RECONCILIATION AND TRANSITIONAL JUSTICE: THE CASE OF RWANDA'S *GACACA* COURTS

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Introduction

This paper has a two-fold objective: firstly to conceptualise reconciliation as an outcome of transitional justice, and secondly to analyse critically the implications and consequences of the Rwandan transitional justice programmes (specifically the *gacaca* system) in terms of this evaluative framework. Following Galtung's definition of 'positive peace', I develop an understanding of reconciliation as the removal of lingering or new forms of structural and cultural violence in a post-conflict society. Borrowing from Mamdani, a key goal of countering cultural violence is identified as 'reconciliation with history' which entails building agreement through enabling engagement between opposing historical perspectives, as well as by acknowledging and including in the 'offical narrative' individual 'little narratives' in the form of victim and perpetrator testimonies. The *gacaca* process is consequently evaluated in terms of the objectives developed above. The courts, however, remain in operation at the time of writing, making a conclusive judgement of their performance premature.

Reconciliation as Overcoming Violence

It is often assumed that bringing victims and perpetrators of human rights violations together within structured processes of truth-telling, including apologies and reparations to victims, have the potential to obviate or quell the motivation for revenge after conflict. Made popular by the South African Truth and Reconciliation Commission, a range of transitional justice processes have been tasked to further reconciliation. In Rwanda too, various transitional justice measures and institutions are required to promote reconciliation. This basic normative conception of transitional justice, despite its wide appeal, has not been adequately verified. How then can a claim such as the one made by South Africans and Rwandans, that transitional justice processes lead to reconciliation, be subjected to scrutiny?

Organised around the theme of transitional justice as a *means to promote reconciliation,* this discussion has a two-fold objective: firstly to conceptualise reconciliation as an outcome of transitional justice, and secondly to analyse critically the implications and consequences of the Rwandan transitional justice programmes (specifically the *gacaca* system) in terms of this evaluative framework.

It is often remarked that 'reconciliation' is a key term in transitional justice, but with different and contested meanings.[1] In post-conflict settings, 'reconciliation' may refer to various stages of conflict resolution ranging from 'negative peace' to 'positive peace', a key distinction first introduced by Johan Galtung.[2] Similarly, in a political sense 'reconciliation' may stretch from the quest to find a minimal *modus vivendi* for former enemies sharing the same territory to more active programmes of communal reintegration and nation-building.[3] For our purposes though, Galtung's notion of 'positive peace' may assist in framing 'reconciliation' as a central concern of transitional justice.

While Galtung's basic distinction between 'negative' and 'positive peace' has been widely accepted both in the peace studies movement and more widely in the conflict resolution literature, it has proved much more difficult to reach any kind of agreement on the more specific meaning of 'positive peace'. 'Positive peace' is defined in terms of another controversial, but also illuminating distinction, that between 'structural violence' and 'cultural violence'. Accordingly 'positive peace' requires the removal of both 'structural' and 'cultural' violence as the main underlying causes of internal war.[4]

'Structural violence' concerns the way power is organised in society in ways so as to inflict 'avoidable insults to basic human needs, and more generally to life, lowering the real level of needs satisfaction below what is potentially possible'.[5] 'Cultural violence', by contrast, refers to any aspect of culture that can be used to justify violence, either directly or structurally.[6] 'Cultural violence makes direct and structural violence look, even feel, right – or at least not wrong', writes Galtung. 'Cultural violence' involves 'those aspects of culture, the symbolic sphere of our existence … that can be used to justify or legitimise direct or structural violence.'[7]

Galtung differentiates between the different types of violence thus: 'Direct violence is an event; structural violence is a process with ups and downs; cultural violence is an invariant, a "permanence", remaining essentially the same for long periods, given the slow transformations of basic culture …'[8] Direct violence is described 'as direct cruelty perpetrated

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1 See Andrew Rigby, *Justice and Reconciliation – After the Violence,* (Boulder, Colorado: Lynne Rienner, 2001); Richard Wilson, *The Politics of Truth and Reconciliation – Legitimizing the Post-Apartheid State* (Cambridge: Cambridge University Press, 2001); Lyn Graybill, *Truth and Reconciliation in South Africa – Miracle or Model?* (Boulder, Colorado: Lynne Rienner, 2002); David Bloomfield, Teresa Barnes and Luc Huyse, eds, *Reconciliation After Violent Conflict* (Stockholm: Idea International, 2003); David Bloomfield, 'On Good Terms – Clarifying Reconciliation', Berghof Report 14 (Berlin: Berghof Research Center for Constructive Conflict Management, October 2006); Hugo van der Merwe, *The Truth and Reconciliation Commission and Community Reconciliation: An Analysis of Competing Strategies and Conceptualizations* (Ph.D. dissertation, George Mason University, 1999); Charles Villa-Vicencio, *Walk with us, but listen – Political Reconciliation in Africa* (Washington, D.C.: Georgetown University Press, 2009).

2 Johan Galtung described negative peace as the absence of direct, personal violence, most often achieved through the cessation of hostilities in the wake of military victory or negotiated settlements. Positive peace represents the removal of the main underlying causes of war. See Johan Galtung, 'Three Approaches to Peace: Peacebuilding, Peacekeeping and Peacemaking,' in *Peace, War and Defence: Essays in Peace Research* 2 (Copenhagen: Christian Ejlers, 1975): 282–304. For a more recent adaptation, see Rama Mani, *Beyond Retribution, Seeking Justice in the Shadows of War* (Oxford: Polity Press, 2002), 12, 13. It needs to be noted that Galtung's formulations of 'positive peace' and 'structural violence' date back some fifty years. A range of innovations on, and criticisms of, Galtung's position exists; see, for example, Kenneth Boulding 'Twelve Friendly Quarrels with Johan Galtung', *Journal of Peace Research* 14, 1 (March 1977): 75–86. Galtung himself, too, later revisited his own writing in Johan Galtung, 'Twenty-five years of peace research: Ten Challenges and Some Responses', *Journal of Peace Research* 22, 2 (June 1985): 141–158 and in Johan Galtung, 'After Violence, Reconstruction, Reconciliation, and Resolution: Coping with Visible and Invisible Effects of War and Violence,' in *Reconciliation, Justice, and Coexistence: Theory and Practice*, ed. Mohammed Abu-Nimer (Lanham, MD: Lexington Books, 2001), 3–23. At the same time it is important to note that specific connotations of 'positive peace' are far from settled. The notion of 'structural violence', too, is contested. It has consistently been criticised as incoherent and/or ideologically loaded. So, while invoking these notions and adapting them for my own purposes, I am *not* thereby buying into Galtung's full theoretical scheme and/or the normative approach characteristic of the 'peace studies' movement.

3 Eric Stover and Harvey M. Weinstein, eds, *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity* (Cambridge: Cambridge University Press, 2004), 2f.

4 Johan Galtung, 'Cultural Violence', *Journal of Peace Research* 27, 3 (1990): 297.

5 Ibid., p. 292.

6 Ibid., p. 291–305.

7 Ibid., p. 291.

8 Ibid., p. 294, 295.

by human beings against each other and against other forms of life and nature in general'.[9] Cultural violence is a 'substratum from which the other two can derive their nutrients'.[10] By contrast, patterns of structural violence vary over time. Generally there is a causal relation from cultural via structural to direct violence.[11]

The Rwandan genocide itself would first and foremost count as 'direct violence', but I will argue for the importance of including the removal of both 'structural violence' and 'cultural violence' as reconciliation-related goals. 'Structural violence' would refer to the ways in which power was organised in the Rwandan context so as to issue in both localised incidents of direct violence as well as eventually in the genocide itself. 'Cultural violence', again, would refer to those aspects of culture or symbolic resources available to motivate and justify direct violence, including the genocide. Taken together, these forms of violence provide the basis for an analytical framework outlining the challenges faced by reconciliation as an outcome of transitional justice.

Reconciliation thus may be conceptualised, at the most abstract level, as creating conditions for the removal of violence in various forms, including 'structural' and 'cultural violence', from post-conflict societies.[12] The focus in this article will be on one aspect of the admittedly vast transitional justice agenda: the quest to challenge *cultural* violence rather than structural or direct violence. The discussion will further be limited to one specific mechanism within the Rwandan transitional justice programme, namely *gacaca*. The question is to what extent Rwanda's *gacaca* courts have impacted, or failed to impact, on the quest to overcome cultural violence as a root cause of the genocide – *thus* acting as an agent of reconciliation, or not.

Before we can evaluate *gacaca* in these terms, two tasks await. On the one hand the evaluative framework outlined above needs to be developed in more detail. On the other hand, concurrently, relevant dimensions of the post-genocide context in Rwanda will be discussed. We will proceed in three steps: firstly by locating the Rwandan case, very briefly, within the broader transitional justice landscape; secondly by determining more precisely what the concept of 'cultural violence' may mean within the Rwandan context (specifically in terms of the role that history and memory played in fomenting the genocide *as well as* in providing a rationale for post-genocide reconciliation); and thirdly, by developing the idea of 'reconciliation with history' as a potential antidote to cultural violence in Rwanda, and a key potential benchmark against which transitional justice processes such as *gacaca* could be evaluated. Finally we turn to *gacaca* in order to draw a set of preliminary conclusions about its likely impact on the quest for 'reconciliation with history' as a means for overcoming cultural violence in Rwanda.

Rwanda as Transitional Justice Case Study

After winning military control of the capital in 1994 and stabilising the country, the Rwandan Patriotic Front (RPF), embarked on a systematic project of rebuilding the country from the ruins of genocide and war. One of their first steps upon taking power was to arrest more than 120 000 perpetrators accused of varying degrees of guilt and complicity in the mass killings. Subsequent rebuilding efforts, now in their sixteenth year, have produced notable successes: reorganising the state, achieving economic growth and enhancing development opportunities, not least for rural women.

The regime has also provoked criticism for its lack of democratisation. The International

9 Galtung, 'Cultural Violence', p. 295.

10 Ibid.

11 Ibid.

12 Ironically, this definition of positive peace expands and in some ways counters Galtung's own definition of the term, which, like many others, tends to over-individualise reconciliation when he states that it involves 'the process of healing the traumas of both victims and perpetrators after violence, providing a closure of the bad relation'; see Galtung, 'After Violence', p. 3.

Crisis Group has, for example, called the new government a 'facade of pluralism',[13] because as Des Forges comments, 'many observers believe that real power remained in the hands of a limited group closely associated with RPF leader Paul Kagame ... and his inner circle of former Tutsi refugees from Uganda.'[14] These concerns have also been echoed by the 2005 report of the African Peer Review Panel of Eminent Persons (APR Panel) on Rwanda, which was gentler on the government than previous documents had been.[15] The APR Panel nonetheless called for the political scene to be more open to competing ideas. At the same time, donors commend the government for its relatively good record on poverty reduction and economic governance reforms.[16] The result has been a highly polarised, if somewhat unnuanced, international debate about Rwanda, with one side decrying its democratic failures, whilst the other side emphasises developmental gains.

