

**TRANSITIONAL JUSTICE, VICTIMHOOD AND COLLECTIVE NARRATIVE IN
POST-GENOCIDE RWANDA**

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Abstract

One basic conceptual aim of transitional justice is the formation of a post-conflict narrative, through which collective memories are fixed in the public consciousness, group and individual identities reinforced, and experiences (de)legitimized. Discussions surrounding transitional justice initiatives are usually couched in the language of “victim” and “perpetrator”. In adopting this terminology, however, academics and practitioners across fields largely presuppose that “victim” is a clear and “natural” classification. Grounded in the case of Rwanda, this paper argues that victimhood should instead be understood and applied as a socially constructed category, which is reinforced, if not created, by the transitional justice framework itself. Understanding victimhood in this way recognizes that the inclusion or exclusion of an individual or group under this designation is the result of choice and asks us to consider both the consequences and alternative categorization schemes. Being designated a victim has both symbolic and tangible implications, all of which have bearing on the way that the post-conflict narratives are structured and internalized (or rejected), and this process affects the prospects for reconciliation and stability. Put simply, how can people come to terms with the past and each other, if entire sectors of the population are effectively told that their experiences do not matter? Examining this relationship presents new opportunities in genocide prevention efforts. Most basically, closely following (monitoring) a given “script” in a particular situation allows sensitivity to early warning signals. More radically, working with narratives can provide another point of intervention, both during a “transitional” period and after.

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Table of Contents

Introduction	1
<i>Case Study: Rwanda</i>	5
<i>A note on the necessity of field work</i>	7
<i>Thesis Overview</i>	8
Chapter 1: Victimhood, Collective Memory, and Transitional Justice	10
<i>Victimhood, Social Memory, and Ethnic Conflict</i>	12
<i>Transitional Justice</i>	17
<i>On the Necessity of Transitional Justice</i>	20
<i>Transitional Justice and Collective Memory</i>	22
<i>A Discussion of Transitional Justice Mechanisms</i>	23
Chapter 2: Rwanda: Genocide, “History,” and the Disappearance of Ethnicity	30
<i>“History”</i>	30
<i>The Genocide</i>	34
<i>After the Genocide – Erasing Ethnicity</i>	37
Identity Cards and Teaching History	39
Ingando “Solidarity” Camps	40
Legal Mechanisms	41
Chapter 3: After the Genocide – Transitional Justice in Rwanda	46
<i>Legal Responses</i>	47
Classical courts	48
<i>Gacaca</i>	49
<i>Memorials</i>	54
<i>Reparations</i>	58
Chapter 4: Empirical Methodology and Findings	60
<i>Part I: Memorial site visits</i>	60
<i>Part II: Interviews with NGOs</i>	61
<i>Additional Complications</i>	65
<i>Organizations</i>	67
Chapter 5: Conclusion: Limitations, Implications and Aspirations	76
<i>The Problem of Diasporas</i>	76
<i>A Final Note on Reconciliation</i>	77

Bibliography	79
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Introduction

Transitional justice mechanisms seek overall to move the country out of conflict and into a peaceful and usually democratic space, through a combination of legal, quasi-legal, and non-legal mechanisms, such as trials, lustration, truth commissions, reparations schemes, memorialization projects, and access to previously classified information. The framework is based on the idea that such circumstances require more comprehensive and targeted redress than criminal justice traditionally provides. As Chrisje Brants notes, “Transitional justice is not only a matter for the law.”¹

At its most basic, transitional justice has three conceptual aims: justice, (re)conciliation, and narrative creation. While these aims are unquestionably interrelated, my most immediate concern is with the third. Narratives are both an important part of the transitional justice process and the basis for a central theme running through each of its mechanisms.² Through this narrative, collective memories are fixed in the public’s consciousness, group and individual identities reinforced, and group experience (de)legitimized. Theologian Robert Schreiter is right in his assessment of narrative as “both witness to the past and constructive of the truth that emerges as reconciling and restoring for divided communities.”³

Discussions surrounding transitional justice initiatives are couched in the language of “victim” and “perpetrator”. It is often even termed “victim-centered” justice, as the mechanisms

¹ Chrisje Brants, “Introduction,” in *Transitional Justice: Images and Memories*, ed. Chrisje Brants, Antoine Hol and Dina Siegel (Surrey, England: Ashgate Publishing Limited, 2013), 2.

² Kevin Foster, *Fighting Fictions: War, Narrative, and National Identity* (Sterling, VA: Pluto Press, 1999), 21.

³ Robert Schreiter, “Establishing a Shared Identity: The Role of the Healing of Memories and of Narrative,” in *Peace and Reconciliation: In Search of Shared Identity*, ed. Sebastian C. H. Kim, Pauline Kollontai and Greg Hoyland (Burlington: Ashgate Publishing Group, 2008), 22.

aim to offer more complete and holistic redress to those injured. In doing so, however, academics and practitioners across fields largely treat "victim" as a clear and obvious classification. This thesis argues that victimhood should instead be understood and applied as a socially constructed category, which is reinforced, if not created, by the transitional justice framework itself. Understanding victimhood as constructed recognizes that the designation of an individual or group as "victim" *or not* is the result of choice. Reconceptualizing victimhood in this way forces us to acknowledge the consequences of those delineations and consider alternative categorization schemes. It also allows us to question how this categorization is operationalized and exploited by both domestic and international actors.

Being designated a victim has both symbolic and tangible implications. On the more practical end, such a designation makes one eligible for a host of services. At a more conceptual level, the experiences of victims are recognized, memorialized, and written into social memory. All of these implications have bearing on the way that the post-conflict narratives are structured and internalized (or rejected), and this process affects the prospect of reconciliation and stability. What sort of reconciliation is possible when people and groups are being left out of the official narrative? Put more simply, how can people come to terms with the past and each other, when entire sectors of the population are effectively told that their experiences do not matter?

Acknowledging and examining the relationship between transitional justice and narrative formation presents many opportunities in genocide prevention efforts. Most basically, closely following (monitoring) a given "script" in a particular situation allows sensitivity to early signals. Even the subtlest changes could be important in this way. More radically, working with narratives provides another point of intervention, both during a "transitional" period and after.

For most of us, violence on the scale of genocide and nationalist or ethnic conflict seems irrational and incomprehensible. That an individual could pick up a machete and kill his former friend, neighbor, or family member based on the victim's ethnicity borders on the inconceivable. Nonetheless, such violence continues to happen, and our legal systems alone are ill-equipped to deal with the complete range of devastating consequences. Holocaust Scholar Lawrence Langer once noted, "the logic of law can never make sense of the illogic of extermination."⁴ From a prevention standpoint, however, such framing of incomprehensibility offers little in the way of containing or stopping genocide and other mass atrocities. As Michael Hechter states, if we simply accept this violence as senseless, "We would have about as much luck containing the destructive force of nationalism as in dealing with El Niño."⁵

Yet genocides are not random, spontaneously-occurring events. Rather, genocides are processes.⁶ Gregory Stanton, President of Genocide Watch, argues that there are eight stages to genocide: classification (into "us" and "them" categories), symbolization (the ascription of both names and characteristics to groups), dehumanization (the denial of humanity to one (or more) groups through, for example, the use of derogatory terms like *inyenzi*, or cockroaches for Tutsis before and during the Rwandan genocide), organization (the early plans, such as training militias or securing arms),⁷ polarization (creating further division among groups through, for example, laws, media, or propaganda), preparation (such as the segregation of Jews and Roma into

⁴ Lawrence Langer, *Admitting the Holocaust* (New York: Oxford University Press, 1996), 171.

⁵ Michael Hechter, "Nationalism and Rationality," *Studies in Comparative International Development* 35, (2000): 3.

⁶ See, e.g., Barbara Harff, "No Lessons Learned from the Holocaust? Assessing Risks of Genocide and Political Mass Murder since 1955," *American Political Science Review* 97 (2003): 57; Gregory Stanton, "The Eight Stages of Genocide: Classification Symbolization Dehumanization Organization Polarization Preparation Extermination Denial," Genocide Watch, <http://www.genocidewatch.org/genocide/8stagesofgenocide.html> (accessed 28 February 2013).

⁷ Stanton argues that, whether informally or formally, genocides are always organized.

ghettos, or the creation and distribution of extermination lists in Rwanda), extermination (killing and other genocidal acts),⁸ and denial (including, for example, destroying evidence, intimidating witnesses, and blocking investigation efforts).⁹ In this model, actual acts of violence do not generally materialize until stage seven. Yet international intervention efforts tend to be responsive only at and during this stage. By understanding genocides as processes, Stanton seems to suggest that we need to target interventions at both earlier stages (by the time arms are involved, it is too late) and at the final stage – denial, which according to Stanton, if left unaddressed, “is among the surest indicators of further genocidal massacres.”¹⁰ Just as genocide does not begin with the first killing or violent act, so too it does not end the minute the machetes are dropped. Successfully transitioning out of genocide is of inestimable importance, lest the process become circular.

Professor of Ethics in Politics and Government Nancy Rosenblum cautions against what she and Martha Minow term a “cycle of hatred.”¹¹ Rosenblum states, “Crimes of hate have a past; sadly they have a future too, as each contributes to the climate of demonization and the desire for revenge. Perpetrators become victims; victims avengers.”¹² It is in this way that we can not only see the importance of transitional justice initiatives but conceptualize transitional justice as more than just a post-conflict, reconciliatory framework. We can also understand transitional

⁸ According to Stanton *supra*, “Extermination begins, and quickly becomes the mass killing legally called ‘genocide.’ It is ‘extermination’ to the killers because they do not believe their victims to be fully human.”

⁹ For a full description of these stages, see Stanton, *supra*. However, in meeting with Never Again Rwanda, a genocide prevention NGO in Rwanda, I was told that Stanton was adding two additional stages. However, I have found nothing published on this yet.

¹⁰ Stanton, <http://www.genocidewatch.org/aboutgenocide/8stagesofgenocide.html> (accessed 28 February 2013).

¹¹ Nancy Rosenblum, Introduction to *Breaking the Cycles of Hatred: Memory, Law, and Repair*, ed. Martha Minow (Princeton: Princeton University Press, 2002).

¹² *Ibid.*, 3.

justice as a tool for genocide prevention, as we want to progress away from, not cycle back into, violence.

Andrew Woolford argues that through the transitional justice process, genocidal violence is runs the risk of being transformed into what he calls “symbolic violence”.¹³ As such, the way in which the transitional justice framework is designed in any particular case has important consequences. A representative from one of the organizations with which I met also told me something along these lines when I inquired into whether or not people openly talk about sensitive issues like ethnicity in a climate that seems so hostile to critical discussion. He said that presently Rwanda was not simply just trying to deal with its past, although the country certainly *was* trying to do that, or its future as such. Rwanda was trying to figure out where it *wanted* to go, and from that the country could figure out the best way to get there. In this same spirit, while transitional justice mechanisms are employed to deal with past abuse, they must also be forward-looking.

Case Study: Rwanda

Rwanda is a particularly interesting place to explore transitional justice and ideas of victimhood because of the current discourse (or lack of) surrounding ethnicity. After the 1994 genocide, under the auspices of promoting unity, preventing “divisionism”, and reclaiming their “true” history, the Rwandan government effectively abolished ethnicity. Identity cards now classify citizens as “Rwandan” rather than Hutu, Tutsi, or Twa; textbooks adopt a common narrative of these categorizations as ethnicized if not fully constructed by colonial powers; secondary school students are sent to *ingando*, “solidarity camps” originally aimed at re-

¹³ Andrew Woolford, “Genocide, Affirmative Repair, and the British Columbia Treaty Process,” in *Transitional Justice: Global Mechanisms and Local Realities after Genocide and Mass Violence*, ed. Alexander L. Hinton (New Brunswick: Rutgers University Press, 2011), 137.

educating former *génocidaires*. Anyone who questions or deviates from this official narrative risks being charged with promoting divisionism and prosecuted under Rwanda's ambiguous genocide ideology law, which will be discussed in some detail in Chapter Three.¹⁴

Still, notions of victimhood seem largely conflated with ethnicity. Tutsis were victims; Hutus were perpetrators.¹⁵ While this was undoubtedly often the case, it oversimplifies. More importantly, it implies that Hutus could not be considered victims. In 2008, the government symbolically formalized this framework, changing the terminology in official discourse from "genocide and massacres" (*itsembabwoko n'itsembatsemba*) to "genocide against the Tutsis" (*jenocide yakorewe abatutsi*),¹⁶ "codifying," anthropologist Jennie Burnet claims, "the long-term symbolic erasure of Hutu victims of the genocide from national mourning activities."¹⁷ Anthropologist and Rwanda expert Johan Pottier also critiques this shift, stating, "Official discourse on the 1994 genocide maintains in practice the ethnic division which the RPF-led government denounces in theory: only Tutsi are victims of genocide; moderate Hutus are victims of politicide who died in massacres...The distinction has an implied moral hierarchy."¹⁸ Burnet continues that beyond being denied the right to publicly mourn their own losses from the

¹⁴ In the past couple of years, this law has come under increasing scrutiny for its vagueness and manipulability. In June 2012, the Rwandan government proposed a modified draft bill to clarify both the scope, elements and penalties for espousing genocide ideology. At the time of this writing, the draft bill is still in parliament. Even if the proposed amendments pass, it is unclear what, if any, the effect will be. When I was in Rwanda, I was unable to gather any definitive information on this, but it seemed as though no changes were going to be made in the near future.

¹⁵ Twas are largely omitted from this discourse. They are referred to as "traditionally marginalized peoples", but not really addressed in Rwanda's post-genocide narrative.

¹⁶ Organic Law No. 18/2008 of July 23, 2008, Relating to the Punishment of the Crime of Genocide Ideology.

¹⁷ Jennie Burnet, "(In)Justice: Truth, Reconciliation, and Revenge in Rwanda's *Gacaca*," in *Transitional Justice: Global Mechanisms and Local Realities after Genocide and Mass Violence*, ed. Alexander L. Hinton (New Brunswick: Rutgers University Press, 2011), 103.

¹⁸ Johan Pottier, *Re-Imagining Rwanda: Conflict, Survival and Disinformation in the Late Twentieth Century* (Cambridge: Cambridge University Press, 2002), 126.

genocide, this discourse means that most Hutus also have to deal with the assumption that their dead friends and family were perpetrators, and often are accused of being complicit themselves.¹⁹ When I met with the representative from the National Coalition for the Fight Against Genocide (CNLG), I inquired into the reasons for this change in nomenclature. He indicated that “genocide” was neither a term nor a concept that existed in Kinyarwanda (one of the three official languages of Rwanda and the predominant one spoken). Prior to the name change in 2008, people were using old terms which were inappropriate for the circumstances of genocide. As such, there was confusion – especially in rural areas – as to exactly what had happened. By changing the name, the government was attempting to clarify by adding the name of the primary target group, pursuant to the terms of the 1948 Genocide Convention,²⁰ against which the violence occurred.

A note on the necessity of field work

The peculiarities of Rwanda make it difficult to establish any sort of context without being there in person. While this can generally apply to any sort of area studies research – one cannot really gauge what is going on in a particular place without going there – it is particularly important in a country like Rwanda, where online presence (especially of civil society groups) is minimal and the media is largely controlled. Credibility of the sporadic information that is available is almost impossible to determine. There is a significant body of scholarly work from the Rwandan genocide, and I have drawn upon this corpus in designing my empirical framework. However, much of the literature is dated, dictated by discipline, and inconsistent. Although my intent in this thesis is to use Rwanda as a case study to test and illustrate a theoretical discussion

¹⁹ Burnet, 103.

²⁰ United Nations Convention on the Prevention and Punishment of the Crime of Genocide (1948).

of victimhood construction and application through the transitional justice process, actually traveling there was of utmost importance in the hope of offering any meaningful conclusions.

Thesis Overview

Chapter One of this thesis will provide the theoretical grounding for the entire project. The discussion has three main aims. First, I will discuss the theoretical background and introduce the relevant concepts and discussions relating to victimhood, narrative, and social memory. Second, I will give an overview of transitional justice and briefly discuss each of its component mechanisms. Finally, although not explicitly discussed, this chapter make a small attempt to synthesize some of the related literature from various fields.²¹

Chapter Two will give a brief overview of the events leading up to and during the genocide, along with a summary of the official government-propagated version of Rwandan history. I will also discuss the post-genocide de facto illegality of ethnicity.

