

The Relevance of Home-Grown Solutions: A Comparative Analogy of Gacaca and Abunzi Mediation in Rwanda

Abraham Tamukum Tangwe

ORCID: 0000-0002-3041-8008

Protestant University of Rwanda, P.O. Box 619, Butare, Rwanda

Gloire Sebuyange Victoire

Protestant University of Rwanda, P.O. Box 619, Butare, Rwanda

Patrick Kofi Benyin

Protestant University of Rwanda, P.O. Box 619, Butare, Rwanda

ABSTRACT

This paper examines the impact of the Gacaca and its contributions to the restoration of justice and reconciliation in Rwanda after the genocide, in relation to the Abunzi committees with the objective of assessing its relevance and why it was disbanded. The rationale is to know how the Gacaca system inspired a series of other home-grown solutions aiming at disputes settlement in a peaceful way, with much emphasis to the Abunzi committees. To attain this, the researchers adopted a qualitative approach using a thematic review through a desk study where a thematic analysis was used to compare and contrast the relevance of Gacaca and Abunzi with content analysis propagated deductively in an iterative manner. The findings indicated that the Gacaca and the Abunzi contributed tremendously to the acquisition of transitional justice in Rwanda as well as eradicating the culture of impunity and dispensing justice to the victims. Moreover, these courts laid the foundation of peace, reconciliation and unity. Perceptively, the Rwandese acknowledged the role of these courts because it exposed what had happened in their local communities and assisted many families to identify their missing family members and relatives thereby enhancing the importance of the sustainability of home-grown solutions. In perspective, this study will create an awareness in establishing a home-grown solution and will act as an addition to the yawning gap of the lack of documents. Members of the Gacaca and the Abunzi should undertake building of their capacity to be schooled in mediation as well as the government should be able to provide resources and trainings to boost their outputs.

Keywords: Gacaca, Abunzi, home-grown solutions, genocide, mediation

INTRODUCTION

This article examines the essence of establishing home-grown solution to handle challenges faced by Rwanda in the aftermath of the genocide. It seeks to explore and understand why the Gacaca was disbanded, and how this ban inspired a series of other home-grown solutions, especially the Abunzi committees. It sets out to explore the strength and weaknesses of both systems and their variance. A decade after the genocide against the Tutsi in Rwanda, 130,000

alleged genocide perpetrators populated Rwanda's prisons (Reyntjens & Vandenginste, 2001; Thibodeu, 2020). Using the justice system that Rwanda had in place, the trial of such a huge number of alleged genocide offenders would have taken over 50 years during which the Rwandan economy would have crumbled as a massive amount of their population was awaiting trial in prison. For this reason, the government of Rwanda chose and established a large-scale justice system known as the Gacaca that was intended to function together with the international tribunal for Rwanda in order to heal the Rwandese people and thrive as a pacesetter (PRI, 2009). Since its inception, the court faced a huge number of critics from different scholars. Some scholars contend that the Gacaca failed to provide equal justice to all the actors involved, (Amnesty International, 2002; PRI, 2009), while others also appreciated the success of the Gacaca (Chakaravarty, 2011; Manyok, 2013). As the Gacaca process reached its end, Abunzi was established to serve a similar role as the Gacaca so as to make justice accessible to the local population of Rwanda focusing more on resolving local disputes among Rwandans. In this paper, the authors are going to present a concise background of the study and a specification of the problem, followed by a review of the available documents and identification of the different themes, the methodology that was adopted, and would end up, with a comparative reflection and recommendations.

Background of the Study

After experiencing periods of hate, mass violence, and dictatorship, many countries have started recognizing the limitations of criminal prosecutions and relied on transitional justice to bring a large number of perpetrators to justice, and promote the country's need for reconciliation (Le Mon, 2007). According to Amnesty International (2002), peace is the most wanted commodity in post-conflict situations, particularly those involving the despicable crime of genocide. In the African context, for example, "traditional conflict management mechanisms have been there before and during colonialism as well as in contemporary Africa" (Musingafi, Mafumbate, & Khumalo, 2019 p. 61). The implementation of home-grown solutions has been undertaken by some African Countries though the effectiveness of some remains questionable, as an approach to reestablishing unity and reconciliation after massive violence has been committed such as; the Ubuntu in South Africa, the Dare tradition in Zambia, the Waijir peace initiative in northern Kenya, the Bashingantahe tradition in Burundi as well as the Baraza Ya Wazee "the forum for the elders" in DRC and many others (Musingafi, Mafumbate & Khumalo, 2019).

Transitional justice, therefore, has been a significant home-grown solution in the Rwandan context. According to Anastase (2015), Rwanda provides extensive lessons in traditional conflict management mechanisms in Sub-Saharan Africa. After witnessing massive violence, atrocities, and other crimes against humanity during the 1994 Tutsi genocide, which resulted in the deaths of about a million people (Le Mon, 2007), the newly established government, the Rwandan Patriotic Front (RPF) established the Gacaca courts, as a traditional community-based justice system designed to address genocide crimes (Brehm, Uggen & Gasanabo, 2014). It was estimated in the late 1990s that trying all 130,000 detained genocide suspects in regular criminal courts would take more than 50 years (Reyntjens & Vandenginste, 2001; Haverman, 2012; Thibodeu, 2020). In addition, the international criminal tribunal for Rwanda (ICTR) was also problematic because it was based in Tanzania, far from Rwanda, and the proceedings were conducted in a language that most Rwandans did not understand (Brouwer & Ruvebana, 2013). This weakened the trust of Rwandese in the justice system at the time. In November 1995, the

Gacaca was mentioned during a National and International Dialogue Conference on Genocide, Impunity, and Accountability in Kigali. The conference rejected the idea of a blanket amnesty to combat the culture of impunity (Karimunda, 2012).