Within this context, Rwanda's post-genocide period has been characterised by a unique approach to transitional justice programmes of unprecedented scope and variety, allied to the lack of democratic reform and political power-sharing mentioned above. Given the democratic deficit, these programmes have attracted intense scrutiny. Why would the Rwandan government pour such vast resources into transitional justice? What would the political impact of this be in their estimation? Could transitional justice end up justifying an undemocratic regime and fresh incidences of structural and cultural violence?

These important questions underscore the value of careful analytical and evaluative study of transitional justice. Not only could these processes be manipulated for political ends, but a process as vast as *gacaca could* also develop in unexpected ways – unforeseen even to Rwanda's political leadership. *Gacaca* could thus, at least in principle, influence the quest for reconciliation-through-transitional justice in positive as well as negative ways – precisely when the political context is acknowledged as *status quo ante*. The importance of a dispassionate evaluation of transitional justice processes based on coherent conceptual frameworks and sound empirical data is further heightened in cases such as Rwanda where international views are as polarised as they have become and tend to pre-determine analyses.

Our discussion requires a further distinction. Identifying different senses of transitional justice – firstly as a practice, secondly as normative discourses and debates in the literature *on* this practice, and thirdly as empirical investigations *of* this practice – will help further to clarify the relation between transitional justice as a Rwandan project and the *object* of this investigation and the different kinds of (mostly external and mostly normative) literature *on*

13 International Crisis Group, 'Rwanda at the end of Transition: A Necessary Political Liberalisation', (Brussels: ICG, November 2002), pp. 10–11.

14 Alison Des Forges and Timothy Longman, 'Legal Responses to genocide in Rwanda', in *My Neighbor, My Enemy,* ed. Eric Stover and Harvey M. Weinstein (Cambridge: Cambridge University Press, 2004), p. 60.

15 New Partnership for Africa's Development – African Peer Review Mechanism, *Country Review Report of the Republic of Rwanda,* June 2006. [Electronic]. Available at: http://www.chr.up.ac.za/undp/regional/docs/nepad3.pdf [April 2010].

16 Organisation for Economic Cooperation and Development (OECD) reports on Rwanda, 464. 2007 [Electronic]. Available at: http://www.oecd.org/LongAbstract/0,3425,en_2649_33731_38562992_70750_119687_1_1,00.html [January 2008].

Rwandan transitional justice.[17]

The nature and objectives of the Rwandan practice of transitional justice may differ significantly from more familiar notions of transitional justice in the normative literature.[18] My concern here is primarily with the Rwandan approach, mechanisms and processes directly, rather than with engaging existing international debates on this topic (although the findings will hopefully draw on, and have implications in this regard). The study furthermore is not based on any previously unpublished empirical evidence, but seeks to cast a new light on available evidence through an evaluative framework responsive to specific Rwandan concerns and developed with a key outcome of transitional justice in mind, namely reconciliation.

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17 For a recent, provocative analysis of transitional justice as 'non-field', see Christine Bell, 'Transitional Justice, Interdisciplinarity and the State of the "Field" or "Non-Field,"' *The International Journal of Transitional Justice* 3,1 (2009): 5–28. See also Paige Arthur, 'How "Transitions" Reshaped Human Rights: A Conceptual History of Transitional Justice', *Human Rights Quarterly* 31, 2 (May 2009): 321–367. Transitional justice is used in at least three ways: 1) with reference to the different practices and processes in which transitional or post-conflict societies 'deal with the past of political atrocities'; 2) with reference to the normative and other debates and discourses *about* the assumptions, mechanisms and objectives of such practices and processes for dealing with past political atrocities; and 3) in terms of the new field or sub-fields of *empirical and comparative research* about the various cases, processes and practices dealing with past political atrocities. The distinctive practices and associated discourses of 'dealing with the past (of political atrocities)' include the particular transitional justice approach taken by the RPF regime in Rwanda in dealing with the aftermath of the genocide in 1994. In Rwanda, these consist of ambitious, if largely unsuccessful, attempts to prosecute alleged genocide perpetrators during the first five years after the RPF came to power, an evolving legal framework to enable a more nuanced and realistic prosecutions programme in later years, coupled with an extensive, national community court system called *Gacaca*, operating in tandem with the national courts. Transitional justice approaches in the first sense are thus the *object of investigation* of the field of transitional justice in this third sense, which may also critically challenge key assumptions and conclusions of normative approaches to transitional justice in the second sense. While normatively it is claimed that making perpetrators accountable for their past atrocities will serve to prevent the recurrence of political violence and atrocities in future (as against counter normative claims for the superior virtues of forgiveness and reconciliation), empirical investigation sets out to determine the actual (possibly unintended) consequences of both scenarios. Empirical investigations of various kinds have led to an interdisciplinary literature including comparative and theoretical analyses of case studies and global trends. See Hugo van der Merwe, Victoria Baxter & Audrey Chapman, eds, *Assessing the Impact of Transitional Justice: Challenges for Empirical Research* (Washington, D.C.: United States Institute for Peace Press, 2009). See also Stover and Weinstein, *My Neighbor, My Enemy*; Bell, 'The ICTR Ten Years On', 9; also Carlos Santiago Nino, *Radical Evil on Trial* (New York: Yale University Press, 1996); and Elster, *Closing the Books*; Wilson, *The Politics of Truth and Reconciliation;* and Mamdani, Mahmood, *When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda* (Cape Town: David Philip, 2001).

18 Much of the literature *on* this process has a notably normative orientation, ranging from the human rights activism informing reports generated by non-governmental organisations such as Human Rights Watch or Amnesty International, through publications geared to policy debates on the issues of humanitarian intervention and the responsibility to protect confronting the international community, to the more general project of establishing and consolidating international human rights law and a human rights culture. The normative debate about Rwanda has largely been between retributive justice (a framework associated with a human rights and international law approach) and reconciliation (another framework associated with the rebuilding of relations adversely affected by the conflict, especially those between victims and perpetrators of human rights violations). See for example Diane F. Orentlicher, 'Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime,' in *Transitional Justice: How Emerging Democracies Reckon with Former Regimes Volume 1*, ed. Neil J. Kritz, (Washington, D.C.: U.S. Institute of Peace Press, 1995), 375f. See Elizabeth Kiss, 'Moral Ambition within and beyond Political Constraints: Reflections on Restorative Justice,' in *Truth v. Justice: The Morality of Truth Commissions*, ed. Robert Rotberg and Dennis Thompson (Princeton: Princeton University Press, 2000), 68f.; Chris Cunneen, 'Éxploring the relationship between reparations, the gross violation of human rights and restorative justice', in *Handbook of Restorative Justice – a Global Perspective*, ed. Dennis Sullivan and Larry Tift (London and New York: Routledge), 355f. See also the *Truth and Reconciliation Commission of South Africa Report Volume 1* (Cape Town: CTP Printers, 1998), 114, 125–131. The most systematic attempt to analyse this debate is found in Stover and Weinstein, *My Neighbor, My Enemy*. See also Peter Uvin and Charles Mironko, 'Western and Local Approaches to Justice in Rwanda,' *Global Governance* 9 (2003): 226; and Jeremy Sarkin, 'The Tension Between Justice And Reconciliation In Rwanda – Politics, Human Rights, Due Process and the Role of the *Gacaca* Courts in Dealing with the Genocide,' *Journal Of African Law* 45: 2 (2001): 143–172. [Electronic]. Available at: http://journals.cambridge.org.ezproxy.uct.ac.za/download.php?file=%2FJAL%2FJAL45_02%2FS0221855301001675a.pdf&code=ad50c46a1b94f8256dc05fe2f918880a [January 2008]. See also Phil Clarke, 'Hybridity, Holism and "Traditional" Justice: The Case of the *Gacaca* Courts in Post-Genocide Rwanda', *George Washington International Law Review* 39, 4 (2007): 101–171; and Lars Waldorf, 'Mass Justice for Mass Atrocity: Rethinking Local Justice as Transitional Justice', *Temple Law Review* 79, 1 (Spring 2006).

Cultural Violence through History: Rwanda and its Past

It can hardly be disputed that the Rwandan genocide was conducted *in the name of ethnicity*. However the precise manner in which ethnic identities contributed to genocide has been a matter of intense debate. There are some who postulate 'Hutu' and 'Tutsi' as predominantly *cultural* identities,[19] others who postulate them as primarily *economic* identities (where material conditions are seen as paramount)[20] and yet others who prioritise *political* identities (where the way political power is organised is seen as the key variable explaining ethnic conflict).[21]

From the literature, it is clear that in the Rwandan context certain political, cultural and social narratives and discourses, including notably the founding myth of the Tutsis as an 'alien race', espoused first by the colonials and then by the protagonists of 'Hutu Power', had a major part in preparing the way for mass participation in the genocide.[22] Pre-genocide, the mobilisation of cultural resources in motivating violence by the *génocidaires* is well-recorded, not least in the court records of the International Criminal Tribunal for Rwanda (ICTR). In the trials of individuals, such as Professor Ferdinand Nahimana and others, the ICTR succeeded in documenting the role that history played as one such cultural resource to support the propaganda of the *génocidaires*.[23] In different ways, history, myths and narratives were utilised to favour one ethnic group above another.

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19 This view confirms the traditional approach to Rwandan studies by cultural anthropologists dating back to the original fascination of European researchers with perceived differences, both physical and social, between the Tutsi, Hutu and Twa. Conflict arose, these commentators claimed, primarily from cultural differences. Prunier writes: 'For nineteenth century European visitors preoccupied with race, the somatic differences between Hutu, Tutsi and Twa clearly indicated racial difference. John Hanning Speke first published a theory on racial difference in Rwanda in his *Journal of the Discovery of the Source of the Nile* in 1863 in which he speculated about the Tutsi as a "conquering, superior race" with a "foreign origin", possibly from southern Ethiopia.' See Gérard Prunier, *The Rwanda Crisis: History of a Genocide 1959–1994* (Kampala: Fountain Publishers, 1995), 7. See also John Hanning Speke, *Journal of the Discovery of the Source of the Nile* (Mineola, New York, Dover Publications, 1996) and Christopher, C. Taylor, *Sacrifice as Terror: The Rwandan Genocide of 1994* (Oxford: Berg, 1999).

