’ emphasise the centrality of justice mechanisms and argue in favour of applying widely acknowledged standards in the prosecution and punishment of perpetrators of mass crimes. Mechanisms and standards that are not compromised by short-term political expedience and that assume a universal character are expected to foster lasting peace in the long term.³⁸ Documentation and recognition of genocide by international courts helps demobilise extremists and acts as deterrence against potential future perpetrators.³⁹ ‘Pragmatists’, on the other hand, emphasise indigenous solutions to indigenous problems, focusing on negotiations and compromise among domestic and international actors. Truth commissions that trade amnesty for truth are expected to foster healing and reconciliation. The logic of pragmatism considers the resources available to address a given problem, particularly in less developed countries such as Rwanda. In such cases, a lack of trained lawyers, weak judicial institutions, reconstruction priorities and widespread poverty are key considerations. Finally, pragmatists argue for the importance of sequence, suggesting that justice should follow institutional restructuring and that compromises allow societies the time to build institutions and good governance that could maintain justice imperatives in the future.⁴⁰

Based on the results of our survey analysed below, the present article argues that the Gacaca courts are grounded primarily on the principles of pragmatism. In this view, it is important to investigate whether the benefits of Gacaca outweigh its shortcomings, particularly the lack of due processes. Table 1 provides a brief summary of how the Gacaca courts, the Rwandan national courts, the ICTR and the alternative of truth commissions (for example, South Africa) feature in a cost–benefit comparison.

36 Interview with NGOs in Kigali; see also Uvin, ‘Introduction’.

37 J. Snyder and L. Vinjamuri, ‘Trials and Errors: Principle and Pragmatism in Strategies of International Justice’, 28(3) *International Security* (2003): 5–44.

38 M. Cherif Bassiouni (ed.), *Post-Conflict Justice*, Transnational (2002), p. 41.

39 Bassiouni, *Post-Conflict*, p. 5.

40 Snyder and Vinjamuri, ‘Trials and Errors’, p. 6.

Table 1. The Justice/Reconciliation Process in Rwanda: Benefits vs. Shortcomings at a Glance

Justice Mechanism	Benefits	Shortcomings/Costs
International Criminal Tribunal for Rwanda (ICTR)	<ol style="list-style-type: none"> 1. International recognition of Rwandan genocide (including some landmark legal decisions) – helped neutralize the Hutu extreme (many Hutu Power extremists but also a number of ordinary Rwandans still deny the 1994 genocide). 2. Evidence is less questionable than alternative legal processes. 	<ol style="list-style-type: none"> 1. Very little contribution to reconciliation efforts inside Rwanda. 2. Inefficiency in initial years crippled the tribunal. 3. Physical location too far from Rwanda. 4. Tribunal's inability to make its decisions widely available to Rwandans. 5. Prosecution of perpetrators risks causing more atrocities⁴¹
Rwandian national courts	<ol style="list-style-type: none"> 1. Recognition of crime of genocide inside Rwanda. 2. Local arbitration of conflicts. 3. Some justice is 'seen' to be done. 	<ol style="list-style-type: none"> 1. Due process rights are/were often compromised. 2. International fair trial standards were/are not followed (often due to improper training or lack of resources). 3. Unprofessional behaviour in courts and by judicial staff. 4. An extremely slow process. 5. Questionable evidence. 6. High potential for state manipulation and corruption.
Proposed S.A. Style context-adapted Truth Commission (OR Proposed truth for amnesty for perpetrators)	<ol style="list-style-type: none"> 1. Might have alleviated the problem of high incarceration by offering some sort of amnesty to the majority of low-level perpetrators. 2. Sharing responsibility, blame and victim-hood creates a common identity, which provides the basis for dialogue and reconciliation.⁴² 3. Truth telling contributes to healing among victims and relatives.⁴³ 	<ol style="list-style-type: none"> 1. Politically unsuitable for Rwanda in the context of a military victory; considerable survivor pressure for justice. 2. Amnesty could cause anger and reprisals by relatives of victims if perpetrators walk free. 3. Questionable evidence (for example, eye-witness testimonies).

Table 1. Continued

Justice Mechanism	Benefits	Shortcomings/Costs
	<p>4. Perceived unfairness could be mitigated if victims' families have a voice in commission proceedings, if perpetrators' apologies are perceived to be sincere and if victims are financially compensated.⁴⁴</p>	<p>4. Absence of charismatic leadership of Desmond Tutu and Nelson Mandela.</p>
Gacaca	<ol style="list-style-type: none"> 1. Promotes public participation in justice efforts. 2. Enables local determination of justice outcomes. 3. Some justice is 'seen' to be done even if all Rwandans do not agree it is sufficient. 4. Time efficient – quickens the pace of trials; 5. Cost-efficient. 6. Enables collective ownership of the genocide; 7. A 'Rwandan solution'. 8. Encourages local discussion and debate of events surrounding the genocide (in both public and private spheres). 9. Some standardisation of norms of right and wrong, criminality and punishment, within the communities. 	<ol style="list-style-type: none"> 1. International fair trial standards are not adhered to; due process and rights are compromised. 2. Judges untrained. 3. Potential for manipulation by the state and local elites. 4. Questionable evidence (for example, eyewitness testimonies).

