

# GACACA as a Community Building Model: Experience of Rwanda



## Introduction

Overcoming poverty and achieving social justice and sustainable peace can seem impossible from the perspective of an individual. But even the impossible can become a reality when its confronted by a strong and committed community. The society we surround ourselves with strongly influences our choices and attitude, and over time these collective influences will lead towards incredible change.

Rwanda is a small country (26,000 Km<sup>2</sup>) with a population approaching 12 million. The country has been through a traumatic experience of genocide against Tutsi that resulted in more than 1 millions killed by their neighbors and more than half of the total of the population fled the country.

Even though the tragedy last 100 days, the consequences on social fabric were catastrophic: the society was torn by hatred, people from ethnical different groups could barely talk to each other.

Several measures were taken by the new government to try rebuilding the society while ensuring restorative justice takes place Among those measures, the most innovative was a

transitional justice system called Gacaca. It was indeed an ambitious justice and reconciliation process with the aim of all Rwandans once again living side by side in peace.

## **Historical background**

In Kinyarwanda, the word 'Gacaca' refers to 'a bed of soft green grass' on which in ancient traditions, a community and its representatives, mainly elders, leaders and individuals known for their integrity and wisdom, gathered to discuss and resolve conflicts within or between families and inhabitants in a certain village. In historical Rwanda, gacaca courts were used to settle issues such as land, property, marital and other interpersonal disputes. Gacaca hearings are traditionally held outdoors and the system is based on voluntary confessions and apologies by wrongdoers.

Originally, Gacaca gatherings were meant to restore order and harmony within communities by acknowledging wrongs and having justice restored to those who were victims.<sup>[4]</sup>

Among the solutions for resolution to conflicts, the Gacaca called upon the accused families or person to reconcile with the complainant, and vice-versa.

Gacaca is in tandem with the African concept of Ubuntu, which translates to "humaneness," "solidarity". Ubuntu aims to create an environment where people can recognize that their humanity is inextricably bound up in the humanity of other's. Ubuntu also encourages people to see beyond the crimes of the perpetrators by seeking to integrate the evildoer back into the community.

When the new Government first took power in July 1994 after ending the genocide, it was confronted by the need to deliver justice for the killings of more than three-quarters of the country's Tutsi population, as well as numerous Hutu who opposed the killings or tried to protect Tutsi. In total, more than half a million-people perished in the span of only thirteen weeks. The challenge would have overwhelmed even the world's most advanced justice system. In Rwanda, the task was made even more difficult because the genocide had killed many judges and other judicial staff and had destroyed much of the judicial infrastructure.

A few months after the end of the genocide, Rwandan prisons were bursting at the seams with genocide suspects. By 1998, around 130,000 prisoners were crammed into space meant for 12,000, resulting in conditions that were universally acknowledged to be inhumane and that claimed thousands of lives. Conventional courts began trying genocide cases in December 1996 but had only managed to try 1,292 genocide suspects by 1998. At that rate, genocide trials would have continued for more than a century, leaving many

suspects behind bars awaiting trial for years and even decades. The process might have been accelerated had foreign lawyers and judges been brought in to help, but the Rwandan government rejected such proposals.

To address the fact that there were thousands of accused still awaiting trial in the national court system, and to bring about justice and reconciliation at the grassroots level, the Rwandan government in 2005 re-established the traditional community court system called "Gacaca". These community-based courts were set up to try genocide-related crimes using the customary *gacaca* model. Aimed at speeding up genocide trials, reducing the prison population, and rapidly rebuilding the nation's social fabric, the new form of *gacaca*, like its customary predecessor, would be run by local judges and would encourage participation of local community members. One of the government's aims in encouraging community participation was to make ordinary Rwandans the main actors in the process of dispensing justice and fostering reconciliation. A series of *gacaca* laws would regulate the genocide trials, mixing certain basic fair trial standards with more informal procedure

## The Gacaca court system

In the Gacaca system, communities at the local level elected judges to hear the trials of genocide suspects accused of all crimes except planning of genocide.

The objectives of the Gacaca court were the following:

- Establish truth about what happened
- Accelerate the legal proceedings for those accused of Genocide Crimes
- Eradicate the culture of impunity
- Reconcile Rwandans and reinforce their unity
- Use the capacities of Rwandan society to deal with its problems through a justice-based Rwandan custom

The process consisted of information gathering, categorization of suspects, trials, appeals, and final revision of judgments.

The categorization of Gacaca courts in Rwanda is based on the concept of a cell and a sector. A cell is equivalent to a small community while a sector is equivalent to a small group of cells making up a village. Within these two categories, there were 9013 cells and 1545 sectors, with over 12,103 Gacaca courts established nationwide. Presiding over the Gacaca meetings are judges known as *inyangamugayo* (people with high integrity). These judges are elected to serve on a nine-person council. During the Gacaca process, there were two phases which took place. Starting between 2005-2006, information was taken

from those who were accused from all Gacaca cells. The approximate number of those who were accused was 850,000 with about 50,000 of those being deceased.<sup>[4]</sup>

The courts gave lower sentences if the person was repentant and sought reconciliation with the community. Often, confessing prisoners returned home without further penalty or received community service orders. More than 12,000 community-based courts tried more than 1.2 million cases throughout the country.

The Gacaca trials also served to promote reconciliation by providing a means for victims to learn the truth about the death of their family members and relatives. They also gave perpetrators the opportunity to confess their crimes, show remorse and ask for forgiveness in front of their community. .

## **Achievements**

In total, 1,958,634 genocide related cases were tried through Gacaca. The courts are credited with laying the foundation for peace, reconciliation and unity in Rwanda. The Gacaca courts officially finished their work and closed on the 18 June 2012

The Centre for Conflict Management (CNLG) and the National University of Rwanda carried out a study to determine the extent to which Rwandans believe that Gacaca had attained its five objectives. The following are the results for each of the five objectives:

- Finding out and disclosure of the truth about the genocide: 83.5%
- Speeding up of genocide trials: 87%
- Putting an end to the culture of impunity: 86.4%
- Strengthening unity and reconciliation: 87.3%
- Demonstrating the capacity of Rwandans to resolve their own problems: 95%
- Overall percentage of the study: 87.84%.

Most of the people who participated in the Gacaca courts firmly state that they have paved the way of reconciliation among the Rwandans, even though the memory of the genocide is still present. Former genocide prisoners and survivors now live side by side and do business with each other which was impossible in the early post-genocide days.

Another outcome of the Gacaca courts is the fact that perpetrators cooperated by telling survivors where their deceased relatives' bodies could be found, so that these could be exhumed and re-buried with dignity. Consequently, genocide memorials have been built all over the country and in the most cases, designed to harbor the remains.

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## Lessons learnt

Though the Gacaca courts as a community led transitional justice was faced with challenges such as the capacity of community judges to address a complex issue such the genocide in war torn society, some positive lessons can be learnt from the system

- The Gacaca process played a key role in advancing peace, stability and reconciliation: not only did it address the enormous backlog of genocide-related cases and contributed to reducing prison overcrowding, and certainly it also has contributed to peace and reconciliation.
- The challenge of integrating traditional justice mechanisms into broader reconciliation and transitional justice strategies requires imagination, wide consultations, consensus building and capacity building.
- Community based and led mechanisms are more sustainable and efficient in restoring broken community relations
- When adopting or promoting tradition-based mechanisms and practices as part of a national transitional justice strategy, be aware that they should ideally serve as a complement to official judicial structures as opposed to being brought under state control.