20 See for example, Michel Chossudovsky, 'Economic Genocide in Rwanda', in *The Globalisation of Poverty: Impacts of the IMF and World Bank Reforms*, ed. Michel Chossudovsky (Penang, Malaysia: Third World Network, 1997), 111–124; also Catherine André and Jean-Phillipe Platteau, 'Land Relations under Unbearable Stress: Rwanda caught in the Malthusian Trap', (Namur, Belgium: Centre de Recherche en Economie du Développement (CRED), Faculty of Economics, University of Namur, February 1996); See also P. Verwimp, *Development and genocide in Rwanda – A political economy analysis of peasants and power under the Habyarimana regime*, (Leuven, Faculty of Economics, No. 170, 2003). See also Alain Destexhe, *Rwanda and Genocide in the Twentieth Century* (New York: New York University Press, 1996).

21 See Mamdani, *When Victims become Killers*, 21–24. See also Helen M. Hintjens, 'When Identity becomes a Knife: Reflecting on the Genocide in Rwanda', Ethnicities 1, 1 (2001): 25–55, where she argues that the genocide was meticulously organised by a 'beleaguered inner core of state functionaries'. See also Scott Straus, *The Order of Genocide – Race, Power and War in Rwanda* (Ithaca and London: Cornell University Press, 2006); and Johan Pottier, *Re-imaging Rwanda: Conflict, Survival and Misinformation in the Late Twentieth Century* (Cambridge: Cambridge University Press, 2002).

22 As founding myth of 'Hutu Power', the so-called 'Hamitic' thesis attributed any form of advanced social or political organisation on the African continent to groups who had moved there from elsewhere, and who were the 'cursed' progeny of Ham, son of Noah, unable to settle down and pre-ordained to be slaves. Ironically, during the colonial period in Rwanda, being a 'Hamite' had the positive implication of superiority over the 'native Rwandans' who were often effectively viewed as subhuman. One step up, 'Hamites' were seen as 'Caucasians under a black skin'; see Mamdani, *When Victims become Killers*, 83; see also Prunier, *The Rwanda Crisis*, 9. 'Hutu Power' became a popular slogan amongst Hutu extremists convinced of the veracity of the claim implicit in the Hamitic thesis that the Tutsi was an 'alien race' to Rwanda, not 'an indigenous ethnic group'. 'Hutu Power', Mamdani claims, had been a fringe phenomenon among Rwandan Hutu elites during the late nineteen-eighties, but became a mainstream ideology in the early nineties. See Mamdani, *When Victims become Killers*, 190. The emblematic expression of the racism that fuelled the 1994 genocide is found in the so-called 'Ten Hutu Commandments', published in the *Kangura* newspaper. For a copy, see Dina Temple-Raston, *Justice on the Grass: Three Rwandan Journalists, Their Trial for War Crimes and a Nation's Quest for Redemption* (New York: Free Press, 2005), pp. 116–117. Two of the 'commandments' include: 'consequently shall be deemed a traitor any Hutu male who marries a Tutsi woman, any Hutu male who keeps a Tutsi concubine; any Hutu male who makes Tutsi women his secretary or protégée.' And 'Hutu must cease having any pity for the Tutsi'.

23 An example is the case of the 'media trial where the trio of accused included history professor Ferdinand Nahimana, editor Hassan Ngeze and *Coalition pour la défense de la République* (CDR) party leader Jean-Bosco Barayagwiza; see *Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza, Hassan Ngeze Case No. ICTR-99–52-T.* [Electronic]. Available at: http://www.crdi.ca/genociderwanda/ev-108222-201-1-DO_TOPIC.html [12 April 2008]. For a discussion of the 'media trial', see Temple-Raston, *Justice on the Grass*, 230f.

Put together, these cultural beliefs and ideologies rooted in a specific approach to history amount to a form of 'cultural violence' in Galtung's sense; i.e. before and during the mass killings they provided the resources of a 'symbolic sphere' available to justify genocidal violence. The role of history is thus central to this investigation. Cultural violence was involved in the invocation of history to motivate and justify the genocide. In post-genocide Rwanda, history is now called upon to support reconciliation. This amounts to a radical reversal, from history as a cultural resource for genocide, to the construction of an 'official history' as a motivation for reconciliation. It also suggests the need for critical analysis of the implications of history in the new official Rwandan narrative – not only in the 'official narrative', but also in those transitional justice processes shaped by this narrative.

Since taking power in July 1994, the RPF government has made a concerted effort to promote the national unity of all Rwandan citizens through the creation of 'an official narrative of memory'.[24] This official post-genocide narrative of reconciliation has been at the core of the Rwandan programme of transitional justice and its efforts to promote reconciliation, so counteracting the cultural violence contained in the narratives of the *génocidaires*.

The preamble to the Rwandan Constitution, adopted in 2003, states that '… we enjoy the privilege of having one country, a common language, a common culture and a long shared history which ought to lead to a common vision of our destiny;' and 'it is necessary to draw from our centuries-old history the positive values which characterised our ancestors that must be the basis for the existence and flourishing of our Nation'.[25] Accordingly the Constitution prohibits political mobilisation on the basis of racial or ethnic identity. A common national identity, one precluding the recognition of distinct racial or ethnic identities, is thus postulated as both the basis for and the objective of reconciliation. The Constitution further determines that 'political organisations are prohibited from basing themselves on race, ethnic group, tribe, clan, region, sex, religion or any other division which may give rise to discrimination.'[26]

The Constitution also states that 'freedom of thought, opinion, conscience, religion, worship and the public manifestation thereof is guaranteed by the State in accordance with conditions determined by law'.[27] Nevertheless, it determines in the same article that the 'propagation of ethnic, regional, racial or discrimination or any other form of division is punishable by law.' It limits political parties to those not associated with the 1994 genocide or with any kind of ethnic constituency. Consequently, the MRND (D), which historically represented Hutu peasants (but also presided over the genocide) was outlawed, as well as the extremist *Coalition pour la défense de la République* (CDR).[28] Furthermore, the Constitution demands that political organisations 'must constantly reflect the unity of the people of Rwanda and gender equality and complementarity, whether in the recruitment of members, putting in place organs of leadership and in their operations and activities'.[29]

These views are echoed in the mandates of the various transitional justice mechanisms, as well as that of the *National Unity and Reconciliation Commission* (NURC). The NURC was established in 1999 to serve as a forum for Rwandan people to exchange views on, and find solutions to, mutual challenges through a variety of 'national programs for the promotion

24 See Timothy Longman and Théonèste Rutagengwa, 'Memory, Identity and Community in Rwanda', in *My Neighbor, My Enemy*, ed. Eric Stover and Harvey M. Weinstein (Cambridge: Cambridge University Press, 2004), p. 164. These efforts need to be understood agains the essentialist and racist narrative of Rwandan history espoused by radical elements in the MRND (D) government which prepared the ground for the genocide – as a form of cultural violence, it contributed to direct violence against the Tutsis before and during the genocide.

25 The Constitution of the Republic of Rwanda, (The Rwandan Constitution). [Electronic]. Available at: www.cjcr.gov.rw/eng/constitution_eng.doc [4 April 2008].

26 Ibid., Article 54.

27 Ibid., Article 33.

28 Prunier describes the CDR as a 'radical racist party working on the right of the MRND and goading it and the regime for the supposed "softness" towards the RPF and its democratic *ibyitso* (accomplices)'; see Prunier, *The Rwanda Crisis*, p. 128.

29 The Rwandan Constitution, Article 54.

of national unity and reconciliation'.[30] In the words of the president: 'The Commission is propagating and promoting a new philosophy and outlook that is Rwandan, rather than being Hutu, Tutsi or Twa. In that respect, the Government has abolished the use of labels in our National Identity Card.'[31]

A similar emphasis on bringing about post-genocide reconciliation informs the Rwandan approach to transitional justice. Thus, the *Gacaca* Service Commission received a mandate to promote 'national unity and reconciliation'.[32] *Gacaca's* founding act states that the aim of the Commission is 'to achieve reconciliation and justice in Rwanda, to eradicate for good the culture of impunity and to adopt provisions enabling to ensure [*sic*] prosecutions and trials of perpetrators and accomplices without only aiming for simple punishment, but also for the reconstitution of the Rwandese society made decaying [*sic*] by bad leaders who prompted the population to exterminate one part of that society'.[33]

This 'official narrative', reflected in the various official documents and transitional justice processes of post-genocide Rwanda, has a number of tenets:[34] *firstly,* it encourages Rwandans to reconcile by recalling a pre-colonial past of harmonious and fluid ethnic relations, thereby downplaying ethnicity as a salient force in society. It calls to unity all Rwandans on the basis of a historical narrative that emphasises Rwandan society's pre-colonial, 'natural' unity. The 'official narrative' claims that pre-colonial Rwanda had been essentially unified and that distinctions between Twa, Hutu and Tutsi demarcated occupational differences only. They all shared a religion and language, often intermarried and were loyal to the same royal house. 'Fluid occupational' identities were facilitated through the institution of 'cattle clientship' or *ubuhake*.[35] Pre-colonial Rwandan history was not exempt from localised tit-for-tat skirmishes, but ethnic mobilisation on the basis of these identities did not take place. The official RPF narrative therefore implies that post-genocide reconciliation of Rwandan society can happen on the basis of the recovery of Rwanda's pre-colonial unity.[36]

In line with the Rwandan Constitution's prohibition of political activity based on ethnic affiliation, the Rwandan transitional justice mechanisms have been designed so as to avoid a discussion of the continuing role of ethnic categories. The assumption of the Rwandan approach to transitional justice appears to be that the legacy of ethnic categorisation can be overcome by an appeal to national belonging. Yet, in so doing, the transitional justice mechanisms create the *possibility* for the unwitting continuation of the different forms of cultural and structural violence caused by ethnic categorisation in Rwanda.

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30 These include, for example, 'solidarity camps' called 'ingando seminars' for released prisoners and returning refugees about to be reintegrated into society. Ingando, taken from the Kinyarwanda verb, kuganda, refers to a breaking-off from normal activities in order to reflect on issues of importance. [Electronic]. Available at: www.nurc.gov.rw [11 April 2008].

31 Paul Kagame, 'Managing Post Genocide Era: Managing Ethnic Relations and National Reconciliation in a Post-Genocide State' (public address delivered at California State University, Long Beach, 14 April 2005). See also Anastase Shyaka, 'The Rwandan Conflict: Origin, Development, Exit Strategies,' Commissioned by the Rwandan National Unity and Reconciliation Commission (28 January 2005) [Electronic]. Available at: http://www.nurc.gov.rw/index.php?Res [11 April 2008].

32 Significantly, the Security Council resolution that gave birth to the ICTR used language reminiscent of this official Rwandan emphasis on post-genocide 'reconciliation'. While it mandated the ICTR with the task of bringing to justice the perpetrators of genocide in Rwanda because they were a threat to 'international peace and security', it also charged the ICTR with the objective to help foster reconciliation in Rwanda. The preamble to the resolution reads: 'convinced that in the particular circumstances of Rwanda, the prosecution of persons responsible for genocide and other above-mentioned violations of international law would enable this aim [bringing effective justice] to be achieved and would contribute to the *process of reconciliation and to the restoration and maintenance of peace* …' The explicit reference to 'reconciliation and to the restoration and maintenance of peace' in the Security Council resolution clearly takes a similar line to the nation-building narrative of the Rwandan government. The fact that 'reconciliation' (however it was conceptualised) is acknowledged as the objective of the ICTR, enables Rwandan authorities to articulate and interpret its work in terms familiar to its own 'official narrative' of unity and reconciliation.