Despite the promise of Gacaca, the legislation establishing the Gacaca jurisdictions failed to guarantee minimum fair trial standards that are guaranteed in international treaties ratified by the Rwandan government (Amnesty International, 2002). Facing other criticisms from many scholars and considered to have accomplished its work, the Gacaca officially closed in 2012 and the Abunzi (local mediators) mandated by the state as a conciliatory approach to resolving disputes have continued its dispute resolution and mediations since its establishment in 2004 (Mutisi, 2011).

Problem Statement and Investigation Question

After the devastating genocide of 1994 against the Tutsi, the researcher's attention on Rwanda sought especially, to understand the operations and the relentless efforts of the Gacaca courts towards the provision of justice to the Rwandans awaiting trials and the succeeding challenges and opportunities that presented itself as a result of adopting this homegrown solution. However, what is possibly missing is the full consideration of why the Gacaca, a successful and efficient homegrown solution that inspired other homegrown solutions in Rwanda was disbanded and later 'revived and vested its spirits in the Abunzi Committee that is still striving for their legitimacy in the Rwanda contemporary society' (Karimunde, 2019. p 127). Hence, this paper intends to shed light on the existing literature and also raised consciousness about the essence of adopting homegrown solutions in conflict-torn countries, and not only in Rwanda, but also in Africa and other third-world countries. Thus, the researchers explored the theme using the following guiding questions; why was the Gacaca outlawed and replaced with the Abunzi? How different or similar were these institutions.

LITERATURE REVIEW

Gacaca

During the 1994 Genocide against Tutsi in Rwanda, a million people were estimated to have been murdered and nearly two million additional civilians, government officials, and soldiers fled to neighboring countries (PRI, 2009). In order to handle and decide punitive measures to be taken against those found to have participated in the aforementioned heinous act of planning and killing the Tutsis, the new Rwandan government, under the tutelage of the Rwandan Patriotic Front (RPF) established a traditional structure called the Gacaca (Prunier 1997, p. 312). The Gacaca, a grassroot level courts system was a combination model of transitional justice pulling its features from the formal retributive justice and as well inspired by the Rwandan cultural heritage (Karimunda, 2012). The Gacaca was not a new concept to Rwandans since it was a traditional conflict resolution mechanism that was used by the Rwandese even before colonization. People sat together and resolve their conflicts and it was chaired by "Inyangamugayo" which means persons of integrity (Tiemessen, 2004). In the aftermath of this tragedy (genocide), there were about 125,000 suspects in Rwandan prisons although the judiciary could handle only a few thousand cases a year (PRI, 2009). In tackling this huge challenge, the Rwandan authorities complemented the mainstream justice system with this ancient form of conflict resolution mechanism (Gacaca) which until then was used to solve disputes within the community and to restore social peace and harmony (Anastase, 2015). The Gacaca courts started operating in 2002 and closed its activities a decade later. They provided

an immediate basis for conflict settlement emphasizing the importance of crime confession and forgiveness (Shyaka, et al., 2016).

Furtherance to this, almost 2 million cases (involving some 1 million perpetrators of the genocide) were handled within practically ten years through the Gacaca. This can be considered as an enormous achievement based on the objectives of Gacaca which included uncovering the truth of what happened during the genocide, addressing a culture of impunity by prosecuting the genocide's perpetrators, reconciling Rwandese and supporting their unity, and proving that Rwandans had the capacity to settle their own problems through a system of justice based on Rwandan custom (see Brouwer & Ruwebana, 2013; Costello, 2016; Businge, 2020).

The Attributes of the Gacaca

Gacaca was a traditional council and tribunals made up of men or elders to resolve conflict, administer justice, promote reconciliation and consolidate social cohesion (Haberstock, 2014). Being communal and participatory, the Gacaca derived its impetus and legitimacy from the unity of Rwandans and cemented the same unity with social cohesion. Members of the Gacaca were called 'Inyangamugayo', or meaning a person of moral integrity, positive role model, and adhering to socio-cultural standards and values (Anastase, 2015). The Gacaca courts were meant to be about 11 thousand, and proceedings were to be held in each cell and sector. The cells were organized in sectors which were subsequently organized into districts (Brouwer & Ruwebana, 2013). In October 2001, elections were held in urban and rural cells to select approximately 255,000 men and women of integrity to serve as Gacaca judges. The judges were endowed with significant responsibilities in order to arbitrate cases of collective violence. Many were illiterate peasants and lack legal experience, but all submitted themselves to local elections and brief legal training to prepare them for the work ahead (Corey & Joireman, 2004).

The Functioning of the Gacaca

An Organic Law of 26 January 2001 set up the "Gacaca jurisdictions", considering the necessity, in order to achieve reconciliation and justice in Rwanda (PRI, 2009). The primary goals of the modern Gacaca system included the acceleration of prosecutions, the punishment of the guilty, freedom for the victims, the establishment of the truth as well as reconciliation between the Hutus and Tutsis (Haberstock, 2014). The Gacaca Courts were initiated by the Government of Rwanda. This implies that its institutions at all levels provided support in one way or another, each institution according to its assigned functions. There were some institutions, which worked closely with the courts and whose contribution was very crucial in helping them to fulfill their mission (Mukantaganzwa, 2012).

