Title of Proposed Book:


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I. Rwanda’s Transitional Justice Program

In 1994, Rwanda experienced genocide as Hutu friends, neighbors and family members were mobilized by Hutu extremist militia, politicians and soldiers to root out “The Tutsi enemy” and ensure that no Tutsi remained alive. About 800,000 Tutsi, that is, three quarters of Rwanda’s minority Tutsi population were murdered within a short span of 100 days.

The genocide occurred toward the end of an ongoing civil war that was ultimately won by a Tutsi-dominated rebel group. As the extremist Hutu government fled into the Congo, the victorious RPF (Rwandan Patriotic Front) rapidly assembled a transitional “unity” government with itself at the helm of an array of disorganized and shell shocked political formations that had survived the violence within the country.

The RPF-dominated government conducted mass arrests, and in 1996, instituted a trials-based transitional justice program, in which guilty pleas or confessions were to be rewarded with reduced sentences. By 2001, however, it was clear that Rwanda’s ordinary criminal justice system was overwhelmed and backlogged. It was estimated that it might take another hundred years to try the 120,000 Hutu who languished in pre-trial detention. In response, the government set up 12,000 grassroots tribunals and organized the local level election of 250,000 lay judges who were mostly ordinary peasants with basic literacy levels. This was the state’s attempt to reinvent a traditional mode of conflict resolution at local level known as “gacaca”1 in which elders would mediate, on an ad-hoc basis, open deliberations of the community on minor issues such as property disputes. Sanctions involved shaming and restitution in place of prison terms.

In contrast, the new “gacaca” courts were to be led by locally elected lay judges, who would apply the state’s confession and guilty plea law, and impose prison sentences on those found guilty of genocide crimes from with their communities. Neither the accused, nor the accuser would have access to professional legal assistance. The “gacaca” law required those entering a confession to denounce their accomplices. Testimonies were to be solicited from witnesses. It was expected that community-based deliberations would reveal the truth about genocide and produce just determinations of innocence or guilt.

International human rights groups expressed concerns about the lack of sufficient due process safeguards for defendants. RPF elites countered with the argument that averting tremendous delays in having their cases processed would protect the rights of the accused. It would also give survivors a chance to heal and have justice done in their lifetime. Sentences had to account for time already served in prison, and the remainder partially commuted to community service, thereby restoring detainees to their communities. This was a “hybrid” model with both punitive and restorative elements built into it. Democratic potential was attributed to core aspects of the “gacaca” courts, such as the community-based deliberative process.

Some observers warned that this was a “gamble”, a “fantasy”, an “unprecedented experiment” that could “become the victim of its own ambitions”. Others cautiously defended a wait-and-see approach

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1 Pronounced “ga-cha-cha” courts
arguing that it was a “proudly homegrown response” (in contrast to the problematic ICTR\(^2\)) and “politically brilliant” in giving both perpetrators and victims an incentive to participate in the “gacaca” process.

II. Overview of the book

The “gacaca” courts began operating in 2002, wrapping up operations for the most part in 2010. By the end of 2006, the number of those accused of genocide crimes soared from 120,000 to 761,000 Hutu. This figure of 761,000 accused was just under half of all adult Hutu males, or 1 in 4 of all adult Hutu in Rwanda during the genocide. By 2010, the “gacaca” courts had processed 1.5 million genocide cases. Approximately the entire adult Hutu population in Rwanda during genocide now stands accused.

Critics noted that the courts had morphed into “instruments of terror”, allowing the RPF government to “rule by fear”. Indeed, the RPF remains in power 17 years after the genocide. The party has hundreds of Hutu members, but its core circle is dominated by a small group of Tutsi elites, ie. a subset of an ethnic minority group.

Observers noted that casting such a wide net of accusations was a convenient means to intimidate members of the majority ethnic group (almost 85% of the country’s population). In step with the “gacaca” law on genocide crimes, there was new legislation to combat “genocide ideology” and crimes of “divisionism” (eg. claims based on ethnicity). Together, this apparatus of laws was used to target opposition elites (mostly Hutu) with charges of participation in genocide, minimization of the “gacaca” courts, or incitement through illegal appeals to ethnic loyalty.

