



## Lessons from Rwanda's Quest for a Just Response to Genocide

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The United States grapples with tough issues of crime and punishment, but the challenges pale next to those faced by the small, poor nation of Rwanda following state-sponsored genocide in 1994. In the wake of atrocity, Rwanda had to bring massive numbers of wrongdoers to justice, even as it tried to restore peace and a measure of trust to shattered communities. When existing judicial institutions became overwhelmed, Rwanda fashioned a new system, adapting traditional community mechanisms of justice and reparation to cope with the modern crisis. Lessons from this experience might help America find new ways to combine punishment and social healing.

### Challenge and Response in Rwanda

The 1994 genocide left Rwanda with over a million citizens dead, millions more displaced, and societal institutions in shambles. Violence had been orchestrated by a group of political leaders who encouraged ordinary Rwandan citizens to participate by forming self-defense groups, spreading propaganda, and instilling fear. After the violence ended, the United Nations created the International Criminal Tribunal for Rwanda to try those deemed most responsible for atrocities. But this tribunal could handle only a fraction of the perpetrators, leaving tiny Rwanda overwhelmed with the reality that upwards of one million of its citizens had committed genocidal crimes. Meanwhile, many survivors had lost their entire families and all of their belongings yet were still expected to live in the same communities with those responsible for their losses.

Four years after the genocide, suspected perpetrators over-filled Rwanda's prisons, with some operating at twice normal capacity. National prosecutions began, but at a pace that would have required many generations to try everyone suspected of committing genocide. What is more, convicting wrongdoers in court was only the first step toward mending societal relations.

With the preexisting courts in crisis, in 2002 Rwanda launched an alternative court system – the National Service of *Gacaca* Jurisdictions – to respond to mass societal participation in the genocide. Not entirely new, the *gacaca* court system was modeled after a traditional mechanism of dispute resolution that Rwandans had been using for centuries. In these traditional courts, locally elected elders served as judges, and hearings were held outside so that all community members could attend and take part.

Like most similar restorative justice arrangements around the world, Rwanda's customary system had previously handled fairly minor offenses and disputes. The new version, by contrast, was commissioned to try accused participants in genocidal violence, people whose crimes ranged from looting their neighbor's home to supervising and inciting mass murder. Still, following tradition, the new trials for genocide took place in the relevant local community, with judges elected by community members.

## Analyzing the Accomplishments of the *Gacaca* Courts

After the courts closed in June 2012, we analyzed *gacaca* data to learn more about how these adapted arrangements operated. We found that they processed an astounding 1,958,634 cases, 86% of which ended in a guilty verdict, prior to appeals. For those convicted, the community courts applied a mix of punitive and restorative sanctions.

People convicted of crimes against property – such as looting a neighbor’s home during the genocide – were typically asked to pay the victim or their family for the damage done. Others came to agreements in which they performed work for victims and communities, like building houses or schools. But people convicted of more serious crimes have faced prison terms ranging from a few months to life. Excluding life sentences, the median sentence imposed was 19 years.

Various mechanisms have tended to reduce sentences, however. Numerous formal sentences allowed reductions of up to one-third of the term. In addition, 29 percent of those given prison sentences were allowed to spend fully half of their terms performing community service. This service is conducted in public-interest work camps, where former perpetrators spend their days constructing roads, erecting schools and homes, planting gardens, and contributing in other ways to rebuilding Rwanda. When we visited such a camp in 2014, we saw a continuing acknowledgment of the genocide’s terrible toll and a future-directed emphasis on preparing inmates for reentry and reintegration into their communities.

### Larger Lessons

By American legal standards, the *gacaca* courts had real shortfalls. Suspicions about fairness flowed from the fact that defendants were not represented by lawyers (even though, realistically, there were too few lawyers to represent even a fraction of the accused). More important, human rights organizations and scholars criticized an overemphasis on confessions, openings for false accusations, and the revival of deep social and personal traumas. Nevertheless, the *gacaca* courts succeeded in doing genuine community-based justice in an extraordinary number of cases.

Although the verdict is still out on whether the trials furthered overall social reconciliation, Rwanda’s efforts may hold lessons for improved justice in U. S. states and communities that rely so heavily on meting out decades-long prison sentences. In the United States, restorative approaches like community service and conferences between victims and offenders have generally been reserved for minor infractions, such as kids breaking windows, rather than being used to deal with offenders convicted of serious crimes. Genocide, of course, differs in many ways from all other forms of crime, including violent robberies and murders. But given that the *gacaca* courts were able to use a mix of carefully calibrated punishments and restorative measures to respond to genocide, this Rwandan example should encourage greater experimentation with hybrid forms in America’s community courts. At least when it comes to felonies and other wrongdoing short of predatory crimes like murder, U.S. justice might benefit from stronger reliance on community-focused restitution and rehabilitation. Wrongdoers would still be appropriately punished, but with less lasting harm to families and communities.

**Read more in Hollie Nyseth Brehm, Christopher Uggen, and Jean-Damascène Gasanabo, “Genocide, Justice, and Rwanda’s *Gacaca* Courts.” *Journal of Contemporary Criminal Justice* 30 (2014): 333-352.**