The Gacaca tribunals tried crimes that were placed in three categories. The first category included those who had planned the genocide, torturers, rapists, known murderers, and those who committed dehumanizing acts on dead bodies. The second category included those who had committed murder or committed acts with the intent of killing their victim and those who committed violent acts without the intent to kill. The third category was limited to those who committed property offenses (Karimunda, 2019). The first phase of Gacaca included an information-gathering session in each of the communities affected by the genocide. These sessions documented those affected by the genocide, the testimonies of witnesses, and those accused of crimes. Following the information-gathering sessions, the crimes of the accused were then placed into the categorization system designed by the government; this determined

at what level the accused would be tried. Finally, the trials began in the communities affected by the genocide (Haberstock, 2014; Le Mon, 2007). Statistics on Gacaca courts show that from June 2002 to June 2012, there were 12,103 courts countrywide with a total number of 16,442 judges/Inyangamugayo 34.3% of women and 65.7% of men. In total, 1,951,388 cases were tried under Gacaca. Among these cases, 11.5% were of the 1st category; 61.6% represented the second category, and 26.9% of the 3rd category (Shyaka, et al., 2016).

Strengths and Weaknesses of Gacaca

The Gacaca courts has been surrounded by controversy. Many Rwandans believe in the rehabilitating power of the courts and the type of justice that was served. However, many others both Rwandans and non-Rwandans alike have found many flaws inherent in the Gacaca systems despite its achievement, which debilitate its implementation of both reconciliation and justice nationwide (Haberstock, 2014). We use this subchapter to concisely indicate what worked well with the Gacaca and what did not work.

Strengths of the Gacaca:

Establishment of the Truth on Genocide:

According to Businge (2020), the Gacaca courts enforced truth telling as they provided crucial truth for victims' families to be able to bury their loved ones. Participation in the Gacaca thereby brought perpetrators and survivors of the genocide closer together and enabled people to speak out (Brouwer & Ruvebana, 2013). Although the victims' families and the survivors needed justice done, they would not be able to forgive without the truth (PRI, 2009)

Enhancement of Justice and Reconciliation:

The Gacaca trials served to promote reconciliation by providing means for victims to learn the truth about the death of their family members and relatives. They also gave perpetrators the opportunity to confess their crimes, show remorse, and ask for forgiveness in front of their communities (Outreach Program on the Rwanda Genocide and the United Nations, 2014; Karimunda, 2019). Before Gacaca was introduced in 2001, it was argued that Hutu and Tutsi could not even greet each other on the streets without the feelings of anger, fear, and suspicion. Yet, nowadays they can greet one another again, come to each other's rescue in times of need, invite each other into one another homes, attend the same meetings and also intermarry (Brouwer & Ruvebana, 2013).

Local Participation in Justice:

The high degree of popular participation generated a sense of legitimacy among the population which as result brought conflicting groups back together to move the country forward. Rather than focusing solely on punishment, and using professional lawyers, Gacaca provided the population with a central role in the proceedings and outcomes of the entire process (Businge, 2020).

Perpetrators' Reintegration:

Perpetrators have been reintegrated into the mainstream society through dialogue with the victims and the community service often required of them (Haberstock, 2014). Hidden grievances and resentments have also been brought to the surface in order to be approached in such a way that promotes truth and dialogue between victims and perpetrators which serves

as a useful tool for educating the next generation in order to avoid another violent tragedy (Businge, 2021).

Speeding up the Trials:

The Gacaca courts broke the records in terms of speed and quantity. The court system managed to speed-up the backlog of genocide-related cases: 1,958,634 cases of alleged participation in the genocide were processed in a couple of years (Ingelaere, 2014). When asking the interviewees about the goals of Gacaca and its impact overall, *almost all survivors referred to the capability of the Gacaca to speed up the trials (in comparison to ordinary courts) while upholding standards of a fair trial* (Brouwer & Ruwebana, 2013).

Proximity and Female Participation:

Apart from the element of speed, the modern Gacaca system had a number of other striking characteristics that can be highlighted as positive dimensions. Ordinary Rwandans preferred the justice of proximity over the ICTR in Arusha, Tanzania, or the classical tribunals operating at provincial levels (Karimunda, 2019). Despite its problems, the Gacaca courts were both physically and psychologically less distant for the average peasant. Also, the 'old' Gacaca, like Rwandan society as a whole, was dominated by men. While the genocide was equally mainly a male thing, women came to play an important role in the modern version of the Gacaca, both as witnesses and lay judges (Ingelaere, 2014). This indirectly promoted gender respect and according to them diverse roles and responsibilities.

Eradicate the Culture of Impunity:

By establishing the Gacaca, the government of Rwanda contributed to the fight against impunity for international crimes, by holding all suspects of the genocide, a crime prohibited under international and Rwandan law accountable for their conduct (Brouwer & Ruwebana, 2013). With such actions, the government enhanced the implementation of the rule of law and moral responsibility in the Rwandan society.

Taking Charge of Own Problems:

The preamble of the 2004 Organic law presented a phrase motivated by the thought that the genocide in Rwanda was committed by Rwandans against Rwandans and therefore had to be dealt with by the Rwandan people for the Rwandan people (Brouwer & Ruwebana, 2013). This motivation was also due to the fact that the international community famously abandoned Rwanda in 1994, and many Rwandans still resent Western policymakers and the UN for failing to act to prevent or halt the genocide. Given this context, one of the primary objectives of returning to the pre-colonial tradition of Gacaca was to enable communities to solve their problems in a manner consistent with Rwandan culture (Costello, 2016) and well understood by them.

