

The Unity-Generating Machine:  
State Power and *Gacaca* Trials in Post-genocide Rwanda \*

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The political ethnography discussed in this paper is based on participant observation and thirty seven in-depth life history interviews carried out in south-western Rwanda between April and October 2007. The research is also based on several periods of residency in Rwanda, notably between 1998 and 2001 when I worked at the Faculty of Law at the National University of Rwanda. During this residency period, I studied and observed the debates and discussions within the Rwandan government and civil society as well as between the government and the international donor community about the utility and function of the neo-traditional *gacaca* courts as the best way to bring justice to Rwanda in the aftermath of its 1994 genocide. *Gacaca* courts were adopted in 1999 with the purpose of providing justice for all, viz. ordinary Rwandans “...and the country itself” (NURC, 2003: 1). Central to the delivery of justice is the requirement that survivors of the genocide forgive perpetrators. Perpetrators in turn must tell the truth about what they did to whom and how during the genocide. Without this reckoning, “Rwanda will never move forward” (ORTPN, 2004: 8). Once “justice”, understood to be the result of the

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truth-telling and forgiving aspects of *gacaca*, has been publicly completed, unity and reconciliation logically follow.

In this paper, I argue that the *gacaca* courts are an expression of the power of the post-genocide state. Justice is forced upon ordinary Rwandans in the name of national unity and reconciliation. Individuals are constantly and consistently reminded of the need to reconcile to consolidate present peace and future security.<sup>1</sup> The *gacaca* process resolves the case officially at the level of the individual while at the same time re-enforces the image of the post-genocide state as one that at least tries to treat its citizens fairly in the pursuit of national unity and reconciliation. Long after the decision has been rendered however, ordinary Rwandans are left with the everyday, lived realities of “unity” and of “reconciliation” in a social context that remains for most participants one of fear and insecurity. The security of state trumps individual processes of reconciliation. By “ordinary Rwandans”, I do not mean those individuals who hold formal political power as a member of the political élite, nor those individuals engaged as agents of the state (police officers, civil servants, military personnel, local authorities, etc.). Instead, I conceptualise “ordinary Rwandans” as the non-élite and largely peasant citizenry.

Individual Rwandans are forced to participate,<sup>2</sup> and are cast into the following pre-scripted roles: 1) citizen spectators; 2) judges; 3) witnesses; 4) prisoners who have confessed to acts of genocide; 5) prisoners who have not confessed; and 6) survivors (NURC, 2003: 8). Individuals who do not perform according to the assigned script fall afoul of the state and are

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<sup>1</sup> For example, in all government communication with the population via radio addresses, speeches to the population on the need to reconcile, as well as in the messages of local officials during national unity and reconciliation activities such as *umuganda* (community work), *ingando* (citizenship re-education), and in government approved public school curricula. Radio soap operas transmit the message of unity and reconciliation, as do signboards on the side of main road, posters at businesses, and signs attached to most government offices and public schools, as well as at all memorial sites. Signboards “advertise” the *gacaca* courts with an image of a group of survivors, citizen spectators and witnesses sitting in front of the panel of judges with the text, *Ukuri. Ubutabera. Ubwiyunge.* (Truth. Justice. Reconciliation.) The genocide memorial at Rulindo, one of hundreds across the country with similar messages, offers the following: “In memory of genocide. Let’s participate actively in *Gacaca* courts and dare to tell the truth as well as endure the consequences of genocide. (*Twibuke Jenocide Twitabiha Inkiko Gacaca Kandi Tugira Ubutwari Bwo Kuvugisha Ukuri no Gahangana Nikgaruka Zayo*). A sign at a bar in Ruhengeri states: That criminals are many doesn’t make them innocent. Justice must do its job. (*Ubwinshi Bw’abanyabyaha Ntibukuraho Ubumere Bw’icyaha Ubutabera Nibukore Akazi Kabwo*.) Four shop owners reported that they were required by law to hang pictures of President Paul Kagame and posters and messages provided by government on the theme of national unity.

<sup>2</sup> Article 29 of “*Organic law n. o. 16/2004 of June 19, 2004 establishing the organization, competence and functioning of Gacaca Courts*” states that: “Every Rwandan citizen has the duty to participate in the *gacaca* courts’ activities”.

subject to sanction. For example, survivors can lose their membership in civil society organisations that provide free health care or subsidised school fees. Prisoners who confessed in hopes of receiving a reduced sentence in exchange find themselves with sentences of life in prison. Community spectators and witnesses can run into trouble with government officials if they speak out of turn, or off topic. Judges must oversee and implement the *gacaca* process in accordance with government standards; those who do not can be imprisoned and/or denounced, which often means a loss of social and economic status.

The dissonance between the official product of *gacaca* trials – national unity and reconciliation – and the actual presence of unity and reconciliation in the daily lives of ordinary Rwandans is vast. The dual purpose of this paper is to show that the *gacaca* process not only reproduces the power of the post-genocide state but also produces fear and insecurity in the daily lives of individual participants. The argument is developed in four sections. The analytical approach used to understand the power of the Rwandan state and the practices of individual Rwandans is first set out. A comment on the methodology follows. Third, the *gacaca* courts as a pillar of the government’s programme of national unity and reconciliation are situated within the social and political context of post-genocide Rwanda. The fourth section analyses how the *gacaca* process is an expression of state power in the lives of individual Rwandans.

### **The Power of the State and the Practices of the Individual**

Žižek (1996) suggests that it is not the civilised public appearance of the state apparatus but rather the underworld of unwritten codes of conduct and ritual that is the actual life-world of citizens. Yet this underworld is only able to operate because this image of the civilised and human creates the necessary sense of distance (1996: 101). Regimes of power, in other words, are always to a certain degree based on dirty dealings. Yet, these regimes can only maintain and reproduce themselves by publicly referring to the importance of a well-organised state machine and, in the case of Rwanda, to the promotion of national unity and reconciliation. The image of a peaceful and stable state is squarely situated on the shoulders of ordinary Rwandans – if individuals choose adopt practices that are not in conformity with what qualifies as “unity” and “reconciliation”, the government, usually in the form of a local official, steps in to ensure that the justice which has been secured at *gacaca* is upheld and respected. This situation leads to other phenomena that are constitutive of the regime of power in Rwanda. In order to get official

procedures for the *gacaca* process implemented, ordinary Rwandans are constantly reminded by the state and its agents to “watch themselves”.<sup>3</sup> Self-sanctioning behaviour as a result of this surveillance narrows the ability for actual survivors and perpetrators to reconcile outside the official mechanisms of *gacaca*. Unity and reconciliation is a product of the post-genocide Rwandan state; it is not something that necessarily exists in the lives of ordinary Rwandans.