Table 1 summarises the general arguments in the literature, which often overlooks the views of ordinary citizens most affected by the various justice and reconciliation mechanisms. The following survey aims to address this oversight, gaining a more systematic insight into the benefits and shortcomings of the justice process in Rwanda by analysing local perceptions of and attitudes towards Gacaca.

A. Methodology

Two hundred and twenty-seven Rwandans filled in a short questionnaire designed to investigate the attitudes of Rwandans towards the justice and reconciliation process in their country (see appendix for questionnaires in English).⁴⁵ The questionnaire consisted of seventeen short statements expressing positions, preferences and attitudes regarding ongoing justice initiatives. These positions, preferences and attitudes had been attributed to ordinary Rwandans by scholars, researchers and the GoR. Respondents were asked to indicate agreement on a ten-point Likert scale ranging from one (absolutely disagree) to ten (absolutely agree). Additional questions concerned demographic characteristics such as gender, age, level of education, residence and war-related information, such as loss of relatives and presence in Rwanda during the genocide. The question on the loss of relatives was intended to serve as a proxy for ethnicity because asking about one's ethnicity remains a sensitive subject in Rwanda.⁴⁶ The findings reported below are based on survey data collected by the first author in January 2006 and during July–August 2005, as well as on interviews and personal communications that took place during October–November 2006 and other quantitative research conducted by nongovernmental organisations working in Rwanda.

The questionnaires were administered in three regions of Rwanda: Northern Province (Ruhengeri Ville), Southern Province (Huye and Nyamagabe)⁴⁷ and Kigali city. In Musanze (formerly Ruhengeri Ville), questionnaires were administered in English and French and were distributed to administrators and visitors at the Hospital of Ruhengeri. A few prisoners also completed the survey at this location. In Huye, French and English questionnaires were distributed primarily to students at the University of Butare, but also to workers at

41 Snyder and Vinjamuri, 'Trials and Errors'.

42 J. Gibson, 'The Contribution of Truth to Reconciliation: Lessons from South Africa', 50 *Journal of Conflict Resolution* (2006): 409–32.

43 A. Borraine, *A Country Unmasked*, Oxford University Press (2000).

44 J. L. Gibson, 'Truth, Justice and Reconciliation: Judging the Fairness of Amnesty in South Africa', 46(3) *American Journal of Political Science* (2002): 540–556.

45 Translations to French and Kinyarwanda are available from the authors upon request.

46 Note, however, that the loss of relatives during genocide is a bad proxy for ethnicity since many Hutus, as well as Tutsis, lost relatives. For instance, during data collection at Nyamagabe, NGO field agents working with the first author noted that quite a few Hutus indicated they had lost relatives during the genocide.

47 The survey was administered in the former district of Gasaka and the City of Gikongoro, both in the new Nyamagabe district.

neighbouring motels. In Nyamagabe, NGO field agents, along with the first author, distributed the Kinyarwandese version of the questionnaire to local residents (sometimes in their homes, sometimes on the streets). Because many respondents from this region were illiterate, the field agents frequently read the questions and response options to participants, and wrote down their answers. Finally, in Kigali, questionnaires were administered (in English, French and Kinyarwanda) to youth at a local Youth Centre and to a number of acquaintances of the first author. In all but a few cases, the first author was present during administration. Admittedly, given the difficulties of obtaining data from Rwanda, the sample analysed in this article represents a small nonrepresentative population of the country.

Nonetheless, the survey represents Rwanda's diversity in terms of region (North, South and Central), economic development, level of urbanisation and experience of the genocide. Located in the South, Nyamagabe is regarded as one of the poorest regions in Rwanda (in the poorest province, Gikongoro). It experienced a high incidence of slaughter during the genocide and is particularly known for the mass killings that took place at a high school in Murambi, where a memorial site lies today. However, it had few RPF massacres, arguably because of the French presence in the region. Huye, also in the South, experienced a high level of genocide and a relatively high number of RPF killings, as these soldiers took control of the region. Huye is regarded as Rwanda's intellectual capital, home to the country's largest university, and is the second-largest urban area after Kigali. The city of Ruhengeri (now Musanze), in the North, is considered to have had a low level of genocide because of the small number of Tutsis in that region. However, it had very high levels of RPF massacres, especially in the context of an insurgency that lasted until the late 1990s (the insurgency comprised mainly Hutu militias attacking from eastern DRC). Ruhengeri is generally rural, although there is a central/business district. Finally, Kigali, the capital, is the most urban area in Rwanda and home to the largest number of Tutsi returnees.⁴⁸

B. Respondent Characteristics

Sixty-five per cent of the sample (148) was male and 34 per cent (76) was female. Three respondents did not note their gender. Twenty-three per cent of the respondents (53) were between the ages of 18 and 24; 45 per cent (103) were between the ages of 25 and 34; and 18 per cent (40) were between the ages of 35 and 44. Thirteen per cent (30) were 45 or older. Seven per cent (16) reported having received no education at all; 20.3 per cent (46) reported at least some primary education; 25.6 per cent (58) reported some secondary education and 46.7 per cent reported their education level as university or more. One respondent did not answer this question. Thirty-six per cent of respondents (82) reported their permanent residence as rural; 63 per cent (143) reported their residence as urban; two respondents did not answer this question. One hundred and eighty respondents (79.3 per cent) said they had been in Rwanda during the genocide;

⁴⁸ Taken from interviews and correspondence with Rwandans in Butare, Kigali and the United States.

two respondents failed to answer this question. Over half of the sample (61.7 per cent, 140) reported losing relatives during the genocide; 35.7 per cent (81) said they had not; six respondents did not answer this question.

