Reconciliation through the Gacaca Tribunals in Rwanda

A reconstruction of knowledge on 'ethnic identities' in Rwandan societies towards the achievement of sustainable reconciliation

Abstract

Imagining how contemporary conflicts have divided societies in recent times put one in a position to think of possibilities that will improve the activities of reconciliation initiatives for a lasting peaceful coexistence in the aftermath of conflicts. In Rwanda series of conflicts have emerged since the end of colonial rule until the genocide in 1994 calling for a necessary transitional justice system that will administer justice for the injustices that occurred and promote reconciliation in the spirit of national unity. The transitional justice system established is the Gacaca tribunals which are to oversee the process by providing a platform for perpetrators and victim/survivors to unearth the truth and reconcile the parties in the process. This essay is of the view that since the cause of conflict is a reflection of a constructed 'ethnic identity' from colonial times; the best way to achieve a sustainable reconciliation to avoid the recurrence of a conflict is to reconstruct the ethnic identity notion. How to reconstruct the knowledge of the people for them to change their perception and attitude about the other and live in a peaceful coexistence through the gacaca is what the essay provides.

Key words: Attitude, Conflict, Constructivist Peacebuilding, Reconciliation, Sustainable Reconciliation, Transitional Justice, Tribunal

Amount of word: 20900

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1. Introduction

The characteristics of contemporary conflict have proved that post conflict societies face a number of complex situations to handle the legacy of division, hatred, anxiety, fear, quest for revenge and other issues caused by the conflicts. Unlike interstate conflicts, contemporary conflicts occur within states and mostly among neighbours, individuals or groups. They 'are not about foreign policy, honor, or status; they are about statehood, governance, and the role and status of nations and communities within states" (Miall et al 2004: 68). Considering the distinctive nature of contemporary conflict discussing it faces a number of factors that complicate it (Mac Ginty 2008:62). The complexity of such conflicts reveals that in the aftermath vibrant structures must be established to be responsible for peacebuilding in order to avoid recurrence of the conflict. But there are occasions when structures responsible for peacebuilding in the aftermath of conflict fail to achieve their goals. John Paul Lederach (1997:25) shared that:

> While contemporary conflicts are indeed hard-core situation—the "real politics" of hatred, manipulation, and violence—and require grounded political savvy, traditional mechanism relying solely on statist diplomacy and realpolitik have not demonstrated a capacity to control these conflicts, much less transform them toward constructive peaceful outcomes. Contemporary conflicts thus demands innovation, the development ideas and practices that go beyond the negotiation of substantive interest and issues.

To go beyond negotiations of substantive interest and issues elements of favourable structures are needed for peacebuilding and promotion of reconciliation. Failure for actors such as the International Community (UN), Non Governmental Organization (NGO), government, civil society, groups and individuals to put up the right structures for peacebuilding in the aftermath of a conflict can lead to the recurrence of the conflict. Peacebuilding of any form in the aftermath of a conflict needs the right actors and structures in place to assist promote and sustain the required peace in an affected area.

When it come to peacebuilding Rwanda in my opinion falls within the category of countries that needs the right structures for sustainable reconciliation due to its sordid experience in past and protracted conflicts. Also bearing in mind the dangers involved when the right actors and structures are provided for peacebuilding, it is important to put up a 'caution sign' to the political regime for their needed role after studying the transitional justice established to promote reconciliation and national unity in the aftermath of the genocide. There are three approaches used in Rwanda, the International Criminal Tribunal for Rwanda (ICTR) which was to render justice to the main architects of the genocide, the second

involves the national courts mandated to render justice to perpetrators of certain degree of crimes and the third was the grass root form of justice system known as the Gacaca tribunals and supposed to handle justice in the local communities on minor crimes committed. All three will not be studied in this essay but the third which aims at reconciling the people and promoting national unity through a grass root judicial system will be the focus.

The argument backing the discussion is that the efforts of Gacaca tribunals will fetch sustainable reconciliation when the perceptions of individuals and groups towards others are reconstructed in the Rwandan society. This position is taken based on my investigations that conflicts of the past have been fundamentally motivated through the emergence of the perception of the 'other' during colonial administration. Ethnic identity sentiments have manipulated conflicts of any kind in the country and my observation into the 'ethnic identity weapon' used by parties in conflicts has shown that they are constructed through colonial rule. Colonial administration constructed a Rwandan society where 'ethnic identity' became the order of the day and what the identity construction created was a change in attitudes towards others. The new perceptions of the 'other' brought negative attitude which were used to dehumanize groups; create enemy images and form all sorts of negative mind-set against one another.

What has been constructed can always be reconstructed but since this is based on ethnicity, the best opportunity is to wisely use the transitional justice system established to promote reconciliation and national unity to encourage the reconstruction. Although the Gacaca tribunals have made a number of inroads towards reconciliation my position looks into the possibilities of sustainable reconciliation. My bother on this subject is related to the number of recurrence of conflicts through ethnic identity in the country. I there argue that the Gacaca tribunals will bring sustainable reconciliation when the attitudes of people are reconstructed.

In order to buttress my claim that 'ethnic identity' in Rwanda has been a construction through colonial rule, a historical aspect of Rwandan political and social background has been presented. The first part discusses pre-colonial time when the people lived together as one without ethnic sentiments; the second part looks at colonial administration and the third post colonial. Discussing the historical aspects brings us to a conclusion that ethnic identity is constructed during colonial administration and that has been a weapon used in the conflicts of Rwanda since the 1950's. To defend such an argument we move on to study how the conflicts of the country have emerged from the 1950's to the genocide.

After providing evidence that these conflicts developed through ethnic identity construction, I then look at a way forward to avoid a recurrence of such conflicts. The best way to avoid a recurrence of conflicts in Rwanda is to reconstruct the knowledge of ethnicity. This is where the Gacaca tribunals are considered for that task. I am of a view that if the transitional justice system put certain measures in place it will lead to the reconstruction of the knowledge of people that will eventually lead to sustainable reconciliation.

1.1 Aim and Research Question

I assume by now the aim of this essay has already puffed up somewhere but for the sake of clarification I will like to explain the aim and purpose for my reader. The aim of this essay is to understand some of the complex issues confronting Rwandan conflicts and provide my line of reasoning of what I assume will constitute *sustainable reconciliation* in the country. Based on the above aim I pose two research questions that:

1) What is the main source of conflict in Rwanda since the 1950s?
2) How can the Gacaca Tribunals contribute to sustainable reconciliation in Rwanda?

1.2 Outline of Essay

This essay is outlined in four different phases. The first phase discusses the theoretical aspect of the essay. What is expected is to walk us through the concept of peacebuilding and find out how sustainable peace/reconciliation is important in the aftermath of conflicts. Under the broad concept of peacebuilding are notions of transitional justice and reconciliation which the argument of the essay is based on. I provide an eclectic theoretical approach towards reconciliation by putting different elements together from me and other scholars. The section also discusses the concept of 'ethnic identity' and assists us to draw the line between a constructed 'ethnic identity' and a natural one. The next phase is the discussion of the historical aspects linked to the discussion of conflicts. We then move on to the discussion of the Gacaca tribunals where the discussion points out its objectives, its activities and some of its achievements and failures. The last part is my summary and conclusion of the essay. After we come to the conclusion of what can contribute to sustainable reconciliation in Rwanda.

2. Theoretical Perspective of Peacebuilding

This part of the essay looks at the general view of the concept of peacebuilding. The concept is discussed for a reason that it serve as the umbrella for transitional justice and reconciliation. Tristan Anne Borer (2006:12) presented that the definition of peace building emanated from Boutros-Ghali's *Agenda for Peace,* which referred the concept as "actions to identify and support structures which will tend to strengthen and solidify peace in order to avoid the relapse into conflict". Later the above definition was given a comprehensive feature by the Security Council (SC) in 2001[1](ibid). In the comprehensive outline, the concept of peacebuilding was related much to the liberal democratic peace concept where major peace processes are mostly built around the democratization or structures within a state.

Borer (2006:14) from his view saw peacebuilding from a different perspective by looking at it as a form of transformational activities that moves a society from negative peace to a positive one. The International Development Research Centre, a Canadian development organization with an initiative called "Peace Building and Reconstruction" (PBR) also define the concept as a pursuit of policies, programs, and initiatives that seek to create the conditions war-torn countries need to transform or manage their conflicts without violence so that they can address longer term development goals (ibid). Many definitions on the concept have come up but I will like to embrace that of Miall et al (2000:187) that "peacebuilding be understood as comprehensive term that encompasses the full array of stages and approaches needed to transform conflict towards sustainable, peaceful relations and outcomes".

Drawing on the Miall et al idea we can distinguish that peacebuilding passes through different stages before achieving its goals. Important aspects of peacebuilding are the provision of favourable structures and actors that will assist in a transformation process of a society. Actors such as the UN, NGOs, states, groups and individuals in the aftermath of a conflict assist to avoid the recurrence of another conflict. A well designed approach by actors will mean a high possibility of sustaining peaceful relationships and outcomes in the society. On the other hand a less designed approach will eventually lead to a failure to sustain peaceful relationships. In peacebuilding the quota of every actor quota is needed to carry on an effective process. From a practical point of view, peacebuilding be seen as building structure standing on four pillars, that is the International Community, the NGO's, the national governments and the society, failure for one pillar to stand will lead to the collapse of

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[1] The Security Council recognizes that peace-building is aimed at preventing the outbreak , the recurrence or continuation of armed conflict and therefore encompasses a wide range of political , developmental, humanitarian and human rights programmes and mechanisms….These actions should focus on fostering sustainable institutions and processes in areas such as sustainable development, the eradication of poverty and inequalities, transparent and accountable governance, the promotion of democracy, respect for human rights and the rule of law and the promotion of peace and non violence

the entire structure. The comprehensive nature of peacebuilding gives room to actors to embark on different designs and approaches towards their goals depending on the type of conflict they might be dealing with. One such design is the transitional justice system which in most cases is responsible to address human rights abuses that occurred during a conflict by providing justice to the society. Through the justice system a platform to promote reconciliation is also provided to address issues that will prevent the recurrence of the conflict. Rwanda, after the genocide decided to follow the transitional justice pattern to render justice and promote reconciliation and national unity in the country.

2.1 Transitional Justice

One approach to sustain peaceful coexistence in Rwanda is the application of a transitional justice system after the genocide. As already noted the transitional justice system is a system under peacebuilding which generally aims at bringing justice into an environment where a number of injustices are experienced. Thinking about transitional justice one catch phrase that draws attention is the term 'justice' that can mislead us to view it as judgement in a legal court over an unjust behaviour. But transitional justice in the aftermath of a conflict carries much more responsibility than the normal judicial settings. Whilst the normal courts do not try to reconcile people in a transitional justice, judgements can not be seen as the ultimate goal since it mostly aims at reconciliation. Rama Mani (2002) shared a thorough discussion on some of the elements that are required in the transitional justice system and maintained that there are three dimensions of justice in post-conflict peacebuilding. These dimensions include (a) legal justice or the rule of law which addresses legal injustices during the conflict (b) rectificatory justice which addresses the form of direct human consequence and (c) distributive justice which has to do with addressing inequalities in a post conflict society (Mani 2002:5-6). She gave an implication about the need to combine all dimensions when one is pursuing reconciliation through the transitional justice.

Mani (2002) also noted that "given the nature of contemporary conflicts, it is as much a political imperative as a social necessity to address issues of justice in the aftermath". Two important statements are raised from her observation, political and social. The political as Borer (2006) stated has to do with national unity whilst the social goes with the inter relation of people in the society. Because seeking justice in the aftermath of a conflict are not limited only to political leadership and combatants but also to ordinary civilians who suffered and claim redress for the direct and structural injustices inflicted on them during the conflict.

In Rwanda, rendering justice and promoting reconciliation in the social fabric is put under the supervision and authority of the Gacaca tribunal, a form of transitional justice which focuses on a local justice system. The initiative was to sustain peaceful coexistence and promote reconciliation through its activities of rendering justice, rehabilitation and reparation. The sustainability of peaceful coexistence as maintained by the Gacaca tribunals will have to come

from the political and social fabric of the country as discussed Mani and Borer. How this is promoted is obtained through the concept of reconciliation.

2.2 Reconciliation

Reconciliation in many reconciliatory establishments is based on their fundamental notion of confession and forgiveness. Perpetrators acknowledge their actions and ask for forgiveness whilst victims on the other hand have to accept the confessions and forgive the perpetrators. In some instances truth is required from perpetrators who then receive a pardon or amnesty from a legally established tribunal or establishment. In all such activities, the ultimate goal of any establishment is to achieve reconciliation among the people. Andrew Rigby (2001) is of the view that the aim for "truth commissions are to identify the [victims], to acknowledge them and the wrongs done to them, and to arrive at appropriate compensation". However, my concern is more about what constitute reconciliation. Is it just accepting and acknowledging abuses or there is more to that? This worry draws me to explore what the concept really entails.

Lederach (1997:26-31) clarified this situation by putting up some assumption on what constitute reconciliation. From his position, he finds reconciliation as one entity but a concept that has to do with many different approaches. He noted that reconciliation can be seen as dealing with three specific paradoxes[2]. The three paradoxes identified that the motives behind any established reconciliation structure differ from each other. It is also mostly unique depending on a conflict but the overriding intention of any reconciliation process lie in the desire to assist post conflict societies to bury the past and look into the future through the sustainability of peace. I consider the paradoxes produced by Lederach as a summary of the bigger picture of reconciliation, which in most cases targets the strategy of how to deal with the painful past in the aftermath of a conflict. Reconciliation then has to do with things concerning the future; the future determines how reconciliation is understood and embraces by the society in the aftermath of a conflict.

Rigby (2001:12) pointed out that reconciliation "refers to the future and requires the active participation of those who were divided by enmity. At the core of any reconciliation process is the preparedness of people to anticipate a shared future". Reconciliation in my position is a concept that stands for the future relationship of people in peaceful manner after they are divided by a conflict. Although, the position of what constitute reconciliation is

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[2] 1 Reconciliation promotes an encounter between the open expression of the painful past on one hand, and the search for the articulation of long term, interdependent future, on the other hand.