33 See http://www.inkiko-Gacaca.gov.rw/pdf/Law.pdf

34 Office of the President of the Republic of Rwanda, The Unity of Rwandans – Before the Colonial Period and under the Colonial Rule, Under The First Republic (1999) [Electronic]. Available at: http://www.grandslacs.net/doc/2379.pdf [4 April 2008].

35 Pottier, *Re-Imagining Rwanda*, p. 110.

36 Office of the President, p. 63.

Secondly, the official narrative claims that the Hutu/Tutsi hostilities are the exclusive result of colonialism. This claim is substantiated with reference to the well-documented and disastrous impact of Belgian rule on ethnic relations in Rwanda through, inter alia, the introduction of ethnic identity documents and the favouring of first the Tutsis and later the Hutus in matters of governance. Yet, there seems a strong historical case for stating that ethnic rivalry is not simply a colonial import, as the 'official narrative' claims. Pottier remarks that 'despite uncertainty about the exact use of ethnic labels in nineteenth-century social and political discourse, there is today certainty that the European colonisers were not the first to rule Rwanda along divisive ethnic lines … The [colonial] interventions were racist, but the seeds for a racialised ethnic division had well germinated by then.'[37]

Thirdly, the 'official narrative' tends to represent post-colonial Hutu Power in an exclusively negative way, as no more than an extention of colonial power. However, Hutu Power had in fact been a more nuanced and complex phenomenon. The 1959 revolution had the democratic objective of empowering a disenfranchised majority of peasants. These aims were articulated in a document central to the 1959 revolution, originally entitled *Notes on the Social Aspect of the Racial Native Problem in Rwanda*. Popularly known as the *Bahutu Manifesto*, and signed by a group of nine Hutu intellectuals, it put forward and defended efforts to bring about a post-colonial revolution and to establish a (Hutu-dominated) majority government. The *Bahutu Manifesto* revolved around the core assertion that the Bahutu historically suffered a double oppression by colonisers as well as by the Tutsi. The democratising significance of Hutu Power as a force for liberation has been lost in the 'official narrative' of post-genocide Rwanda.[38] The consequences are doubly significant. Not only does the 'official narrative' not acknowledge the legitimate historical ideals of Hutu Power, but over time it risks permanently demonising Hutu identity – not least in how criminal guilt is linked to Hutu identity. Consequently a more nuanced understanding of Hutu Power is required if transitional justice is to promote reconciliation in the sense of eradicating cultural violence perpetrated in, and through, 'history making'. At the very least, it needs to take into account the evidence of the historical role of Hutu Power in the democratising thrust of post-colonial self-rule (as well as that of some Hutu resistance to genocide).

Fourthly, the 'official narrative' is characterised by a curious paradox in its treatment of the genocide itself, both privileging it as the central event of Rwandan history but at the same time removing it from historical scrutiny. On the one hand, the '1994 genocide is singled out as an event producing the only politically correct categories for identification and guidelines' of actions by the state.[39] In order to ensure that genocide never happens again, the 'official narrative' now requires reconciliation on the basis of renouncing ethnic categories seen as a colonial imposition and an instrument for genocide, and the embracing of pre-colonial unity. At the same time therefore that the official narrative postulates the 1994 genocide as the defining event in Rwandan history, it seems to block thorough-going public and historical analysis about what had caused the genocide, beyond its own tenets and assertions. Mamdani calls this feature of the 'official narrative' its failure to put the truth of genocide in a historical context.[40]

Thus the representation of the more immediate dynamics of the genocide in the 'official narrative' needs to be interrogated historically. This does not mean that one needs to 'dissolve' the genocide into the war as if it does not merit significant attention as a historic event in itself, as some revisionist Hutu ideologues tend to do. Yet, the implication for the agenda of reconciliation through transitional justice is that while the 'official narrative' posits the 'genocide' as 'prime evil', it has also ensured that the underlying causes of the genocide, including sources of cultural and structural violence, have been inadequately investigated and addressed with important consequences for post-genocide reconciliation. The new

37 Pottier, *Re-imagining Rwanda*, p. 112.

38 Mamdani, *When Victims become Killers*, p. 83.

39 Ibid., p. 266.

40 Ibid., p. 268.

official narrative of Rwanda's past is told in the name of reconciliation. My contention is that this ambition ought to be judged, not against its ability to silence claims about ethnic identity, but by its ability to help create the conditions for the removal of the prevalent forms of structural and cultural violence, whether residual or fresh.

'Forgetting-but-not-Denying' Genocide

What are the more specific requirements for a post-genocide history which would help to create the conditions for the removal of cultural violence? Cycles of violence can be perpetuated by conflicting narratives and memories of past atrocities that continue to hold sway after direct violence ceases, continuing to exert what Galtung calls 'cultural violence'. Reconciliation therefore requires addressing the lingering impact of conflicting accounts of the past *as it influences (and violates) the present.*

Pragmatic notions of the need for 'a usable past' in the context of nation-building should be differentiated from the more specific concerns of transitional justice approaches as ways of dealing with past political atrocities.[41] Similarly, Nietzsche's distinction between 'antiquarian', 'monumental' and 'critical' history delineates different 'uses of the past' in general but does not specifically focus on dealing with past atrocities.[42] However, they can readily be adapted to transitional justice concerns.[43]

The past, if it is to be overcome, must be remembered in appropriate ways (even more so in the case of a past of political atrocities) – that is, in our terms, ways where history and memory do not continue to serve as agents of cultural violence. Whereas 'antiquarian' history reveres and preserves the past for its own sake, the 'monumental' approach to the past has typically been concerned with 'celebrating the greatness and glory of the past' while 'critical' history is concerned with 'accountability for the past'.[44] Of these, a 'critical' history would be most suited to general conceptions of transitional justice, not least to the extent it is shaped by human rights discourses. However, Nietzsche claimed that there is also a place for a 'monumental past' if the past is to be overcome.[45] This would apply, for example, to the recognised need of reconciling a post-conflict society through appropriate symbolism and memorialisation efforts – by convincing opposing groups to accept a common, new symbolic order rooted in a celebrated past.[46] Nietzsche described this as 'an attempt to give oneself, as it were *a posteriori*, a past in which one would like to originate, in opposition to which one did originate in – always a dangerous attempt because it is so hard to know the limits to denial of the past'.[47]

Nietzsche, however, importantly and provocatively also warned against 'an excess of history' in the sense of being dominated by a past that cannot be forgotten, a condition that can become life-threatening, and which he elsewhere calls 'a malady of history'.[48] The question is therefore how to develop a monumental history, ensuring that history is not 'denied', while at the same time avoiding 'an excess of history', in the sense of being dominated by that past.

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41 See, for example, Ernest Renan, 'What is a Nation?' (Lecture presented at the Sorbonne, Paris, 11 March 1882); Henry Steele Commager, *The Search for a Usable Past* (New York: Knopf, 1967); Terence O. Ranger, 'Towards a Usable African Past', in *African Studies since 1945 – A Tribute to Basil Davidson*, edited by Christopher Fyfe (Longman, London, 1976).

42 Friedrich Nietzsche, *Untimely Meditations*, ed. Daniel Breazeale (Cambridge, Cambridge University Press, 1999).

43 For one such attempt, see André du Toit, 'The Truth & Reconciliation Commission as Contemporary History', in *Toward New Histories for South Africa: on the Place of the Past in our Present*, ed. Shamil Jeppie (Lansdowne: Juta Gariep, 2004), p. 1.

44 Ibid., p. 3.

45 Ibid., p. 3.

46 See the following articles asserting the need for memorialisation and symbolic reconstruction in the Rwandan context: Longman and Rutagengwa, 'Memory, Identity and Community in Rwanda,' 177; Helena Cobban, 'The Legacies of Collective Violence: The Rwandan Genocide and the Limits of Law,' Boston Review 7, 2 (April/May 2002) [Electronic]. Available at: www.bostonreview.net/BR27.2/cobban.html [April 2008]; Lemarchand, 'Coming to terms with the Past'; Catharine Newbury, 'Ethnicity and the politics of history in Rwanda' Africa Today 45, 1 (January–March 1998): 7–25.

47 As quoted in Du Toit, 'The Truth & Reconciliation Commission,' p. 4.

48 Friedrich Nietzsche, *Untimely Meditations*, pp. 64, 102, 109.

This is in line with what Paul Ricoeur refers to as the twin dangers of either having 'too much memory' or of having a 'lack of memory'. The former occurs when post-conflict societies are 'haunted by the recollection of the humiliations they suffered in a distant past as well as by that of glory past'. The latter, on the other hand, is the result of such societies refusing to acknowledge the past, 'as if they were fleeing from an obsession with their own past'.[49] In the Rwandan context, both the Tutsi and Hutu communities are haunted by specific traumatic episodes, framed and narrated as directly attributable to the opposite group.

The distinction between denial of, and dominance by, the past needs to be further refined. How is the middle position, somewhere between 'too much memory' and 'too little memory', to be conceptualised? To this end, I propose a further distinction – that between 'forgetting' and 'denial'.[50] While transitional justice approaches tend to insist on the need for remembering past atrocities and stress the dangers of 'denial', Nietzsche rightly observes that overcoming the past requires the ability to forget in order to move on (which would evidently have to be different from simply denying past atrocities).

This paradoxical Nietzschean notion of overcoming the past by, what can be called 'forgetting-but-not-denying' provides a point of departure for this analysis. Denial, or what Ricoeur calls 'oblivion', is characterised by a refusal to engage with the past at all.[51] However, denial does not necessarily imply *not* talking about the past. In fact, denial often coincides with obsessive and oppressive remembering and fervent documentation of history, designed, however, to exclude and thereby subjugate opposing groups. This form of denial could indeed be seen as one way in which history becomes a form of cultural violence, justifying the use of direct violence against those one-sidedly portrayed as perpetrators, outsiders and as dangerous to society.