That individuals are unable to explore the possibility of reconciliation outside the glare of state power requires an approach that takes into consideration three different dimensions of the state: the idea of the state, the state machine and the culture of the state. The state-idea is “an ideological artefact attributing unity, morality and independence to the disunited, amoral and dependent workings of the practice of government” (Abrams, 1988: 81). This belief in the state “conceals the workings of relations of rule and forms of discipline in day to day life” (Alonso, 1994: 381). This has important implications for the *gacaca* process, which is overseen by the figure of the power broker. Power brokers are *gacaca* judges, the local authorities, and in cases where compliance to the rituals of *gacaca* is low, security agents who are assigned by the central government to monitor the process. The state is therefore engaged in a continual search for brokers that are able and willing to uphold the idea of the state. Brokers are chosen for their connections to both the state and to the community they will serve. Social and political networks matter, as does the ability and willingness of the broker to represent the image of the state in his/her dealings with individuals.

Government institutions are made up a diverse set of practices that are linked to the political system. The state-system is “a palpable nexus of practice and institutional structure centred in government and more or less extensive, unified and dominant in any given society” (Abrams, 1988: 82). Ferguson (1990) talks about the “anti-politics machine” in reference to the depoliticising effects of development practices in Lesotho. In Rwanda, the most remarkable aspect of the state is not the depoliticisation of the relationship between individuals and the state but rather its ability to simplify and impose a sense of national unity and reconciliation. In this sense, the state is a unity-generating machine. Unity and reconciliation is the sole prescription

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<sup>3</sup> Interview. Senior government official. 15 May 2006. He went on to say, “...We have given them peace but they don’t know what to do with it. Survivors are traumatised because of what happened to them. That is why we brought back *gacaca* and *ingando* (citizenship re-education) camps. Hutu will tell the truth about what they did during the genocide and justice will come. They will get reconciled because that is how it used to be between Hutu and Tutsi. Once we teach them, they will learn.... Unity and reconciliation is within reach”.

for a society that has suffered the “ill-effects of bad governance and ethnic divisionism” and it is one that has been imposed by the state (NURC, 1999: 7). The practices of national unity and reconciliation, such as the *gacaca* courts, take place in articulated “state spaces” (Scott, 1998: 186). In the process of minimising state spaces where unity and reconciliation can officially occur, the Rwandan state has neutralised or eliminated non-state spaces, thereby rendering these spaces as suspect. Acts of unity and reconciliation that occur outside of the gaze the state do not officially count as there is no official there to register the encounter. Reconciliation must be legible to all; the *gacaca* courts re-iterate the power of the post-genocide state to produce the image of lasting peace.

The “culture of state” refers to the practices of representation and interpretation which characterise the relation between individuals and the state, and through which the idea of the state is maintained. This moves the analysis beyond “the apparatus of government to show how the magic and power of the state are forms in everyday discursive practice” (Crais, 2002: 25). An important aspect of state power is the management and appropriation of the symbolic world (Wedeen, 1999: 30). The power of the unity-generating Rwandan state is its ability to force individuals to reconcile according to pre-defined roles and in the dissemination (largely through brokers) of credible threats of punishment for non-compliance – individuals behave as if they are being watched because *gacaca* is a public and compulsory spectacle. This ocular control produces orchestrated displays of individual obedience to the programme of unity and reconciliation while also producing compliance through the actual or anticipated use of punishment. Another important aspect of the culture of the state is the climate of fear it produces and the self-sanctioning behaviour that individuals adopt for fear of being punished for non-compliance.

### **Methodology: Situating the Lives of Ordinary Rwandans**

In order to understand and explain how ordinary Rwandans understand their role in the *gacaca* trials, a methodology that emphasises how individuals make sense of their own life world as well as that of others was used. A multi-layered methodology that considered the local and situated practices of ordinary Rwandans, as well as the material and discursive elements of the programme of national unity and reconciliation were central to the research design. The research drew on three overlapping dimensions -- empirical, interpretative and critical. Each dimension

has different assumptions about the nature of reality, what constitutes knowledge and truth, and the role of the individual subject. I employed all three approaches as a way to contextualise data (empirical) with the meanings given to them by different actors (interpretative) and then locate these in various historical structures of power, knowledge, class, gender, etc. (critical).

The “tools” required to undertake this nuanced analysis have multiple footings. The first is deconstruction of the discourse of national unity and reconciliation as a means to understand the acceptable limits of action and speech of ordinary Rwandans in the performance of national unity and reconciliation. To this end, a broad range of linguistic and non-linguistic data was used – reports, speeches, web-sites, newspaper articles, policies, and laws as well as symbolic practices such as art, poems, songs, proverbs as well as theatre and cultural performances in the name of unity. The second tool is Foucauldian genealogy, which was used to understand the historical basis of national unity in Rwanda and the politicisation of ethnicity in Rwanda. Genealogy was an important tool in showing how historical structures play out in the present lives of ordinary Rwandans in dissecting the meaning they attach to the programme of national unity and reconciliation as well as to their own history (or lived experiences).

The core of the methodology was political ethnography, which was essential for investigating the dynamics of political processes at the local level, particularly where ordinary Rwandans interact with institutional or formal aspects of state power (such as the *gacaca* courts). Ethnographic methods opened up the ability to observe and understand the informal aspects of power relations in post-genocide Rwanda, *viz.*, the ways in which ordinary Rwandans understand their social and political contexts, and the challenges and opportunities available to them in a given context. Participant observation<sup>4</sup> and life history interviews were employed to render visible the politics and power relations of the everyday lived realities of ordinary Rwandans. Both of these tools spoke to my epistemological commitment to voicing ordinary Rwandans as sources of knowledge, as individuals who have lived part of their lives in conflict, and as a result possessed knowledge that is the direct result of their lived experiences.