This book contends that core aspects of the “gacaca” trials have not been systematically studied, leading us to overlook a set of crucial mechanisms that have enabled the consolidation of ruling elites. It has a three-fold focus (a) confessions and the production of “consent” (b) the co-optation of lay judges into the ruling apparatus at the local level (c) the atomizing impact of denunciations upon communities.

The core thesis of this book is that the “gacaca” process has consolidated ruling elites by producing a high number of those who have confessed, who then find it in their interest to advocate for ruling elites even when they do not believe that those ruling elites have the moral authority to govern; by securing the loyalty of an important set of intermediaries (the lay judges) at the grassroots; and by encouraging the practice of denunciations which produces a disintegrative effect upon intra-Hutu networks. This provides a cheap mechanism of social control at community level. The interpretations of the book are based on a rich array of original data. This makes the book unusual compared to existing studies on “gacaca” courts.

By 2007, 1 in 5 accused individuals had confessed. Denunciations flourished as those who confessed were required to incriminate others as accomplices. Fresh accusations emerged as witnesses came forward with new testimony at the “gacaca” tribunals, and opportunists took advantage of the process to wield false charges to settle personal scores on matters unrelated to the genocide. Lay judges

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\(^2\) The International Criminal Tribunal for Rwanda (located at Arusha, Tanzania) was established by a UN Security Council Resolution in 1994. It has been criticized for being slow, costly and inaccessible to ordinary Rwandans.
managed to run their courts in a more or less orderly fashion. Indeed, many observers noted that confessions, denunciations and judges’ work constituted the nuts and bolts of the “gacaca” process.

Yet existing critiques of the “gacaca” process failed to focus on these phenomena. It also bears noting at this point that existing political critiques are restricted to journal articles and book chapters. There is no book-length study in any discipline assessing the political consequences of the “gacaca” courts.

III. Theoretical challenges

Gaps in the Transitional Justice Literature

i. Much work in the “politics of transitional justice” vein has focused on the dynamics of elite choices instead of the political effects of those choices. Thus, we know that mass justice was possible in Rwanda because the RPF assumed power in a military victory, instead of a negotiated transition. The RPF was, politically speaking, relatively unconstrained in the policies it was able to implement. We have more difficulty identifying the range of specific mechanisms that have produced power and reinforced the rule of the RPF.

ii. The Rwandan experience challenges the long standing assumption in the literature that trial processes during times of transition produce a democratizing effect. In fact, recent empirical work by political scientists finds statistical confirmation of this association (see Olsen, Payne and Reiter 2010). Those who argue that trials threaten the future of the transitional democratic order contend that this happens only in situations in which spoilers have not been contained by successor elites, giving the former an incentive to undermine the stability of the nascent democracy (Snyder and Vinjamuri 2004). The Rwandan experience pushes theorists of transitional political outcomes to contend with the following question: In settings where spoilers are contained and trials are implemented without destabilizing the transitional political system, what are the historical conditions, social processes, and types of institutional design that enable trial processes to either constrain or consolidate ruling elites?

iii. Finally, the field of transitional justice has mostly evolved in a legalistic and normative direction. Social science work on transitional justice is beginning to emerge but the field is still poorly integrated with established bodies of literature in other disciplines, for instance, analyses of the role of confessions in religious persuasions, other criminal justice systems and political contexts, or theories on the micro-foundations of human behavior. This book proposes to fill these gaps, as explained in Section IV.

Gaps in the literature on the “gacaca” courts

The difficulties of theorizing about political impacts are evident in the various reactions to the “gacaca” process as it has unfolded over the years. There have been mainly three sets of responses.
Legalists mostly reacted with shock at the expansion of the scope of the courts. Thus, as the total number of accused rose to almost a million Hutu, Schabas (2005) expressed concern at this “terrible and totally unexpected result”. Although worried about the rise of false denunciations, he still underscored the importance of the confession mechanism. Symptomatic of the legalists’ approach, however, he did not ask if the act of confession or denunciation could be politically consequential. Also, legalist critiques are not usually based on in-depth field research which limits their ability to undertake a substantive and grounded political analysis.