By contrast, to 'forget' one has to remember first. One cannot forget publicly that which was not known in a deliberate and public way. Yet, reconciliatory forgetting engages the past in order to move beyond it, not to entertain it for its own sake. 'Forgetting-but-not-denying' lays the past to rest only *after* a thorough confrontation with it. Forgetting therefore presupposes a vigorous engagement with the past, whereas denial shuns such engagement in favour of silence or glib and inaccurate histories.[52]

'Forgetting-but-not-denying' entails a move beyond the preoccupation with one's own traumatic experiences, powerful as these may have been during an event such as a genocide, towards a shared understanding of the past. It includes the ability to interpret one's own experience within a broader context. Ricoeur writes: 'the meaning of what happened to us, whether we have actively done it to ourselves or have undergone it, is not fixed once and for all … So what can be changed to the past is its moral load, its burden of debt which weighs both upon the project and the present.'[53]

'Forgetting-but-not-denying' thus involves a move towards democratising the debate about the past, because it allows others to engage with the history of one's own suffering (for victims) or one's own crimes (in the case of perpetrators). Such a form of remembering

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49 Paul Ricoeur, 'Can Forgiveness Heal?' in *The Foundation and Application of Moral Philosophy*, ed. Hendrik J. Opdebeeck (Leuven, Belgium: Peeters, 2000), 31f.

50 A similar attempt to arrive at 'an understanding of the many blind spots in Rwanda's official memory', is offered by Lemarchand, based on Ricoeur's distinction between 'thwarted memory', 'manipulated memory' and 'enforced memory'; see René Lemarchand, 'The Politics of Memory in Post-Genocide Rwanda,' in *After Genocide – Transitional Justice, Post-Conflict Reconstruction and Reconciliation in Rwanda and Beyond*, ed. Phil Clarke and Zachary D. Kaufman (New York: Columbia University Press, 2009), pp. 69–73.

51 Ricoeur, 'Can Forgiveness Heal?' 33. The standard work on 'denial' in the transitional justice literature is that of Stanley Cohen, *States of Denial – Knowing about Atrocities and Suffering* (Oxford: Polity Press, 2001). Cohen provides a psychologically oriented analysis rather than one oriented to the politics of history and memory, like Nietzsche and Ricoeur.

52 'Forgetting-but-not-denying' in this sense is akin to what is often called 'closure' in psychological terms, the ability to place traumatising events in a proper context and so 'forgetting' the singular horror of the immediate experience of gross human rights violations in favour of a more historical and comprehensive view of what happened. See, for example, Denise R. Beike, and Erin T. Wirth-Beaumont. 'Psychological Closure as a Memory Phenomenon,' *Memory* 13, 6 (2005): 574–593.

53 Ricoeur, 'Can Forgiveness Heal?' p. 33.

that takes into account divergent views, lies at the root of desirable forms of post-conflict memorialisation – of remembering collectively, inclusively and with a view to future stability. In this way, *forgetting eventually enables deeper and fuller remembering*. As Ricoeur remarks: 'This modifying of the past, consisting in telling it differently and from the point of view of the other, becomes crucially important when it concerns the foundations of the common history and memory.'[54]

Reconciliatory forgetting of this kind cannot be achieved in abstraction but requires specific and concrete preconditions. For 'victims' and 'perpetrators' to be willing to forget past atrocities and to be reconciled as citizens, a number of basic conditions need to be met, such as a representative political dispensation and a reasonable chance to attain better living conditions. In the absence of at least some political justice and economic development, patterns of exclusion which marked the previous dispensation are bound to be perpetuated and the willingness to 'forget' severely compromised.

'Forgetting-but-not-denying' may thus be described as the positive or desired outcome when survivors of violent intra-state conflict declare themselves willing to relinquish the identities of 'victim' and 'perpetrator' in favour of a common citizenship in order to share political rights and pursue post-genocide reconstruction across social fault lines and within a single political and economic community.[55] The willingness to 'forget' past suffering most decidedly therefore does *not* equate denial. In fact, it allows, after deliberate remembering, victims and perpetrators to embrace their identities as 'citizens', thereby escaping a future dominated by 'too much memory'.

However, where voices representing opposing perspectives are systematically excluded in a hegemonic, all-consuming and coercive portrayal of the past, and where this exclusion is experienced as an ongoing form of cultural violence, it becomes difficult or impossible for those who are excluded to 'move on', that is, to forget. This situation represents 'denying-through-excessive-remembering' – the opposite of 'forgetting-but-not-denying'.

Remembering Genocide Non-Violently

Once the actual killings were brought to an end, an urgent question facing the Rwandan post-genocide transitional justice project was how to deal with underlying forms of cultural violence. Ideally, the Rwandan approach to transitional justice needed to be able to draw on elements of alternative 'symbolic spheres' to counter the 'cultural violence' that had contributed to the genocide. If different accounts of the past, often specific to Hutu or Tutsi Power, had the potential to generate, sustain or justify cycles of structural and direct violence, any attempt to bring about social and political reconciliation must of necessity also address these conflicting histories to the extent that they continued to hold sway over the post-genocide society.

The prominence of historical narratives in the shaping of Rwandan conflict over many decades, as well as their potential uses post-genocide, necessitates what Mahmood Mamdani calls 'reconciliation with history'. Mamdani provocatively describes Rwanda's key dilemma as the quest to build a democracy that can incorporate a guilty majority alongside an aggrieved and fearful minority.[56] And yet Mamdani claims that, despite the public nature of the genocide, the identities of neither the perpetrators nor the survivors are as transparent as they, at face value, might seem. 'This is because the identification of both perpetrators and survivors is contingent on the historical narratives that frame the events of the genocide. This is why it is not possible to think of reconciliation between Hutu and Tutsi in Rwanda without a prior "reconciliation with history": History in Rwanda comes in two versions: Hutu

54 Ricoeur, 'Can Forgiveness Heal?' p. 33.

55 For an extended version of this argument, see Mark A. Drumbl, 'Punishment, Post-Genocide: From Guilt to Shame to Civis in Rwanda', *New York University Law Review* 75, 5 (November 2000): 1292–1308.

56 Mamdani, *When Victims become Killers*, p. 266.

and Tutsi.'[57] From this statement, Mamdani concludes that 'to break the stranglehold of Hutu Power and Tutsi Power on Rwanda's politics, one also needs to break their stranglehold on Rwanda's history writing, and thus history making'.[58]

However, whereas for Mamdani this mainly requires 'putting the genocide in the correct historical perspective', I use the concept of 'reconciliation with history' in an expanded sense. 'Reconciliation with history' is conceptualised, not primarily as the correction of historical fallacies, important as that may be, but as the conscious effort to construct a new historical narrative and framework able to accommodate the needs and interests of both sides so as to provide a basis for facilitating further discussions while remaining open to critical engagement.

It follows that an account and assessment of the Rwandan approach to transitional justice will need to ascertain how the genocide, as historical event, is conceptualised and presented to Rwandans in and through the transitional justice process, and what the wider implications are for the way history is presented to Rwandans today.

The notion of 'reconciliation with history' involves creating deeper insight into the opposing Hutu and Tutsi accounts of past conflicts and atrocities, and so, in the longer term, enabling a shared understanding of the past. In Galtung's terms, it may be viewed as an important dimension of the agenda for removing possible sources of 'cultural violence' and thereby furthering reconciliation-through-transitional-justice in Rwanda. More specifically, the question is whether the Rwandan approach to transitional justice, as it has been conceptualised and implemented in Rwanda, is suited to assist in this quest for 'reconciliation with history'.

If, drawing on the conceptual discussion earlier, 'reconciliation with history' therefore not only requires 'setting the record straight', but also a carefully-balanced approach of 'forgetting-but-not-denying' rather than 'denying-through-excessive-remembering', what are the practical steps or components of such a process? A minimalist understanding of 'reconciliation with history' would entail no more than a non-violent engagement (in the form of entering into debate or dialogue without necessarily reaching agreement) between rival groups about the interpretation of key events in the country's history and their significance for the new dispensation. A 'thicker' conception of reconciliation, by contrast, would require more than 'an agreement to disagree'. It would seek a 'settling of accounts' between victims, perpetrators of past atrocities, as well as bystanders and other citizens.

A first, modest step towards Mamdani's 'reconciliation with history' would presumably be a process of non-violent engagement between the perspectives and historical claims of opposing groups in an effort to generate deeper mutual insight into opposing views. To begin with, this could take the form of engaging in open-ended historical debate on key issues regarding past political atrocities.

It is important to acknowledge that debating history in the context of a post-conflict society could well prove counter-productive. Therefore the reopening of historical controversies between erstwhile enemies carries considerable risks. Such historical debates could spark fresh cycles of violence unless they are inclusively framed. Contrasting historical narratives produced for sectional and partisan constituencies could, in fact, consolidate and even deepen divisions in post-conflict society. This could motivate revenge attacks, but could also favour the newly powerful, and therefore contain subtle forms of cultural violence that support ongoing forms of structural violence. The perpetuation of violence is not only due to conflict *between* histories, but to the *manner in which* history is debated and produced in the wake of conflict.

There is therefore an important difference between the sectional and partisan uses of narratives of past political atrocities, such as those used to motivate revenge or consolidate the victor's power, and former adversaries formulating 'stories' about these atrocities and the conflict more generally in inclusive and more self-reflexive ways. In truth and reconciliation

57 Ibid., p. 267.
58 Ibid., p. 268.

commissions, for example, contradicting perspectives, such as those of victims and perpetrators, are recorded within the same process. These views, standing side by side, profess to the inclusive nature of such a process and moreover the nature of the project of creating a shared history beyond the conflict – not by absolutising one side or the other, but by allowing adversaries to offer their differing perspectives to a shared project designed to make sense of the past.

By contrast, it seems that the official policy in Rwanda does not allow for this kind of historical debate. Immediately after the genocide, the Ministry of Education, for example, placed a moratorium on the teaching of Rwandan history in schools out of fear for the conflict that such as debate might engender. 'Almost a decade later', researchers comment, 'this emergency measure remains in place.'[59] Maria Hodgkin claims that this process of 'the repression of discussion of divisive and contested moments in Rwandan history, both within and outside the school curriculum, will only serve to create new dynamics of social exclusion.'[60]

The latter leads us to a second dimension of 'reconciliation with history', over and above the non-violent engagement between historical perspectives that might have been at the root of the original conflict, namely, the chance for individual victims and perpetrators to contribute to the official historical record of a post-conflict society within a framework of reconciliation and truth-seeking. It concerns the measure to which a post-conflict society, in addition to facilitating an engagement between the master narratives of former adversaries, enables ordinary citizens (as victims and perpetrators) to tell their own particular stories concerning past atrocities. 'Reconciliation with history' not only entails engagement across major social divisions, but also a 'bottom-up' process that enables individual narratives to impact on the national consensus. Openness across conflict lines needs to be augmented with openness towards the 'grass roots'.

Whereas the former manner of exclusion relates to the relationship between political opponents with radically different views of history, favouring the one above the other in a culturally violent way, this paragraph contends that cultural violence may also occur in the relation between the 'official narrative' and ordinary citizens, when individual accounts of past atrocities are ignored in favour of the 'official narrative' presented as complete and adequate in and of itself – without the recording of individual memories regarding the past.

