

Time to Pretend?

Reconciliation in Post-Genocide Rwanda

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Abstract

In a post-conflict context, reconciliation takes place between the opposite forces, and when an ethnic conflict has occurred; reconciliation takes place between the opposed ethnic groups. Thus reconciliation is part of a process of decreasing ethnic tensions, but not the only important aspect. Rwanda is a least-likely case for declined ethnic tensions, due to the brutal genocide in 1994.

Two aspects of reconciliation are examined: jurisdiction and political influence. *Gacaca* and the ICTR illustrate jurisdiction and representation and political history writing exemplify political impact.

Results of the study implies that *gacaca* could cause increased ethnic tensions in a short perspective, but discovering the truth is crucial for lessened ethnic tensions in a long perspective. Moreover, results suggest that a difficult issue for ICTR's success is that the institution is not visible in every-day life. In short, lacking diversity on the truth presented in courts is a critical weakness in the justice process.

Political influence, it is implied, has largely been negative in Rwanda because of two factors: the attempt to rewrite history in a winners' perspective and the paradox that power is institutionalized to Tutsis while all ethnic identities are banished in public life.

Key words: Rwanda, reconciliation, gacaca, ICTR, politics

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Abbreviations

CND – Congrès National de Développement

DPKO – UN Department of Peacekeeping Operations

ICTR – International Criminal Tribunal for Rwanda

RGF – Rwandan Governmental Forces

RPF – Rwandan Patriotic Front

MDR – Democratic Republican Movement

MRND – Mouvement Révolutionnaire National pour le Développement

NURC – Government of National Unity of the Republic of Rwanda

1 Introduction

'For there can be no healing without peace; there can be no peace without justice; and there can be no justice without respect for human rights and the rule of law.' (Annan, 1998, speech on International Criminal Tribunal for Rwanda webpage).

These are the words of Kofi Annan in 1998 in his speech about the International Criminal Tribunal for Rwanda (ICTR). He was closely involved in the mission in Rwanda 1993-4, since he was under-secretary general of UN Department of Peacekeeping Operations (DPKO) (Dallaire, 2005, p.48, 50). The speech was presented after the founding of the international tribunal which was dealing with one of the worst crimes committed in the 20th century; the genocide in Rwanda. The genocide took place in April to June 1994, and caused an astronomical amount of deaths and refugees (Blewitt, 2004, p.23; Dansk Institut for Internationale Studier, 2004, p.11).¹ In the peace process after the genocide, Rwanda chose the way of justice, and stability in the political life rather than i.e. forgiveness and democracy. The aim of this study is to examine what effect these choices have had upon one of the issues in a post-genocide country: tensions between ethnic groups. Ethnic tensions in Rwanda could be compared to the tensions in any other country after an intra-state conflict; tensions between the different sides in the conflict are prominent, and the population must find a way of living coexisting reasonably peacefully. The reconciliation process between the ethnic groups in the country will therefore be studied.

However, the practical part of the reconciliation process, such as trials, is hardly the entire solution for peaceful coexistence; there are other issues, e.g. personal security and corruption (Freedomhouse, 2008). Political influence on reconciliation and that of jurisdiction which has taken place after the genocide will be studied more closely. Reconciliation in a post-conflict society could arguably be carried out in different ways, e.g. through a truth-commission, but since Rwanda chose *justice* this is what I will study.

Firstly, I will clarify the problem of the essay and the method used. Secondly, the theories and definitions are presented; thirdly, a historical background is presented; and fourthly, political influence is discussed. Lastly, jurisdiction is discussed.

¹ The three ethnic groups in Rwanda are: Hutu (84%), Tutsi (15%) and Twa (1%) (Central Intelligence Agency, 2008).

1.1 Statement of Purpose and Delimitation

On a general level, the issue is concerned with Rwanda's reconciliation process and more specific; this essay examines two factors more closely, namely jurisdiction and political influence upon ethnic identities. Two levels of trials will be examined: grass root justice, *gacaca*, and on the top level, ICTR. Hence, my question is as following:

In what way have jurisdiction and political influence had an impact upon reconciliation in Rwanda?

As noted above, there are many other factors than politics and jurisdiction that may be important for reconciliation, but due to limited space; I have chosen to study these factors closely, rather than study many factors superficially. In my opinion, this approach is preferable in this case; the idea being that there is considerably larger probability of understanding the mechanism behind each factor if the number of factors is limited.

The historical background presented in 3.1 implies that tensions between Hutu, Tutsi and Twa have been prominent for a long period of time, and could be considered as the variable with high 'fixity' (Esaïasson, 2007, p.77). The reconciliation process in the sense of jurisdiction and political influence on ethnic identities are obviously less consistent, and are therefore the 'alterability' factor, that can affect the situation (ibid).

Political influence should be crucial for a successful reconciliation process, especially in Rwanda, which is an authoritarian regime with limited basic freedoms (see part 4.1). Further, it is noteworthy that although the process of justice after the conflict is by no means free from political interference; it is not per se a political process. The process of rewriting history and of reconstructing the people's identities do, on the other hand, take place within the political arena, and therefore will these two processes be discussed in different chapters.

The time between 2002 and 2008 is the primary period of interest in this study due to the fact that after 2002 the situation in Rwanda became more stable (see Mgbako, 2005, pp.205-6). However, the years closely following the genocide will also be examined, but with the knowledge that the country had not yet obtained stability. Moreover, though the genocide itself is interesting, in this essay, the conflict will be considered part of the *context* and hence will be shortly considered of that reason.

1.2 Method and Material

Rwanda is in many ways an exceptional case; the genocide was an extreme conflict; the tension between the ethnic groups was on an extreme level, and

hence; the reconciliation process needs to be extremely effective in readapting ethnic groups to living side by side again. This extraordinary nature is not negative for the ability to generalize the results of the study and possibly apply it to other cases, quite on the contrary; an extraordinary case is perfectly useful for generalization. Rwanda is a least likely case, in the sense that ethnic tensions are least likely to decline in such a severely scarred society (see Esaiasson, 2007, pp.183-5). The results of the study are interesting for other cases of reconciliation after an intra-state conflict, because causalities seem to be more prominent in extreme cases. However, one should obviously be sceptical about the ability to generalize results from a case study, but often a case study is the a fruitful approach for attaining deep understanding.