The second set of responses is mostly from political scientists, anthropologists, some human rights practitioners and NGOs. The trajectory of the “gacaca” courts appeared to confirm their fears about the political appropriation of a judicial process. Based on field research, this body of work has pointed to the imputation of collective guilt as a mechanism of social control, the ideological campaign against “divisionism” as a way of targeting dissenters, the state’s coercive tactics to force a reluctant population to participate, and state interference in judges’ work to produce verdicts that suited RPF interests (Waldorf 2006; Ingelaere 2009; Thomson and Nagy 2011).

There are three significant problems with these arguments: First, a systematic analysis of the central mechanism of the trials process, the confession and guilty plea system, is absent. No doubt draconian laws and mass accusations generate a climate of fear, but the confession is a more direct mechanism of submission because the accused have incriminated themselves and are at the mercy of the state. I find that despite widely shared beliefs among ordinary Hutu (those accused as also those not accused) that RPF elites do not have the moral authority to govern, only the confessed were likely to “consent” to RPF rule. Secondly, these arguments overstate the extent of central interference in local affairs. This proposed book contains a chapter that shows how manipulation of judicial processes by local elites is “permitted” to a large extent. This can be understood in the context of the historic structural logic of central-local linkages in the otherwise top down, authoritarian Rwandan state. Thirdly, these works make multiple references to the role of “gacaca” judges without undertaking a systematic analysis. What is the social and political profile of these thousands of judges? How are they positioned within the state’s apparatus of power and control? One cannot understand the inner working of “gacaca” courts without these answers; nor is a theory that seeks to link local judicial processes with central political consolidation complete without such an analysis.

Then there are scholars and NGO activists who adopt a socio-legal perspective and identify their position as one that is primarily “pragmatic”. In this view, the “gacaca” process has achieved some remarkable successes. To a large extent, the truth about genocide has emerged by means of the confessions and witness testimonies; perpetrators and survivors have confronted the past together (something they might not have done on their own); the reintegration of detainees is underway—all at the relatively low price tag of $40 million US dollars overall (see Clark 2010; Penal Reform International 2010).
The only existing full length treatment of the “gacaca” courts is written from this perspective (Clark 2010). The problem is that this study lacks a basic analysis of how power operates at the national and local levels in Rwanda. The state is under-theorized, serving primarily as the context (sometimes repressive and heavy-handed) within which the courts operate. The book’s observations about human behavior are astute but under-theorized, lacking a framework, either historical or rational calculus-based, within which judges’ behaviors, the actions of those who have confessed or not confessed, can be analyzed. In general, the book does not explore how ruling elites profit from the trials process. However, no assessment of the “gacaca” process can be complete without accounting for its political effects.

IV. The arguments and data used in this book

The book has a three-fold focus: the production of a “consent effect” from the confessions, the co-optation of lay judges into the ruling apparatus at local level, and the atomizing impact of denunciations that enables social control in the absence of a substantial or intrusive police presence within communities. There are no systematic accounts of these phenomena although most observers noted that these lay at the heart of the “gacaca” process and would likely determine its outcomes.

Original data were collected during 18 months of multi-sited (prisons, “gacaca” courts, communities, and government offices) fieldwork in 2004-5, using a range of methodologies: in depth interviews of 80 ordinary Hutu from 2 prisons and 1 community using a comparative research design; a qualitative survey of 100 lay judges from four different regions in the country; a set of elite interviews; ethnographic data from participant observation of trial processes and everyday life; and self-generated trial transcripts. I also use government reports, NGO documents, newspaper accounts and the available secondary literature. The book’s interpretations rest on a systematic use of these qualitative data.

(i) The first original argument in this book is that although mass accusations have created a general climate of fear, it is the confessed who are most likely to be quiescent, even advocating for ruling elites and “Tutsi rule”. I call this the “consent effect”. This is despite the fact that like most ordinary Hutu, they do not believe that ruling elites have the moral authority to govern.

An account of the causal pathway: The government offers reduced sentences as a reward for confessing and denouncing one’s accomplices. This offer is interpreted by the accused (Hutu) as a “trap”. They fear that once an individual is identified as guilty (by a self-incriminating confession in this case), the government would renege on its end of the contract and respond instead with massive retaliation. Hence, there is a pattern of “holding out” from confessing. However, the “gacaca” law threatens significantly higher sentences should one be found guilty without having confessed earlier.