Ordinary victim narratives are similar to what Lyotard, in a different context, called 'the little narrative [that] remains the quintessential form of imaginative invention'; they not only challenge established meta-narratives, but hegemonic representation of the past *as such*.[61] Lyotard writes within the context of the postmodern challenge to totalising modernist discourses, a challenge which he defines as the fundamental 'incredulity towards meta-narratives'.[62] On the one hand, he affirms the epistemological validity of such little narratives as *legitimate* knowledge, but on the other hand also makes a case for what has become known as constructing 'history from below' or building a picture of the past through the painstaking labour of piecing together individual narratives.

In transitional justice, a similar endeavour has received increasing recognition in the form of public truth-telling at victims' hearings as a legitimate counter to the official record of a conflict. Victims allowed to tell their own stories of past atrocities typically do not present comprehensive perspectives; rather, they serve to challenge and unravel claims of hegemonic

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59 Sarah Warshauer Freedman, Déo Kambanda, Beth Lewis Samuelson, Innocent Mugisha, Immaculée Mukashema, Evode Mukama, Jean Mutabaruka, Harvey M. Weinstein and Timothy Longman, 'Confronting the past in Rwandan Schools', in *My Neighbor, My Enemy*, ed. Eric Stover and Harvey M. Weinstein (Cambridge: Cambridge University Press, 2004), p. 248.

60 Marian Hodgkin, 'Reconciliation in Rwanda: Education, History and the State', *Journal of International Affairs* 60, 1 (Fall/Winter 2006): 199–210 [Electronic]. Available at: http://web.ebscohost.com.ezproxy.uct.ac.za/ehost/detail?vid=3&hid=120&sid=7cc45419-2e7a-451e-8e06-0201326d8bd2%40sessionmgr9&bdata=JnNpdGU9ZWhvc3QtbGl2ZQ%3d%3d#db=aph&AN=23532432 [June 2008]. See also Freedman *et al*., in *My Neighbor, My Enemy,* ed. Eric Stover and Harvey M. Weinstein (Cambridge: Cambridge University Press, 2004), 248f.

61 Jean-François Lyotard, *The Postmodern Condition: A Report on Knowledge* (Manchester: Manchester University Press, 1979), p. 60.

62 Lyotard, p. xxiv.

narratives to represent a comprehensive and authoritative account of past political atrocities. Truth processes in the context of transitional justice are particularly well suited to create opportunities for these 'little narratives' to proliferate, in the form of victim testimonies and perpetrator statements.[63] These incomplete, often incoherent and even conflicting 'histories', the memories and perspectives of particular victims and perpetrators, form an important component of reconciliation with history during times of transition, ensuring that the new rapprochement does not result in fresh exclusions and new forms of cultural violence.

There are therefore two related dangers when seeking to construct a historical common ground (or monumental history) after conflict, namely, preventing debate between competing histories by simply replacing one hegemonic history with another – thus avoiding transformative engagement between opposing historical views – and excluding individual stories or narratives that might challenge the notion that the 'official narrative' contains a complete representation of the past. As we move on to assess the Rwandan cultural framework for transitional justice, as reflected in its 'official narrative', we need to establish whether it is constructing historical narratives as a resource of 'cultural violence' or, conversely, enabling truth processes in such a way that these might serve the goal of helping to eradicate or at least minimise cultural violence by finding new, less exclusionary ways for history to function in Rwanda, by stimulating engagement between Hutu and Tutsi versions of Rwandan history as well as by enabling ordinary Rwandans in voicing their memories, experiences and perspectives.

Gacaca as Challenge to Cultural Violence

The 'official narrative' has a central significance in Rwanda's domestic approach to transitional justice. Next to *gacaca* it is *the* central component of that domestic approach to transitional justice – it has also been fundamental in shaping the context in which *gacaca* has had to operate. For their part revisionists (and those who can be accused of 'genocide-laundering') seek to either deny or downplay the magnitude of the genocide. The prevalence of both these historical frameworks underscores the need for 'reconciliation with history' to counter these invocations of history which otherwise might serve to justify renewed cycles of cultural or other forms of violent exclusion.

Promulgated in the 2000 Organic Law and further refined in the 2004 law, the *National Service of Gacaca Courts* (SNJG), a body to oversee the implementation of a system of community courts nationwide, was launched as a direct response to the logistical and other challenges of bringing to justice some 120,000 individuals accused of genocide and held in prolonged detention.[64] Based on traditional practices of communal reconciliation, the *gacaca* hearings were officially instituted as an elaborate and sustained exercise of transitional justice in local settings with grass-roots participation. As such, *gacaca* represents a mainstay of the Rwandan approach to transitional justice: *gacaca* falls under the jurisdiction of the Rwandan government, the *gacaca* hearings took place in local Rwandan communities and the SNJG comprises exclusively Rwandan staff.

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63 See Fanie du Toit, 'Ideas of Truth and Revelation in the Light of the Challenge of Postmodernism' (D.Phil diss., Oxford University, 1995), 68f.

64 Organic Law No 40/2000 of 26/01/2001 set up the various '*gacaca* jurisdictions' and institutions with responsibilities for prosecutions of offences constituting the crime of genocide or crimes against humanity committed between 1 October 1990 and 31 December 1994; [Electronic]. Available at: http://www.inkiko-Gacaca.gov.rw/pdf/Law.pdf [9 April 2008]. Organic Law No. 16/2004 of 19/6/2004 established the organisation, competence and functioning of *Gacaca* courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between 1 October 1990 and 31 December 1994, and its amendments; [Electronic]. Available at: http://www.inkiko-Gacaca.gov.rw/pdf/newlaw1.pdf [9 April 2008].

The *Gacaca* Service Commission received a mandate to promote 'national unity and reconciliation'.[65] *Gacaca's* founding act states that the aim of the Commission is 'to achieve reconciliation and justice in Rwanda, to eradicate for good the culture of impunity and to adopt provisions enabling to ensure [*sic*] prosecutions and trials of perpetrators and accomplices without only aiming for simple punishment, but also for the reconstitution of the Rwandese society made decaying [*sic*] by bad leaders who prompted the population to exterminate one part of that society'.[66]

Drawing on these analytical studies on the causes of the genocide, there are a number of studies that analyse Rwanda's quasi-judicial transitional justice efforts, notably the *gacaca* process, in relation to international law.[67] A prominent feature of the comparative literature has been to emphasise the distinctive ways in which Rwanda's transitional justice processes have developed. It had, firstly, to find ways to deal with extraordinary numbers of victims and perpetrators involved to provide grounds to argue for the exceptional nature of Rwanda's challenge. Studies in this vein include a number of book-length studies,[68] as well as chapters and journal articles.

The result was a (possibly uniquely) ambitious domestic transitional justice process. With more than 120 000 perpetrators in prison awaiting trial, a complementary community court system, the *gacaca* courts, was implemented. Initially, this led to an even greater proliferation of cases as even more people were implicated by witness testimonies. According to Rwandan authorities, at the beginning of the full-scale rollout of the actual *gacaca* hearings, this total grew to 818 564 cases.[69]

From the extant literature, it is clear that the *gacaca* system has sparked intense debate internationally as well as domestically. From a pronounced human rights perspective, activists and commentators have strongly criticised the *gacaca* process. Amnesty International and other human rights agencies, but also various international commentators, view the *gacaca* process primarily, or even exclusively, as an exercise in criminal justice; and to them, lapses

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65 Significantly, the Security Council resolution that gave birth to the ICTR used language reminiscent of this official Rwandan emphasis on post-genocide 'reconciliation'. While it mandated the ICTR with the task of bringing to justice the perpetrators of genocide in Rwanda because they were a threat to 'international peace and security', it also charged the ICTR with the objective to help foster reconciliation in Rwanda. The preamble to the resolution reads: 'convinced that in the particular circumstances of Rwanda, the prosecution of persons responsible for genocide and other above-mentioned violations of international law would enable this aim [bringing effective justice] to be achieved and would contribute to the *process of reconciliation and to the restoration and maintenance of peace* …' The explicit reference to 'reconciliation and to the restoration and maintenance of peace' in the Security Council resolution clearly takes a similar line to the nation-building narrative of the Rwandan government. The fact that 'reconciliation' (however it was conceptualised) is acknowledged as the objective of the ICTR, enables Rwandan authorities to articulate and interpret its work in terms familiar to its own 'official narrative' of unity and reconciliation.

66 See http://www.inkiko-Gacaca.gov.rw/pdf/Law.pdf

67 Phil Clarke 'Judging Genocide on the Grass,' review of Rwanda's *Gamble: Gacaca and a new model of Transitional Justice*, by Paul Harrel, *The Oxonian Review of Books* 4, 2 (Hilary 2005) [Electronic]. Available at: http://www.oxonianreview.org/issues/3-2/3-2-4.htm [10 April 2008]; Institute for Security Studies (ISS), 'The Gacaca Process: Eradicating the Culture of Impunity in Rwanda?' Situation Report, (5 August 2005) [Electronic]. Available at: http://www.iss.co.za/AF/current/2005/050805rwanda.pdf [11 April 2008]; Barbara Roelof Haveman and Olaoluwa Olusanya (The Hague: Intersentia, 2006); Uvin and Mironko, 'Western and Local Approaches to Justice in Rwanda', 226; Clarke, 'Hybridity', 117; Waldorf, 'Mass Justice', 3; Longman and Rutagengwa, 'Memory, Identity and Community in Rwanda', p. 162.

68 Book length studies on transitional justice as it applies to Rwanda include Phil Clarke and Zachary D. Kaufman, ed., *After Genocide – Transitional Justice, Post-Conflict Reconstruction and Reconciliation in Rwanda and Beyond* (New York: Columbia University Press, 2009); Jean Hatzfeld, *Machete Season – The Killers in Rwanda Speak* (Paris: Éditions du Seuil, 2003); Elizabeth Neuffer, *The Key to my Neighbour's House: Seeking Justice in Bosnia and Rwanda* (New York: Picador USA, 2001); Temple-Raston, Justice on the Grass, Heidy Rombouts, *Victim Organisations and the Politics of Reparation: A Case Study on Rwanda* (Oxford: Intersentia, 2004) as well as Nigel Eltringham, *Accounting for Horror – Post-Genocide Debates in Rwanda* (London: Pluto Press, 2004); and Pottier, Re-Imagining Rwanda. A number of important essays are also contained in Stover and Weinstein eds, *My Neighbor, My Enemy*. See also Peter E. Harrel, *Rwanda's Gamble: Gacaca and a new Model for Transitional Justice* (New York: Writer's Club Press, 2003) and the following Amnesty International reports: AI, 'Rwanda: Crying out for Justice', (April 1995) [Electronic]. Available at: www.metafro.be/grandslacs/grandslacsdir0/0110.pdf/download [January 2008] and AI, 'Rwanda: Arming the Perpetrators of the Genocide', (June 1995) [Electronic]. Available at: www.grandslacs.net/doc/2671.pdf [January 2008].