The material used will mostly consist of secondary sources, such as scholarly articles and books. Using scholarly articles and books are good in the sense that the material often is reliable and well processed; the usual amount of evaluation of tendencies and verifying of facts is necessary, that the retelling of a primary source in a secondary source could very easily have strong tendencies (ibid.).

Validity is an important issue for anyone who wishes to produce results that are possible to generalize. Moreover, both internal and external validity are important, where internal validity involves whether study is consistent in what it measures, and external validity is concerned with if the study aims for generalization (ibid, pp.175-7).

Likewise, there is the issue of intermediate variables, for example; let us presume that the result of the study implies that justice causes decreased tensions (ibid, pp.74-5, 78-9). In that case the question is whether that connection is caused simply by the perusing of justice, or if there is an intermediate variable that is not part of the study. In order to avoid that problem, when possible, the theoretical framework is a good help. Obviously, no theory can be perfect, or applicable to all cases, but it is useful for rationalizing the choice of variables and possible causes.

1.3 Theoretical Framework

On a general level, the issue of structure versus agency is important for the type of answer expected in a study. Although, there is no solution to the issue of structure versus agency; this essay will therefore focus upon both actors and structures and both will be included in the theoretical framework (Hay, 2002, p.91). There is a fine line between study with depth and one so specific that it cannot be applied or used in any other case. However, the benefit of this approach is that the results could acquire more depth than an analysis containing only one factor. In my opinion, a full analysis is crucial for the quality of an essay and worth prioritizing.

Theories that will be used in the essay are following: reconciliation and ethnicity. For reconciliation the theoretical framework will mainly contain *Telling the Truths* (2006) and Donald L Horowitz's *Ethnic Groups in Conflict* (1985) concerning ethnicity. Horowitz is plausible for a general view on political life; the

regime's motives for its stand point on ethnicity, and on the organization of the political life.

It is important to note that the success of the reconciliation process will not be measured on a scale, because, there is no good measurement or quantitative variable such as there is one for e.g. voters' confidence in the ruling government. The tension between the ethnic groups in the country is a very complex variable, and at the present time difficult to measure in numbers.

2 Theoretical Framework

The theories constituting the theoretical framework will be presented; first those on ethnicity, and secondly those on reconciliation.

2.1 Ethnicity

The concept of ethnicity is not unproblematic to define. There are many different cues for ethnicity; in some cases it is religion, in others visible cues such as skin colour or clothing and in others phenotype (see Horowitz, 1985, pp.44-52). No matter what the groups are distinguished by, one could be almost certain that most members regard their group authentic. Hence, the only reasonable approach is to consider all cues legitimate. Donald L. Horowitz's definition is, in my opinion, the most fruitful: '[e]thnicity is based on a myth of collective ancestry, which usually carries with it traits believed to be innate' (ibid, p.52). The 'myth of collective ancestry' is especially useful, because it emphasizes a crucial point; a somewhat postmodernist approach is necessary in the case of Rwanda, where the most visible (see Horowitz, 1985, p.52; Melvern, 2000, p.61).

There is a great difference between *hierarchical ordering* (ranked groups) and *parallel ordering* (unranked groups) Horowitz, 1985, p.22). In a *hierarchical ordering* there is a superordinate group and one or of more subordinate groups (ibid.). A *parallel system* contains groups where there ethnicity and social class do not co-vary, i.e. no group is clearly subordinate and another superordinate (ibid.).

In countries with clear ethnical boundaries ethnicity is frequently prominent in the political organizational life, and virtually all political events have ethnic consequences (Horowitz, 1985, p. 9-12). However, it is important to note that politics is not even in the most separated countries only reduced to simply ethnicity (ibid, p.7).

One problematic issue with an ethnically ordered political system is that the party system tends to be stable; for a non ethnic or multiethnic party to gain power in an ethnically based system is not easy (ibid, p.340). Therefore, the situation could be described as a catch-22; it is difficult, though not impossible to open up such a system.

Moreover, according to Horowitz, multiplying the numbers of ethnic based parties is not the solution; then there will be parties that more radical than if there is only one per group (1985, p.359).

Hence, ethnic party systems tend to aggravate conflicts, because the stakes are always high in elections, and which also induces great impulses toward change (Horowitz, 1985, p.349).

There are, obviously, many other reasons for conflicts between ethnic groups to occur, e.g. economic reasons or different levels of modernization (see Horowitz, 1985, pp. 105-35). This study is mainly concerned with politics and reconciliation, and therefore only the aspects usable for these areas will be discussed.

2.2 Reconciliation

What reconciliation practically involves and how it should be carried out is a debatable question; should reconciliation take place through ‘pardon’, ‘punishment’, or even through ‘amnesia’ (see Graybill, 2004, p.1117)? Firstly, a definition of reconciliation will be presented and secondly; political reconciliation will be discussed.

The definition of reconciliation used in this essay can be summed up as following: “a satisfactory way of dealing with opposing facts and ideas” (*Oxford Concise Dictionary*, in Villa-Vicencio, 2006, p.67). Thus, reconciliation is a rather modest idea, and preliminary getting opposing parts to speak to each other might be good beginning (ibid). Often, the formal resolution of a conflict is only the first step toward peaceful coexistence, because after a conflict the groups lives tend to be interlocked (Cairns et al, 2005 p.461). A reconciliation process should include following elements: (1) reconciliation need not include forgiveness; (2) reconciliation interrupts an established pattern of events; (3) reconciliation is about memory; (4) reconciliation involves acknowledgement of the truth; (5) reconciliation entails understanding; (5) reconciliation is a process; (6) reconciliation requires time and space for mourning, and hurt, as well as healing; (7) reconciliation includes reparations (Villa-Vicencio, 2006, pp.69-74).

As Graybill points out; ‘punishment’ is the reconciliation path that Rwanda chose, because of that; the theoretical framework will mainly be concerned with justice (see Graybill, 2004, p.1117). In the political arena, justice and reconciliation seems to be interconnected concepts, because reconciliation does not necessarily include forgiveness, but justice is often the only realistic way to achieve reconciliation (Villa-Vicencio, 2006, p.60). Moreover, Villa-Vicencio argues that reconciliation is not a utopian ideal, but grim reality and politicians should neither be priests nor psychologists, because in the best of circumstances, political reconciliation can be a dialogue (Villa-Vicencio, 2006, p.61). Only the victims can, after all, conduct forgiveness, not solely the politicians (ibid.). In short: ‘[p]olitical reconciliation necessarily needs to be deeply vertical and extensively horizontal’ (Villa-Vicencio, 2006, p.66).