2   Reconciliation provides a place for truth and mercy to meet, where concerns for exposing what has happened and for letting go in favor of renewed relationship are validated and embraced

3   Reconciliation recognizes the need to give time and place to both justice and peace, where redressing the wrong is held together with the envisioning of a common, connected future.

shared for the purpose of this essay I will refer to Skaar et al (2005) definition which I suppose to a degree provides a platform for a better discussion on the Gacaca Tribunals. Their definition stated that:

> Reconciliation refers to processes of different kinds and at various levels. It is about individuals forgiving each other; about societies torn apart by conflict mending their social fabric and reconstituting the desire to live together, and about peaceful coexistence and social stability. It may refer to an ambition of creating a common past; or to a situation where former enemies may continue to disagree, but still respects each other as equal citizens (Skaar et al 2005:20).

What is done here is not to pry much into the definition but I will like to connect the second aspect of it to the arguments posed in this essay. A close look at past Rwandan conflicts and the 1994 genocide indicate that one of the main issues surrounding them was the 'ethnic identity weapon' used by people. The identity divisions that constituted negative perception of the 'other' had laid a foundation of distrust and disrespect for each other in societies for the past years. To eliminate such behavior there is the need for the populace to rely on an attitude that will promote respect for one another that will lead to a peaceful coexistence. Even though I consider the definition by Skaar et al as useful, my subjective view on reconciliation establishments have to carry substance rather than being symbolic figures. The framework within reconciliation establishments need to have the right strategies in place in order to obtain a sustainable peace. Restoring the conditions that caused the civil war does not necessarily constitute just and stable peace if the underlying problems are not fully addressed (Yanacopulos and Hanlon 2006:8).

When the underlying problems are neglected or less attended to in the event of reconciliations, disagreements are generated to a level that escalates into other conflicts. It is appropriate for reconciliation establishments to address comprehensively the real issues which might have contributed to a particular conflict. Some maintained that we can only assess reconciliation with time (Borer 2006). Because it is assumed with time people living together can be said to have buried their differences when generations that follow are able to live peacefully. Borer (2006:39) claims that "for peace to be deemed truly sustainable, it cannot apply only to the current generation, or even the next generation; it must be multigenerational". The dimensions of generational legacy of sustainable peace emphasized here to a great extent portray how the quality of time is needed to measure the level of reconciliations. Nevertheless, looking at reconciliation under the microscope it is found that without an effective and efficient procedure towards its goals, the process may end up to achieve what I consider to be a temporary reconciliatory goal rather than a permanent one. To achieve reconciliation in an ethnic divided society that will affect generations, the attitudes of people must be targeted towards a positive perception of the other.

2.2.1 Approach towards Reconciliation

Different concepts and strategies are provided by scholars on approaches that can be used in reconciliations initiatives to achieve permanent and peaceful coexistence. Laderach (1997:29) has designed four approaches that he believes when they come together will lead to what he termed as the "place of reconciliation". He was of the view that "Truth and Mercy, Justice and Peace have to come to a meeting point where reconciliation starts. He stated that:

> *Truth* is the longing for acknowledgment of wrong and the validation of painful loss and experiences, but it is coupled with *Mercy*, which articulates the need for acceptance, letting go and a new beginning. *Justice* represents the search for individual and group rights, for social restructuring, and for restitution, but it is linked with *Peace*, which underscores the need for interdependence, well-being and security.

His presentation on the meeting point of reconciliation is accepted by many but to Rigby (2001:13) there is an additional dimension that he thinks must be considered, that has to do with *'Time'*. He acknowledges that time is the pillar which determines every aspect of our daily lives and has the tendency of establishing whether something is right or wrong. He of the view that "just as it takes time for wounds to heal and for people to work through their anger and bitterness so that they are in position to offer the gift of forgiveness, so it takes time to achieve truth, justice, and peace. These struggles do not end with sentencing of a war criminal, the publication of truth commission report, or the attempt of successor regimes to sweep the past under the carpet" (Rigby 2001:13)

A combination of Laderach's approach and Rigby's additional dimension of *Time* looks promising and essential in reconciliations especially in contemporary conflicts. Based on the positions of Lederach and Rigby I find out that there is an important element needed when it comes to the case of Rwanda because of their ethnic dimension on conflicts. As mentioned earlier it has to do with the *Attitude* of the people. An observation into the Gacaca Tribunals have shown that Truth, Mercy, Justice and a level of Peace within the spate of Time has been exhibited as argued by Lederach and Rigby but what is considered alarming is the *Attitude.* My position is that 'ethnic identity' situation is a potential element that can hamper any reconciliation process in the country unless the reconstruction of knowledge on ethnic identity is addressed. The next section discusses the theoretical understanding of attitude.

2.2.2 Attitude

Johan Galtung (1996) provided a conflict model called the conflict triangle which explains how conflicts must be viewed. From his conflict triangle model, he argued that conflict could be viewed as a triangle where at its vertices there is A=attitude, B=behaviour and C=contradictions. Although, I will not go much into all three, his argument maintains that attitude has to do with "parties' perceptions and misperceptions of each other and of themselves. In Rwanda conflicts, parties represent the Hutus and Tutsis and their perceptions and misperceptions about each other. The perceptions and misperceptions could be negative or positively but it is believed to mostly be one sided in violent conflicts because in violent conflicts parties tend to develop demeaning stereotypes of each other, and attitudes are often influenced by emotions such as fear, anger, bitterness and hatred" (Miall et al 1999:14).

When issues concerning our way of thinking is not addressed in the aftermath of a conflict there will always be a 'fragile reconciliation' which can possibly disrupt the peaceful coexistence of the people. Reconciliation has to do with the future, which stress on the maintenance of sustainable peace throughout generations without any violent conflict. Lederach (1997) reveals that *Truth, Mercy, Justice and Peace* are the four directions that bring about reconciliation. Rigby thinks the four are important but added that *Time* is very important to access reconciliation. I argued that when we consider both Lederach and Rigby's presentation and apply that to the reconciliation process in Rwanda, the kind of reconciliation that will be achieved is what I consider to be a *partial or fragile reconciliation*. However, what could bring about a *sustainable reconciliation* is a change in the knowledge of the people by reconstructing it toward a positive attitude. The eclectic approach for sustainable reconciliation gives ideas in that direction. Under the umbrella of peace, perpetrators and victims are encouraged to smoke the peace pipe by shaking hands or hugging each other after the hearing. And as it is mostly claimed that time heal wounds, with time people will try to live and forget their ordeal. With a reconstruct of the knowledge of people the fear of *who is a Hutu and who is a Tutsi or who is my neighbor will be a thing of the past.* Before we continue to theorize my position on sustainable reconciliation in Rwanda, we will have to run through a number of conceptions and misconceptions about the concept of ethnic identity and state why it is used in the argument of this essay.

2.3 Ethnicity vs Ethnic Identity

Ethnic identity is an identity which one connects his or her ethnic background with. Interestingly, there are different types of emphasis laid on the subject and for that reason it has become a complex subject to discuss. Thus, there must always be a level of carefulness or caution on how the concept must and should be used. However, the situation might be as

Stephan Anderson (2001) pointed out, to construct and deconstruct the concept of ethnicity. With an intention to look at ethnicity from a perspective that is applicable to this essay, the two contexts that carry the concept, ethnic and identity have to be discussed. Stephen Cornel and Douglas Hartmann (2007:16) provided an insight on the historical connotation of ethnic identity. They pointed out how the word ethnicity emanated from the Greek word *ethnos* (nation) and how in the15th century ethnic in English was referred to those who were not Jews and/ or Christians. Maintaining that in the past "ethnic" clearly referred to "others", to those who were not "us". The meaning of the concept kept changing or probably received a comprehensive clarification and by the 20th century varying definitions has come to the spot light. This development is met with fragments of explanations from different schools of thought and the academic world, making it difficult to clearly define or take a position on what the concept truly imply.

However, to avoid the complexities portrayed in the academic world towards the concepts, I intend to stick to Cornel and Hartmann's (2007) definition which states that an ethnic group is "a collectivity within a larger society having real or punitive common ancestry, memories of a shared historical past, and a cultural focus on one or more symbolic elements defined as the epitome of their peoplehood" (p.19)[3]. Even though the definition's detailed explanation could be problematic, its fundamental findings based on ancestral connection, historical past and culture puts it in a broader perspective for discussion. What is noticed is that the three do not necessarily pose danger in a society when people are attached to any of them in ethnic terms. However, when the ethnic consciousness is raised in a society, the idea and motive behind identity takes a new dimension. The relationship between ethnicity and identity is a situation where one identifies his/herself in ethnic terms[4]. The subjective nature of people within a society has an immense impact on how ethnicity is created or developed. Also outsiders can assess people behaviors and determine whether they are ethnic or not. As earlier mentioned, the definition of the concept of ethnicity can be a

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[3]a. It involves three kinds of claims: a claim to kinship, broadly defined; a claim to a common history of some sort; and a claim that certain symbols capture the core of the group's identity.
b. as in Weber's conception, these claims need not be founded in fact. The kingship claim, for example, has to do with either "real or punitive" common ancestry.
c. the extent to actual cultural distinctiveness is irrelevant. Contrary to many common definitions, not all ethnic groups are culture groups (and not all cultural groups are ethnic groups). Although group members may draw attention to certain cultural features as "the epitome of their peoplehood," they are not necessary practitioners of distinct cultures, and such features frequently have more symbolic power than practical effect on group behavior. In fact, the cultural practices of an ethnic group may vary little from those prevalent in the society of which it is part.
d. an ethnic group is subpopulation within a larger society
e. an ethnic identity is self-conscious

[4] Ethnicity, then, is identification in ethnic terms—that is, in terms outlined above [above definition]. An ethnic identity conceived in such terms. A population or social collectivity may be simply an ethnic category, assigned an ethnic identities by outsiders. But once that identity becomes subjective—that is, once that population sees itself in ethnic terms, perhaps in response to the identity outsiders assign to it— it becomes an ethnic group (Cornel and Hartman 2007.21).

complex one but Stefan Anderson's (2001)emphasize that ethnicity [identity] refers to practices of social division, inclusion and exclusion of groups that are socially and historically constructed maintained for this essay.

Since I am of the view that the situation of 'ethnic identity' in Rwanda is a potential element that can hamper any reconciliation process and have repercussions on peaceful coexistence, a question is posed by asking what type of 'ethnic identity' is prevailing in Rwanda? This question is posed because of two main stances that have been taken by scholars on the subject of 'ethnic identity'. In view of that our next discussion will look at the two stances on the concept and take a position from one.

2.3.1 The Primordial Idea

No matter the different opinions raised on the concept of 'ethnic identity', two main approaches have emerged on how ethnic identity is identified among people. The two are the primordial and constructivist approaches. From the primordial stance, it is argued that ethnicity is a natural phenomenon which in this sense must be seen as something acquired right from birth. Such conception enumerates that "ethnic and racial identities are fixed, fundamental and rooted in the unchangeable circumstances of birth" (Cornel and Hartmann 2007:51). The primordials position suggests that if ethnic identity is natural then ethnic conflicts are inevitable because ones affiliation to a particular ethnic group is unchangeable. This view is shared by one of the renowned scholars, Samuel P. Huntington (1993), an American political scientist, who reiterated on the notion by connecting identity to the natural existence of conflict. He perceived that conflicts are inevitable as long as ethnic identity remains a natural phenomenon. Just as to throw more emphasis on primordials argument on in inevitability of conflicts, Helen Yanacopulo and Joseph Hanlon (2006:97) from their position summarize the primordial thought by stating that "primordialists view ethnicity as an exceptionally strong affiliation which is often linked to ancient conflicts, age-old hatreds and past atrocities".

The primordial position has an underlying assumption that ill-feeling, hatred or anger posed by individuals or groups towards others in what is described as diverse ethnic societies is a situation that is more blood related than something constructed. They believe that the possible change of people way of dealing with issues is minimal and risk the possibility of eliminating conflicts in such societies. There is a strong belief that conflicting differences between ethnic groups always exist and for that reason violent clashes are inevitable. The innate position posed by primordialists on ethnic identities signals the inability of groups with such state of mind to fully reconcile their differences in a particular society no matter the efforts made by who ever (ibid) because it is assumed possible change is very minimal.

The approach of the primordials points to a direction which admittedly will mostly if not always place conflicts in positions where individuals and groups may have the tendency to justify any motive, being good or bad, for a particular act in a conflict or may use ethnicity to

play the blame game. Also, if the primordial assumption stands to be right then there will be a danger for any reconciliation establishment in the aftermath of any ethnic conflict. As long as the behavior of the affected people remains the same and conflicts inevitable, reconciliation initiatives may not have any meaningful impact on the society. However, I must emphasize that the primordial sentiments will not be used here in this essay because of the fact that the Rwandan 'ethnic conflicts' are based on constructed 'ethnic identity' rather than the natural sentiments shared by the primordial.

Ethnicity does not mostly or always lead to conflict but rather how it is identified and used by the people can create a platform for a violent conflict. Wimmer et al. (2004) draw our attention to this assumption by stressing that 'ethnicity' does not automatically lead to violent conflict formation. Rather, it is the way power is exercised, especially in the process of allocating the resource of the state". They maintained that if ethnicity promotes conflict then societies that are overcrowded with different ethnic background will have to face more conflict than countries such as Burundi and Rwanda[5]. And for that reason, the constructivist approach which "inverts the logic of the instrumentalist and primordialist, both of whom presume the existence of communal consciousness, either as weapon in pursuit of collective advantage or an inner essence" (Udogu 1999:254), will be applied as my theoretical framework to explain my position on 'ethnic identity'. Also the constructivist approach "places higher stress on contingency, flux, and change of identity than the [primordial] concede (ibid).

2.3.2 The Constructivist Idea

The constructivist approach view ethnic identities as a creation by the society and believe that such constructions can be changed or altered at any point in time. They view "ethnicity as a product of human agency, a creative social act through which such commodities as speech code, cultural practice, ecological adaptation, and political organization become woven into a consciousness of shared identity" (ibid).Yanacopulo and Hanlon (2006:98.) emphasized that constructivist "argue for a social construction of identity, moulded by social systems, leaders and circumstances. Identity is malleable, changes rapidly over time, is often recently formed, is not inherently conflictual" To the constructivist, ethnic identity is a societal formation which has the possibility to cross over the edge to a likely place of change.