The decision to hold out (not confess) or give in (confess) is contingent on how much information has accumulated against a person, by means of witness testimony or other’s denunciations, such that she might not be able to defend herself successfully in a “gacaca” court. Indeed, data from trial observations
suggest that the primary evidentiary criterion used to determine innocence and guilt is the number of people testifying for or against the defendant. If the defendant can mobilize more people to testify in her defense than the coalition that is prepared to testify against her, the higher the chance that she will be found innocent, or at least guilty of lesser charges than the ones levied against her. Based on the amount of damaging information already exposed, the accused individual must decide whether it is rational for her to hold out any longer. I find that individuals confess reluctantly after it becomes reasonably certain that the outcome in the “gacaca” court will not be favorable.

Now the gamble of entering a confession in order to avail herself of a reduced sentence will pay a dividend only if ruling elites keep their end of the bargain. This has two implications:

First, those who have confessed are not likely to do anything that might cause ruling elites to withhold benefits promised to them. Their extreme vulnerability makes them more quiescent than other ordinary Hutu. Second, as long as RPF elites are able to ensure that no viable opposition exists at elite level, the confessed fear that well after the “gacaca” process has formally ended, they will continue to be readily identifiable targets of possible government persecution with no recourse to a corrective. Their safest strategy is to advocate for what they call “Tutsi rule”, by de-legitimating Hutu elites, praising the “good rule” of this government and refusing to hold it accountable. This may be understood as a “consent effect” that is generated by the act of confession.

I designed a controlled comparison of the accused who had confessed with the accused who had not confessed. I compared these responses against those of a sample of ordinary Hutu who had not been accused in order to see if the general climate of fear in Rwanda was enough to produce the advocacy type response I call the “consent effect”. I find that there existed shared understandings among these groups of actors about the operation of power dynamics and ethnic relations over different phases of Rwandan history. These shaped, in informal but stable fashion, actors’ expectations about what ruling elites identified as Tutsi were likely to do, that is, how ruling elites might wield power and how they might design the “rules of the game”. These determined how they interpreted and responded to state inducements. However, I find that the “consent effect” is associated only with those who have confessed. My argument is that the dependence upon the goodwill of ruling elites for continuing guarantees of safety and reduced punishments is what creates a distinctive calculus for the confessed.

Theoretically speaking, I combine historically grounded analysis with the microfoundations of methodological individualism. The “consent effect” is an unintended result of rational behavior within a specific historical-political context of mistrust and extreme vulnerability. Although unintended, the “consent effect” has turned out to be useful for ruling elites. I review the literature on confessions from criminal justice, psychotherapy and religious perspectives, and argue that the association of compliance or obedience with the act of confession has long existed.

Methodology and data: I use ethnographic observation of the trials, as well as data from trial transcripts to support my arguments about “gacaca” procedures. For the comparative study designed to

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3 It is impossible for the researcher to determine which confessions, testimonies and denunciations are true or false in reality. In the “gacaca” court, the account of events that is supported by the most number of people is likely to be the one accepted as the truth. Local politics plays an important role here, as coalitions and counter-coalitions are mounted to have a certain verdict pushed through. For the purpose of this study, once a confession (whether true or false) is submitted to the authorities, it will produce the “consent effect”.

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isolate the “consent effect” on the part of the confessed, I use a random stratified sampling methodology to generate small samples for each group (n= 80). In-depth interviews were conducted with the confessed and non-confessed in 2 prisons in the capital city Kigali. Interviews with those who were not accused were conducted in 1 community in southern Rwanda.

(ii) The second original argument in this book is that the lay judges constitute crucial intermediaries that ruling elites at the center use to project power into the grassroots. The deficit of a social base (of Tutsi elites returned from exile) is countered by the co-optation of the thousands of lay judges, and constitutes the informal institutionalization of a cadre of “loyalists” at local level.

No systematic account exists of the social profiles, judicial practices, and political roles of lay judges. It remains to be explained how the gamble to place the process in the hands of lay judges pays off for ruling elites, particularly as I find from a cross-regional comparison, that the majority of judges are Hutu. After all, the accused are Hutu from within the judges’ own communities. Also, why would individuals put themselves into the precarious position of having to juggle pressures from state officials, Hutu co-ethnics (often friends, family, neighbors and acquaintances) and survivors, each of whom have competing interests in the outcomes of the “gacaca” courts?