On a personal level, reconciliation in the victims’ point of view, involves overcoming the negative power that the perpetrator has over their lives (Peterson Amour – Umbreit, 2005, p.492). From offenders’ viewpoint, reconciliation can result in a feeling of being accepted by the community (Cairns, 2005, p.493).

Finally; it is not productive to dwell on the past, but neither should one proceed without dealing with it (ibid, p.472f).

2.2.1 Victims and Perpetrators

In principle, the definition of perpetrators and victims does not seem too complicated. A victim is someone who is exposed to any hardship, while a perpetrator is someone who committed something, especially a crime (Oxford English Dictionary, 1989a, 1989b).

In reality, especially during genocide, it is more complicated to define people simply as perpetrators or victims. Many are both victims and perpetrators: i.e. they could both have committed crimes and been exposed to crimes, or perhaps have worked with the 'right' side for a while and the 'wrong' side for a while (Graybill, 2004, pp.21-2). Should these people be regarded as victims or perpetrators? Moreover, there were many child soldiers during the genocide who committed ghastly crimes, but still were victims in the sense that they were manipulated or forced to join the military forces (ibid). Are they victims or perpetrators? Should the child soldiers be prosecuted for the crimes they committed as minors?

The definition of 'victims' and 'perpetrators' is a highly political question indeed, probably even more so due to that Tutsi, who generally were most likely to get killed, nowadays are in power (see Graybill, 2004, p.21). For example, in Rwanda crimes committed by Rwandan Patriotic Front (RPF) soldiers against *Interahamwe*² and defeated Rwandan Governmental Forces (RGF) are ignored to a larger extent than those committed by Hutu forces (Burnet, 2007, p.17). Moreover, Tutsi has got the monopoly on the 'victim' status, which not only is problematic; it also wrong.

That definition of Tutsi as 'victims' and Hutu as 'perpetrators' is problematic since it is crucial that those who have reason to feel like victims should have the right to justice; Hutus were also victims and moreover; the Tutsi side of the conflict committed crimes as well as the Hutu side (Corey - Joireman, 2004, pp.87-8). It is crucial to acknowledge all victims if reconciliation is to be achieved.

The notion of perpetrators and victims used in this study is wider than the Tutsi – Hutu based definition of the regime. However, this stated, often the same notion will be reduced into that definition when courts are discussed. This is mainly made for convenience; those accused are described as possible perpetrators, while the opposite side is possible victims.

² Hutu militia (NE.se, 2009).

3 Historical Background

Many of the factors resulting in ethnic tensions in post-genocide Rwanda are deeply rooted in history. The success of the reconciliation process is obviously connected to the notion of ethnicity and ethnic tensions. Due to that the issue of ethnicity and ethnic tensions is deeply rooted in history; it is crucial to present an overview of Rwanda's past from the first colonizers arrived until the genocide 1994. The period of time described will be roughly divided into three epochs, and will be presented in following order: *Pre-Colonial and Colonial Rwanda, Independence, and Genocide*.

3.1 Pre-Colonial and Colonial Rwanda

Little is known about Rwanda's pre-colonization history; there are no written sources (Melvern, 2000, p.7). Two facts, however, are reasonably certain: Rwanda was a well-organized kingdom; and Hutu, Tutsi and Twa were already considered diverse groups³ (see Melvern, 2000, pp. 7f).

Twa are the aboriginal people of Rwanda, and likewise Hutu and Tutsi; Twa lived scattered in the country with no principal area of residence (ibid, p.8). Hutu were regarded as shorter and stouter than Tutsis (ibid.). The theory is that Tutsi probably immigrated to Rwanda last of the groups. Hutus probably came first and became farmers, and Tutsis came later and were herds (ibid.7-8). Tutsi were the ruling class due to their mobility as herds, and Hutus were often bound to them by a feudal system (ibid, p.8f). Hutu, Tutsi and Twa all possess the single characteristic which extinguishes ethnic groups according to Horowitz: myth of a collective ancestry (Horowitz, 1985, p.52). Furthermore, it was a *hierarchical* system; due to that Tutsi was the superordinate group (Horowitz, 1985, p.22).

Rwanda was assigned to Germany during the Berlin Conference in 1885, and ruled the country through existing power structure until World War 1 (Melvern, 2000, p.7, 9).

After Germany lost the war, Rwanda got assigned to Belgium who controlled the country using opposed ruling technique; they rules directly and allied with Tutsis, who got the administrative power (ibid, p.9). Moreover, they emphasized the ethnicity of the groups by classifying all citizens as Hutu, Tutsi or Twa and

³ There is no general agreement on whether or not Hutu and Tutsi were considered as separate ethnic groups see e.g. Melvern, 2000, p.8: Mgbako, 2005, p.204.

conveniently put it down on compulsory id-cards (ibid, p.10). Shortly before Rwanda's independence, Belgium switched allies to Hutu (ibid.).

3.2 Independence

Rwanda gained its independence in 1961, after a Hutu rebellion in 1959 which overthrew the Tutsi monarchy (Freedomhouse, 2008). The rebellion reversed the power structure and a vast number of Tutsis fled to neighbour countries where they largely were marginalized (Mgbako, 2005, p.204). During the forthcoming decades, the Tutsi population was oppressed by many different means (Melvern 2000, p. 20; Mgbako, 2005, p.204).

During those first decades of independence: Rwanda was not too stable, nor was it immensely democratic; MRND was the only legal party between 1975 and 1990 (Paris, 2004, p.70f).

The Tutsi refugees in neighbour countries longed back to Rwanda, so they formed the rebel army Rwanda Patriotic Front (RPF) and tried to seize power (Mgbako, 2005, p.204). Rwanda was attacked by RPF during 1990-3 from its neighbouring countries (Paris, 2004, p.70). The Arusha Accords was signed in August 1993, after pressure from the international community (Melvern, 2000, pp.52f).