C. Results and Discussion

In this section, we summarise responses to the questionnaires and report on regression analyses conducted to examine the contribution of predictor variables to the variance in the criterion variables. Due to space constraints, we focus on key findings concerning attitudes towards Gacaca. The predictor variables consist of the following demographic characteristics: education (no education, primary education or secondary education *only* = 1; otherwise = 0), residence (rural = 1; otherwise = 0), participation in Gacaca sessions (participate weekly = 1; otherwise = 0), presence in Rwanda during the genocide (present in Rwanda during the genocide = 1; otherwise = 0) and loss of relatives during the genocide (lost relatives during the genocide = 1; otherwise = 0). The criterion variables are the various questions designed to investigate local perceptions and attitudes towards Gacaca.⁴⁹ The results are discussed in the context of literature on the subject of reconciliation and the Gacaca process.

D. Participation in Gacaca

Respondents were asked to indicate whether they attended Gacaca sessions 'weekly', 'twice a month', 'once a month' or 'never'.⁵⁰ Of the 227 respondents, 82 per cent said they attended, with 42.7 per cent noting that they participated weekly and 26.5 per cent saying they went at least once or twice a month.⁵¹ Because the majority of respondents participated weekly, we focused only on weekly participation and conducted a binary logistic regression to determine the predictive power of the demographic variables described above on weekly participation in Gacaca.

The results of the binary logistic regression with education, presence in Rwanda, residence and loss of relatives as predictors revealed that residence, education and loss of relatives were significant predictors of participation in Gacaca sessions ($\chi^2(4, n = 227) = 43.82, p < .001$). Rural residents were 3.65 times more likely to attend weekly than their urban counterparts ($B = .94, SE = .33, p < .01$); respondents with a secondary education or less were 2.97 times more likely to attend Gacaca weekly than those with higher education levels

49 See Questionnaire in Appendix A.

50 The questionnaire also allowed respondents to check the option 'other' if their answer could not be matched with the existing response options. Participants who checked this option were asked to specify their level of participation; 12.8 per cent of respondents indicated that they participated in the sessions 'occasionally' or 'once'.

51 Results showed that 10.6 per cent attended twice a month, 15.9 per cent attended once a month, 11.5 per cent attended occasionally, 1.3 per cent attended only once and 18.1 per cent never attended.

($B = 1.09$, $SE = .32$, $p = .001$); and finally, respondents who lost relatives during the genocide were 2.56 times more likely to participate weekly than those who did not lose any relatives ($B = 1.30$, $SE = .34$, $p < .001$).

The data on participation provide interesting information relevant to analysing the attitude-specific results that follow. For this reason, weekly participation is treated as a predictor and included in the regression models below to determine the contribution of participation to attitudes towards Gacaca.

E. ‘Gacaca is doing a good job of delivering justice’

In total, 74.4 per cent of respondents agreed at varying degrees that Gacaca was doing a good job of delivering justice, while 13.7 per cent remained neutral. Of the total respondents, 60.8 per cent absolutely agreed with this statement, while 6 per cent absolutely disagreed. A linear regression was conducted on this question to examine the contribution of education, residence, presence in Rwanda, loss of relatives and participation in Gacaca sessions to the variance in opinion. This model explained a significant portion of the variance in the responses ($R^2 = .22$, $F(5, 213) = 12.00$, $p < .001$), with education, residence, participation and presence in Rwanda during the genocide acting as significant predictors.

Respondents who participated weekly were significantly more likely to agree that Gacaca was doing a good job of delivering justice than those who participated less than weekly ($\beta = .26$, $p < .001$; a cross-tab indicated that 92 per cent of those who participated weekly agreed that Gacaca was doing a good job of delivering justice).⁵² Those who reported having received a secondary education or less were significantly more likely to judge Gacaca as doing a good job of delivering justice than highly educated respondents ($\beta = .25$, $p < .001$ with 77.5 per cent of those who received a secondary education or less absolutely agreeing with the statement).⁵³ Rural residents were marginally significantly more likely to judge Gacaca as doing a good job of delivering justice when compared to their urban counterparts ($\beta = .13$, $p = .057$; 75.6 per cent of rural residents absolutely agreed compared to only 52 per cent of their urban counterparts). Finally, respondents who were in Rwanda during the genocide were significantly less likely to rate Gacaca as doing a good job of delivering justice than those who were not ($\beta = -.19$, $p = .004$; 57.7 per cent of those who were in Rwanda absolutely agreed with the statement as compared to 71 per cent of respondents who were not in Rwanda).

The tendency of those who reported attending Gacaca sessions weekly to rate Gacaca as doing a good job of delivering justice indicates that Gacaca is not as counter-productive as some might claim. In fact, our data suggest that Rwandans who denounce Gacaca are primarily those who seldom attend and thus cannot

52 Results showed that 81 per cent of those who participated weekly absolutely agreed that Gacaca was doing a good job of delivering justice.