First, I show that most lay judges are power brokers within their own communities, thereby able to win local elections to positions of judgeship. They enjoy informal social influence (on account of important positions in church groups, associations and cooperatives), sometimes combined with minor official positions (unsalaried) at the grassroots. Data on two rounds of judges’ elections (2002 and 2004) showed little turnover. A stable group of individuals with social status and influence thus self-select into this new “official” (but also unsalaried) position of prominence. I find that the majority of judges are Hutu, male and members of the RPF. They have thus also aligned themselves with the ruling party apparatus at the grassroots.

Second, I find that their interests are manifold. These include opportunities in the future for advancement within the ruling party or a salaried administrative appointment. There are economic incentives attached to these, and these moves can also enhance their prestige and ability to exercise power in the community. For the moment, they are entrusted with considerable responsibility (for instance with information-collection and preparation of dossiers in the pre-trial stage), and judges in important positions on the bench are able to suppress damaging testimony, manipulate the dossiers to protect those close to them, and even implicate those with whom they have personal conflicts or power rivalries.

Third, I show how elites at the center “allow” a certain degree of local manipulations to occur. This is compatible with the structural logic of (de)centralized states in general, and the history of the state’s operations in Rwanda in particular. Since the state counts on these local elites to process thousands of genocide cases without compensation for their services, it “allows” them some autonomy which in most cases is abused to serve the interests of these local power brokers. However, as long as judges process the cases speedily, manage their courts in a way that does not produce charges of blatant abuse, and comply with upper level state officials on individual cases deemed to be politically sensitive, the short term interests of ruling elites are served. In the longer run, the “co-optation” into the party and
government apparatus (there are also recent proposals to absorb the judges into some form of the regular criminal justice system) will continue to stabilize the regime, by providing ruling elites with a reliable cohort of “loyalists” with influence at the local level.

Finally, I argue that judges understand their own roles in both self-interested and moral ways, and show that as long as their own interests are not affected, they work “fairly” giving due regard to the competing interests and moral claims of the accused and genocide survivors. I also show that while they essentially run this massive project at the behest of the state, they do not trust ruling elites or believe they have the moral authority to rule. On certain sticky issues, they attempt to resist state directives in covert ways. I provide a more nuanced and complex analysis of judges’ work than is available elsewhere.

Theoretically, I show how judges’ work approximates the state’s historical-structural logic of power projection at the grassroots, while judges’ rational choices within this opportunity structure advance their own interests and enable regime consolidation at the local level.

Methodology and data used: I use a qualitative survey of 100 judges from across 4 regions, as well as ethnographic data from 1 community in southern Rwanda. I draw on participant observation of trials, judges’ meetings and dynamics of everyday life around the trials process. I also draw on reports of NGOs (such as Avocats sans Frontieres) that have an extensive presence on the ground, as well as government documents such as the lay judges’ training manual.

(iii) Encouraging a culture of denunciations has depleted existing forms of social capital without replacing those with social bonds that are stronger, trusting or more resistant to violence. In fact, the atomizing effect upon intra-Hutu networks has enabled social control at the local level. This short term gain has to be weighed against prospects for instability in the future based on the dangerous reinforcements to the notion of ethnic-based injustice.

I show how denunciations and accusing testimonies⁴ are experienced as acts of betrayal. The suspicions and severe anxieties produced as a result have fragmented familial, friendship-based and intra-Hutu networks. Killing was perpetrated by groups whose “leaders” mobilized family members, friends and neighbors to participate in the killing even though they were not animated by eliminationist hatreds toward Tutsi (Straus 2006; Fujii 2009). The “gacaca” process has effectively demobilized these networks, as individuals turned on each other to avail themselves of reduced sentences, or to get ahead in personal struggles, etc.