The Defects:

The Gacaca courts were embroiled in a couple of challenges during its implementation like any human enterprise and this included;

Direct Relationship with the Government:

According to Mukantaganzwa (2012), the international non-Government organization of human rights, referred to as "Human Rights Watch" has shown that the Gacaca Courts have

been used politically in cases of those who opposed the current leadership in Rwanda. It was also noted that even though the Gacaca has held thousands of individuals accountable for crimes against humanity, allowing communities to develop accounts of the past, and encouraged a dialogue about what went wrong in 1994, the Gacaca has also been used by the government to assert its authority and to guarantee the dominance of its main constituency (Longman, 2009). It was also indicated that there was no room for criticism. Given these concerns, the absence of political space for criticism of the Gacaca courts was disconcerting. When a member of Rwanda's senate misspoke in response to a legal question about the powers of the Gacaca courts, his statement was made out to be a scandalous attack on the Gacaca courts. Three commissions of inquiry were opened, and the senator faced severe pressure to resign from office (Le Mon, 2007). Elements of the Gacaca system revealed a deeply rooted sense of governmental control in the Gacaca proceedings that undermined restorative efforts within the communities (Ingelaere, 2014). Participation in Gacaca became mandatory and punishable by fines shortly after its conception, revealing the coercion of reluctant citizens into something that the government deemed necessary (Haberstock, 2014).

Lack of Trained Lawyers:

One of the failures of Gacaca was due to the absence of lawyers, despite being clearly forbidden by law. Defendants were therefore deprived of this basic right, under the excuse that having barristers present would disturb non-professional judges who have a limited knowledge of the law. By so doing, the principles of fair trial had been ignored. Defendants were therefore turning up to trials without having any awareness of the evidence against them and without enough time to prepare their defense (PRI, 2009).

Neutrality of Judges:

Rumors circulated regarding judges who took part in criminal activity or who had pent-up anger and could potentially manipulate sentences to enact their own personal vengeance. It was very likely that some judges would face genocide perpetrators who killed or injured their loved ones. But these types of problems were not isolated to judges; for even the witnesses were likely to have some interest in the process beyond ascertaining guilty or innocent (Corey & Joireman, 2004; Brouwer & Ruvebana, 2013).

Failure to Try Soldiers of the RPF Inkotanyi:

The international human rights organization (Human Rights Watch) stated in one of its reports that the Gacaca Courts only tried crimes of genocide against the Tutsi and overlooked crimes committed against Hutu. Those who want to distort the history of Rwanda go further and claim that two genocides occurred in Rwanda; that is, the genocide against the Tutsi perpetrated under the leadership of The National Revolutionary Movement for Development, (MRND) (French: Movement revolutionaries national pour le developement, MRND) and the genocide against the Hutu by the RPF Inkotanyi (Mukantaganzwa, 2012). Gacaca has tended to reinforce ethnic divisions, while the exclusion from Gacaca of crimes committed by the Rwandan Patriotic Front (RPF) and its supporters, which has created an impression of victors' justice (Longman, 2009).

Fear to Testify:

Both victims and perpetrators tend to retreat into silence as in other post-conflict situations and in the aftermath of such serious crimes. This is most noticeable in the victims, who often

find themselves without the resources to deal with the unspeakable, and are left with the horror that they will have to relive enormously painful events since speaking about such things often means reliving them (PRI, 2009). Since Gacaca trials would take place within communities, where potential witnesses could face recriminations for testifying against their neighbors (Longman, 2009), defendants had no legal counsel, and convictions were not based upon physical evidence, but rather upon the testimony of witnesses. Because of the lack of accountability, participants in Gacaca could be able to bear false witness against the accused, and in order to receive lesser sentences, the accused would wrongfully confess to crimes they did not commit to avoid the risk of being convicted for a crime that demands a harsher sentence (Karimunda, 2019). This undermined the pursuit and discovery of truth within the Gacaca proceedings (Haberstock, 2014).

Gacaca's Closure:

The official closure of Gacaca on 18 June 2012 raised some frustrations that cases related to the genocide might still come up when new information is revealed. For instance, in situations where the perpetrator was living in exile and is tracked down or has returned home and is recognized by survivors and witnesses (Brouwer & Ruvebana, 2013). It was also argued that there was a remaining concern of survivors' reparation. As many survivors were awarded compensation (restitution) through Gacaca for their loss or destruction of property during the genocide, but in many cases, they did not receive such reparation from the convicted perpetrators of the genocide or only partly, and the closure of the Gacaca made many survivors who were entitled to reparation from the offender worry that they would never see their right to reparation enforced (Brouwer & Ruvebana, 2013). Hence, another institution surfaced from the ashes of the Gacaca known as Abunzi.

Abunzi

The Abunzi mediation is part of the Rwandan justice system, whose restorative approach helps people to address their conflicts without resorting to litigation and other retributive approaches. Literally translated, the word Abunzi means 'those who reconcile (Rwanda Home Grown Initiatives, ND). The Abunzi are local mediators mandated by the state as the conciliatory approach to resolving disputes, ensuring mutually acceptable solutions to the conflict (Mutisi, 2011). Before seeking justice in local courts, mediation by the Abunzi is obligatory for local-level disputes, criminal cases, and civil cases, whose property value is below 3 million Rwandese francs (news accord). Like their counterpart institution of Gacaca courts, which has tried more than 1 million cases of genocide, the Abunzi system was inspired by Rwandan traditional dispute resolution systems that encourage local capacity in the resolution of conflicts (Mutisi, 2011).

The Attributes of the Abunzi:

Being one of the Rwandan home-grown solutions, the mediation Committees (Abunzi) in traditional Rwanda, were individuals known within their communities for their personal integrity and were asked to intervene in the event of a conflict. As per efforts to reconstruct Rwanda after the Genocide of 1994, the judicial system was reformed and Mediation Committees (Abunzi) were reintroduced in 2004 (Rimé et al., 2011). It is a hybrid form of justice combining traditional with modern methods of conflict resolution. The idea to bring back this form of justice delivery was motivated in part by the desire to reduce the backlog of

court cases, as well as to decentralize justice and make it more affordable and accessible for citizens seeking to resolve conflict without the cost of going to court (Mugisha & Pinet, 2016).