53 Respondents with only a primary education showed a nonsignificant trend towards being more likely to rate Gacaca as doing a good job as well ($p = .12$).

truly appreciate the sessions.⁵⁴ Education level differences are expected, as the educated elite are often more critical and more likely to be hesitant about any new policy. Given the participation data, residence differences are also expected, as urban residents are less likely to attend Gacaca sessions regularly than their rural counterparts; like the educated elite, their scepticism of Gacaca's contribution to the justice process may not be grounded in true engagement with the Gacaca process. Perhaps most significant is the scepticism of those who were in Rwanda during the genocide (who are less likely to endorse the statement that Gacaca is doing a good job of delivering justice), since they constitute at least 80 per cent⁵⁵ of the current population. However, of the 227 survey participants, 180 reported being in Rwanda during the genocide as compared with only 45 who said they were not in Rwanda (two respondents failed to respond to this question). This number means that in each endorsement category (agree, neutral or disagree), there were more respondents who were in Rwanda than were not. In fact, a cross-tab reveals that of the 167 respondents who agreed that Gacaca was doing a good job of delivering justice, 130 (77.8 per cent) were in Rwanda during the genocide. This suggests that the significant tendency of those who were in Rwanda during the genocide to disagree with the statement that Gacaca is doing a good job of delivering justice might be explained by greater absolute numbers and comparatively greater variation within this group.

Overall, the survey suggests that a majority of Rwandans believe Gacaca strengthens the justice process. These results are supported by surveys by the International Rescue Committee in conjunction with the National Unity and Reconciliation Commission (NURC/Rwanda). In 2005, 97 per cent of 10,000 respondents agreed that the Gacaca courts enable a quicker and more reliable judgement of the crimes of genocide than other existing judicial institutions (with 77 per cent absolutely agreeing and 12 per cent strongly agreeing). In 2006, 98 per cent of 8,719 respondents agreed to the same statement (with 78 per cent absolutely agreeing and 11 per cent strongly agreeing).⁵⁶ Results remained the same in 2007.⁵⁷

The major legalist criticism of the Gacaca proceedings is that they do not adhere to international trial standards. Critics point to diluted or reconstructed memories of the witnesses coupled with the fact that suspects are often 'convicted' based on eyewitness testimonies and without proper cross-examination. These are important criticisms, yet they overlook key aspects of the Rwandan justice/reconciliation debate. Despite criticisms by organisations like Amnesty International that reconciliation is impossible without adherence to international

54 Interviews with Rwandans in Kigali also suggested this.

55 This is an educated guess based on conversations with many Rwandans and NGO staff.

56 International Rescue Committee, *Social Cohesion Survey* (2005, 2006).

57 In 2007, 98 per cent of 10,000 respondents agreed to the same statement; see National Unity and Reconciliation Commission (with technical support from the International Rescue Committee), *Social Cohesion in Rwanda: An Opinion Survey, Results 2005–2007* (March 2008).

trial standards,⁵⁸ there is no empirical evidence to support this.⁵⁹ For instance, in a review of the literature on transitional justice, researchers Laurel Fletcher and Harvey Weinstein note that ‘there is very little data regarding the ways in which communities rebuild in the aftermath of mass violence and even less about the contributions of justice to that process’.⁶⁰ Indeed, while many transitional justice scholars agree that accountability through trials is necessary to prevent future violations,⁶¹ others note that the formal legal procedures embodied in trials may do little to attend to the needs of victims.⁶² This view is supported by our survey findings: only 48.9 per cent of respondents agreed that the ICTR was doing a good job of delivering justice, as compared to 74.4 per cent who agreed that Gacaca was doing a good job of delivering justice.⁶³ Other surveys have found similar results. In a 2000 survey of over 2,000 Rwandans, 56 per cent noted that they were ‘not well informed’ about the ICTR, and 31 per cent claimed to be ‘not informed at all’.⁶⁴ Of that sample, only 21 per cent of respondents felt that the ICTR would make a significant or very significant contribution to reconciliation, as compared with 69 per cent who believed that genocide trials in Rwanda would make a significant or very significant contribution.⁶⁵ Finally, 85 per cent of that sample agreed with using Gacaca ‘to demonstrate that Rwandans can solve their own problems using their own traditions’.⁶⁶

Another legalist critique focuses on the problem of distorted memory. This problem is unavoidable, and as the Gacaca courts rely almost exclusively on eyewitness testimony, there is indeed a danger of abuse. Yet in the pragmatist view, this is a tolerable cost, given the benefit of public participation. Having lawyers cross-examining community members may intimidate potential witnesses and discourage them from testifying. In *Beyond Retribution*, Rama Mani notes that ‘victims often feel further victimized and humiliated when

58 Amnesty International, ‘Rwanda: Gacaca’, p. 2.

59 For a relevant discussion, see L. E. Fletcher and H. M. Weinstein, ‘Violence and Social Repair: Rethinking the Contribution of Justice to Reconciliation’, 24(3) *Human Rights Quarterly* (2002): 573–639; Snyder and Vinjamuri, ‘Trials and Errors’, express doubts about the ability of conventional trials (such as advocated by groups like Amnesty International and Human Rights Watch) to contribute to reconstruction; see also M. Drumbl, ‘Restorative Justice and Collective Responsibility: Lessons For and From the Rwandan Genocide’, 5(1) *Contemporary Justice Reviews* (2002): 5–22; Hayner, *Unspeakable Truths*, pp. 100–101; Stover and Weinstein (eds.), *My Neighbor, My Enemy*.