With the life history interview method, I rarely had to directly ask questions about the experiences of an individual during the genocide; this was almost always the first thing that would be revealed. Information about childhood, education, work and family life would

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<sup>4</sup> Participant observation is "the process of learning through exposure to or involvement in the day-to-day or routine activities of participants in the researcher setting" (Schensul *et al.*, 1999: 91).

eventually emerge as would stories about life during and after the genocide. Rather than limit myself to the study of a specific community or communities, I instead chose to follow individuals through their social and political networks as a great deal of political activity goes on outside the boundaries of a given community. Much like the footpaths that indicate the linkages between villages, I choose to follow paths between individuals as study of social and political networks would reveal the constraints and opportunities of a given individual. I was based in Butare -- Rwanda's second largest town -- in the south of the country but the research took me across the country as the linkages between individuals were revealed. For example, the first participant in the research was based in Butare, and her genocide experiences were in and around Butare. As she shared her story with me, I made notes about the individuals she referred to. She spoke of family, friends, neighbours as well as his interactions with government officials before and after the genocide. Some of the experiences with the people were positive, others negative. Regardless of the quality or nature of the relationship, I tried to follow up with each of the named individuals. In this way, I was able to trace the private and public relations of a broad-cross section of ordinary Rwandans. In addition to the thirty seven individuals who agreed to share their life history with me, I spoke to or observed over four hundred Rwandans in the course of their everyday life.<sup>5</sup> In the end, I averaged more than nine hours of recorded interview material with each of my thirty-seven participants, for a total of 348 hours of material. Formal interviews with government authorities resulted in seventy-nine hours of recorded material. Fieldnotes of observations and informal conversations were prepared every evening.

My formal sample consisted of two Twa people, twenty-one Hutu people, and fourteen Tutsi people, the majority of whom are survivors of the genocide. Of the Hutu individuals I interviewed, eight had been through the *gacaca* process while another six individuals – three who had confessed their crimes and three who had not -- were in prison on charges of genocide. Only one Tutsi individual was a “returnee”, meaning a return to Rwanda after the genocide. Sixteen women participated in the research. Seven participants were under the age of sixteen; two were children born of the genocide. The average age was 38 years for women and 44 years for men; three participants were over 70, one was over ninety. Two participants had finished primary school; the average length of schooling was five years. Three had salaried jobs; the

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<sup>5</sup> Formal interviews were conducted in Kinyarwanda and I relied on one of three research assistants to translate into English. All interviews were digitally recorded and later translated and transcribed in English.

remainder are peasants, day labourers or unemployed. Most are rural residents; six lived in government-sponsored communities, two lived in Kigali, the capital city. Two considered themselves *mayibobo* (homeless). Six individuals spoke and wrote a language other than Kinyarwanda.<sup>6</sup> All considered themselves Christian. The life history interview method allowed for sufficient contact over time to gain sufficient knowledge of the individual's life experiences, as well as of important themes that are reflective of their interactions with both the state, local authorities as well as with others.<sup>7</sup>

### **Genocide, National Unity and *Gacaca***

Between April and July 1994, Rwanda was engulfed by genocide; approximately 800,000 were killed. Among the first targeted were Hutu politicians who were willing to share political power with the Rwandan Patriotic Front (RPF), a Tutsi-led rebel group that had invaded Rwanda in 1990 in a bid to share state power with the then government of Juvénal Habyarimana. Community leaders, journalists, and civil rights activists -- Tutsi and Hutu alike -- were also targeted. Ordinary members of the Tutsi-ethnic group were singled out for killing, as the Habyarimana regime sought to assign blame for the inability to meet its clientelist obligations to a minority population. Most of the killing was perpetrated by ordinary Hutu peasants, who were often goaded by government soldiers or members of the *interahamwe* (Kinyarwanda, those who work together) militias into killing their Tutsi relatives, neighbours or friends, threatened with the loss of their own life or that of loved ones if unwilling to participate in the frenzy of killing. Not all Hutu participated, and not all participated to the same degree. Some killed enthusiastically, others killed a few (Prunier, 1998: 242-250).<sup>8</sup> The RPF also committed widespread reprisal killings of Hutu (DesForges, 1999: 79). At least 500,000 Tutsi were killed (DesForges 1999: 2). Between 10,000 and 50,000 Hutu perished (DesForges, 1999: 27); other sources suggest that “hundreds of thousands of Hutu died at the hands of other Hutu and the

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<sup>6</sup> Some participants understood a second language, usually French but in one case English. I use the benchmark of the ability to speak and write a foreign language as an indicator of social mobility. In Rwanda, without the means to communicate officially (i.e., in writing), an individual is considered illiterate.

<sup>7</sup> The life history method was an important tool in identifying the ethnic identity of each participant as individuals usually revealed their identity to me in the course of the interview period.

<sup>8</sup> Estimates of the number of perpetrators vary widely. The Government of Rwanda estimates three million perpetrators.

RPF” (Reyntjens, 2004: 178). At least 250,000 women – mostly Tutsi and some Hutu -- were raped (Human Rights Watch, 2004:1); some men also admit to being raped.<sup>9</sup> Countless others, male and female, young and old, were tortured or maimed before being left for dead.

The programme of national unity and reconciliation ignores how ordinary Rwandans were enticed and/or coerced to participate. It also silences any reference to reprisal killings at the hands of the RPF, or to the numerous acts of torture, rape and intimidation it committed during and after the genocide. Instead, the programme of national unity and reconciliation assumes that the genocide was the orchestrated and obvious result of the quiet but constant hatred of all Hutu against all Tusti. Yet, considerably fewer ordinary Rwandans participated than the government purports and those that did often did so under duress in the name of state authority and threat of punishment for non-compliance to the orders of the state (Straus, 2005: 122-152). The number of perpetrators of the genocide (*génocidaires*) is estimated by the post-genocide government to be 3 million, the majority of which are said to be ordinary Hutu peasants (NSGJ, 2005: 4). This number is often cited by the government as a justification for the urgent need to promote justice, unity and reconciliation through the *gacaca* courts. The figure of 3 million participants also has the effect of criminalising the bulk of the adult male Hutu population currently resident in Rwanda and is cited by the government to justify its oppressive policies (Straus, 2004: 85).<sup>10</sup> As a senior military official said, “We are dealing with people [*génocidaires*] who have hatred in their hearts. Only education about unity and reconciliation can save them. We need to get them out of prison and into their communities for many reasons. Of course it is expensive to support them in prison. It also makes survivors angry with the government for supporting killers so let them go back to their communities. Rwandans are simple people you know. Once we teach them, unity and reconciliation will come” (Interview. Gikongoro, 19 July 2006).