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⁴ It is impossible to determine which denunciations are true and which are not. I use my data to argue about the probability of a given denunciation to be true or false, but ultimately, that is not at the heart of the argument about the impact of denunciations on the community.
On the one hand, this has broken down existing forms of social capital that were not inherently malevolent. New networks that have emerged around the “gacaca” trials are ones that are largely opportunistic, lacking trust or shared norms characteristic of beneficial forms of social capital. These are temporary collusions among Hutu, and even between Hutu and Tutsi, to bandwagon and achieve desired outcomes at trial. For instance, my data show that genocide survivors (Tutsi) are willing to make deals with Hutu, swapping offers of testimony in cases that are of interest to each other, testifying for a bribe etc. On the other hand, the bonds between Hutu and Tutsi that were destroyed by genocide have not been satisfactorily repaired. Hutu and Tutsi may bandwagon for opportunistic reasons, but they also balance against each other. Trial observations revealed that the accusations of survivors’ coalitions are often met with counter-coalitions of Hutu testifying for the defendant. Even though the accused and survivors’ have broken their tense silence and confronted the past together in court, the chasm between them remains wide. Survivors report attempts at intimidation; in some places, they have been killed. Hutu report survivors’ attempts at revenge by fabricating charges, or exaggerating their claims in order to receive additional compensation.

All of this has had two broad impacts: First, the fragmentation of social bonds and the depletion of forms of social capital enable low cost social control at the grassroots. There is no need for an extensive police apparatus at ground level, as people police each other and guard their actions. In the short run, this lowers the cost of repression. Dissent can take the form of individual acts, but it is rare for groups to engage in collective action such as a local uprising.

Second, the clear acceptance among ordinary Hutu of the enormity of the crime that was committed is counteracted by the feeling that they are the new victims of a political dispensation that seeks to govern them by coercion. This view fits with their widespread expectation derived from understandings of history about the nature of “Tutsi rule” in Rwanda. In the distant past, Hutu were a subject population despite constituting a majority. My data show growing resentment toward a process that has seemed like a relentless onslaught for more than a decade (trials in ordinary courts began in 1996). It has generalized guilt, sundered families, arrested thousands, involved many human rights violations and created much fear. Although this resentment is directed at Tutsi elites instead of all Tutsi, it reinforces these pre-existing schemata through which Hutu interpret the agendas and intentions of RPF elites. In the long run, the “gacaca” trials may have reinforced perceptions about the ethnic basis of politics and produced a social order that is neither deep nor durable.

Methodology and data used: I draw on in-depth interviews conducted with those who have testified and denounced others as well as with those who have not testified against anyone. These interviews were conducted in 1community in southern Rwanda. Ethnographic data are used from participant observation of everyday life around the “gacaca” trials. I also review the existing literature on denunciations and their social and political uses by non-democratic regimes, such as the Soviet Union under Stalin.

5 There is by now a significant body of work which suggests that genocide would not have occurred without the civil war context, and the state’s direction and enforcement of the killings. There is little evidence that ordinary Hutu were ideologized killers.
V. Table of Contents

The book comprises 5 substantive chapters. Additionally, there will be 2 brief chapters that introduce and conclude the book. Total length of the book = 225 pages approx.

Introduction

Chapter 1: Transitional Justice and State building

Chapter 2: The historical bases of expectations about state power and justice

Chapter 3: Confessions and the “consent effect”

Chapter 4: Lay judges: “loyalists” with local influence

Chapter 5: Denunciations and social control

Conclusion

VI. Brief chapter overviews

The substantive chapters are organized around the specific arguments, data and methodologies that were elaborated in section IV. Hence, I offer only brief chapter outlines here.

The introductory chapter asks how political consolidation of ruling elites is achieved using a locally based, “hybrid” punitive-restorative transitional justice institution. It proceeds to a critical review of the existing literature, offers the book’s main arguments, and presents a detailed section on research design, data sources, and field methodologies. It closes with a roadmap to the rest of the book.

Chapter 1 provides the historical and political context against which the book’s arguments become accessible to those unfamiliar with Rwanda. In the first part, I provide a succinct overview of Rwanda’s history and the alternation of power between Hutu and Tutsi elites that has always been accompanied by episodes of violence and elite rhetoric on matters of justice. This section begins with Rwanda’s pre-colonial past and ends with genocide. The second part of the chapter explores the RPF-
dominated transition during which an entire apparatus of power has grown around the state project of combating genocide. I examine the political debates around the introduction of the “gacaca” courts, detail the institutional structure of the courts, and examine the proliferation of laws and formal institutions that have accompanied the “gacaca” courts.