60 Fletcher and Weinstein, ‘Violence’, p. 600.

61 P. Akhavan, ‘Justice in the Hague, Peace in the former Yugoslavia? A Commentary on the United Nations War Crimes Tribunal’, 20(4) *Human Rights Quarterly* (1998): 737–816; see also Fletcher and Weinstein, ‘Violence’; Hayner, *Unspeakable Truths*; also from Study Interview with Rwandan human rights activist (17 March 2006).

62 Hayner, *Unspeakable Truths*, pp. 100–40; Fletcher and Weinstein, ‘Violence’, p. 592.

63 The percentage of respondents agreeing that the Rwandan national court system was doing a good job of delivering justice was almost the same as that endorsing Gacaca: 73.7 per cent.

64 T. Longman et al., ‘Connecting Justice to Human Experience: Attitudes towards Accountability and Reconciliation in Rwanda’, in Stover and Weinstein (eds), *My Neighbor, my Enemy: Justice and Community in the Aftermath of Mass Atrocity*, Cambridge: Cambridge University Press (2004), p. 213.

65 Longman, ‘Connecting’.

66 Longman, ‘Connecting’.

cross examined in court'.⁶⁷ Already, many genocide survivors view the Gacaca process with suspicion and hurt, seeing it as a strategy of offering amnesty to perpetrators/prisoners.⁶⁸ An expatriate lawyer who worked as a defence lawyer in the conventional courts notes, 'In the beginning our work was very difficult because people had problems understanding that the *genocidaires* would even have lawyers: to them they were monsters and guilty and it was an absurdity to even grant them a trial and give them the chance to talk'.⁶⁹

The legalist critique overlooks the real human and material resource deficiency in a less developed country like Rwanda, where normal legal procedures such as cross-examination or rigorous examination of 'evidence' for each case are inconsistent with the professed goal of increasing local participation in justice efforts. As Peter Uvin points out, addressing criticisms concerning the lack of legal procedures risks re-creating the formal justice system, along with its problems (such as bureaucracy and slow pace) that Gacaca was intended to bypass.⁷⁰ Moreover, due to the nature of the genocide, there is not much more in the way of 'evidence', other than eyewitness testimonies or confessions.⁷¹ Thus, if one accepts that making the justice process accessible to all Rwandans, if they choose to participate, is a worthy cause, then one must also accept compromises in 'fair trial' standards.

Here a sceptical reader might point out that the nature of participation in Gacaca remains questionable (despite the high numbers found by this survey) because of the level of government coercion driving the Gacaca process. Critics may note that the compromises mentioned above are only acceptable if Rwandans are truly allowed to express their opinions of the Gacaca process. Again, this is an important concern, and while government coercion and restricted freedom of speech is, at best, problematic, the situation may not be as oppressive as some fear. While debate about the genocide in the public sphere, and especially between strangers (including intra-Rwandan), may be 'legalistic and formalistic'⁷² (politically correct, so to speak), this is not the case in the private sphere. However, Gacaca encourages frank discussion of these issues in private. During her fieldwork in Rwanda, the first author found that after Gacaca sessions, Rwandans gathered with friends, family and neighbours to discuss the day's

67 R. Mani, *Beyond Retribution: Seeking Justice in the Shadows of War* (2002), p. 100.

68 National Unity and Reconciliation Commission, *Social Cohesion in Rwanda*; International Rescue Committee, Opinion Survey on Participation in Gacaca and National Reconciliation (January 2003); IRC [follow-up] unpublished survey (2005); UN Integrated Regional Information Networks, 'Rwanda: Release of Suspects in the 1994 Genocide Angers Survivors' (9 August 2005).

69 B. Oomen, 'Donor-Driven Justice and Its Discontent: The Case of Rwanda', 36(5) *Development and Change* (2005): 887–910, at 897.

70 Uvin, 'Introduction', p. 4.

71 Vandeginste, 'Justice', p. 9; also Mani comments on the difficulty of finding hard evidence that would satisfy the requirements of a court of law in certain post-conflict situations; see Mani, *Beyond Retribution: Seeking Justice in the Shadows of War*, Polity (2002), p. 100.

72 The term used by Rwandan researcher Scott Straus at a session on post-genocide Rwanda at the US Institute of Peace (18 November 2005). According to Straus, conversation about the genocide has been 'legalistic and formalistic'.

session;⁷³ these conversations invariably comprised debates and reflections on events of the genocide or genocide-related developments.

Another concern is that Gacaca contributes to 're-igniting tension', as people are forced to deal with unresolved feelings of pain and resentment. In this light, the government rhetoric about Gacaca helping to reduce suspicions within communities may not be unfounded. As a Rwandan told the first author in August 2005, 'Gacaca might bring tension since some people may find out that a close friend had been hiding details from them for ten years; but I guess this is good since people will at least know the truth or more [than they know now]'.⁷⁴ Many researchers and academics agree that 'reconciliation' is a painful process and should involve dealing with the past.⁷⁵ If one accepts that reconciliation is necessary for societies to move on, and that talking and sharing are ways of dealing with the past and attaining reconciliation, then the benefits of the potentially tension-evoking aspect of Gacaca outweigh its costs.