The *gacaca* courts are considered by the government of Rwanda to be one of the pillars of its efforts to achieve national unity and reconciliation. Little is known about their actual functioning in pursuit of this goal despite a voluminous academic literature (e.g., Aghedo, 2004; Corey & Joireman, 2004; Drumbl, 2002; Fierens, 2005; Sarkin, 2001; Schabas, 2005; Tiemessen,

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<sup>9</sup> Interview. Desk Officer. African Rights. Kigali. 19 June 2006.

<sup>10</sup> Straus shows that the figure of 3 million *génocidaires* corresponds to the approximate number of Hutu men (aged between 18 and 54) in Rwanda at the time of the genocide (Straus, 2004: 96 (ftn. 4)). At the time of writing, there are 80,000 individuals detained on charges of genocide.

2004; Uvin and Mironko, 2003). This is largely because the focus has predominantly been on the protection of human rights and the ability of *gacaca* courts to uphold international standards of criminal justice and legal accountability than on its outcomes at the level of the individual. Political psychologists and trauma specialists have focused on the healing potential of the courts and the importance of justice as a pre-condition for reconciliation but again are silent on how unity and reconciliation play out in the lives of ordinary Rwandans (Borland, 2003; Redekop, forthcoming; Staub *et al*, 2003; Staub, 2004).<sup>11</sup>

A common thread in these analyses of the *gacaca* process is the assumption that ordinary Rwandans are willing participants. Schabas claims without any reference to his methodology or source(s) “Rwandans have consistently rejected any compromise with full accountability, insisting upon criminal prosecution for all alleged perpetrators” (2005: 897). Pham *et al.* provide more insight about their methods but do not state the specifics of their sample, or the circumstances in which their survey was completed: “More respondents supported the local judicial responses (90.8% supported *gacaca* trials and 67.8% the Rwanda national trials) than the ICTR (42.1% in support)” (2004: 603). Post-genocide Rwanda represents a context where political power is firmly held by the state, and where it is exercised at the local level in the form of directives from “on-high” (the central government in Kigali) and through the strict monitoring of the ability and willingness of local leaders to “implement government orders effectively and efficiently” (Interview, Ministry of Local Government official, 9 June 2006). Local leaders in turn keep a keen eye on the activities and speech of individuals within their bailiwick. Compliance with the dictates of the programme of national unity is paramount. Ordinary Rwandans are subject to the exercise of the power granted to local leaders and perform the prescribed rituals of national unity and reconciliation, regardless of their private realities. To the best of my knowledge, only Chakravarty (2006) in her excellent ethnography of *gacaca* trials in one Rwandan community was mindful of the need to situate ordinary Rwandans according to their location in the social structure.

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<sup>11</sup> International non-governmental organizations are also divided on the possibility that *gacaca* will deliver justice and reconciliation to Rwanda. Human Rights Watch and Amnesty International are hyper critical of both the judicial and reconciliatory capacities of *gacaca*. Others, like Advocates sans Frontières (Lawyers without Borders), Réseau de Citoyens (Citizens Network) and Penal Reform International, are relatively supportive and work with the Rwandan government to improve and refine the *gacaca* process.

## Scripted Roles and Individual Performances<sup>12</sup>

Official government documents contend that “the autocratically divisive political structures that once denied minorities a political voice have been replaced, for instance with the implementation of cellular councils that involve local communities in important decisions at grassroots level” (ORTPN, 2004: 4).<sup>13</sup> What the government fails to mention is the extent to which *gacaca* represents yet another “state space” where individual Rwandans are observed and monitored for their compliance to the script of national unity. The *gacaca* law was passed by the Rwandan National Assembly in January 2001 with the double purpose of eradicating the culture of impunity that the government believes was a root cause of the 1994 genocide, and to speed up the pace of justice and reconciliation.<sup>14</sup> In 2001, there were more than 120,000 people in prison awaiting trial for their role in the genocide (NSGJ, 2005: 1). The government estimated that it could take almost 200 years to try everyone accused of genocide (Gaparayi, 2001: 77). Since passage of the law, more than 11,000 *gacaca* tribunals have been established. Every cell – Rwanda’s lowest administrative unit – has a tribunal comprised of nine lay judges who are elected by the local community on the basis of their integrity, honesty, fairness, their nonpartisanship as well as their non-participation in the genocide. Judges received training before their work commenced in November 2002.<sup>15</sup>

The National Service of Gacaca Jurisdictions (NSGJ) is the sixth chamber of the Supreme Court of Rwanda. Its primary task is to coordinate the transmission of prisoner dossiers

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<sup>12</sup> This section of the paper draws on interviews with both ordinary Rwandans and local government officials in Southwest Rwanda as well as on trial notes from and participant observation of five *gacaca* trials in a sector outside Kigali, Rwanda’s capital city in August and September 2006. Note: The lowest administrative unit is the ‘cell’. Next up the ladder is the ‘sector’, which is comprised of a number of cells. Sectors merge to form the next largest administrative unit, the ‘district’. Districts in turn constitute the ‘province’, of which there are five.

<sup>13</sup> The *gacaca* courts are but one of the new state spaces dedicated to the maintenance of a veil of national unity and reconciliation through grassroots practices such as, for example, *umuganda* (community work), *ubedehe* (cell level participatory development) and *ubusabane* (community festivals/gatherings).

<sup>14</sup> The law has been modified twice, once in 2004 and again in 2007. Both modifications relate in part to the election and training of *inyangamugayo* (judges). A judicial instruction was adopted in 2005 to inform judges of the standard of conduct “required from observers, researchers and journalists in the *gacaca* court process. See, National Service of Gacaca Jurisdictions (2005). *Instruction No. 04/2005 of 16-02/2005 from the National Secretary of the Gacaca Courts Related to Conditions Required from Observers, Researchers and Journalists in the Gacaca Court Process*. Kigali: MINIJUST.

