



Utrecht University

Justice on the grass: reconciliation or exclusion?

A study of Rwandan nation-building through local transitional justice



Image by Human Rights Watch (<https://www.hrw.org/news/2011/05/31/rwanda-mixed-legacy-community-based-genocide-courts>)

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Introduction

Rebuilding a post-apocalyptic society

Adam Jones titled the chapter on the 1994 Rwandan genocide in his book as the “Rwandan apocalypse”. While Jones does not elaborate on his choice of words, the reported events left little room for imagination. In the genocide’s relatively short duration, groups of Hutus roamed through the country wielding machetes and axes, killing Tutsi’s and those suspected of being affiliated with Tutsi’s. During the five week-peak of the Rwandan genocide, killings happened at a rate that was nearly five times faster than that of Nazi destruction camps. (Jones 2011, 346). It is estimated that there were about 200,000 perpetrators, often referred to as *génocidaires*, who have killed up to a million Tutsi’s, moderate Hutu’s and other Rwandans. (Straus 2004, 95). As a result, Rwanda was challenged with the task of rebuilding a society that was made up of roughly two groups: former *génocidaires* and their victims. To take on this task, while simultaneously resolving the overpopulation in its prisons, the Rwandan government set up a system of community-based courts to prosecute the lower-level perpetrators: the *Gacaca* courts. This system was named after a traditional mechanism of dispute resolution in which a community elder would mediate between the conflicting parties. The new Gacaca courts, however, assumed a more modern approach that was based on ‘Organic’ law – specifically written and implemented for the Gacaca system. The aim was for perpetrators to be punished in a way that they could reconcile with their victims and reintegrate in society. (Penal Reform International 2010, 11-12). At first, the Gacaca system was met with appreciation for its traditional and ‘bottom-up’ character. It also received a wide array of criticism, however. Scholars, ranging from social sciences to law, argued that the testimonies during the Gacaca trials were causing victims to relive trauma (Brounéus 2008); that Gacaca intensified ethnic cleavages (Burnet 2008); and that it was unreliable as a mechanism of truth-finding (Ingelaere 2009).

In 2012, after trying nearly two million cases (Gacaca Community Justice 2018), the Gacaca courts were officially closed by the Rwandan president Paul Kagame. In his closing speech he stated the following:

“I would like to conclude by noting that the legacy of Gacaca will be with us for generations to come because it is part of our heritage. The practice of discussion and consensus – best captured in the Kinyarwanda phrase, ‘kujya inama’ – will continue to be at the centre of our governance and development agenda.” (Kagame 2012).

Kagame emphasizes the importance of Gacaca in Rwanda’s “heritage” and future policy-making. His statement shows a perspective on the system of Gacaca courts in which it has an important influence on the way Rwandan society and policy are made. From this perspective, Gacaca was not just a tool for reconciliation in Rwandan society. It became part of Rwanda’s history and cultural identity, shaping Rwandan society. Kagame’s speech raises questions on the influence that the Gacaca system has had on policy-making by the Rwandan government but also about Gacaca’s influence on the government’s perception of Rwandan society, or vice versa. This process of defining what a society within a nation-state entails, can be understood as nation-building – which will be expanded on later in this introduction. This relationship between the Gacaca courts and efforts of nation-building by the Rwandan government will be the main focus of this thesis.

Structure and agency: the discussion surrounding Gacaca

Many of the debates and criticisms surrounding the Gacaca system, like the examples given earlier, discuss its local dynamics and mechanisms by studying it from a social or legal perspective. The scope of this research, however, will mainly be on the national political level and how this interacts with the local level of the Gacaca courts. This relationship has, to an extent, already been discussed by authors examining the relationship between Gacaca and state power. Three positions in this debate will be introduced before discussing this thesis’ contribution and position.

Relatively soon after the Gacaca system was established, Aneta Wierzynski published an article arguing that Gacaca potentially benefitted democracy in Rwanda. She claimed that Gacaca’s participatory and local character would stimulate the creation of a ‘civic culture’. Civic culture enables Rwandans to voice their opinions which would, consequently, weaken the “government’s monopoly on power.” By facilitating peaceful means of dispute-resolution and justice, it would also work as a prevention for further violence. (Wierzynski 2004). Authors claiming the opposite, however, soon followed. Among those are Susan Thompson and