F. 'Justice in Rwanda is one-sided'

Twenty-five per cent of respondents agreed that justice in Rwanda is one-sided, 65 per cent disagreed and 11 per cent remained neutral. Of all 227 respondents, 15.4 per cent absolutely agreed with this statement and 54.6 per cent absolutely disagreed. The regression analysis on this question with education, residence, presence in Rwanda, loss of relatives and participation in Gacaca sessions as predictors explained 6 per cent of the variance in the responses ($R^2 = .06$, $F(5, 213) = 2.72$, $p = .02$).

The results suggest a broad range of opinions concerning the character of justice in Rwanda. Participation in Gacaca sessions seems to be slightly associated with positive views of the Gacaca process: the belief that justice in Rwanda is not one-sided was a nonsignificant trend among respondents who participated weekly. A cross-tab on this measure indicates that 69 per cent of those who reported participating weekly disagreed with this statement, as compared with 60.8 per cent of those who did not attend weekly. The linear regression model reveals that holding residence, participation, loss of relatives and education constant, respondents who were in Rwanda during the genocide (and who were more likely to witness or be victims of other types of crimes) were significantly more likely to agree that justice is one-sided than those who returned after the genocide ($\beta = 1.618$, $p = .009$). Highly educated respondents were also more likely to endorse this statement than their less educated counterparts; this was a marginally significant trend ($\beta = -.13$, $p = .070$). Despite these troubling trends, the survey suggests that the majority of Rwandans are positive about the justice process in Rwanda (including Gacaca).

73 This occurs considerably less in Kigali, as participation is generally low; urban dwellers, as the survey results show, are less likely to attend the sessions.

74 Study Interview, Butare, August 2005.

75 See, for instance, E. Doxtader and C. Villa-Vicencio (eds), *To Repair the Irreparable: Reparation and Reconstruction in South Africa*, David Philip Publishers (2004).

The issue of one-sided justice is a very important, if controversial, one. The government's reluctance to acknowledge that all sides committed atrocities – even if not to the same degree – is hurting the justice process. The current political atmosphere encourages a view of the events leading up to 1994, the genocide itself and the RPF massacres afterward as a clash of good against evil. This risks significantly hampering the Gacaca proceedings. In a discussion of the South African TRC, Gibson argues that the 'success' of the TRC is due in large part to its acknowledgement that all sides committed human rights violations.⁷⁶ In a deeply divided society such as Rwanda, reconciliation requires that each side admit abuses committed. During several reconciliation workshops attended by the first author in November 2006, prisoners and Hutu families repeated over and over again that they felt alienated from the Gacaca process because their own relatives who died during and after the genocide were being ignored. 'Why should I sit there and constantly mourn someone else's child when RPF soldiers took my son after the genocide and he has never come home? Is her child worth more than mine? Is that what they want to say?' one woman asked. These perceptions are reflected in our survey results, which suggests that holding residence, weekly participation, loss of relatives and high education constant, respondents who were in Rwanda during the genocide (and those who were more likely to witness or be victims of other types of crimes) were significantly more likely to agree that justice is one-sided than those who returned after the genocide ($\beta = 1.618$, $p = .009$). Specifically, of the fifty-six respondents who agreed that justice in Rwanda is one-sided, fifty (89 per cent) reported that they were in Rwanda during the genocide. Such resentment is likely to hurt the overall positive attitudes towards the Gacaca process unless the GoR takes steps to address the issue of RPF crimes.

G. 'Gacaca will help to end the cycle of violence in Rwanda'

Of all respondents, 55.1 per cent agreed at varying levels that Gacaca would help to end the cycle of violence in Rwanda, 23.8 per cent disagreed and 18.9 per cent remained neutral. Of the total respondents, 41.9 per cent absolutely agreed with the statement above, while 17.2 per cent absolutely disagreed. The linear regression analysis on Gacaca's potential to end the cycle of violence produced a significant model ($R^2 = .18$, $F(5,213) = 5.64$, $p < .001$). Rural residence was significantly associated with endorsing this statement ($\beta = .19$, $p = .008$). Respondents who were in Rwanda during the genocide were significantly less likely to endorse this statement ($\beta = -.16$, $p = .02$) than those not in Rwanda. Not surprisingly, respondents with college education or more were significantly less likely to endorse this statement than those with less education ($\beta = .15$, $p = .03$). Weekly participation showed a significant trend towards being associated with agreeing that Gacaca will help to end the cycle of violence in Rwanda.

76 Gibson, 'Contribution of Truth'.

These results corroborate the positive relationship of weekly participation with general endorsement of Gacaca, holding other factors constant. They also confirm the disturbing trend of greater scepticism among those who were in Rwanda during the genocide, augmenting the need for the government to re-evaluate its stance regarding the trial of RPF crimes and/or inclusion of Hutu losses during the genocide in the national justice and reconciliation discourse. The general scepticism regarding Gacaca's potential to end the cycle of violence in Rwanda should be expected since Rwanda has been embroiled in violence for over forty years. It would be unrealistic to expect Rwandans to base their hopes for the eradication of such violence on a community justice process. Surprisingly, however, the NURC/IRC Social Cohesion Study (2006) found that 94 per cent of 8,719 respondents agreed that Gacaca can enable the eradication of impunity. In 2007, these numbers remained the same, with 95 per cent of 9,980 respondents agreeing that Gacaca can eradicate impunity.⁷⁷