69 Mukantaganzwa, 'National Service of *Gacaca* Courts,' (Paper presented to Institute for Justice and Reconciliation 2007).

in due process are so grave as to compromise the entire effort.[70] As Clarke notes: 'The form of justice that most commentators (such as Amnesty International and Human Rights Watch) employ when analyzing *gacaca,* is *formal* in method and *deterrent* in outcome.'[71] From this perspective, *gacaca* is mainly criticised for its lack of judicial rigour, for example, in not employing legally qualified judges. Waldorf has taken this criticism further: *Gacaca* would not only fail to deliver justice but would actively undermine whatever post-genocide reconciliation might have happened, thereby threatening to *worsen* ethnic relations. As *gacaca* was about to commence, Waldorf asked whether the direct involvement of communities might lead to the intimidation of witnesses and reprisal attacks. He concluded that *gacaca* would result in the gross and large-scale 'ethnicisation of guilt' because it is so heavily 'politicised'.[72] The process would 'wind up criminalising a vast swath of the Hutu population'.[73] Waldorf's inescapable conclusion is that a post-conflict government could never render justice for a mass atrocity such as the Rwandan genocide, and by attempting to do so it not only saddled the justice sector with an impossible task but 'most cruelly diverted resources away from survivors'. This, according to Waldorf, amounted to 'victor's justice'. [74]

In stark contrast, other commentators expected *gacaca* to emerge as an exemplary model of best practice for transitional justice. Paul Harrel's *Rwanda's Gamble – Judging Genocide on the Grass* is the first book-length academic investigation of *gacaca* as a response to genocide crimes. Harrel's core argument is that the 'liberal-prosecutorial model of transitional justice' dominates international interventions after conflict. Consisting of three elements – international tribunals, domestic prosecution and truth commissions – this model did not pay sufficient attention to issues of truth and reconciliation. To this, Harrel juxtaposes *gacaca* as a 'communitarian restorative' model that utilises justice to facilitate reconciliation. The gamble of *gacaca* is the hope that the Rwandan communities would accept this initiative to pursue community reconciliation peacefully and truthfully.[75]

These observations, however, were also based largely on fears or hopes of what may become of *gacaca* before it actually got underway. Accepting that physical violence *within* Rwanda has largely been stopped,[76] our concern is with the conceptualisation and analysis of cultural violence as a benchmark against which to measure *gacaca's* success to date in promoting reconciliation, or not. Given the above discussion, there are two main parts to this question, namely, the significance of the *gacaca* hearings for popular appropriation of the 'official narrative' of the genocide and Rwanda's new monumental history on the one hand, as well as, on the other hand, the openness of the post-genocide 'official narrative' potentially to incorporate the multiple personal narratives of ordinary Rwandans, not least those of particular victims and perpetrators.

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70 Mukantaganzwa, 2007.

71 Amnesty International, for example, commented: 'On the contrary, consistent reports that fair trials guarantees are not being applied in the *Gacaca* process, which is investigating and prosecuting a massive amount of the crimes committed during the 1994 genocide, undermines the whole legal system and raises concerns about the importance that will be attached to these rights by other sectors of the justice system.' See AI, 'Rwanda: Suspects must not be transferred to Rwandan courts'; (2 November 2007) [Electronic]. Available at: http://asiapacific.amnesty.org/library/Index/ENGAFR470132007 [January 2009]; See also AI, 'Rwanda. The Troubled Course of Justice', (April 2000) [Electronic]. Available at: <http://www.amnesty.org/en/library/info/AFR47/010/2000/en [9 April 2008]; AI, 'Rwanda: *Gacaca*: A Question of Justice', (December 2002), [Electronic]. Available at: http://www.amnesty.org/en/library/info/AFR47/007/2002 [9 April 2008]. See also Human Rights Watch, 'Rwanda: Killings Threaten Justice for Genocide: Authorities Must Ensure Full, Impartial Accountability for Recent Killings', New York, (22 January 2007) [Electronic]. Available at: http://www.hrw.org/english/docs/2007/01/19/rwanda15126.htm [April 2008]; Human Rights Watch, 'Rwanda: *Gacaca* Trial Condemns Activist to Prison: Judge Fails to Recuse Himself Despite Past Conflict With Defendant', New York, (30 May 2007), [Electronic]. Available at: http://www.hrw.org/english/docs/2007/05/30/rwanda16024.htm [9 April 2008].

71 Clarke, 2007, p. 139.

72 Waldorf, 2006, p. 78.

73 Ibid., p. 81.

74 Ibid., p. 85.

75 Harrel, *Rwanda's Gamble.*

76 Extensive physical violence related to the aftermath of the genocide has continued to this day in the neighbouring DRC, but this exceeds the limits of my discussion.

Earlier we identified two major modes of continuing cultural violence in Rwanda, namely the denial of opposing viewpoints in and through the 'official narrative' of the genocide as well as the exclusion of the multiple and diverse experiences and perspectives of local rural and peasant communities at grassroots level. Taken at face value, it might appear that there is an overt acceptance of the 'official narrative' by many Rwandans; even so, there are questions about the extent to which ordinary Rwandans, with their contested history of Hutu and Tutsi identities, have developed a shared understanding of, and approach to, dealing with the past that would allow not only for common ground and agreement but also for disagreement flowing from different opinions and perspectives.[77] At the same time, questions remain about the extent to which rural peasants are being empowered by the *gacaca* process to contribute to reconciliation in the post-genocide society.

The first issue thus concerns the danger of renewed hegemony, and accompanying cultural violence, through the official narrative, emphasised by the fact that Rwanda's government-sponsored programmes have sought to discourage engagement with historical inquiry and debate beyond the 'official narrative' on the grounds that competing histories and views would re-ignite the conflict. In this vein, it seems that 'reconciliation with history' is equated by Rwandan authorities as the uncritical acceptance of the *official* version of events.

Hutu historical revisionism – another source of cultural violence – is, of course, comprehensively rejected by the RPF 'official narrative' at the level of the macro-debates about Rwandan history. Hutu historical revisionism has, in these debates, been described as 'genocide laundering'.[78] Popular amongst various exiled Hutu groups based in South and North Kivu provinces in the DRC, such as the *Forces armées rwandaises* (FAR), as well as among the *Rassemblement républicain pour la démocratie au Rwanda* (RDR), based in France, the aim of these discourses are to minimise the Hutu-driven / Tutsi-directed genocide and place maximum blame on the RPF and its massacres, as provoking the mass killings by the government. Writes genocide survivor Tom Ndahiro: 'This historical account interprets the RPF invasion of Rwanda as the cause of all "violence" in Rwanda, deflecting blame for the genocide from the Habyarimana regime and its extremist ideologues.'[79]

Indeed, even if there is a case for more acknowledgment by the RPF of atrocities committed by its own ranks, it is clear that RPF atrocities never amounted to anything like a 'counter-genocide'. President Kagame is correct when he says that 'in 1994 there was, on the one side, a government-sponsored genocide with perpetrators using the state machinery at their disposal, and on the other side, the RPA fighting to stop the genocide'.[80] However, what matters for this discussion, is not so much the comparative scale of past atrocities committed by Tutsis and Hutus, respectively, but the significance of the official RPF narrative in contestation with Hutu historical revisionism as a potential source for ongoing and future cultural violence. In this regard, the 'official narrative' cannot provide the solution as an alternative to Hutu revisionism of its own accord.

In relation to the *Gacaca* process, the important issue here is whether there is evidence that the hearings were structured to exclude testimony diverging from the 'official narrative' or to suppress this when it occurred. A notable feature of *Gacaca* – with major implications for its potential to challenge cultural violence – is its exclusive focus on the crime of genocide, to the exclusion of other, equally deadly if less numerous, political atrocities. In so far as the

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77 In this regard, Mamdani finds evidence that Tutsis are still more likely to downplay or deny ethnic differences, whereas Hutus more often argue that real differences remain; see Mamdani, *When Victims become Killers*, 43. Similarly, Prunier refers to the 'heavy bombardment with highly value-laden stereotypes for some sixty years ended by inflating the Tutsi cultural ego inordinately and crushing the Hutu feelings until they coalesced into an aggressively resentful inferiority complex'; see Prunier, *The Rwanda Crisis*, p. 9.

78 See Tom Ndahiro, 'Genocide-Laundering: Historical Revisionism, Genocide Denial and the Role of the *Rassemblement républicain pour la démocratie au Rwanda*', in *After Genocide – Transitional Justice, Post-Conflict Reconstruction and Reconciliation in Rwanda and Beyond*, ed. Phil Clarke and Zachary D. Kaufman (New York: Columbia University Press, 2009), 101f.

79 Ndahiro, 'Genocide-Laundering', pp. 110–111.

80 Paul Kagame, 'Preface', in *After Genocide – Transitional Justice, Post-Conflict Reconstruction and Reconciliation in Rwanda and Beyond*, ed. Phil Clarke and Zachary D. Kaufman (New York: Columbia University Press, 2009), p. xxiv.

'official narrative' conceives of the genocide in terms of Tutsi victims *only*, this of course excludes other (non-Tutsi) victims of mass killings, including Hutu cases. This means that the *Gacaca* process, at the macro-level, does not challenge the perceptions engendered by the 'official narrative' which ethnicises guilt and victimhood. 'If, as claimed by the UN-commissioned Gersony Report, between 25 000 and 45 000 Hutu were massacred by the RPA in only three *communes* of Rwanda between the months of April and August 1994, how many were similarly killed in the whole of Rwanda during the same period?' asks Lemarchand.[81] 'Again', he continues, 'the systematic extermination by Rwandan troops in the eastern DRC of tens of thousands of Hutu refugees ... has been virtually "airbrushed out of history".'[82]

Unfortunately, as a result of operating within the confines of this historical framework, the *gacaca* hearings do not allow victims of such war crimes and crimes against humanity to bring their cases to its chambers, only those related to genocide. Crimes committed on the side of the RPF are therefore not acknowledged, and historical perspectives that accommodate this reality ignored. *Gacaca* represents, in this regard, an opportunity lost.