3.3 Genocide

After the Arusha Accords, the situation in Rwanda was very tense. Now, it was up to the regime and RPF to implement the agreement with assistance of UN peacekeepers (Paris, 2004, pp.70-2).

However, in April 1994, President Habyarimana's plane crashed which was the beginning of the 100 days genocide, and within the next day and a half the frenzy had spread through the rest of the country (Paris, 2004, p.73). Local Hutu militia and ordinary Hutus continued murdering their neighbours with whatever they had at hand, and all in a carefully planned operation (ibid.). UN peacekeepers could do little; they were few and with a chapter six mandate, which resulted in that they could use violence only in self-defence (Dallaire, 2005, p.43). It was not until RPF gained control of country that the mass murder stopped (Paris, 2004, pp.71, 74).

The genocide had many causes, but the main reason was probably a last effort by Hutu extremists to remain in power and prevent the Arusha Accords from being implemented (Paris, 2004, p.74). Other causes were fear of democracy, the bad economic situation, and largely Rwanda's colonial heritage (ibid, p.75).

An astonishing 800.000-1 million people were murdered and a minimum of 2 million refugees were the result of the genocide (Paris, 2004, p.73). These

numbers do, however, vary somewhat depending upon source, but those presented above most commonly occur. In this essay, the exact amount of deaths or refugees is not of great importance, and of that reason; these numbers will be used.

4 Political Impact on Reconciliation

Rwanda is not a democracy, because ironically after circa thirty years of Hutu dominance, and frequent oppression of Tutsis; RPF gained power in Rwanda and founded a one-party state dominated by Tutsi (see Reyntjens, 2004, p.188; Mgbako, 2005, pp.206-7). Moreover, there are few and no powerful opposition parties in Rwanda, due to that they were driven into exile (Reyntjens, 2004, pp.191-2). This study will of that reason focus upon the RPF, since it is the single most important political actor in the country.

The largest oppositional party Democratic Republican Movement (MDR) is Hutu-based and was banned in 2003 and other oppositional parties were also *de facto* prohibited until 2007, when the ban on political offices on the local arena was lifted (ibid.).

Despite the mere fact that Tutsis are dominating the political arena; this part the study is concerned with political influence on ethnic identities and the reconciliation process in the country.

In this part, political impact on reconciliation will be discussed; first the political impact on ethnic identities and secondly the political impact on official history writing.

4.1 Representativeness, Representation in Parliament and Government and the Paradox of Absent Ethnic Identities

“Generally, the people who have been excluded or underrepresented are great partners for change [...] that usually means women.” (Inter-Parliamentary Union in Whitman, 2005, p.106).

In the Rwandan case it includes both women and Hutu, who have been underrepresented since RPF seized power. However, the representation of Hutu is more important for the issue of this study, namely ethnic tensions. Therefore, Hutu representation is in focus in this part of the essay. The notion of representativeness as presented on Rwanda’s Government homepage; includes that all groups and parts of the country are present in the Government (Rwanda’s Government Homepage, 2008a). Equal representation is a rather paradoxical statement coming from a government which at the same time denies the existence of ethnic groups. This issue pin-points the problematic part in Rwanda’s reconciliation and decreasing ethnic tensions: the presence and equally denial of

the ethnic relations which pervades the entire country. This issue will be briefly presented below and more thoroughly discussed in 4.2.

While Rwanda is not a democratic country, presentation in the parliament and the government still indicates the regime's position in the issue of equality. If the government really aims to reconcile the groups; then it is preferable if it is visible in how they compose their own representatives.

Tutsization⁴ has paradoxically occurred during the period that the Government claimed that there are no ethnic groups in Rwanda. The process involves consolidating power to the small Tutsi elite, that most of the leading RPF politicians belong to (Reyntjens, 2004, pp.187-8).

However, after the election 2003, Hutus inhabit 15 of 29 governmental positions and moreover 13 of 18 ministerial posts to Hutus (Reyntjens, 2004, p.187). Since RPF started as a Tutsi movement, it might be a sign that the Government actually intends to live up to their own vision of representativeness (see Reyntjens, 2004, p.187; Rwanda's Government Homepage, 2008a).

4.2 Rewriting History

Rewriting history is an important factor in the government's policy for preventing future genocides and they have done so in several ways which will be presented here: the *rewriting of history*, the *ingando* camps and the *banning genocide ideology*.

Regarding *rewriting history*, it is mainly the history of the definition of and relations between Hutu, Tutsi and Twa that is being rewritten. As discussed in 3.1.1, there is no consensus on how Hutu, Tutsi and Twa started being regarded as diverse (ethnic) groups. The intermediate position taken by the author is that there are indications on that the groups were regarded as diverse groups in the pre-colonial era, but that the colonial powers made the division worse by using the divide and conquer approach (see Melvern, 2000, pp.8-11). RPF, the present government, is using the genocide to gain legitimacy for its rule (Hintjens, 2008, pp.11-2). Corey and Joireman pin-point one crucial problem with the regime's performing of justice: '[c]rimes in both cases need to be attributed to individuals, not ethnic groups' (Corey – Joireman, 2004, 89). The ignoring of crimes committed by RPF and Tutsis in general could be a big issue in the future, which could contribute to long-time decline of ethnic groups.

Rewriting history about the colonial past and the genocide is one of the ways in which the RPF has tried to prevent future genocide (Hintjens, 2008, p.10). 'Rwanda has had a troubled past caused by internal division. It all began when the colonial administration divided the society along ethnic lines in order to weaken it and thereby make its dominance possible' (Rwandan's Government Homepage,

⁴ A process where while the existence of ethnic identities are officially denied, but the political power is institutionalized to Tutsis (see Reyntjens, 2004, p.187).

2008a). The official view is clear; the problems are the colonizers fault, before colonization ethnic tension did not exist. A result of this starting-point is that all ethnic identities are banished from the political arena and as shown above, neither are ethnic groups acknowledged to exist (Freedomhouse, 2008).

The Government claimed that the relationship between the groups was 'symbolic' and class based rather than ethnic (Rwanda's Government homepage, 2008b). Therefore, the regime's view is that the 1994 genocide can be directly traced back to the European colonizers and their rather racial ideology (ibid.).

The general idea of *ingando*⁵ camps when they started in 1996 was that they should be an institution where ex-soldiers and Tutsi returnees are sent for re-education before integrating them in their home villages or towns (Mgbako, 2005, p.208). RPF who started the camps claimed that they have roots in history, and they made it out as a modified version of Rwandan tradition which few others, independent, sources suggest (see Mgbako, 2005, p.208). Basically, the aim of the *ingando* camps is to present the official version of history and ideology to the citizens (Mgbako, 2005, p.209). Although the regime calls it 'public education' indoctrination would probably be a more fitting term (see Rwanda's Government, 2008b). *Ingando* camps were also constructed to various other groups: e.g. university students, *gacaca* judges and genocidaires (Mgbako, 2005, p.209).

Since 2003, 'ethnic ideology', 'genocide mentality' and 'divisionism' have all been banned in Rwanda (Mgbako, 2005, p.208). The government presents the ban as a crucial step to preserve the country against future genocide (ibid.). In practice this ban tends to involve anyone criticizing the regime or, anyone disfavoured by the regime (Hintjens, 2008, p.10).

Hintjens argues that rewriting history the very ruthless way the present regime have done is problematic because inevitably; it puts focus on the genocide and could paradoxically prevent reconciliation from taking place (Hintjens, 2008, p.32).

4.3 Analysis

In this part, possible political influence on the ethnic tensions and the reconciliation process will be examined. I will begin by applying Horowitz's theory on ethnicity and politics on the Rwandan case, and thereafter continue by applying six Villa-Vicencio's seven criteria for reconciliation.

The ethnic system in Rwanda seems to always have been *hierarchal*: first, during the colonial period, Tutsi was the superordinate group. After the 1959 coup, the order changed and Hutu raised them selves in the hierarchy until they became the superordinate group and continued to inhibit that post until the genocide (Melvern, 2000, pp.8-10, 13-4; Paris, 2004, p.70). According to

⁵ *Ingando*: rehabilitation camps for e.g. soldiers or returning Tutsis which was started by RPF (Mgbako, 2005, pp.208-9).

Horowitz, that Hutu should have produced the change in the system is expectable, because it is most likely in a *hierarchical* system that the subordinate group induces change.

After the genocide, Tutsi became the *de facto* superordinate group, but the system is somewhat less static now (Paris, 2004, 74). This strengthens Horowitz's thesis that if the system is to change, it is usually the subordinate group which produces the change (Horowitz, 1985, p.32).

The problem with the Rwandan system at the present is that it is a *hierarchical* system pretending to be parallel. In Rwanda a change number (3) has occurred; the subordinate group aim at raising themselves in the hierarchy (see Horowitz, 1985, p.34). The elite pretend that the change occurred is a number (4); that the system becomes unranked (*ibid.*). If the Hutu part of the population realise they are being fooled; the instability of the system might increase. However, that Hutus are included in the cabinet could actually be a good sign, even if it is mostly on a symbolic level.

Moreover, it is problematic that *hierarchical* systems tend to involve a catch-22: party systems are usually stable in *hierarchical* systems, which is problem if one agrees on that the RPF is contra productive in decreasing ethnic tensions. Neither is multiplying the numbers of ethnic parties the solution, because it tends to produce more radical parties (Horowitz, 1985, p.359).

Now over to reconciliation and Villa-Vicencio's minimum definition of reconciliation in politics: "a satisfactory way of dealing with opposing facts and ideas" (*Oxford Concise Dictionary*, in Villa-Vicencio, 2006, p.67). The problem in the Rwandan case is that the regime does not plan to deal with *opposing* facts and ideas. Instead, the RPF bans opposition parties and harasses freethinkers and other independent intellectuals (Freedomhouse, 2008). Although there has been a slight ease on the ban in 2003; in practice RPF is still the only powerful party. It is their version of the truth that is hegemonic, which is problematic if reconciliation involves finding satisfactory ways of dealing with opposing facts and ideas. Moreover, Villa-Vicencio's third and fourth criteria are connected to this issue: *reconciliation is about memory and reconciliation involves acknowledgement of the truth* (Villa-Vicencio, 2006, pp.70-1). Simple *memory* of the event does not necessarily involve *remembering the truth*. If the collective memory of the something as crucial as genocide is manipulated, which it has been in Rwanda; then there are chances that it could be manipulated for contra-productive causes. Obviously, RPF is manipulating the truth and collective memory in order to gain legitimacy and claim the necessity of their staying in power. In their history writing, there is little focus on crimes committed by the RPF side before and after the genocide (see Rwanda's Government homepage, 2008b). *Ingando* camps do have the purpose of promoting RPF's view on the genocide and history before that: shortly that everything can be blamed on the colonial powers and that there are no ethnic groups in Rwanda (Mgbako, 2005, p.209). In short, the regime is trying to reverse the 'myth of collective ancestry' by the claim that Hutu, Tutsi and Twa are creations of the colonial powers (see Horowitz, 1985, p.52). If the attempt is successful; it could change the future of Rwanda forever. However, scholarly research implies that Hutu, Tutsi and Twa were distinct groups even

before colonization, which suggests that ethnic identities probably are more difficult to extinguish than some political propaganda can accomplish (Melvern, 2000, pp.8-9). Moreover, the issue is even more complicated due to the paradox of Tutsization and the absence of ethnic identities. This paradox ought to have a negative effect on reconciliation and ethnic identities because of the fact that the Hutu population can feel cheated if there in the official propaganda are no ethnic groups but at the same time all the political power is consolidated to Tutsis. If forcing away ethnic identity would work; it would hardly work if the political elite do not work as a role model for the rest of the population.

As far as the third criterion, *memory* is concerned: forgetting is not an alternative in Rwanda. On the other hand: there are several ways of remembering, and the current history writing is not perfectly suited for preserving everyone's memories of the event.

However, both ICTR and *gacaca* are political initiatives for acknowledging the truth. They are not unproblematic, due to that they present a certain view of the truth, but might be the only alternative, and of that reason; it is difficult to judge them too hard.

Villa-Vicencio's first criterion is *reconciliation does not necessarily involve forgiveness* (Villa-Vicencio, 2006, p.69). In Rwanda, it seems as though the political elite both wants forgiveness and does not want forgiveness. They aim for forgiveness in the sense that *gacaca* are supposed to contribute to reconciliation, and moreover; the official propaganda promoting unity. At the same time, the regime still does not want forgiveness; the banning of 'genocide ideology' is an implication on that. It implies that that the regime does not consider forgiveness very probable.

The second criterion Villa-Vicencio suggests is that *reconciliation interrupts and established pattern of event* (Villa-Vicencio, 2006, p.69). If as in the case of Rwanda, the established pattern of event is ethnic tensions; in that case the regime both have succeeded and not succeeded in interrupting it. They have succeeded in the sense that they are currently trying to exterminate ethnic identities and the *gacaca* courts which supposedly contributes to reconciliation. The regime has not succeeded in due to that these attempts have not been tremendously successful; sometimes *gacaca* courts seemed to increase ethnic tensions after a trial. However, that tensions have increased in some cases in the aftermath of the courts work should not be taken too seriously; perhaps that temporary alteration is unavoidable if the tensions are to reach a reasonably stable low level.

Reconciliation requires reparation is the seventh criterion Villa-Vicencio suggests (Villa-Vicencio, 2006, p.74). If *reparation* involves restoring the relationship between those involved in the conflict, then Rwanda understandably has a long way to go. *Ingando* camps and political aims at representativeness are a start, but as long as Rwanda is not a democracy Hutu and Tutsi are not going to be on equal terms. This is of course unless RPF becomes a fully multiethnic party, which is unlikely because RPF was founded among the Tutsi diaspora in neighbour countries. Therefore, it seems unlikely that RPF would give up the Tutsi orientation totally.

However, there are of course problems with democracy as well; Horowitz mentions that it is very difficult to solve the problem of for example a 60% - 40% division (Horowitz, 1985, p.650). There are reasons to believe that if Rwanda was to democratize; Tutsi could get a weaker position which they might not accept, and the possibility of harassment against them is not possible to exclude.

Lastly, it is important to remember Villa-Vicencio's fifth criterion: *reconciliation is a process* (Villa-Vicencio, 2006, pp.72-3). In the light of the hideous crimes committed during the genocide; it is not surprising that Rwanda's population does not live fully peaceful together fourteen years afterwards.

In conclusion: the political measures to decrease and abolish ethnic tensions have worked in the sense that ethnic violence is less prominent now than after the genocide, but those measures are probably not the preferable for sustainable peace.

5 Justice and Reconciliation

A reconciliation process is always complex, but in an extreme case such as Rwanda the process is even more complex. Due to that Hutu and Tutsi live in the same villages and cities; reconciliation is the only reasonable way forward. Justice is one way to achieve reconciliation, and, as stated above, Rwanda chose that concept and therefore justice will be the main focus (see Graybill, 2004, pp.1120-4). First, the international court, ICTR, will be described, and secondly, the grass root courts, *gacaca*, are presented.

5.1 International Criminal Tribunal for Rwanda

The ICTR was approved of by UN's Security Council in November 1994, in order to prosecute those who organized the 1994 genocide, and in any cases concerned with International Humanitarian Law (ICTR, 2008b). An international tribunal was particularly necessary in Rwanda's case; the elite was the first target in the genocide and because of that a vast number of judges and solicitors had fled the country or been killed (Messell, 2004, p.95). Thus, the Rwandan state simply did not have the capacity of prosecuting all suspects, and the idea was that prosecuting the main organizers would be a symbolic gesture (see Rwanda's Government homepage, 2008b).

The Security Council approved of the tribunal in November 1994 by Resolution 955, and somewhat later it was decided that it should be located in Arusha, Tanzania (ICTR, 2008b).

The tribunal has three chambers with seven judges each, resulting in that three trials can be ongoing at the same time (ibid). Only individuals are prosecuted and so far the ICTR has secured more than 70 persons suspected for acts of genocide (ibid). The final date for the tribunal is 2008; when it has worked for fourteen years (Messell, 2004, p.96). Statistics from the 10th of October 2008 show that 37 of the total 74 detainees have received their judgment (see ICTR 2008a). Moreover, 33 cases have been rendered, and a few detainees are waiting for trial (ICTR, 2008a).

According to the organization itself, ICTR has since 1995 acquired following: secured the arrest of 70 suspects, completed trials of several suspects, established legal principles for other international criminal tribunals in the world, founded a complex international institution, pioneered in the advocacy of witnesses (ICTR, 2008). Erik Møse, judge of ICTR, adds that the ICTR has increased Rwandan political leaders' accountability since many of the accused were part of the elite and would probably not have been charged without the ICTR (Møse, 2005,

p.932). Moreover, Møse argues that fair and impartial trials are another important achievement which could be difficult to conduct in Rwanda (Møse, 2005, p.933).

However, Møse also points at one key weakness with the tribunal: it had an insufficient number of judges to handle the vast number of suspects (ibid. p.928).

Nsanzuwera, like Møse an ICTR judge, adds to the list that by prosecuting the suspects and admitting that the 1994 frenzy indeed was a genocide; ICTR gave the victims their dignity back and showed that not even the elite is above the law (Nsanzuwera, 2005, p.946).

5.2 *Gacaca* Courts

Gacaca courts conduct justice on grass root level in post-genocide Rwanda and they are specifically concerned with crimes of genocide. The *gacaca* courts were constructed by the government as the lowest level in the legal system where the least serious crimes are dealt with (Sarkin, 2001, p.159).

They are an attempt to conduct justice to those involved in the genocide, as well as a way of releasing some pressure from over-crowded prisons and jurisdiction (Corey – Joireman, 2004, p.82). The modern *gacaca* were launched in 2002, and were supposed to finish 2007, but the mandate was extended to 2008 (Amnesty International, 2008, p.253). After establishing this system, circa 40.000 prisoners were either sent directly home, or underwent reintegration in *ingando* camps first. There are, as mentioned before, still few trained judges and solicitors left in Rwanda, which undoubtedly makes the legal process more difficult (Sarkin, 2001, p.158). Moreover, the post-genocide legal system is dominated by Tutsi, and experienced Hutu judges or solicitors are occasionally excluded (ibid.). Although Jeremy Sarkin's article was published 2001; there are few indications on that this would have changed since the ruling elite still is predominately Tutsi, and represent Tutsi interests (see e.g. Reyntjens, 2004, pp.187-8).