Chapter 2 demonstrates that the RPF regime is perceived as “Tutsi rule” and that there exist widely shared expectations (among the accused as well as those not accused) about the nature of “Tutsi rule”. These are based upon popular interpretations of Rwandan history. RPF policies, inducements etc. are viewed with suspicion and distrust. Since RPF elites have not accounted for war crimes perpetrated by their soldiers, they are not seen as possessing the moral authority to govern.

Chapter 3 shows how confessions are produced, and demonstrates why it is only those who confess who are most likely to advocate for “Tutsi rule”. As long as RPF elites are able to prevent a viable opposition from emerging, the confessed believe it is in their best interest to support the regime. The “consent effect” is significant given the considerable proportion of the accused who have confessed. It is a phenomenon distinct from the general “climate of fear” effect produced by mass accusations and repressive laws.

Chapter 4 demonstrates how lay judges have emerged as crucial intermediaries for ruling elites at the center, and argues that this is crucial for ruling elites who lack an established social base at the grassroots comprised of a majority Hutu population. Chapter 5 expands on this theme of social control at the grassroots by focusing on the atomizing impact of the culture of denunciations and the depletion of existing forms of social capital.

The concluding chapter summarizes the main arguments offered in the book and dwells on two counterfactual scenarios: what might have transpired if ruling elites had chosen to use only ordinary courts and/or a truth commission? The chapter ends with some reflections on the theoretical and policy implications of these findings for transitional justice solutions that draw on the “gacaca” template.

VII. Theoretical, Methodological and Policy Significance

i. There does not exist to my knowledge any book length social scientific analysis of any aspect of the “gacaca” courts, with the exception of Phil Clark’s (2010) volume. Clark does not ask if transitional justice processes had an impact on the ability of ruling elites to consolidate themselves. Clark focuses the book on what he calls a set of “pragmatic” and “profound” goals of the “gacaca” courts: these include resolving the prison overcrowding problem, truth-telling, healing and reconciliation etc. The author’s treatment of state politics is minimal, and his analysis of human behavior is under-theorized and ahistorical.
ii. Studies that have emphasized the political uses of the “gacaca” courts are restricted to journal articles. None of these focuses on the phenomenon of confessions, inquires systematically into the nature of and impacts of judges’ work, or unpacks the community-level consequences of the growing culture of denunciations. Yet the “gacaca” courts are unmatched in the number of confessions elicited, the unprecedented manner in which the courts are entrusted to the lay judges to manage, and society-wide encouragement of the practice of denunciations, historically a characteristic of totalitarian or revolutionary regimes. These are subjects upon which this book will focus.

iii. The field of transitional justice is generally poorly integrated with literatures from other fields. This book fills this gap by bringing different literatures to speak to the topic at hand. For instance, it reviews the literature on confessions from a political, religious and criminal justice perspective to find that there is a general premise to the finding that confessions elicit obedience from confessing subjects. This work also examines the literature on denunciations to tease out social and political impacts from other historical contexts.

iv. This book is also part of a new and emerging trend of transitional justice studies that move away from purely historical accounts, legalistic discussions or normative reasoning to build clear theoretical frameworks within the social sciences. This work combines a historical institutionalist perspective with rational choice individualism. It explores how historical logics of the operation of state structures, and widely shared, stable expectations derived from history end up shaping a range of individual-level responses to the inducements and sanctions of state law.

v. This book is in keeping with the emerging trend of empirically rigorous transitional justice studies. It uses a comparative study design for data collection using in-depth interviews and a qualitative survey, and combines this with detailed, fine grained ethnographic data on the trials and everyday life around the trials from within one community. It thus combines the anthropologist’s approach with a political scientist’s methodological instincts and focal interests. On the topic of confessions, for example, I use a comparative design to identify what is specific to the responses of the confessed vis-à-vis those who had not confessed, and well as those who had not been accused in the first place. I thus avoid the problem of selecting on the dependent variable. Triangulation between types of data (eg. interview data and ethnographic data) also helps to confirm my arguments.

Fieldwork was conducted over a period of 18 months in Rwanda. Since there is no systematic work on confessions or judges’ work or denunciations in “gacaca” processes, these data are an original contribution. Also, the range of data collected is unusual for any single piece of work on the “gacaca” courts in Rwanda, not only on account of the time spent in the field, but also on account of the close range at which some of the data were collected. In particular, the ethnographic data on court processes, judges’ informal deliberations, community-based power struggles, intra-familial rifts produced by
denunciations etc. are the product of living for 6 months in the home of a “gacaca” judge within 1 rural community in southern Rwanda. Difficult living conditions were a small inconvenience given the valuable data that were collected.