Function of the Abunzi:

Abunzi are democratically elected by members of their community in their cell or sector every five years on the basis of personal integrity. Additionally, and exclusively to Rwanda, there is a possibility of appealing a mediator's decision to the court level leaving an alternative for unsatisfied parties in conflict (Mugisha & Pinet, 2016). As in all, decisive bodies in the state, at least one-third of the Abunzi must be women. Rwanda has 2,150 cells across the country within 30 districts and a total of 32,400 Abunzi committee members. As for the competence of the Abunzi, in principle, the Abunzi are only competent to hear a conflict when the persons involved live in the territory of the Abunzi committee (Haverman, 2012). Abunzi committees are responsible for mediating disputes regarding enumerated topics determined by law before a party is able to file a suit in a court of the first instance. Abunzi are responsible for conciliating parties involved in disputes under their jurisdiction. Each Abunzi committee is comprised of members of local communities who are highly regarded as skilled at mediation and are of high integrity. Their work was on a voluntary basis and they receive no remuneration (The Legal Aid Forum, 2017). Abunzi mediation sessions are open to family members of the disputants, as well as members of the public. During Abunzi sessions and meetings, there is often a great deal of evocation of the notion of 'oneness' or the concept of abanyarwanda (Rwandan-ness), as opposed to being Hutu, Tutsi or Twa (Musingafi, Mafumbate & Khumalo, 2019)

Strengths and Weaknesses of Abunzi

Though there is limited literature about the Abunzi committees, it has been noted that the Abunzi mediation has contributed a lot to addressing disputes and conflicts in the Rwandan community and thus contributed to the success of transitional justice in Rwanda together with other home-grown solutions including Gacaca, Umuganda (community work), Ubudehe (a Rwandan practice and cultural value of mutual assistance among people living in the same area in order to overcome or solve their socio-economic problems) and so forth. According to Shyaka et al., (2016), the legacy of community justice has been taken up through the establishment of Abunzi committees (mediators committees) at all cell and sector levels of the local government administration; thus, reducing the backlog of court cases and making justice more affordable and accessible for citizens. Likewise, the Ministry of Justice reports, praise Abunzi for successfully handling 97.8% of the total cases reported to Abunzi in the fiscal year (Ministry of Justice, 2019).

However, the volunteer aspect of mediation has had an impact on the prioritization of tasks for which mediators especially women are responsible. In addition to this, female mediators "husbands are often not supportive and complain that their wives are working for free without any payment or compensation. However, the Government of Rwanda covers the Health Insurance scheme "Mutuelle de Santé" for every committee member and four members of the recipient's family. A number of Abunzi members benefitted from the wider impact of their work amongst their community in terms of social cohesion (Mugisha & Pinet, 2016). Another weakness of Abunzi is that mediators are volunteers chosen based on their integrity and ability to reconcile, but they generally have no advanced knowledge. Most of them have not necessarily been trained on the laws and processes that they are supposed to apply (Winne, 2015).

METHODOLOGY

The content of this paper is based on information collected through a desk review of the available documents relevant to the Gacaca and the Abunzi mediators as well as from sharing with an expert in the area of study and from web searches of articles and news reports about Gacaca and the Abunzi mediators. In light of the above, a qualitative research approach, and its techniques have been used to identify the different themes of this study. The literature review was gathered through a secondary source where scholars' publications, seminar papers, journals, textbooks, and periodicals on Gacaca and the Abunzi mediators and other related documents have been reviewed.

The data analysis was structured into precise themes by the researchers through the use of content verification using deductive-iterative techniques to gain more insights into the focal point of the study and to crosscheck any deviance. From the findings a thematic analysis was used to compare and contrast the relevance of Gacaca and the Abunzi mediation committee and the dis-continuation of the functioning of the Gacaca as an important homegrown solution. Key references were tentatively checked and indicated to ensure the validity and credibility of the review.

DISCUSSION

This paper examined the Gacaca and Abunzi in a comparative manner in its mission after the unfortunate genocide of 1994. It sought to understand the motivation why the Gacaca, a reputable homegrown solution that served to strenghtening justice and reconciliation in the aftermath of the genocide against the Tutsi was disbanded and replaced with Abunzi committee despite its explicit achievements. It adopted the qualitative approach with a secondary documentary examination of information through content analyses with data collected through a thematic analysis of ascertained facts. The data analysis adopted the thematic insights to appreciate the fate of the Gacaca and it ultimate replacement with the Abunzi.

From the findings of the desk review and or documentary analysis, the Gacaca and the Abunzi indicated glaring similarities in their missions though with some significant differences. It was noted that the Gacaca Courts tried about 2,000,000 genocide related cases within a period of 10 years: a feat, which no criminal courts in the world has been able to attain such amount of cases within a decade. It could therefore be underscored that the Gacaca was a successful home grown solution, worthy of emulation in conflict situations despite its defects. The actions of the Gacaca hugely contributed to the eradication of the culture of impunity and dispensation of justice to the victims. Also, the implementation of Gacaca system was essential because it provided a unique and contextually relevant approach to achieving justice, truth, and reconciliation in post genocide Rwanda. It involved local communities, promoted healing and facilitated the rebuilding of a fractured society. Moreover, the Abunzi committee system in Rwanda is essential because it promotes a restorative approach to conflict resolution, combines traditional and modern methods, ensures democratic and inclusive participation, reduces case backlogs, demonstrates success in handling cases, and has a positive social impact and making justice more affordable and accessible for citizens. We proceed to discuss in a comparative manner, the Gacaca and the Abunzi committee and present an overview, why it was essential for the implementation of such home grown solution as a way out.

The Outstanding Contribution of the Gacaca and the Abunzi

From the findings of this paper, both the Gacaca courts and the Abunzi have had a remarkable contribution to transitional justice in Rwanda. For the Gacaca courts, it hugely contributed to the eradication of the culture of impunity and the dispensation of justice to the victims. Among the cases mentioned above, 1,320,554 concerned properties were destroyed or damaged while 638,080 were cases related to crimes committed against persons. The courts were and remained credited with laying the foundation for peace, reconciliation, and unity (see Businge, 2020). Many Rwandans agree that it has shed light on what happened in their local communities during the 100 days even if not all of the truth was revealed. It helped many families find relatives' bodies that they could finally bury with dignity. The Gacaca Courts process confirmed the resilience, self-confidence, and hope in Rwandese capacity to solve their own problems (Karimunde, 2019; Businge, 2020). As presented by Businge (2020), the Centre for Conflict Management of the National University of Rwanda (CCM) carried out the research to determine the extent to which the Gacaca Courts attained its five set objectives and came up with the following results: Finding out and disclosure of the truth about Genocide, 83.5%, speeding up of genocide trials, 87%, putting an end to the culture of impunity, 86.4%, strengthening unity and reconciliation, 87.3%, and demonstrating the capacity of Rwandans to resolve their own problems: 95%.

The Abunzi committees on the other hand contributed in reducing the multiple court cases and making justice more affordable and accessible for citizens (Shyaka, et al., 2016). Unlike Gacaca, the Abunzi committees focused more on local disputes rather than trying genocide cases. It is obvious that the Gacaca courts were at the center of transitional justice in Rwanda in the post-genocide period, but it is crucial to mention that Abunzi would also be considered a success story of transitional justice despite the fact that the Gacaca stood out distinct. Similarly, the Abunzi mediation system adopted a restorative approach to conflict resolution, focusing on reconciliation and mutually acceptable solutions rather than litigation and retribution. It allowed people to address their conflicts without resorting to formal courts, promoting community cohesion and social harmon. While the Gacaca system aimed to establish the truth about the genocide and promote reconciliation. Moreover, the Gacaca system drew upon Rwanda's pre-colonial tradition and was designed to address the country's problems in a manner consistent with Rwandan culture. This approach resonated with the population, as it allowed them to take charge of their own issues and find solutions rooted in their own traditions and values.

Overall, the implementation of both the Abunzi committee and the Gacaca system was essential in addressing the challenges of the justice system in Rwanda, promoting community participation, reconciliation, and providing accessible and contextually relevant justice for the population. Hence, the importance of homegrown solutions in Rwanda would probably consider both Gacaca and the Abunzi as success stories in spite of the challenges each of them may have faced during implementation.

The Fundamental Role of Homegrown Solutions

This argumentation reiterates previous studies in terms of reporting the "relevance and the strength of the Gacaca court" (Businge, 2020; Karimunda, 2019), and why it should have been upgraded and strengthened (Haberstoch, 2014; PRI, 2009). It also contributes to the existing literature on the Abunzi that emphasizes the need of appropriating it (Mutisi, 2012; Mugisha &

Pinet, 2016). Through examining the findings, this paper shedded light on the significance of adopting and strengthening a conflict resolution approach that originated within the context of mediating and settling disputes in the aftermath of war.

Mediation has been somewhat an effective way to solve disputes in many different parts of the world; for example, in 1975 conflict between Israel and Egypt was settled through mediation (Nyataya, 2020). The aforementioned states chose to seek peace through cooperation by abandoning the use of force and the mediation that was orchestrated by the former American Secretary of States, Henry Kissinger monumentally successful. In 1993, Nelson Mandela, the late President of the Republic of South Africa also helped resolve the political conflict experienced in Burundi as consequence of the assassination of the first democratic elected president of the Republic of Burundi, through mediation means as Abdullah (Nyataya, 2020) pointed out. In Kenya, the 2007 electoral crisis and its consequences were put to rest through appropriate mediation approaches led by Kofi Annan, the former UN General Secretary, who, advocated for the formation of Government of National Unity (Nyataya, 2020). In some African countries having gone through violent conflicts or serious human rights violation, traditional institutions, such as the dare in Zimbabwe, Abunzi and the Gacaca courts of Rwanda, and the “bashingantahe” in Burundi, have played a significant role in conflict and disputes’ resolution.

In Rwanda, the 1994 genocide against the Tutsi was one of the worst human rights violations in history, but the implementation of home-grown solutions mainly the Gacaca courts and the Abunzi mediation have played a remarkable role in strengthening justice and reconciliation in Rwanda. Despite the challenges faced by each of these institutions, each of them still delivered services in accordance with its objectives. On the one hand, the Gacaca system contributed to the foundation for peace, reconciliation, and unity in Rwanda through its ability to process a huge number of cases in a short period. It helped survivors and perpetrators to live peacefully and was participatory and accessible to local people. On the other hand, the biggest achievement of the Abunzi was reducing the backlog of court cases and making justice more affordable and accessible for citizens. In this context, other countries especially those in Sub Sahara Africa going through violent conflicts have a lot to learn from Rwanda with regard to transitional justice as one of the most effective ways to deal with mass atrocities as well as enhancing justice and reconciliation the country.

Similarly, it was pointed out by Mutisi (2011), that certain challenges may prevent the complete application of traditional institutions of conflict resolution in African societies despite their utility. Though, traditional African institutions have limitations that necessitate reforms, particularly in their convergence with modern political systems and their involvement of various actors on the socio-political stage, it is crucial to mention that they are peculiar and useful in the African context, and society cannot function effectively without such institutions. One challenge is that in some instances, traditional institutions are politicized and instrumentalised by elites for a variety of reasons. Considering the Rwandan context, home grown solutions are culturally owned approaches translated into sustainable development programs to manage challenges that Rwanda faced after the 1994 genocide against the Tutsi. The homegrown solutions are based on national heritage, and historical consciousness and strive for self-reliance (Shyaka et al., 2016). Therefore, these homegrown approaches are deemed for embracing this kind of approach in the face of human rights violations.

CONCLUSION

In this study, a comparative examination of the Gacaca and the Abunzi was undertaken to identify their importance as a cultural and historical legacy used in stemming the tides of the genocide of 1994 against the Tutsis in Rwanda and the search for sustainable restorative justice, peace, and reconciliation. From the preceding analogy, the Gacaca and the Abunzi played key and outstanding roles in the restoration of retributive justice, social peace, and reconciliation in the context of Rwanda (marimonda, 2019; Tiemessen, 2004; Mutisi, 2011) despite their defects. The two institutions were birthed out of the Rwandan cultural and traditional systems that encourage conflict resolution and transformation though having different appellations, and the line separating them was very thin but from the workings of the two institutions, the performance of the Gacaca outpaced the Abunzi and hence, closing it down was ill-advised for obvious reasons. It is important to note that each context in the sub-Saharan African countries has a peculiar cultural approach to conflict resolution but the Rwandan Gacaca approach should have been valorised to serve as a pacesetting approach to her peers with similar problems.

Recommendations

To Abunzi Mediators:

The committee needs to show commitment and interest in the work they are doing despite receiving a little incentive.

The committee should seek means and access to get the necessary training for mediationPublic education needs to be done on the essence of Abunzi and their role in participating in it.

To the Gacaca Judges:

The Gacaca trials would have conformed to the international standards of fairness so that the government's efforts to end impunity, and the trials themselves, would be more effective.

To The Government of Rwanda:

Strengthen the work of the Abunzi mediator Committee by providing them with sufficient logistical support, trainings and transport means to allow them to go to the field more regularly and institutionalize interactions.

Create mechanisms for ensuring a hybrid functioning of the Abunzi committee between endogenous methods and modern systems of conflict resolution.

Make totally independent home-grown solutions, and it should not be influenced by the government.

To the International Community:

Continue to assist the Rwandese judiciary through the provision of material and human resources, including legal experts at all levels to supplement existing national resources and to help improve their competence, independence and impartiality; Examine ways of providing increased support for local human rights organizations.

ACKNOWLEDGEMENT

We would like to express our heartfelt gratitude to Dr. Abraham Tangwe for his invaluable support and contributions as the first author of this paper. Dr. Tangwe's expertise and guidance have been instrumental in shaping the research, analysis, and overall quality of this work. We are truly thankful for his dedication and support throughout the process. We would also like to express our sincere gratitude to the Rwandan people and thank the various stakeholders who participated in our study and provided crucial insights into the workings of Abunzi and Gacaca systems.

References

Amnesty International. (2002). *Gacaca: A question of justice*.

Anastase, S. (2015). *Home grown mechanisms of conflict resolution in Africa's Great Lakes Region*. Kiali: Centre for Conflict Management.

Boege, V. (2006). *Traditional approaches to conflict transformation: potentials and limits*. Berghof: Constructive Conflict Management.

Brehm, H.N., Uggen, C., & Gasanabo, J.D. (2014). Genocide, Justice, and Rwanda's Gacaca Courts. *Journal of Contemporary Criminal Justice*, 30(3) 333–352. doi:10.1177/1043986214536660

Brouwer, A. L. M., & Ruvebana. (2013). *The Legacy of the Gacaca Courts in Rwanda: Survivors' Views*. International Criminal Law Review,.

Businge, J. (2014). *National Legal Aid Policy*. Kigali: Ministry of Justice.

Businge, J. (2020). Rwanda's Experience with Transitional Justice: The Case Study of Gacaca Court. *Republic of Rwanda*. Kigali: Ministry of Justice.

Businge, J. (2021). Genocide Denial and the Road to the Unity and Reconciliation. *Republic of Rwanda*. Kigali: Ministry of Justice.

Chakaravarty, A. (2011). Gacaca courts in Rwanda: Explaining divisions within the human rights community. *Yale Journal of International Affairs*.

Clapham, C. (2012). Gacaca: A Successful Experiment in Restorative Justice? Retrieved from <https://www.e-ir.info/2012/07/30/gacaca-a-successful-experiment-in-restorative-justice-2/>

Corey, A., & Joireman, S. F. (2004). Retributive justice: The Gacaca courts in Rwanda, African Affairs. *Africa Affairs*, 103(410), 73-89. Retrieved from <https://doi.org/10.1093/afraf/adh007>

Costello, E. M. (2016). *Justice for Whom? The Gacaca Courts and Restorative Justice for Survivors of Sexual Violence in Rwanda*. University of Michigan.

Gabisirege, S. & Babalola, S. (2001). *Perceptions about the Gacaca lwa in Rwanda: evidence from a multi-method study*. Johns Hopkins University School of Public Health & Center for Communication Programs.