<sup>15</sup> Training was short and sweet, averaging 7 days per judge. It was conducted by the Ministry of Justice with the technical and logistical support of Advocates sans Frontières, Prison Reform International and the Citizens Network (RCN) (NSGJ/ASF, 2002 : 7).

between cell and sector level courts, and to connect these courts to the local offices of the NSGJ, which are housed at the district level as well as in capital of each province. Each district level office is linked with other government offices, including the Prosecutor's office, the prison, the relevant line ministries and with the central coordinating office in Kigali (NSGJ/ASF, 2002: 3-5). The NSGJ also have the requisite legal authority to monitor and advise the *gacaca* courts, including oversight of the election process of judges as well as the ability to intervene at the local level when judges "are not in control of the proceedings" (conversation with NSGJ sector coordinator, 4 September 2005).<sup>16</sup> NSGJ staff at all levels of the bureaucracy are to remain abreast of activities and going-ons at the level of the cell and sector and to report these to authorities at the provincial and national level. Weekly and monthly reports are required (NSGJ, 2004: 7).<sup>17</sup>

Local NSGJ staff also work with senior government officials from the Ministry of Justice and NSGJ in Kigali to "sensitise the population" and to ensure that both *nyumbakumi* (responsible for ten houses) – the lowest administrative official – assist *gacaca* judges to fact find about the involvement, or not, of individuals in committing acts of genocide in 1994 (conversation with NSGJ sector coordinator, 4 September 2005). Sensitisation campaigns target rural populations to encourage the people to participate out of self-interest and in the interests of national unity and reconciliation. Mass participation is key to the image of the Rwandan state in generating the image of national unity and reconciliation: *Génocidaires* must provide truthful information about what they and their accomplices did during the genocide. Before any truth telling takes place, a panel of 9 judges (*inyangamugayo*) has already amassed a dossier of evidence against which the truth is to be judged.<sup>18</sup> Witnesses corroborate, revise or reject the evidence presented by the *inyangamugayo* or the testimony of survivors and/or *génocidaires*. Citizen spectators observe the goings-on and their en masse presence adds an air of credibility

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<sup>16</sup> The same official said that monitoring, record-keeping and fact checking about the work being done by judges is the biggest challenge in his daily work.

<sup>17</sup> This is the ideal. In practice, there are significant gaps in the reporting with a variety of structural and logistical challenges keeping officers from their reporting duties. Rain is the most frequently cited cause of cancelled *gacaca* sessions as the tribunals are held in the open-air. Fuel shortages for lack of budget and sheer distances between the courts in a given district also play a role.

<sup>18</sup> Dossiers are collated and approved by the state prosecutor's office at the Ministry of Justice before a the judgement stage of *gacaca* begins.

and legitimacy to the proceedings. Survivors are critical to the spectacle, acting both as accusers and, once the truth has been established, as magnanimous individuals who are able to forgive.

In practice, however, *gacaca* courts are a contested and conflicted state space and are characterised by discord and tension between the various actors. Citizen spectators spoke of the ways in which local authorities, usually one or more of the *nyumbakumi*, the cell or sector coordinators – urged individual attendance, often accompanied with the threat of official sanction. Witness this from a Hutu woman with children:

“He came [the cell coordinator] and he asked me why I didn’t attend the *gacaca*. He came on a motorcycle so everyone [in the community] knew. I told him because my son is sick and I stayed home with him. He wrote something in his book and said, ‘Next time you have to come. I don’t care the reason’. So I got scared because my son wasn’t sick at all! It was that I had no money to spare for transport but I didn’t tell him [the coordinator] because I know that is no excuse.<sup>19</sup> The radio says we have a responsibility to participate. Last time we had a meeting [at the office of the cell coordinator] the official said that there was no excuse for not participating...[Sighs, trembles; head in hands. Long pause]. But I didn’t see anything so what can I say. I heard people getting killed but I was in hiding. I mean, I hid when they [the killers] came. Who didn’t? We all hid in those days [during the genocide]. I don’t know who saw what but I say that I saw nothing. I heard the official tell someone whose name I know to kill but I didn’t see it. If he killed, I don’t know. So why go if I have nothing to say and if I have no money. How do I get money to go? I am not a survivor so am not a member of an association; school fees are now due. Now I have a big headache because he knows I did not go and *gacaca* is again next week. Next week! And now my neighbours know he [the cell coordinator] has come so I have to go. I have to but I don’t know how that will be possible. I also fear because if my neighbours find out that I said my son was sick they might use that information to denounce me [to the cell coordinator]. What will I do then?” (Interview, 17 August 2006).

I have quoted this individual at length as her words are emblematic of the stresses and strains that those who, in the eyes of the government, are peripheral to the success of *gacaca* as a tool to generate unity and reconciliation. Her words are also symbolic of self-monitoring behaviour that characterises post-genocide processes of justice and reconciliation. In addition to the strain of meeting the official requirements of *gacaca*, the participant makes reference to the knowledge that her neighbours may hold about her reason for not attending the *gacaca* session. Official state-based sanctions (fines, imprisonment) for non-participation matter but so does the

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<sup>19</sup> The average household income among my participants was 5,000Frw./month (roughly \$CN 10). Transport from some outlying communities to the cell or sector office costs on average 400frw. each way. As *gacaca* is a weekly event, that virtually wipes out the household income for the participation of one individual. Most individuals would wake well before dawn to allow sufficient time to walk to *gacaca*.

watchful eye of friends, neighbours, and in some instances, family in assuring the full participation of the population at *gacaca*. This represents a dramatic shift in the personal lives of many ordinary Rwandans since the genocide. Before 1994, there was a level of solidarity – social, economic and ethnic – among communities. Individuals worked together to engage formal power in strategic ways. There was, broadly speaking, unity of purpose.<sup>20</sup> The actions and speech of individual were monitored for conformity to the collective interests of the community (which were often set by local business, religious and political elites). Rarely, if ever, did the tools of formal power – military force, economic power or tactics of intimidation – appear at the community level let alone at the level of the individual.<sup>21</sup> Rwandans were self-monitoring in the sense that individuals worked together to ensure a common front in the face of local elites. The relationship between local elites and ordinary people was far more constraining for individuals than was the formal power of the state:

“We knew about this business between Tutsi and Hutu but it did not affect us too much. That was Kigali business. Of course we knew about who was who [who was a Tutsi or Hutu] but we used that to get things from the [appropriate official]. If the [official] was a Tutsi, we always sent one of our Tutsi brothers. This helped get things done. After the RPF invaded [in 1990], when we had to send someone to Kigali, we always sent our best Hutu to make the request. We used to work together but now we keep an eye on everyone. I no longer know who my people are.... The contacts that someone had were important. Reputation meant something [in the community]. Now it doesn't matter who you know or who your people are; it matters what you did during the genocide” (Interview. 29 May 2006).

