



# Rwanda's Gacaca Courts: Vengeance Through Law

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**The Gacaca courts were set up in the aftermath of the Rwandan genocide to try and help Rwandans live together in peace. But research suggests that this system has been used as a tool for vengeance, and political and economic gain.**

In the aftermath of the 1994 Rwandan genocide, the Rwandan Patriotic Front (RPF) government was faced with the task of bringing justice and reconciliation to a divided and devastated country. *Gacaca*, meaning “justice amongst the grass”, a traditional justice system once used to try local disputes between neighbours, was restored to relieve the overwhelmed prison system.

Initially, it was well received. For those accused of genocide crimes, it was a long awaited step towards justice, an opportunity for the truth to be heard and them to be judged (see [Tertsakian 2008: 376](#)). For the survivors, it meant that they would be able to tell their story and have justice for their loved ones.

Between 2001 and 2012, *gacaca* processed nearly two million cases. Most, if not all [have involved Hutu as defendants](#). *Gacaca* was set up to try only genocide crimes. Crimes committed by RPF and out of revenge [were excluded from the mandate](#). Waldorf [notes that](#):

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**“ Early on Penal Reform International warned that the implementation of *gacaca* was emphasizing legalistic retribution over socio-political reconciliation. Since then, *gacaca* has become increasingly retributive, both in design and practice ”**

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As a result, the legal system is perceived as being used against Hutu to not only criminalize them, but to obtain their wealth and resources. This paper examines the ways in which *gacaca* has been used as a tool for vengeance and to serve political or economic interests.

### **The misuse of *gacaca***

Beginning in March 2008, I carried out ethnographic research in Gisenyi and Cyangugu Rwanda as well as Goma and Bukavu Democratic Republic of the Congo (DRC). My research has emphasised that Hutu participants did not outright reject *gacaca*, rather they rejected how the system was being misused, as Zach, a Hutu participant, argued

**“ *Gacaca* is good idea, but those who work in the government are bad. The rules are written in a book but they are not obeyed. ... *Gacaca* would be very good, if the government didn't influence the decisions. But this is not the case; judges are influenced by soldiers, genocide survivors and others. ”**

According to another Hutu participant, Huey:

**“ Some Hutu begin a business and the government will stop them. There are many example of this. One man had a very successful business of selling materials for repairing cars. However, people took him to *gacaca* because he had lots of money. He gave them money even though he wasn't guilty. He gave them lots of money. Now he had to change the way he conducts business. He doesn't like to show the materials he has, because he's scared that he will get dragged back to *gacaca*. ”**

Alphonse, another Hutu participant, agreed “They (the government) like to charge rich Hutu. When they don't find anything, they take that Hutu to a different district and charge him with the same crimes there.” Robert was a Hutu participant arrested for genocide crimes in 1997 and for ‘genocide ideology’ in 2008. He believes the underlining cause for both arrests centred on property disputes:

“ I was accused of killing my neighbour by his brother. During the genocide, my neighbour was caught at a roadblock. I explained to the men there that this man was my brother, but he didn't have his identity card to prove it. They told me they wouldn't kill him, but to find some way to prove his identity. I went to the District Office and paid for an identity card that said my neighbour was Hutu and my brother. It was a lot of money. They released my neighbour, who fled to Congo. When he arrived at the border, the *Interahamwe* killed him. I fled with my family to Congo after the genocide. When I returned, I was arrested on genocide crimes for this man's death. I had spent years in prison when the formal courts found me innocent. I told them everything and they found that my neighbour's brother had lied. Next the brother brought me in front of *gacaca* for the same crimes [killing his brother]. The *gacaca* judges were confused as to why this case was in front of them.

**They agreed with the previous ruling and I was released. [Why was your neighbour's brother going to all these lengths to charge you?] Because, while I was in Congo, my neighbours had moved into my house and did not want to give it back. When I returned, I reclaimed my house, but it was stripped of all windows and doors. Two days later I was arrested for the death of his brother. ”**

Robert was in fact lucky. According to Human Rights Watch (HRW), Rwandan law protects an individual from double jeopardy. However, the practice has been allowed due to a loophole in the 2004 *Gacaca* law. HRW reported a case that was nearly identical to Robert's, where a man was cleared by the formal courts and then given a thirty-year sentence in *gacaca*. He was released upon a successful appeal. In another case, in the district of Huye, a *gacaca* judge told how there were two cases where the men were acquitted in conventional courts, but convicted with lengthy prison sentences through *gacaca* (ibid).

### **Coercion within *gacaca***

According to Douglas, a Hutu participant, who was also a RPF member and *gacaca* official, guilt and innocence are often determined by the government. He told me “For those Hutu who are rich, the decision is always made before he is charged, before the judges reach a decision.” The

involvement of the government became evident when I was allowed to attend a *gacaca* proceeding in Douglas's jurisdiction.

The accused was a former leader, who had been convicted by the formal courts of killing someone during the genocide. Upon appeal to the Supreme Court, the man's conviction was overturned. He was finally released from prison and freed for only one night, when the police arrested him again. People from surrounding areas had accused him of killing and stealing a motorcycle during the genocide. However, some of those murder charges were the same accusations that the Supreme Court had previously overturned.

Douglas explained that a genocide survivors' organisation had initiated a campaign to mobilise survivors to accuse those who were 'guilty' of genocide crimes. However, the organisation and *gacaca* officials were unable to find anyone to accuse this particular man. As a result, the trial was cancelled and the case was postponed for a month. I asked Douglas if this was a form of coercion:



**“ Oh for sure, I’ve already been contacted. ...I was told that I have to convince the judges and that we must charge this former leader and find him guilty. We have to do this. This is a heavy burden... As a team, we say that he is guilty. But in private we know this prisoner is innocent, we have no choice. That prisoner was my neighbour. I had seen everything that happened. A former local leader took him to the market, where those Tutsi were. He did nothing! He didn’t kill or hurt anybody! ”**

### **Genocide ideology, a tool for vengeance**

In all likelihood the ending of *gacaca* will not offset the misuse of the legal system as a tool for vengeance. In 2008, the Rwandan government passed Law No. 18/2008 that defined *genocide ideology* as:

**“ an aggregate of thoughts characterized by conduct, speeches, document and other acts aiming at exterminating or inciting others to exterminate people basing on ethnic group, origin, nationality, region, colour, physical appearance, sex, language, religion or political opinion, committed in normal periods or during war. ”**

Human rights organisations have been concerned with the imprisonment of Rwandans on vague accusations of ‘genocide ideology.’ *Amnesty International* argues that ‘genocide ideology’ legislation, like *gacaca*, ‘is compounded by the reality and perception that most accused come from one ethnic group.’ Furthermore, it is not uncommon for individuals to use ‘genocide ideology’ laws for personal gain.

In fact, *Amnesty* was only able to find one case where a Hutu attempted to bring ‘genocide ideology’ charges against a Tutsi. The individual was offended after a Tutsi neighbour had called him a Hutu. The case was dropped by the prosecution. Robert believed that in connection with *gacaca*, ‘genocide ideology’ becomes a weapon that is used to discriminate and imprison innocent Hutu:

**“ *Gacaca* is used for stopping those Hutu who are rising up in society. It allows Tutsi to take their property. It helps to promote young Tutsi to occupy jobs. A Tutsi can claim genocide ideology as a way of forcing a Hutu out of their post. It is like a business, anyone who gets into an argument at work can be accused of genocide ideology. Then they get put into prison. Just ask why charges of genocide ideology only exist against Hutu, but Tutsi have genocide ideology as well. ”**

In 2008, Robert was arrested on allegations of ‘genocide ideology’ made by the same man who accused him of murder. Robert felt that having failed to obtain his property through accusations of genocide crimes, the man now turned to ‘genocide ideology.’

**“ I decided to rebuild a granary, after a few days the community leader came to me and told me that I must destroy the granary, because it was in the road. I told him he didn't have the authority... My neighbours sent that official, the same ones who had me arrested before, those that accused me before. They called the police and told them I had insulted them [a way of saying that a racial/ethnic epithet was used]. It was planned! The leader had told them that I had beaten him. I am an old man; the leader is a young man. I cannot beat him! When I got to prison, they charged me with crimes of genocide ideology and opposition to the government's programmes. My wife's brother came to intervene on my behalf. He told me that I must be quiet; because they have many things they could charge me with. The Police Commissioner also told me to go home and keep quiet. Now I'm quiet. ”**

The other man involved was a neighbour, with whom Robert was having a boundary dispute with. According to Robert, the men believe that if Robert returned to prison, he wouldn't be able to pay back a bank loan and his house would be repossessed, solving both problems. Robert's testimony highlights how the misuse of the legal system through *gacaca* and genocide ideology presents challenges to reconciliation. While, at the same time, demonstrating that there is a desire and a demand for it, he states,

**“ Those Tutsi were looking for any reason to condemn me to prison. I didn't do anything. If I say anything, they will get me again and put me in prison. Everyday they accuse me. Their (genocide survivors) agenda is like revenge there was no reason for them to do what they did. They see me and their hearts accuse themselves. When I was released (the first time) they were not happy to see me...In 2002, after I was released, I had electricity and water and my neighbours didn't. They came to me asking me for water. They say, “This Hutu has TV, water, we have nothing”. They think of me as being rich. They say, “this Hutu, who has all these things, how can he get these things”? It's a major reason why they want to punish me. I put myself in Allah's hands. ...The best thing for all Rwandans would be to share power and forget. To work for the nation, forget about the divisions or favouritism and use the same Arusha Accords as a power sharing agreement.**

**Only then can Rwanda be one house with one parent, to care for all children. ”**

## Conclusion

Much has been written and debated about whether or not *gacaca* has achieved reconciliation in Rwanda. While most would agree and recognize that *gacaca was* “one of the most ambitious transitional justice experiments in history”, it was also developed and carried out within the context of “deep political and ethnic division, fear, suspicion, intimidation and corruption” (see Tertsakian 2008: 362). The consequences of this is that *gacaca* was never going to be able to bring about reconciliation for all Rwandan, but rather contributed further wounds of mistrust and division.

Image credit: [Elisa Finocchiaro/Flickr](#).

**Larissa R. Begley received her PhD in Social Anthropology from the University of Sussex. She is currently a lecturer in African and African American Studies at Iowa State University. Her research focuses on understanding the implication of genocide ideology laws as a form of state violence in Rwanda.**

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