

**GENDER-JUST
PEACE AND
TRANSITIONAL
JUSTICE**



GENDER AND CULTURE IN TRANSITIONAL JUSTICE: RWANDA'S GACACA COURTS

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1. INTRODUCTION

The gacaca is a system of transitional justice based on a “traditional” conflict resolution mechanism that was initiated by the Rwandan government in 2002 to try lower level suspects of the 1994 genocide, in which at least 500,000 Tutsi and moderate Hutu were killed. Also described as “the most ambitious experiment in transitional justice ever attempted” (Waldorf 2010: 183), it had by its formal end in 2012 tried more than one million cases in 11,000 community courts all over the country. Women participated in the general assemblies, they appeared as witnesses, defendants or claimants, but they were also judges, presidents and secretaries of gacaca courts. This has led several observers to argue that the gacaca process contributed to empowering many women in Rwandan society. Taking this claim as a starting point, I wish to look at the potential role of gacaca in affecting norm change in Rwandan society.

“Traditional” or “indigenous” justice mechanisms are interesting objects of analysis because they are spaces that carry with them norms about tradition and culture. However – even though gacaca was based on traditional practice, the way the courts were implemented also carried elements of international norms and formal justice. This hybrid nature of gacaca combined with the large popular involvement provides a particularly interesting setting for studying norm dynamics. In this paper I consider Rwanda’s gacaca courts as spaces for negotiation of ideas about gender norms.

Through combining insights from the literature on gender in transitional justice with theories about norm localization and translation, this paper seeks to explore the potential role of local transitional justice mechanisms in affecting norm change. I do this by looking at how norms and ideas about gender have interacted with other cultural norms in Rwanda’s gacaca courts, and what the outcomes of such processes are. By looking at the impact gacaca may have had on gender norms in Rwanda I hope to contribute to a larger discussion about the significance of transitional justice processes for the shape of social gender relations in post-transitional phases. The aim of the paper is therefore to contribute both to an enhanced understanding of the societal effects of local transitional justice mechanisms, as well as to a better understanding of the dynamics of changing norms in a post-conflict context.

2. THEORETICAL FRAMEWORK

2.1 GENDER IN TRANSITIONAL JUSTICE: AN OVERVIEW

Transitional justice refers to processes of dealing with the legacy of violent conflict and human rights abuses with the aim of providing conditions for peaceful future co-existence (Buckley-Zistel and Zolkos 2012; Minow 1998). This rests upon the idea of moving from a violent past to a democratic future, as demonstrated by Buckley-Zistel and Zolkos (2012). Applying a gender perspective to transitional justice involves asking questions such as who is justice for, and what is the society in question transitioning to. Early work on transitional justice either ignored the gender dimension or focused on women as victims of sexual violence, thus reproducing gender stereotypes of women as victims and men as perpetrators. However, recent gender analysis of transitional justice has engaged with the topic through a number of approaches. This reflects both the diversity of the field, as well as the variety of notions and ideas about justice and gender (Buckley-Zistel and Zolkos 2012). In an introduction to gender in transitional justice, Buckley-Zistel and Zolkos (2012) categorize the project of gendering transitional justice into three main approaches. The first approach addresses the exclusion of women from transitional justice, while the second addresses discourses of femininity and masculinity in relation to transitional justice frameworks. The final approach is a more fundamental feminist critique of the whole transitional justice project in the form of a growing “unease with the ‘from’ (male-defined political violence) and ‘to’ (liberal democratic frameworks) of transitional justice discourse” (Bell and O’Rourke 2007: 23, 35). Mainly concerned with the question of what the transition is “to”, it suggests that transitional justice is implicated in the “patriarchal and neo-liberal structures of governance” (Buckley-Zistel and Zolkos 2012: 8).

As already mentioned, prosecution of sexual violence crimes has received much attention within the transitional justice literature with some arguing that this focus renders women without agency and in the category of victims. Others have argued that the focus on sexual violence crimes against women has led to the neglect of their roles as political agents and as perpetrators of violence (Franke 2006). Franke (2006: 819) discusses the question of whether criminal prosecutions of sexual violence can serve to redistribute shame from victim to perpetrator, and raises a range of challenges for victims who choose to testify. The transitional justice institutions often demand a relevant and

concise testimony, while victims often seek to narrate their pain and suffering. Further, testifying in court can create a second form of victimization and may serve to demonstrate the enactment of power upon women's bodies, and can in this way also be producing shame (Franke 2006: 820). In a study of women testifying in the Rwandan gacaca courts, Bronéus (2008) shows how in giving testimony these women experienced traumatization, ill-health, isolation and insecurity, rather than healing. These experiences were directly related to the psychological effects of testifying, but also stemmed from the threats and abuse (physical and psychological) that these women were subjected to as a result of giving testimony.

Buckley-Zistel and Zolkos (2012: 2) ask “how can one negotiate between the Western ideas of justice that animate the TJ project (...) on the one hand and its impact on local needs and the culturally situated understandings and practices of gender on the other? What is the significance of the TJ processes for the shape of social gender relations in post-transitional phases?” Feminist engagement with transitional justice ranges from legalistic to more holistic approaches. Gender justice is understood as the wider transformation of power asymmetries, including promotion of civil, political, economic and social rights on the basis of gender equality (Valji 2007). This view implies that justice is about much more than establishing the truth about what happened and punishing the perpetrators - gender justice reaches beyond the legalistic notions of justice, and relates to a view of transitional justice as transformative (Gready and Robins 2014).

2.2 NORM LOCALIZATION AND NORM TRANSLATION

In order to increase our understanding of norm dynamics in the context of gacaca, I suggest to apply insights from research on norm localization from constructivist IR. IR scholarship on norms has traditionally focused on the diffusion of norms in the international system, and struggled to capture the local dynamics of norm diffusion. However, more recent scholarship has paid increased attention to local processes of norm diffusion and to the role of local actors, and has taken a more dynamic and critical approach to the way norms travel by focusing on “processes of contestation and localization” (Tholens and Groß 2015: 251-252). Research focusing on norm contestation also tends to focus on context and are concerned with studying normative change. Much of this literature is referred to as “critical norm research”, and takes a reflexive approach to the understanding of norms as both structuring social practice and constructed by social practice. This implies that norms and their meanings are

flexible, and that they are affected by the context in which they are used (Wiener 2004: 191-192). Further, it has opened up for the possibility that resistance in the form of contestation may also serve to strengthen a norm (Deitelhoff and Zimmermann 2013). Several recent studies have looked at how the specifics of the post-conflict context affects norm diffusion (Zahar 2012, Zimmermann 2014, Björkdahl and Gusic 2015, Groß 2015, Tholens and Groß 2015).

Early work on norm localization describes localization as a dynamic congruence-building process in which foreign norms, which may not cohere with local beliefs and practices, are incorporated into local norms (Acharya 2004: 240-241). Acharya's focus is on how transnational norms have produced institutional change, specifically in the regional organization ASEAN. Acharya's approach was among the first to conceptualize local agency as constitutive to the norm diffusion process. Instead of emphasizing the role of transnational agents and the degree of "cultural match" or "fit" between international and domestic norms, he applies the concepts of framing and grafting for a more dynamic view of congruence (2004: 243). However, framing and grafting are "largely acts of reinterpretation and representation," and "neither is necessarily a local act" (2004: 244). This is where localization comes in, as "the active construction (through discourse, framing, grafting, and cultural selection) of foreign ideas by local actors, which results in the former developing significant congruence with local beliefs and practices" (245). Acharya distinguished his localization framework from that of norm diffusion by arguing that "norm diffusion is viewed as the result of adaptive behaviour in which local practices are made consistent with an external idea. Localization, by contrast, describes a process in which external ideas are simultaneously adapted to meet local practices" (Acharya 2004: 251).

Levitt and Merry (2009) define vernacularization as the process of appropriation and local adoption of globally generated ideas and strategies, and ask how "are global ideas about women's rights translated into local contexts and how does the local talk back?" (Levitt and Merry 2009: 442). The way they see it there are various global value packages that are available to global activists, and they identify a global women's rights package which directly and indirectly informs the practice of women's rights on the ground by joining with existing social justice movements and national women's movements (443, 447, 448). They argue that there is a need to bring culture "back in" to the debate, and to view diffusion as a cultural act in itself. This is because, diffusing

practices and actors' identities are rich in cultural and social meaning (2009: 444). In a vein similar to how Acharya conceptualized localization as when external ideas are simultaneously adapted to meet local practices, Levitt and Merry describe the process of vernacularization as when "women's human rights ideas connect with a locality, they take on some of the ideological and social attributes of the place, but also retain some of their original formulation" (2009: 446). Vernacularization depends on the nature of the ideas contained in the global value packages, as well as the identities, concepts and categories that underlie the norms and values to be vernacularized (2009: 451). Further, ideas that are associated with a sense of progress and innovation tend to be more attractive ("modernity sells") (2009: 452). Finally, Levitt and Merry highlight two dilemmas in the vernacularization of human rights. First, they identify a resonance dilemma, which refers to the tension between localization and universalism. The second dilemma is an advocacy dilemma, which can be described in terms of the more challenging or transformative the agenda is, the harder it is to establish local support and enthusiasm (2009: 458).

Other scholars have also focused on this translational aspect of travelling norms, and have argued, for example, that "translation implies that differently contextualized norms may be translated into another realm, for example, from global to national or local to national, whereas diffusion assumes a one-way influence from global to non-global (Zwingel 2012: 124). Another recent article distinguishes between conventional norm diffusion research and localization research (Zimmermann 2014). According to Zimmermann, localisation is a new catch-all concept that points to diffusion results beyond full adoption or rejection, and she argues that conventional conceptualization of outcomes of norm diffusion in IR ignores norm translation processes. A better understanding of these processes, she argues, will provide for a better understanding of under which conditions localization can be observed. In her proposed framework, she elaborates on reshaping and embedding as two (out of several possible) types of translation, and identifies three steps of norm translation: into discourse, law and implementation (Zimmermann 2014: 2). In yet another recent study, Grossklaus (2015: 1253) builds on Acharya's concept of localisation and proposes "the concept of appropriation as a way to analytically capture local reactions to rights promotion." By appropriation is meant the "intentional reinterpretation of ideas across cultural, spatial and temporal contexts aimed at definitional power" (Grossklaus 2015: 1254). The framework of appropriation proposed here is an effort to analytically grasp the complexity of the empirical reality of the local context and to move away from

a view of local actors as passive recipients of norms. Grossklaus seeks to “shed light on outcomes of human rights promotion by looking at the local process as a series of appropriating acts”. He claims that this framework “is capable of illuminating micro-processes of change in cases where the results of norm diffusion processes are not analytically visible at first glance.”, and shows that local impact of human rights norms is contradictory (Grossklaus 2015: 1263-1264). He argues that it is “the tension between human rights’ transformative potential and the structural power behind them that triggers and produces the ambiguous and often contradictory results of international norm promotion”. This tension, which he refers to as the “dualism of human rights”, is encompassed in the appropriation framework where possible outcomes of appropriation are conceived of both in terms of order transformation, but also as stabilisation (Grossklaus 2015: 1256).

2.3 RE-FRAMING “CULTURE” AND THE “LOCAL”

According to Reimann (2004: 18), culturally sensitive approaches to conflict resolution may reinforce gender discrimination because “To be “gender-sensitive” means (as political minimum) “to bring women in” as workshop participants. To be “culture sensitive” means to accept local social and political “traditional” conditions and circumstances.” This seems to imply that culturally sensitive and gender friendly approaches are incompatible. In the transitional justice discourse this dilemma is sometimes described as “a ‘clash’ between ‘local’ (and implicitly ‘traditional’) culture and ‘universal’ justice norms” (Shaw and Waldorf 2010: 5). To go beyond this confrontational approach, I lean on what Shaw and Waldorf (2010: 5) refer to as a “place-based approach” - inspired by the way anthropologists have changed the terms of the debate by “recasting ideas of ‘culture’ and examining human rights discourse and practice in particular contexts” (ibid.). A place-based approach rejects the notion of the local as a “level” and instead treats the local as a perspective – and, recognizing that no location in the world exists in detachment from global processes, as a standpoint based in a particular locality but not bound by it (Shaw and Waldorf 2010: 6). Another concept that is useful to apply here is “multiple modernities” (Eisenstadt 2000). Modernity in this sense is seen as a category of observation. Several modernities may exist in parallel, which means that “Western ideas of (claimed) universal validity can become incorporated in non-Western identity constellations without replacing local identities.” (Grossklaus 2015: 1255).

3. BACKGROUND

3.1 GENDER AND THE RWANDAN GENOCIDE

Between April and June 1994, at least 500,000 people were killed¹ in the Rwandan genocide against Tutsi and moderate Hutu. The causes of the genocide are to a certain extent still disputed, but largely understood to stem from the historical politicization of ethnicity in Rwanda. I will not go into detail about the background of the genocide, but provide a short background in order to contextualize my argument. It is generally argued that ethnic identities in Rwanda were reinforced and made static by the Belgian colonizers, who in 1926 issued the first “ethnic” identity cards. While the Tutsi minority was considered and treated as elite by the colonizers, the Hutu majority population saw opportunities lost on them during the colonial period. Towards independence, Tutsi privilege and colonial power were challenged by new popular movements and the Hutu majority (Baines 2003: 481; Mamdani 2002). The period from 1959 to 1963 saw the Hutu social movement gain power through independence in 1961 and elections in 1963. The period was marked by violence and persecution of parts of the Tutsi population and a resulting Tutsi exodus to neighbouring countries. In 1990, the Rwandan Patriotic Front (RPF), a force made up of Rwandan exiles from Rwanda who wanted to return to their homeland, invaded from Uganda and established a presence in the Northern part of Rwanda. This marked the start of a civil war culminating in the genocide in 1994, which only ended after military victory and capture of the capital Kigali by the RPF – today Rwanda’s ruling party.²

In order to understand the importance of applying a gender perspective to studying Rwanda’s recovery it is important to understand how the Rwandan genocide was gendered in a number of ways. Tutsi women were the targets of several propaganda campaigns both in the years leading up to and during the genocide. According to Kaitesi (2014: 74), targeting Tutsi women specifically was a strategy for targeting the entire Tutsi population. This implies that gender was actively used by the perpetrators and how it represented an extremely powerful category in the genocide. In the early stages of the genocide, men and boys (including male infants) were specifically targeted as representing the future enemy, and future soldiers of the RPF (Baines 2003: 487; Jones 2002: 73). Initially, women and girls were spared, they were

¹ The numbers are disputed but most estimates are in the range of 500,000-800,000 people having been killed in the genocide. The number used here comes from Des Forges 1999.

² For more detailed accounts of Rwanda’s history and the genocide, see Lemarchand 1970; Prunier 1995; Des Forges 1999; Mamdani 2002.

considered to pose less of a threat. However, towards the final stages of the genocide, women and girls also became the targets of the *génocidaires*³ (Baines 2003: 487; Jones 2002: 65). Further, the level and scope of rape and other forms of sexual violence stand out even in comparison with other cases known for such abuses, such as the former Yugoslavia (Jones 2002: 81). Finally, the level of women involved as perpetrators of the genocide has been highlighted as a dimension that is unique to the Rwandan case (Jones 2002; Brown 2014).

3.2 THE GACACA COURTS

The gacaca courts was a system of transitional justice based on a “traditional” Rwandan conflict resolution mechanism and was initiated by the Rwandan government in 2002 to try lower level suspects of the genocide. Also described as “the most ambitious experiment in transitional justice ever attempted” (Waldorf 2010: 183), it had by its formal end in 2012 tried more than one million cases in 11,000 community courts. Judges were locally elected and participation from community members mandatory. They would be expected to participate in the capacity of judges, witnesses, accused or as part of audience. While critics disagree on the value of gacaca’s participatory approach, most would argue that it is one of its central dimensions (Clark 2010: 3, 132). The gacaca proceedings consisted of several phases, beginning with an information-gathering phase. The second phase was the categorization of suspects identified in the previous phase. This was done according to a categorization system established in the gacaca law, and based on the gravity and type of crime committed. The last phase was the actual trials (Gahima 2013).

When gacaca was formally established by law in 2001, more than 100,000 genocide suspects were detained in Rwandan prisons awaiting trial (Karekezi et. al. 2004: 71). The International Criminal Tribunal for Rwanda (ICTR) had been established by the UN Security Council in November 1994 to investigate and prosecute violations of international humanitarian law and international law (Gahima 2013: 82). However, the ICTR would only prosecute the higher level crimes committed by those who planned and engineered the genocide. One of the striking features of the Rwandan genocide is the level of popular participation involved in the acts of killing (Des Forges 1999). This also meant that the number of perpetrators to be tried by the national courts for all levels of crimes during the genocide was very high. In addition, both the ICTR and

³ *Génocidaires* is the term used in Rwanda for the perpetrators of the genocide.

the national courts were working at a very slow pace in the years following the genocide. In one way, therefore, gacaca can be viewed as a pragmatic solution to a practical problem: speeding up the prosecutions and sentencing of those suspected of acts of genocide. However, many writers on gacaca will argue that its aims were much broader (see Gahima 2013; Clark 2010; Waldorf 2010; Karekezi et. al. 2004). According to Phil Clark (2010: 3), the aims of gacaca can be broadly described as to prosecute genocide suspects and to begin the process of repairing the social fabric. With slight variations, most writers on gacaca emphasize truth and reconciliation as the most pronounced aims and goals (Waldorf 2010; Bronéus 2008; Karekezi et. al. 2004).

3.3 GACACA BETWEEN TRADITION AND MODERNITY

“Traditional” or “indigenous” justice mechanisms are interesting objects of analysis because these are spaces that carry with them norms about tradition and culture. The debate about the role of traditional justice mechanisms within transitional justice often revolves around how they may violate international human rights norms and standards of due process and the right to a fair trial. It all boils down to which is more effective to obtain the goals of transitional justice – adhering to international standards or local tradition? Answers to this question of course depend on what one considers to be the goals of transitional justice or the mechanism in question. There is significant debate over this balancing act and the value of locally based approaches and their adherence to international norms. The focus in this paper is on how the workings of a justice mechanism that was based on a traditional one, but modified to respond to new and varied goals, affected gender equality norms in society. Here, I will give a brief overview of how gacaca represented “tradition” and “modernity”.

Gacaca⁴ has been described as a reinvented tradition (Waldorf 2010) and a hybrid system (Karekezi et. al. 2004). Clark (2010: 27, 48) has argued that gacaca displays “internal hybridity”, because of its traditional-modern features and combination of legal and non-legal objectives and methods. The origins of modern gacaca is the traditional Rwandan conflict resolution mechanism that was practiced around the country since before colonialism. As in most African contexts, little written sources exist from the pre-colonial era. However, writers seem to agree on some characteristics of traditional gacaca. There is general

⁴ In this paper I use the terms “traditional” and “modern” gacaca to distinguish between the two forms when necessary to ensure clarity. Where using the term gacaca courts or simply gacaca, this refers to the “modern” gacaca.

agreement upon the fact that traditional gacaca was a non-permanent and ad-hoc institution which rested upon unwritten, customary law and practice. It dealt with local disputes, and sessions were usually held outdoors and presided over by elders. These were always men – women were banned from participating unless as claimants or defendants (Clark 2010: 52; Gahima 2013: 159). The submission of cases to traditional gacaca was voluntary, and cases usually concerned issues such as succession, land disputes, claims for compensation for loss of crops destroyed by livestock, and general family relations. Serious matters, such as murder, stock theft or conflicts involving senior public officials, was dealt with by the chiefs or the king (Gahima 2013: 159). The objective of traditional gacaca, with its communitarian profile, was reconciliation. According to Clark (2010: 52), the objectives of traditional gacaca drew “on the traditional Rwandan cosmology that considered the family and the wider community as the most valuable human units.” Since individuals gained their sense of worth from being embedded in a community, the restoration of social cohesion and the individual’s possibility to regain his or hers lost standing in the community was the key to reconciliation. Therefore, sanctioning in traditional gacaca was not based solely on punitive measures, but extended to measures intended on re-establishing social cohesion and ensuring social order.

According to Karekezi et. al. (2004: 73) modern gacaca represents a mixture of judicial systems and of retributive and restorative justice, and the creation of a “participative justice” inspired by the model of participation in traditional gacaca. Modern gacaca as an institution possessed many characteristics of formal justice systems, such as non-voluntary participation, punitive sanctions, the gravity of the crimes treated, the possibility of concerned parties not being present at trial, fixed rules (implemented by law), and the attempt to create an impartial tribunal. On the other hand, several “traditional” characteristics persisted. This included the local character and the emphasis on social restoration, a focus on the public good and a role for reparations, the participatory aspect and role of social pressure, and the simplification of the procedures and absence of professional lawyers and judges (Karekezi et. al. 2004: 74). More critical writers have argued that “gacaca bore no resemblance to customary dispute resolution other than the name” (Waldorf 2010: 188). An aspect that has received particular criticism is the level of “victor’s justice” (no cases of war crimes against RPF forces could be prosecuted) and the coercive nature of gacaca’s so-called participatory approach (Waldorf 2010: 190-191).

Another feature that modern gacaca can be said to share with traditional gacaca is the evolving nature. There is wide agreement on the non-static and ad-hoc nature of traditional gacaca. Though weakened, traditional gacaca became more institutionalized and stratified, and continued to exist alongside formalized Western-style courts during the colonial era. Also in the post-independence period, and even after the genocide, different forms of traditional gacaca continued to be practiced (Gahima 2013: 160; Clark 2010: 53). Modern gacaca also evolved during its lifetime, adapting to criticism, challenges and low popular participation. According to Waldorf (2010: 189-191), changes in the law affected the quality of trials in order to speed up the process, it became increasingly coercive in nature with regards to participation, and changes in the mandate ensured it became “victor’s justice”. The government changed the law governing gacaca several times, and in 2008 a highly controversial change was the transfer of a large number of more serious genocide cases to gacaca. As already mentioned, gacaca was intended to try lower level suspects of the genocide, and cases of sexual torture and rape had initially been reserved for the national courts. However, in 2008, gacaca began trials against higher-level suspects charged with having led the genocide at a local level and sexual violence cases (Waldorf 2010; Clark 2010).

3.4 GENDER, SEXUAL VIOLENCE AND WOMEN’S PARTICIPATION IN GACACA

Contrary to in traditional gacaca, women participated in the modern gacaca in many different roles. They would act as judges, presidents and secretaries of gacaca courts as well as attend general assemblies and appear as witnesses, defendants and claimants. During the pilot phase in one sector in southern Rwanda, two out of three presidents of the cell-level gacaca courts were women (Karekezi et. al. 2004: 80). In 2001, Karekezi (2001: 78) anticipated that gacaca was likely to empower women, who had in the past been excluded from the social and political sphere at local and national levels. Having observed gacaca hearings in several districts in the period between 2003 and 2010, Clark (2010: 143) has argued that women constituted between 35 and 40 per cent of judges, and “overall drive most discussions in the general assembly”. Clark also states that “It must be recognized that gacaca has empowered many groups in society who have often been marginalized in national life, especially women and youth, who have played central roles as gacaca judges and as participants in the general assembly” (Clark 2010: 153).

The transfer of cases described in section 2.3 is central when discussing gender and sexual violence in gacaca, as it included the transfer of an estimated 6,000-7,000 cases involving rape from national courts to gacaca courts. This change dramatically altered the scope of women's engagement with gacaca and increased the number of women who came to testify in gacaca. Gacaca courts began hearing trials involving rape *in camera*, meaning they were taking place behind closed doors, in 2008. Still, many women were hesitant about bringing their cases to gacaca, not wanting their neighbours to know they had been raped. As expressed by a female NGO worker, "[...] Judges are not professional so we can't ask them to keep professional secrets. So that means all the things the women are saying will be on the streets the next day. [...]" (quoted in Waldorf 2010: 192). The original classification was a result of the women's and survivors organizations having successfully pressured the government to classify rape among the most serious crimes (Waldorf 2010: 192). The treatment of cases involving rape or sexual violence in gacaca has been the object of extensive debate and criticism. On the one hand, bringing these cases to trial has been deemed important to fight impunity and provide justice for victims. Assumptions about truth-telling as healing also figure widely in much literature on reconciliation and truth commissions (see Bronéus 2008 for an overview). On the other hand, the therapeutic effects of testifying and truth-telling has been deeply challenged. Bronéus (2008) argues that instead of a healing experience, women who have testified in gacaca experienced traumatization, isolation and insecurity, and were exposed to threats and harassment from their own communities.

Although rape cases were not under gacaca jurisdiction before 2008, this did not mean that cases of rape and sexual violence were unknown in the gacaca context before this. Gacaca courts would begin their workings with an information gathering phase. The way this worked in practice, gacaca assumed an evidence gathering role even for cases that would be tried by the ordinary courts, including cases of sexual violence and rape. At the outset, discussions in parliament did not concern gacaca's impact of victims since cases of rape and sexual violence were assumed to be outside of gacaca's jurisdiction. This led to an initial neglect to consider how the information-gathering process might impact on victims (Kaitesi 2014: 206).

Measures were taken to ensure that victims would not have to speak publicly about their experiences, and that their names would not be recorded in the information gathering phase. Kaitesi (2014: 210-218) however, raises several

critical issues with this decision. For one, it goes against the popular aspect of gacaca. Secondly, it goes against the goal of establishing the truth and a record of what happened. Third, not recording names in the initial phase made sentencing difficult and thus sometimes may have prohibited indictments against perpetrators. Fourth, these measures took away from the victims the freedom to choose whether to speak or not. Many women challenged the dominant narrative of silence by speaking to human rights reporters or others outside the justice system (218). On the decision of transferring the cases to gacaca this might well have been a question of trying these cases in gacaca versus refusing victims' access to justice. The national courts were working so slowly that victims risked their cases being too old to provide evidence and pass sentence or even for some succumbing to disease (which many had contracted through being raped) before their cases reached trial. This also implies that had these cases not been transferred to gacaca, no record of these crimes would have been established. However, the dilemma persists if the system to which they were given access was one that threatened them to silence (Kaitesi 2014: 210-218).

The scope and extent of genocidal gender and sexual violence in Rwanda was immense – victims were “Tutsi women, children and men of all ages, very young girls, pregnant women, the elderly, the physically handicapped, young and old men” (Kaitesi 2014: 76). According to Kaitesi (2014: 80) “a perpetual silence remains with regard to the experiences of Tutsi men who endured genocidal gender and sexual violence.” She also states that many women “sexually killed many Tutsi men”. Further, testimonies given at the ICTR described corpses of men whose genitals had been mutilated (although the prosecutor only asked about female corpses) (Kaitesi 2014: 80). In the dominant narrative about gendered genocidal violence in gacaca, and in Rwanda in general, where women figure as victims and men as perpetrators, stories about male victims and female perpetrators are largely silenced. It might also be surprising given the high numbers of women who participated in the genocide that their crimes are rarely discussed. However, that does not mean that there were no cases in gacaca concerning these issues. Approximately 10% (nearly 100,000) of those tried by gacaca courts were women (Brown 2014: 461), and we know several concrete examples of cases involving male victims of sexual violence from gacaca (Kaitesi 2014). Of course, more perpetrators were men and more victims were women. But the fact that these stories are omitted from the mainstream narrative of the Rwandan genocide (both from

outside and within Rwanda), tells us something about how not only the genocide but also its legacy is gendered.

4. DISCUSSION: GENDER AND CULTURE IN GACACA

Gacaca encompasses a larger trend where the Rwandan government is building a national narrative of modernity and progress, while resting upon tradition in order to reconcile with the past. This is linked to how the government promotes a policy of unity, understood as an effort at overcoming past ethnic division by promoting the notion of a population consisting of Rwandans. It is in this context that gacaca is one of the cases where the government has reinvented practices from the past that are associated with Rwandan tradition (Waldorf 2010). In the case of gacaca, the merging of international norms, formal justice, with local tradition and social justice goals provided a setting where norm translation could potentially take place. Gacaca did provide access to justice for a large number of people, and a large proportion of the Rwandan population has interacted with gacaca in some way. Just as gacaca can be seen as a hybrid system in possession of these different characteristics, translation of gender norms as we observe them in gacaca seem to have had hybrid outcomes. In other words, the hybrid nature of gacaca seems to be reflected in the processes of localization/translation of gender norms in gacaca.

Women took on new roles in gacaca, and it can thus be argued that norm translation took place as they were empowered by their new positions and roles, and got access to spaces in society that previously had been closed to them. However, it is important to note that the empowerment that these women experienced, may not reflect the experiences of all women who came to gacaca. In this case, localization must be understood as the partial implementation of gender equality norms. Women took on new roles, but fundamental gender roles were not altered.

Powerful narratives upholding gender stereotypes have both been reproduced by and despite gacaca activities. Women's increased participation in gacaca in one sense breaks with tradition as women were not given access to the "traditional" gacaca. However, it also conforms to the gender stereotype of women as inherently peaceful or peace-loving (see also Buckley-Zistel and Zolkos 2012: 11). The gender stereotypes of women as peace-loving victims and men as perpetrators has been maintained in the Rwandan narrative about

the genocide, despite the fact that female perpetrators and male victims appeared in gacaca.

In a similar manner, while also empowering women gacaca reaffirmed to victims that they should not speak in public about experiences of rape and sexual violence. Again, the fact that gacaca itself contained mixed objectives also affected outcomes in terms of gender. Objectives such as establishing the truth and a record of the genocide, and fighting impunity clashed with objectives concerned with protecting witnesses and victims. Advocates fought for the protection of victims, promoting international standards. To some extent, gacaca responded to this. As a result, these crimes were not spoken of in public, but in closed sessions. This was in line with traditional values and gender stereotypes. It seems that when rights to protection were promoted this may have had the unintended outcome of reinforcing gender stereotypes.

While the trials involving crimes of rape or sexual violence were not public in gacaca, there is also the issue of those women who chose to tell their stories. These women broke with the traditional norms that prevented women from speaking publicly about experiences of rape and sexual violence. Note that this did not formally take place in gacaca. Despite this, during the information gathering phase or through confessions or guilty pleas, many stories were told in public. However in these cases usually not by the choice of the victim. This shows that even though many women felt empowered through gacaca, its practices also conformed with and may have contributed to reinforcing traditional gender norms and stereotypes that prevented women from speaking publicly about experiences of rape and sexual violence.

5. CONCLUSION

The merging of international norms and formal justice, with local tradition and social justice goals in gacaca, combined with its large popular involvement, provides a particularly interesting setting for the study of norm translation. The hybrid nature of gacaca seems to be reflected in the processes of localization and translation of gender norms in gacaca. Based on the findings I argue that norm translation and localization has taken place in gacaca, sometimes with unintended outcomes. Further, while women's empowerment in gacaca represents a case of norm translation, gacaca also conformed with, and may even have contributed to reinforcing, traditional gender norms and stereotypes.

In this paper I have tried to give an overview of how “gender” and “culture” appeared in gacaca, and how this may be studied. By combining a place-based perspective with theories of norm translation and localization I hope to contribute to a discussion on the significance of the transitional justice processes for the shape of social gender relations in post-transitional phases. However, this is an area where further research is needed. Particularly interesting is perhaps the cases of dissonance between practice and discourse, such as the example of how female perpetrators and male victims of sexual violence have appeared in gacaca while being omitted from the common narrative.

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