Ordinary Rwandans are no longer able to generate new social and economic networks or to reconstitute old ones. Any semblance of pre-existing patterns of unity within rural communities has been reconfigured in the pursuit of state-based national unity and reconciliation. Local elites are not necessarily members of the community in question, and the exchange of goods and services is contingent on directives from the centre. New monitoring and surveillance forces have been created,<sup>22</sup> with the government citing cultural relevance to justify

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<sup>20</sup> I am not suggesting for even a moment that there were not power imbalances within communities pre-genocide. Indeed there were, and these remain, particularly gender and class inequalities. The point is that before the genocide, community life often went on with direct surveillance by the state.

<sup>21</sup> An obvious exception to the presence of formal power in the lives of individual before the genocide was during the massacres and pogroms of 1959, 1962 and the early 1970s. These acts however only affected selected communities.

the return of the institutions and practices that have been created with the specific purpose of promoting unity and reconciliation. For example, a survivor woman who was raped during the genocide, now has AIDS and who has lost her social and economic network through the loss of family and friends has a different set of options and limitations on her actions than does a woman who returned after the genocide (“returnee”) to take up a position as a local official. The survivor may choose to avoid *gacaca* trials as a mode of self-protection while the returnee official will seek, by force if necessary, to encourage her to attend *gacaca* as “the full participation of the population” is required by law.

Key actors in assuring the smooth operation of the *gacaca* courts are the judges, the *inyangamugayo*. Judges are officially ‘elected’ by members of the communities they are to serve under the watchful eye of local authorities.<sup>23</sup> Judges are constantly balancing his/her privileged role as an elected (although volunteer) official with the requirements of living as a member of the community s/he is to serve. On the side of the requirements of the programme of national unity and reconciliation, judges have little room to maneuver. Any confusion about the scope of the *gacaca* law or the relevant procedures is decided upon by a NSGJ official in Kigali. Judges are simply to conduct the *gacaca* trial in a fair and impartial way. In theory, ‘fair and impartial’ means that in the course of assessing evidence, weighing individual testimony from survivors or *génocidaires*, and assuring the procedural integrity of the trial, judges can draw on their own personal experiences and insights to the *gacaca* process. In practice, it means that judges are under constant surveillance by both local government authorities, as well as by community members, both of whom can report any wrongdoing, real or perceived, to state authorities. The *gacaca* law itself is also a constraint as judges are duty-bound to respects its rules and regulations at all time, even though training and support in how to do so is minimal. Judges, because of the important role they play in facilitating the smooth operation of the *gacaca* courts, are expected to spur *génocidaires* to tell the truth, and also to ensure survivors are able to provide an act of forgiveness. Because of this power, judges are often reminded by the state of their duty to ensure the active participation of the population at *gacaca*.

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<sup>22</sup> One example is the Local Defence Forces, of which there are 6,000 operational units.

<sup>23</sup> *Inyangamugayo* are elected at the cell level with community members queuing up behind the individual judge. The public nature of the voting makes it critical for individuals to know and understand who the local authorities want to see elected. ‘Elections’ are held in the compound of the local government building.

Ensuring the active participation of the population is not without its attendant risks. The lament of one male judge is emblematic:

“It is most difficult thing to be a judge. And no one understands. There is no one I can share my difficulties with. I am survivor like the other survivors but even they look at me differently. I feel isolated since I became a judge. [Nervous; fiddles with fingers. Long pause.] And because I have a family, I have responsibilities to them. My wife even asked how I could let my family starve when it was time to harvest. But I couldn’t do that work because it [being a judge] takes at least two days a week, sometimes more. [...] If I don’t undertake my duties as a judge, I can get into serious problems with [he names the local government official that he reports to]. And I can also get into serious problems with other survivors. Last year, we acquitted a Hutu who was accused. We didn’t have enough evidence or information to do anything but let him go. So we did. I truly before God did not think he was guilty. And no one spoke up about his role. It didn’t sound like he did anything. And he was sorry. He fell on the ground [in front of his accuser] and said ‘I’m sorry, I’m sorry, I’m sorry’. The survivor accepted and we all felt happy about the power of *gacaca* at that moment. I was proud to be a judge; you know, really proud. Then, the day after, the IBUKA<sup>24</sup> lady requested to see all of us judges. I was in my fields trying to feed my family the few beans we had left. She said that the survivors around me [in his community] were so angry with us. The she raged against me and I felt like I did the best I could in deciding how the accused was telling his truth. I said I was sorry but I don’t think it [the evidence against the accused] was enough. I fear now that I am going to be denounced because I was told [by the other judges] that she [the IBUKA representative] is very powerful with many connections in Kigali.... [Stops; titters]. What if something happens to me? Who will take care of my family...?” (Interview, 31 July 2006).

I quote from length from this individual because his narrative is reflective of the challenges that individuals face in the performance of *gacaca*; judges face additional imperatives as individuals who uphold the rituals of *gacaca* trials while ensuring that their behaviour does not compromise the ability of others to participate. The unity of purpose in the face of state power that characterised community life before the genocide has all but disappeared; instead ordinary Rwandans work covertly to disguise their actions and speech both in private with other Rwandans and within the formal requirements of the practices of national unity and reconciliation. The penalties of falling afoul of the post-genocide order are too high. The most marginal seek to avoid contact with government and others. A Twa<sup>25</sup> woman said,

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<sup>24</sup> IBUKA (Kinyarwanda, ‘to remember’) is the umbrella organisation of survivor groups. Each sector has their own representative.

<sup>25</sup> The Twa make up less than one percent of Rwanda’s population.