In terms of field work methodology in politically sensitive and post-conflict settings, this book is an important contribution. It details how rapport is established, interviews conducted and participant observation accomplished when respondents are suspicious, the government is repressive, and the researcher encounters a “stage setting”.

Ultimately, the book is about the processes through which the transitional justice program in Rwanda has helped to consolidate the illiberal regime of ruling elites who do not enjoy moral legitimacy in the eyes of the majority of the population. After all, how is it that a process ostensibly designed to encourage truth-telling, do justice, and reconcile perpetrators with their victims produced politically advantageous results for ruling elites? The transitional justice literature does not provide guidance on this question. This proposed books points to intended as well as un-intended (but nonetheless useful) effects.

As Rwanda’s local tribunal model is examined for use in other cases of transition, for instance in East Timor and northern Uganda, systematic analyses of “gacaca” courts assume policy relevance. This book underscores the importance of understanding the historical institutional and local political context into which formal institutions are introduced, that can then distort or complicate institutional outcomes in some unexpected but other not so surprising ways.

VIII. Market Analysis

As noted in the sections above, there is no existing book length analysis of the consequences of the “gacaca” tribunals for political consolidation of ruling elites. Scholarly studies of the political uses and abuses of the “gacaca” tribunals are restricted to journal articles and have not explicitly focused on confessions, lay judges or denunciations despite numerous references in the literature as to the central place of each of these three elements in the “gacaca” process.

There is a paucity of scholarship on Rwanda’s post-genocide transition. The Pottier (2002), Eltringham (2004) and Clark (2010) volumes are notable exceptions so far as book-length works are concerned. Of these, only the latter is focused on the “gacaca” courts but does not explore the question of political impacts. A recently edited volume by Straus and Waldorf (2011) brings together chapter contributions from scholars on a range of issues, including “gacaca”.

To my knowledge, this project is one of the first book length social scientific studies that provides a theoretical and systematic account of the historical conditions and social processes within
which a local-level transitional justice institution functions to produce illiberal regime consolidation. The literature on local transitional justice mechanisms is just beginning to grow, with a recent edited volume by Shaw, Waldorf and Hazan eds. (2010), but mostly restricted to book chapters and journal articles.

This book will be of interest to diverse sets of readers:

(i) A scholarly audience from the disciplines of law, political science, history and anthropology, with a focus on the following thematic fields: transitional justice, criminal justice, ethnic politics, genocide crimes, social psychology, and regime consolidation in authoritarian systems. It should also be relevant to scholars interested in state-society relations in general, and the micro-politics of policy interventions. From a theoretical standpoint, it should appeal to those inclined toward combinations of historical institutionalist and rational choice frameworks.

(ii) A student audience for social science and humanities courses on contemporary African politics, justice and human rights, political transitions, ethnic politics, criminal justice mechanisms, alternative dispute resolution systems. It can also be used for courses teaching research ethics and field methods in post-conflict settings.

(iii) A general audience with an interest in African affairs, or contemporary justice and human rights issues. The proposed book distills complicated ideas into a clear and fluid narrative accessible to non-experts in the field.

The proposed book fits nicely into some of Cambridge University Press’s core areas of emphasis under the broad rubric of “politics and international relations”: identity politics, state-society relations, contentious politics broadly speaking, political transitions and single country studies that use the tools of comparative social scientific analysis, pursue general questions and are rooted in clear theoretical and methodological frameworks. This book would be a nice addition (and counter-point) to the recent publication (under Cambridge’s Law and Society series) of Phil Clark’s book on the gacaca courts (2010). It would also complement existing publications such as Longman’s study of the Rwandan genocide (2010), post-genocide politics in Rwanda (Pottier 2002), Aminzade, Goldstone et.al’s study of silence and voice in contentious politics (2001), Davenport’s study of state repression (2009), and Roht-Arriaza and Mariezcurrena’s edited volume on transitional justice in the twenty first century (2006).
Works Cited:


