



Transitional Justice and DDR: The Case of Rwanda

Lars Waldorf

Research Unit
International Center for Transitional Justice

June 2009

Transitional Justice and DDR Project

This research project examines the relationship between disarmament, demobilization and reintegration (DDR) programs and transitional justice measures. It explores the manifold ways in which DDR programs may contribute to, or hinder, the achievement of justice-related aims. The project seeks not only to learn how DDR programs to date have connected (or failed to connect) with transitional justice measures but to begin to articulate how future programs ought to link with transitional justice aims. The project is managed by Ana Patel, Deputy Director of the Policymakers and Civil Society Unit at the ICTJ. For more, visit www.ictj.org/en/research/projects/ddr/index.html.

Acknowledgements

The International Center for Transitional Justice (ICTJ) wishes to thank the Federal Public Service of Foreign Affairs of the Government of the Kingdom of Belgium, the Ministry of Foreign Affairs of the Republic of Finland, the Ministry of Foreign Affairs of the Kingdom of the Netherlands, and the Ministry for Foreign Affairs of the Kingdom of Sweden, whose financial contributions made this research project possible.

About the Author

Lars Waldorf is Lecturer and Director at the Centre for International Human Rights, Institute of Commonwealth Studies, University of London. He ran Human Rights Watch's field office in Rwanda from 2002-2004 and reported on genocide trials at the International Criminal Tribunal for Rwanda for *Diplomatie Judiciaire* in 2001. He is co-editor of *Localizing Transitional Justice* (Stanford University Press, forthcoming 2010). He has authored numerous book chapters, journal articles and reports, including: "A Justice 'Trickle-Down': Rwanda's Former President on Trial" in *Prosecuting Heads of State* (Cambridge University Press, 2009); "Revisiting 'Hotel Rwanda': Genocide Ideology, Reconciliation, and Rescuers," *Journal of Genocide Research* (March 2009); and "Mass Justice for Mass Atrocity: Rethinking Local Justice as Transitional Justice," *Temple Law Review* (August 2006). He is writing a book on Rwanda's community genocide trials (*gacaca*) with generous support from the United States Institute of Peace. He previously worked as a civil rights lawyer in the United States from 1990 to 2000.

About ICTJ

The International Center for Transitional Justice assists countries pursuing accountability for past mass atrocity or human rights abuse. ICTJ works in societies emerging from repressive rule or armed conflict, as well as in established democracies where historical injustices or systemic abuse remain unresolved. To learn more, visit www.ictj.org.

© International Center for Transitional Justice 2009. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without full attribution.

Table of Contents

Introduction	4
Historical Background	5
War and Genocide	5
Civil War and Genocide: 1990–1994.....	5
The Congo Wars: 1996–1997, 1998–2003.....	6
Insurgency in Northwest Rwanda: 1997–1999, 2001	8
FDLR Rebels in Congo.....	8
Rwanda’s DDR Efforts	8
Stage I DDR: 1997–2001	9
Stage II DDR: 2002–2008.....	10
Disarmament and Demobilization	10
Reintegration	11
Demobilization of Child Soldiers	12
RPF Child Soldiers.....	12
Child Soldiers from the ALIR Invasion	12
Child Soldiers from the Armed Groups in Congo	13
The Persistence of Armed Groups in Congo	14
Rwanda’s Transitional Justice Efforts	15
Institutional Reform and Vetting	16
Reparations	17
Prosecutions.....	18
The International Criminal Tribunal for Rwanda (ICTR)	18
National Prosecutions	19
National Courts	19
Local Community Courts (Gacaca).....	20
DDR and Transitional Justice Linkages	21
Screening Ex-Combatants	22
Genocide Reparations and Demobilization Payments	23
Gacaca and Reintegration of Ex-FAR: Upsetting Settled Expectations?	24
Gacaca and the Return of FDLR Combatants.....	26
Conclusion	26

Introduction

Disarmament, demobilization and reintegration (DDR) programs generally reassure former combatants that they will be reintegrated, not punished. Post-genocide Rwanda provides a remarkable counterexample, where DDR has largely succeeded despite the ongoing threat of criminal prosecution. Most of the combatants who fought on the side of the genocidal forces have been demobilized and reintegrated over the last twelve years. In 2002, Rwanda launched the most ambitious transitional justice measure ever attempted: 11,000 community courts (*gacaca*) to try lower-level genocide suspects. Nearly 800,000 Rwandans—one-fifth of the adult population—have been accused before these courts, including some high-ranking officers who were integrated into the new military.

When I conducted fieldwork for this paper,¹ I expected to find *gacaca* disrupting the demobilization and reintegration of combatants who had fought on the side of the genocidal forces in several ways. First, genocide survivors, who have yet to receive any government reparations, might level accusations against demobilized combatants, who had received relatively generous DDR packages. Second, *gacaca* might undermine the fairly successful reintegration of those combatants. Finally, *gacaca* might dissuade armed combatants in Congo still fighting under the former genocidal leadership from disarming and repatriating. To my surprise, these anticipated, negative effects of *gacaca* did not appear to be happening.² None of the people I interviewed had heard about *gacaca* accusations against demobilized ex-combatants. None of the reintegrated ex-combatants I interviewed expressed any concerns about being accused in *gacaca*. None of the newly returned ex-combatants from Congo I interviewed saw *gacaca* as a disincentive to come back.

This paper begins with a historical overview of Rwanda's internal and external conflicts since 1990. It next looks at Rwanda's highly successful demobilization and reintegration efforts, with particular attention given to former child soldiers. After that, the paper turns to transitional justice, examining the role of institutional reform, reparations, international prosecutions, national prosecutions and *gacaca* courts in promoting accountability and reconciliation in the aftermath of genocide. Finally, it examines the impact of genocide justice on DDR in the absence of formal linkages.

Historical Background

In Rwanda, the majority Hutu and minority Tutsi are complicated, socially constructed ethnic identities: both groups speak the same language, share the same culture, practice the same religion, live together and often intermarry.³ The Belgian colonialists treated Hutu and Tutsi as distinct races, viewed the Tutsi as racially superior and favored the Tutsi elite who had governed the precolonial kingdom. In 1959, three years before independence, the Belgians suddenly sided with the Hutu majority and condoned anti-Tutsi violence that drove approximately 400,000 Tutsi into exile. The postindependence Hutu regimes institutionalized anti-Tutsi discrimination and conducted periodic massacres against Tutsi in response to perceived threats to their hold on power.

War and Genocide

Civil War and Genocide: 1990–1994

The Rwandan Patriotic Front (RPF), a rebel movement dominated by Tutsi exiles in Uganda, invaded Rwanda in October 1990, setting off a civil war that lasted almost four years. The RPF demanded political power sharing and the right of return for all Tutsi refugees (then numbering almost one million). At the same time, President Juvenal Habyarimana's sclerotic authoritarian regime came under increasing pressure from the international community and domestic Hutu opponents to move from a one-party state to a multiparty democracy. In response to these political threats, Habyarimana and his allies militarized Rwandan society, massacred Tutsi civilians and stoked fear among the Hutu peasantry that returning Tutsi refugees would dispossess them of their land. They also demonized Tutsi civilians and the Hutu democratic opposition as *ibitsyo* (accomplices) of the RPF.

In July 1992, the RPF and Rwandan government (which, by then, included Hutu democrats) signed a cease-fire and, a month later, signed the first of several peace agreements (collectively known as the Arusha Peace Accords). After a series of massacres of Tutsi civilians, the RPF violated the cease-fire in February 1993 by making a large-scale attack in northwest Rwanda that displaced hundreds of thousands of people. The Rwandan army [*Forces Armées Rwandaises*] (FAR) was only able to halt the RPF advance with French military support. Peace talks resumed and the final agreement was signed in August 1993, but only after international donors threatened Habyarimana that his continuing obstructionism would lead to a cutoff in foreign assistance.

The Arusha Accords created a broad-based transitional government that left Habyarimana in place, but shared power with the RPF and the internal opposition. It also called for a UN peacekeeping

mission (which was known by its acronym, UNAMIR). Still smarting from the Somalia debacle, the UN Security Council approved only a small and underfunded force of some 2,500 peacekeepers, drastically limited their mandate and eliminated their responsibility for disarmament altogether. Under the Accords, the RPF was to be integrated into a new national army numbering 19,000 soldiers and 6,000 national police. Command posts were to be shared equally down to the battalion level and the RPF was to provide 40 percent of the soldiers.⁴ That meant the FAR (30,000 soldiers) and the RPF (20,000 fighters) would each have to demobilize half their forces. Facing retrenchment, numerous Rwandan army officers and soldiers opposed the peace agreement.

On April 6, 1994, unknown assailants shot down Habyarimana's plane, killing all on board. Hutu extremists seized control of the state and launched an extermination campaign against the Tutsi. They incited genocide by deploying racist stereotypes of Tutsi as "Ethiopians" who wanted to reimpose a feudal monarchy and dispossess the Hutu majority. Using hate media, they also painted all Tutsi civilians as a "fifth column" of the RPF. By July 1994, at least half a million Tutsi, as well as thousands of Hutu, had been slaughtered in the world's fastest genocide.⁵

The Congo Wars: 1996–1997, 1998–2003

The genocide ended in July 1994 with the military victory of the RPF. The genocidal government, extremist Hutu militia (*Interahamwe*) and defeated army fled to Zaire, taking more than a million Hutu refugees with them. The genocidal forces then used the refugee camps in Zaire to launch attacks on Rwanda. The international community failed to purge armed combatants and *genocidaires* from the refugee camps or to move the camps away from the Rwandan border.