Rosemary Nagy, who claim that Gacaca is a “mechanism of state power”: both a product and an instrument that benefit the political position of the Rwandan government rather than an instrument of justice. Based on participant-observant research and interviews with 37 Rwandans, Thompson and Nagy conclude that the local power dynamics and inequalities in Rwanda prevent Gacaca from reaching its goal of providing justice and, instead, benefit the political rule of the Rwandan Patriotic Front (the ruling government party in Rwanda, abbreviated to RPF) and portrays a false image of Rwanda’s ‘recovery’ to the international community. (Thomson and Nagy 2011). In a summary of the debate on Gacaca and state power, Phil Clark argues that both Wierzynski and Thompson and Nagy assume reductionist positions. Clark points out how the debate on Gacaca and state power represents the structure-agency debate. * Instead, he argues that the relation between Gacaca and the Rwandan government is best understood through a dialectical approach: by studying the relation as a series of interactions in which the predominance of neither structure nor agency is ruled out. (Clark 2014a). When relating the structure-agency framework to the two positions discussed before, structure is represented by Thompson and Nagy’s argument that the power dynamics and inequalities that were already present benefited the Rwandan government but obstructed Gacaca justice. Agency, on the other end of the spectrum, comes forward in Wierzynski’s argument that Gacaca enables political participation for Rwandans by providing a platform where they can voice their opinions and therefore limits state power.

This thesis shares Clark’s call for nuance and aims to implement it by focussing on the interaction that occurs between nation-building efforts and Gacaca. By researching how nation-building happens in Rwanda, the goal is to provide a better understanding of these nation-building efforts and how they relate to the processes and dynamics that have been observed in the Gacaca trials. Thereby making a contributing to the debate surrounding the relation between Gacaca and the Rwandan state. This thesis aims to position itself in this debate by asking the following research question: to what extent did the Gacaca courts, as a mechanism of

* The structure-agency debate concerns the main cause of events and developments: whether something happens because of structures that were already in place or because of actors who challenge those structures.

transitional justice in post-genocide Rwanda, contribute to exclusive nation-building efforts by the Rwandan government?

Nation-building and Gacaca

Firstly, before the approach to answer this question can be discussed, it is important to touch upon two central concepts: transitional justice and nation-building. Transitional justice, as explained by the International Centre for Transitional Justice (ICTJ), “refers to the ways countries emerging from periods of conflict and repression address large-scale or systematic human rights violations so numerous and so serious that the normal justice system will not be able to provide an adequate response.” Transitional justice aims to achieve recognition of – and in compliance with – human rights principles through mechanisms of justice that are adapted to the context in which the violations occurred. (ICTJ 2011). As mentioned before, The Gacaca system is one of the mechanisms of transitional justice in Rwanda. Its general goal is to address the human rights violations that were committed during the genocide and to do so in a contextually sensitive manner, as it claims to be inspired by the historical Rwandan conflict resolution tradition. This case-study – despite not discussing the question of Gacaca’s effectiveness as a mechanism of transitional justice – is inherently related to the field of transitional justice, as it reflects on the possible consequences of its mechanisms.

The second central concept is that of nation-building. This can be broadly defined to be “a process which leads to the formation of countries in which the citizens feel a sufficient amount of commonality of interests, goals and preferences so that they do not wish to separate from each other.” Nation-building, as this definition implies, effectively aims to homogenize the population. This benefits rulers who, in a democracy, depend on the support of their population to maintain political power. (Reich and Alesina 2015). Nation-building in Rwanda will be discussed by also making use of Andrea Purdeková’s reconceptualization of Kohn’s nation-building dichotomy. In his dichotomy, Kohn identifies two types of nationalism: the ‘civic’ Western type and the ‘ethnic’ Eastern type. Civic nationalism, with liberty at its core, is said to be inclusive due to its compatibility to liberal ideals. While ethnic nationalism, which prioritizes national identity and culture, is characterized by exclusivity: aiming for a world consisting of isolated states. Purdeková recognizes that Kohn’s dichotomy is not a useful analytical tool as it presents a subjective and generalized view of nationalisms. Instead, she argues that measuring

the degree of inclusiveness is useful in analysing nationalism. (Purdeková 2008). When making use of Purdeková's reconceptualization, the concept of nation-building will be operationalized: nation-building efforts and politics by the Rwandan government will be measured to what extent they are inclusive or exclusive. This will be discussed more comprehensively in the first chapter.

This thesis will be structured as following. The first chapter will focus on creating a better conceptual and analytical understanding of nation-building. By assessing other studies of nation-building, both in general and specifically by the Rwandan government, the central elements of Rwandan nation-building politics will be identified and discussed. The aim of the chapter will be to create the analytical framework that is used in the following chapters. The second and third chapter will discuss the relationship between the Rwandan government and the Gacaca system in two phases. This distinction will be expanded on in the first chapter. The second chapter will focus on the period during the preparations and the trials. The aim of this chapter is to identify and discuss nation-building processes during the Gacaca trials. To do so, the work of several scholars and researchers criticizing Gacaca will be discussed, creating an overview of the critique on Gacaca. After assessing and discussing some of the critiques, this chapter aims to determine the extent to which the government incorporated nation-building politics in the Gacaca system. The final chapter investigates the relationship between Gacaca and the Rwandan government after Gacaca has been closed. By analysing primary sources from the Rwandan government, nation-building efforts are identified. The identified efforts will be discussed by relating them to literature surrounding nation-building: the processes, dynamics, ideology, and discourse. By studying at Rwandan nation-building in these two phases, this thesis will be able to observe, discuss and, if applicable, compare differences or similarities.

Framing nation-building

Creating a nation-building framework

This chapter will work towards an analytical frame of Rwandan nation-building efforts.* In this analytical frame the main themes in nation-building in post-genocide Rwanda will be identified and discussed. Before the case of Rwanda can be discussed, a clear understanding of nation-building is required. By discussing the work of scholars that have studied and discussed nation-building, the first half of this chapter will be dedicated to understanding what nation-building entails and how it must be studied. The remainder of this chapter will be dedicated to the creation of the analytical framework of this thesis. The current Rwandan government will be discussed briefly to introduce the main nation-building actor and context in which the nation-building project happens. Finally, the process of nation-building in Rwanda will be discussed to create an overview of the most important aspects of the Rwandan nation-building project. These aspects will serve to identify processes and dynamics during Gacaca as processes of nation-building.

Understanding nation-building

After stressing the importance of nation-building for this research in the introduction, the exact relation between nation-building and state power remains to be explained more extensively. The aim is to create an overview of how nation-building is studied in this thesis.† One of the most influential works on nation-building came from Benedict Anderson. In his book *Imagined Communities: Reflection on the Origin and Spread of Nationalism*, Anderson argues that a nation is “an imagined political community - and imagined as both inherently limited and sovereign.” His definition contains four key terms that refer to the main characteristics of a nation. It is

* The nation-building dynamics and processes that are discussed will be referred to as nation-building efforts. This does suggest that there is a specific actor who commits the efforts.

† There is a vast body of literature surrounding nation-building. Because authors often use different definitions and approaches, each with their own analytical benefits and shortcomings, it can be difficult to find a single, universal, definition that caters to all analytical purposes. Therefore, the decision was made to work towards a customized analytical frame instead of formulating a general definition.

imagined because the people in a nation never know everyone in the same nation but still imagine them to belong to the same community as themselves. The sense of *community* has proven to spark emotions that were strong enough for people to expose themselves to extreme violence. The imagined community is *limited*, as all communities have borders and none imagine themselves big enough to include all of mankind. And finally, it is *sovereign*: as nationalism rose in a time when states separated from religious leaders and their people became religiously diverse, the nation was either independent from religion or directly under it. In his definition, Anderson overcomes the purely political and ideological perception of nationalism: it is not a political ideology but “the most universally legitimate value in the political life of our time.”: a value similar to religion and kinship. (Anderson 2006). The characteristics of the nation as they are introduced in *Imagined Communities* (imagined, community, limited, and sovereign) are analytically useful when determining the intended purposes behind nation-building efforts. In the same year that Anderson first published his book, *The Invention of Tradition* by Eric Hobsbawm and Terence Ranger also appeared. Hobsbawm and Ranger introduce the idea of ‘invented traditions’ as following: “a set of practices ... which seek to inculcate certain values and norms of behaviour [and], where possibly, they normally attempt to establish continuity with a suitable past.” Studying the past constitutes an important part of understanding invented traditions as they can be linked directly to old traditions or take inspiration or copy parts of older traditions and symbolisms. Another aspect of *The Invention of Tradition* are the Marxist influences in Hobsbawm’s thinking, as the argument is made that the invented traditions “reintroduced superior and inferior in a world of legal equals”. This urges one to look at traditions in their most ‘basic’ form, the place they originated from: the communities. (Hobsbawm and Ranger 1983). This bottom-up approach to studying traditions, combined with the emphasis on understanding at the uses of history will reappear in the analytical frame.

To summarize, Hobsbawm, Ranger and Anderson’s ideas of ‘inventing’ traditions and ‘imagining’ a nation, constitute the process of nation-building. The influential works of these authors capture the most central idea to understanding nation-building: it is a series of processes that aim to create strong, mutually shared values among the people living in a state to create a sense of community. These mutually shared values can be used to gain and maintain political power: a ruler can legitimize its actions on those values and claim to represent the ‘imagined’ community, legitimizing its position. Before nation-building can be studied within

the Gacaca system, it is necessary to understand the context in which it happens and the dynamics through which it happens.

Rwanda and the RPF

Every case of nation-building is a unique historical event: it happens in different times, by different political actors, and, therefore, through different means. To be able to fully comprehend how nation-building happens, a sufficient understanding of the context in which it happens is necessary. Instead of descending into a rabbit hole of colonialism, ethnicity, and violence by attempting to provide an overview of Rwandan history, the main nation-building actor in this thesis, the Rwandan Patriotic Front, will be introduced.* In the following chapters, additional Rwandan history and politics will be discussed when required.

Since the end of the Rwandan genocide, the country is ruled by the Rwandan Patriotic Front (RPF) with president Paul Kagame as its leader. The RPF was founded in Uganda by Tutsi refugees who opposed the Rwandan Hutu government. Violence between the RPF and the Rwandan government lasted until a peace agreement in 1993, after which a UN peacekeeping mission in Rwanda was mandated. (United Nations 2006). When the UN forces left Rwanda during the outbreak of the genocide, the RPF became the only military counterforce against the Hutu government: constituting a small but motivated and well-disciplined army, led by Kagame. During the course of the genocide, the RPF killed thousands of Hutu soldiers, militias, and civilians – and many more Hutu refugees after the genocide ended. Despite all of their victims being Hutu and almost all of the RPF’s founders being Tutsi, the RPF claims not to have an ethnic ideology. The RPF’s ideology – which remained the same before, during, and after the genocide – is one of ‘National Unity’ in which ethnicities have no place. Ethnicity is believed to be the remainder of colonial times, when Rwanda was ruled by western countries through dividing policies. This colonial-heritage is argued to be the main cause for all violence in Rwanda’s history. (Desforges 1999, 535-44). This ideology (and narrative) of national unity will be discussed in more detail throughout this thesis. Today, despite Rwanda’s prosperous

* This has been done in the 1999 Human Rights Watch report *Leave None to Tell the Story*, in which Alison Desforges (1942-2009) provides a lucid overview of Rwandan history and how it builds up to the start and course of the 1994 genocide.

economy and tourism industry, its RPF-led government is widely known to be repressive against political opposition.

Rwandanness and the two phases of nation-building through Gacaca

In this final section, the most important aspects about nation-building in post-genocide Rwanda will be identified before discussing how these can best be studied in the context of the Gacaca system and trials. Andrea Purdeková's ideas on nation-building. Purdeková argues that nation-building (and nationalism) should not be categorised to be either 'ethnic' or 'civic' but to what degree it is an inclusive process. This degree of inclusivity or exclusivity in nation-building can be observed on two levels: internally and externally. Internal inclusion determines who is allowed and able to participate in imagining the nation. External inclusion is about defining who is 'eligible' to be part of the nation. Purdeková argues that Rwandan nation-building efforts can best be described as a project of 'de-ethnicisation' as "the goal is to replace ethnicity and other potentially 'divisive' sub-state loyalties with an undifferentiating Rwandanness based on shared (reinterpreted) past, culture, and language, rather than on a shared participation in state-building and state-sharing." Despite this seemingly anti-ethnic approach, the Rwandan nation-building project is still very much influenced by ethnicity, Purdeková claims, as it aims to replace ethnicities through exclusive nation-building efforts. (Purdeková 2008, 503-4). Special emphasis will be placed on discourse analysis in this thesis, subscribing to Claire Sutherland's suggested approach. Sutherland argues that discourse analysis is particularly useful in studying nation-building as it helps understand the nationalistic ideology that lurks behind discourse and rhetoric. The goal of an ideology is the "hegemonic rearticulation of the national 'nodal point'": to become the dominant way of thinking about the nation and what it looks like. (Sutherland 2005, 185). In the case of Rwanda, this relates to the RPF's aim to define Rwandanness. Sutherland offers several analytical tools to study nation-building and ideology that will be used and discussed in both chapters.

Gacaca's social, political, and, to an extent, legal dynamics will be discussed as they are observed by other scholars. Subscribing to Purdeková's approach, these dynamics will be identified to be nation-building efforts when they relate to the shared past, culture, or language of Rwanda: defining what 'Rwandanness' looks like. When nation-building efforts are identified as such, two central question will be discussed: whether they contribute to exclusive

nation-building; and to what extent they are facilitated or reinforced by Gacaca. Gacaca's period of activity has been monitored extensively by several non-governmental organisations (NGO's) and its workings have been reviewed by many scholars. This has led to a vast bibliography on Gacaca and its relationship with the Rwandan government. While the main focus of most of this literature is on the influence that the Rwandan government has on the Gacaca system, the observed power dynamics will be assessed to determine whether they also relate to Rwandanness. The process of nation-building did not stop with the closure of Gacaca. Therefore, this thesis will dedicate the third chapter to a study of nation-building efforts that relate to the Gacaca system after it was officially closed in 2012. To do so, two government documents on Gacaca after its closure will be analysed. By relating these outcomes to the nation-building efforts that were identified during the Gacaca trials, a more comprehensive image of the Gacaca system's contribution to Rwandan nation-building can be portrayed.

The Gacaca trials

Nation-building on the grass?

While the Gacaca system was received relatively positive at its inception, critiques on the legal and social dynamics of Gacaca also arose – such as the ones referred to in this thesis' introduction. Several of these critiques argued that the Rwandan government used Gacaca to consolidate its power. In the end, despite the popular depiction of Gacaca as a justice mechanism that was controlled by the ones who participated in it, it was the Rwandan government who had the authority to install and, eventually, dismantle the system. As the Gacaca courts were officially closed in 2012, this chapter will discuss the observations and arguments made by several scholars and non-governmental organizations (NGO's). By assessing this literature through the analytical framework from the previous chapter, the first section provides an overview of the arguments from scholars that discuss state power in and through Gacaca. The second section will reflect on these critiques. The aim of this chapter is to illustrate to what extent the Rwandan government employed nation-building efforts in the preparations for Gacaca and during the trials.

An instrument of power

Some researchers and scholars suggest that Gacaca has little to no use as a mechanism of reconciliation and transitional justice. Instead, they argue that Gacaca serves as a system that maintains the current balance of power. Susan Thomson and Rosemary Nagy, as discussed in the introduction, argue that Gacaca works as “both a product and a producer of relations of state power.” Thomson and Nagy observe that the average Rwandans motivation to participate in Gacaca is not that of genuine belief in the reconciliation that Gacaca is said to bring, but out of fear that the state authorities might sanction them when they are absent. (Thomson and Nagy 2011, 23). The experienced sense of coercion does not disappear with the arrival at the local Gacaca court, however. Truth-telling in Gacaca also happens under the strict control of government officials. Thomson and Nagy argue that those who participate in Gacaca are forced to tell their story in a way that it corresponds with the history of the genocide as it is taught by the RPF, whether they are an official witness or a defendant. (Thomson and Nagy 2011, 26). In the RPF's reading of Rwandan history, the genocide marks the mass killing of Tutsi's by Hutu's:

two groups who now no longer exist as ethnicity is replaced by Rwandanness. The only difference between Rwandans that the RPF recognizes, is the one that is addressed in the Gacaca courts: witnesses and defendants, victims and suspects, *rescapés* and *génocidaires*. When Rwandans refuse to adhere to this version of Rwandan history, they are deemed to be 'un-Rwandan' (Thomson and Nagy 2011, 26) or even to subscribe to 'genocide ideology' (Ingelaere 2009, 522). When a rebelling Rwandan is called un-Rwandan or said to adhere to genocide ideology, they are purposefully placed in a position that is opposite from Rwandanness. This is also called 'dynamics of antagonism' and is discussed in Sutherland's article: "The concept of 'antagonism' in discourse theory denotes ... the point of friction between discourses.". When an antagonistic discourse arises, it threatens the dominant discourse's idea of a nation. In claiming that there can be no "credible alternative" to the nationalistic discourse, they portray the 'incumbent' discourse to be the opposite of their: the 'Other'. (Sutherland 2005, 194 & 199).

When subscribing to the dynamics that Thomson and Nagy describe, Gacaca would make a very strong platform for the nation-building efforts. The Rwandan government would be able to spread their notion of Rwandanness but also to exercise control over those who resist or even attempt to create a different version of Rwandanness – becoming an antagonist. Both internal and external nation-building would be very much exclusive as only the Rwandan government is able to exercise power through Gacaca, in the ideas that Thomson and Nagy present. This image of Gacaca as a product and producer of state power, fails to take in account that Gacaca is subject to more influences. Phil Clark discusses some cases that seem to counter the supposed influence of the state during Gacaca proceedings. In these cases, Clark describes, communities used the Gacaca courts to openly discuss crimes that were committed by the RPF during its violent campaign near the end of the genocide. In another example, intervening government officials were ordered to refrain from doing so by the Gacaca judges and obeyed. (Clark 2014, 204). These examples support Clark's call to be wary of generalisations when studying Gacaca: "Rather than a single-unified entity, as it is depicted by most critics, the 11,000 Gacaca jurisdictions ... manifested highly variable activity and dynamic interactions between the state and citizens." (Clark 2014, 207). This raises new questions on the relationship between Gacaca and the Rwandan government. How does this interaction between the state and citizens look like, and how can it still be used in Rwandan nation-building? To achieve a better

understanding of the interactions between the Rwandan government and Gacaca, they must be studied from multiple perspectives.

Bottom-up approaches

One of the early critical views on Gacaca came from Jeremy Sarkin, who discusses the tensions between justice and reconciliation and argues that prosecuting all *génocidaires* does not help the process of reconciliation. Sarkin, a professor of law, approaches Gacaca mainly in a legalistic way: focusing on legal issues such as ill prepared judges and difference in fairness of the proceedings. This approach does not prevent him from also touching upon the social and political situation context that these issues are situated in. He subscribes, for instance, to Desforges' observation that "personal scores" may be settled through collusion when an area has a large Hutu majority. This would harm the legitimacy of the Gacaca court, as the balance of power in an area would determine the court's outcome, but also create the "political and psychological pressure" that the Gacaca judges are exposed to: "not only from the state but also from the community in which they live". (Sarkin 2001, 162-3). Another important aspect about the context in which Gacaca courts operate are the dynamics of victor's justice. Sarkin uses Mahmoud Mamdani's words in explaining the divide between the Hutus and Tutsis: "The [Tutsi] minority fears that democracy is a mask for finishing an unfinished genocide. The [Hutu] majority fear the demand for justice is a minority ploy to usurp power forever." (Sarkin 2001, 149). While, officially, the divide between ethnicities no longer exists - as prescribed by the RPF's ideology of national unity -, ethnic identities are still widely represented among the Rwandan population. This does not necessarily mean that the ethnic identities and relations are the same as they were before the genocide, however. On the contrary, it seems that ethnicity has little to no significance when power dynamics are at play. An example of this shift is provided by Ingelaere when he observes that two men who stood trial for being in the same attacking group were punished differently. When he interviews one of the men, he claims that the other man had received a shorter sentence because he gathered more false testimonies. (Ingelaere 2009, 520). This manipulation of witness testimonies corresponds closely with the collusion that Desforges cautioned for. The overplayed importance of ethnicity in Gacaca has also been addressed by Phil Clark, who argues that reconciliation more often happens from individual-to-individual than between groups in society. (Clark 2014b, 313)

State power or political expedience?

The criticism on the relationship between the Rwandan government and the Gacaca courts has presented interesting insights on the ideology of de-ethnicisation of the RPF-ruled state. The observed dynamics from the critics' articles suggest that the interaction between the state and Gacaca is not an isolated process. Local power balances create varying social dynamics that affect the power that the Rwandan government exercises over the Gacaca proceedings. As a result, Gacaca jurisdictions in areas where the Rwandan government has a big political presence are likely to be beneficial for the RPF to implement their nation-building efforts. To claim that the Rwandan government has created the Gacaca courts to gain political power, however, is an overstatement. Rwandan society is unique in its social dynamics: the collective memory of the Rwandan genocide made it prone to repressive dynamics, such as victor's justice, and seeded fear into a nation that was already heavily divided. The RPF answered the call for justice after the genocide and made use of it to impose its ideology when possible. The political power of the RPF government however, does not always suffice to remove the other power dynamics from the Gacaca arenas.

The legacy of Gacaca

Gacaca's role in the Rwandan narrative

In the introduction, a part of Paul Kagame's closing remarks on the Gacaca courts is cited. This fragment of his speech is illustrative of, what this thesis argues to be, one of Gacaca's most important contributions to Rwandan nation-building: its legacy. The final chapter of this thesis will discuss what the 'legacy of Gacaca' encompasses and how it contributes to Rwandan nation-building. To do so, two documents that directly represent the Rwandan government will be analysed. Kagame's speech during the Gacaca closure will be discussed briefly throughout the chapter. While the speech is relatively short (less than one page of transcript), it contains many descriptions of Gacaca's importance to Rwanda: providing meaningful insights on the government's use of Gacaca. The main object of analysis will be introduced in the next section. This chapter argues that Gacaca, in a post-Gacaca era, is presented as a demonstration of successful transitional justice that is made possible by Rwandanness. Thus, maintaining, if not expanding, an important role in Rwandan nation-building.

Reflecting on Gacaca

In 2012, the National Service of Gacaca Courts (NSGC) published a book in which the founding and workings of the Gacaca system are described. While insights in the government's attitude towards Gacaca can be gained from the entire book, this analysis will focus primarily on its final section. This part of the book provides an explicit response to some of the criticism that has been discussed in the previous chapter. (National Service of Gacaca Courts 2012).

In several cases, the criticisms on the Gacaca courts are responded to in a straight forward manner: the received criticism is briefly explained before it is refuted in a response denying the correctness or validity of the criticism. The responses are often substantiated with examples of proceedings that counter the critic's claim. Such a response is provided when discussing criticism about political influence on Gacaca proceedings. Human Rights Watch published a report in which the claim was made that the some Gacaca proceedings would mainly be intended to serve a political agenda. In the response to this criticism, the NSGC stresses that Gacaca courts are completely independent from political agendas and refers to the corresponding articles in Gacaca's 'Organic law'. In support of this response, the outcomes of

two proceedings that were alleged to be influenced by the Rwandan government's political agenda are presented. The NSGC stresses that the defendants were found guilty because of the accusations and testimonies by witnesses, in the first case, and the defendant's own confession, in the second case. (National Service of Gacaca Courts 2012). Clarifications or rectifications on the seven other cases that are discussed in the Human Rights Watch report, are omitted in the response. (Human Rights Watch 2011). While this response (and others) fails to present serious arguments to counter the received criticism, it does convey a firm belief in the outcomes of the Gacaca proceedings to be reliable - which will be expanded on in the next section.

Demonstrating Rwandanness

Arguably the most successful portrayal of Rwandanness in the process of nation-building through Gacaca, is Gacaca itself. As mentioned briefly in this thesis' introduction, the Gacaca system is based on a traditional Rwandan conflict resolution mechanism. The name, Gacaca, roughly translates to 'patch of grass', which indicates the setting in which it took place. The creation of the Gacaca system represents more than a mechanism of transitional justice: it is an invented tradition. Its name is based on a mechanism from Rwandan history and some of the attributes to the old tradition, such as the importance of honourability in a judge, reappear. (Waldorf 2006, 48). The responses to the criticisms, such as the ones that will be discussed next, contain a number of characteristics that are attributed to Rwandanness.

Gacaca's lack of a right to defence is quickly downplayed as following: "The role played by lawyers was insignificant compared to the massive participation of the people in discovering the truth about crimes committed during the Genocide and in the trials of their perpetrators." (National Service of Gacaca Courts 2012, 186). 'The massive participation of the people' and 'discovering the truth' stand out in this sentence as both these aspects of Gacaca were criticized in the previous chapter: participation for being coerced and truth-telling for having little to do with truths that have not been prescribed by the RPF. Nonetheless, they are presented as accomplishments by the Rwandan people and Gacaca. The second response with clear notions of Rwandanness, is on the claim that the Gacaca judges lacked a legal background. The response on this criticism starts with a call on the past: "As it is, Gacaca has always been part of Rwandan culture." In the remainder of the answer, it is denied that the lack of legal background would be an issue for Gacaca judges. (National Service of Gacaca Courts 2012, 205)

Both criticisms argue that Gacaca, as a mechanism of justice, needs legal professionals to function properly and both responses deny that ordinary Rwandans could not do it themselves. By praising the outcomes of Gacaca and arguing that the participation by Rwandans is the main reason behind these outcomes, the NSGC suggests that the Rwandans have proven themselves to be capable of solving their own problems within the discourse of Rwandanness and national unity. This is also emphasized in Kagame's speech, in which he states that "truth came out in court... freely, not at the prompting or tutoring of paid lawyers". Kagame's positive attitude towards Gacaca in his speech is not one that he always had. In 2006 he stated: "I still don't think that Gacaca gives us all we need and it has major limitations...." (Clark 2014a, 200). The shift that Kagame made in his (public) attitude towards Gacaca is not just a manifestation of political expedience by Kagame. It is signifying for the adaptability that ideologies must possess to prevent that they become outdated. (Sutherland 2005, 188).

This section illustrated that, despite the wide array of criticism it received, Gacaca proved to have been successful in defining what Rwandanness entails. In the Rwandan discourse of national unity, the Gacaca system is considered a demonstration that Rwandans are capable of creating their own solutions and overcoming the national trauma of the genocide.

Responses of antagonism

A noticeable feature in the responses to criticisms, are the frequent explicit mentions of the organisations that delivered the criticism. Several times, the organisations are mentioned as a collective of "international human rights organisations". In other occasions, organisations such as Human Rights Watch and Penal Reform International are addressed directly. When these organisations are explicitly mentioned in a response to their criticism, the responses implicitly suggest a certain degree of hostility in the relationship between these organisations and the Gacaca courts.

Human Rights Watch claimed that the speed at which Gacaca proceedings progressed was increasing. The speed at which the Gacaca judges were now expected to work, would make them more prone to mistakes. In response to this criticism, the NSGC argues that no mistakes were made because of the increased speed – a familiar response. This is followed up, at the end of the response, with a snappy remark addressed at Human Rights Watch: "These statements are contradictory because it even seems like the closure of Gacaca courts may have been a loss

to some of these individuals because they were earning a living by criticizing the Courts.” (National Service of Gacaca Courts 2012, 196). In response to the, earlier discussed, notion of victor’s justice as an influencing factor in the Gacaca proceedings, the NSGC proceeds to lecture the events of the 1994 genocide, providing a clear example of the historical narrative that stands at the core of the truth, according to the RPF (of which the dynamics were discussed in the previous chapter). After arguing that the Gacaca courts were not solely set up to prosecute those who committed crimes against Tutsi, the response adds: “as PRI would like other to believe”. (National Service of Gacaca Courts 2012, 211). This assumption suggests that the PRI, like Human Rights Watch in the response on the speeding up of the trials, is deliberately turning people against the Gacaca system and the Rwandan government. Here the dynamics of antagonism are observed: the dominant discourse, that of the RPF, is disputed by another discourse. (Sutherland 2005, 199). The sharp-tongued responses to the involvement and critique by the human rights NGOs is motivated by the role that western actors are assigned in the RPF’s ideology: those who introduced the ethnic divide that resulted in the violence throughout Rwanda’s history of independence. This is not just an annoyed reaction on criticism that the NSGC disagrees with. Those who don’t agree with Gacaca – and therefore, the Rwandan government – are not allowed to participate in shaping the nation.

This sentiment is shared by Kagame in his speech: “Equally, the value and effectiveness of Gacaca will be measured against the record of other courts, principally the International Criminal Tribunal for Rwanda (ICTR). The ICTR has tried about sixty cases, cost about 1.7 billion dollars and left justice wanting.” (Kagame 2012). In this quote, Kagame is downplaying transitional justice from the international community. This lets him, at the same time, promote Gacaca as their ‘own’ mechanism of justice while he delegitimizes the presence of the international tribunal, a mechanism of western justice.

Conclusion

The aim of this thesis was to study the process of nation-building through the transitional justice framework of Gacaca. By exploring Gacaca through the criticisms that it received, the first chapter identified several nation-building efforts in its local, social, and political power dynamics. However, while nation-building efforts were certainly present, it remains difficult to determine the extent to which Gacaca has contributed to their presence and effectiveness. This study does argue that the nation-building efforts in and around the Gacaca courts, despite its bottom-up character, are still exclusive. The most convincingly exclusive nation-building efforts are the ones identified and analysed after Gacaca's closure. The discussed rhetoric and discourse in the book on Gacaca by the NSGC and Kagame's speech create a portrayal of the Gacaca system that serves as a perfect example of Rwandanness as it is imagined by the RPF. Gacaca and its achievements are presented to be Rwanda's flagship (to visualize the praise it receives). It is made with Rwandan wood, the result of hard work and dedication by Rwandans to create a ship that is as impressive as those of richer countries. But it will not be able to sail the seas that it was intended to do, as Rwanda is a landlocked country.

Rwanda and Gacaca are widely represented in the academic literature. The vastness of the academical debates, the many different understandings of the social and cultural dynamics that are observed, and the difficult conception of ethnicity in Rwanda alone, are all overwhelming at first. At first, this study intended to focus on the relatively abstract process of nation-building to shed an extra light on the Gacaca system. Not too long after doing so, the emphasis of this study switched: nation-building became the main topic, with the aim to dissect the process of creating a nation and explain the notion of ideology and social dynamics that are involved in transferring it to other people. By identifying and discussing the interactions between the Rwandan government's nation-building efforts and the Gacaca courts, not just during but also after Gacaca's activity, this thesis attempted to contribute to the current academical discussion through an original perspective.

The closure of the Gacaca courts has inspired several ideas for new research. This thesis' final chapter has only scratched the surface on the remembrance of Gacaca. More research on Gacaca and how it is looked back on, especially how 'ordinary' Rwandans look back on it, would undoubtedly result in meaningful insights on local transitional justice, a study of the

social dynamics during and after Gacaca, and much more. The use of discourse analysis to study ideology and nation-building in this study also proved very useful in both identifying and understanding the dynamics that are at play in Rwandan nation-building. While this approach brought useful insights in studying Gacaca, it is also necessary to acknowledge the shortcomings of this thesis. The scope of this study often outgrew the size of the thesis: several interesting topics were removed or passed in the process of writing, as they would too easily stray away from the main focus of this thesis. One of these topics is that of 'villagization'. This process of forced relocation and its relation to nation-building would be a welcome addition to this thesis but proved very difficult to discuss without also discussing the centre-periphery dynamics.

Nation-building, discourse analysis, and ideologies remain important to be studied in present times. Nationalism, jihadism, and other group identities arguably constitute the most powerful political value for mobilisation. There will remain a need for comprehensive and widespread understanding of how nations or, perhaps more applicable, group identities are constructed and maintained.

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