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[5] I say this because if, indeed, ethnicity, ipso facto, were to cause violent conflict, then one could also argue that the more ethnic groups you have within a state, the more violent conflicts you will have in that state, and vice versa. But this proportion is false at best. Burundi and Rwanda which have experienced some of the worst scenarios of conflict in the world, are host to three ethnic groups each. Yet Tanzania, which is host to over 200 ethnic groups, has been enjoying relative peace and stability since independence. At the same time Somalia, which has always been claimed to be a homogenous society and where ethnic pluralism may not really be an issue, has remained a collapse state since 1992 (Wimmer et al. 2004:54)

It is also believed constructions do not happen out of the blue but are created through systems, leaders and circumstances. The issue of 'power bearers' plays a meaningful role in the argument of the constructivists and with that in mind, they place much focus on the elite group in the societies who are believed to have the power to influence or manipulate ethnic, religious, or class identity (ibid). The emphasis laid on the elite of the society explains the deeper relationship between power and social constructions which make it possible to place the Rwandan conflict in that category.

Ethnicity in Rwanda from scholars such as Melvern (2000), Mamdani (2002), Yanacopulo and Hanlon (2006) and Skaar et al (2005) is traced to the elite construct of colonialism. 'Ethnic identity' is not seen as a natural phenomenon perceived by the primordialists but something invented, constructed, imagined and instrumentally used by politicians (Alexander, McGregor and Ranger: 2000). Political leadership as well as the elite society use the concept as a tool for political or personal gains by creating what Wimmer et al (2004) called 'ethnic consciousnesses in societies. The consciousness brings about a situation where people begin to have the awareness of 'we' and 'them' or the division of 'they' and 'us'. How constructed 'ethnic identity' affects a society in a negative way is what Rwanda has experienced since colonial rule and that is what is discussed in the ripple effect of social construction.

2.3.3 Social Construction and its Ripple Effect

Although the above subject will be thoroughly discussed later in the essay it is important to look at the ripple effect of the ethnic identity constructions which will be the bases of my argument. We are about to look at some or all facts about the world we belong (Kukla 2000:4) as posed by constructivists and find out the ripple effect about it. A fact surrounding the Rwandan conflicts is that certain factors of social construction after colonization immensely contributed divisions that have led to conflicts in the country. Before colonization, "it is evident that social division in Rwanda were not racialised until a constitutive imaginary where the 'Tutsis' were represented as a conquering 'race' and Rwanda was created as a 'Tutsi kingdom' was realized through colonial power" (Anderson 2001). The imaginary situations which in the end aroused the consciousness of 'ethnic identity' in the Rwandan societies did not only produce a state of affairs of 'we' and 'them' but more importantly changed the perceptions of individuals or groups about the 'other'. As we walk through this essay we find out that the perception of the 'other' before colonization was quite different from that of the period of colonization and the aftermath.

What was then produced was an idea of the 'other' which later started deteriorating to a level that people try to dehumanize one another in the societies. Although, the dehumanizing nature posed by the social construction of identities can be on different levels where many are 'hidden', Rwandan conflicts have exhibited a more obvious one where Tutsis have been referred to as 'cockroaches' who have no right to live by their Hutu

neighbors (Mamdani 2002) and (Gourevitch 2000). The 'other' has no right to life. In the 1994 conflict for example, the desire to malign the 'other' and promote enemy images was intensified through a radio broadcast by the Radio Television Libre des Mille Collines (RTLM) to incite Hutus to rise up against their Tutsi neighbors (Terry: 2005; Internews 2003). Montgomery and Smith sum up the dehumanization attitude and relate it to Hitler's Germany[6]. There have also been many instances where one group sees the others existence as a potential threat in the society. Throughout the history of Rwandan conflicts from colonial era to the genocide the desire to dehumanize groups in ethnic terms has mostly been high.

What is argued here is that the ripple effect of the social construction of 'ethnic identity' has created a situation of wrong perception of neighbors. The perception of the 'other' changed to a level that any reconciliation initiative in the aftermath of any conflict has to come to a point of dealing with the attitude of the inhabitants. If the perception of the 'other' has contributed much in different conflicts at various stages in Rwanda (Melvern 2000) then the edge to deal with that must be of high priority to all and sundry in order to avoid a recurrence of any conflict. Although peace settlements and negotiations have come up after conflicts in Rwanda, the Gacaca tribunals at the moment stands in a unique position to assist the people get over their differences. It stands in the position to address issues of the past, try to deal with the present and assist the people by providing a better if not the best navigator that will lead them into the future with a reconciliatory attitude and better perceptions. To get this done the process must consider how ethnic identity construction has divided the people find the possible way of reconstructing the ethnic identity structure.

The fact that ethnic identity construction strategies employed by colonialist or elites in Rwanda conceived ethnic consciousness which later produced hatred, enemy images, perception of the 'other' in the social fabric of Rwanda there is the need to address the *unnecessary evil*, perception of the 'other', which inevitably became part of Rwandan society. A number of researches into the *unnecessary evil* phenomenon have shown that the ripple effect of ethnic identity construction has contributed to negative ethnic sentiments which have contributed immensely to conflicts in Rwanda and the last straw of ethnic sentiment and ill-feeling was the 1994 genocide. What is essential at this point is how we to prevent this from reoccurring when the attitude of the people remained unchanged. Is the reconciliation initiative after the genocide in the position to address the socially constructed identity that has been there for ages? Is the transitional justice system that will handle legal concern between perpetrators and victims enough platforms to address this issue? With such questions what is seen as a major challenge in the reconciliation approach is the *human attitude,* an attitude connected to how the perception of the 'other' in the society has been created. The perception of the 'other' has to change or reconstructed before a *sustainable reconciliation* can be

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[6] "In Rwanda they referred to Tutsis as cockroaches, explains Omaar. They were not human beings. This is very important to understand, [there are] very close parallels to what happened in Hitler's Germany. [They said,] 'Don't worry, you're not killing humans like you. You are killing some vermin that belongs under your shoe. You're killing cockroaches" (Montgomery and Smith 2009).

achieved in Rwanda. To buttress my idea of what *sustainable reconciliation* signifies, a a theoretical framework is conceptualized to explain my position in the next section.

2.3.4 Eclectic Approach towards Reconciliation

The discussion above has walked us through a number of theories which is purposely aimed arriving at an eclectic explanation of what I perceive to promote *sustainable reconciliation* in Rwanda. The eclectic approach will be a combination of different assumptions presented by scholars in the discussion and that of my subjective position on what is construed to be *sustainable reconciliation*. From the epistemological point of view, knowledge of 'ethnic identity' was constructed and acquired in Rwanda through colonial rule and such construction has been one of the major conditions that have changed the attitude of people towards each other. We can deduce that ethnic identity construction through colonization built up a tensed environment of divisions and hatred which has later resulted in the longing to create enemy images and the perception of the 'other' in the country. Dehumanizing the 'other' in conflicts, from colonial times to the genocide has been one of the weapons used to incite violence in 'ethnic' terms against neighbors. The alarming situation poses a question as to what can be done to influence the attitude of people to a positive direction where peaceful coexistence will be sustained in the spirit of reconciliation.

This seems a very difficult question to ask but the promising foresight in the discussion of the attitude of people is that the knowledge that controls such attitude is a constructed one. What is constructed can be reconstructed to the better. There are ethnic conflicts that are related to the primordial argument which will make such an assumption difficult to grasp but since the 'ethnic identity' factor in Rwandan is constructed the reconstruction of it will contribute immensely to the reconciliation in the country. Since this paper argues that knowledge is constructed through colonial rule it also maintains the constructed knowledge reflects in the attitude of people negatively, therefore the reconstruction of the knowledge can produce a positive attitude that will lead to a *sustainable reconciliation* in Rwanda.

As mentioned in the beginning different elements will be combined and include my subjective thought to arrive at an eclectic approach which will serve as my position on what will lead to *sustainable reconciliation* in Rwanda. In this case the elements presented by Lederach (1997) and Rigby (2001) are maintained and an additional concept, *Attitude*, is included to formulate a new theory which will represent a *sustainable reconciliation*. The motive for conceptualizing the theory stems from a thought that a constructed knowledge that promote pessimistic attitude can be reconstructed to generate an optimistic one. Also through the optimistic attitude people perception about the 'other' is channeled to a direction of peaceful coexistence in a reconciliatory environment. Since Rwanda has initiated transitional justice system known as the Gacaca tribunals, I find it important to investigate its activities and provide my thoughts on the way forward to a sustainable reconciliation. What will

constitute *sustainable reconciliation* in my line of argument has to do with the definition posed by Skaar et al (2005) presented earlier in this discussion but will also include that reconciliation has to come from within but not from a hypocritical facial expression and shaking of hands provided by political leaders.

Reconciliations are achieved through different strategies based on the fact that conflicts are diverse but the overall ambition that covers reconciliation initiatives in general is to assist affected people of a conflict (victims and perpetrators) to be able to walk into the future with a positive perception about each other despite their differences. In summary, to have a sustainable reconciliation an environment where respect for each other as equal citizens is must be sustained (ibid). However, how to sustain such a vision solely depends on the strategies and roles played by reconciliation entities alongside individuals or groups involved. We will have to find out among the numerous roles played by the Gacaca tribunals as to whether the initiative is effectively assisting individuals and groups in the reconstruction of the previous knowledge of ethnic identity.

3. Method

To achieve the aim of this investigation, an empirical research into the Gacaca tribunals in Rwanda is carried out. Conflicts, violent or non violent, has been connected to 'ethnic identity' consciousness that has had deteriorating effect on the perception of the 'other' in Rwandan societies. Melvern (2000), Mamdani (2002), Gourevitch (2000) etc emphasize how the perception of the 'other' has generated the conflicts. Melvern (2000:17) claims that "the element of planned annihilation links the killings in 1963 to the genocide in 1994. The planning and methods used thirty years apart, are similar". What then comes in mind after looking at such argument is the question of why will people living together after thirty years of 'resolved' conflict embark on a similar destruction agenda on their neighbours? My answer to this question is found in my argument that the perception of the 'other' still exist. The past perception constructed in the minds of people still determines their attitudes in the present. I assume the best opportunity to resolve the situation on the perceptions of the other can obtained through the reconciliation initiative in the country.

3.1 Single Case Study

This is a single case study based on my reasoning that Rwanda has experienced series of conflicts in different categories with a persistent feature of a particular cause. The single case study is necessary to assist develop an argument that the perception of the 'other' which has been in existence from colonial times is a contributor to violent conflicts in Rwanda. And that will assist me to investigate the reconciliation process provided by the Gacaca tribunals (Gomm et al 2000). My assumption is that the Gacaca tribunals will not produce sustainable reconciliation if the major cause of conflicts is not effectively addressed. There are different ways of studying a case of this type and the approach that will be used in this project will be a normative one. By this the idea is to "improve the object of study or to create a new, better state of things through the research (Planning an Empirical Research). The normative approach position does not totally ignore the descriptive angle of this research which fundamentally aims at "gathering *knowledge* (i.e. descriptions and explanations) about the object of study (ibid). The nature of investigation has rendered a necessity of also leaning on descriptions and explanations as provided by the descriptive approach. To elaborate on this further, I will like to say that there will be an overlapping in both approaches but its worth mentioning that the normative approach gives an opportunity to create a new theoretical dimension on the subject of reconciliation on my case. The theoretical dimension is not a

basis for a general picture of reconciliation establishments since every case is unique but it can serve as a tool for other reconciliations with similar cases.

The approach that will be used to ascertain my claim is the qualitative approach. The approach chosen is based on the fact that reconciliation initiatives aftermath a conflict focus on the society and whether the society attains the kind of reconciliation expected of them raises a number of questions about the substance it carries. Moreover, Gomm et al (2000:11) mentions that "qualitative research is of specific relevance to the study of social relations, owing to the fact of the pluralisation of life worlds". The increasing number of life worlds in the social fabric opens the opportunity for researchers to investigate the level of quality of a given situation particularly within the society. In the life world situation, the Gacaca tribunal is no exception and that provides an opportunity to investigate the qualitative strength of the tribunals within the social fabric of Rwanda. Its qualitativeness as an establishment will determine whether it entails substance that promotes sustainable reconciliation.

The qualitative research is to basically focus on the level of input of the Gacaca tribunal and assess its input to find out how it reflects on the attitude of individuals and groups in the society. Investigating the attitude of the Rwandan people brings the research to both an individual and group level of analysis. In the essay an in-depth investigation of *why* and *how* the Gacaca tribunals were created and whether the aims of the tribunal are reflected the society. The position taken in the essay does not imply that the Gacaca tribunals have totally failed but I am of the view that it will provide sustainable reconciliation when resilient structures to deal with the perception of people are established.

3.2 Material

The efficiency and success of this research is solely dependent on the availability of material and access to right information that will be used for the analysis. This is because the information that will be used for this research is gathered through academic literatures, articles, journals, government gazette, internet sites etc and with this in mind; my choice of material for this essay needed a thorough scrutiny to make sure all information gathered depicts credibility. There are a number of materials out there in the world that can be misleading because of the influx of different authors and biased materials. Due to how Rwanda has experienced a number of conflicts information on them has been in large quantities but with diverse views. And the complex situation here is the high risk of getting the wrong information on the subject matter from wrong sources.

However, to carefully avoid the tendency of getting trapped in an unforeseen situation where materials for the research might be problematic, the academic literatures are picked from credible authors who have contributed and produced much insight on conflicts in Rwanda. Some of the authors include Mahmood Mamdani, a Herbert Lehman Professor of Government at Columbia University and is the author of *When Victims become Killers,*

Citizens and Subjects: Contemporary Africa and the Legacy of Late Colonialism, The Myth of Population Control, From Citizen to Refugee, and Politic and Class Formation in Uganda (Mamdani 2002, back cover). Linda Melvern, an investigative journalist and writer. She is an Honorary Fellow in the Department of International Politics, University of Wales, Aberystwyth. Her books include A People Betrayed: The Role of the West in Rwanda's Genocide (2000), The Ultimate Crime: Who betrayed UNs and Why (1995), and The End of the Street (1986) (Melvern 2000). John Paul Lederach has spent 15 years providing training and supporting peacebuilding in Colombia, Somalia, The Philippines, Nicaragua, and Northern Ireland. He is the Director of Eastern Mennonite University's Conflict Transformation Program; he has conducted numerous research projects and published extensively (Lederach 1997). The last but not the least to mention is Andrew Rigby, who was the Director of the Centre for Peace and Reconciliation Studies from 1999 until 2008 (Rigby 2009).

Articles and journals from academic sites are to be effectively relied on but with a careful scrutiny. I will also stress that the search engines from the Internet will be of tremendous assistance to my gathering of information. I know an over reliance on one source of information can jeopardise my investigation and analysis so there will be a variety of different authors.