Zaire's longtime dictator, Mobutu Sese Seko, who had had close ties to Habyarimana, supported the Rwandan Hutu rebels. The Zairean government stripped Congolese Rwandophones of their citizenship in 1995 and the governor of South Kivu ordered their expulsion in October 1996. Congolese Tutsi called on Rwanda for help, and Rwanda invaded Zaire in October 1996 in coalition with Uganda, Angola and Laurent Desire Kabila's rebel Alliance of Democratic Forces for the Liberation of Congo-Zaire [*Alliance des Forces Démocratiques pour la Libération du Congo-Zaïre*] (AFDL). Those forces toppled Mobutu in May 1997 and installed Kabila as president. During that war, the Rwandan army destroyed the refugee camps in eastern Zaire, killing tens of thousands of Rwandan Hutu and Congolese civilians and forcibly repatriating hundreds of thousands of Hutu refugees to Rwanda.⁶

Kabila turned against his Rwandan sponsors in 1998. He ordered all foreign soldiers out of the country and began threatening the Congolese Tutsi community. In response, Rwanda sponsored an anti-Kabila rebellion in August 1998, which was led by the Congolese Rally for Democracy [*Rassemblement Congolais pour la Démocratie*] (RCD). Once again, Rwanda invaded Congo (along with Uganda and Burundi), but this time Angola, Namibia and Zimbabwe rallied to the Kinshasa government's defense. Over the next five years, Africa's largest war displaced millions and killed

more than three million civilians (with the majority falling victim to war-related disease and malnutrition).

Rwanda and Uganda fell out in 1999 after their forces battled for control of Kisangani and eastern Congo's vast natural resources (gold, diamonds, coltan, timber and oil). The RCD splintered into various factions, with Rwanda backing the RCD-Goma and Uganda supporting smaller groups. In turn, Kabila supported the Rwandan Hutu rebels and the Mai-Mai (Congolese fighters generally opposed to Rwanda). Rwanda, Uganda and Kinshasa also armed and financed local, ethnic militias, which they used as proxy forces to seize territory and extract natural resources.

Zambia's mediation efforts led to the signing of the Lusaka Peace Accords in July and August 1999. The Accords provided for an inter-Congolese political dialogue, the withdrawal of foreign armies, a Joint Military Commission, and a UN peacekeeping force (known by its French acronym, MONUC). All parties agreed to disarm the Rwandan, Ugandan and Angolan rebel groups in Congo and turn over suspected *genocidaires* to the UN International Criminal Tribunal for Rwanda. The Security Council, however, did not give MONUC authority to forcibly disarm the rebel forces. The Lusaka Accords were mostly honored in the breach and Congo remained divided into separate spheres of influence among Kabila, the three main rebel groups and their foreign backers.

After Kabila's assassination in January 2001, his son, Joseph Kabila, assumed the presidency and displayed more commitment to the Lusaka agreement. The protracted inter-Congolese dialogue, hosted by South Africa, led to the Sun City Accord in April 2002, which was signed by all the major parties except the RCD-Goma and the Mai-Mai. Under the July 2002 Pretoria Agreement, Rwanda promised to withdraw all its soldiers from the Democratic Republic of Congo (DRC) and the Kinshasa government pledged to disarm and repatriate an estimated 15,000 to 20,000 Rwandan Hutu rebels. Most Rwandan troops pulled out of eastern Congo by October 2002. All the major parties, including the RCD-Goma, signed an agreement that installed a transitional government in July 2003. The transition period ended in November 2006 with the national election of Joseph Kabila as president.

The withdrawal of foreign troops and the new political dispensation did not end the bloodshed in eastern Congo. Fighting has continued among ethnic militias and government forces, particularly in the Kivus, Ituri and Northern Katanga. MONUC has repeatedly failed to protect civilians, disarm rebels and enforce the UN embargo on illicit arms trafficking. In 2002, the UN Security Council created an independent panel of experts, which documented Rwandan and Ugandan involvement in resource exploitation and arms trafficking in eastern Congo. The UN also reported Rwandan troops in the DRC in 2004 and Rwandan involvement in the brief capture of Bukavu, a city in eastern Democratic Republic of Congo, by Congolese Tutsi rebels in 2005.

Insurgency in Northwest Rwanda: 1997–1999, 2001

The forcible repatriation of Hutu refugees from Zaire to Rwanda in 1996 and Mobutu's overthrow in 1997 had unanticipated consequences: it brought the civil war back on to Rwandan soil. From 1997 through 1999, the Rwandan government battled a Hutu insurgency in northwest Rwanda, which had been President Habyarimana's home region and the breeding ground of Hutu extremism. The infiltrators (*abacagenzi*) moved freely back and forth across Rwanda's porous border, with Congo attacking mostly civilian targets. Though much of the leadership was heavily implicated in the 1994 genocide, the rank and file was a mix of ex-FAR, ex-Interahamwe and new recruits from refugee camps and from northwest Rwanda. The new government's counterinsurgency campaign killed thousands of Hutu civilians and displaced hundreds of thousands more. The Rwandan army largely defeated the insurgency by 1999, pushing the Hutu rebels back into Congo.

Hutu rebels made their last serious attack on Rwandan territory in May 2001, when an estimated 2,000 to 4,000 forces invaded the country.⁷ Those rebels belonged to the Army for the Liberation of Rwanda (ALIR I), based in north Kivu, which received support from the Kinshasa government.⁸ By July, the Rwandan army had decisively defeated the insurgents and captured approximately 1,800 combatants, including some 280 child soldiers.⁹ Rwanda acknowledged that most of those captured had no links to the genocide.¹⁰

FDLR Rebels in Congo

Currently, an estimated 8,000 to 16,000 Rwandan Hutu rebels are operating in eastern Congo, despite the 2002 Pretoria Agreement's call for their disarmament and repatriation to Rwanda.¹¹ Most are fighting under the banner of the Democratic Forces for the Liberation of Rwanda [*Forces Démocratiques de Libération du Rwanda*] (FDLR), which was formed in 2000 from the two wings of ALIR. Some of the FDLR's top leadership is implicated in the genocide, but the majority of its combatants are too young to have participated. Although too weak to threaten Rwanda, the FDLR is a destabilizing force that provides Rwanda with a rationale for reentering Congo in the future.¹²

Rwanda's DDR Efforts

Rwanda has successfully demobilized and reintegrated approximately 54,000 combatants since 1995.¹³ The Rwandan Demobilization and Reintegration Commission (RDRC) implemented DDR in two major phases, one covering the period 1997 to 2001, and the other 2002 to 2007. DDR has involved five, sometimes overlapping, military forces: (1) the FAR, defeated in July 1994;¹⁴ (2) the RPF, the mostly Tutsi rebel force that defeated the genocidal regime in July 1994; (3) the Rwanda Patriotic Army, later renamed the Rwandan Defense Forces (RPA/RDF), the post-genocide Rwandan military; (4) the *abacagenzi* involved in the 1997–1999 and 2001 insurgencies in

northwest Rwanda (ALIR I); and (5) the “armed groups” (AGs), the term used for all the Rwandan Hutu rebels in the DRC (who have fought under various political and military labels).¹⁵

Demobilization appears to have reduced the size of the Rwandan army and the military budget, but this is difficult to verify. Diplomats in Kigali estimate the Rwandan military now has 25,000 to 27,000 soldiers¹⁶—compared to an estimated 40,000 soldiers in 1995.¹⁷ Approximately 40,000 ex-FAR returned to Rwanda in late 1996 after the RPA attacked the refugee camps in Zaire.¹⁸ The RPA reintegrated some 15,000 ex-FAR between 1995 and 2001.¹⁹ However, the government has not adhered to the formula laid out in the Arusha Accords: a 50-50 split between ex-FAR and RPF in the officer corps and a 60-40 split in other ranks. As RDRC Commissioner John Zigira explained:

They [the government] haven't stuck to those ratios—they've lost their basis. The current government doesn't like to get dragged into ethnicity and regionalism. . . . Even when someone was integrated as ex-FAR they don't continue to trace that because it creates a psychological identity.²⁰ That's not good for institutional development. They try to have one identity as RDF. . . . If you are fighting an insurgency, you can't polarize otherwise you'd have an ethnic war.²¹

Similarly, the army spokesman stated: “Already, the Arusha Accords had been violated. What did not die was the principles of the Arusha Accords . . . a force that actually reflected Rwanda and Rwandans, a force that wasn't sectarian, that didn't belong to one ethnic group.”²²

Stage I DDR: 1997–2001

During Stage I, which lasted from September 1997 to March 2001, Rwanda disarmed, demobilized and reintegrated 18,692 RPA soldiers²³—which nearly balanced the 15,000 ex-FAR reintegrated into RPA ranks during the same period.²⁴ The military used several criteria in selecting the RPA soldiers to be demobilized: age, health, disabilities, family obligations, desire for further education and indiscipline.²⁵ The majority of those demobilized (68 percent) were privates, and adult females accounted for only 1 percent of the demobilized population.²⁶

RPA soldiers selected for demobilization left their weapons at their barracks before being transported to the demobilization center, where they normally spent two weeks.²⁷ Before being discharged, soldiers generally received medical counseling, limited training and sensitization, demobilization cards and the first installments of their transitional safety net allowance (which totaled US\$900).²⁸

Originally budgeted at US\$40 million, Stage I DDR received only US\$18.3 million in financing, approximately half of which came from the Rwandan government.²⁹ Donor reluctance to fund demobilization was attributable to Rwanda's involvement in the Congo wars during this period.³⁰ The lack of funding meant the program provided little in the way of reintegration support to RPA

ex-combatants—and none whatsoever to the estimated 15,000 ex-FAR.³¹ The Commission created a vocational training school in late 1998, which trained almost 900 demobilized individuals.³² The RDRC suspended its micro-credit scheme in 2000 after it proved a failure.³³ Kees Kingma found that assistance to 1,816 disabled veterans was “quite limited and *ad hoc*.”³⁴ Despite these difficulties, the demobilized soldiers appear to have been reintegrated into Rwandan society. Specifically, there was no evidence of higher crime rates among the demobilized.³⁵ Kingma also concluded that reintegration in Stage I was not gender-sensitive. He found “no special support” for those soldiers and no “concern with the gender issues within the communities in which the ex-combatants resettled.”³⁶

Stage II DDR: 2002–2008

In 2001, the international community created a regional program, the Multi-Country Demobilization and Reintegration Program (MDRP), to promote DDR in seven countries affected by the second Congo War: Angola, Burundi, Central African Republic, DRC, Republic of Congo (Brazzaville), Rwanda and Uganda.³⁷ The US\$500 million program was cofinanced by the World Bank and a Multilateral Donor Trust Fund. The program’s ambitious goal was to demobilize and reintegrate 350,000 combatants from national armies and irregular forces over a five-year period (2002–2006). The MDRP envisioned national ownership: each state would manage the DDR process with technical assistance and financing from the MDRP. Rwanda set up the Rwandan Demobilization and Reintegration Program (RDRP) in late 2001 and placed the RDRC in charge of the program. Rwanda’s budget for this stage of DDR was US\$57.3 million.³⁸ While the program was initially scheduled to end in 2005, it was extended to the end of 2008 because of the slower than expected return of armed groups from the DRC.

Disarmament and Demobilization

The RDRC has met its target goals for demobilizing RDF and ex-FAR soldiers, but has achieved only a third of its goal for combatants from the armed groups in Congo. From December 2001 through May 31, 2007, RDRC demobilized 20,039 RDF soldiers, 12,310 ex-FAR, 5,873 ex-AG combatants, and 624 ex-AG child soldiers. These totals include 57 women and 2 girls.³⁹

The demobilization of RDF soldiers began in April 2002 and finished in 2006. The formal criteria for demobilizing RDF soldiers included illness, disability and age.⁴⁰ The RDF spokesman also mentioned additional criteria: social problems (such as soldiers who want to look after orphaned family members), indiscipline and “national unity and reconciliation—to have that force that reflects Rwanda.”⁴¹ Every RDF soldier received a demobilization allowance that was three times his last monthly pay.⁴²

Ex-combatants from armed groups were usually disarmed in the DRC by MONUC before being transported to the Mutobo demobilization camp in northern Rwanda. To be eligible for

demobilization, these ex-combatants had to prove that they returned to Rwanda after May 2001, could handle an assault rifle and belonged to a certain military command structure.⁴³

All Stage II ex-combatants went through sensitization trainings in “solidarity camps” (*ingando*) as part of their demobilization.⁴⁴ Those trainings covered Rwandan history, civic education, national unity and reconciliation, gacaca, micro-financing and public health (particularly HIV/AIDS).⁴⁵ The length of sensitization varied: ex-RDF and ex-FAR combatants underwent two-week courses, while ex-AG combatants underwent two-month courses in a separate camp (Mutobo in northern Rwanda). Ex-FAR who passed through *ingando* during Stage I were given refresher courses during Stage II. While *ingando* has been criticized as political propaganda,⁴⁶ the ex-FAR and ex-AG fighters I interviewed generally expressed satisfaction with the trainings.

Reintegration

All ex-combatants receive reinsertion support (Basic Needs Kit) when they graduate from *ingando*. Reinsertion support consists of approximately US\$100 and basic household supplies. As of May 2007, 38,846 ex-combatants (including 260 women) had benefited from reinsertion support.⁴⁷ All ex-combatants also receive reintegration support consisting of between US\$150 and US\$2,000 each according to their rank and affiliation. As of February 2007, 40,068 ex-combatants (including 346 females) had received reintegration support.⁴⁸ In addition, all former professional soldiers (ex-RPA, ex-FAR and ex-RDF) receive a Recognition of Services Allowance, which ranges from \$300 for privates to \$1,000 for colonels. This allowance is paid in two installments: a first installment of US\$100 is paid one month after the former soldier settles in a community or registers with the RDRC, and the balance is paid two months after this.⁴⁹ In addition, the most vulnerable ex-combatants are eligible for a one-time Vulnerability Support Window grant of approximately US\$333.⁵⁰ Recipients for this grant are publicly selected by local-level committees comprised of ex-combatant representatives, administrative officials and the RDRC.⁵¹ The RDRC has also encouraged ex-combatants to form associations and micro-credit projects to improve their economic opportunities.

The first in-depth studies of reintegration were undertaken in 2005.⁵² Surveying 941 ex-combatants, one study found they had reintegrated well into their chosen communities and had not experienced any discrimination on account of their status as ex-combatants.⁵³ Another study, based on focus group discussions, also showed that demobilized combatants were well integrated and some even held positions of local authority.⁵⁴ At the same time, focus group data from that study indicate that ex-combatants are perceived as responsible for petty crime and violence.⁵⁵ Ex-combatants faced economic difficulties, particularly with access to land and housing, but did not appear any worse off than the majority of the population. Nonetheless, 55 percent expressed disappointment with their post-demobilization situation.⁵⁶ Interestingly, ex-FAR and ex-AG members appear to be better reintegrated into their communities than their ex-RPA and ex-RDF counterparts are.⁵⁷ More recently, MDRP officials and several donor representatives interviewed former combatants in selected communities in mid-2006. According to the World Bank’s senior adviser, they found “the

only disruptive effect on reintegration is just poverty.” He also added that “socially there is almost no distinction between ex-RDF, ex-Armed Group, and ex-FAR.”⁵⁸

Less than 1 percent of the demobilized ex-combatants (248 out of the 35,583) are women. The World Bank’s senior adviser on DDR explained, “A couple of years ago, FDLR decided that women were slowing them down . . . so they removed them from the group.”⁵⁹ The RDRC set up a position charged with gender affairs in mid-2004. A large percentage of demobilized female soldiers have received Vulnerability Support Window grants.⁶⁰ As of late 2006, little was known about the reintegration of adult female ex-combatants, though the RDRC was planning to study their situation.

Demobilization of Child Soldiers

Child soldiers from different groups have been demobilized and reintegrated in three distinct phases: (1) RPF child soldiers from 1994 through 1998; (2) child soldiers who accompanied the ALIR I incursion into Rwanda in 2001; and (3) child soldiers with the armed combatants in Congo.

RPF Child Soldiers

During the civil war and genocide, the RPF came to include 2,364 child soldiers, though only a third had actually been officially registered by the RPF and given military numbers.⁶¹ The child soldiers were commonly known as *kadogo* (the Swahili word for “little”). According to the government’s military spokesman, Jill Rutaremara, the RPF did not deliberately recruit child soldiers: “They ran away to the RPF because they were also victims of war. They were kept in the rear until we took over Kigali [in July 1994]. That’s when we started demobilizing them.”⁶² He also stated the RPF had demobilized all its child soldiers. Kingma, however, observed, “The child soldiers did not pass through a demobilisation camp, and were in fact not formally demobilised.”⁶³

Child soldiers released from the RPF were placed in a special school (the Kadogo School) created in June 1995. The school started with 2,922 children, which included just seven girls.⁶⁴ After the school closed in 1998, the RDRC reported that 73 percent of its students had reunited with one or both parents.⁶⁵ A 2001 study, however, found that “further reintegration of the *Kadogos* has not been monitored systematically.”⁶⁶

Child Soldiers from the ALIR Invasion

In mid-2001, Rwanda captured approximately 280 child soldiers among the 1,800 ALIR I rebels who had invaded Rwanda.⁶⁷ The government initially sent the child soldiers to ingando, where they received training and sensitization for two to four weeks on Rwandan history and the government’s reconciliation policy.⁶⁸ In August 2001, the former child soldiers were transferred to the Gitagata rehabilitation center to receive further education before being reintegrated.⁶⁹ Boys at the camp

harassed the lone girl combatant, and after intervention by UNICEF, she was allowed to rejoin her mother.⁷⁰

Child Soldiers from the Armed Groups in Congo

Overall, only 10 percent of ex-combatants from armed groups in Congo are child soldiers.⁷¹ As an RDRC official stated, “We haven’t had very big groups of children—usually, it’s just three or four kids who come with adults.”⁷²

Since 2001, only two of the 563 demobilized child soldiers were girls. This is partly attributable to their small numbers. The RDRC estimates that only 150 girls are associated with the armed groups in Congo.⁷³ In addition, it may be more difficult for girls to escape the armed groups and flee Congo, especially if they have children.⁷⁴ Girl soldiers are also more likely to “self-demobilize” by returning to Rwanda as civilian refugees through the United Nations Office of the High Commissioner for Refugees (UNHCR).⁷⁵ As the head of RDRC’s child protection unit explained, “According to Rwandan culture, girls are not very willing to come forward [for demobilization] because the general thinking is that they have been raped or [had sexual relations].”⁷⁶

The RDRC had some start-up difficulties in demobilizing child soldiers. Almost two years into Stage II, the MDRP Joint Supervision Mission “call[ed] upon the RDRC to operationalize [the child combatant] component as soon as possible, to pay particular attention to the situation of girl child soldiers when considering appropriate assistance modalities, and to adhere to the principles of the Cape Town Agreement and its definition and screening of child soldiers.”⁷⁷ In 2004, the RDRC finalized a project for child soldiers, created a unit for handling child soldiers and adopted the Cape Town principles. UNICEF concluded that “[a]ll these measures have improved substantially the process for child soldiers, not only for those new returnees, but also for those who were inserted [in 2001–2002], who will now have access to reintegration benefits.”⁷⁸

In late 2005, RDRC opened a new demobilization center for child soldiers with expanded capacity on the shores of Lake Muhazi. As of April 2007, the Muhazi camp had thirty-eight former child soldiers: thirty-four were undergoing rehabilitation, while another four who had finished the rehabilitation program were waiting for officials to trace their families’ locations. The former child soldiers ranged in age from eight to twenty-one years, with most being sixteen or seventeen. The majority had fought with the FDLR.⁷⁹

Child soldiers are supposed to spend three months in a rehabilitation center. In a July 2004 report, Save the Children criticized the RDRC for not sensitizing and preparing families and communities quickly enough; as a result, children stayed at the center “for well over three months.”⁸⁰ In a mid-2006 interview with this author, one former child soldier at a rehabilitation center volunteered: “I wish they would respect the time spent here in the demobilization camp for they tell us that we must stay here for only three months. But there are some who have already passed more than a year and me, I have already passed more than nine months here.”⁸¹ Asked about those delays, a Save the

Children representative explained that “[b]ecause the numbers are so small and to be as cost effective as possible, [the government] wait[s] to reintegrate a larger group all at the same time.”⁸²

At discharge, child ex-combatants receive a basic kit⁸³ and twelve months of health care, but no cash payments. As of May 31, 2007, 624 former child combatants were reunified with their families, eighty-five received educational assistance, 147 received vocational training, 192 were assisted with income-generating activities and 515 received family-based support.⁸⁴ In 2006, RDRC provided approximately US\$60 and tool kits to 125 children who had graduated from a vocational training center for youth. The families of child ex-combatants undergoing formal education were screened for vulnerability and some were given Vulnerability Support Window grants.⁸⁵

While reintegration generally appears successful,⁸⁶ this was not the case with the two girls who were formally demobilized. They were quickly reunited with their families to avoid problems with boy ex-combatants in the rehabilitation center. Both girls subsequently left their families, and Save the Children was unable to trace them in mid-2004. According to Save the Children, the girls, their families and their communities were insufficiently sensitized and prepared for their reintegration to succeed.⁸⁷

From 2001 to 2003, UNICEF and Save the Children ran the Baratashye (“Going Home”) Project, which provided post-reunification follow-up and support for demobilized child soldiers. An evaluation of that project found that reintegration was generally successful.⁸⁸ According to that evaluation, approximately 11 percent of the children did not have land, and there were some incidents involving property disputes.⁸⁹ Other difficulties involved the absence of financial reinsertion packets for children and their consequent inability to pay school fees and purchase school materials.⁹⁰

The Persistence of Armed Groups in Congo⁹¹

While the Rwandan government has met its target goals for demobilizing and reintegrating ex-FAR and RPA/RDF, it has had much less success with the armed groups in Congo. To date, less than a third of those rebels have been disarmed, demobilized and repatriated, and most have returned as individuals, rather than as units.⁹² There are several reasons for the ongoing difficulty in disarming and repatriating the armed groups: (1) insufficient incentives from Rwanda; (2) the lack of a credible threat of forcible disarmament by MONUC, the international community and the Congolese government; and (3) the FDLR’s control over their combatants. In addition, an MDRP-commissioned study of the FDLR in 2006 found that “they are very much engaged in economic activity in Eastern Congo and they control much more territory than I would have thought. . . . They even run their own tax system.”⁹³

RDRC Commissioner Zigira readily acknowledged “it’s been tough for us” to attract armed groups from the DRC: “These are people on the other side [so] our influence on them is limited.”⁹⁴ The

Rwandan military has succeeded in persuading several high-ranking FDLR to desert. General Paul Rwarakabije, who commanded the insurgency in northwest Rwanda in 1997 and 1998, returned to Rwanda in November 2003, along with several officers and about 100 soldiers. Rwanda demonstrated a pragmatic flexibility by allowing Rwarakabije and his men to return to Rwanda with their weapons. The government has used the media, particularly the state-controlled Radio Rwanda, to assure FDLR combatants in Congo that they have nothing to fear by returning. Finally, the government has increased the incentives for FDLR combatants to return by providing reinsertion support (food for three months, nonfood items and \$20 for transport fees) for their dependents (usually Congolese wives and children).⁹⁵

The Rwandan government blames MONUC for not doing more to disarm the FDLR and has argued for a forcible disarmament option.⁹⁶ MONUC has been accused of having a hidden relationship with the FDLR leadership and the DRC to maintain the status quo instead of working towards progress. Foreign diplomats have charged MONUC with being ineffective, hiding behind its mandate and not doing anything credible.⁹⁷ A MONUC official offered a different interpretation: “We have never had the mandate. . . . A mandate is not enough. We need the means to implement it and means are very expensive and no one is going to give money for that. The international community is not going to deal with Congolese problems.”⁹⁸

To be fair, MONUC’s strategy of voluntary disarmament and repatriation had some initial success. By late 2004, MONUC had managed to repatriate 3,528 Rwandan ex-combatants.⁹⁹ That early success depended in part on Rwanda’s threat of forcible disarmament. Since Rwanda’s withdrawal from Congo in late 2002, the newly integrated Congolese army has only intermittently managed to disarm and repatriate the rebels.¹⁰⁰ In late 2005, the UN Security Council called on the FDLR to disarm and repatriate without preconditions or delays and imposed targeted sanctions on some of the leadership.

A MONUC official blamed the slow rate of return on high-ranking FDLR commanders who hold the rank and file “hostage.” He later elaborated, “the whole MONUC strategy is to cut and divide them into smaller groups—that’s a way for them to escape the very strong control by the leadership.”¹⁰¹ In my mid-2006 interviews, former FDLR combatants stressed the danger of deserting the FDLR. Some also stated that the FDLR leadership had warned them that Rwanda would kill or imprison returning FDLR combatants.¹⁰²

Rwanda’s Transitional Justice Efforts

Since the genocide, the Rwandan government has accomplished the extraordinary feat of providing security and rebuilding the country, but it continues to face enormous economic and political challenges. Despite its stated commitment to reconciliation, the government has become increasingly authoritarian. The dominant RPF has arrested and intimidated critics (including Tutsi genocide

survivors and Hutu rescuers), outlawed opposition parties and strengthened its hold on power. In the first post-genocide national elections in 2003, President Kagame won 95 percent of the popular vote and the RPF garnered 74 percent amid credible reports of intimidation and fraud.¹⁰³ The government also attacked independent media and civil society organizations. In mid-2004, a parliamentary commission accused several civil society actors—including CARE International, the BBC and the Voice of America—of promoting “genocidal ideology.”¹⁰⁴

Rwanda poses an enormous challenge to transitional justice, given the scale and brutality of the 1994 genocide, the high degree of popular participation and the geographical and economic constraints that force perpetrators, bystanders, survivors and rescuers to live side by side. Faced with large numbers of perpetrators, other postconflict states have opted for amnesties or selective criminal prosecutions. By contrast, the Rwandan government has mostly pursued accountability through criminal trials. When the numbers of genocide suspects overwhelmed the national courts, the government launched an ambitious and innovative system of 11,000 community courts (*gacaca*) that put much of the nation on trial.

Transitional justice in Rwanda is almost exclusively focused on accountability for the 1994 genocide. The RPF-dominated government has provided no meaningful transitional justice measure for handling allegations of war crimes committed by its forces during the civil war, counterinsurgency and Congo wars. The government has been especially reluctant to prosecute RPF soldiers for what it terms “revenge killings” against Hutu civilians in 1994,¹⁰⁵ and it has successfully blocked the UN International Criminal Tribunal for Rwanda from investigating such crimes.¹⁰⁶ The government has argued that such prosecutions could create a dangerous moral equivalency between war crimes and genocide that would promote genocide denial. Nevertheless, the government has been unwilling to entertain other, nonprosecutorial mechanisms to handle those crimes, such as a truth commission or vetting.

Institutional Reform and Vetting

Institutional reform (particularly security sector reform) was not an urgent priority in post-genocide Rwanda because most of those associated with the government, the police and the army fled the country ahead of the RPF’s military advance. Those most implicated in the genocide continue to remain outside Rwanda. Some former officials and high-ranking ex-FAR were reintegrated, even over the objections of survivors’ associations. Since 2002, however, there have been increasing accusations of genocide participation and “genocidal ideology” leveled against reintegrated officials and ex-FAR, which have prompted their disappearance, flight and arrest.

In early 2003, a parliamentary commission called for the dissolution of the main opposition party on the grounds of ethnic “divisionism” and genocidal ideology. Shortly afterward, the former vice-president of the Supreme Court, Lieutenant Colonel Augustin Cyiza, disappeared, and the former minister of defense, Brigadier General Emmanuel Habyarimana, and former army parliamentarian,

Lieutenant Colonel Balthazar Ndengeyinka, fled into exile.¹⁰⁷ All three were Hutu and ex-FAR (Cyiza had been demobilized). In spring 2005, several Hutu officials and ex-FAR, including the prime minister, minister of defense, the governor of Ruhengeri province and several parliamentarians, were called before gacaca courts and accused of genocide. The head of the gacaca administration subsequently claimed that 668 officials have been accused of involvement in the genocide.¹⁰⁸ Several parliamentarians resigned and one went into exile. Most dramatically, a gacaca court ordered the arrest of General Laurent Munyakazi, an integrated ex-FAR, in late 2005 on accusations of genocide and witness intimidation.

Reparations

Thirteen years after the genocide, the Rwandan government still has not established the Compensation Fund for Victims of the Genocide and Crimes Against Humanity called for in the 1996 Genocide Law and the subsequent gacaca laws.¹⁰⁹ The fund was supposed to cover judicial awards to genocide survivors where (as in most cases) convicted *genocidaires* were too indigent to pay out the awards themselves. In August 2002, the cabinet discussed a draft reparations law that would have given US\$23,000 to beneficiaries, who were defined broadly as all persons targeted due to their ethnicity or opposition to the genocide (as well as their relatives), regardless of whether they had suffered any actual injury.¹¹⁰ In explaining why the draft bill was shelved, the then second-highest-ranking official in the Ministry of Justice told me:

We thought it was not a very realistic draft. . . . At the level of disbursing [compensation], let the law clearly indicate there are cases which are in acute need to whom compensation would be applied . . . and let the law make clear what we mean by acute need. Compensation is a right, yes, but let it be a compensation fund—not compensation for each and every person in a court of law.¹¹¹

As of July 2007, there had been no new reparations bill. Some top Rwandan officials have insisted that the country cannot afford a reparations fund. As Domitilla Mukantaganzwa, Executive Secretary for the National Service for Gacaca Jurisdictions, explained: “Compensation in a legal sense, we think it’s impossible for us. . . . We cannot commit ourselves on something we are not sure to achieve.”¹¹²

Despite the absence of a compensation fund, gacaca is providing limited reparations to genocide survivors. First, the most local-level gacaca courts are awarding restitution to genocide survivors for their loss of property (unless amicable settlements have already been reached). Those who cannot pay back stolen or destroyed goods are often required to work off their debt through unpaid labor for the survivors. Second, gacaca offers some measure of symbolic reparations: those who plead guilty must reveal the whereabouts of their victims’ remains if they want to benefit from reduced sentences. During the genocide, many victims were tossed into pit latrines and anti-erosion ditches or left scattered on the hillsides. What genocide survivors want most, apart from compensation, is to find

the remains of their loved ones and to rebury them with dignity. One of the leaders of the largest survivors' organization credited gacaca with helping survivors to locate their dead.¹¹³

Prosecutions¹¹⁴

The International Criminal Tribunal for Rwanda (ICTR)

The ICTR has apprehended or marginalized most of the presumed political and military leadership of the genocide, thus removing a potentially destabilizing force from the Great Lakes region. The Tribunal, however, could not have achieved this without the United States' Rewards for Justice Program, which offered US\$5 million for information leading to the capture of top genocide suspects. This program, along with U.S. diplomatic pressure on Kinshasa, spurred the capture and transfer to the ICTR of the ex-FAR's chief of staff, General Augustin Bizimungu, and the former Kigali mayor Colonel Tharcisse Renzaho, who were among the FDLR leadership.

Since its creation, the Tribunal has been dogged by corruption, mismanagement and incompetence. The sluggish pace of genocide trials—just twenty-three completed trials (involving thirty-one accused) in ten and a half years—has been due to the absence of a clear prosecutorial strategy, poor case management and courtroom control by the judges and a largely incompetent administration.¹¹⁵ In particular, the Tribunal squandered time and resources prosecuting low-level suspects rather than the high-ranking political and military leadership, most of whom were apprehended by 1999.¹¹⁶ With the Tribunal unlikely to finish trying all its indictees by the 2010 completion date imposed by the Security Council, it is planning to transfer several cases to Rwanda for trial.¹¹⁷ This is particularly ironic given that the ICTR's Statute lists one of the reasons for the Tribunal's creation as the need to assist the overburdened Rwandan courts.¹¹⁸

Although its mandate encompasses “national reconciliation,” the Tribunal has done little outreach to Rwanda, with the result that most Rwandans remain poorly informed about its work. In an attitudinal survey of Rwandans, 56 percent said they were “not well informed” about the ICTR, while another 31 percent claimed to be “not informed at all.”¹¹⁹ Rwandan survivors have been upset by the treatment of victims and witnesses during trials¹²⁰ and disappointed by the fact that the ICTR Statute (unlike the Rome Statute for the International Criminal Court) makes no provision for compensation.¹²¹

The Rwandan government has taken a fairly antagonistic position toward the ICTR. Although Rwanda originally pushed the Security Council to create the Tribunal, it was the only country to vote against the resolution because it objected to the Tribunal's location (in Tanzania rather than Rwanda), limited temporal jurisdiction (covering only 1994), primacy over Rwandan national courts, exclusion of civil parties and refusal to apply the death penalty. Rwanda has roundly

criticized the ICTR's poor performance. However, the main bone of contention between Rwanda and the ICTR concerns the ICTR's jurisdiction over allegations of RPF war crimes.

To date, Rwanda has succeeded in preventing the ICTR from investigating and indicting RPF soldiers for such crimes by threatening to end all cooperation with the Tribunal. After the ICTR Prosecutor precipitously announced in 2002 that she would bring war crimes indictments against the RPF, the Rwandan government imposed travel restrictions on prosecutorial witnesses, which caused the suspension of three genocide trials for a lack of witnesses.¹²² The Prosecutor then suspended her RPF investigations and informed the Security Council that the Rwandan government was pressuring her to halt those investigations. Although the Security Council eventually issued a tepid statement reminding Rwanda of its legal obligation to comply with the Tribunal, the Prosecutor still has not issued any RPF indictments—even though the deadline for completing investigations expired in December 2004. The issue of RPF prosecutions briefly gained attention in November 2006, when a French investigating magistrate accused President Kagame and top-ranking RPF officers of shooting down Habyarimana's plane.¹²³

National Prosecutions

The Rwandan government rejected an amnesty and a truth commission, vowing that retributive justice was required to end the culture of impunity that culminated in the 1994 genocide. Soldiers and officials arrested tens of thousands of genocide suspects, which eventually caused prisons to overflow with some 120,000 detainees by 2000.¹²⁴ In hindsight, the mass arrests and extensive criminal prosecutions overwhelmed the devastated justice sector and hindered the rule of law. Most cruelly of all, the cost of incarcerating genocide suspects diverted resources away from reparations for survivors.

National Courts

To cope with the enormous number of suspects, Rwanda's 1996 genocide law introduced a novel feature to Rwanda's civil law system: plea bargaining. Only a small percentage of detainees, however, took advantage of the reduced penalties in that law to confess and plead guilty. Rwanda's courts have tried approximately 10,000 genocide suspects between December 1996 and mid-2006. The quality of justice in the genocide trials has been relatively poor due to the lack of resources, inadequate defense representation and political interference. Nevertheless, the fairness of the trials has improved: by 2002, the acquittal rate had risen to 27 percent.¹²⁵ After international criticism over the public executions of twenty-two convicted *genocidaires* in April 1998, Rwanda imposed a de facto moratorium on carrying out death sentences. Rwanda eventually abolished the death penalty in 2007 in an effort to persuade other states and the ICTR to extradite or transfer genocide suspects to Rwanda for trial.¹²⁶

Although thousands of Tutsi women suffered sexual violence during the genocide, those crimes are rarely prosecuted in national courts.¹²⁷ This is hardly surprising, given the social stigma that attaches itself to victims of sexual violence in Rwandan culture. Nonetheless, some human rights organizations have criticized the Rwandan government for not doing more to investigate and prosecute those offenses and protect the victims.¹²⁸

Local Community Courts (Gacaca)¹²⁹

To speed up genocide trials and reduce the prison population, the Rwandan government created an ambitious system of some 11,000 local community courts to try lower-level genocide suspects.¹³⁰ It also further reduced the sentences for guilty pleas: most of those who confess to lesser crimes are eligible to serve half their sentences doing community service. Gacaca started as a pilot project in 2002 and, after numerous delays, gacaca trials began throughout the country in July 2006.

Initially, the new community courts were to be called *tribunaux d'arbitrage* (arbitration courts) but, in mid-1999, the government decided to name them Inkiko Gacaca (gacaca courts) after Rwanda's customary dispute resolution mechanism.¹³¹ These community courts bear no resemblance to "traditional" gacaca. Genocide gacaca is a state institution intimately linked to the state apparatus of prosecutions and incarceration, and applies codified, rather than "customary," law. Second, gacaca courts are judging serious crimes, whereas traditional gacaca mostly involved minor civil matters. Third, gacaca judges are not community elders as in the past, but rather elected, comparatively young community members, with women comprising nearly one-third of the judgeship. Finally, "[t]he main difference between the traditional and the new systems is probably the destruction of the social capital that underlies the traditional system."¹³² Rather than a rejuvenation of local traditions, gacaca is state-imposed "informalism" designed to expand the state's reach into local communities.

Although Rwanda has ratified the International Covenant of Civil and Political Rights and the African (Banjul) Charter for People's Rights, gacaca clearly does not meet the minimum standards for fair trials guaranteed by those treaties: most notably, the right against self-incrimination, the right to defense counsel and the right to independent and impartial tribunals. However, gacaca also needs to be evaluated on its own terms. Gacaca was meant to accomplish several ambitious goals at once: to reveal the truth, punish *genocidaires* and reconcile communities. Given the inherent tensions between these different goals, it is hardly surprising that so far gacaca has not lived up to the enormously high expectations placed upon it.

Gacaca was intended to be a form of community-based, participatory justice. That was always somewhat unrealistic given the drastic demographic changes and loss of social capital from the civil war, genocide, insurgency and counterinsurgency. Low levels of participation and truth-telling hampered gacaca in many jurisdictions during the pilot phase.¹³³ There were several reasons for poor participation. First, 90 percent of Rwandans are subsistence farmers who must spend most of their days tending to their fields or working as itinerant laborers to survive. Second, Hutu have little incentive to participate for fear of being accused as either perpetrators or bystanders, in addition to

not having an opportunity to discuss their losses. Finally, Tutsi genocide survivors may be reluctant to incriminate their Hutu neighbors when there is no meaningful prospect for compensation. To increase participation in gacaca, the government turned to coercive strategies. It amended the gacaca law, making participation obligatory and imposing fines and imprisonment on those who did not tell the truth. Furthermore, it encouraged local authorities to fine people for nonattendance and tardiness.

In the short run, gacaca does not appear to be fostering reconciliation. In some communities, Tutsi survivors sit apart from their Hutu neighbors during gacaca sessions.¹³⁴ A few Tutsi survivors have been killed and several hundred have been intimidated in connection with gacaca.¹³⁵ From February through April 2005, an estimated 19,000 Hutu fled Rwanda, largely in response to rumors that they would be accused in gacaca or killed in revenge after being named in gacaca; most subsequently returned. Nonetheless, killings of genocide survivors and reprisal killings by survivors have occurred over the past several years.¹³⁶

Perhaps the most worrisome aspect of gacaca is that it has incriminated a large swath of the adult Hutu population. As of late 2006, pretrial gacaca proceedings had resulted in nearly half a million accused of violent crimes—including some 77,000 placed in the category of worst offenders, whose cases would have to be tried in national courts.¹³⁷ While government officials acknowledge that it will be impossible to arrest most of those suspects, mass inculpations will promote a notion of collective Hutu guilt, which is unlikely to advance reconciliation.

Gacaca was originally supposed to collect testimonies to bring charges against perpetrators of sexual violence, even though such crimes can only be tried in national courts. Not surprisingly, people have been very reluctant to discuss sexual violence in public before their local communities. In response, the government amended the gacaca law in 2004 to ensure greater privacy and dignity for victims. The new law bans public accusations and confessions of sexual violence. Rather, victims must now make their accusations in private to a judge or prosecutor of their choice. Prosecutors, not gacaca courts, will investigate the charges before transferring the files to the national courts for trial.¹³⁸ Nevertheless, accusations of sexual violence are still sometimes raised in gacaca proceedings. According to Domitilla Mukantaganzwa, this is acceptable as long as it is the victims themselves who choose to discuss their ordeal publicly.¹³⁹

DDR and Transitional Justice Linkages

Having gone further than any other postconflict state in prosecuting lower-level perpetrators for mass atrocity, Rwanda could have been expected to subordinate, or at least link, DDR to genocide justice. Surprisingly, however, it has deliberately kept the two separate, refusing, for example, to screen ex-combatants for genocide. The officials and donors I interviewed uniformly opposed closer linkages between DDR and transitional justice. RDRC Commissioner Zigira stated:

When you are doing DDR, you are linked to virtually everything you can imagine. . . . If you want to make DDR that makes all these things fairly and effectively, you would never have a DDR. . . . It's best to . . . isolate DDR and leave others to do their work. . . . Here nobody interferes with DDR and we don't interfere with anybody else. If someone accuses an ex-combatant, we don't say "This is our person" and we don't say "Please don't prosecute."¹⁴⁰

Gregory "Gromo" Alex, the longtime World Bank expert on DDR, favors separating the two issues, saying, "There are so many complications with either that you don't simplify by putting them together."¹⁴¹ Similarly, a diplomat stated that "if you want to design something that's manageable, don't be too holistic."¹⁴²

Nevertheless, Rwanda's prosecution of half a million (mostly lower-level) genocide suspects coexists uneasily with its DDR program, which privileges the reintegration of former combatants. With gacaca trials just starting nationwide in mid-2006, it is still too early to say how gacaca will impact Rwanda's largely successful reintegration of former combatants associated with the genocidal forces: Will large numbers of those ex-combatants be accused, convicted and incarcerated as a result of gacaca? This part examines four areas where the imperatives of DDR and genocide justice might be expected to clash: (1) screening ex-combatants for involvement in the genocide; (2) compensation for demobilized soldiers but not for genocide survivors; (3) gacaca's effect on the reintegration of ex-FAR; and (4) gacaca's impact on the return of armed groups from the DRC.

Screening Ex-Combatants

The separation of DDR from genocide justice is most apparent in the context of screening ex-combatants. The initial World Bank/MDRP strategy recommended screening ex-combatants in Congo for war crimes:

The screening of ex-combatants for war crimes would be an important activity and would be undertaken by national programs in coordination with relevant national and international authorities (for example, MONUC, the International Criminal Tribunal for Rwanda). Ex-combatants who are found to have committed war crimes would not be eligible for assistance in any national program or special project.¹⁴³

However, neither MONUC nor the RDRC have attempted screening ex-combatants for both logistical and policy reasons. A MONUC official explained, "We cannot do such a detailed screening because we don't have the necessary information, because we don't know who is accused. We rely

mainly on what the combatant tells us.”¹⁴⁴ He also asserted that Rwanda never furnished MONUC with a list of genocide suspects until it published a most-wanted list in May 2006.

The RDRC also decided not to screen ex-combatants for genocide, crimes against humanity and war crimes. According to RDRC Commissioner Zigira:

We don't have the competence to do [screening]. We wouldn't want to build that competence because our objectives are completely different. . . . You see how contradictory it would be. We want people to come and if at the same time we start asking questions, they would start to say if you come to the demobilization center they are going to arrest you.¹⁴⁵

Furthermore, the Commission does not share any information on demobilized combatants with the justice sector and has refused to give ICTR investigators access to its demobilization camps. As Commissioner Zigira put it, “For us, when they come, we assume everyone is innocent.” Somewhat surprisingly, the former secretary-general of the Ministry of Justice also told me he would not want to prosecute demobilized persons based on information shared by the RDRC.¹⁴⁶

Commissioner Zigira was aware of only three cases where ex-combatants had been accused of genocide. In such cases, ex-combatants would not be asked to repay their reinsertion and reintegration support because “they probably couldn't pay it back.”¹⁴⁷ RDRC Chairman Sayinzoga said it would cost more to try to recoup the payments. He also argued that it would penalize the families of demobilized suspects and return them to poverty.¹⁴⁸

Genocide Reparations and Demobilization Payments

While the Rwandan government and its international donors have spent millions of dollars on incarcerating and trying genocide suspects, there is still no compensation fund for genocide survivors.¹⁴⁹ Similarly, the executive secretary of the National Unity and Reconciliation Commission stated, “The will from the government is there, but the challenge is funding for that . . . because Rwanda is a poor country.”¹⁵⁰

This explanation does not satisfy some prominent representatives of the survivors' community, as the executive secretary of IBUKA, the most powerful survivors' organization, bluntly stated, “There's no money and there's no will.”¹⁵¹ An official from the genocide widows' association, AVEGA-AGAHOZA, plaintively commented, “The government says it is poor. That doesn't satisfy us. It is being killed two times.”¹⁵² The absence of a compensation fund underscores the political weakness of genocide survivors. It may even induce them to sell their silence or testimony.¹⁵³

While survivors' demands for reparations go largely unheeded, the Rwandan government and its donors have funded fairly generous demobilization packages for ex-FAR and former armed

combatants. The RDRC chairman acknowledged that this upsets some survivors, who feel “you recompense killers but you forget the victims.”¹⁵⁴ Likewise, Commissioner Zigira stated, “You find it very difficult to convince survivors . . . to make these trade-offs.”¹⁵⁵ A representative of the genocide widows’ association explained: “Us, intellectual survivors, we understand the need to give them money to reinstall or reintegrate them. But for the vulnerable survivors when FARG doesn’t function, well, for them there’s a sort of small jealousy: they created all the misfortune, they have killed our children, they have destroyed our country . . . [yet] the government likes them more than us.”¹⁵⁶

Thus far, however, the demobilization payments do not appear to have created conflicts between former combatants and genocide survivors. Interviews for this paper with NGO representatives, reintegrated ex-FAR and survivors did not indicate any problems between ex-combatants and survivors in selected local communities.¹⁵⁷ One ex-FAR stated, “There is no jealousy by the survivors towards us. And we have continued to assure the security of our sector.”¹⁵⁸

Gacaca and Reintegration of Ex-FAR: Upsetting Settled Expectations?

DDR has proceeded faster than genocide justice because of the enormous backlog of so many genocide cases. This has led to a situation where demobilized ex-FAR remain at risk of being prosecuted twelve years after the genocide. There is an inherent tension, then, between the government’s policy of DDR, which stresses reintegration and social stability, and the government’s commitment to prosecute large numbers of genocide suspects.

No one interviewed for this paper (including representatives of NGOs working in the justice sector) had heard of gacaca accusations against demobilized ex-FAR. As one MONUC official explained, “For most of them, gacaca is not a problem. This is understandable: if they returned voluntarily, they have not been involved in serious crimes.”¹⁵⁹ General Rwarakabije, who returned from Congo in 2003, told me he had no worries of being accused in gacaca and that none of the 100 combatants who returned with him have been accused in gacaca.¹⁶⁰ None of the interviewed ex-FAR expressed any worries about gacaca, stating that they had not participated in the genocide. When asked whether they might not be falsely accused in gacaca because of their ex-combatant status, the respondents restated their lack of concern. One said: “Yes, sometimes there are false accusations, but if there are any in [my] case, I can wait to express myself in gacaca.”¹⁶¹

In late 2005, a gacaca court ordered the arrest of General Laurent Munyakazi, a high-ranking ex-FAR officer who was integrated into the RPA/RDF shortly after the genocide and subsequently promoted. A military tribunal convicted Munyakazi of genocide in November 2006, and sentenced him to life imprisonment. According to the RDRC chairman, Munyakazi’s case is an exception that will not affect the reintegration of other ex-FAR: “The fault is individual . . . [and] the case of

Munyakazi has been known for a long time.”¹⁶² He also pointed out that Defense Minister General Marcel Gatsinzi, who is ex-FAR, had not been arrested despite similar accusations, because there was “no proof.” Most ex-FAR interviewed echoed the RDRC chairman’s view. They did not think the Munyakazi case affected them: “One cannot say that he did not know the genocidal plan. I was a simple soldier.”¹⁶³ Another ex-combatant stated: “I do not see any change because I do not think the government is going to put everyone in the same packet.”¹⁶⁴

An ex-FAR, who served under Munyakazi until he was wounded in mid-April 1994, expressed contradictory views about Munyakazi’s arrest over the course of a lengthy interview:

I was not surprised because normally he was capable of saving people or stopping the killings where he was, but he did nothing.

* * *

I do not know how to explain [Munyakazi’s sudden arrest]. I also asked myself why they didn’t arrest him much earlier without waiting a lot of years. It’s incredible.¹⁶⁵

When asked, he stated that Munyakazi’s arrest would not have an impact on other reintegrated ex-FAR:

First, the crimes have been done by higher-ranking people. For me, I see that it was right to call him in gacaca because he collaborated with local people [during the genocide].

* * *

I also had a few worries when I heard about Munyakazi’s arrest, but I calmed myself. For, if I am called [to gacaca], I can explain everything I did where I worked.

It is unclear whether Munyakazi’s case will herald future prosecutions of ex-FAR, including the majority who have been demobilized.

Gacaca and the Return of FDLR Combatants

At first glance, gacaca would appear to be a major disincentive for FDLR combatants to disarm and return to Rwanda. However, most of those combatants were too young to have participated in the genocide.¹⁶⁶ As the executive secretary for the National Service for Gacaca Jurisdictions pointed out, “Most of the soldiers in FDLR left the country when they were under 14, so even if they committed crimes, they aren’t prosecuted for it.”¹⁶⁷ The World Bank’s senior adviser echoed this point. He also added that FDLR combatants are more concerned with questions like “Is my brother alive and did they really take his house?”¹⁶⁸

According to the RDRC, no former child combatants have been accused in gacaca.¹⁶⁹ Of the fourteen ex-combatants from armed groups that I interviewed at demobilization camps, all but one was under the age of eighteen at the time of the genocide.¹⁷⁰ None expressed concern about gacaca, with most volunteering that they had not participated in the genocide. When asked if they worried about being falsely accused in gacaca, all said no. One ex-combatant said if there were false accusations, the government authorities would protect them.

While gacaca may not worry many of the rank and file, some FDLR commanders certainly have reason to fear. For Commissioner Zigira, however, gacaca is not a major factor for the FDLR commanders: “The main two factors on repatriation are the ineffectiveness of the UN system . . . and the command structure of the armed groups.”¹⁷¹ He stated that gacaca would only affect the decision-making of those FDLR commanders who had participated in the genocide. Similarly, the RDRC chairman stated, “Gacaca won’t have an impact on those who return [from Congo]. . . If they know they are guilty of [genocide], they will stay in the forest and prevent others from returning.”¹⁷²

Munyakazi’s prosecution, however, may discourage some ex-FAR from returning from Congo. One MONUC official commented, “Combatants are watching what goes on. General Munyakazi was promoted to general . . . and he served with the government for twelve years after the genocide and suddenly twelve years later they discover he’s been involved in the genocide. . . . The example is not very encouraging.”¹⁷³ RDRC Commissioner Rwarakabije, who was ex-FAR and returned from Congo in late 2003, stated that Munyakazi’s arrest has “increased fear of people in the Congo. . . . When I telephoned people who are in the Congo [now] before coming to Rwanda they consider the case of Munyakazi. . . . But it is an individual case and that we also explain.”¹⁷⁴

Conclusion

In Rwanda, DDR has proceeded more quickly and more successfully than criminal prosecutions of genocide suspects. Had the government linked DDR to genocide justice (for example, through

screening programs), it might well have hampered DDR. It remains to be seen, however, whether the gacaca community courts will disrupt the reintegration of Hutu ex-combatants or dissuade Hutu combatants in Congo from disarming, repatriating and demobilizing. The preliminary research presented in this paper suggests not. There is no clear explanation for this unexpected finding. Perhaps gacaca courts, Tutsi survivors and government officials are differentiating between wartime killing and genocidal killing. As a then high-ranking justice official told me: “If you actually kill people in the process of fighting, there’s an amnesty. Genocide is a completely different crime.” Alternatively, it may be that DDR and criminal accountability are not as much in tension as first appears. Either way, post-genocide Rwanda provides a remarkable instance where DDR appears to have succeeded despite an ongoing and open-ended threat of criminal prosecution.

¹ Most of the fieldwork was conducted in mid-2006, with a follow-up, two-week visit in spring 2007.

² These findings are merely suggestive: aside from the small number of respondents and the limited time frame of the research, gacaca trials were only just getting under way nationwide at the time.

³ Out of a total population of 8.4 million, Hutus are thought to comprise about 85 percent of the population, Tutsis 14 percent and the indigenous Twa forest people less than 0.5 percent, though for political reasons, the 2002 census did not take ethnicity into account. There is contentious debate about the origins and content of differences between Hutus and Tutsis. See Johan Pottier, *Re-Imagining Rwanda: Conflict, Survival, and Disinformation in the Late Twentieth Century* (Cambridge: Cambridge University Press, 2002).

⁴ Protocol on Integration of Armed Forces, art. 74.

⁵ For the best single account of the Rwandan genocide that examines its local, national and international dimensions, see Alison Des Forges, *Leave None to Tell the Story: Genocide in Rwanda* (New York: Human Rights Watch, 1999).

⁶ Gerard Prunier, *The Rwanda Crisis: History of a Genocide* (New York: Columbia University Press, 1995), 299–321, 373–86.

⁷ Human Rights Watch, *Rwanda: Observing the Rules of War?* (New York: Human Rights Watch, 2001), 4–5.

⁸ *Ibid.*, 6–7.