“During the genocide I witnessed all kinds of acts, killings and even a rape. I saw a kid get drowned in a place like that [points to a pit latrine]. So I saw a lot and I wanted to tell my truth. Because I felt like I had to. I had to let the truth be known about those souls. I also wanted my neighbours to know that I am a Rwandan too. We [Twa] get ignored for everything. But I suffered. [...]. How I suffered. I am now an old woman so it is not so serious for me but I suffered. When we were asked [during the fact finding stage of *gacaca*], I told them everything that I saw. I thought I would be welcomed like a hero! Instead, someone tried to denounce me as Twa! Now I thought the devil has finally inhabited this space [uses a finger to make a circle in the soil in reference to her community]. I am still a Twa despite all this talk about being Rwandan. And they [the government] want us to get unified. I am disgusted by those men that called me a Twa. So I stopped telling the truth. I just go to *gacaca* now because I have to go. And they [the local authorities] know me so if I don't go, they will know and I might get other problems. [...] And I see the Hutu that raped that girl, and he is free. I could have put him in prison but he walks around free. [Cackles] This is the new Rwanda...” (Interview. 16 June 2006).

Fear of being ‘denounced’ as well as the threat of being denounced is a common survival tactic under the programme of national unity and reconciliation. It requires both a sense of imagination to craft an appropriate story that will be believed by the authorities as well as a sense of showmanship to delivery the tale successfully. If poorly rendered, tales of denunciation can result in the shunning and/or outcasting of the teller by his/her community. Women are more likely to denounce with the poking and prodding of a male member of her family. For example, many women who were called to provide testimony at local *gacaca* sessions are forced to testify in ways that support interests outside that of delivering justice or promoting reconciliation. One woman had been instructed to give testimony by the local authority, an individual who has business relations with her brother. The accused was detained on allegations of genocide crimes “only” in 2001, which suggests that he was targeted for reasons other than his actual involvement in the genocide. “My brother was in business with [the local official]; they knew [the accused] had a house and a good job [as a translator for an international organisation]. My brother told me to denounce him [during testimony]. He said if I didn't I would end up dead or in prison. I didn't know what to do; he is my blood brother but he grew up outside. He wasn't even here during the war! I denounced him [the accused]. He got life [in prison]. I never saw him before but I denounced him. I am an unmarried woman so I have to do what I am told. What would happen to my children?”

Male survivors rarely employ denunciation techniques as they are not subject to the same levels of surveillance as are Hutu men. Hutu men are subject to three main forms of surveillance

by both officials and other Rwandans: 1) they have been tried and convicted of acts of genocide, either through the modern or *gacaca* courts and are imprisoned for 25 years to life. In this case, their economic and social networks, particularly those who visit them in prison, are surveilled; 2) they have never been imprisoned for committing acts of genocide but remain under surveillance for any evidence of harbouring genocidal ideologies or of making revisionist/negationist statements about the genocide; and 3) they have been imprisoned on charges of committing acts of genocide and have been released, either through acquittal (modern courts) or released following judgement at *gacaca* with some individuals remaining subject to suspicion in their communities, particularly those who are seen “to have it too easy”. At the level of the ordinary rural and peasant Hutu, scenario three is most likely as the other two apply to urban, educated, and well-resourced individuals. For ordinary Hutu men, the surveillance tends to be from friends and neighbours. Witness this statement from a prisoner:

“I returned [to his community] after *gacaca* and I confessed everything I did. I even told them about things some others did because I was told this would help me get home. [...] When I got home, my wife and kids were living with a survivor! He wouldn’t let me talk to her but I he was her husband! I didn’t know what to do because he was in my house. I had no where to go. So I stayed where my parents stayed. Then his relative denounced me! She said I didn’t tell my truth. But I did; I know I did. I did what I said. [...] So, I ended up back in prison for life” (Interview, Butare prison, 31 July 2006).

For *génocidaires*, the challenges and constraints of participating in *gacaca* are multiple. There are Hutu men married to Tutsi women who have testified against them. There are Hutu who admit to killing in a context of duress by the authorities of the previous regime, including one participant in my research who said,

“Yes, I killed but I killed because I had no choice. Really! There were no other choices for me. I remember looking up to ask God for guidance and He was silent. So the Tutsi I killed were my neighbours and it was difficult because just before [a few days before] we were hiding together. Everyone knew that Tutsi were the target. Some even said that Tutsi were the problem. Maybe in Kigali but for me any Tutsi I knew were my friends. We even shared drinks.<sup>26</sup> And my [Tutsi] friend said, ‘if you have to kill me, please do it quickly so I don’t suffer too much.’ Before I killed [...names the individual he killed], [...the local official at the time of the genocide] said. ‘when we win [the war], you will be a hero’. Instead, the RPF won and I am now in jail with a life sentence...” (Interview, Butare Prison, 28 July 2006).

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<sup>26</sup> Sharing a drink is a cultural ritual in which marriages, births, business deals and other personal celebrations are sealed with an open drink.

There are Hutu who claim innocence despite sometimes overwhelming evidence that they actively and knowingly participated in the genocide. Hutu who voice concern about the impartiality and fairness of *gacaca* can be imprisoned for providing false testimony.<sup>27</sup> Hutu who question why RPF reprisal killings during and after the genocide are not being tried in the *gacaca* courts also run the risk of life in prison, or worse fates including forced exile, disappearance or death. That Tutsi might be guilty of serious crimes against Hutu is unimaginable and is rarely discussed. One Hutu male participant looked at me wide-eyed when asked if he thought the RPF or any other Tutsi had committed any crimes in 1994. He hushed me and said, “Susan! I thought you understood this country. You better just stop talking with questions like that...”.<sup>28</sup> A common theme in the narrative of Hutu adults, men and women, was the idea that *gacaca* was a pretext to persecute Hutu for the genocide of Tutsi. Many individuals invoked the historical oppression of Hutu by Tutsi and scoffed at the idea that there could be national unity and reconciliation delivered by such a skewed practice as *gacaca*. As one young man said,

“You know, I don’t think there is an adult Hutu inside this country that doesn’t fear the *gacaca*. I don’t fear it because I was only four years old at the time of genocide, but my uncles fear it and so does my older brother. And I fear for them because if something happens to them, what will happen to me? I haven’t even finished school yet. How will I make my living? I wouldn’t be surprised if something happened to one of them though.... That is how things work around here. My people don’t know anyone important so who will stand up for us if something goes wrong at *gacaca*. One of my uncle’s friends was denounced [for acts of genocide] but he knows people in Kigali and his wife’s brother is important in our local church [a priest]. He knows people, you know. That and he is already important to the community because his brother [the priest] will protect him. Not because he is religious but because he also knows people. Right after our return [in 1996 in the mass repatriation of Hutu refugees from Zaire by the RPF], he denounced many of us [‘us’ meaning Hutu]. We don’t know anyone important. For me, *gacaca* is just a way for the government to put us Hutu in prison, and to make sure we don’t make more genocide for them. It [genocide] could happen because Hutu are no

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<sup>27</sup> An offence punishable by the 2004 *gacaca* law.