Apart from relying on the secondary sources for information, the primary sources will also contribute their quota. I will look into the presidential decree which backed the establishment of the Gacaca tribunals and provide an insight on its provisions. The Organic Law which established the Gacaca tribunals will also be looked into. The law in this situation will assist in the investigation and provide accurate information on how the Gacaca tribunals are structured. I will also look into the official site of the Gacaca tribunals, *Inkiko,* and the official website of the government of Rwanda for in-depth information on the subject.

3.3 Delimitation

The memories of the past, intensions of present and the future for all Rwandese was the foundation that prompted the government of Rwanda backed by the United Nations to create a reconciliation establishment after the genocide. They decided to adopt an approach that will contribute to the processes of national reconciliation and for the restoration and maintenance of peace in Rwanda. Various approaches in the form of legal mechanisms were introduced to assist achieve such goal. The approaches include the creation of the International Criminal Tribunal for Rwanda (ICTR) based in Tanzania mandated to trial the main architects of the 1994 genocide. The second approach is at the national level where at this level an organic law was passed to prosecute the crime of genocide or against humanity (Inkiko-gacaca 2004). And the third is the Gacaca tribunals which deal with minor crimes at the local level. What I want to point out here is that there are other reconciliation activities that are pursued by the

government of Rwanda which are worth investigating but I will limit myself to the Gacaca tribunals due to time constraint and for effective investigation.

One of the possible ways of gathering information for this research is to have an interaction with those affected by the conflict or the beneficiaries of the reconciliation process. Having a field work in Rwanda to gather information would have been a great experience but the unavailability of funds has made it impossible to embark on such approach. Also to conduct interviews in such investigation could enhance the result in a different way but that is ruled out because it will not be helpful when I can not be there myself. The possibility of using telephones and e-mails is acknowledged but it will not have any meaningful impact on the investigation since the process can create complications. With all said and done about the theories and method we now move on the analysis of the essay.

4. Analysis

What we can know about the conflicts in Rwanda and how we can know them will all come out from the next chapter (Marsh and Stocker 2002). The chapter basically looks at Rwanda as a country and discusses how colonial administration constructed the 'ethnic identity' epidemic. In all chapter 4 and 5 try to provide an answer to the first part of the research question that ***what is the main source of conflict in Rwanda since the 1950s?*** Before we go into the discussion of the colonial administration, a short overview of Rwanda is presented and move on to discuss before colonial rule to build up an argument that after colonial interference the perception of the 'other' in ethnic terms changed in the social fabric of Rwanda.

4.1 Rwanda at a Glance

This section will highlight some of the facts and figures about Rwanda and its current situation. The country is a small Central African country bordered by Uganda, Tanzania, Burundi, and the Democratic Republic of the Congo. It is known as "the land of a thousand hills", and one of Africa's smallest and most densely populated countries. The country is also believed to be located in the region of fertile land and ample rainfall (Appiah and Gates 1999:1648). It has a total area of 26, 338 sq km with 24, 948 sq km of land and 1, 390 sq km of water. The country experiences two rainy seasons from February to April and from November to January. Its natural resources include gold, cassiterite (tin ore), wolframite (tungs ore), methane, hydro power, and arable land. Rwanda is a landlocked country with the nearest port 600 miles away and has most savanna grassland with a predominantly rural population. It has a population of about 10.5 million with three ethnic groups, the Hutu (Bantu) 84%, Tutsi (Hamitic) 15% and the Twa (Pygmy) 1% of the population. It has three official languages which include Kinyarwanda, French and English. The forth language is Kiswahilli (Swahili) that is used in commercial centers. The country gained independence in 1 July 1962 from Belgium-administered United Nation (UN) trusteeship and currently governed through a presidential, multi-party system. It is a poor rural country with about 90% of the population engaged in (mainly subsistence) agriculture (ibid).

"Despite Rwanda's fertile ecosystem, food production often does not keep pace with population growth, requiring food imports. Rwanda continues to receive substantial aid money and obtained IMF-World Bank Heavily Indebted Poor Country (HIPC) initiative debt

relief in 2005-06" (Central Intelligence Agency 2009) [7](Rudolph 2003). Appiah and Gates (1999) concluded that Rwanda faces severe land shortages, poverty, and public health problems and according to the UN World Food Programme the people faces a problem of food security and high prevalence of HIV among female genocide victims. The picture produced above indicates that much effort is needed in every aspect of the economy but we are more interested in the peaceful coexistence of the inhabitants. In view of the fact that my argument is that colonization influenced the attitude of Rwandan towards each other in ethnic terms, it will be of great importance to look at pre-colonial era and how the people were understood to live together.

4.2 Pre Colonial Rwandan Society

History tells that the "earliest inhabitants of the Great Lakes Region were the ancestors of today's TWA people (ones referred to as "pygmies" by Europeans), who account for about 1 percent of Rwanda's population" (Appiah and Gates 1999). In the 1500s Bantu and Nilotic peoples migrated into Rwanda which resulted in the displacement of the Twa (Rudolph 2003). The Bantu Speaking-people from Central Africa began to settle in the fertile highlands that defined the landscape of Rwanda and Burundi. The settlers were identified as Hutus[8]. Later, the region's exiting population was joined by new cultural groups who sometimes became identified as Tutsis (Appiah and Gates 1999). In all, the inhabitants of Rwanda were the Twa, Hutus and Tutsis.

Although pre-colonial Rwanda remains a mystery, myths and poems mostly tell how Rwandan kings lived [9] with powerful kingdoms (Melvern 2000) and (Kamukama 1997). Also there are series of shared beliefs put across by scholars and historians about how the three groups lived together. Appiah and Gates (1999) disclose that "contemporary events have made this period of Rwandan history a subject of great dispute, but at least a few sources indicate that the Tutsi pastoralists coexisted peacefully with the cultivators, at least initially [that is before colonisation]". Members of the two groups [Hutus and Tutsis] intermarried, and came to share the same language- Kinyarwanda- and many of them share the same social

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[7] The 1994 genocide decimated Rwanda's fragile economic base, severely impoverished the population, particularly women, and eroded the country's ability to attract private and external investment. However, Rwanda has made substantial progress in stabilizing and rehabilitating its economy to pre-1994 levels, although poverty levels are higher now. GDP has rebounded and inflation has been curbed (Central Intelligence Agency 2009)

[8] Slowly in the course of a long process of political centralization, these people became identified as Hutu; this identity group now constitutes cultivators (although they also raised cattle) as well as the majority of Rwandan population (Appiah and Gates 1999)

[9] These told of Rwandan kings who ruled the earth's most powerful kingdom. The king, the Mwami, owned everything: the land, the cattle and all the people. One myth told how the first king of all the earth had three sons, Gatwa, Gahutu and Gatutsi, and to test them he entrusted to each a churn of milk. Gatwa quenched his thirst, Gahutu spilt the milk but Gatutsi kept his intact and so he was entrusted to command the others (Melvern 2000:7)

and religious customs, including participation of the *Kubandwa* possession cult (Ibid). Scott Straus (2006:19-20) and (Melvern 2000:7) also put the ethnic category in a perspective to indicate that the Hutu, Tutsi and Twa relationship was not formed on the principles of hatred and tension. They both maintain that "the groups are not certainly "tribal". Hutus and Tutsis speak the same language (Kinyarwanda), they belong to the same clans, they live in the same regions and, in most areas, the same neighbourhoods, they have the same cultural practices and myths and they have the same religions".

Like many ancient clans, cultures, tribes and people that are defined by where and how they settled, the situation in Rwanda was different. There was no distinct settlement among the people (ibid)[10]. "The word Hutu means subject or servant and the word Tutsi means those rich in cattle. [However] the differences were not solely based on wealth or class; there were Hutu and Tutsi in the same class. Tutsi pastoralists were as poor as their Hutu neighbours" (ibid). A Hutu who gained significant wealth and married to a Tutsi woman might, over time, come to be regarded as Tutsi – a process (popularly referred to as *kwiihutura*)(…). Conversely, a Tutsi family that fell on hard times and lost its cattle might come to be regarded as "Hutu" over time. Hutu and Tutsi identity was not only defined by birth nor was all Tutsis wealthy and powerful Appiah and Gates (1999)

The bottom line is there was peaceful coexistence among the people although there were series of minor tensions in the area of the acquisition of wealth and dominance. Those tensions were believed to have not been done on ethnic or tribal ground. It was instead, the desire for people and groups to acquire more wealth than the other. Dixon Kamukama (1997:9) explains the relational condition of the people by the end of the 16th century and said that various kingdoms, under kings, were evident in the region, each struggling to dominate or influence others. The struggle during these periods as ancient African history will tell us was mostly motivated by the discovery of water or fertile land in certain areas.

Rwanda had a peaceful coexistence in pre-colonial times. We have discussed and find out how the different groups settled in today's Rwanda and how they lived together, inter married and shared common myths and religion. Also in every human society there are differences of opinions and desires that can create minor conflicts as it was experienced in pre-colonial Rwanda. Hutu and Tutsi definitions were not solely based on birth, thereby exposing the primordial argument to an extent, but by other things. We find out that the relationship of the Rwandans was defined in a way that Hutu can eventually become a Tutsi or a Tutsi become a Hutu depending on an individual's wealth. Nevertheless, after the European presence things started changing within Rwandan societies. The next discussion looks at how the changes came about and what it created in the minds and hearts of ordinary Rwandans.

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[10] There were no distinct areas of residence. The Twa, less than 1 per cent of the population, were pygmies and lived as the hunter-gatherers. The Hutu, the vast majority, were peasants who cultivated the soil and resembled most of the people living in neighbouring countries of Uganda and Tanzania with typical Bantu features. The Tutsi were usually taller, thinner and with angular features and were cattle-herders. (Melvern 2000:8)

4.3 Colonial Rule

There is a section of debate on the role played in Rwanda by the Europeans during the colonial era especially within the context of the kind of legacy they left behind after their involvement in the activities of the inhabitants. Like most African countries, the role played by the colonial masters in Rwanda had a significant impact on the inhabitant's behaviour and way of life. However, the contribution of the colonial masters did not only gain positive foundations but also a negative one that has stayed on the minds and people through different generations. In Rwanda, the colonial era was in two phases, the first phase was the involvement of Germany (1898-1916) whilst the second phase has to do with the involvement of Belgium (1916-1962) (Dorsey 1994:8). The years might differ in other historical book but I chose to maintain this ones. The historical periods are both essential to our discussion for the reason that they exhibited different strategies in their involvement in Rwanda which in the end had a profound impact on the social fabric of the country. The fundamental idea in this discussion is to know how the colonial strategy of rule ended up dividing the inhabitants of Rwanda. The result of division is the ethnic consciousness which brought about perception of the 'other' in Rwandan society. We will also notice that this perception has been carried along until the violent conflict in 1994. My worry then goes back to the Gacaca tribunals which are mandated to render justice and promote reconciliation because is it really dealing with the complex situation.

4.3.1 German role

The period of Germany in Rwanda as earlier mentioned was not too long but they served as the first Europeans to influence the political and economic activities of the Rwanda. History tells that the inhabitants revered their kings and kingdoms before the Germans influence came into the light. Germany however used the kings to win the confidence of the people and also find ways and means of raising money through taxes to manage the colonial administration. The Germans decided to administer Rwanda with a very low budget which eventually led to an understaffed administration for the colonial job. "As late as 1913 the whole of German East Africa — a territory larger than Nigeria — was administered by only seventy European officials" (Dorsey 1994:10). And Rwanda has twenty-military officers and six administrators (Melvern 2000). Des Forges (1999) believes the colonizers have an agenda of thinking of how to maximise profit with less input in their colonies.

The administrative policy followed by Germany was an indirect rule policy which became necessary because of the complexity involved in displacing the monarchy. Also it was easier for the German's to administer through the already wielding central authority of the kings in their kingdoms (Dorsey 1994). During their administration, there were land chiefs

who were assigned to collect cattle and land taxes in a strictly managed area. "In this strictly controlled society the neighbourhoods were generally headed by Hutu who obeyed orders from above, and above this level were Tutsi; the monarchy was and the king's army was mostly Tutsi, but not always" (Melvern 2000:9). The German authority made sure the monarch reports to a higher hierarchy. They also helped the Tutsi monarchy in 1912 to vanquish the areas to the north.

I maintain that the then central authority of the kings were subject to humiliation through the German administration because the colonial authority who "immediately noticed how in Rwanda the population [was] divided into three groups" (Melvern 2000:7) took an advantage of it and exploited the people. What is noticed here was that the role of the kings before colonization changed to a leadership of confusion and chaos after the introduction of a new European style of leadership. "Rebel chiefs could easily incite the latent hostility of Hutu against Tutsi" (Dorsey 1994) and the political structure that resulted and often described as a "dual colonialism," were also exploited by the Tutsi elites through the protection and license extended by the Germans (Gourevitch 2000:54). The exploitation developed into internal feuds and further increased the hegemony of the Tutsis over the Hutus (ibid). After, the short-lived German authority, the Belgium took over and their rule defined a Hutu, Tutsi and Twa in ethnic terms. Defining these groups is the beginning of perception of the other in the country.

4.3.2 Belgium Role

The First World War was a devastating war to the Germans and that made them lost most of their colonies. In 1916 the unexpected happened in Rwanda when Belgium troops took control over Rwanda and later started its administration in 1917 with the first royal high commissioner, Melfeyt, appointed (Dorsey 1994). The Belgium administration lasted until 1962 when they ended their colonial rule in Rwanda (Amnesty International USA). Ironically it was the physical presence of Belgium administration that ended but not the knowledge they constructed in the minds and hearts of the people of the country. The knowledge construction of others was the legacy left by the Belgium administration. The question about how and why Belgium contributed to the construction of identities in Rwanda is what we try to find out.

The concept of Belgium participation of identity creation in Rwanda started with their own perception about who the inhabitants of Rwanda were. As we already discussed, the Rwanda society revered their monarchs and respected authority even though there were differences among them. Belgium arrival worsened the division already created by the Germans. It is claimed that whereas German governance had used existing indigenous institutions, Belgium sought to formalize Tutsi dominance, they did so by creating new administrative institutions to strengthen national cohesion and facilitate colonial control (Amstutz 2006:543). "Like most colonialists, the Belgians needed collaborators among the African population in order to rule the vast colonies, in Rwanda and Burundi, these

collaborators—those who ruled as subalterns under the Belgians—were the Tutsi (ibid). The relationship between Tutsis and Belgians deepened an already complex legacy of division left by the German during their short rule.