Haberstock, L. (2014). An Analysis of the Effectiveness of the Gacaca Court System in Post-Genocide Rwanda. *Global Tides*, 8. Retrieved from <https://digitalcommons.pepperdine.edu/globaltides/vol8/iss1/4>

- Haverman, R. H. (2012). *The Rule of Law in Rwanda: Prospects and Challenges*. HiiL Rule of Law Quick Scan Series . HiiL.
- Ingelaere, B. (2014). The Gacaca Courts in Rwanda: Contradictory Hybridity. Retrieved from <https://www.e-ir.info/2014/05/04/the-gacaca-courts-in-rwanda-contradictory-hybridity/>
- Karimunda, A. M. (2019). Gacaca Courts and the Abunzi Mediation Committees: the Journey to Justice and Peace Consolidation in Post Genocide Rwanda. In T. Gatwa, & D. Mbonyinkebe (Eds.), *Home-Grown Solutions Legacy to Generations in Africa* (Vol. 1, pp. 123-161). Geneva: Globethics.net.
- Le Mon, C. J. (2007). Rwanda's Troubled Gacaca Courts. *14*(2). Retrieved from https://digitalcommons.wcl.american.edu/hrbrief?utm_source=digitalcommons.wcl.american.edu%2Fhrbrief%2Fvol14%2Fiss2%2F4&utm_medium=PDF&utm_campaign=PDFCoverPages
- Longman, T. (2009). An Assessment of Rwanda's Gacaca Courts. *Peace Review*. doi:10.1080/10402650903099369
- Manyok, P. (2013). Gacaca Justice System: Rwanda Quest for Justice in the post Genocide Era . Ministry of Justice. (2019). *ANNUAL REPORT OF ACTIVITIES 2018/2019 FISCAL YEAR* . Kigali: Republic Of Rwanda.
- MUGISHA, T., Pinet, T., (2016). Strengthening citizen participation around sensitive issues in order to prevent conflicts in the Great Lakes Region: The role and place of women in mediation in Gisagara District, Rwanda. *Project "Terre d'Entente"* .
- MUKANTAGANZWA, D. (2012). *Gacaca Courts in Rwanda*. Kigali: National Service of Gacaca Courts.
- Musingaf, M. C., Mafumbate, R., & Khumalo, T. F. (2019). Traditional conflict management initiatives in Africa: Wellness models for southern Africa and the Zimbabwean crisis. *Journal of Culture, Society and Development*, 60-67.
- Musingafi, M.C., Mafumbate, R., & Khumalo, T.F. (2019). Traditional conflict management initiatives in Africa: Wellness models for southern Africa and the Zimbabwean crisis. *Journal of Culture, Society and Development*, 47. doi:10.7176/JCSD
- Mutisi, M. (2012). The Abunzi Mediation in Rwanda: Opportunities for Engaging with Traditional Institutions of Conflict Resolution. *Policy & Practice Brief Knowledge for durable peace* (012).
- Nyataya, I. P. (2020). Conflict Mediation Committees Spurring Development of. *International Journal of Research in Sociology and Anthropology (IJRSA)*, 6(1, 2020, PP 19-30). Retrieved June 26, 2022, from <http://dx.doi.org/10.20431/2454-8677.0601003>
- Outreach Program on the Rwanda Genocide and the United Nations. (2014). *The Justice and Reconciliation Process in Rwanda*.
- PRI. (2009). *The Contribution of the Gacaca Jurisdictions to Resolving Cases Arising from the Genocide; Contributions, limitations and expectations of the post-Gacaca phase*. PRI London & PRI Rwanda. Retrieved from www.penalreform.org
- Prunier. (1997).
- RDI. (2008). Women and Vulnerable In Land Dispute Management: A Plan to Ensure that they Fully Participate. (U. S. Development., Ed.)

Reyntjens, F., & Vandeginste, S. (2001). Traditional approaches to negotiation and mediation: examples from Africa: Burundi, Rwanda, and Congo. In L. Reyhler, & T. Paffenholz (Eds.), *Peacebuilding: A Field Guide*. London: Lynne Rienner Publishers.

RIMÉ, B., KANYANGARA, P., YZERBY, V., & PAEZ, D. (2011). *The impact of Gacaca tribunals in Rwanda: Psychosocial effects of participation in a truth and reconciliation process after a genocide*. *European Journal of Social Psychology*. doi: 10.1002/ejsp.822

Rwanda Home Grown Initiatives. (ND). *Abunzi Overview*. Retrieved from Rwandapedia: <https://rwandapedia.rw/hgs/abunzi/overview>

Shyaka, A., Kamikazi, S., Murwanashyaka, J., & Mulindwa, A. (2016). National Umushyikirano Council: A Decade of Delivering Democracy and Development to Rwandans. 2003 - 2014. *Inama Y'igihugu Y'umushyikirano*. Rwanda Governance Board (RGB).

Sosnov, M. (2007). The Adjudication of Genocide: Gacaca and the Road to. *Denver Journal of International Law & Policy*, 36(2).

The Legal Aid Forum. (2017). *ICT for Justice: Citizen Feedback on Justice and Legal Services in Rwanda Through ICT Platforms*. Retrieved from <http://www.legalaidrwanda.org/>

Thibodeau, M. (2020). Analyzing the Social Impact of Gacaca Courts in the Reconciliation Process in Rwanda. *Independent Study Project (ISP) Collection*, 3376.

TIEMESSEN, A. E. (2004). After Arusha: Gacaca Justice in Post-Genocide Rwanda. *African Studies Quarterly*, 8(1).
Winne, R. D. (2015). De la Conciliation Au Rwanda : Concepts et Realites de la Justice Abunzi (2011-2014). *La Justicede Proximité Au Rwanda*.