<sup>28</sup> I saw the same individual about 3 weeks later when I was walking home from the bank. We agreed to go for a walk in the hills, away from the glare of other people as well as from the hustle and bustle of town. He told me that he admired my “bravery” in trying to speak for Hutu and thanked me for asking the question about RPF/Tutsi culpability. He continued, “...be careful with this government; their [sic] spies are everywhere”.

longer welcome here. My uncle says that he thinks even there could be a genocide but the RPF won't allow it!<sup>29</sup> (Interview, 3 August 2006).

Several participants spoke at length about the onerous requirements on all Hutu for those individuals who stand accused before the *gacaca* courts. A Hutu man who was called to act as a witness but soon found himself in prison accused of acts of genocide said,

“...and then I got denounced. I mean I am telling the truth and I get denounced from someone in the audience. He said that all Hutu are killers and challenged my version [of events]. I was truly amazed. Really amazed you know. No one, not the judge, not the survivor, no one said anything. Someone said, that Hutu are all in it together. I didn't even know what that person means when he said that. [...]. I am innocent but am in prison now. I have no way out...” (Interview, Butare prison, 1 August 2006).

Survivors are just as, if not more so, constrained in their action and speech as are *génocidaires*. The position of survivors is complex as the government claims, at least to international donor partners and its burgeoning international tourist market, that the care and treatment of survivors in the aftermath of the genocide is a priority. It is “the ability of survivors to forgive everything despite their deep suffering” that makes Rwanda's “future ever brighter” (ORTPN, 2004: 6). The role of survivors in the *gacaca* process is critical to the promotion of national unity and reconciliation. The deep-well of hope and resilience that survivors, particularly female survivors, display on a daily basis is “an inspiration to all Rwandans and evidence that unity is within reach” (Interview, NURC official, 19 June 2006)

Despite an apparent ability to spontaneously “forgive”, a common thread in the narrative of survivors when speaking about *gacaca* was the constant sense of insecurity they felt. Feelings of insecurity were widespread, particularly with regard to the act of testifying against the accused at a *gacaca* session and in their daily lives as they came into contact with family, friends and neighbours of the accused. Witness this statement from a female survivor who was required to testify against the individual accused of killing her entire family,

“I had a visit from [the *nyumbakumi*] who told me that [the accused] had made a statement that he killed my family. I was amazed. It was like God struck me down. How could this be? I was very nervous but also very excited. I wanted to know what happened to my family but not really. I mean I am alone now. I was raped and I know

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<sup>29</sup> Several Hutu individuals made reference to the idea that another genocide could occur but that the RPF is too powerful to allow it to happen. A senior church official was more clear, “there will be genocide here again. Violence is part of the Rwandan mind. Once [President] Kagame goes, there will be at least civil war. His beating heart is what keeps peace in Rwanda.”

that I will not remarry. I am too old. And by this time even barren. Who would marry me?! So I know that I am alone and I try my best to stay silent so that I can live the rest of my days in peace. I just want peace. I am a member of [a prominent survivor's organization] and they give me some small money and I still have my land. So I was as happy as I could be after genocide. Then! Then! Then! I am told they found the man who did this to my people. I was horrified. Now I have to re-live all of that bad memory. I know how my people were killed. I was there! I was younger then and was able to run away you know. I just ran into the [banana] grove. Other women talk about how they made efforts to protect their children. Me? I just ran. I guess that means I didn't love my children as much as those other women. I just didn't want to confront the man. I really couldn't remember what he did. I would like to have the remains of my people buried at home but I would rather stay out of the way of *gacaca* if I could. Of course, I could not say no because it is my duty to forgive. So he [the accused] stood up and I recognised him as the husband of my sister! It was not the man I thought it was at all. No! I just broke down then. I just stopped moving and I don't think I have moved since. This is why I am not afraid to speak to you because my life is over. I don't know why they call us 'survivors'. How can I get peace like this? (Interview, 17 August 2006).

Equally, women other than Tutsi thought of themselves as survivors but were unable to be recognized as such. For example, Hutu women bristle at the thought that they are not also considered survivors. To wit, "I was married to a Tutsi man. He died trying to save me and the children. We all survived but one. I was targeted because my kids are Tutsi because their father is Tutsi. I mean how can I not be considered a 'survivor'. The authorities say it is because I am a Hutu. But my people [male members of her family] are gone; who cares for me? And I have these kids to feed, to send to school?" (Interview, 11 June 2006). Adult male survivors felt unwilling to forgive in any sincere way as many reported feeling culturally bound to re-constitute their family life as husband and head-of-household as quickly as possible. Participation in *gacaca* had the possible effect of upending the relative stability and peace they had been able to capture in their private lives. The words of this participant are representative,

"I re-married as soon as she [the new wife] said yes. She is also a survivor but is deeply traumatised. She needs a lot of support. So I care for her and our home. We have no children because she is unable to carry any since she was damaged [by rape]. But I don't care. Together, we are a family. I fear *gacaca* because what if someone says something to trigger her trauma? What if someone accuses me of being an accomplice? I am a man who survived the genocide. For some people, that means I am an accomplice of the *génocidaires*! If I was a 'real' Tutsi, I would be dead right now! The people who say that are Hutu but they are powerful. One of them even drives a taxi. How can I stand before such people if they were to ask me to...?" (Interview, 6 August 2006).

This broad, yet selective, cross-section of individual voices from ordinary people is representative of the lack of unity and reconciliation in the daily lives of Rwandans. It also begins to paint a picture about life in post-genocide Rwanda, one that the government of Rwanda contends is characterised by national unity and reconciliation among the population. Far from being a population at peace, the analysis shows that unity is often repressive and has the effective of producing insecurity and fear among ordinary Rwandans. In analysing how national unity and reconciliation plays out in the lives ordinary people, we can begin to sketch out how policies of national unity force individuals to reconcile within the confines of their social and political networks. It also show that programmes of national unity and reconciliation buoy and protect the power of the state; far from being displays of actual, or even perceived, unity and reconciliation, much of the interaction between and among ordinary Rwandans constitute ways of coping, rather than co-existing. .

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