Gacaca was a pre-colonial part of Rwandan village life; it was a voluntary institution where the village elders discussed and helped solving the community's conflicts, for those who wished (Sarkin, 2001, p.159). The difference today is that it is compulsory, and the fact that the modern *gacaca* version are concerned with murders (ibid.).

In October 2001 the elections were held, and approximately 255,000 judges were elected (Corey – Joireman, 2004, p.83). The election are held in the communities, but they are not entirely up to the communities preferences because both Hutus and Tutsis must be chosen, and discrimination against people due to religion, sex, ethnicity and other reasons is not allowed (Sarkin, 2001, p.162). These requests in themselves are contradictory, because assuring both Hutus and Tutsis among the judges can certainly involve discrimination of the majority. The outcome of the elections seems to reflect to power balance in the area (ibid.). A possible result of this is that *gacaca* sentences also could depend on whether there are many Hutus or Tutsis represented among the judges (see Sarkin, 2001, p.161).

True or not, the suspicion of political tendencies is bad enough in itself to undermine accountability of the *gacaca* system (ibid).

During the court sessions, the village people are allowed to watch and participate with comments and testimonies, which supposedly contribute to reconciliation in the village (Corey – Joireman, 2004, p.84).

One of the weaker points of the *gacaca* system is that only crimes carried out during 1990-1994 are treated, and no accusations of RPF soldiers, or Tutsis in general either; those are supposed to be dealt with in ordinary courts (Corey – Joireman, 2004, p.87).

Another point the *gacaca* system has been criticized for is that the prosecutions often are based on hearsay and that the legal standard is low (see Whitman, 2005, p.104-5; Bosire, 2006, p.10).

One of the aims of the *gacaca* law, which was adopted in 2001, was to promote suspects of genocide to confess (Molenaar, 2005, p.54). *Gacaca* sessions are the forum where prisoners present their confessions and if they do, among other benefits; the prisoners can get reduced sentences and even amnesty (ibid, pp.53-5, 147). In that aim, they have succeeded, because the percentage of prisoners that confessed have abruptly increased after the law was passed (ibid, p.54-5). If the quality and sincerity of the confessions are low; the use could be doubted (Molenaar, 2005, p.141).

In short, the greatest weakness with the *gacaca* courts is that they could actually prevent the reconciliation process. On the other hand, the main strength is that it conducts a manageable system for bringing justice to most of the victims of the genocide.

5.3 Analysis

If reconciliation is to be able to deal with opposing ideas and facts (see 2.2), then in Rwanda it could be a difficult task indeed. In this part, the theories on reconciliation will be applied to the ICTR and *gacaca* as part of the reconciliation process. Villa-Vicencio's criteria are below used for an analysis of justice as a way to achieve.

The first factor is following: *reconciliation does not necessarily involve forgiveness* (Villa-Vicencio, 2006, p.69). The traditional version of *gacaca* is to restore harmony into the community, and in that manner *gacaca* is concerned reconciliation, but not necessarily forgiveness. Social harmony could include forgiveness, but it could also solely imply acceptance. ICTR also has the aim of contributing to reconciliation in the country (ICTR, 2008a). However, the tribunal is not concerned with *forgiveness*; their idea of reconciliation involves punishment for those who committed crimes against Humanitarian Law and those who organized the genocide. A reasonable guess is that the idea behind conducting justice was that highlighting that crimes against Humanitarian Law are not acceptable.

For a reconciliation process to be successful, it should *interrupt an established pattern of events* (Villa-Vicencio, 2006, p.69). Justice in Rwanda could be a way of interrupting established patterns, because historically none have been prosecuted for the mass killings committed against the Tutsi population in before 1994. Both ICTR and *gacaca* are good initiatives in that sense, since they do change the structure. In a longer perspective, it seems reasonable that if these trials are successful; the structure that creates ethnic tensions could be diminished.

That reconciliation involves *memory* is a rather obvious function of *gacaca* trials. They are, as stated above, not about punishment as much as they are concerned with truth-telling. ICTR is more of a traditional court; their goal is to achieve reconciliation by bringing justice to the victims.

Villa-Vicencio's third criterion is that reconciliation involves *acknowledgement of the truth*, (Villa-Vicencio, 2006, p.71). If that is the case, then justice in general, and ICTR and *gacaca* in particular are positive forces promoting reconciliation. In this manner *gacaca* courts are promoting reconciliation, if it was not for the fact that everyone is not allowed be a victim and be heard. This issue is interconnected to the problem of who should be considered a victim or a perpetrator. Those who were unfortunate enough to not being a victim in the eyes of the *gacaca* system, or have been violated by RPF forces, have a harder time acquiring justice (see Corey – Joireman, 2004, pp.87-8).

Moreover, confessions, even if they are promoted by the regime, could contribute to reconciliation in this criterion. If those who confess also recognize the victims' pain, caused by them; confessions can truly contribute to reconciliation (Molenaar, 2005, p.142).

Whether *reconciliation entails understanding* in these formal institutions is difficult to tell. The regime promotes *gacaca* as a tool to enable understanding, but worrying enough; it seems as if anyone having the unfortunate of getting the wrong judge, the result could be increased ethnic tensions and harassment instead (Brounéus, 2008, pp.71-2). Once again; ICTR is a more formal tribunal where the aim is not to produce understanding between those concerned with the trial itself, but rather to entail understanding between the different sides in the conflict on a more general level. It is difficult to tell if they have been successful, but truth is that ICTR is not as visible in Rwandan media as it ought to be, if the public in general is to achieve knowledge of the happening in the tribunal. Fact that it is not situated in Rwanda does naturally make it harder for the ICTR to be visible in Rwandan public life. Moreover, the fact that the regime has good control of the media is not positive for ICTR's visibility, because at times the regime has been rather hostile toward the tribunal.

That reconciliation is a *process* is highlighted by the fact that *gacaca* were active during five years and fourteen for ICTR. However, not even fourteen years is enough times for reconciliation; for those whose family and friends were murdered generations might be a better period of time to aim if total reconciliation is to be achieved. Reconciliation can therefore not solely take place though justice, but it could be a good start. The crucial point at this stage of the post-conflict period is probably not to aim for total reconciliation, but rather to find

some minimum level at which the population can find it acceptable to live together again.