Yet, there is more to the process than its implications for the macro-debates about history. A second area concerns the empowering effect it may have on ordinary citizens to participate in shaping historical debates. Some have questioned the wisdom of exposing a deeply traumatised population to intense public engagements and dialogue.[83] Time will tell. Yet, on the basis of the most extensive field work done to date on *gacaca*,[84] Clarke concludes: 'What distinguishes *gacaca* from transitional justice institutions used elsewhere, is the central role played by the general population in all facets of its daily operations. The spirit of *gacaca*, which is enshrined in the *Gacaca* Law and ... resonates throughout the general population, is the notion that the population must feel a sense of ownership over *gacaca* and must be its primary actor.'[85] This observation was confirmed by my impressions of the *gacaca* hearing in Kimisagara. In similar vein, Alice, a *gacaca* judge in the Buhoma district of Ruhengeri province, is quoted as saying: '*Gacaca* is important because it brings everyone together, to talk together. When we come together, we find unity ... Sometimes there is even too much talking and I have to slow the people down.'[86]

To what extent is this support for *gacaca* hearings prevalent across Rwanda? Certainly in advance local communities had positive expectations of the *gacaca* process. During a survey conducted in four Rwandan communities (Ngoma, Mabanza, Buyoga and Mutura) in February 2002, respondents overwhelmingly indicated that they expected transitional justice mechanisms, including *gacaca*, not simply to punish the guilty, but also to reveal the truth about what happened, free the innocent, help to rebuild the community and recognise the suffering of the community.[87] More comprehensive empirical research urgently needs to be done now that *gacaca* is approaching its conclusion, but reports by Longman *et al.*, cited above, show that the project has provided, at least for some, the opportunity of a public voice, perhaps for the first time since the 1994 genocide.

Based therefore on available evidence, and extrapolating from there, one can conclude that it seems indeed that the *gacaca* courts have developed a capacity in at least a significant number of areas, currently not replicated in any other format in Rwanda, to facilitate 'communal dialogue and cooperation, which are crucial to fostering reconciliation after the genocide'.[88] Certainly the process enabled large numbers of rural peasants the opportunity

81 Lemarchand, 'The Politics of Memory', p. 71.

82 Ibid., p. 71.

83 E.g. Waldorf, 'Mass Justice', p. 74.

84 Field work included 100 interviews with confessed *génocidaires* in *ingando*, and a further 250 interviews with survivors, the general population, Rwandan government officials and NGO workers; see Clarke, 'The Rules (and Politics) of Engagement,' 301.

85 Ibid., pp. 303, 304.

86 Ibid., p. 137.

87 Timothy Longman, Phuong Pham and Harvey M. Weinstein, 'Connecting Justice to Human Experience: Attitudes towards Accountability and Reconciliation in Rwanda' in *My Neighbor, My Enemy*, ed. Eric Stover and Harvey M. Weinstein (Cambridge: Cambridge University Press, 2004), p. 222.

88 Clarke, 'The Rules (and Politics) of Engagement', p. 300.

to make their views on the past, and not least the genocide, heard.

Gacaca offers therefore a unique opportunity for ordinary Rwandans to recall, narrate and record their individual and communal accounts of the genocide. Tutsis and Hutus carry, amongst themselves, a range of different experiences, memories and historical frameworks. Not all Tutsis, for example, share the same perspective on the genocide: the 'returnee' exile Tutsis who fought their way to liberation under the banner of the RPF have expressed divergent views on a number of issues compared to those of the local Tutsi civilians who survived the genocide as its main targets inside Rwanda, as the stand-off between various victim organisations and the government testifies.[89] At the same time Hutus too have different stories among themselves, some as *génocidaires*, but others as victims of the genocide when they sided with their Tutsi neighbours, and still others who stood by paralysed, or fled into the DRC jungle pursued by the RPF. Could these many and diverse 'little narratives' begin to unravel and challenge those aspects of living and popular memory which the 'official narrative' of memory excludes and silences?

'Critical' history, in one of the senses I have identified in Chapter 3, seeks to provide precisely this kind of space for the many and diverse 'little narratives' to emerge. Giving public recognition to such 'little narratives' not only ensures that historical events are seen from a more personalised lens, but also serves to illustrate the radical differences *within* the broader ethnic/racial categories through which the genocide was structured. In this way, recording the 'little narratives' would not only acknowledge divergent perspectives, it also challenges the sole claim of the 'official narrative' on historical truth, thereby rendering historical engagement more open-ended, less threatening and thus more likely to further 'reconciliation with history'.

Through *gacaca*, Rwandans are engaging with their national history in a multitude of ways. As an evolving and diverse institution, *gacaca* has engaged citizens in ways that may challenge ongoing forms of cultural violence in society, such as genocide denial on the one hand, but also the silencing of experiences, memories and historical perspectives of ordinary Rwandans.[90]

Millions of personalised *gacaca* testimonies cannot be rejected by revisionists in the same ways that the 'official narrative' is dismissed. A particularly powerful antidote to revisionism is therefore provided by the confessions of former *génocidaires*, often obtained through *gacaca's* system of plea bargaining based on remorse and much-reduced punishments (often community service instead of incarceration). To gather, for posterity, such a massive record of victim testimonies will go some way not only towards disabling revisionism but also in helping to develop a general resistance against the forces stoking renewed forms of 'cultural violence', and thereby helping to shape a 'modicum of agreement' about the Rwandan past.

Gacaca thus offers an unprecedented opportunity (certainly as far as Rwanda is concerned) for ordinary citisens to participate in fashioning narratives of past atrocities, thus challenging ongoing forms and practices of cultural violence – and *thereby* furthering reconciliation. Individuals are able to tell their stories to one another, and then return to the same community as Rwandan citizens.

Conclusion

The aim here was to begin by developing the outlines of a normative framework for transitional justice measures purporting to promote reconciliation, and that would take into account the need for both accountability and reconciliation in a post-genocide society. Galtung and Mamdani's distinctions helped in this regard. The resultant framework, conceptualised in terms of cultural and structural violence, overlaps with the international human rights standards in so far as the objective of establishing the rule of law is concerned.

89 For a fuller account of the tensions within the 'Tutsi' group, see the discussion in section 4.3.1., specifically pp. 65–67.
90 Clarke, 'The Rules (and Politics) of Engagement', p. 304.

At the same time it expands this consensus in terms of incorporating reconciliatory/ restorative aims. It also deepens the prevailing norms and standards, to the extent that it addresses, not only direct and structural violence, but also the mind-set, perceptions and belief systems which feed into, and constitute, cultural violence. Cultural violence is not frequently addressed within the frameworks of international human rights analyses, and it is also typically not recognised as an area of transitional justice. In this regard this approach may assist in developing a more relevant normative framework against which to judge Rwanda's transitional justice measures aimed at post-conflict reconciliation, not only when measured against those standards developed by Rwanda itself, or by comparison to the framework offered by international human rights discourses in general but also in terms of these substantive components of a more holistic 'reconciliation with history'.

The analysis found that *gacaca* operates largely but not exclusively within the confines of this 'Rwandan narrative', namely, the reconfiguration of ethnic and racial identities prevalent during the genocide within a framework of national belonging. A notable feature in this regard was identified as both the official narrative as well as *gacaca's* exclusive focus on genocide to the exclusion of other political atrocities. Just as the 'official narrative' conceives of the genocide in terms of Tutsi victims only, *gacaca* in practice likewise excludes other (non-Tutsi) victims of mass killings, including possible Hutu cases. In this way, one important dimension of lingering cultural violence in Rwanda, namely the 'ethnicisation of guilt', may on the face of it be bolstered rather than challenged by both the official narrative and the *gacaca* process through partisan avoidance of addressing RPF atrocities. To the extent that the official narrative as well as *gacaca* serves to solidify the notion that to be Tutsi is to be a victim, and to be Hutu is to be a perpetrator, to that extent does this serve to consolidate the legacy of cultural violence. Historical frameworks that ascribes the guilt of the genocide to one ethnic group exclusively saddles all Hutus in the current post-genocide society with the immense historical burden of standing accused of having supported, if not commited, genocide. By strengthening the official narrative in this way, *gacaca* will also lead to the sidelining of other historical perspectives, a feature that would further impede 'reconciliation with history'. It may, if left unchallenged, constitute a case of 'denial-through-excessive-remembering'.

Yet, on the other hand and despite this important potential shortcoming, I also found that even within the ambit of the official narrative *gacaca* is likely to counter cultural violence by acting as a powerful rebuttal, at a macro level, to 'genocide denialism', through the recording of victim and perpetrator narratives. Genocide denial constitutes a form of cultural violence. To give victims the chance to have their narratives recorded – albeit as witnesses in the trials of perpetrators – and perpetrators to record their versions of the events is to create an archive that should limit the potential of 'genocide denialism' and its attendant forms of cultural violence from attracting any following in Rwanda. *Despite gacaca* being framed by the official genocide macro-narrative, these 'little narratives' at the *gacaca* hearings may thus be able to provide independently effective testimonies of the genocide mass killings. It is the weight of the cumulative 'little narratives' that could serve as an effective counter to revisionist 'genocide-denialism' and the attendant forms of cultural violence; it may also prevent these from serving as legitimations for renewed cycles of violence in Rwanda.

In this way, the official narrative, as well as *gacaca,* may have beneficial consequences beyond challenging genocide denialism, consequences which may well have been unexpected by designers and onlookers alike. [91] Although it was surely the intention for transitional justice to involve the public, the extent to which this participation would serve to bolster a more open discourse about the past, could be construed as unintended. It could indeed be argued that *gacaca* was probably *intended* to function as a forum also for entrenching the official narrative at local community level. But by allowing testimonies at

91 Similarly, Clarke argues that, in some areas, there are signs that *gacaca* will achieve 'impressive results, whereas in other areas, it faces 'serious problems'; see Phil Clarke, 'The Rules (and Politics) of Engagement', in *After Genocide – Transitional Justice, Post-Conflict Reconstruction and Reconciliation in Rwanda and Beyond*, ed. Phil Clarke and Zachary D. Kaufman (New York: Columbia University Press, 2009), p. 301.

grass roots level the proliferation of 'little narratives' may serve the *unintended* consequence of actually countering the thrust of the macro-narrative.

This broadening of public participation in interpreting the past, I found, would inevitably highlight a range of experiences, perspectives and patterns of identification within both the Hutu and Tutsi groups. This important, if *unintended*, consequence of *gacaca* could counter, in ways set out above, cultural violence contained within Rwanda's 'official narrative' – in ways yet unforeseen, thereby (possibly) assisting the agenda of forgetting-through-remembering. To the extent that *gacaca* enables genuine community-level participation and witness testimonies to emerge, it is contributing to the emergence of millions of 'little narratives', which have the potential to make a strong impact on any hegemonic claims which the 'official narrative' may harbour.

Judging by international commentary, *gacaca* is either lauded as a unique and ground-breaking model of international significance for transitional justice, or derided as no more than an extension of the Rwandan official narrative and its quest to control all levers of power in the post-genocide society. On the latter analysis *gacaca* would amount to another instrument of cultural violence, this time in the name of fostering inclusivity. On the former analysis, *gacaca* may well be the most important milestone yet in overcoming various forms of violence and thus enhancing post-conflict reconciliation. My conclusion, a mix of both sets of analyses, is that *gacaca* offers both potential threats and constructive prospects for lasting reconciliation in Rwanda.

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