Gourevitch (1998:54) maintains that "by the time that the League of Nations turned over Rwanda to Belgium as a spoil of World War I, the terms Hutu and Tutsi had become clearly defined as opposing "ethnic" identities, and the Belgians made this polarization the cornerstone of the colonial policy". Colonial policy changed relationships in Rwanda from bad to worst but before discussing that it is important to mention that Belgians used a criteria to identify the inhabitants—the Hutus and the Tutsis. The Twas who were the third group are not often mentioned because of their numerical disadvantage and minimal contribution in this essay. The criteria used to identify a Tutsi from their Hutu neighbours was based on the physical features of the person. They believed the Tutsis were thin and taller than their Hutu neighbours. Kamukama (1993) thinks that the Belgians succeeded to justify the maintaining of Tutsi domination by advancing an ideology that stressed the unique qualities.

It is also revealed that "Europeans did not invent the terms Hutu and Tutsi, but the colonial intervention changed what the categories meant and how they mattered" (Straus 2006:20). The underlying tone of this position is the word *changed what the categories meant* but to what extent did the change affect the inhabitants? Looking at how the categories mattered to the Belgians could be derived from their perception of the categories. The best they could do was to consider one group superior over the other. It is believed that the Europeans maintained a theory that Tutsis were a 'superior race' than their Hutu neighbours and used that to administer the colonial administration (Melvern 2000) and (Amnesty International USA). What motivated their thought is shared by Straus (2006:20). That when Europeans began exploring the Great Lakes region in the late nineteenth century, they were impressed with Rwanda's comparatively hierarchical, orderly, and sophisticated system of rule. In the Rwanda Tutsis, the Europeans explorers and missionaries believed that they had found "superior" "race" of natural-born rulers

The view held by the Europeans that Tutsis were superior and natural-born rulers also motivated their policy of rule. The colonial rule exhibited an ample lot of favour towards the Tutsis against their Hutu neighbours and this deepened the sore relationship that already existed between the two groups.

4.3.2.1 Systematic Favouritism

The Tutsis were favoured in education, businesses, properties, health and almost every necessity of life. During this period it has been observed that "the authority of the Tutsi, previously conditioned by clan allegiances and limited in scope, expanded dramatically, and with it their control over the most limited resources in Rwanda—land" (Amnesty International USA). Tutsi rulers, including the king, extended labor and tax obligation on the Hutu population far beyond what had earlier been customary (ibid). What was then perceived to be ascertained as a normal practice became abnormal in the sight of the Hutu majority.

Mamdani (2001:101) refers to this period as an administrative regime, which, at it lowest rungs, was inevitably Tutsi power. Apart from giving the Tutsis superior power in colonial administration they were also favoured in the educational system. It was argued that the colonial leadership wanted to create an elite group from the Tutsis. Mamdani (2001) gave an insight of the educational system in Rwanda from when the first Western-style school education was opened in 1905 to early 1930s and observed that initially admission was limited to sons of chiefs but later a policy was made to allow sons of Tutsi chiefs to be enrolled into the educational system. Even schools that allow both groups to be enrolled, Tutsi children were taught differently from their Hutu friends[11]. With some exception, Hutu received only the education required for working in mines-and later in seminaries (Rwanda Development Gateway 2005). Also the educational system tried to deprive educated Hutus from citizenship (Mamdani 2001).

4.3.2.2 The Discriminatory Identity Cards

The political and economic dimension took a new turn when *'ethnic cards'* were introduced. The ethnic cards identified the various groups, Hutus, Tutsis and Twas, in the colony. The identity cards "labelled Rwandans according to their ethnicity" (Straus 2006:21). Mamdani (2001) maintains that the card changed the whole fundamental idea of what Tutsi and Hutu meant. He pointed out that the whole conception that a Tutsi can eventually become a Hutu through the measurement of his wealth or Hutu becoming a Tutsi through the same process was out of place. What is revealed here is that even though history indicated that Hutu and Tutsi were not ethnic or tribal the introduction of the ethnic cards divided the groups more than ever. The answer to why the identity cards were introduced is shared in Des Forges (1999) view that it was extremely difficult for Belgian authorities to differentiate between Tutsis and Hutus through their physical appearance and genealogy although they wanted to limit administrative post and higher education to Tutsis. And for that matter "the Belgians decided that the most efficient procedure was simply to register everyone, noting their group affiliation in writing, once and for all. All Rwandans, born subsequently would also be registered as Tutsi, Hutu, or Twa at the time of their birth (Des Forges 1999:37).

After the introduction of the cards Rwanda society became more divided because the Hutus who has been marginalized in every aspect of Rwandan life felt oppressed. The binding identity cards germinated Hutu resentment against the Tutsi and that took root in Rwandan society (Amnesty International USA). The recording of the ethnic groups in written form

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[11] By the early 1930s, government schools were phased out and the missions assumed control of the education system. The system they created had two tiers. The tendency was to restrict admission mainly to Tutsi, especially to the upper schools. But where both Tutsi and Hutu children were admitted, there was a clear differentiation in the education meted out to. The Tutsi were given a "superior" education, taught in French in a separate stream. The *assimiltionist* education prepared them for the administrative positions in government and testified to their preparation for citizenship, even if at the lowest orders. In contrast, the Hutu were given an education considered "inferior," since they were taught in a different stream, one where the medium of instruction was Kiswahilli (Mamdani 2001:89-91).

enhanced their importance and changed their character (Des Forge 1999:38). The importance attached to 'ethnic identity' was however constructed into the attitudes of the people and how, the importance of identity was reflected in the society was seen in the character of the groups.

The *discriminatory identity cards* which constructed the 'we' and 'them' during the colonial period in the Rwandan society ended up in assisting perpetrators of Rwandan conflicts especially that of the1994 genocide where victims were to identified through the identity cards. What can be said here is that the divide and rule format introduced by the Belgians produced a character of hatred, division, perception of the 'other' and an attitude of 'we' and 'them'. I will end by referring to Straus (2006:21) that "in short, under colonial rule, "race" [ethnic identity] became the central determinant of power; as a consequence "race" [ethnic identity] became a symbol of oppression". Whereas the Hutu- Tutsi division in pre-colonial times had been rooted in culture, wealth, and power, Belgian rulers—following the so-called Hermitic[12] hypothesis—begin to use race [ethnic identity] to justify Tutsi supremacy" (Amstutz 2006:543). Hutu, officially excluded from power, began to experience the solidarity of the oppressed (Des Forges 1999:38). Groups that were once living and sharing things together were now divided through an unhealthy colonial administration pursued by the Belgians. Various forms of official discriminations in schools, businesses, administrations of any form and society as a whole provided a yardstick for both Hutu and Tutsi to rethink about who they were.

The construction perceptions changed the attitudes of individual and groups about others. Surprisingly, the attitude of people on the perception of the 'other' is carried into post-colonial Rwanda and that has generated a number of identity based violent conflicts in the country. Our next discussion looks at how such perceptions of the 'other' have created conflicts until the 1994 genocide. We must bear in mind that our discussion is to arrive at a conclusion that the perception of the 'other' which has been one of the fundamental causes of Rwandan conflicts is a construction through colonialism and for reconciliation to be achieved in Rwanda the people have to reconstruct their thinking. I maintain that among all the weapons used to discriminate in Rwanda; the most divisive tool was the *discriminatory identity cards*. The cards rooted in the minds of the Rwandan people the awareness of 'we' and 'them' or the perception of the 'other' and that perception has lived with the people until the genocide.

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[12] According to the "Hamitic hypothesis," Tutsis were descendants of Noah's son Ham. Since Ham had shown contempt to Noah, his father, the father had refused to bless him and his descendants. Early on, Europeans had assumed that Ham's descendants were black Africans, but in time the thesis was turned on its head, claiming that Hamites were actually Caucasians under black skin. The Hamitic idea therefore regards Tutsis as outsiders, as aliens that have helped to civilize the indigenous Hutu and Twa. For a discussion of the nature and impact of the Hamitic thesis, (Mahmood Mamdani 2002 79-87)

5. Rwandan Conflicts (1950s to 1994)

The later periods of Belgian colonial administration in the 1950s experienced a new turn of events when their collaborators—Tutsis— rose up against colonial rule. Their protest for change shifted Belgian trust from the Tutsis to the Hutus. Favouritism given to the Tutsi by Belgians instead changed to the Hutus because "the call for democratization and decolonization encouraged colonial authorities to shift their allegiance to the Hutu, the group comprising 85 percent of the country's population" (Amstutz 2006:544). The change of allegiance implied that the political and economic structure will also have to receive a dramatic change in the country. Power invested in Tutsis throughout colonial administration has to be stripped from them to the Hutus and what we need to observe from this process was that the cat was already left out of the bag, the harm had already been done—the constructed ethnic identity division had already taken roots in the Rwandan society. The suppression experienced by Hutus was now reversed and individuals and groups thereafter have to pay the price for it through political and economic issues.

Conflicts in the country from the 1950s to the 1994 genocide has been mostly related to political and economic issue but in those issues the ethnic sentiments were used as a weapon to incite hatred, anger, bitterness and all kinds of animosity against neighbours in the country. The conflicts have been 'ethnicised' in the sense that claims of superiority or historical mission of ethnic group [was] used to boost prior existing grievance" (Mac Ginty 2008:72).

A look at the conflicts in Rwanda will begin from 1957 when political parties started popping up in Rwanda until 1994. Melvern (2000) points out that the first political challenge to Tutsi oligarchy was a published manifesto by a group of Hutus in 1957 demanding their emancipation and majority rule for Rwanda. The most awkward experience in the political life of Rwanda was the formation of political parties along ethnic lines. Much emphasis is not put on the politics but it is important to disclose that since the ethnic sentiments have already been constructed, forming political parties along ethnic lines deepened the already sour relationship of the Hutus and Tutsis.

In 1959, the unexpected happened when a forty-six year-old Tutsi king died under suspicious circumstances. There were numerous allegations on his death from the Tutsi elites which led to severe political assassinations of the Hutus. The number of deaths from a UN report in 1960 was about 200 people. In 1961 violence erupted after the Hutu political party won an election the Tutsi party accused of fraudulence[13]. The violence prompted the exodus of Tutsis to neighbouring countries. In 1963 Rwanda Tutsi refugees in Burundi invaded Rwanda and the reaction of the government to the invasion was immediate. "It began with the

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[13] The Hutu party was known The Party du Mouvement de I'Emancipation Hutu (Parmehutu) and that of the Tutsis was known as the Union national Rwandaise (UNAR)

elimination of the internal opposition and the murder of most prominent political opponents…Three days later, two days before Christmas; an organised slaughter of Tutsi began". About 5000 were killed[14].

After 1963 there were series of minor conflicts among the ethnic groups but in 1990 an incident happened when Rwanda Patriotic Front (RPF) members invaded Rwanda from Uganda. The invasion was interpreted as a protest from the Tutsis who wanted to come back to Rwanda (Adelman and Suhrke 2000:31). Their attempt to invade saw to the drafting of a peace accord. However, the accord did not hold since it was erupted by the 1994 genocide. The number of deaths recorded during the genocide was about 800, 000. Murders were carried on "by extremist Hutu regime that had planned to eliminate the Tutsi minority and political moderates who belonged to the majority group, the Hutu" (Kroslak 2008:1).

5.1 Paths to Reconciliation

The series of conflict discussed above have three common underlying features which are 1) 'ethnic identity construction', 2) perception of the other and 3) group desire to dominate in the political and economic sectors of the country. The conflicts have indicated that divisions among the people in ethnic terms have caused a countless number of deaths since the 1950s. Perhaps the number of survivals who are wounded, maimed, traumatized, bitter, orphaned or displaced in the aftermath will be more than the number of deaths. In that case the need to create an environment of peaceful coexistence must come from men and women, young and old with reconciliatory hearts. If the ethnic sentiments still persist as it has always been, reconciliation becomes an impossible target because the negative perception of others still remains in the society. Moreover, the conceptions and misconception of individuals and groups about their neighbours put 'trust' in a tiny position that members from other groups cannot be trusted with political and economic administration.

The UN, governments, NGOs etc encourage parties to conflicts to smoke the peace pipe and promote reconciliation. In 1961 a UN sponsored reconciliation conference took place in Belgium to sensitize people on the need to reconcile for peaceful coexistence (Melvern 2000). In 1993 the Arusha Peace Accord was signed after 14 months of negotiations between the Rwandan Patriotic Front and the Rwandan government (Wage and Haigh 2004) to serve as a guideline towards peaceful settlement on their conflict.

In some conflict situations, conferences and negotiations are organised to encourage parties to end conflicts without much attention given to the people on the grass root level, but conflicts related to 'ethnicity' must target the people on the ground, reconciliation must come from the society. The attitude of people has to change for reconciliation to be effective.

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[14] The killing began on 23 December in Gikongoro, where the prefect was said to have understood that the Tutsi must be killed before the kill the Hutus. Armed with spears and clubs a group of Hutu started to kill every Tutsi in sight – men, women and children. Some, 5000 people were killed.

However, initiatives meant to encourage people to bury the hatchet and work towards a sustainable reconciliation have mostly failed because individuals and groups still maintain their old perception of the other. Their attitude still reflects on the negative intentions they have towards each other and such perception creep into creating a partial reconciliation. In a partial reconciliation parties or members in a conflict do not totally bury their differences but only follow the symbolic activities provided by the UN and governments which later results in a recurrence of conflicts. Rwanda has tried to follow certain paths that might reconcile the people in past conflicts but due to the desire for people to hold on to past constructed ideas all have failed.

Nevertheless, a new dimension of a reconciliation process is introduced after the genocide. This initiative is not only to promote reconciliation but to also render justice for the injustices committed during the conflict. The Gacaca tribunal as it is called is mandated to provide a transitional justice that will also encourage reconciliation between victims and perpetrators. For the sake of our discussion we will look into the Gacaca tribunals and relate it to reconciliation. The mentioning of the 1994 genocide will often be made but we must bare in mind that we are not discussing the genocide, it has become necessary to mention it because of the direct connection it has with the Gacaca. What is expected is how to provide sustainable reconciliation through the Gacaca after what is observed as protracted segments of conflicts in Rwanda. Our next section discusses the Gacaca tribunals and how it is organised.

6. Gacaca Tribunals

Gacaca is a grass root judicial system that sees to the settling of disputes among the local people. Frank Rusagara described it as a traditional council and tribunals made up of elders to resolve conflicts and administrative justice. The term Gacaca in literal terms means a resting and relaxing green lawn in the Rwandan homestead where family members or neighbours met to exchange views on issues directly affecting them. It has its roots in the history of Rwandan old method of settling disputes and was reintroduced after the genocide to take responsibility of promoting reconciliation and rendering justice in the country. In this sense we can mention that the idea of "fighting impunity and rendering justice as a precondition for reconciliation" (Skaar et al 2005:106) prompt the establishment of Gacaca tribunals.