Chapter Three will situate the theoretical discussion into the context of post-genocide Rwanda. First, the various transitional justice mechanisms that were put into place following the Rwandan genocide (ICTR jurisprudence, *Gacaca*, memorial sites and events, and reparation schema) will be described in some detail. Then, using framework established in Chapter One, I attempt to illustrate the role of each of these in creating or reinforcing a bounded victim categorization. This effort will be supported by integrating the results of fieldwork done at various memorial sites around the country. The chapter will contain a separate section detailing the particular memorial sites visited and victimhood narrative offered by each portrayed (e.g.,

²¹ For a good summary discussion, see Patrick Devine-Wright, “A Theoretical Overview of Memory and Conflict,” in *The Role of Memory in Ethnic Conflict*, ed. by Ed Cairns and Mícheál D. Row (New York: Palgrave MacMillan, 2003).

whether the focus is ethnically-based, and if so, whether Hutus are included in the narrative as anything other than perpetrators). Thus, while the intent of this thesis is to initiate a relatively broad discussion on the relationship between victimhood construction and transitional justice mechanisms collectively, there will be slight emphasis on memorialization, specifically on Pierre Nora's *lieux de memoire*.²²

Chapter Four will discuss the methodology and findings from my fieldwork in Rwanda. In Part I, I briefly touch on the memorial visits discussed in Chapter Three. Then, in Part II, I turn to interviews. In order to assess how victimhood is interpreted in practical ways, in April-May 2013 I met with four organizations/programs in Kigali. Through these interviews, I hoped to gain insight into who is considered a victim by the organization in question, what type of services this makes him or her eligible for, and how the designation and its application fits into the larger genocide narrative. First, this section contains a brief discussion on why the perspective of NGOs is important and the general standard questions I planned to ask to each group I met with. Next, the organizations are described, along with my specific reasons for wishing to interview each.

Chapter Five concludes the thesis and attempts to bring together the previous chapters. Limitations in methodology are given, broader implications of the findings are explored and avenues for further research are briefly discussed.

²² Pierre Nora, "Between Memory and History: *Les Lieux des Memoire*," trans. Marc Roudebush, *Representations* 26 (1989): 7-24.

Chapter 1: Victimhood, Collective Memory, and Transitional Justice

Victims lie at the heart of the transitional justice process. One of the key rationales for employing transitional justice mechanisms is that more traditional legalistic responses pay inadequate attention to the needs of victims, if these are considered at all. While victims do sometimes have a role in trials, for example, and these are often done in the name of seeking justice *for* victims, it is argued that this is not enough, especially after mass atrocities, such as genocide. Criminal trials do not offer any sort of material support, nor are they necessarily the best mechanism for uncovering a truth about what happened during the conflict, which is often of immense importance to victims, who may be seeking closure through information about their loved ones.

Yet within the context of transitional justice, victim status (in a particular situation) is often presupposed. Exactly who or how one comes to qualify as a victim has largely been left unexamined. As legal scholars Kieran McEvoy and Kirsten McConnachie point out, “[a]lthough addressing the needs of victims is increasingly proffered as the key rationale for transitional justice, serious critical discussion on the political and social construction of victimhood is only tentatively emerging in the field.”²³ This thesis aims to contribute to this discussion by looking at the ways that victimhood designations are actually in part *created* by the transitional justice process.

“Victim” is a messy category at best. This is somewhat evident in the context of genocide and mass atrocity, where the same individuals may both kill and be victims, which raises questions about, for example, whether there is a requirement that victims be “innocent” as is

²³ Kieran McEvoy and Kirsten McConnachie, “Victimology in transitional justice: Victimhood, innocence and hierarchy,” *European Journal of Criminology* 9 (2012): 527-538, 527.

often the supposition.²⁴ One of the clearest examples of where this concept gets exceptionally murky is in the context of child soldiers. As Brants and Liefwaard point out, international law tends to portray child soldiers as “innocents victims, forced into combat, and subjected to extreme violence and abuse by adults.”²⁵ Yet many of these child combatants are guilty of the same types of killing and rape as their adult counterparts. Additionally, while many such children are abducted or conscripted against their will,²⁶ this is not always the case. Children sometimes join armies for economic concerns, as well as a host of other reasons. This gives rise to a host of questions about the role of individual choice in victimhood ascription and to what extent it matters. This is further complicated by assumed homogeneity of the group “child soldiers”, when in fact there is little. As stated above, individual circumstances vary widely, as does the age of the combatant. It would be difficult to argue that the experience of a seven-year-old conscript is akin to that of a 15-year-old.

On the other hand, often returnees are viewed solely as perpetrators by the communities they come “home” to and sometimes by their receiving governments. Realistically, most child soldiers are both victim and perpetrator, and their belonging to one category does not make them any less fitting in the other. This sort of overlap, however, is not the only way that victimhood is a contentious concept.

²⁴ Ibid.

²⁵ Brants, 10.

²⁶ This was often the case with child combatants and wives from the Lord’s Resistance Army in during the war in Northern Uganda. Many of these children, who were either discharged or escaped, now find themselves blamed by both the Ugandan government and members of their former communities in Acholiland and Lango.

Victimhood, Social Memory, and Ethnic Conflict

There are many theories as to why genocide and ethnic conflict occur. Most presuppose an element of prejudice directed at a target group. However, as political scientists Donald Green and Rachel Seher point out, this is not necessarily the case.²⁷ Rather than taking this relationship as a given, they argue, the role that prejudice plays in ethnic conflict, if any, is an open question ripe for future empirical testing. An alternative, although not mutually exclusive root cause to examine is a group's perception of history. While the various theories of ethnic conflict are quite diverse in their grounding and logic, the themes of history and memory run as a common thread through each.²⁸ Whether the animosity is viewed as ancient ethnic hatred or a more modern social construct, there is always some element that involves the reliance on, use, or manipulation of the perceived historical relationship between two or more groups. In an essay on vengeance, Austin Sarat asks, "What is the role of memory in vengeance and the violence it entails? What is the relationship among past, present, and future that vengeance creates? How are narrative connections made between those who are injured and those who use violence to reply to such injuries? Do certain kinds of memories sustain violence while others diminish it?"²⁹

Transitional justice can play an important role in answering such questions. While there is disagreement among practitioners and academics as to the content and scope of the transitional justice framework – whether, for example, it should be limited to the legal sphere or include non-legal mechanisms – at core it is based on the idea that a post-conflict society must deal with its

²⁷ Donald Greene and Rachel Seher, "What Role does Prejudice Play in Ethnic Conflict?" *Annual Review of Political Science* 6 (2003): 509-531.

²⁸ History and memory, whether in the individual or collective, have been differentiated in a substantive body of literature. See eg., Nora *supra*. For purposes of this paper, however, I will treat the two as coterminous.

²⁹ Augustin Sarat, "When Memory Speaks: Remembrance and Revenge in *Unforgiven*," in *Breaking the Cycles of Hatred: Memory, Law, and Repair*, ed. Martha Minow, 236-259 (Princeton: Princeton University Press, 2002), 236.

past before moving forward. Mechanisms such as trials, truth commissions, reparations, apologies, and memorialization projects all offer various ways for individuals and groups to engage with the past.

This idea of a society dealing with or coming to terms with its past is unquestionably vague and problematic to define. Even at the individual level, it is difficult to determine what this means. How exactly does one “deal” with his or her history? And what is the desired outcome? How does one know when the past has been “dealt” with? Is he or she striving for the equally ambiguous “making peace” or is something further required? Taking stock of the complications involved with this process for individuals, one can imagine the seemingly endless complexities at attempting to address this history at a societal or collective level.

Psychologists Peter Glick and Elizabeth Levy Paluck claim that the link between past and present is more direct, that in fact history can be a proximal cause of future conflict. They argue that the historical context of a conflict and the peoples involved have a real and tangible role in current inter-group relations. The way that a group perceives its history, whether ancient or more recent, strongly affects the way it interacts with other groups. According to Glick and Paluck, “even the ancient past can represent a proximal cause, because group members’ beliefs about the past strongly influence their current intergroup attitudes and behavior.”³⁰ Rather than the past itself, to the extent that such a thing exists, for Glick and Paluck it is a group’s perceptions about its past that are important. As such, it is important to understand how these beliefs about past relationships affect current group identity and attitudes towards other groups. This is especially true in the context of genocide and other animosities. Ed Cairns and Micheál Roe echo this idea, stating, “However long the time-scale, ethnic conflicts are always grounded in the past...if ethnic

³⁰ Peter Glick and Elizabeth Levy Paluck, “The Aftermath of Genocide: History as Proximal Cause,” *Journal of Social Issues* 69 (2013): 200-208, 201.

conflict is to be brought under control, it is necessary to understand the toll of the collective past in the collective present.”³¹

The effect of the past in the present is perhaps most directly visible in the arena of perceived victim-perpetrator identities. As political psychologist Daniel Bar-Tal notes, “It is probably universal that in every serious, harsh and violent intergroup conflict, at least one side – and very often both sides – believe that they are the victim in that conflict.” For Bar-Tal, rightly, this “self-perceived collective victimhood” represents the starting assumption against which to understand group identity and intergroup relationships. Bar-Tal further argues that in “intractable” intergroup conflicts, this perceived victimhood plays a central role in both the groups’ identities and the collective narratives of the societies involved. It is tightly interwoven into each group’s history and a constant reference point. “Within this framework,” he concludes, “it is just very natural that society members believe that they are the victims of the rival in the conflict.” This idea of perceived victimization is a common theme in most conflict narratives, and it is often drawn on to create division and garner support from one side or other. Such was the case in Rwanda, for example, with Hutu feeling the victimized by years of colonial and Tutsi oppression, and in Kosovo with both Serbs and Albanians telling stories of historical victimization by the other side. Drawing parallels between individual and collective senses of victimhood, Bar-Tal goes on to lay out the conditions required for developing a sense of victimhood and notes that the perceived harms suffered can be direct or indirect. In this way, Bar-Tal’s analysis complements that of Glick and Paluck, as those involved in inter-ethnic conflicts would be operationalizing indirect harms.

³¹ Ed Cairns and Mícheál Roe. Introduction to *The Role of Memory in Ethnic Conflict*, ed. Ed Cairns and Mícheál Roe, 3-8 (New York: Palgrave MacMillan, 2003), 5.

Bar-Tal stresses that, similar to individuals, groups can suffer from a sense of perceived victimization, which is part self-perception and part legitimating social construct. In these circumstances, members of a group, believing themselves harmed, would “perceive this harm as directed towards them because of their identification with the causes of the group and their concerns about its well-being.”³²

Glick and Paluck note, “The differences in victim and perpetrator groups’ relationship to the past create barriers for reconciliation efforts.”³³ While this is true, the argument here is too blunt. Victim groups themselves compete for recognition, and oftentimes perpetrator groups not only view themselves as victimized but more objectively have been. This is precisely where transitional justice efforts can play a huge role. It is not only the different perceptions of the past that matter here for groups in each of these positions, but also different ways of relating to the histories. The transitional justice framework, by creating and affirming a master narrative, risks preferencing one group’s experience of victimization over another, which bodes poorly for reconciliatory efforts. Understanding these narratives as constructs means that transitional justice offers ways of working with and reframing these histories in more productive ways. This same process, however, can also perpetuate tensions by selectively acknowledging and prioritizing groups’ demands for victimhood recognition. A Holocaust memorial, for example, might offer a sense of closure to members of a particular Jewish community, but exacerbate feelings of isolation and resentment among Roma communities who also perceive themselves to be victims. On the other hand, the recent memorial site in Berlin dedicated exclusively to Roma and Sinti

³² Daniel Bar-Tal, “A Sense of Self-Perceived Collective Victimhood in Intractable Conflicts,” *International Review of the Red Cross* 91 (2009): 229-258, 229. Referencing Ohad David and Daniel Bar-Tal, “A socio-psychological conception of collective identity: The case of national identity,” *Personality and Social Psychology Review*, 13 (2009) 354-379.

³³ Glick and Paluck, 202.

Holocaust victims, while representing a milestone for these communities in their quest for recognition for the atrocities committed against them during this period, could be perceived as a slight by some Jewish individuals and organizations.

Interestingly, implied in Bar-Tal's analysis above of the role of this perceived victimhood in conflict is the possibility of operationalizing it for reconciliation purposes. He states, "This collective sense of victimhood has important effects on the way these societies manage the course of the conflict, approach the peace process and eventually reconcile."³⁴ Exactly how this is to be done, however, is unclear, especially when there are multiple victimhood claims that come into conflict with one another.

Another potential complication in ascribing victimhood status is researcher bias. Sarah Wagner talks of an experience during her fieldwork in Srebrenica, in which she was talking to a Bosnian Serb about the right of mothers on all sides to know the location of their sons' bodies ("bones"). She says of the man, "He was willing to admit that stripped of all other meanings, the need to have the mortal remains of missing persons returned to their surviving families was something most people understood and respected, regardless of whom they considered to be the war's victims or heroes."³⁵ In that same conversation, Wagner spoke to this man and his wife about their experiences during the war and for the first time she was able to look beyond her pre-established framework of collective guilt and innocence and begin to get a glimpse of an entirely different perspective on the Bosnian war's events and causes. "Such discussions," Wagner states, "helped me set aside the events of July 1995 for a moment and, doing my best to suspend judgment, see the anguish of a sister who had lost her younger brother to the war, the trying

³⁴ Bar-Tal, 203.

³⁵ Sarah Wagner, "Identifying Srebrenica's Missing," in *Transitional Justice: Global Mechanisms and Local Realities after Genocide and Mass Violence*, ed. Alexander L. Hinton, 25-48 (New Brunswick: Rutgers University Press, 2011), 43.

circumstances of a family displaced and living in poverty, and a young woman struggling valiantly to gain the trust of her Bosniak neighbors and fellow citizens of Srebrenica.”³⁶

Transitional Justice

Transitional justice is a framework for dealing with a history of genocide, systemic human rights violations and other mass atrocities through a collection of legal, quasi-legal and non-legal mechanisms. Ruti Teitel, one of transitional justice's founding voices, offers a rather elegant description, stating that transitional justice is a way of addressing the moment when, “Law is caught between the past and the future, between backward-looking and forward-looking, between retrospective and prospective, between the individual and the collective.”³⁷ Leslie Dwyer notes that there has been increasing recognition that traditional concepts of justice are ill-equipped to deal with the types of mass atrocities we are now seeing. “As the new millennium began, there was an increasing consensus that in the wake of massive human rights and humanitarian law violations, some kind of transitional justice measures were needed.”³⁸ Today transitional justice is associated with a particular set of legal, quasi-legal, and non-legal practices,³⁹ although as discussed in the following paragraph, there no consensus as to what should be included. Modern conceptions of transitional justice are now largely understood as interdisciplinary endeavors.⁴⁰ As I argue, however, actual scholarship on related issues remains

³⁶ Ibid.

³⁷ Ruti Teitel quoted in Peter Zumbansen, “Transnational Law and Societal Memory,” in *Law and the Politics of Reconciliation*, ed. Scott Veitch, 129-146 (Burlington: Ashgate Publishing Group, 2008), 143.

³⁸ Naomi Roht-Arriaza, “The New Landscape of Transitional Justice,” in *Transitional Justice in the Twenty-First Century: Beyond Truth versus Justice*, ed. Naomi Roht-Arriaza and Javier Mariezcurrena, 1-16 (Cambridge: Cambridge University Press, 2006), 8.

³⁹ Alexander Hinton, Introduction to *Transitional Justice: Global Mechanisms and Local Realities after Genocide and Mass Violence*, ed. Alexander L. Hinton, 1-24 (New Brunswick: Rutgers University Press, 2011), 4.

⁴⁰ Ibid., 4-5.

chiefly within disciplinary boundaries. Here Hinton also notes the lack of anthropological voice, which he claims is problematic.⁴¹

Whereas much of the discourse within transitional literature used to focus on the “dichotomy” of peace versus justice, the primary tension has shifted in past years and is now framed in terms of the external versus the local. This is a theme running through much of the current literature.⁴² Anthropologist Elizabeth Drexler, however, suggests that differentiating between international and “local” forms of justice can actually have unintended consequences that can actually preclude reconciliation efforts. She argues, “Transitional justice mechanisms that localize conflicts tend to horizontalize them...In these interventions, justice is seldom defined in terms of accountability; instead it is a means to a goal of intergroup or national reconciliation.”⁴³

There is extensive debate among academics and practitioners as to the actual scope and content. “At its broadest,” Naomi Roht-Arriaza asserts, “it involves anything that a society devises to deal with a legacy of conflict and/or widespread human rights violations.”⁴⁴ She cautions that a narrow view can risk ignoring the root causes of conflict and perpetuate inequalities and the status of vulnerable groups. Many other modern transitional justice scholars agree with this perspective, such as Paige Arthur,⁴⁵ who argues for the use of transitional justice

⁴¹ Ibid., 6.

⁴² See e.g., the edited volumes by Hinton and Rohn-Arriaza discussed elsewhere in this thesis. See also, Colm Campbell and Fionnuala Ní Aoláin, “Local Meets Global: Transitional Justice in Northern Ireland,” *Fordham International Law Journal* 26 (2002) 871-892.

⁴³ Elizabeth Drexler, “The Failure of International Justice in East Timor and Indonesia,” in *Transitional Justice: Global Mechanisms and Local Realities after Genocide and Mass Violence*, ed. Alexander L. Hinton, 49-66. New Brunswick: Rutgers University Press, 2011, 50.

⁴⁴ Roht-Arriaza, *The New Landscape*, 7.

⁴⁵ Paige Arthur, Introduction to *Identities in Transition*, ed. Paige Arthur, 1-16 (Cambridge: Cambridge University Press, 2011).

mechanisms to address historical inequalities, such as those experienced by many indigenous populations around the world. Another proponent for a broad interpretation, Ruth Rubio-Marín,⁴⁶ urges that transitional justice schemes must take into account societal power structures, especially those pertaining to gender, and aim to address these as part of any “justice” scheme. Some argue that transitional justice must necessarily be tied to a transition in governmental structure (most commonly, although not always, from a dictatorship or communist regime, to democracy); others argue that it is only applicable in post-conflict situations. Still others, such as former Rwandan Prosecutor General Gerald Gahima, advocate for an even wider interpretation, arguing that current conflict situations, such as the one ongoing in the Democratic Republic of Congo, should also fall under the purview of transitional justice.⁴⁷

At the other end of the spectrum, others argue for narrower interpretations of what transitional justice is and when it is applicable. Roht-Arriaza also cautions about going too far in this direction. “On the other hand, broadening the scope of what we mean by transitional justice to encompass the building of a just as well as peaceful society may make this effort so broad as to become meaningless.”⁴⁸

These discussions pertain not only to when these types of mechanisms are applicable, but also what can and should be included under the heading of transitional justice. Similarly,

⁴⁶ See e.g., Ruth Rubio-Marín, Claudia Paz y Paz-Bailey, and Julie Guillerot, “Indigenous Peoples and Claims for Reparation: Tentative Steps in Peru and Guatemala,” in *Identities in Transition*, ed. Paige Arthur, 17-53 (Cambridge: Cambridge University Press, 2011); Ruth Rubio-Marín, “Introduction”, “The gender of reparations in transitional societies”, and “Gender and collective reparations in the aftermath of conflict and political repression,” in *The Gender of Reparations: Unsettling Sexual Hierarchies while Redressing Human Rights Violations*, ed. Ruth Rubio-Marín, 1-17, 63-120, and 381-402 (Cambridge: Cambridge University Press, 2009).

⁴⁷ Gerald Gahima, *Transitional Justice in Rwanda: Accountability for Atrocity* (New York: Routledge, 2013).

⁴⁸ Roht-Arriaza, *The New Landscape*, 7.

opinions range from narrow (strictly legal mechanisms) to broad (including quasi-legal mechanisms, such as truth commissions, and non-legal mechanisms, such as memorialization projects, apologies, reparations and access to previously-sealed files). Given the particular dynamics that what I am trying to understand, for purposes of this paper I restrict my examination to the post-conflict context but take more inclusive approach to content, which includes non-legal aspects like memorials and formal apologies, and proceed under the assumption that these mechanisms are by and large complementary.⁴⁹ The various transitional justice mechanisms, while distinct, have some overlapping objectives. Certain initiatives operate in this gray area, incorporating elements of any number of mechanisms. A brief discussion of each follows in the final section of this chapter.

On the Necessity of Transitional Justice

There is foundational relationship between transitional justice, criminal law, and international human rights law. Yet these are all distinct. Legal scholar Ruti Teitel argues that transitional justice as such was conceived in response to the idea that societies transitioning toward liberal democratic governance require a new set of tools. Particularly, traditional criminal justice and international human rights law approaches were not sufficient to deal with the specificities unique to post-conflict societies and those undergoing regime transformations. Rather, Teitel argued, a new theory of justice was necessary for times of transition.⁵⁰ Anthropologist Antonius Robben echoes this sentiment, stating, “People’s sense of justice is

⁴⁹ See e.g., Naomi Roht-Arriaza, *supra.*, and Patrick Burgess (page 176 in the same volume), who writes, “Accountability may be the most essential ingredient to healing the past, but it is the total answer to neither justice nor reconciliation. Punishment will not by itself heal the past wounds, which are so commonly the cause of renewed hostilities and the occurrence of new violations. A serious approach to this challenge needs to be holistic.”

⁵⁰ See, e.g., Ruti Teitel, “Transitional Jurisprudence: The Role of Law in Political Transformation,” *Yale Law Journal* 106 (1997): 2009–2082; Ruti Teitel, *Transitional Justice* (New York, Oxford University Press, 2002).

larger than the courtroom, not only in its different appraisal of reparative, restorative, retributive, or punitive justice, but especially in terms of a notion of personal fairness based on a cultural understanding of society's social contract."⁵¹ The International Center for Transitional Justice (ICTJ), interprets this in a slightly different manner, stressing that transitional justice "is not a special form of justice but justice adapted to societies transforming themselves after a period of pervasive human rights abuse."⁵² Former Special Advisor on the Prevention of Genocide Juan Méndez advocates for a similar idea, stating that such transitional periods require not only criminal justice but something more.⁵³ The ICTJ goes on to point out that each of these "transitional" processes is different and operates on its own timeframe. "In some cases, these transformations happen suddenly; in others, they may take place over many decades."⁵⁴ Martha Minow, another founding voice of transitional justice studies, argues that that response to mass atrocity lies somewhere between vengeance and forgiveness; justice and forgiveness (to the extent that it is desirable or even possible) must be complementary rather than competing goals.⁵⁵ Further, as discussed above, transitional justice as victim-centered. But neither "justice" nor "victim" are clear terms. Brants asks, "But what is justice in the context of conflict and atrocity; and for whom?"⁵⁶

⁵¹ Antonius Robben, "Testimonies, Truths, and Transitions of Justice in Argentina and Chile," in *Transitional Justice: Global Mechanisms and Local Realities after Genocide and Mass Violence*, ed. Alexander L. Hinton, 179-205 (New Brunswick: Rutgers University Press, 2011), 202.

⁵² International Center for Transitional Justice (ICTJ), "What is Transitional Justice?" ICTJ, <http://ictj.org/sites/default/files/ICTJ-Global-Transitional-Justice-2009-English.pdf> (accessed 1 March 2013).

⁵³ See e.g., Juan Méndez, "In Defense of Transitional Justice," in *Transitional Justice and the Rule of Law in New Democracies*, ed. A. James McAdams, 1-26 (University of Notre Dame Press, Notre Dame and London, 1997).

⁵⁴ For additional detail and discussion, see the ICTJ website at <http://www.ictj.org/en/tj/>.

⁵⁵ Martha Minow, *Between Vengeance and Forgiveness: Facing History After Genocide and Mass Violence* (Boston: Beacon Press, 1998).

⁵⁶ Brants, 4.

It is worth taking a moment here to note that transitional justice understood in the way I have framed it is both controversial and normative. Such a conceptualization impliedly preferences a universal concept of “justice” over more localized and context-specific options by suggesting that these mechanisms – taken separately or as a holistic framework – can represent best practices. This position has been increasingly criticized in recent years.

Transitional Justice and Collective Memory

Regardless of the scope ascribed, at its core, however, transitional justice is based on the premise that a society must deal with its past before it can move forward. As Ed Cairns and Mícheál Roe point out, “However long the time-scale, ethnic conflicts are always grounded in the past...if ethnic conflict is to be brought under control, it is necessary to understand the toll of the collective past in the collective present.”⁵⁷ When “dealing with the past”, one of the most important tasks is the formation of a common narrative of the conflict. This process creates, fixes, and reifies “truths” not only about the genocidal process, but also, to some extent, of the people and places involved. Through this narrative, roles are also ascribed by the various mechanisms. Brants explains:

Transitional justice [is] a theatre of imagery and memory. Transitional justice is concerned with both settling accounts after violent conflict and/or repression, and coming to terms with the traumatic damage inflicted on individuals and society; with the definition of heroes and villains, victims and perpetrators with the delineation of the morality and immorality of past events and actions. It is inextricably bound up with history-telling and attempts to develop shared collective memories, for it looks towards a viable future by making a certain specific sense of past events.”⁵⁸

Narratives are both an important part of the transitional justice process and the basis for a central theme running through each of its mechanisms. Indeed, one of the roles of a new government in

⁵⁷ Cairns and Roe, 5.

⁵⁸ Brants, 1.

a transitional society is the careful construction and development of such a narrative in a way that addresses past events, acknowledges (or subverts) a national history, and is generally acceptable to the population.

A Discussion of Transitional Justice Mechanisms

As alluded to in the foregoing discussion, transitional justice schema come in a variety of shapes and sizes. Any number of mechanisms which can be included or omitted in a given situation. Under its broadest interpretation, there are also seemingly endless varieties and permutations of the mechanisms themselves. Several such mechanisms are discussed below, but many are admittedly omitted. Lustration will not be covered in this thesis, nor will amnesties. I will also not be discussing programs that do not fit under a post-conflict paradigm, such as Hungary's relatively recent initiative to cut pensions of former communists.

Criminal Trials

The least contested transitional justice mechanism consists of trials and tribunals. These can take place in the forum of domestic courts or international tribunals, such as the International Criminal Tribunals for Rwanda (ICTR) and the former Yugoslavia (ICTY), or hybrid courts, such as the Special Court for Sierra Leone or the Extraordinary Chambers in the Courts of Cambodia. Legal proceedings are generally considered indispensable to *any* justice scheme, transitional or otherwise.

These more traditional mechanisms follow the logic of retributive justice, with a focus on assigning punishment for crimes. To the extent that they ascribe identity, they are largely focused on perpetrators. However, trials also create and contribute to the master narrative in several ways: by who is prosecuted, who is found guilty. Legal scholar Mark Osiel supports this idea,

arguing that while criminal trials serve punitive and retributive roles, one of their most important functions is in the creation of a collective narrative and social solidarity.⁵⁹

Writing about the situation in East Timor, anthropologist Elizabeth Drexler comments, “The narrative produced by the Indonesian ad hoc tribunal attributes the 1999 violence to a civil conflict resulting in tensions within East Timorese society over the results of the referendum for independence. In this narrative, the TNI merely failed to prevent this violence from occurring.”⁶⁰ This has very different implications from holding the TNI itself responsible.

Truth Commissions (TRCs)

Anthropologist Antonius Robben states argues that “[t]ruth commissions and courts have different relations to justice. Both use testimony to discover human rights violations, but the first centers on doing justice to survivors while the second focuses on prosecuting perpetrators.”⁶¹ Truth commissions seek to expose or establish the “truth” about what happened during a conflict, using a variety of sources. Largely, however, these endeavors are memory-based, compiled from the testimony of numerous survivors and witnesses. In this way, truth commissions take a collection of individual memories and attempt to compile them into a collective narrative detailing the historical group memory. Through this process, truth commissions attempt to serve the dual functions of fact-finding body and therapeutic forum. According to Martha Minow, this is a key element of the individual reconciliation process. She offers that, “by identifying someone's suffering as an indictment of the social context rather than treating it as a private experience that should be forgotten, a commission can help an individual survivor make space

⁵⁹ Mark Osiel, *Mass Atrocity, Collective Memory, and the Law* (New Brunswick, New Jersey: Transaction Publishers, 1997).

⁶⁰ Drexler, 54.

⁶¹ Robben, 202.

for new experiences.”⁶² In essence, this involves a reframing of individual memory into the larger societal context.

Truth and reconciliation can be pursued as a joint aim, as was done in South Africa, but they are often at odds with one another. Often, TRCs focus on one or the other, such as in the cases of Argentina (which emphasized discovering truth above all) and Chile (where the primary concern was to achieve and maintain a state of reconciliation).⁶³ Further, they can operate in place of, in cooperation with, or parallel to criminal prosecution, such as in the case of the TRC and Special Court for Sierra Leone.

According to Martha Minow, much of the basis for finding benefit in truth commissions is often attributed to their therapeutic value to victims – a claim which many, including Minow and Priscilla Hayner⁶⁴ find overstated. However, even if we accept this as true, Minow questions, whether this same type of catharsis is possible or desirable for collectivities.⁶⁵

She also cautions that “a truth commission focused on the experiences of victims may tilt the writing of history in terms of victimhood rather than rights in a democratic, political order.”⁶⁶ This observation is particularly important when taken together with the idea that truth commissions do not necessarily give everyone equal voice. For example, Minow notes that those who speak in truth commissions are disproportionately women. However, scholars such as Ruth Rubio-Marín and Vasuki Nesiah have shown that women’s voices are often silenced even as they

⁶² Martha Minow, “The Hope for Healing: What Can Truth Commissions Do?” in *Truth v. Justice: The Morality of Truth Commissions*, ed. Robert I. Rotberg and Dennis Thompson, 235-260 (Princeton: Princeton University Press, 2000), 246.

⁶³ Robben, 180.

⁶⁴ Priscilla Hayner, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (New York: Routledge, 2001).

⁶⁵ Minow, *Between Vengeance*.

⁶⁶ Minow, *Between Vengeance*, 80.

testify and that many women tell their stories differently in same-sex company than they do in front of a mixed audience. As Andrew Woolford notes, “These transitional processes are often imbued with power relations, and the most influential among these power relations are those that go unacknowledged – the formal and informal rules that circumscribe what is utterable or demandable within a specific negotiation context.” These power dynamics have immense implications for the “truth” that comes out of TRCs and for the resulting narratives of victimhood that are told (or remain untold) through them.

Reparations and Compensation

Reparations refer to restitution paid to victims of mass atrocity in order to make them whole again. Generally, reparations for genocide include both compensatory and symbolic measures. However, as Weinstein points out, the underlying idea behind reparations in the context of genocide is a bit paradoxical, as the nature of the conflict makes it impossible to put survivors back to their position prior to the violation or to “repair” the violations with monetary compensation.⁶⁷ In this way monetary reparations are also understood as symbolic, intended to provide both acknowledgement and validation of the victims’ individual and collective experiences. Reparations come in many forms, and include, among others, direct restitution of property; restoration of liberty, family life, and citizenship.

Developing an appropriate reparations policy is a difficult process. Even the most fundamental questions that must first be addressed are complicated. To whom should reparations be paid? Who are the victims? Who are the beneficiaries? At a glance these seem easy enough questions, but to answer them requires first developing a workable categorization of victims.

⁶⁷ Naomi Roht-Arriaza, “Reparations in the Aftermath of Repression and Mass Violence,” in *My Neighbor, My Enemy*, ed. Eric Stover and Harvey Weinstein, 121-140. (Cambridge: Cambridge University Press, 2004), 122.

Once this is established, who should be charged with identifying recipients? The government? The international community? Also, who should pay? In many cases, the current government is not the one that perpetrated the genocide. Should it still be accountable? Finally, how should these individuals be remunerated? In addition to the human and social costs, genocides are economically devastating – where does the money come from? Each of these questions implies a decision made. Through the process of answering, categories of “victim” and “perpetrator” are defined, culpability assigned, and roles granted.

Apologies and Acceptance of Responsibility

In addition to remuneration, transitional justice also has an important moral dimension. Both apologies and formal acceptance of responsibility are important elements in moving a society forward, as they serve to legitimate victim experience. In this way, apologies have symbolic resonance with victim groups and in the international community writ large, acting as a type of symbolic reparation.

In 2010, the Serbian Parliament issued a declaration apologizing for Serbia’s involvement in the 1995 Srebrenica massacre. Former President Boris Tadić publicly endorsed the resolution, which offered condolences and an apology to victim’s families. Tadić further stated that the passage of this declaration was proof of Serbia’s attempts to distance itself from its past and move forward. He himself had made a formal apology in 2005 and attended memorial ceremonies. In 2012, after taking office, the new Serbian President Tomislav Nikolić denounced the declaration. While conceding that, “grave war crimes were committed by some Serbs, who should be found, prosecuted and punished”, Nikolić insisted that there had been no genocide in Srebrinica and refused to attend the memorial ceremonies. This was ill-received by the Bosnian leadership, regional human rights organizations, the European Union, and the United States.

Recently, however, in April 2013, Nikolić apologized on Bosnian television for the atrocities committed in Bosnia, including Srebrenica.⁶⁸ Nikolić said that he was down on one knee asking for forgiveness for what happened in Srebrenica and apologized for any act committed by any person in the name of the Serbian people. However, he still did not acknowledge that genocide happened in Srebrenica. This left many questioning his sincerity and motivation. The president of the Mothers of Srebrenica told the press in reply, “We do not need someone to kneel and ask for forgiveness...We want to hear the Serbian president and Serbia say the word genocide.”⁶⁹ As demonstrated by this incident, absence of (sincere) apology and acceptance of responsibility from also has a tangible impact. This is evidenced by ongoing advocacy around recognition of the Armenian genocide.⁷⁰ Genocides, perhaps more than any other type of violence, have an emotive life outside of law and politics.

Memory and Memorialization

Whereas the primary aim of truth commissions is to unearth facts about what happened, memorialization is a process that aims to honor individuals and groups who struggled, suffered, or died as a result of past conflicts. It also affords societies an opportunity to examine the past as they move forward and attempt to deal with current issues. Such efforts can help societies establish collective memory and discourse and develop a common version of history. Yet, as Austin Sarat notes, “Acts of commemoration are the very stuff of politics; in and through our

⁶⁸ See, e.g., Damian McElroy, “Serbian president in historic Srebrenica apology,” *The Telegraph* (25 April 2013), Online Edition, <http://www.telegraph.co.uk/news/worldnews/europe/serbia/10017552/Serbian-president-in-historic-Srebrenica-massacre-apology.html> (accessed 4 May 2013).

⁶⁹ “Serbian president apologizes for Srebrenica ‘crime’,” *BBC News Europe*, Online Edition 25 April 2013), <http://www.bbc.co.uk/news/world-europe-22297089> (accessed 26 May 2013).

⁷⁰ See e.g., Gülhan Demirci, “The Question of Turkey: Contested, Forgotten and Remembered Memories,” in *Transitional Justice: Images and Memories*, ed. Chrisje Brants, Antoine Hol and Dina Siegel, 15-32 (Surrey, England: Ashgate Publishing Limited, 2013), 19.

political processes, we decide who or what should be remembered or memorialized and in what ways.”⁷¹ Much like apologies, memorials can also serve to legitimate and acknowledge the experiences of individuals and groups. In doing so, however, victim groups are not only honored, but established. Memorials can serve the opposite purpose, by omitting individuals and groups from recognition. For example, the Genocide Memorial in Kigali offers a story of the Holocaust that speaks exclusively of Jewish victimization. Both the Holocaust Museum in Budapest, on the other hand, and Auschwitz, have sections dedicated specifically to Romani victims, who are often overlooked in such endeavors. Earlier this year, a memorial dedicated specifically to the Roma Holocaust was opened in Berlin. More than half a century after the end of World War II, there are only a handful of such standalone memorials to Roma Holocaust victims in existence.

An additional complication is that individuals and groups have different memories. As an example, in discussing the commemoration of a park in Bali to honor survivors of anti-communist massacres in the 1960s, Leslie Dwyer notes:

What emerged from this project was not a collective social memory standing outside of, and in resistant opposition to, state history....Instead, the park provoked claims and counterclaims over suffering and its representation, memory and its multiple forms, and the possibilities and limits of community after violence....By building a monument to what [the youth in this particular family] saw as a common traumatic legacy, they ended up exposing the fault lines that underlie post-conflict community...⁷²

⁷¹ Sarat, 241.

⁷² Leslie Dwyer, “Building a Monument: Intimate Politics of ‘Reconciliation’ in Post-1965 Bali,” in *Transitional Justice: Global Mechanisms and Local Realities after Genocide and Mass Violence*, ed. by Alexander L. Hinton (New Brunswick: Rutgers University Press, 2011), 230.

Chapter 2: Rwanda: Genocide, “History,” and the Disappearance of Ethnicity

This project is grounded in the case of the Rwandan genocide. Rwanda is a small landlocked country in Central Africa, which borders Uganda to the north, Democratic Republic of Congo to the west, Burundi to the south, and Tanzania to the south and east.⁷³ It remains one of the most densely-populated countries in Africa, second only to Mauritius, with a recent World Bank estimate placing Rwanda’s density at about four times that of Hungary.⁷⁴ In 1895 the Germans colonized Rwanda. Then, following World War I, the country was “reallocated” to Belgium. Rwanda remained a Belgian colony until its independence in 1962.

“History”

History in Rwanda is highly political and controversial. It has been proposed that there is not a single piece of Rwandan history that is uncontentious. Nonetheless, the government of Rwanda has a single, official version. “Being the ones who stopped the genocide, the RPF has used its symbolic capital as ‘the saviors’ of Rwanda to legitimate its dictatorial rule,”⁷⁵ and the government is using its position to effectively rewrite history, which it propagates through schools, *ingando* and *iterero* “re-education” camps, memorials, commemoration activities, and government bodies. This history is subsequently enforced by laws against divisionism and genocide ideology.

The story goes as follows.⁷⁶ Rwandans have always been one people. This is evidenced by their common language⁷⁷ and culture.⁷⁸ In pre-colonial times, there were no ethnic groups per

⁷³ Despite its location, it is generally considered, along with Burundi, to be part of the East African Community (EAC), and it is a member of the EAC’s political body.

⁷⁴ World Bank Dataset, 2011. For more information see: <http://data.worldbank.org/indicator/>.

⁷⁵ Burnet, 102.

⁷⁶ The governmental narrative on Rwandan history is detailed in numerous sources. In this thesis, I largely draw on my notes from the Kigali Memorial Center in Gisozi. However, summaries are included in nearly all academic works dealing with ethnicity in Rwanda or the genocide, as well

se, but 15-18 tribes that cut across ethnic divisions.⁷⁹ The categories of Hutu and Tutsi did exist, but they were social divisions within tribes that allowed for mobility. A Hutu could become a Tutsi by acquiring a certain number of cattle, for example.⁸⁰ According to the Kigali Memorial Centre, the pre-colonial situation in Rwanda “was not perfect, but the deep divisions never occurred on such a scale prior to colonization.”⁸¹

When the Germans (1895-1916), and subsequently the Belgians (1923-1962), colonized Rwanda, they ethnicized these categories. The imperial powers created their own history of Rwanda’s people, in order to divide the previously unified Rwandans, making them easier to rule. According to the colonizer’s “false teachings,”⁸² the Twa were the original inhabitants, followed by the Hutu, and then the Tutsis, which the colonizers believed to be a superior, non-African race. This was based on the now largely dismissed Hamitic hypothesis, which stated that the Tutsis were descended from a line of Caucasoid tribes originating in Ethiopia that traced their origins back to biblical times. As such, they were not even African, but a separate, superior, race. This ideology was given support by the influential Catholic church in Rwanda, and the colonial powers gave preference to the Tutsis and put them in positions of power over the more savage “African” Hutus. While Tutsis were considered to be a privileged group, only a minority of Tutsi individuals actually benefited from this preferential system.⁸³

as in a variety of human rights reports.. Additionally, a full official history is available (In French) on the National Unification and Reconciliation Commission’s (NURC’s) website: <http://www.nurc.gov.rw/index.php?id=69>, (accessed 25 April 2013).

⁷⁷ All Rwandans speak Kinyarwanda. This is in contrast to Ugandans, for example, who have anywhere between 40-72 regional and tribal languages, depending on the source.

⁷⁸ Interview data, 2010. Supported by NURC, *supra*.

⁷⁹ Freedman et al., *supra*.

⁸⁰ Interview data, 2010.

⁸¹ KMC, 2013.

⁸² Freeman.

⁸³ KMC, 2013.

Then, in 1932, the Belgians introduced a system of identity cards. All Rwandans were required to carry a document that indicated their ethnicity – Hutu, Tutsi, or Twa – which was initially determined by cattle ownership. At the time of assessment, anyone owning ten or more cows was considered a Tutsi; anyone with fewer was Hutu.⁸⁴ This began the process of formalizing and concretizing ethnic identity in Rwanda. Ethnic identity was then passed on from parent to child in each subsequent generation. In the case of mixed marriages, the wife retained her ethnic identity (that of her father), but any children took on their father’s ethnic identity.⁸⁵ Throughout this period, the Belgians attempted to account for the “anthropological differences” in these groups to explain (or substantiate) these classifications. For example, the form and shape of the nose was used to substantiate difference between ethnic groups.⁸⁶ Incorrect statistics for these “ethnic” groups were created, as the Belgians determined the population was 15 percent Tutsi, 84 percent Hutu, and 1 percent Twa.⁸⁷ According to the audio guide at the Kigali Memorial Centre, “[a]n imposed identity began to determine an individual’s chances in Belgium’s reshaped Rwanda.”⁸⁸

These power structures largely remained in place for the next two decades. In the 1950s, however, the dynamics began to slowly shift as the number of educated Hutus increased, and this gave birth to more radical opposition to the oppression of Hutus. Political parties, such as the Hutu-dominated APROSOMA (Association for the Social Welfare of the Masses⁸⁹) and later the

⁸⁴ Ibid.; also interview data from meeting with the National Commission for the Fight Against Genocide (CNLG), 2013.

⁸⁵ CNLG interview data, 2013.

⁸⁶ At KMC, this was one of several instances of the treatment of Tutsis being explicitly likened to that of Jews in the Holocaust.

⁸⁷ These statistics were incorrect according to KMC and CNLG; however, I do not know how they are substantiating this claim.

⁸⁸ KMC, 2013.

⁸⁹ My own translation.

extremist MDR-PARMEHUTU (Party of the Hutu Emancipation), began forming. In 1957, the *Bahutu Manifesto* (a precursor to the *Hutu 10 Commandments*⁹⁰ notoriously published in hardline newspaper *Kangura* in the days leading up to the 1994 genocide) was published, calling for majority rule and an end to Hutu oppression by the Tutsi minority. This was accompanied by a pro-Hutu shift in the colonial policy as well.⁹¹ In 1959, after the mysterious death of King Rudahigwa III, the Belgians authorized military rule. They began replacing Tutsis with Hutus in high army positions, claiming they were “righting the wrongs of colonialism.”⁹² During this period, many Tutsis were forcibly relocated to Bugasera, a district in the southern part of the country. The end of 1959 ushered in the so-called “Hutu Uprising”, the first period of marked ethnic violence that Rwanda had seen. Many Tutsis were killed or forced to flee the country, primarily into neighboring Uganda and Burundi. This period is often referred to as Rwanda’s “first genocide.” In 1962, Rwanda gained independence, and Gregoire Kayibanda was elected as Rwanda’s first president. As president, Kayibanda represented the politics of Hutu power, and instituted policies of extreme oppression towards Tutsis, including a rigid quota system based on the population percentages established by the Belgians. For example, Tutsis could only be hired for 15 percent of government jobs or make up 15 percent of any given university population. This was pervasive in all areas of life. It is estimated that between 1959 and 1973, when

⁹⁰ “The Hutu 10 Commandments” was published in the December 1990 edition of hardline newspaper *Kangura*. A copy of this document can be found here: <http://www.massviolence.org/Rwanda-A-Chronology?artpage=13-41> (accessed 30 April 2013).

⁹¹ The official with whom I spoke at CNLG told me that this shift directly corresponded to the political situation in Belgium at the time, with the historically oppressed Flemish majority taking back power from the Walloon minority.

⁹² KMC, 2013.

Habyarimana overthrew the Kayibanda regime in a coup, that more than 77,000 Tutsis were killed or expelled.⁹³

The Genocide

Like many others, the Rwandan genocide sprang up in the context of civil war. In 1990, the Rwandan Patriotic Army (RPA), the armed body of the Rwandan Patriotic Front (RPF) invaded Rwanda from across the Ugandan border, with the stated goals of toppling the oppressive anti-Tutsi regime and facilitating refugee return. The RPF, which had consisted largely of Rwandan exiles who were living and had trained in the Ugandan army, began their offensive in the northern part of Rwanda and were slowly fighting their way toward Kigali, Rwanda's capital. In response, the Rwandan Government Forces (RGF) had quickly and drastically increased their numbers with support and funding from France and Zaire,⁹⁴ and had launched an aggressive counter-offensive to defeat the rebels. Fighting on both sides had been brought to a temporary hiatus as a result of the 1993 Arusha Accords (AA),⁹⁵ which had incorporated, among other things, both a ceasefire and a power sharing agreement between the RPF and the current Rwandan government. Talks for the AA had begun in June 1992 between President Juvénal Habyarimana and RPF commanding officer, Paul Kagame, and a precarious ceasefire ensued. This lasted for just above eight months. On 6 April 1994, while returning from signing the AA into effect in Arusha, Tanzania, the plane carrying President Habyarimana and

⁹³ KMC, 2013.

⁹⁴ Zaire is now the Democratic Republic of Congo.

⁹⁵ Current information on the Arusha Accords can be found on the Rwandan Government's website (<http://www.gov.rw/THE-ARUSHA-PEACE-AGREEMENT>) (accessed 20 December 2012); a copy of the text in English is available through the International Conflict Research Institute (INCORE): <http://www.incore.ulst.ac.uk/services/cds/agreements/pdf/rwan1.pdf> (accessed 20 December 2012).

Cyprien Ntaryamira, Burundi's president, was shot down as it approached the Kigali airport.⁹⁶ The government blamed the RPF – and all Tutsis by extension, who were accused of either supporting the rebels or being rebels themselves – for Habyarimana's death, claiming they had violated the ceasefire agreement, and violence re-erupted.⁹⁷

The RPF, meanwhile, resumed their counteroffensive. At this point, the RPF and the Hutu leadership seemingly saw the outcome as a zero-sum quest for control of the Rwandan government. There was no further talk of power sharing or negotiation, only one side trying to take out the other. It was in this climate that the genocide occurred. The genocide – and war – ended on 4 July 1994, when the RPF took control of Kigali and defeated the RGF.

Despite this conflict context, the events that happened after were not spontaneous and reactive. Rather, a well-planned execution was unleashed. The president's plane went down at 20:23 in the evening. Roadblocks were in place by 21:15 and shooting began within the hour.⁹⁸ The *Interahamwe* (which means "those who attack together" in Kinyarwanda) – Hutu paramilitaries – had been previously trained⁹⁹ and were in place to quickly mobilize. Genocide

⁹⁶ There has been much written about the history of the Rwandan genocide and civil war. For three comprehensive examples, see Gourevitch *supra*, des Forges *supra*, and Mahmood Mamdani, *When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda* (Princeton: Princeton University Press, 2002).

⁹⁷ The truth of this claim has since been widely contested. The current government maintains that Hutu extremists actually shot down President Habyrimana's plane as an excuse to break the peace accords and unleash genocide. In fact, when I was in Rwanda in early 2010, the following piece appeared in The Guardian and was plastered all over local media. "Rwanda Inquiry Concludes Hutus Shot down President's Plane," *The Guardian* (12 January 2010), Associated Press, <http://www.guardian.co.uk/world/2010/jan/12/rwanda-hutu-president-plane-inquiry> (accessed 23 April 2013). However, as the audio guide at the Kigali Memorial Centre in Gisozi (KMC) states, "The truth is, it will likely never be uncovered about who shot down the plane."

⁹⁸ KMC, 2013.

⁹⁹ It is reported that an informant called "Jean-Pierre" came forward to UNAMIR Col. Luc Marchal in the weeks prior to the genocide, indicating that: 1,700 *Interahamwe* had been trained

exploded in most parts of the country, fueled by incitement from *Radio Television Libre des Mille Collines* (RTLM) – Rwanda's hate radio – and the Hutu-power hardline newspaper *Kangura*. Execution lists, which contained the names and addresses of Tutsis in districts all over the country, had been prepared in advance and distributed. Even as early as the year prior, Colonel Théoneste Bagosora, who is widely considered to be one of the genocide's chief architects, reportedly commented that he was coming back from the Arusha talks to “prepare the apocalypse.”¹⁰⁰ As is stated on one of the placards at the Kigali Memorial Centre (KMC) in Gisozi, “As the RPF began to move in on Kigali and engage the Rwandan army in an attempt to gain control and stop the genocide, the crisis was described as ‘civil war’ or ‘ethnic conflict’ by commentators. There was no ethnic war. There was a civil war. But the genocide happened and it was something different.”¹⁰¹

It has often been written that the genocide in Rwanda was personal.¹⁰² People were killed at close range and by hand. While some used guns, most killing was done by machete, which involved a specific type of intimacy with the victims. Shooting, even at point-blank range, arguably allows more distancing than felling someone with a machete. Additionally, for the most part, the killers knew their victims. Jean Hatzfeld, in his collection interviews with Rwandan

in Rwandan army camps; 300 more people per week were being trained currently; all Tutsis were being registered for extermination at the rate of 1,000 people every 20 minutes; President Habyarimana had lost control of the Hutu extremists; and the extremists had a plan to kill Belgian peacekeepers to force UN withdrawal. [From the Kigali Memorial Center in Gisozi. See also, des Forges *supra*; Roméo Dallaire, *Shake Hands with the Devil: The Failure of Humanity in Rwanda* (Cambridge: Da Capo Press, 2004.)

¹⁰⁰ This statement is referenced several newspaper articles and is given as fact at the KMC. However, Bagosora denied making the statement during his hearing before the International Criminal Tribunal for Rwanda. The Tribunal found insufficient evidence to admit the statement into trial.

¹⁰¹ Quoted from a placard at KMC, 2013.

¹⁰² See e.g., Jean Hatzfeld, *Machete Season: The Killers of Rwanda Speak* (New York: Picador, 2006).

génocidaires, notes, “The killers did not have to pick out their victims: they knew them personally. Everyone knows everything in a village.”¹⁰³ In Rwanda, very often neighbors killed neighbors, friends killed friends, colleagues killed colleagues and even family members turned on one another. However, this was not always the case. Many Tutsi had fled their communities both before and during the genocide, and as such were killed elsewhere. Many Tutsis and moderate Hutus also congregated in churches or schools, seeking protection in places such as those in Nyamata or Nyarabuye, and were slaughtered in mass by a relatively small group of killers.¹⁰⁴ Further, perpetrators would frequently join up with other bands in other communities once their own “work” was finished.¹⁰⁵

After the Genocide – Erasing Ethnicity

After the genocide, the government, again pointing to the colonial-created history as being made of false ideas, aimed to resurrecting the “true” history of Rwanda, eliminating the created ethnic divisions and once again uniting its people. According to the government line, the colonial false ideas of ethnicity played a double role in the events leading up to the genocide. First, these ethnic categories were a colonial creation that divided Rwandan society and instilled power differentials. Second, after independence, extremist Hutus used the colonial story to claim that they were, in fact, the original Rwandans, and the Tutsis were merely interlopers, who had

¹⁰³ Hatzfeld, 66.

¹⁰⁴ Timothy Longman, “Justice at the Grassroots? Gacaca Trials in Rwanda,” in *Transitional Justice in the Twenty-First Century: Beyond Truth versus Justice*, ed. Naomi Roht-Arriaza and Javier Mariezcurrena, 206-228 (Cambridge: Cambridge University Press, 2006), 220.

¹⁰⁵ Ibid. This has also been detailed in several collections of perpetrator interviews. See e.g., Hatzfeld *supra*, in addition to James E. Waller, *Becoming Evil: How Ordinary People Commit Genocide and Mass Killing: How Ordinary People Commit Genocide and Mass Killing* (New York: Oxford University Press, 2007) and Lee Ann Fujii, *Killing Neighbors: Webs of Violence in Rwanda* (Ithaca: Cornell University Press, 2009).

come to take over Rwanda and were thus a threat to the Hutu. Tutsis had no place in true Rwandan society.

Under the auspices of promoting unity, preventing “divisionism”, and reclaiming their “true” history, the Rwandan government effectively abolished ethnicity. This “new” version of history that the government is promoting is disseminated to society at large through a variety of mechanisms, including the media, memorials, the education system, and solidarity trainings. Writing of her experiences in working with the Rwandan government in developing a history curriculum, education expert Sarah Freedman notes, “[i]t is behind the oft-repeated slogan, ‘We are all one Rwanda,’ and the official label for the RPF government as ‘the government of national unity and reconciliation.’”¹⁰⁶

There is no explicit law on the books in Rwanda against ethnicity as such. However, ethnic categories have been written out of the Rwandan government’s official narrative and the government now employs a combination of factors make even references to them effectively illegal. Identity cards now classify citizens as “Rwandan” rather than Hutu, Tutsi, or Twa; textbooks adopt a common narrative of these categorizations as ethnicized if not fully constructed by colonial powers; secondary school students are sent to *ingando*, “solidarity camps” originally aimed at re-educating former *génocidaires*. Anyone who questions or deviates from this official narrative risks being charged with promoting divisionism and prosecuted under Rwanda’s ambiguous divisionism and genocide ideology laws, even in situations where this makes little sense. Two especially controversial examples of this are Paul Rusesabagina, of *Hotel*

¹⁰⁶ Freedman, 674.

Rwanda fame, and renowned Rwanda expert and human rights activist Alison des Forges,¹⁰⁷ who have both been denounced in the past few years by the Rwandan government for propagating genocide ideology.¹⁰⁸

Identity Cards and Teaching History

In 1995, the old identity cards were abolished and new ones were issued which omitted ethnicity. Now all identity cards, in addition to name, date of birth, and other bits of personal data specify only that its holder is Rwandan. All Rwandese over 16 years of age are required to obtain an identity card¹⁰⁹ or risk arrest.¹¹⁰

Directly following the genocide, the Rwandan government also placed a moratorium on the teaching of history in classrooms.¹¹¹ In 1998, they began holding meetings to revise the curriculum, working with those newly appointed to the Education Ministry and seeking help from experts outside of the country. However, actual use of outside input was largely limited to extent to which it supported the official government narrative. Finally, in 2010, an official curriculum was approved and history education resumed. Currently in schools, students learn the official government version of both the genocide and Rwandan history. In line with the official history discussed above, ethnicity is dealt with in four major periods: pre-colonial, colonial,

¹⁰⁷ Lars Waldorf, "Instrumentalizing Genocide: The RPF's Campaign against 'Genocide Ideology'," in *Remaking Rwanda: State Building and Human Rights after Mass Violence*, ed. Scott Straus and Lars Waldorf (Madison: University of Wisconsin Press, 2011).

¹⁰⁸ Scott Straus and Lars Waldorf, Introduction to *Remaking Rwanda: Statebuilding and Human Rights After Mass Violence*, ed. Scott Strauss and Lars Waldorf (Madison: University of Wisconsin Press, 2011), 11.

¹⁰⁹ For more information, see the government's National ID Project (<http://nid.gov.rw/>), Accessed 24 April 2013.

¹¹⁰ See e.g., an article posted on Rwanda's National ID project website regarding the arrest of 14 individuals <http://nid.gov.rw/spip.php?article27> (accessed 25 April 2013).

¹¹¹ Lindsay Hilker, "The Role of Education in Driving Conflict and Building Peace: The Case of Rwanda," *Background Paper prepared for UNESCO for the EFA Global Monitoring Report*, 2011.

during the genocide, and post-conflict. This singular and uncritical narrative is meant to enforce the government's aim of national unity, but in practice it poses numerous problems.

Ingando “Solidarity” Camps

After graduation from secondary school, students wishing to continue on to university are required to attend *Ingando* “solidarity” camps, three-week programs where they learn about Rwandan culture, true history, and skills for personal and community development.¹¹² In a conversation with a colleague in Kampala, he suggested that through these programs, the government was effectively “educated elite”. While I have not found any literature directly addressing this issue, it certainly seems that one of the central aims of *ingando* is to bring those who will most likely be the country’s future leaders in line with its narrative. Students who participated in these camps also used to be instructed on the use of firearms.¹¹³ However, this was dropped from the curriculum in 2010.¹¹⁴ While all university-bound students are supposed to attend *Ingando*,¹¹⁵ it is only strictly enforced for those wishing to obtain government scholarship, who must show their completion certifications prior to receiving funding.¹¹⁶

Sponsored by the National Unification and Reconciliation Commission, a Rwandan governmental body, the purported aims of *ingando* are to foster a sense of patriotism and unity among attendees, which would then facilitate the reconciliation process. Some legal scholars,

¹¹² *Ingando* is now largely being supplemented by *Iterero* schools, which also target communities in the Rwandan diaspora.

¹¹³ From interviews with current Rwandan university students. See also, James Kearney, “A Unified Rwanda? Ethnicity, History, and Reconciliation in the *Ingando* Peace and Solidarity Camp,” in *Education and Reconciliation: Exploring Conflict and Post-Conflict Situations*, ed. Julia Paulson, 151-176 (London: Continuum International Publishing Group, 2011).

¹¹⁴ Interview data from meeting with current university student, 2013.

¹¹⁵ Lars Waldorf, “Revisiting *Hotel Rwanda*,” *Journal of Genocide Research* 11 (2009): 101-125.

¹¹⁶ *Ibid.*

however, such as Chi Mgbako,¹¹⁷ have argued that these camps are little more than a mechanism for distributing pro-RPF propaganda, and that the prohibition of critical discourse in this environment actually works against reconciliation efforts. UNA-UK's Peace and Security Programme Coordinator James Kearney echoes Mgbako's criticisms, arguing that through *ingando*, both the Rwandan government and the international community are conflating "reconciliation" with "unity", overlooking the former for the sake of the latter. While this may be effective as a short-term measure, Kearney argues, the long-term prospects are grim.¹¹⁸

Legal Mechanisms

The government's version of history of ethnicity is enforced by two laws, which are commonly used in conjunction with one another. In 2001, the Rwandan government enacted *Law No 47/2001 of December 2001 Instituting punishment for offences of discrimination and sectarianism* (Divisionism Law), which states: "the use of any speech, written statement, or action that divides people, that is likely to spark conflicts among people, or that causes an uprising which might degenerate into strife among people based on discrimination."¹¹⁹ This sentiment is further codified by *Law No. 18/2008 of July 23, 2008, Relating to the Punishment of the Crime of Genocide Ideology* (GI Law).¹²⁰ GI Law Article 2 defines genocide ideology as "an aggregate of thoughts characterized by conduct, speeches, documents and other acts aiming at exterminating or inciting others to exterminate people basing on ethnic group, origin, nationality,

¹¹⁷ Chi Mgbako, "Ingando Solidarity Camps: Reconciliation and Political Indoctrination in Post-Genocide Rwanda," *Harvard Human Rights Journal* 18 (2005): 201-225.

¹¹⁸ James Kearney, "A Unified Rwanda? Ethnicity, History, and Reconciliation in the *Ingando* Peace and Solidarity Camp," in *Education and Reconciliation: Exploring Conflict and Post-Conflict Situations*, ed. Julia Paulson, 151-176 (London: Continuum International Publishing Group, 2011).

¹¹⁹ Immigration and Refugee Board of Canada, Rwanda: Legislation governing divisionism and its impact on political parties, the media, civil society and individuals (2004 – June 2007), 3 August 2007, RWA102565.

¹²⁰ Official Gazette of the Republic of Rwanda, 1 October 2008.

religion, color, physical appearance, sex, language, religion or political opinion, committed in normal periods or during war.”¹²¹ Although vaguely-worded, this legislation is not wholly different in scope from other similar laws, such as the Holocaust denial laws found in France and Germany. Many, however, have long been concerned that, much like the divisionism law before it, this law would simply serve as a mechanism for the government to oppress dissenting voices.¹²²

The years since have unfortunately borne out this concern, as individuals speaking out against the government or even espousing a different view of history than the official government narrative are charged under these laws and imprisoned. Two notable cases are that of Victoria Ingabire Umuhoza¹²³ and Epaphrodite Habarugira. In 2010, just prior to the elections, Ingabire was the most prominent figurehead in the opposition party to Kagame’s RPF. While giving a campaign speech at one of Rwanda’s many memorial sites, she noted the importance of remembering and honoring not only the Tutsi victims of the genocide, but also those that were

¹²¹ *Ibid.*, GI Law, Article 2.

¹²² See e.g., criticism from Amnesty International http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205402701_text (accessed 22 April 2013) and Human Rights Watch <http://www.hrw.org/reports/2008/07/24/law-and-reality> (accessed 23 April 2013), which continues to be critical as evidenced by its 2013 World Report on Rwanda <http://www.hrw.org/world-report/2013/country-chapters/rwanda?page=3>, accessed 24 April 2013).

¹²³ Some argue that Ingabire’s case is not so simple, as she was also charged with inciting violence due to her alleged involvement with Democratic Forces for the Liberation of Rwanda (FDLR), a rebel group based in the Democratic Republic of Congo. According to the prosecution, Ingabire was working with three former high-ranking FDLR members to fund and form the Coalition of Defense Forces (CDF), an armed opposition group. See e.g., <http://www.amnesty.org/en/for-media/press-releases/rwanda-ensure-appeal-after-unfair-ingabire-trial-2012-10-30>, Accessed 25 April 2013.

Hutu. Ingabire was arrested and remains in prison at the time of this writing.¹²⁴ Leaving Kagame virtually unopposed, he was re-elected with over 93% of the vote.¹²⁵

Habarugira was a radio announcer on *Radio Huguka*. In April 2012, while on air, he conflated the Kinyarwanda term for “victim” with another.¹²⁶ Haburagira was subsequently fired and imprisoned under the GI law with minimizing the genocide and arrested. In his defense, he argued that it was simply a mistake, a slip of the tongue – according to one source he even claimed to have been drunk – and various organizations called for his release. Nonetheless, Haburagira was detained for more than three months before being acquitted.

While these two cases garnered a fair amount of international attention, they are by no means atypical. Most recently, during this year’s commemoration ceremony (7-14 April 2013), 42 people were arrested on genocide ideology and divisionism charges.¹²⁷ Several media outlets were also given a “warning” for playing music as usual during the commemoration period rather than genocide-related programming.¹²⁸ President Paul Kagame had opened this year’s memorial ceremony by reaffirming the Rwandan government’s commitment to stopping “divisionism” and “genocide ideology”. “We shall continue to put all our efforts in fighting those who are bent on

¹²⁴ For more information about Ingabire’s case, see e.g., <http://www.victoire-ingabire.com/Eng/>, Accessed 28 January 2013; http://www.nytimes.com/2012/10/31/world/africa/rwanda-court-sentences-victoire-ingabire.html?_r=0 (accessed 24 April 2013) and <http://www.amnesty.org/en/news/rwanda-opposition-leader-s-right-fair-trial-jeopardy-2013-03-25> (accessed 25 April 2013).

¹²⁵ Casey Dalporto, “Genocide Ideology Laws: Violation of Rwandan Peoples’ ‘Peoples’ Rights’?” *Cardozo Journal of International and Comparative Law* 20 (2012): 875-909.

¹²⁶ Sources disagree as to whether Habarugira instead used the word for “perpetrator” – see: <http://www.newtimes.co.rw/news/index.php?i=14980&a=53154> (accessed 30 January 2013) or “survivor” – see: <http://en.rsf.org/rwanda-radio-presenter-held-pending-trial-11-05-2012,42613.html> (accessed 30 January 2013).

¹²⁷ See e.g., this post from the Rwanda Express forum on 21 April 2013. <http://www.rwandaexpress.rw/in-rwanda/5630/42-people-arrested-over-genocide-ideology/> (accessed 24 April 2013).

¹²⁸ Ibid.

denying or trivializing genocide, whether they are Rwandans or foreigners. Nor shall we tolerate those with intentions to propagate genocide ideology instead of working with fellow Rwandans to build our country.”¹²⁹

The misuse of these laws was also a feature of the *Gacaca* process, which will be discussed further in the next chapter. The example that follows also illustrates how researchers can also pose a risk for Rwandans wanting to speak more openly. In writing on her research about perceptions of *Gacaca*, anthropologist Jennie Burnet tells of an interview she had with a women’s association in Southern Province. When she asked if any of them had been negatively affected by *Gacaca*, one woman told of an instance when an American researcher had come to interview the association about the *Gacaca* process. In the meeting with the researcher, one woman, Dancille, had expressed her opinion that the process was unjust because “all the genocide survivors want to make certain that all the Hutu are imprisoned.”¹³⁰ Another woman in attendance reported this incident to the local *inyangamugayo* and Dancille was arrested on divisionism charges and imprisoned for four months.

The Rwandan government’s insistence on, what René Lemarchand terms “enforced memory” and “enforced ethnic amnesia” complicates and hampers reconciliation efforts, as these it “rules out the process of reckoning by which each community must confront its past and come to terms with its share of responsibility for the horrors of 1994.”¹³¹ These dynamics, in conjunction with the complexity and politicization of Rwanda’s history and the evolving political situation in the country since the genocide’s end has made for an interesting backdrop against

¹²⁹ Ibid.

¹³⁰ Burnet, 110.

¹³¹ René Lemarchand, “The Politics of memory in Post-Genocide Rwanda,” in *After Genocide: Transitional Justice, Post-Conflict Reconstruction and Reconciliation in Rwanda and Beyond*, ed. Phil Clark and Zachary Kaufman (London: Hurst and Company, 2008), 73.

which transitional justice mechanisms have been implemented. These will be explored in some depth in the next chapter.

Chapter 3: After the Genocide – Transitional Justice in Rwanda

At the end of the genocide, Rwanda was left in shambles. The transitional government was charged with the insurmountable task of beginning to pull the country back together. More than one million people were dead, but death was not the only consequence.¹³² Hundreds of thousands of people had been raped or otherwise tortured; over 300,000 children had been orphaned, more than 85,000 of whom suddenly found themselves as heads of households.¹³³ Lieutenant General Roméo Dallaire, former Force Commander of the United Nations Assistance Mission for Rwanda said of these children, “Many of the kids were so psychologically damaged at every orifice of their bruised, dirty and frail bodies. The eyes in their thin faces seemed to blaze at you like lasers, projecting beams of energy that burned right into your heart.”¹³⁴

An estimated two-thirds of the population had been displaced, with over two million having fled the country. Rwanda’s government, infrastructure, and legal system had been completely destroyed and needed to be rebuilt from scratch. New legislation also had to be implemented, as there was nothing in Rwanda’s penal code which explicitly dealt with genocide.

Considering the starting point, Rwanda has come a long way. The government has taken ambitious, albeit imperfect, measures towards reconstructing the domestic justice system, training lawyers and judges and bringing in outside help where necessary. The government has also done a complete overhaul of its legislation. In addition, extensive efforts have been made towards reconstruction via non-legal mechanisms. Longman notes, “The government has built numerous memorials and established annual commemorations of the genocide, sought to create unity by adopting a new national anthem, flag, and seal, overseen the drafting of a new

¹³² Survivors Fund Statistics: <http://survivors-fund.org.uk/resources/rwandan-history/statistics/> (accessed 27 May 2013); KMC, 2013.

¹³³ KMC, 2013.

¹³⁴ Dallaire, 467.

constitution and various political reforms, and instituted programs, including “solidarity camps” for students, former prisoners, and returned refugees to teach a revised history of the country.”¹³⁵

Over the last 19 years, the Rwandan government and international community have put into place a multi-faceted transitional justice scheme to try to help the country on its way to recovery. This includes both local and international legal responses; *Gacaca* courts, which function as something in between a traditional court and truth commission; and country-wide memorialization projects. Each of these will be discussed in turn, along with a proposed civil-society based reparations initiative.

Legal Responses

After the genocide, Rwanda, in consort with the international community, ultimately implemented a three-tiered justice system to deal with crimes committed during the genocide. This consisted of the International Criminal Tribunal for Rwanda (ICTR), domestic classical courts, and *Gacaca* courts. *Gacaca* was the last of these mechanisms to come into effect, and its adoption was largely due to the impossible numbers of accused and the excruciatingly slow speed with which the newly-formed domestic court system was able to adjudicate cases. Jurisdiction among the three systems was determined by the category that the perpetrator fell under.

Article 2 Organic Law 08/1996, Rwanda’s genocide code¹³⁶ delineated four categories of responsibility in the genocide: (1) ‘planners, organizers, instigators, supervisors and leaders of the crime of genocide or of crimes against humanity,’ persons in positions of authority in the government or political parties, “notorious murderers,” and “persons who committed acts of sexual torture”; (2) perpetrators or ‘conspirators or accomplices’ of intentional homicide or

¹³⁵ Longman, 206.

¹³⁶ Organic Law No. 08/96 of August 30, 1996 on the Organization of Prosecutions for Offences constituting the Crime of Genocide or Crimes against Humanity committed since October 1, 1990. Full text can be found here: <http://www.preventgenocide.org/law/domestic/rwanda.htm> (accessed 28 May 2013).

physical assault causing death”; (3) persons guilty of “serious assaults against the person”; and (4) persons who committed crimes against property.¹³⁷

Those with the highest levels of responsibility – the genocide’s architects and high ranking officials – came under the purview of the ICTR. Others who were accused of particularly grave offenses were tried in the domestic courts, and the remainder of accused faced *Gacaca*. This designation was largely based on the assumed severity of the individual’s offenses and the types of punishment that each body could levy. However, it was also largely a matter of practicality. As IBUKA told me, it would be impossible to deal with higher level perpetrators in *Gacaca*, for the simple fact that community members likely would not have witnessed anything. Through my interviews in Rwanda, I came to realize just how detached people at all levels were from the ICTR process. As such, while it is an integral part of Rwanda’s transitional justice framework, this thesis will focus on the domestic “classical” court system and *Gacaca*.

Classical courts

As noted above, the Rwandan justice system was completely destroyed in the genocide and had to be rebuilt. Trials therefore progressed slowly. Even in the best circumstances, however, had this not been the case, the classical court system would have been overwhelmed.¹³⁸ Arguably, even in the best of circumstances, the domestic legal system would have been an insufficient mechanism through which to deal with atrocities on the scale of the genocide. This is especially the case given that there is only a limited role for victims in these trials. Longman explains, “Victims, relatives of the accused, and other observers have little opportunity to attend

¹³⁷ Summary taken from Burnet, 97.

¹³⁸ Burnet, 97.

the trials, and for many people, the legalistic approach of the trials is alienating and feels unrelated to local processes of reconciliation.”¹³⁹

Additionally, there continues to be great concern on both sides that the courts are dominated by politics. “Many Hutu regard the trials as dominated by political concerns, a form of victor’s justice, while victims are frustrated at both their limited role in the process and the failure of trials to address such problems as reparations.”¹⁴⁰

Gacaca

Gacaca has been called the most thorough process ever in bringing rank and file of genocide to justice.¹⁴¹ According Organic Law 40/2000 in 2001 which established *Gacaca*,¹⁴² each community was required to “develop a record of how the genocide occurred in their community and to determine those responsible for carrying it out and those who were victims, and...establish mechanisms for providing reparations to survivors.”¹⁴³

In 2004, with the aim of reducing the population of the overcrowded, overburdened prisons, President Kagame released several thousand people from prison who were “elderly, sick, or had been minors in 1994.” In the years that followed, tens of thousands more such detainees were released, with the addition of those “who had confessed to participating in the genocide and had already served the maximum sentence for their category of crimes.”¹⁴⁴ Although the aim was to reduce the prison population, *Gacaca* actually dramatically increased

¹³⁹ Longman, 209.

¹⁴⁰ Ibid.

¹⁴¹ KMC, 2013.

¹⁴² Organic Law N° 40/2000 of 26/01/2001 Setting Up "Gacaca Jurisdictions" and Organizing Prosecutions for Offences Constituting the Crime of Genocide or Crimes Against Humanity Committed Between October 1, 1990 and December 31, 1994.
<http://www.refworld.org/publisher,NATLEGBOD,,,452e37514,0.html> (accessed 28 May 2013).

¹⁴³ Longman, 207.

¹⁴⁴ Burnet, 101.

the number of accused. By the time the *Gacaca* courts officially closed in 2012, an estimated two million people had gone through the process.¹⁴⁵

Traditionally, *gacaca* brought together respected elders (*inyangamugayo* [those who detest dishonesty¹⁴⁶]), the accused, the accuser(s), and community members. In its revamped form, however, the *Gacaca* court system has had a few changes. First, the new *Gacaca* is open to the public, with everyone being encouraged to participate, except lawyers.¹⁴⁷ Second, these proceedings were based on the testimony of the accused. Third, the aim of traditional *gacaca* was most often purported to be restorative. The *Gacaca* courts, however, seem to many to have a more punitive focus:

The *Gacaca* courts have attempted to include aspects of restorative justice through the inclusion of Work of General Interest (TIG), portrayed as a sort of community service but in practice more like prison work camps...Yet, in communities the perception of the *Gacaca* courts is that they were focused on punitive justice, especially since they dealt with property crimes last. The *Gacaca* courts can impose sentences ranging from “civil repatriation of damages caused to other people’s property” to the death penalty¹⁴⁸ or life imprisonment.”¹⁴⁹

Nevertheless, *Gacaca* courts seem to bridge any local/external divide, as they incorporate elements of the original system and international jurisprudential standards. The current *inyangamugayo*, for examples, are elected and government-sanctioned officials. Phil Clark, after

¹⁴⁵ See e.g., <http://www.aljazeera.com/news/africa/2012/06/201261951733409260.html> (accessed 28 May 2013).

¹⁴⁶ Longman, 211.

¹⁴⁷ Interview data, 2010; Phil Clark, *The Gacaca Courts, Post-Genocide Justice and Reconciliation in Rwanda: Justice without Lawyers* (Cambridge: Cambridge University Press, 2011).

¹⁴⁸ Other sources indicate that only the classical court system could levy the death penalty. According to Longman *supra*, 215, “[T]he most serious cases, and the only ones where the death penalty can be ordered, are referred to the national courts.”

¹⁴⁹ Burnet, 100.

years of extensive observation of *Gacaca* considers the courts to be a hybrid system, combining the formality legal boundaries and informality of community negotiation.¹⁵⁰

While *Gacaca* has its share of critics – both in Rwanda and in the wider international community – many also distrusted the previous process. As IBUKA explained, after the genocide, there were two categories. Planners went to the classical courts; others went to *Gacaca*. Before *Gacaca*, people voted about innocent people at the village level, and sometimes, the village was dominated by perpetrators’ families. Before *Gacaca*, the first phase was to collect information: who killed, who were killed, who were involved with roadblocks – and then the judges had this information. Others who had information to add tried to give it, the judges identified accusations, and the perpetrator responded by claiming guilt or innocence. Then the case went in front of the village members for decision. Many, however, did not believe that this process was fair, nor did they trust those making the decisions.¹⁵¹

Another issue with *Gacaca* was the willingness of people on all sides to participate in the process. Longman notes, “Relatives will probably be reluctant to testify against their own family members, and many people have assumed that Hutu in general will be under social pressure to show loyalty to their group by not testifying against their own group.”¹⁵²

Many survivors were also reluctant testify in *Gacaca*, especially in its early years, as they feared retribution. In fact, many Rwandan asylum claims have been made to the United States on the basis of post-*Gacaca* retaliation. Additionally, many survivors were unaware of their rights under the system.

¹⁵⁰ Clark, 39.

¹⁵¹ IBUKA interview data, 2013.

¹⁵² Longman, 221.

Both AVEGA and IBUKA worked with survivors, encouraging them to participate. The representative from AVEGA confirmed that many survivors do not want to participate in *Gacaca*. Some survivors did not know that they had the right to ask for their things back through the *Gacaca* courts. Many also often felt threatened. AVEGA has helped to treat these cases by educating people about their rights and supporting them throughout the process. Like AVEGA, IBUKA also ran education programs to teach people about *Gacaca* and to encourage people to participate. Initially, the Executive Secretary told me, many people did not understand how a system that had Hutu judging other Hutu could possibly work. Still, he stressed, it did. *Gacaca*, while imperfect, was a good option for most Rwandans. “None of this guarantees that Hutu will be willing to convict fellow Hutu,” Longman points out, but it does create an environment that encourages fairness.”¹⁵³

“In *Gacaca*,” the representative from IBUKA told me, “there were many interests. Everybody was forced to say what they saw.” In classical courts, he argued, this was not so. Anyone wanting to bring a case had to hire a lawyer, which was not feasible for most Rwandans. Lawyers were expensive; *Gacaca* was not.

Another criticism of the *Gacaca* courts is their susceptibility to abuse by those with personal agendas.

In some communities genocide survivors and others organized themselves to fabricate testimony and evidence against certain people. In some cases, they appeared to be motivated by the desire for reprisal or revenge. They feel as if they know certain people were involved and they want to make sure they are found guilty. In other cases, they fabricated testimony for other purposes, such as to settle disputes over land or other property. Some RPF soldiers whose families were decimated are (understandably) angry and seek revenge through the *Gacaca* courts against anyone they know who is Hutu.¹⁵⁴

¹⁵³ Longman, 217.

¹⁵⁴ Burnet, 102.

In her 2007 research into *Gacaca* cases, Burnet encountered several instances of individuals using *Gacaca* to seek revenge. “These cases appear to fall in three main categories: revenge against particular individuals, revenge against particular individuals as representatives of a corporate group, and revenge against a corporate group.” In cases of the first category, the revenge being sought did not necessarily have anything to do with the genocide. Often, people were operationalizing the forum to clear grievances from “the distant past”.¹⁵⁵

Burnet relates the story of one Tutsi genocide survivor, Marie, who was married to Janvier, a Hutu. Marie had been terrorized repeatedly by another Tutsi survivor, Jeanne, during her participation in *Gacaca*, who made repeated demands that Marie testify before the court. Marie maintained that she witnessed nothing, because she spent most the genocide in hiding. According to Marie, Jean repeatedly threatened, ‘Don’t you know what the punishment for lying before the *Gacaca* court is?’” Burnet describes Marie’s visible fright and emotion while telling her story.

Marie told Burnet that Jeanne and her husband Patrice had long held a grudge against Marie and Janvier, because the latter had received a promotion which Patrice felt should have been his. One day in 1994, while Janvier was walking in town, he was arrested. “It took Marie several weeks to find him in a provincial prison. It took several months to find out that he stood accused of genocide although he did not have a judicial file.”¹⁵⁶ Without Janvier’s salary, Marie applied to have her children supported by the Genocide Survivors’ Assistance Fund (FARG). However, Jeanne and Patrice headed the local genocide survivors’ organization and refused to sign the requisite paperwork certifying Marie’s children as survivors. Janvier spent seven years in prison. When he was finally released in 2008, Jeanne and Patrice continued to harass the

¹⁵⁵ Ibid., 108.

¹⁵⁶ Ibid., 108-110.

family. Janvier ultimately moved to Kigali, but the harassment followed him, and the family with whom he stayed began to receive threatening phone calls. One night, Janvier was fatally struck by a truck while he was crossing the street. Although she has no proof, and Janvier's death was recorded as an accident, Marie still believes that Jeanne and Patrice were somehow involved. Even after all of this, Marie said continued to be harassed by Jeanne every time she attended *Gacaca*.¹⁵⁷

From this story, we can see not only some of the issues that plagued the *Gacaca* process, but we can also get a glimpse of the dynamics involved in obtaining survivor certification. Finally, some have argued that *Gacaca* cannot really be considered a transitional justice mechanism, because its limited jurisdiction makes it one-sided. Pursuant to its foundational law, *Gacaca* only has jurisdiction over crimes specifically related to the genocide, which means that RPF retaliatory killings, for example, must all go to the classical courts, which are dominated by a Tutsi judiciary.¹⁵⁸

Memorials

*The Rwandan government's genocide commemorations and national mourning practices generate a polarizing discourse that defines all Tutsis as genocide victims and all Hutu as genocide perpetrators. Similar to efforts in Argentina and Chile, Rwandan government memorial practices create master narratives about Rwandan history, the civil war 1990-1994, and the 1994 genocide. Under this logic, certain Tutsi genocide survivors have sought revenge against individual Hutu as a scapegoat for Hutu as a corporate group.*¹⁵⁹

As discussed in Chapter One, a primary mechanism through which memory is preserved, reinforced, or outright created is through memorialization projects. Rwanda has an extensive network of memorials throughout the country. Many, although not all, are sponsored and maintained by the National Commission for the Fight Against Genocide (CNLG), in partnership

¹⁵⁷ Ibid.

¹⁵⁸ find cites

¹⁵⁹ Burnet, 110.

with IBUKA and the board at Kigali Memorial Centre. CNLG is the government body tasked with crafting Rwanda's national memory, through both these memorial sites and the country's annual commemoration activities. Each year, for example, CNLG determines the theme of the commemoration and then monitors all related national and local events. The theme for this year was "Striving for Self-Reliance."

The CNLG, in conjunction with the KMC and IBUKA, is currently working on establishing education centers and several of the memorial sites. While these are primarily directed at students, as discussed in the next chapter, representatives from several organizations stressed the importance of such programs for all who come to visit to learn more about the genocide. The education program is currently based at the main memorial site in Gisozi, which students come to visit as part of their school curriculum. However, since it is impractical for all students all over the country to come into Kigali for the day, AEGIS Trust – a UK-based atrocity prevention organization and one of KMC's primary funding partners – is now going to schools countrywide to bring the program to them. AEGIS spends one week at each school. The program involves lectures, but also includes pictures, films, discussions, and special exhibitions. It is a new program, but they are aiming to include all schools country-wide.

Another example of the way these memorial projects are expanding is the current research effort underway at Murambi. In addition to having one of the country's pioneering education centers, the government is partnering with several organizations to set up a forensic laboratory on-site to recognize how people were killed.

During my time in Rwanda I visited four memorial sites: the Kigali Memorial Centre (KMC) in Gisozi, Nyamata, Nyanza-Kicukiro, and Nyarubuye. Each of these sites, as well as Murambi, which I had visited on an earlier trip, are deserving of their own descriptions and

analyses. However, due both to time constraints and a lack of posted information presently available at these other memorial, in this thesis I focused on the Kigali Memorial Centre in Gisozi.

The Kigali Memorial Centre¹⁶⁰ is Rwanda's primary and most popular memorial. Opened for the 10th Commemoration in 2004, the Centre is visited each year by thousands wishing to learn more about the genocide. Within the first three months of KMC opening its doors, it received an estimated 60,000 visitors from Rwandans and internationals alike. It is also on the schedule of nearly every politician and dignitary that comes to the country. Notable examples include former United States President Bill Clinton, German President Angela Merkel, and Ban-Ki Moon, the current UN Secretary General.

The KMC site consists of three main parts. Following the prompts from the audio guide, one begins outside, walking through a series of beautiful symbolic gardens, which represent different periods in Rwanda's history or subgroups of the populations, such as the garden dedicated to women. Of particular note to international visitors is the Garden of Self-Protection, a collection of cacti, which represents "the way Rwandans had to protect themselves"¹⁶¹ in the absence of any assistance from the rest of the world. Walking through the gardens, visitors come to the huge mass graves, which are thought to house the bones of over 250,000 people, and the wall of names, which currently contains only 1,800 entries.

Upon entering the centre, the first floor contains KMC's primary exhibit, which focuses exclusively on Rwanda. Here, the memorial serves as a museum, detailing Rwanda's history

¹⁶⁰ KMC's website <http://www.kigalimemorialcentre.org/old/centre/index.html> (accessed, most recently, 28 May 2013). A description of all memorials listed above can be found here. Another good resource is Harvard University-based project "Through a Glass Darkly" <http://genocidememorials.cga.harvard.edu/project.html> (accessed, most recently 29 May 2013), which collects information about and stunning images of memorial sites in Rwanda.

¹⁶¹ KMC, 2013, from audio tour.

before, during, and after colonization. Extensive descriptions of the events leading up to the genocide, incorporating quotes and commentary, and then the genocide itself is depicted through audio and visual narration, as well as through videos placed throughout the exhibition. This culminates with a series of rooms containing genocide artifacts, a large collection of pictures – mostly polaroids – of those killed, and a full-length movie with survivor interviews.

Finally, upstairs is a smaller exhibition entitled *Wasted Lives*, which focuses on other genocides and mass atrocities around the world. Not intending to be comprehensive, and giving the disclaimer that some of the situations are not recognized under international law, the exhibition includes brief displays on Armenia, Bosnia, Cambodia, Namibia, and the Holocaust. Each of these was strategically chosen as part of a wider push by CNLG and others to incorporate a comparative element into the genocide narrative. Some of the parallels are explicitly stated, such as a comment in the section on Cambodia pointing out the similarities in crudeness of weapons used; others are inferential, such as the emphasis on lack of international support in the Armenia display. Despite over 3/4 of the population being murdered, the exhibition states, France took in only 63,000 people; the UK absorbed only 200. In this same section, the evils of genocide denial are also asserted through the example of Turkey. Such denial, the KMC states, is a common trait of all genocide perpetrators. While the truth of that claim is debatable, in the context of Rwanda the message is clear.

The strongest comparative element asserted in this exhibit is that with the Holocaust, which is consistently referred to throughout as the “genocide against Jews.”¹⁶² Although little is offered in the way of support, only one comment regarding the use of physical features to

¹⁶² One small note in the exhibition stated “18.000.000 Europeans, including Jews, Gypsies, homosexuals, Jehovah’s Witnesses, Communists, Slavs, and the disabled were victimized by Hitler’s Germany.”

classify and divide the population, the KMC states that the similarities between the treatment of Tutsis and Jews in their respective periods of massacre are “striking.”

Reparations

While Rwanda has many organizations dedicated to supporting survivors – and many of these are supported directly by the government – there has never been a formal reparations scheme put into place after the genocide. SURF (discussed in the next chapter) is currently advocating for a victim reparations fund to be set-up this year to coincide with the 20th Commemoration. They are calling on both the government and the international community to support their efforts to set up such a fund. The Program Coordinator indicated that the government did not think it should have to pay, since it was not the government that perpetrated the genocide. (Rather, it is the one that ended the genocide.) However, he rightly pointed out that the current government inherited the responsibility under the principle of continuity.¹⁶³ SURF is also trying to encourage states who were involved (or actively not) in the genocide in some way, such as France, Belgium, and the US, to contribute to the fund.

The representative from SURF pointed out that this is not without precedent. The International Criminal Court, for example, now has a trust fund for victims, and it awarded compensation to in the Lubanga case. Should such a fund be set up, this will provide a direct mechanism through which to examine ascription of victimhood. I asked how the funds, should they become available, would be distributed. He indicated that this went beyond the purview of SURF, but that they envisioned it in such a way as to minimize special dominant interests. Rather, decisions about allocation would be made by a board, which would manage the fund

¹⁶³ Basically, it is the state itself rather than the government who owes the reparations. This is a difficult concept to tease out, but it makes conceptual sense.

jointly. The board would consist of government representatives, survivors organizations, and international NGOs. He indicated that there would also likely be UN involvement.

Additionally, SURF is partnering with other NGOs and CNLG to attempt to have the archive of the ICTR proceedings transferred to Rwanda. Both the Rwandan government and these organizations claim that the archive is rightfully the property of Rwanda, as it is an important part of the country's heritage.¹⁶⁴ This has also been supported by certain regional bodies, such as the East African Legislative Assembly.¹⁶⁵ However, ownership and custody of the archive are contentious points. At present, pursuant to Article 27 of United Nations Security Council Resolution 1996, the archives are legally considered to be the rightful property of the United Nations and are to be maintained by the Residual Mechanism in Arusha, Tanzania.¹⁶⁶ According to SURF, this decision was made citing "security issues." As he rightly pointed out, however, regardless of the legalistic ownership issues, the conceptual importance of handing over this information to Rwanda cannot be understated.¹⁶⁷ Putting this information back into the hands of the Rwandan people would serve as another type of symbolic reparation.¹⁶⁸

¹⁶⁴ This came up in my interviews with both Survivors' Fund and the National Coalition for the Fight Against Genocide.

¹⁶⁵ See e.g., <http://www.newtimes.co.rw/news/index.php?i=15331&a=66055>; <http://allafrica.com/stories/201304190662.html>; <http://www.theeastafrican.co.ke/Rwanda/News/Push-for-custody-of-ICTR-archives-gathers-momentum/-/1433218/1639028/-/oliptuz/-/index.html> (accessed 24 May 2013).

¹⁶⁶ Reiterated in the UN Security Council Report S/PV.6678, dated 7 December 2011.

¹⁶⁷ See also <http://www.newtimes.co.rw/news/index.php?i=13994&a=19011> (accessed 23 May 2013).

¹⁶⁸ This assumes, of course, that these archives would actually be made available to the Rwandan public.

Chapter 4: Empirical Methodology and Findings

My approach in researching the way victimhood was perceived and operationalized in Rwanda was two-pronged. At the more conceptual macro-level, I planned to visit several memorial sites to see how the story of the genocide was presented and which groups were portrayed as victims. In order to explore these designations on the individual, micro-level, I planned to meet with several non-governmental organizations. As I could not directly ask if Hutus could qualify as victims, I hoped to gain insight into who is considered a victim by the organization in question by inquiring into who qualified for services, what type of services this makes him or her eligible for, and how the designation and its application fits into the larger genocide narrative.

Part I: Memorial site visits

The first portion of my in-country research involved visiting several memorial sites around Rwanda to see how victimhood is defined and portrayed (e.g., whether the focus is ethnically-based, and if so, whether Hutus are included in the narrative as anything other than perpetrators). Rwanda claims over 200 memorial sites;¹⁶⁹ I obviously could not visit all of them. Instead, especially given constraints in time and resources, I went to four of the primary memorials.¹⁷⁰ Each site that I selected has been designated as a key sites by the Kigali Memorial Centre and targeted for further development. This initiative is just getting underway,¹⁷¹ but as these particular memorials are frequented by tourists, I thought they would be the most likely to have written information or guides available, possibly even in English. I was unable to visit

¹⁶⁹ Kigali Memorial Centre, “Other Rwanda Genocide Memorials,”

<http://www.kigalimemorialcentre.org/old/centre/other.html> (accessed 15 April 2013).

¹⁷⁰ I collected information from all sites in April-May 2013, except for Murambi, which I visited in 2010.

¹⁷¹ IBUKA hopes that all will be set up within the next year or two.

Murambi during this trip, so all information from that memorial comes from an earlier visit. The actual meaning ascribed to these memorials by Rwandans and what they mean in terms of understanding victimhood internally is beyond the scope of my thesis, and certainly beyond the possibility of what could be understood in three weeks. However, looking at the way that victimhood is portrayed for the benefit of those coming to visit the memorials is important in understanding the narrative that Rwanda is constructing about its past and who is being included and excluded. As discussed in Chapter Three, however, I ultimately focused on the Kigali Memorial Centre. Given the lack of written content or guidance available at the other sites, it would require a substantially longer research period to begin to make meaning of the narratives there. This is a project I hope to continue.

Part II: Interviews with NGOs

In order to assess how victimhood is interpreted in practical ways, I met with four NGOs and one governmental body. After meeting with contacts in Rwanda, I devised a list of NGOs that I thought would be the most useful. I contacted these and met with whoever I could. In the end, however, I managed to have a good sampling, representative of the relevant sectors of civil society: two national specific survivor-focused NGOs, AVEGA and Never Again Rwanda (NAR); a larger national umbrella organization, IBUKA; and an international NGO, Survivors Fund. All of these organizations will be further described in the final section of this chapter. I was also able to meet with National Commission for the Fight Against Genocide (CNLG), which is an arm of the Rwandan government dedicated to genocide prevention. I had not anticipated meeting with any government bodies, but this proved most fortuitous. Due to time and space constraints, I decided to limit my scope to civil society organizations, and as such I did not include a write-up of CNLG at the end of this chapter. However, information gained from

meeting with their representative is included at various points throughout the thesis as appropriate.

While the specific questions asked to each organization varied, the interviews more or less followed the same format. Each began with a brief introduction – who I was, a bit of what I was researching, and my previous connection to East Africa – and a request to the representative I was meeting with to tell me about the history and current activities of the organization. Then, I inquired into the specific types of programs each organization offered, who their target beneficiaries were, and the positioning of the organization within wider civil societies. I had initially opened the interview with more structured questions, but found that my interlocutors would answer only the questions exactly as I posed them (or as they understood them). Changing to a more an open-ended format was useful, in that it allowed me to check that the individual really understood what I was asking and to see what each individual found important to tell. I was also able to pick out points for specific follow-up questions.

As I see it now, my research design had a major limitations. I had not anticipated the complexity of terminology employed here. My argument focuses around a problematic of victim/perpetrator/bystander categorization. However, I did not factor in the complications that the term “survivor” would bring to this study. Both from the literature I had read and past visits to the country, I had assumed that “victim” and “survivor” could largely be employed as coterminous. “Victim” is, of course, a larger category that also includes those killed. However, this would not complicate understanding at the collective level, and for the practical implications for individuals, I was to be looking at treatment of those living now. Speaking of these individuals, I was making the assumption that living victims and survivors were one and the

same. However, this was not always the case, nor were the answers I received regarding inquiries into any distinction consistent.

As I began my interviews, I realized that this portion of my questioning was misdirected. The NGOs I met with did not speak in terms of helping “victims”. Rather, they aimed either to service a very specific group of beneficiaries or society at large. Many offered services that were available only to survivors. Others were more specific still, targeting, for example, survivors orphaned during the genocide who were now heads of household. Still others offered services to all vulnerable people, irrespective of their relation to the genocide.

Initially, I thought that the questions would still hold. How does IBUKA, for example, determine who qualifies as a survivor for their purposes and who does not? Through both meetings with these organizations and interviews with survivors, however, I learned that this was not a question that they dealt with at all. Rather, “survivor” is an official status, determined long before individuals are seeking services. By the time an individual would turn up to any of these organizations requesting some sort of assistance, he or she would have already been issued a status document by the government certifying that he or she is a survivor.

The process requires several layers of approval. An individual presents first herself before a local board at the cell level.¹⁷² Here she would meet with members of her immediate community who would, in essence, be able to vouch for her position during the genocide. One survivor with whom I met described this process, when he sought assistance in paying school

¹⁷² Governance in Rwanda is broken into several administrative units as outlined in the Rwandan Constitution. From smallest to largest, these include the cell (*utugari*), sector (*imirenge*), town, municipality, city, district (*uturere*), and province (*intara*).
<http://www.rwandahope.com/constitution.pdf>;
<http://democratie.francophonie.org/IMG/pdf/Rwanda.pdf> . The Constitution was amended in 2005 (N° 2 of 08/12/2005) to state that these would be determined by separate organic law, which was done as part of the redistricting.

fees for both himself and his sisters. He recounted that he appeared before people he know, who were able to say, “Yes. This is Jean.”¹⁷³ He is the son of Claude and Fidelite, who were killed near Nyanza. I knew his family. The lived nearby in Kicukiro.” In this way, he was able to get the first level of approvals. After this, he then had to get village and sector level approvals, but each of these was largely based on the credibility of the last. Other survivors with whom I spoke told of a similar process, and the NGOs I met with confirmed this.

IBUKA explained that designation of survivor status was a decentralized process at the cell (then village and sector) levels. Upon approval, individuals received a document from the government indicating they were survivors. To be eligible for many services for survivors, individuals also have to demonstrate vulnerability. Things did not always go smoothly. In the beginning of this process, according to IBUKA, there was trouble. Many people felt unsafe. People thought that if it was known that they were survivors, they would have trouble (with, for ex., a Hutu doctor). There was also a problem in schools, when headmasters still demonstrated the ideology of genocide. If survivors showed themselves as such, they were treated badly. Now, according to IBUKA, the situation for survivors is better. They are actively seeking services at hospitals around the country and students do not face problems at school.

Issues regarding eligibility for services by victimhood recognition do exist in Rwanda, as is evidenced by the story of Marie and her husband in Chapter Three. At its most fundamental, my original inquiry – could Hutus, or other non-Tutsis, qualify for services – still stood. However, I now realized that in order to investigate this, I would have needed to pose these questions to those making the decisions as to survivor status determination.

¹⁷³ All names have been changed for purposes of anonymity.

Additional Complications

Timing

Timing also posed a potential issue. Although the week of commemoration had ended by the time I began my research, I was still within the 100 day mourning period, which Rwanda observes each year, as an exercise in remembering the full genocide. The official commemoration period runs from 7–13 April, but unofficially continues until July. Each memorial site, for example, has a flame that burns continuously in this period.

Emotions and tensions were still running high, as was government involvement and monitoring of civil society activities. There was talk that incidences of ethnic violence had broken out just prior to the commemoration activities¹⁷⁴ and by week's end, at least 42 people had been arrested on genocide ideology charges. One of the local radio stations had also recently received a warning from the government for airing regular programming rather than strictly covering commemoration activities.

NGO Re-Registration Process

Another potential complication for my research was the NGO registry process. In 2012 the government passed a series of new laws¹⁷⁵ requiring all NGOs to re-apply for status through a new system in order to retain their legal position in Rwanda. At the time of my fieldwork,

¹⁷⁴ I had read a news article about this, as had a colleague of mine who was volunteering at one of the genocide prevention offices. In looking recently for information to include in this thesis, however, neither of us could find any mention of this.

¹⁷⁵ Organic Law N°04/2012 of 17/02/2012 Governing the Organisation and Functioning of National Non Governmental Organisations; Organic Law N°05/2012 of 17/02/2012 Governing the Organisation and Functioning of International Non Governmental Organisations; Organic Law N°06/2012 of 17/02/2012 Determining the Organisation and Functioning of Religious-Based Governmental Organisations. Official Gazette n° 15 of 09/04/2012. <http://moh.gov.rw/english/wp-content/uploads/2012/05/Loi-Stup%C3%A9fiant-ASBL.pdf>. Accessed 10 May 2013.

every NGO in Rwanda was in the midst of this rather rigorous process. These new regulations were passed in the name of efficiency. Under the previous 2008 law,¹⁷⁶ all NGOs had to re-register annually. Under the new scheme, once their registration was approved, national NGOs had permanent status and international and religious-based¹⁷⁷ NGOs would only have to seek renewed approval every five years. The process, however, is a complicated and seemingly political one. In the past, re-registration was largely a formality. Under the new system, however, all organizations – and especially their mission statements – are coming under intense scrutiny from the respective governmental authority.¹⁷⁸ Additionally, in order to obtain approval, each NGO has to find a ministry sponsor. The organization negotiates with the sponsor until they come to an agreement about the NGO's activities.¹⁷⁹ This process is easier for some than for others. As such, many NGOs are understandably becoming less vocal in their criticism of the government and more conservative in their deviations from the official discourses at present. This means that many NGOs, even those who were previously more critical, are falling into line at the moment, acting more as implementing partners with the government than an active civil society. Even if the organizations in question view this adherence as something temporary and largely a formality, it likely affected the information I was getting. I asked each of the NGOs that I met with about this new registration process and how they were coming along. Responses were

¹⁷⁶ Organic Law Governing Non-Governmental Organizations (Law 55/2008 of 10/09/2008).

¹⁷⁷ While I did not meet directly with any religious-based NGOs in the course of my thesis research, both IBUKA and SURF have partner organizations that are affected by this law.

¹⁷⁸ National and Religious-based NGOS are handled by the Rwandan Governance Board. According to Article 16 of OL 04/2012 (and Article 14 of OL 06/2012), the RGB is in charge of registering the NGO, granting it legal personhood, and monitoring its activities. International NGOs are under the purview of the Directorate General of Immigration and Emigration, pursuant to Article 6 of OL 05/2012.

¹⁷⁹ Interview data, 2013.

mixed, but most indicated that they had not yet encountered any problems. Some however, mentioned that they could understand how other groups might run into trouble.

Given the sensitive nature of my questions, I found my interlocutors surprisingly candid their responses. In light of the current climate and foregoing conditions, however, it is entirely possible that the individuals with whom I met were being more guarded and reserved with their answers than they let on.

Organizations

AVEGA¹⁸⁰ (the French acronym for Association of Widows of the Genocide *Agohozo*, which means “to wipe away the tears” in Kinyarwanda) is an organization that offers support to those widowed by the genocide. The organization’s mandate covers four areas: psychological and medical care; advocacy, justice and information; economics and social operations; and institutional capacity building. I had thought that AVEGA should also prove useful to this project, as they are a well-established NGO that specifically targets “widows”. While the organization works with an openly gendered mandate, targeting women exclusively (which there is certainly practical need for), such a clientele seemed that it should bridge any *ethnic* divide.

I was first introduced to AVEGA in 2010. At the time, services were only offered to widows (“members”, as they are called by the organization), and their focus was primarily on skills training and medical care. The legal program was still in its infancy. I was eager to follow up on the program’s development and to learn about any cases or administrative proceedings they have assisted with. In the past few years, AVEGA has come a long way. Both through its own efforts and through partnerships with organizations like IBUKA and SURF (described

¹⁸⁰ AVEGA’s website <http://avegaagahozo.org/> (accessed, most recently, 25 May 2013).

below), each of its program areas have expanded in scope and in terms of beneficiaries. AVEGA now has offices in each of Rwanda's five provinces, and certain programs are now available to all community members. While each set of programs was expanding at its own pace, I was told, whenever this happened the entire community was benefitted. Additionally, when non-members sought assistance that was beyond the organization's scope, AVEGA would guide them to other organizations who could offer help. Basically, the idea was to reintegrate their members into the larger community and to improve the condition of society at large.

AVEGA's health program now consists of fully-functioning health centers at three locations around the country.¹⁸¹ Each of these clinics services all individuals living in the particular community. These services used to be available only to members, but now there is no differentiation between widows from the genocide and the rest of the population. The social services program has two primary objectives. It takes care of members ("widows"), providing material support for basic needs (such as housing and a small living stipend). It also works with "disabled"¹⁸² individuals to provide basic needs and psychological counseling. The AVEGA representative stressed that after the genocide, there were many psychological problems and traumas. AVEGA focuses on helping to cure these both spiritually and economically. As part of AVEGA's mental health program, there are 37 counselors in different districts. These individuals also train others who are not certified counselors but help in the field. Altogether, they have 1,050 working as "helpers" for those with trauma. These individuals are trained and supervised

¹⁸¹ These clinics are located in Remera (a municipal district within Kigali), Bugasera (a district in the Eastern Province), and Rwamaganda (the capital of the Eastern Province).

¹⁸² AVEGA defines "disabled" persons as either 1) those who suffered a lot of trauma from the genocide (e.g., cases of rape and HIV infections) and 2) those left with nothing after the genocide (i.e., no money, no livelihood, no support systems).

by AVEGA. While the economic assistance is available only to members, the psychological counseling services are available community-wide.

Like the counseling program, AVEGA's legal program is largely based on trained volunteers. In each province, there are different lawyers who do basic trainings about law for individuals to offer legal assistance. So far, this has resulted in about 900 "legal helpers". AVEGA's legal department helps to supervise and sometimes helps to find lawyers for individuals.

AVEGA's capacity-building program follows directly from their psycho-social services. When AVEGA tries to treat someone with difficult problems, it has to first provide basic needs and psychological help. After, "when that individual feels better", AVEGA encourages them to make or join a project in one of their cooperatives, which are run off of a revolving set of microfinance loans. Through these initiatives, AVEGA is both trying to build the capacity of its members to sustain themselves and to help them integrate back into their communities. These projects started with handicrafts and have now expanded to entrepreneuring activities, such as cultivation, business, import/export, and taking care of animals. While these co-ops are predominantly populated by widows, they are not exclusively so.¹⁸³

IBUKA¹⁸⁴ ("remember" in Kinyarwanda) is the largest survivors' rights NGO in Rwanda. It is an umbrella organization, which pairs victims and survivors with local groups and organizations offering a variety of services. IBUKA does not focus on a particular demographic sub-group – in 2010, two of their main projects dealt with educational support for orphans and a

¹⁸³ As an example, AVEGA told of a co-op with 15 people. Ten of these people were AVEGA members and five were not. All are eligible to participate in the co-op. In this case, AVEGA will only fund the 10 members, but they work with other organizations and stakeholders to get funding for the other five people. Encouraging and supporting these "mixed" coop efforts is another way to reintegrate AVEGA members into the community.

¹⁸⁴ IBUKA <http://www.ibuka.rw/> (accessed, most recently, 28 May 2013).

general worldwide fundraising campaign. According to a 2010 article in *The Rwanda Focus* (again, confirmed by prior field notes), the organization's "mandate include[s] putting in place a memory policy, ensuring genocide evidence is kept well and ensuring that a memory policy was in place so as to be able to keep genocide deniers at bay." As IBUKA holds itself out to be the primary voice of advocacy on behalf of genocide survivors and victims in Rwanda, I felt that meeting with them was crucial to understanding the current political dynamics of "victims" and "survivors".

IBUKA advocates for survivors' interests. IBUKA has four main focus areas in which it works with various partner organizations: justice; peace, unity and reconciliation; memory and documentation; and fighting the consequences of genocide. Our conversation focused primarily on the first and third objectives. IBUKA is working to train some survivors in law in order to help mobilize people for various issues, including encouraging *Gacaca* participation.

An crucial element of IBUKA's mandate is working with memory. After the genocide, their representative told me genocide, dealing with memory was very important. "Memory is the way to fight against genocide happening again." He explained that there was a genocide before,¹⁸⁵ but survivors did not have the right to commemorate. This, he claimed, is why the genocide repeated itself in a different time. Now and importantly, IBUKA is working with others to build a different memory.¹⁸⁶ The organization is a vocal advocate to the Rwandan government for the building of memorial sites out of sustainable materials. In this context, IBUKA's main functions are to raise funds, contribute to the planning of memorial centers, and to "build"¹⁸⁷ memory. IBUKA is also working with the government (through the National Commission for the

¹⁸⁵ He was speaking in reference to the violence in 1959-1962.

¹⁸⁶ IBUKA actually keeps its offices in the memorial centre at Nyanza-Kicukiro.

¹⁸⁷ I asked for clarification on this point, but did not get much in the way of an explanation.

Fight Against Genocide (CNLG) and the Kigali Memorial Centre (KMC) to develop the various memorial sites around the country and to design and implement plans for education centers. These centers will ideally exist in memorial sites around the country. Each will contain categorized, site-specific information. For example, the site at Nyamata would present information about what happened to children both at the church specifically and in Bugasera region more generally, organized by age group. Once complete, these centers will be open to all visitors, but they will chiefly target groups of primary and secondary school students.

A particularly important part of IBUKA's memory agenda is their Rescuers Identification project, which aims to document Hutus and others who hid or otherwise saved those being hunted during the genocide. While identifying rescuers is important, it is something that has so far been largely neglected. There was a pilot study of this project done in 2010 in 60 localities. To date, IBUKA has identified and verified 271 rescuers and recorded the testimony of 25. IBUKA is also making a film, which should be released at the end of May. This initiative is potentially very important, as it draws positive light to Hutus who helped others during the genocide. IBUKA hopes that this initiative will serve as an example of unity and reconciliation. Such a program has the potential to ease tensions by breaking the collective associations ascribed with an entire group. While these individuals could certainly be considered exceptions, pointing out and honoring some Hutus as rescuers forces recognition that not all Hutu are guilty for the "crimes committed in [their] name".¹⁸⁸

¹⁸⁸ This terminology bears strong resemblance to that used by political theorist Nenad Dimitrijevic in his book, *Duty to Respond Mass Crime, Denial, and Collective Responsibility* (Budapest: Central European University Press, 2011).

Never Again Rwanda (NAR)¹⁸⁹ has an unusual history in the context of Rwandan NGOs, as it was formed to deal directly with dissent and differences. NAR is a human rights and peacebuilding organization, started in 2002 by three students at National University in Butare. At the time there were students from all different backgrounds: survivors, perpetrators, returnees, passive bystanders (or children thereof) with different ways of thinking about ethnicity. Tensions were starting to rise at the university: hate speech being exchanged verbally and by writing in toilets (messages and responses on stall walls). Students were looking for a safe place to express themselves and share their thoughts.

In 2004, for the 10th Commemoration of the genocide, these students organized events at the university, including a debate competition, music and poetry. At the time, they asked how commemoration can lead to national healing. The students recognized that each person has his or her individual memory of her own past and of why violence occurred, but they also knew it was important to deal with the big picture. How could they contribute as one actor? They opened this question up for debate. The youth took different points of view: some thought it was important to commemorate; others wanted to forget. Commemoration was a national policy in 1995, and adults were not questioning this, but the youth began to exchange ideas. Some only repeated what they heard on the radio, etc., but others expressed critical opinions. Through this, Never Again clubs were formed individually at schools around the country. The clubs would host debates or bring together people of different backgrounds to help people in the community or help an orphan in their class (for example). Over time, the clubs grew up and they still exist today.

¹⁸⁹ NAR's website <http://www.neveragainrwanda.org/index.php/en/> (accessed, most recently, 26 May 2013).

In 2008, these individual Never Again clubs were restructured as an NGO: Never Again Rwanda. The organization has initiatives in four main areas: peacebuilding; governance and human rights; socio-economic development; and research and advocacy. In all of these program areas, NAR runs initiatives aiming to bring young people together to facilitate open discussion, sometimes among themselves and other times with the wider community or government officials. Through this set of programs, they are trying to encourage civic participation and create a safe platform for open discussion. NAR also distributes copies of human rights documents¹⁹⁰ to communities nationwide in English, French, and Kinyarwanda.

NAR also runs an annual Peace Building Institute (PBI), a two-week intensive program which brings together students from all over the world. The PBI employs various formats such as debates, lectures, small group work, and site visits to facilitate student engagement with topics like unity and reconciliation; genocide prevention; transitional justice (critical reflections on *Gacaca*, questioning processes, etc.); good governance, and democracy. This program came from reflecting on the question: How can people learn from Rwanda? According to NAR, the PBI aims for two-way information exchange. It is not only about what Rwanda can teach the world, but also about what the other countries who are part of PBI can share with Rwanda and each other. Through the PBI, NAR is trying to help develop people into global citizens who actually think outside the box. Admission to the institute is currently quite costly, which limits the demographic pool of those who can participate, but NAR is working to make PBI available to everyone regardless of economic status.

¹⁹⁰ Examples of these that I saw in the office were the Universal Declaration of Human Rights, the International Convention on Civil and Political Rights, the Convention for the Elimination of all forms of Racial Discrimination, and the Convention on the Rights of the Child.

NAR also runs a training and internship program for women¹⁹¹ and several youth initiative projects. The various Never Again clubs and student associations come up with their own projects, which are then funded by seed money from the Global Fund for Children. Students are encouraged to devise all types of entrepreneurial efforts, the only requirement being that each has to make a positive contribution to the community in which they are located. Examples of past Youth Initiative projects include pig rearing, chapati stands, and popcorn sales. Any money generated then goes back into the local community.

NAR is also beginning to develop its research and advocacy program. It is intended to provide support by providing “evidence” for other programs in an effort to determine what people actually need and how best to intervene. NAR is also trying to transition to a mixed focus on current issues like youth employment. Ultimately, NAR would like to have its own research and advocacy staff. For now, they largely rely on volunteer research affiliates, who are helpful but might not engage in the topics in the same way, as outside research tend to have their own agenda and focus. The representative emphasized that it is invaluable to be working with such people, but ideally they should be complementary to NAR staff researchers and consultants.

Survivors’ Fund (SURF)¹⁹² is an international NGO, founded by a British citizen of Rwandan origin, who lost many (over 50) members of her family in the genocide. SURF does not offer direct services to survivors or other affected individuals; it is not an implementing

¹⁹¹ At the time of writing, this program had over 156 participants. Each woman goes through an orientation, and then chooses a focus area (e.g., hairdressing, catering, welding, or tailoring). All program participants receive six months of vocational training, and then complete a two to three month internship.

¹⁹² SURF’s website <http://survivors-fund.org.uk/>. Accessed, most recently, 26 April 2013. SURF’s website is a useful resource. In addition to information about their programs and partners, there is a wealth of information about the genocide, including PowerPoint (to be used for fundraising, I’d assume) and reports. There is also a link to something called “An Educator’s Guide to Rwandan Genocide” which apparently comes from some school in Oregon and a report on the proposed reparations program.

organization. Rather, SURF focuses on “holistic programs” with implementing partners, consisting of various “survivor-led” organizations. SURF serves as a catalyst and to facilitate the capacity of organizations to do the work themselves. When they see that a particular group is empowered enough, they change focus to another group. “Survivors Fund (SURF) works with survivor’s organizations to develop and deliver, raise funds and advocate for, monitor and evaluate programs to deliver justice, rebuild the lives and empower survivors of the Rwandan genocide.”¹⁹³

Primarily, SURF raises funds abroad (primarily in the United Kingdom) for partner organizations based in Rwanda. Most, but not all, of these are survivor-focused organizations. *Kanyarwanda*, for example, is a human rights organization that offers support to children born of rape during the genocide. SURF holds regular planning sessions with its partners to assess needs and efficiently tailor their programs, such as those in: health,¹⁹⁴ education,¹⁹⁵ capacity-building,¹⁹⁶ and justice.

The primary focus of their current advocacy and justice program is setting up a reparations program. According to the Legal Program Coordinator, in situations such as exists in Rwanda, there are shortcomings with the classical retributive justice scheme. Under this paradigm, there are no reparations for victims.

¹⁹³ From SURF’s website *supra*, as confirmed by their representative.

¹⁹⁴ For example, SURF works with AVEGA in the clinics and in obtaining anti-retroviral drugs for HIV+ rape victims.

¹⁹⁵ For example, SURF partners with the Association of the Students and Raised Survivors of the Genocide (AERG) to pay school fees and offer support for students not eligible to be covered by government funds.

¹⁹⁶ SURF is currently working with IBUKA to do advocacy for reparative justice and reparations programs.

Chapter 5: Conclusion: Limitations, Implications and Aspirations

In this thesis, I have argued that “victim” is an unclear and problematic designation with potentially substantial consequences. The transitional justice framework, while claiming to be victim-focused, often serves to actually *create* victimhood categories. To examine this problematic, I first undertook a brief analysis of victimhood, followed by an overview of theoretical discussions surrounding transitional justice and a brief look at several mechanisms. In Chapter Two, I discussed the background of the Rwandan genocide, along with the government’s historical narrative and current efforts to “erase” ethnicity. Chapter Three brought the previous sections together, looking at various transitional justice mechanisms put into place in Rwanda after the genocide. In Chapter Four, I discussed the details, results, and limitations of my recent field work in Rwanda.

The Problem of Diasporas

Rwanda is a fascinating but immensely complicated case study. I knew this going in, but I had no idea of the extent to which this is true. In addition to the limitations discussed in my research section, one additional element merits discussion. I had severely underestimated the role of diasporas in both shaping Rwanda’s current history and in understanding the politics of victimhood. To fully understand the dynamics here, one must also know the history and politics of Congo, as well as the role of the returnees from Uganda. Largely this last group is the one with the power in Rwanda now. It is not that the government is Tutsi, it is that it is an elite of Tutsis who grew up in Uganda as a result of ethnic conflict past. Many of these individuals (or at least their parents) were forced to flee Rwanda during the persecution of Tutsi in late 1950s to early 1960s. After the RPF stopped the genocide, these individuals and families finally felt able to return home. Among these returnees was President Paul Kagame, which perhaps makes it

unsurprising that the government narrative currently in place is largely the returnee narrative.¹⁹⁷ In order to get a more balanced picture, I would need to (and hope to) spend more time outside of the capital, and conduct interviews in Kinyarwanda. While many people in Rwanda now speak English as a result of spending decades in Uganda and a shift in education policy, this also largely bore on the information I was able to receive.¹⁹⁸ Diaspora communities are also important element in the context of perceived “continuation” of ethnic violence across Congolese border, which is still perceived as a very real threat in Rwandan media. A more comprehensive project would also include fieldwork in the Democratic Republic of Congo, among Hutu communities there.

A Final Note on Reconciliation

An oft-stated goal of the transitional justice process is the search for reconciliation. However, “reconciliation” is a thorny and unwieldy concept. Practitioners and scholars cannot even seem to agree on whether it is a process, an end goal, or both. The content of reconciliation is even more problematic. Understandings range from (thin) coexistence to (thick) complete forgiveness, covering all matter of things in between. One proposed moderate definition is legal scholar Mark Osiel’s “liberal social solidarity”, which the International Center for Transitional Justice refers to as “civic” reconciliation, based on the idea of respect and civic trust.¹⁹⁹

Harvey Weinstein and Eric Stover, while offering their own loose working definition of reconciliation, recommend caution with the term:

Reconciliation, we suggest, is a murky concept with multiple meanings. Although reconciliation is a lofty and worthwhile goal, our studies have led us to question the validity of this vague assertion, the narrow perspectives of each of the disciplines that

¹⁹⁷ Pottier.

¹⁹⁸ <http://www.guardian.co.uk/world/2008/oct/14/rwanda-france>

¹⁹⁹ ICTJ website *supra*.

study or work with societies after mass violence, and the lack of attention to the opinions and wishes of those whose lives have been so destroyed.²⁰⁰

Arguing that the overuse (and misuse) of such a vague term actually hinders understanding of the reparatory mechanisms in post-conflict societies, Weinstein and Stover offer the terms “social reconstruction” and “reclamation” as more accurate substitutes.

In current discussions relating to the truth commission in Argentina following the estimated 30,000 *desaparecidos* between 1976 and 1983, during the country's “Dirty War”, “reconciliation” has proven so problematic that many advocate abandoning the term altogether.

Finally, the term “reconciliation”, broken down into its component parts, implies resuming a state of conciliation. In most post-conflict societies, this former state of harmony is overstated if not wholly fictitious. Writing about aboriginal communities in Australia, David Mellor and Di Bretherton comment, “the relationship between black and white Australia has never been harmonious, so the idea of restoring the relationship to harmony is misleading, and the term ‘reconciliation’ seems to be something of a misnomer in the Australian context.”²⁰¹

My goal here was not to enter into this debate, merely to illustrate that the concept is contested and unclear. For the purposes of this thesis, however, the particular definition of reconciliation chosen is irrelevant. My focus was on understanding how victims are manufactured by the transitional justice process and the impacts that this has on even the thinnest conception of reconciliation. However, any discussion of transitional justice would be remiss not to at least mention the ambiguities and complications of “reconciliation.”

²⁰⁰ Weinstein, Harvey and Eric Stover. Introduction to *My Neighbor, My Enemy*, ed. Eric Stover and Harvey Weinstein. Cambridge: Cambridge University Press, 2004.

²⁰¹ David Mellor and Di Bretherton, “Reconciliation between black and white Australia: the role of social memory,” in *The Role of Memory in Ethnic Conflict*, ed. Ed Cairns and Mícheál Roe, 37-54 (New York: Palgrave MacMillan, 2003).

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