The ICTR and *gacaca* are complementary institutions for bringing justice, not opposing approaches. It would, of course, not be possible, nor really desirable, to prosecute all suspects of acts of genocide in a tribunal such as ICTR; the cases very complicated and the evidence extensive, and hence; each case is more time-consuming than would be necessary for less complicated cases. *Gacaca* is a system with great problems, but the positive part is that it is possible to implement in societies as Rwanda with very limited resources.

It is interesting to note that the choice of Arusha as location for ICTR is highly symbolic; the Arusha Accords, which UN fundamentally failed to implement, were produced there. It is questionable whether it is wise to put the criminal court in the city where the international community fundamentally failed at protecting the people of Rwanda. However; it puts a large amount of pressure on the ICTR to be successful.

Gacaca courts have got much critique, e.g. for that they should increase tensions between Hutu and Tutsi in during and after trials, when all the misdeeds are brought to surface again. However, it is very important to deal with the traumas of the past, if nothing else; then to at least have the chance of voicing them in public. Perhaps increased tension are necessary if everyone concerned are to move on, and maybe increased tensions in a short perspective is crucial if they are to decrease in a longer perspective. Though *gacaca* is hardly a perfectly preformed; the process in itself is important for surfacing the tensions (African Rights, 2003, p.51).

Reconciliation is most likely to be successful if it is both a vertical and horizontal process (Villa-Vicencio, 2006, p.66). ICTR and *gacaca* should complement each other and in order to have a both horizontal and vertical process: *gacaca* and *ingando* both are supposed to be grass root processes and horizontal, and ICTR is vertical. However, neither *gacaca* nor *ingando* are truly horizontal because they both get strict orders from above.

In short, neither *gacaca* nor ICTR are unproblematic institutions, but despite their shortcomings; they are the reasonably good at conducting reconciliation and therefore reasonably good at decreasing ethnic tensions in Rwanda.

6 Conclusion

Firstly, I am going to present political impact on reconciliation; and secondly I am going to present how jurisdiction contributed to reconciliation, but first a short summary of the study is presented.

Shortly, this essay has examined how the reconciliation process has affected ethnic tensions in Rwanda. Political influence and jurisdiction are two factors that have been studied more closely. Rwanda is a least-likely case, and therefore one could suppose that any conclusions drawn on the Rwandan case might apply to other cases. In Rwanda, ethnic divisions are a particularly difficult issue, because the colonizers had an important role in producing the tensions, by creating the strict borders between the groups (Ingelaere, 2008, p.26). Reconciliation and possible forgiveness is difficult to achieve unless there are legitimate groups that can perform this task. The denial of ethnic identities from the regime could, hence, be problematic.

The paradox of Rwandan politicians' double standard concerning ethnicity is a worrying sign; RPF tries to abolish the idea of different ethnic groups in Rwanda, but at the same time RPF uses the genocide as a source of legitimacy. Unavoidably, this puts the genocide in focus which could increase ethnic tensions, because it is dangerous if politicians present a view too distant from that of the people, even if they are not a democratic regime. The political elite can, therefore, prevent decline of ethnic tensions in a longer perspective. Undoubtedly, the opposite is also problematic, i.e. if the politicians were to officially emphasize the importance of ethnicity. A golden middle way seems to as usually be the only reasonable approach to this issue. To abolish ethnic divisions in Rwanda is a bold decision, and could be very progressive under other circumstances; i.e. had it been attempted after the reconciliation process. However, when implemented in this period of time; when mass graves are still found, and the people obviously have a much different point of view than the politicians; it is not bold, but very unrealistic. Not even *ingando* camps are likely to change that. Nonetheless, the 1959 rebellion and RPF's gaining power indicate that the power structure is not static, but it seems to be very difficult to abolish the ethnic dimensions of politics all together. Thus; political impact could be both positive and negative.

Reconciliation through justice is not a bad idea in a country where the people were desperate for it after those 100 days of genocide and many more of intra-state war and uncertainty. However, this study shows that there are problems with how justice is carried out. While perhaps being the only pragmatic solution; *gacaca* courts, in some cases, seem to increase tensions between Hutu and Tutsi.

The ICTR is a reasonably good institution for performing justice to those who organized the genocide, because there is a great risk that they would not get a fair trial in Rwanda. Problematic with the ICTR, however, is that the Rwandan people

are not participating in bringing justice to those who brought all the people calamity and death. The result of this study implies that ICTR tries to contribute to decreasing ethnic tensions by symbolically showing that genocide is not acceptable, and moreover by clarifying the truth of what really happened. Jurisdiction, likewise political impact, could also have positive or negative impact on declining ethnic tensions.

As noted in 2.2: ‘although it is not “possible to complete the transition to...peace and stability by dwelling forever on ... the past, neither is it possible to create a beginning without taking account of, and addressing, its legacies”’ (Carins et al, 2005, pp.472-3). For Rwanda, nothing could be truer: the country needs to deal with ethnic tensions, in a reasonable pace.

It is important not to forget Rwanda’s colonial heritage; tensions between the ethnic groups have a long history. When reconciliation in Rwanda is discussed; Hutu and Tutsi are usually discussed, but Twa is often forgotten. Reconciliation for them is also important, though they only consist of 1% of Rwanda’s population; they were also killed and harassed in the genocide. Further, the long history of oppression of the Tutsis is also important; the Tutsi elite are unlikely to let go of power due to their remembrance oppression.

Moreover, Rwanda today is not heaven nor hell, but rather an extremely poor authoritarian country that it struggling with its past. There are examples of victims who have forgiven those who killed their family (see e.g. UN Office for the Coordination of Humanitarian Affairs, 2008). There is hardly any need to mention the importance of adopting a long perspective; reconciliation is a process, and it will take years, if not generations to complete and not be finished with the trials of the ICTR or *gacaca* (Jeong, 2005, p.29).

To sum it up, Kofi Annan’s speech that begun this essay seem to contain some truth. Though he is probably too overtly optimistic; there is a point in the suggestion (Annan, 1998, speech on ICTR homepage):

‘I am sure that I speak for the entire international community when I express the hope that this judgement will contribute to the long-term process of national reconciliation in Rwanda.’

7 Bibliography

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