What it has to do is to provide a form of restorative justice where 'healing' of traumatize people take place and reconciliation between perpetrators and victims are met. The establishment of Gacaca is backed by a 2001 organic law which was later amended to suit the issues at stake. It has a nationwide jurisdiction with a total number of 12,013 Gacaca tribunals and 169,442 judges as at April 2009, according to Bikesha Dennis, Director of Training, Mobilization and Sensitization of National Service of Gacaca, Jurisdiction (Hirondelle News Agency 2009). The Tribunals is also mandated to trial crimes committed under categories 2 and 3 as defined by the Organic Law in article 51[15]. These categories exempts those perpetrators described as the main architects of the genocide.

6.1 Aims and Objectives of Gacaca Tribunal

The aims and objectives as provided in the organic law is summarised by Skaar et al (2005) as follows:

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[15] **2 nd Category :** 1° The person whose criminal acts or criminal participation place among killers or who committed acts of serious attacks against others, causing death, together with his or her accomplices ;
2° The person who injured or committed other acts of serious attacks with the intention to kill them, but who did not attain his or her objective, together with his or her accomplices;
3° The person who committed or aided to commit other offence persons, without the intention to kill them, together with his or her accomplices.
3 rd Category: The person who only committed offences against property. However, if the author of the offence and the victim have agreed on their own, or before the public authority or witnesses for an amicable settlement, he or she cannot be prosecuted (Inkiko-gacaca 2004)

1. To tell the truth about the genocide, by actively involving the local population in the Gacaca hearing
2. To accelerate the genocide trials by increasing the institutional capacity of justice
3. To eradicate the culture of impunity
4. To promote reconciliation and national unity among Rwandans
5. To demonstrate how Rwanda can handle its own problems through a justice system based on its own traditions.

From the aims provided above one can deduce that the Gacaca tribunals have a heavy workload to execute in terms of trials and reconciliation. The aims listed above explain that truth telling is very essential in the process. In the Organic Law, it is categorically stated that confession and admittance of guilt will be the fundamental move for the tribunal to institute hearing. As admittance of guilt brings about forgiveness and forgiveness brings about reconciliation. Without an established truth the road to reconciliation will eventual be a very long one. There is a saying that 'justice delayed is justice denied' and Rwanda does not want to be in that position.

Transitional justice experts have noticed that one aspect of promoting reconciliation in the aftermath of a violent conflict is when justice is rendered for the injustices committed. A delay of justice in a situation such as Rwanda will mean a delay in the reconciliation efforts of the country. The eradication of the culture of impunity also indicates that no one will have to be exempted from the justice system as long as he or she is guilty of a crime. Also promoting reconciliation and national unity in Rwanda which is a major area of our discussion is mentioned in the objectives. Such an objective should keep our memories on the constructed 'ethnic identity' in Rwandan conflicts because the question on whether reconciliation is for now or for the future still remains. The unique and complex nature of contemporary conflicts gives room for new strategies to be adopted towards reconciliation in the aftermath and Rwanda is no exception. A transitional justice approach is a necessity in the Rwandan case and we continue to by looking at the norms of justice it pursued.

6.2 Norms of Justice (Gacaca Tribunals)

In order to understand the norms of justice pursued by the Gacaca tribunals we are going to define transitional justice to understand better what it norms entails. Unlike retributive justices that seek punishments in the ordinary courts, transitional justice mostly seek to promote peaceful coexistence and reconciliation through the formation of special structures to render justice after a violent conflict. The International Centre for Transitional Justice (ICTJ) defines transitional justice as "a response to systematic or widespread violations of human rights. It seeks recognition for victims and to promote possibilities for peace, reconciliation and democracy". In other words the justice system pursued in a transitional justice is to assist

societies transform themselves after an era of persistent human rights abuse. The norms applied in a transitional justice are mostly in line with the restorative justice norms which pursue different agenda and goals as compared to the retributive justice norms. A comparison of the Gacaca tribunals with the ICTR clearly explains the norms better in the table below.

Table 1 Norms of Justice (Gacaca and ICTR)

Institutional Component	Restorative Justice Norms: Gacaca	Retributive Justice Norms: ICTR
Goal	Justice for reconciliation; ending impunity is secondary	Justice to end impunity; reconciliation is secondary
Venue	Local Communities	Isolation from participants to avoid victor's justice
Due Process	Primacy of truth telling	Primacy of rules and procedure defendant's rights
Establishing Guilt	Confession; Community Consensus	Judgement
Burden of Proof	Testimony/Accusations	Testimony; investigation
Compensation for Victims	Depends on nature of crime	None
Judiciary	Respected community members	Independent
Punishment	Imprisonment; reintegration	Imprisonment
Process	Trials; negotiations	Trials

Source: Rutagengwa Claude Shema

The above table is to make clear the restorative justice agenda pursued by the Gacaca tribunal. When for instance the goals are compared we uncover that justice for reconciliation comes as a priority in the restorative justice norms. The due process is also based on the primacy of truth telling whilst confessions and reintegration are major in the process. Reintegrating perpetrators into the society more often than not has to go with a level of acceptance from members of the society before peaceful coexistence can prevail. Another restorative norm practice by the Gacaca tribunals is the thought to compensate victims for their lost depending on the nature of crime[16]. Above all is the use of negotiations during trials and the reliance of

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[16] The reparation proceeds as follows :
1° restitution of the property looted whenever possible ;

the community consensus of establishing guilt. From the discussion it seems in theory the aims and objectives of the tribunal are very promising but I assume the theory in practice will throw much light on the activities of the tribunal. The possible way to do this is to look at the structure and activities of the tribunals.

6.3 Structure of the Gacaca Tribunals

In the structure of the Gacaca tribunals are the General Assembly, the Seat and the Co-ordinating Committee. The General Assembly reconstruct facts by establishing the list of persons who have been killed in the Cell (community or area) and the goods damaged. They also identify those who participated in the genocide and also find out the list of persons who left the Cell during the conflict to settle elsewhere. The Seat is a 9 member elected persons by the general assemblies of the Cell to administer the concern of the tribunals. Persons elected to the Seat are to be honest, always say the truth, trustworthy, should be characterized by the spirit of sharing speech, not have been sentenced to prison more than six months, not have been part of the crimes of genocide or to that of humanity and also be free from the spirit of sectarianism and discrimination (Inkiko-gacaca 2004). The Coordinating Committee for each Gacaca Jurisdiction" is made up of 5 honest people elected with a simple majority by the members of the Seat within itself and who know how to read and write Kinyarwanda. They have various functions to play in the offices by keeping records of event and coordinating activities in the tribunals. The Gacaca tribunal is structured in a way that the functions and activities of each branch are not strictly independent but overlaps with others.

6.4 Activities of the Gacaca Tribunals

The activities of the of the Gacaca tribunals runs in different forms depending on which of the branches is executing its duties. Some do the administrative work whilst others proceed with trials. Skaar et al (2005) reiterate on an overlapping division in the structure by pointing out how the activities of the tribunals are subdivided into three stages. They mention that:

2° repayment of the ransacked property or carrying out the work worth the property to be repaired. The Court rules on the methods and period of payment to be respected by each indebted person. In case of default by the indebted person to honour his or her commitments, the execution of judgement is carried out under the forces of law and order (Inkiko-gacaca 2004, Article 15)

In the first stage, lists of persons who were killed in the cell are established, victims and their damages are registered, and a list is made of all suspects. In the second stage, individual case files are prepared for each suspect, with evidence *a charge and a décharge*. On the basis of that information, all suspects are classified in a specific category and their cases are sent to the gacaca jurisdiction level for trial. The third stage is the actual trial stage, with a verdict on guilt or innocence and on punishment (Skaar et al 2005:199)

At the trial stage verdict as to whether one is guilty or innocent is expected to be pronounced by a consensus of the tribunal and that decision is one important factor in the reconciliation process. Like the Truth and Reconciliation Commission of South Africa after the apartheid, perpetrators and victims, are publicly expected to smoke the peace-pipe. The peace-pipe is designed in a form that perpetrators have the possibility to admit and confess their offence and plead for forgiveness. The victims or survivors on the other hand have the chance to accept the apology and forgive the perpetrators. How this is done is briefly discussed in the next section. I will like to draw an attention to the first two stages of the tribunals by stating that, they are stages that assist in the documentations of cases before they are presented for trials and for that matter will not be thoroughly discussed.

6.5 Gacaca Trials

When Gacaca trials are mentioned the first thought which comes in my mind is the genocide. However, activities of the Gacaca are not limited to trials that will render judgement to people for crimes committed but also to assist a divided society through a reconciliation process. Although trials are limited to crimes committed between October 1, 1990 and December 31, 1990 (Inkiko-gacaca 2004) the motive behind the trials goes beyond that. Wolters (2005:7). points out that the justice system is predicated on the belief that failure to punish those responsible for recurring waves of ethnic violence since 1959 was a key factor in enabling the 1994 genocide. The logic is that had people understood in the aftermath of earlier massacres that their actions would be severely punished, they would have been more reticent to participate in subsequent violence. In other words the Gacaca trials are also used as a mechanism to deter people from repeating the behaviour of attacking their neighbours anytime there is a disagreement among them.

The trials are unique in form and described by Rettig (2008) as "one of the most ambitious transitional justice projects the world has ever seen". During trials all members of the Gacaca Seat act as a jury. They follow proceedings throughout and decide a suspect's guilt. In the process of the trial participation is compulsory. Members supposed to participate are given a time off from work to do so. "Participation in the *gacaca* trials is mandatory. Once a week, inhabitants of every *cellule* have to attend a *gacaca* session. They are officially

excused by the government from work on the day that the *gacaca* session is held" (Wolters 2005:7). Such an official decision gives the trials a boost of participation; however, it is argued that sometimes patronage is very low because of lack of interest or fear from people that they might be called to witness.

6.5. 1 'Truth' Telling and Confessions

A key element in the trials is the motive of getting the truth about what happened from people. Based on an assumption that truth brings justice and justice bring reconciliation, the Gacaca tribunals use truth telling as an engine to start the process of reconciliation. As humans, many at times when we establish the truth there is an assumption that we experience a kind of peacefulness in our souls than when the truth is hidden. In the Gacaca tribunals finding out what really happened during the genocide, and establishing the truth is an integral part of the process. It is also considered to be a paramount element of moving towards reconciliation (ibid).

The procedure of retrieving the truth is through confessions and witnesses made by people affected by the conflict. Wolter (2005) explains that "...to strike a balance between the demands of restorative justice and those of reconciliation....By increasing the value of confessions through reduced or milder sentencing, they could at the same time encourage establishing the truth on the genocide events and reintegration of the accused into the society". Most of the time the level of truth ascertained through the confession also served as a yardstick to measure the kind of punishment that must be given out to perpetrators. "In some cases the conviction of the accused or someone who is liable to be accused for refusing to testify or giving a false testimony, destroys the presumption of innocence and therefore increases the defendant's chances of being found guilty" (Avocats Sans Frontieres).

Adapting to the procedure of confessions in the Gacaca tribunals is described by Peter Uvin as "one of the innovative elements of the *gacaca* law". He continues by explaining how confessions attract lower penalties and vice versa during proceedings[17]. The panel of judges decides on whether a suspects sentence should be reduced, increased or pardon after he or she has confessed. What is done in the Gacaca is to encourage people to narrate the truth. Sometimes, members of the public present at a proceeding add their voices edging a perpetrator to bring out the truth in order to attract lesser punishment because one could be convicted for refusing to testify or for giving a false testimony under oath (Avocats Sans

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[17] Prisoners who confess and ask for forgiveness can receive dramatic reductions in penalties. Reductions are greatest for those who confess before the proceedings against them start, either while in prison or at the very beginning of the *gacaca* proceedings, when they are explicitly asked if they want to confess. Reductions are smaller for those who confess only during the *gacaca* procedure, while penalties are unchanged for those who do not confess at all but are found guilty. Additionally, up to half of the sentence of all convicted can be transmuted into community service (*travaux d'intérêt général*), the modalities of which are yet to be determined by further laws. To benefit from the community service provisions, the accused have to ask for forgiveness publicly (Peter Uvin).

Frontieres). However, the confessions are not always presenting the truth; confessions are altered through the act of holding back important information. A survey conducted in 2000 before the inception of the Gacaca showed that it was possible for witnesses and culprits to lie before the tribunal (Gabisirege, S. and Babalola 2001). After its inceptions, the Gacaca tribunals as predicted by others have experienced a number of false testimonies. It is claimed that "even though the confessions were introduced as a way to uncover the truth about the genocide, it now transpires that they are often incomplete or sometimes false" (Buckley-Zistel 2007). It is even more problematic when many accused only confess what is already known and often only implicate accomplices who are either dead or out of the country. Occasionally, an elderly person is paid to confess crimes he or she has not committed so that the real culprits go free (ibid).

Analysts have said that that there are various reasons for presenting false testimonies or lies. One of the arguments is based on the fact that the accused are afraid of being renounced by the society after they present the whole truth. Since those accused or witnesses are not wholly protected in the society for their involvement in the proceedings it turns out to be that many are afraid of being attacked by raged relative and friends. There have been instances where people have been attacked and killed for witnessing in Gacaca proceedings. A 20-page report from the Human Rights Watch revealed that a number of people have been attacked and killed under the activities of the Gacaca for roles they play as witnesses in the proceedings (Human Rights watch 2007). Skaar et al (2005) also disclose how a number of killings have been directed on potential witnesses for the Gacaca tribunals in November 2003 and early 2004. Although the act of lying during a confession is perceived to be a criminal act in the Gacaca proceedings people are forced to lie to avoid unforeseen circumstances. When lying becomes part of justice where there is little evidence to ascertain the truth, the idea of reconciliation through justice and truth become meaningless. It has been a challenge to the Gacaca tribunals but all the same those who present the truth have the opportunity to receive forgiveness since the concept of forgiveness also set a foundation for peaceful coexistence.