H. 'I Feel that the Crimes Committed by the RPF Should be Tried as a Part of Gacaca'

Thirty-one per cent agreed that the crimes committed by the RPF should be tried as a part of Gacaca; 49.3 per cent disagreed and 19.9 per cent remained neutral. Furthermore, 25.6 per cent absolutely agreed and 45.4 per cent absolutely disagreed. A linear regression produced a significant model ($R^2 = .12$, $F(5,213) = 5.847$, $p < .001$). Presence in Rwanda during the genocide was the only significant predictor of opinions regarding the trial of RPF crimes. Respondents who were in Rwanda during the genocide were significantly more likely to agree that RPF crimes should be tried as part of Gacaca ($\beta = .29$, $p < .001$) than those not in Rwanda. Interestingly, respondents who participated weekly showed a nonsignificant trend towards being less likely to agree that RPF crimes should be tried as a part of Gacaca ($\beta = -.10$, $p = .15$).

The tendency of those who were in Rwanda during the genocide to agree that RPF crimes should be tried in Gacaca courts is noteworthy. This trend may be related to their general discontent with the justice process, as evidenced by the survey results.⁷⁸ Unfortunately, the questionnaire only asks whether RPF crimes should be prosecuted in the Gacaca courts. Some respondents (mostly Tutsi/survivors) told the first author that they think these crimes should be addressed, but not necessarily in Gacaca courts. As formulated, the questionnaire did not give people an opportunity to express this opinion. This might be an area of further research, especially if the government decides to address the issue.

⁷⁷ See National Unity and Reconciliation Commission, *Social Cohesion in Rwanda*.

⁷⁸ Note that respondents who were in Rwanda during the genocide were significantly less likely to agree with the statement that Rwandans are free to express their personal opinions in the Gacaca courts than were those who were not in Rwanda. The results to this question were not reported in the paper due to space constraints.

I. 'Gacaca can Help to Promote Reconciliation'

Seventy-nine per cent of respondents agreed that Gacaca can help to promote reconciliation; 9.2 per cent disagreed and 11 per cent remained neutral. Of all 227 respondents, 66.5 per cent absolutely agreed and only 4.4 per cent absolutely disagreed. Linear regression produced a significant model ($R^2 = .18$, $F(5, 213) = 9.196$, $p < .001$), with education, loss of relatives, presence in Rwanda and participation in Gacaca sessions acting as significant predictors of attitudes towards Gacaca and reconciliation. Holding education, residence, participation, loss of relatives and presence in Rwanda during the genocide constant, respondents with a secondary education or less were more likely to agree that Gacaca can help to promote reconciliation than those with higher education ($\beta = .25$, $p < .000$). Respondents who reported participating weekly in Gacaca sessions were more likely to agree that Gacaca can help to promote reconciliation ($\beta = .18$, $p = .009$) than those who do not attend weekly, all other factors held constant. Respondents who lost relatives were less likely to endorse this statement than those who did not ($\beta = -.17$, $p = .008$). Respondents who were in Rwanda during the genocide were significantly less likely to agree that Gacaca can help to promote reconciliation ($\beta = -.16$, $p = .01$) than those who were not. Finally, rural residents showed a marginally significant trend towards being more likely to endorse this statement than their urban counterparts ($\beta = .12$, $p = .08$).

The tendency of a majority (79.7 per cent) of respondents to believe that Gacaca can help to promote reconciliation is encouraging and supports the argument that the Gacaca process is beneficial, even if imperfect. The IRC (2005) survey supports this finding. Of 10,000 (including 359 survivors and 358 prisoners) Rwandans surveyed, 97.5 per cent agreed that Gacaca is an essential step towards unity and reconciliation, 96 per cent agreed that Gacaca will provide Rwandan society with the foundation for a durable peace, and 94 per cent agreed that after Gacaca sessions are over, it will be easier for families of perpetrators and victims to reconcile. The significant relationship between regular participation in Gacaca sessions and the propensity to believe that it can help to promote reconciliation suggests that the benefits of catharsis, popular engagement and debate may be bearing some fruit in the Rwandan context. The greater propensity of respondents who were in Rwanda during the genocide to disagree with the statement that Gacaca can help to promote reconciliation is somewhat disturbing, as these people were most affected by the violence. Even so, this should, to a certain degree, be expected, since those individuals with a higher degree of involvement and who are more scarred by the genocide are less likely to see 'reconciliation' as attainable.

III. CONCLUSIONS

A number of factors should be considered when analysing the results and planning for future research. First, the study was only conducted in four areas (districts) of the country, yet the Gacaca sessions, as well as Rwandese experiences,

differ greatly from region to region. Second, the positioning of the question concerning RPF crimes, although essential, might have caused discomfort to some respondents. Given Rwanda's current political situation, some participants might have felt wary of completing a survey mentioning RPF crimes. Nonetheless, the data indicate a wide range of opinions on Gacaca, reconciliation and justice in Rwanda. Despite these variations in our sample, it seems Rwandans are generally positive about the potential of Gacaca to contribute to justice and reconciliation efforts. Comparable studies in other parts of the world or in Rwanda itself should draw on data from larger and more representative samples to provide additional support to these results.

An interesting finding is the tendency of respondents who were in Rwanda during the genocide to be more sceptical of justice efforts.⁷⁹ This indicates a need to increase efforts to attend to this population, since they were the most affected by the 1994 cycle of violence. Also noteworthy is the tendency of the educated elite to be critical of justice efforts. While this trend is predictable, it indicates a need to include this population in ongoing justice efforts and to reflect on the basis of their discontent. This is especially important because educated elites tend to be opinion makers who could swing public opinion to a different direction in the future. Perhaps the most interesting finding is that regular participation in Gacaca is strongly associated with favourable responses towards it, holding all other demographic factors constant.⁸⁰ This finding is important for further evaluations of this and other justice mechanisms. Finding creative means of encouraging (voluntary) participation in justice institutions may be a key aspect of future attempts to promote reconciliation in divided societies.

Supported by the study's findings, this article has argued that the benefits of Gacaca, Rwanda's innovative response to a complex situation, outweigh its shortcomings and, thus, considerably strengthen the justice process in Rwanda. Rwanda is no worse off with Gacaca and would have been considerably worse off without it, particularly in the absence of workable alternatives. Given the limited capacity of international trials to contribute to national reconciliation, assuage the needs of survivors or even significantly contribute to national accountability, there is a need for more local responses. However, even national trials are limited in their ability to promote national reconciliation. Qualitative and empirical data gathered in Rwanda support this notion. A recent survey by the International Rescue Committee found some striking results: 98 per cent of 8,719 respondents (including prisoners and survivors) felt that Gacaca would enable a quicker and more reliable judgement of crimes of genocide than other existing judicial institutions.⁸¹

79 This finding is consistent with results from the NURC/IRC surveys suggesting that survivors and prisoners (roughly the primary population in Rwanda during the genocide) are generally more sceptical about the integrity of Gacaca judges, truthfulness of witness and defence testimonies at Gacaca sessions, and the prospects of reconciliation after Gacaca. For more information, see National Unity and Reconciliation Commission, *Social Cohesion in Rwanda*.

80 However, it is unclear whether the positive attitudes are a result of regular participation in Gacaca sessions or if regular participation is a result of positive attitudes.

81 National Unity and Reconciliation Commission, *Social Cohesion in Rwanda*.

It perhaps goes without saying that reconciliation should take place in an environment that promotes social justice, values economic development and ensures civil liberties. But the limitations of international and national courts lead countries to a search for alternative ways of dealing with a violent past, ensuring accountability and promoting reconciliation. To date, the most ‘popular’ alternative to criminal trials has been the truth commission, based on the South African model. Rwanda’s Gacaca adds a potential alternative for least developed countries. While local-level responses such as Gacaca carry a risk of manipulation by individuals, local elites or state interests, they are particularly promising, as they combine the participatory features of a truth commission with the type of accountability promoted by criminal trials. Unlike conventional criminal trials, alternative courts like Gacaca can focus equally on victim and perpetrator, allowing room for all survivors to recount their stories. Admittedly, in Rwanda, the issue of RPF crimes is divisive and could harm the ultimate goal of future reconciliation; it is important that the government address this issue before it becomes further politicised. Gacaca also provides opportunities for communities to create or reinforce social norms of right and wrong, laying the foundation for the ability of such courts to enforce accountability through the threat of shame rather than physical punishment. Finally, Gacaca presents a cost-efficient alternative for poor countries lacking the financial and human resources required to implement the sort of truth commission created in South Africa, or to successfully carry out conventional trials according to international legal standards.

Despite these benefits, it may not always be wise for conventional and international trials to be replaced by local-level responses such as Gacaca. It may be more effective to have local solutions complementing the conventional, depending on institutional capacity, magnitude of war crimes and attitudes of local actors.

APPENDIX A

Questionnaire

This questionnaire was designed to test attitudes towards and perceptions surrounding the Gacaca courts and current government policy. Please circle the number that best describes your feelings/attitudes.

1. I attend Gacaca sessions:

Weekly Twice a month Once a month Never Other (specify): _____

2. I feel the crimes committed by the Rwandan Patriotic Front (current ruling party) should be tried as a part of Gacaca.

1 2 3 4 5 6 7 8 9 10

Absolutely disagree

Absolutely agree

3. I am aware of the details of the Gacaca Law. Yes No

14. The International Criminal Tribunal for Rwanda is doing a good job of delivering justice.

1 2 3 4 5 6 7 8 9 10

Absolutely disagree

Absolutely agree

15. The government is using Gacaca to control Rwanda.

1 2 3 4 5 6 7 8 9 10

Absolutely disagree

Absolutely agree

16. Gacaca will help to end the cycle of violence in Rwanda.

1 2 3 4 5 6 7 8 9 10

Absolutely disagree

Absolutely agree

17. The Rwandan National Court System is doing a good job of delivering justice.

1 2 3 4 5 6 7 8 9 10

Absolutely disagree

Absolutely agree

18. I am: (Circle one) Male Female

19. I am: (Circle one) 18–24 25–34 35–44 45+

20. I lost close relatives during the genocide. Yes No

21. I was in Rwanda during the genocide. Yes No

22. My level of education is: None Primary Secondary College More

My place of residence is: (Fill in blank) Rural:———Urban