6.5.2 Forgiveness

Forgiveness from victims and survivors to perpetrators lifts one of the heavy burdens on a society in the aftermath of a conflict. When people are forgiving, peaceful coexistence is possible to take place. Like the TRC in South Africa, confessing and asking for forgiveness from victims, survivors, families, relatives and the public by perpetrators for their wrongs is used as an element in the Gacaca to bring people together. Apart from the forgiving aspect the process also bring a sense of participation from the public to the proceedings. Rwandans are said to be interested to find out exactly where and how those close to them died. Without this knowledge, it is hard to move on (Kromer 2005). To have knowledge of what has happened to a relative, friend or neighbour brings a sigh of relief to survivors in a sense that knowing the

truth may end a possible nightmare of whether those relations will ever come back home. Although sometimes the truth is considered as a bitter pill to swallow, one has to be able to stand in a position to accept certain things and forgive. However, based on the fact that people will be forgiven after they give a full disclosure of their actions or inactions during the conflict the act of holding back the truth as discussed above makes it difficult for people to forgive.

6.5.3 Reparation

One of the tenets of transitional justice system is the desire to provide reparations for victims for their experience during a conflict. The idea behind this is mostly to provide an economic assistance that will open a new possibility to victims to start a new life. Reparation is seen as "a moral imperative seeking to mend what has been broken. [It is understood to be something that can] contribute to the individual and societal aims of rehabilitation, reconciliation, consolidation of democracy and restoration of law. It can also help overcome traditional prejudices that have marginalised certain sectors of society and contributed to the crimes perpetrated against them" (Clemens Nathans Research Centre 2007). Rwanda has experienced high prevalence of traditional prejudice of 'ethnic identity' that has resulted in a number of damages to both humans and properties. Reparation to victims is one of the activities provided by the Gacaca Tribunals. It also tries to provide moral imperative that can mend what has been broken in the society. In short, the Gacaca tribunals apart from rendering trials also carry the responsibility to provide reparation to survivors. The government has provided a budgetary allocation of fund known as Fund for Support for Genocide Survivors (FARG) to support genocide survivors and also have provide rehabilitation activities to traumatised victims.

6.5.4 Reflection

The Gacaca tribunal, since its inception has delivered sentences ranging from community service to life in imprisonment for those found guilty[18] of crimes. As at April 2009, the tribunals, as disclosed by Bikesha Dennis, Director of Training, Mobilization and Sensitization of National Service of Gacaca, have delivered judgements on 1.1 million cases with 3000 pending cases (Hirondelle News Agency 2009).Our observation from the above

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[18] A Rwandan Patriotic Front (RPF-Inkotanyi) Member of Parliament, Beatrice Nirere, was sentenced to life imprisonment after she was convicted of genocide by the semi-traditional Gacaca Court of Giporoso in Gasabo district. A Gacaca judge was also sentenced for thirty years for his involvement in the genocide (Hirondelle News Agency 2009)

discussion is that the Gacaca tribunals as we understand is a transitional justice system established to execute trials and also promote reconciliation in Rwanda after the genocide and to tread on the path of reconciliation the tribunals follow the tenet of retributive justice as provided in table 1. Concepts such as truth, confessions, forgiveness and reparations are all provided to strengthen the reconciliation process. Our next section puts the theoretical elements into the framework of the Gacaca tribunals and reflects on what is construed as sustainable reconciliation in Rwanda.

7. Gacaca Tribunals Form of Reconciliation

We have to remind ourselves that the concept of peacebuilding is a broad concept which encompasses different approaches towards peace in the aftermath of a conflict. One of such approaches is the transitional justice approach that seeks justice and also promotes reconciliation. Rwanda's Gacaca tribunals have taken the path of transitional justice that also looks forward to reconcile the divided society. Lederach (1997) mentions that to come to the 'Place of Reconciliation' elements such as Truth, Mercy, Justice and Peace have to come to a meeting point. His idea behind such a thought is based on the notion that "reconciliation is a locus, a place where people and things come together" (ibid). People coming together to establish the truth, provide mercy, render justice and share peace is what reconciliation is about.

Establishing the truth about injustices during a conflict, how they occurred and reasons behind the actions and inactions of perpetrators is considered as very vital element in reconciliation processes. Truth is understood to be the "longing for acknowledgement of wrong and the validation of painful loss and experiences" (Lederach 1997:29). The Gacaca tribunals have carried the gesture of establishing the truth as a form of vehicle to enhance reconciliation. In this respect perpetrators and victims are provided a platform where the former acknowledges and confesses the wrongs done and the latter accepts and forgives. The process of establishing the truth as envisaged by the tribunal is also used as a step to determine the type of punishment one receives depending on the gravity of the crime. Trials are based on established truth because there is a belief that "when trials bring reconciliation, it is seen primarily to be due to the uncovering of truth in the process rather than to the punishment meted out, and other, non judicial processes are held to be more suitable for truth seeking" (Skaar et al 2005).

As Lederach (1997) mentioned, truth goes along with Mercy. Without mercy, the edge to accept ones apology will be lacking. Mercy is understood as an element which articulates the need for acceptance, letting go, and a new beginning (ibid). People who suffered any form of abuse are encouraged to show mercy and forgive those who have wronged them. Every guilty plea in the Gacaca tribunal must comprise an offer for forgiveness from the victims' families, friends and the state. Without mercy it will be impossible to thread on the path of reconciliation since forgiveness mostly come from ones position of having mercy on the other.

The elements of truth and mercy may lead to forgiveness but will not necessarily lead to reconciliation if justice is denied. As Lederach mentioned truth and mercy he also believes justice has to be applied in the social fabric. For him justice "represents the search for

individual and group rights, for social restructuring, and for restitution but it is linked to peace" (ibid). The Gacaca tribunals as discussed do not only search for truth and ask for forgiveness but as well search for the rights of the people who have been violated. An effort to restructure the social life has also been provided through the engagement of the community in the reconciliation process under an umbrella of peaceful coexistence. When we take a careful look at the Gacaca tribunals, we discover that their activities in one sense is directed towards the path of reconciliation, but with the country's experience of protracted segments of conflicts which the essay argues occur within constructed ethnic identity, the reconstruction of ethnic identity in Rwanda can be done through the Gacaca when certain important elements are considered.

7.1 Sustainable Reconciliation through Gacaca

What is done here is to return to our research question that *how can the Gacaca Tribunals contribute to sustainable reconciliation in Rwanda?* From our earlier we discovered that reconciliation is a form of peaceful coexistence in the aftermath of conflict that is maintained for generations to come. However, my reservation has been on the reconciliation process in Rwanda just for the simple reason that, since colonial rule the country is faced with series of conflicts that has taken a number of innocent lives on one particular issue for longer than one can imagine. The construction of 'ethnic identity' has been a driving force in Rwandan society for creating enemy images, negative perception of the other, and dehumanization of other groups. Before European involvement in Rwanda we are made to believe that Hutu, Tutsi and Twa were not ethnic but as colonial rule came into effect, the groups were described and divided in ethnic terms. What the constructed division did among the people was its driving force of ability to change the attitudes of neighbours towards each other and such attitude if not addressed can jeopardise any reconciliation initiative in Rwanda. I judge that when ethnic identity is reconstructed with time Rwanda will experience sustainable reconciliation for future generations to come. How then can we reconstruct a knowledge that has lived with us for such a number of years?

7.1.1 Removing Political Obstacles

Mani (2002) emphasized on political obstacles when it comes to transitional justice in the aftermath of a violent conflict in developing countries. The obstacles could be in different forms but in the case of Rwanda it is one such issue that make or unmake the people reconstruct their perception about the other. From the political perspective, the Gacaca tribunals can be seen as an establishment that symbolises and represent the Rwandan government's authority delegated to its people to administer justice and promote

reconciliation. I assume the activities of the tribunal will to an extent be used by the people as a yardstick to measure its fairness in handling the injustices that occurred.

The government's role is very important in this capacity because the Hutu, Tutsi ethnic construction still revolves in the minds of people so any political leadership, no matter which group it comes from will be looked up to represent a government for the people. Rigby (2001) reveals that successor regimes in the aftermath of a conflict face an intricate situation of coming to terms with a painful legacy and criminal abuse. Such revelation shows that successor regimes might come to the position of compromising their roles when they face the complexities of dealing with abuses of human rights. South Africa after apartheid was faced with an incident during Truth Commission's activities where suspects of the previous government' abuse charges had immunity and were exempted from the facing the commission. But no matter what the situation turned out to be in South Africa, Rwanda's experience of conflicts will have to be considered by any regime which takes the path of reconciliation. I will rather find it an unfortunate situation if regimes overlook the ethnic identity construction situation in the country and choose to do things that will favour a group against the other.

From a UN mission statement on Rwanda it claimed that they are "working towards reconciling and reuniting the population after three decades of politics based on an ideology of division and exclusion, which resulted in genocide" (Permanent Mission of the Republic of Rwanda to the United Nations 2005). It is a laudable idea to unite the population after such horrific ideology but with a Tutsi led government in the current administration of the country any form of compromise that may go in favour of the Tutsi will be interpreted in ethnicity terms and that can widen the existing gap between already divided groups. Instances where regime leaders try to pretend a particular problem does not exist has currently portrayed by Rwandan political leaders that there is no Hutu or Tutsi in Rwanda but one people. They have been able to go to the extent that a direct reference to ethnicity or Hutu and Tutsi in any form within Rwandan society by anyone may land that person in jail. Efforts are made to sway people thoughts to accept as true that Hutu and Tutsi are words that must or should not be in the vocabulary of their everyday conversations in Rwanda[19] .

This can be seen as a form of strategy used by regime leaders to live in denial. Imposing on the society about how they should think or behave concerning something they have lived with for a long time will not be the best method for them to understand the importance to reconstruct their knowledge and perception of the 'other' in situation like this. A rigid method to deal with issues as such will only amount to a scenario where people will in

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[19] Ethnicity has already been ripped out of schoolbooks and rubbed off government identity cards. Government documents no longer mention Hutu or Tutsi, and the country's newspapers and radio stations, tightly controlled by the government; steer clear of the labels as well. "We don't like to use the terms [Hutu and Tutsi] at all in class," said Bosco Manishaka, the assistant director of a Kigali primary school. "The children do learn about the history of the country and how we were divided. We advise them to learn from the past." It is not just considered bad form to discuss ethnicity in the new Rwanda. It can land one in jail. Added to the penal code is the crime of "divisionism," a nebulous offense that includes speaking too provocatively about ethnicity (Marc Lacey 2004).

a hypocritical way pretend all is well. What then is most important to overcome the situation is how the transitional justice structures comport their activities and provide a reliable role where it acts as a 'mother' for all the people. Failure to step up such role as a representative for all and sundry by the transitional justice initiative will adversely affect their goals towards peaceful coexistence in a reconciliatory environment.

In the Gacaca tribunals there have been series of allegation against the government's failure to prosecute members of the RPF who are believed to have committed excesses against suspected Hutu extremist and collaborators (Mani 2002). A principal effect in such allegation is that it tends out to remind us of what analyst refer to as "victor's justice"[20] ; a justice process where some people are exempted from the rule of law for their part of wrongs done. This further vindicates the assumption that "it is victory that makes justice possible but the fairness of the process is what makes it justice" (Graubart 2008:3). When fairness in the justice system is lacking people end up holding on to what they already believe in.

To reconstruct the knowledge of people in a way that can affect their attitude in a positive manner for future peaceful coexistence, the regime has to remove the political obstacle and refrain from taking bias positions that will compromise their decisions; decisions that will encourage rather than discourage people affected by the dynamics of ethnic identity construction. In a count down on all the conflicts from colonial rule to the genocide, it is obvious that political leadership played significant roles in escalating some of the conflicts by taking advantage of the negative side of ethnic identity. Whatever role or in what ever form previous governments took to divide the people the current administration carry the responsibility to make things right, a responsibility that will encourage attitude change towards peaceful coexistence and discourage ethnic divisions among the groups. They carry the responsibility that will maintain a sustainable reconciliation in a mutigenerational future rather than that which will put in place a fragile reconciliation that can break any time.

7.1.2 Legitimacy and Rule of Law

In a transitional justices system, every activity is considered important since the system mostly deals with very sensitive issues pertaining from that of physical matters such as sexual abuse (which can also be categorise under psychological) murder, theft and destruction of properties to psychological matters consisting of traumas, fear, depression, anxiety etc. In transitional justices the desire to handle such injustices is very central since failure to do that will put the society in fear and doubt. For the objectives of a transitional justice to materialize and also maintain its level of significance in the society it has to be legitimate. When

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[20] The label "**victor's justice**" (in Germany *Siegerjustiz*) is applied by advocates to a situation in which they believe that a victorious nation is applying different rules to judge what is right or wrong for their own forces and for those of the (former) enemy. Advocates generally charge that the difference in rules amounts to hypocrisy and leads to injustice. Targets of the label may consider it derogatory (Knowledgerush 1999-2003).

legitimacy prevail the security of both the society and structures are intact without much uncertainties. However, to decide what is construed as legitimate has to come from my subjective view because the concept is complex and the term is used in many different ways, to refer to very different situations (Dugan 2004). The problematic is that what is legitimate to one is not legitimate to the other but to make this concept worth understanding in this essay, legitimacy is considered to be the legal backing to an established structure by law and an acceptance by the people of the establishment and what it is created for. I sturdily believe that for legitimacy to prevail both the establishment and society have to work together. The confidence and acceptance of people in a structure raises its legitimate stature in the society but when such confidence is reduced its legitimate stature diminishes.

To put the above argument in the context of the Gacaca tribunals we can highlight that the role of the tribunals will have significant impact on the society when its legitimacy is not undermined by the people. When such legitimate role is maintained the Gacaca will be able to fall within the category of possessing a tendency to assist the society reconstruct their thoughts into a positive one which will influence their attitude in the end. The level of confidence put in the Gacaca tribunals will encourage most people to bury their differences and work towards a unified society. However, the society's approach of accepting the tribunal has raised doubts about their confidence in the process.

Since the inception of the Gacaca tribunals there have been sceptics who have highly criticized it of lack of having experienced legal mantle to administer judgement[21] in the trials. Also observations have proved that Gacaca trials have experienced a diminishing trend of patronage as time goes by[22]. Linking the two together, a conclusion is drawn that the legitimacy of the tribunal is negatively affected by the trend of inexperienced judges hence the low patronage. The assumption that "people expectation may not have been met during the initial meetings, after which they were disappointed at the lack of tangible results and no longer turn up" (Skaar et al 2005:199) also goes about in the sceptic cycles. I trust that an increasing number of patronage in activities as such gives a boost to the establishment but low patronage question the society's confidence and legitimacy of the structure. Development as such affects not only the goals of the establishment but also affect the victims, perpetrators, survivors and the society as a whole. When the society is affected by such happenings the road towards reconciliation will tend to be narrow. Reconciliation becomes fragile and uncertain because doubts about people's behaviour will start to creep in. Reconciliation is often highlighted by the current regime in Rwanda but to me sustainable reconciliation in a peaceful environment, where people's attitude in the right direction, requires more. The Gacaca tribunals have to maintain their legitimacy within the rule of law to allow the goal of reconciliation to be achieved and sustained for generation to come.

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[21] Furthermore, it is felt that the gacaca judges seriously lack legal training and their competence is questionable. They only receive six weeks of training in basic legal principles and gacaca laws (Skaar et al 2005:120)

[22] In the pilot cases, the first stage (generally done in five meetings) went relatively smoothly, with a fairly large participation of the population. In the second stage, this is no longer the case. There, the participation of the population is much more reduced and in many cases, silence prevails ((Skaar et al 2005:119)

7.1.3 Putting up a Meaningful Reparations for Victims and Survivors

The last but not the least to discuss is the issue of providing meaningful reparations that will enhance the livelihood of victims and survivors of the conflict. The subject of reparation through the Gacaca tribunals has been highlighted by human rights organisations, groups and individuals on how the matter of compensation is being handled[23]. Their concern reveals that there have been lapses in rendering reparations to victims and survivors but whatever direction the anomaly takes, it can cause a situation where individuals will find it difficult to forgive and forget their horrific experience in the conflict. This possibility is pushed across in a sense that Rwanda is considered one of the poorest nations in the world and in countries where effective social systems are not in place and poverty extensive any form of destruction to what they have toiled for or murder of a bread winner of a family will lead to a possible protracted unforgiveness and hatred from the affected ones in the society.

People from poor societies put extensive value in what they materially acquire and sometimes use them as a source of joy and happiness. Family members, relatives and friends who are less fortunate rely mostly on those members who are considered to be fortunate and live above the poverty line for their survival in terms of economy, education, health, and everything that involves money. During the conflicts most breadwinners' were murdered leaving families to wallow in unprecedented hardships. Also many lost properties they had earned in their whole lives. In such horrific conditions of the survivors, the most appropriate way to turn their hearts away from unforgiveness is when meaningful reparations are apportioned to deserved victims and survivors. When this is done their constructive perception of the other will change to a positive one because the burden of carrying the old thought will somehow be lifted from them.

My contention is that when reparations are not made in the right direction "hatred and the quest for revenge can consume people, turning them into a mirror image of those whom they hate. In order not to remain trapped in the confines of the past injuries and injustices, individuals must learn to forsake the search for vengeance. Without this there can be no new beginning, no transformation of relationships" (Rigby 2001:12). As mentioned earlier, forsaking the search of vengeance cannot only be achieved through confessions, forgiveness, or fair trials but also through the process of reparations to victims and survivors in the aftermath of a conflict especially caused by ethnicity. Compensations that carry meaningful weight to survivors and victims can influence their thought about others in the society. Also

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[23] The 1998 FARG Law does not focus on specific types of harms that victims have incurred. Rather, the two most important criteria to qualify as a beneficiary are being a 'rescapé' of the genocide and massacres and being 'in need.' The law explicitly excludes as beneficiaries those who participated in the genocide. The use of the categories of genocide and massacres to define beneficiaries has not allowed for explicit reference to the many forms of gender-based violence, such as rape, sexual violence, and gender-specific mutilations. The only harms indirectly recognized are those done to orphans, handicapped, and widows, who are mentioned as explicit examples of people in need. The difficulties victims encounter include interpreting the notion of rescapé, since there are no clear guidelines (International Centre for transitional Justice).

effective rehabilitation structures for those traumatized will assist many to heal from their shocks and desire to live with one another in a peaceful environment.

This chapter will be concluded by emphasizing that the Gacaca tribunals carry the responsibility to deconstruct the negative ideologies that have been created in the society many years ago. Their role to reconstruct such ideology is through their efforts and method toward reconciliation. An effective method of dealing with an ethnically divided society into a reconciliatory one is to consider every aspect as important as the other. Nothing must be taken for granted in the reconciliation process. Attitude/s that will compromise the efforts of justice system must be avoided, the structure has to maintain the legitimacy and meaningful reparations have to be a priority for compensation. In that sense the mental position relative to a way of thinking or being (Lopper 2006) in Rwanda society will change.

8. Conclusion

Before the essay is concluded a sum up of what is has been discussed is presented. We started by looking at the conflicts of Rwanda from colonial times to 1994 genocide and identified a causality that has followed all the conflicts. The causality is identified as an ethnic identity construction through colonial rule. The ethnic construction which we also identified not to be biological but constructed did more harm than good when the inhabitants started seeing themselves in ethnic terms. What this identification in ethnic terms did was the creation of the perception of the 'other' which in most cases of conflicts from the 1950's to 1994 has been used to dehumanize groups, create enemy images and encourage divisions among the people. Not only was the ethnic identification construction a blow to the Rwanda society, but political regimes used it as a weapon to gain cheap political points at the expense of innocent Rwandans. When we consider the number of lives lost in conflicts and properties destroyed through the driving force of ethnic identity, we find out that something will have to be done to reconstruct the thoughts of the Rwandans about how they see themselves and the best way I perceive will come from the transitional justice system established after the 1994 genocide.

After the genocide, there was the need to bring the people together in a peaceful coexistence environment but before that will be achieved the call for justice was necessary. In Rwanda the new government has to shoulder the responsibility of providing justice for injustices committed during the conflict. Three establishments were initiated to carry of with the rendering of justice; they include the International Criminal Tribunal for Rwanda, the national courts of Rwanda and the Gacaca tribunals for Rwanda. Interestingly, the latter was given the nod to administer both justice and promote reconciliation from the grass root in the country. My concern then arouse about the type of reconciliation the Gacaca tribunals is supposed to deliver. Is it the reconciliation that will fall on the rocks in the future and escalate into a conflict as it has always been since independence or a reconciliation that will change the attitude of people towards the other? I came to a point that if there should be a sustainable reconciliation then the there should be a reconstruction on the thought of the people. The reconstruction will have to come from the reconciliation process in the country to avoid a recurrence of any conflict in ethnic terms in the country.

My idea of sustainable reconciliation then brought us to a place of putting theoretical thought into what will be construed as elements towards sustainable reconciliation. To get a clear picture of this we ran through a series of reconciliation discussions and ended up on Lederach's and Rigby's positions of reconciliation. Lederach from his position sees reconciliation as a place where Truth, Justice, Mercy and Peace meet. Rigby believes Lederach is right but there is an element that must be considered and that is Time. I consider their presentation essential in reconciliation but also discovered that with a case as Rwanda, faced with ethnic identity that has been constructed, all the elements will work for

reconciliation but people need to change their thought to reflect in their attitude. Based on this reason I presented an eclectic approach towards reconciliation that I regard as a criterion that will lead to a sustainable reconciliation. In this approach are the combination of the elements of Truth, Justice, Mercy, Peace, Attitude and Time. I am of the view that when there is a reconstruction of the perception of the 'other' in Rwanda societies, the attitude of people will change to the positive and that will lead to a sustainable reconciliation.

Thinking of a possible method of reconstructing the thoughts of the people brought us to a careful look at the Gacaca tribunal. We observed that, the elements of restorative justice are a characteristic of the establishment but there are certain shortcomings that will not assist in the reconstruction of the minds of the people. Such short comings include political constraints, lack of legitimacy and rule of law and meaningful reparations to victims and survivors. I am of the view that when these shortcomings are fully addressed the possibility of reconstruction of the minds into the positive direction is greater for an attitude change that will lead to a sustainable reconciliation.

Attitude is "a mental position relative to a way of thinking or being" (Lopper 2006). Our way of thinking or being drives us into doing or not doing things. Such an assumption exposes the power behind our thinking as a bible passage in Proverbs 23:7 also emphasize on the power of our thinking. The assumption here is that the way a man thinks reflects much on the way he acts and this has been manifested in the attitude of people in previous conflicts in Rwanda. Interestingly, the thinking of people is like a coin with one side exhibiting peaceful coexistence which implies a positive attitude and the other side which show signs of conflict, a sign of a negative attitude. Meaning the attitude of people can create an environment of trust or distrust depending on the thinking of individuals or groups.

My conclusion is that the Gacaca tribunals are one of a kind in the history of transitional justice system. It has exhibited the characteristics of a transitional justice such as relying on the truth, confessions, forgiveness, justice and mercy in a peaceful manner. I applaud the government's efforts for taking up such an initiative but in the same time I also caution them on the issue of sustainable reconciliation because of the history of ethnic conflicts in the country. The government must consider the political constraints in the justice system, make sure interest in Gacaca tribunals are maintained, that is the legitimate position of the gacaca and also provide meaningful reparation for victims and survivors of the conflict. When these are met with time true healing will come to the people of Rwanda in a matter of time and reconciliation will be sustained for generations to come. Even if the mandate of the Gacaca should come to a close today, the political leaders still owe it the responsibility to make things right by setting up favorable structures to continue the process of reconciliation for the affected people because reconciliation "refers to the future and requires the active participation of those who were divided by enmity" (Rigby 2001:12).

9. Executive Summary

The characteristics of contemporary conflict have proved that post conflict societies face a number of complex situations to handle the legacy of division, hatred, anxiety, fear, quest for revenge and other caused by the conflicts. Unlike interstate conflicts, contemporary conflicts occur within states and mostly among neighbours, individuals or groups. They 'are not about foreign policy, honor, or status; they are about statehood, governance, and the role and status of nations and communities within states" (Miall et al 2004: 68). Considering the distinctive nature of contemporary conflict discussing it faces a number of factors that complicate it (Mac Ginty 2008:62). The complexity of such conflicts reveals that in the aftermath vibrant structures must be established to be responsible for peacebuilding in order to avoid recurrence of the conflict. But there are occasions when structures responsible for peacebuilding in the aftermath of conflict fail to achieve their goals.

To go beyond negotiations of substantive interest and issues elements of favourable structures are needed for peacebuilding and promotion of reconciliation. Failure for actors such as the International Community (UN), Non Governmental Organization (NGO), government, civil society, groups and individuals to put up the right structures for peacebuilding in the aftermath of a conflict can lead to the recurrence of the conflict. Peacebuilding of any form in the aftermath of a conflict needs the right actors and structures in place to assist promote and sustain the required peace in an affected area.

When it come to peacebuilding Rwanda in falls within the category of countries that needs the right structures for sustainable reconciliation due to its sordid experience in past and protracted conflicts. Also bearing in mind the dangers involved when the right actors and structures are provided for peacebuilding, it is important to put up a 'caution sign' to the political regime for their needed role after studying the transitional justice established to promote reconciliation and national unity in the aftermath of the genocide. There are three approaches used in Rwanda, the International Criminal Tribunal for Rwanda (ICTR) which was to render justice to the main architects of the genocide, the second involves the national courts mandated to render justice to perpetrators of certain degree of crimes and the third was the grass root form of justice system known as the Gacaca tribunals and supposed to handle justice in the local communities on minor crimes committed. All three will not be studied in this essay but the third which aims at reconciling the people and promoting national unity through a grass root judicial system is the focus.

The argument backing the discussion is that the efforts of Gacaca tribunals will fetch sustainable reconciliation when the perceptions of individuals and groups towards others are reconstructed in the Rwandan society. This position is taken based on my investigations that conflicts of the past have been fundamentally motivated through the emergence of the perception of the 'other' during colonial administration. Ethnic identity sentiments have manipulated conflicts of any kind in the country and my observation into the 'ethnic identity

weapon' used by parties in conflicts has shown that they are constructed through colonial rule. Colonial administration constructed a Rwandan society where 'ethnic identity' became the order of the day and what the identity construction created was a change in attitudes towards others. The new perceptions of the 'other' brought negative attitude which were used to dehumanize groups; create enemy images and form all sorts of negative mind-set against one another.

What has been constructed can always be reconstructed but since this is based on ethnicity, the best opportunity is to wisely use the transitional justice system established to promote reconciliation and national unity to encourage the reconstruction. Although the Gacaca tribunals have made a number of inroads towards reconciliation my position looks into the possibilities of sustainable reconciliation. My bother on this subject is related to the number of recurrence of conflicts through ethnic identity in the country. I there argue that the Gacaca tribunals will bring sustainable reconciliation when the attitudes of people are reconstructed.

My idea of sustainable reconciliation then brought us to a place of putting theoretical thought into what will be construed as elements towards sustainable reconciliation. To get a clear picture of this we run through a series of reconciliation discussions and ended up on Lederach (1997) and Rigby (2001) position of reconciliation. Lederach from his position see reconciliation as a place where Truth, Justice, Mercy and Peace meet. Rigby believes Lederach is right but there is an element that must be considered and that is Time. I consider their presentation essential in reconciliation but also discovered that with a case as Rwanda, faced with ethnic identity that has been constructed, all the elements will work for reconciliation but people need to change their thought to reflect in their attitude. Based on this reason I presented an eclectic approach towards reconciliation that I regard as a criterion that will lead to a sustainable reconciliation. In this approach are the combination of the elements of Truth, Justice, Mercy, Peace, Attitude and Time. I am of the view that when there is a reconstruction of the perception of the 'other' in Rwanda societies, the attitude of people will change to the positive and that will lead to a sustainable reconciliation.

Thinking of a possible method of reconstructing the thoughts of the people brought us to a careful look at the Gacaca tribunal. We observed that, the elements of retributive justice are a characteristic of the establishment but there are certain shortcomings that will not assist in the reconstruction of the minds of the people. Such short comings include political constraints, legitimacy and rule of law and meaningful reparations to victims and survivors. I am of the view that when these shortcomings are fully addressed the possibility of reconstruction of the minds into the positive direction is greater for an attitude change that will lead to a sustainable reconciliation.

Attitude is "a mental position relative to a way of thinking or being" (Lopper 2006). Our way of thinking or being drives us into doing or not doing things. Such an assumption exposes the power behind our thinking as a bible passage in Proverbs 23:7 also emphasize on the power of our thinking. The assumption here is that the way a man thinks reflects much on the way he acts and this has been manifested in the attitude of people in previous conflicts in

Rwanda. Interestingly, the thinking of people is as a coin with one side exhibiting peaceful coexistence which implies a positive attitude and the other side which show signs of conflict, a sign of a negative attitude. Meaning the attitude of people can create an environment of trust or distrust depending on the thinking of individuals or groups. After studying the gacaca tribunal I came to the conclusion that there some things have to be effectively followed to in order to assist the people reconstruct their knowledge on 'ethnic identity'.

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