⁹ *Ibid.*, 11. Based on interviews with captured child soldiers, Human Rights Watch reported that ALIR I did not use children under the age of sixteen in combat, but instead had them transport heavy loads and do domestic chores. *Ibid.*, 16.

¹⁰ *Ibid.*, 5–6.

¹¹ An estimated 1,600 to 2,500 child soldiers are among those Hutu rebels. See Save the Children-UK, *Crossing the Border: The Demobilisation and Reintegration of Rwandan Boys and Girls Associated with Armed Groups in the Democratic Republic of Congo* (London: Save the Children-UK, 2004), 12, n11.

¹² For proposals to resolve the FDLR problem in Congo, see International Crisis Group, “A Congo Action Plan,” Africa Briefing No. 34 (Brussels: International Crisis Group, 2005); and International Crisis Group, “The Congo: Solving the FDLR Problem Once and for All,” Africa Briefing No. 25 (Brussels: International Crisis Group, 2005).

¹³ To put this figure in context, the RPF had perhaps 12,000 troops and the FAR had 50,000 when the genocide erupted in April 1994. See Prunier, *The Rwanda Crisis*, 132.

¹⁴ The ex-FAR are those who were in the military as of April 6, 1994. See Ministerial Order No. 066 of 13 September 2002, “Determining the Eligibility Criteria for Demobilisation of Members of Ex-Armed Groups” and Annex, published in the *Official Gazette* on September 23, 2002, 25–27. This date was used as the cutoff point because, as the commissioner of the Rwanda Demobilization and Reintegration Commission (RDRC) explained, “after that date, it was militia rather than career soldiers” involved in the armed groups. Throughout this paper, the persons interviewed are generally cited, except where confidentiality was promised or where the person’s comment has been deemed sensitive by the author.

¹⁵ “Armed groups” encompasses all the “organized” groups that fought the RDF in Rwanda or DRC. See Ministerial Order No. 066, art. 1. Such a neutral term avoids characterizing them in terms of ethnicity or their links to the genocide. To be eligible for demobilization, ex-combatants from armed groups have to prove that they returned to Rwanda after May 2001, can handle an assault rifle, and belonged to a certain military command structure. *Ibid.*, art. 2, Annex.

¹⁶ Diplomatic staff, interview by author, Kigali, May–June 2006.

¹⁷ Kees Kingma, *The Rwanda Demobilisation and Reintegration Program: Evaluation Report Prepared for the United Nations Development Programme* (Kigali: United Nations Development Programme, 2001), 11.

- ¹⁸ Ibid., 10.
- ¹⁹ Ibid., 11.
- ²⁰ One set of researchers, however, found demobilization cards that used codes to identify ex-combatants as ex-FAR and former *abacagenzi*. See Philip Verwimp and Marijke Verpoorten, “‘What Are All the Soldiers Going to Do?’ Demobilisation, Reintegration and Employment in Rwanda,” *Conflict, Security & Development* 4, no. 1 (2004): 39–57.
- ²¹ John Zigira, Commissioner, RDRC, interview by author, Kigali, May 15 and 22, 2006.
- ²² Major Jill Rutaremara, Spokesman and Director of Planning, Policy and Capacity-Building, Ministry of Defense, interview by author, Kigali, June 13, 2006.
- ²³ Amanuel Mehreteab, “Rwanda Demobilization and Reintegration Program: Tracer Study” (unpublished report, 2004), 9.
- ²⁴ Kingma, *The Rwanda Demobilisation and Reintegration Program*, 5–6. Kingma found no evidence that any of the demobilized soldiers were subsequently recruited back into the military.
- ²⁵ Ibid., 13; and Rutaremara, interview by author, Kigali, June 13, 2006.
- ²⁶ Kingma, *The Rwanda Demobilisation and Reintegration Program*, 13.
- ²⁷ Ibid., 14, 16.
- ²⁸ Ibid., 15, 18.
- ²⁹ Ibid., 5, 29.
- ³⁰ Ibid., 37–38.
- ³¹ Ibid., 6, 29.
- ³² Ibid., 23.
- ³³ Ibid., 20–22.
- ³⁴ Ibid., 27.
- ³⁵ Ibid., 6.
- ³⁶ Ibid., 28–29.
- ³⁷ Namibia and Zimbabwe have remained largely outside the Multi-Country Demobilization and Reintegration Program (MDRP) framework.
- ³⁸ Financing has come primarily from the World Bank (US\$28.7 million), the Multilateral Donor Trust Fund (US\$14.4 million), the United Kingdom (US\$8.8 million), Germany (US\$2.7 million) and Rwanda (US\$2.7 million). See “Rwanda,” Escola de Cultura de Pau, www.escolapau.org/img/programas/desarme/mapa/rwandai.pdf.
- ³⁹ MDRP, *Monthly Statistical Progress Report: May 2007* (Washington, D.C.: MDRP Secretariat, 2007), 29.
- ⁴⁰ Ministerial Order No. 1, arts. 3, 5.
- ⁴¹ Rutaremara, interview by author, Kigali, June 13, 2006.
- ⁴² Presidential Decree, art. 101.
- ⁴³ Ministerial Order No. 066, art. 2, Annex.
- ⁴⁴ *Ingandos* are also used for other social groups, most notably college-bound students and provisionally released *genocidaires*.
- ⁴⁵ The substantive content of the trainings was adjusted somewhat depending on the targeted population. On the training of students, see Chi Mgbako, “‘Ingando’ Solidarity Camps: Reconciliation and Political Indoctrination in Post-Genocide Rwanda,” *Harvard Human Rights Journal* 8 (2005): 5. On that of provisionally released *genocidaires*, see Penal Reform International, *Research Report on the Gacaca (Report VI): From Camp to Hill: The Reintegration of Released Prisoners* (Kigali: Penal Reform International, 2004).
- ⁴⁶ Mgbako, “‘Ingando’ Solidarity Camps.”
- ⁴⁷ MDRP, *Quarterly Progress Report* (April-June 2007).
- ⁴⁸ Ibid.
- ⁴⁹ MDRP, *Quarterly Progress Report* (October-December 2005).
- ⁵⁰ Ibid.

⁵¹ Zigira, interview with author, Kigali, April 2, 2007.

⁵² So far, the studies have focused on economic reintegration, with scant (if any) attention paid to the involvement of ex-combatants in the criminal justice sector. Neither the Rwandan government nor the MDRP have collected any data on the arrests and convictions of demobilized combatants for either ordinary crimes or crimes linked to the 1994 genocide.

⁵³ Mehreteab, “Rwanda Demobilization and Reintegration Program: Tracer Study,” 2, 70.

⁵⁴ *Ibid.*, 83.

⁵⁵ *Ibid.*

⁵⁶ Mehreteab, “Rwanda Demobilization and Reintegration Program: Tracer Study,” 4.

⁵⁷ See *Ibid.*, 67. RPA and RDF combatants were twice as likely as ex-FAR and ex-armed groups to rate their relations with their neighbors as bad: 10.5 percent of RDF, 10.2 percent of RPA, 4.5 percent of ex-FAR and 4.1 percent of ex-armed groups. All combatants expressed similar levels of distrust toward their neighbors: 28.9 percent of RDF, 31.8 percent of RPA, 29.1 percent of ex-FAR and 37.8 percent of ex-armed groups. This may partly reflect continuing ethnic divisions in Rwandan society: Hutu ex-combatants are less likely to have problems reintegrating, given that Rwandan communities are overwhelmingly Hutu.

⁵⁸ Gregory “Gromo” Alex, Senior Demobilization and Reintegration Specialist, MDRP Secretariat, World Bank, interview with author, Kigali, April 2, 2007.

⁵⁹ Alex, interview with author, Kigali, May 17, 2006.

⁶⁰ Vanessa Farr, “Women Combatants and the Demobilization, Disarmament, and Reintegration Process in Rwanda,” UNIFEM, portal.unesco.org/shs/en/files/9189/11387178801Presentation_-_Vanessa_Farr.pdf/Presentation%2B-%2BVanessa%2BFarr.pdf.

⁶¹ Kingma, *The Rwanda Demobilisation and Reintegration Program*, 25.

⁶² Rutaremara, interview with author, Kigali, June 13, 2006.

⁶³ Kingma, *The Rwanda Demobilisation and Reintegration Program*, 13.

⁶⁴ *Ibid.*, 25.

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ Human Rights Watch, *Rwanda: Observing the Rules of War?*, 11.

⁶⁸ *Ibid.*, 12.

⁶⁹ *Ibid.*, 16.

⁷⁰ *Ibid.*

⁷¹ “Child Soldiers Report, 2004,” UNHCR, www.unhcr.org/refworld/docid/498806673.html. In a 2003 survey of 133 demobilized child soldiers, 68 percent stated that they had been abducted against their will. See Heather Baldwin, *Analysis of the Reintegration of Demobilized Child Soldiers in Rwanda* (New York: UNICEF, 2003), 9.

⁷² Alex Rusagara, Head, Child Protection Unit, RDRC, interview by author, Kigali, May 29, 2006.

⁷³ Save the Children-UK, *Crossing the Border*, 21.

⁷⁴ *Ibid.*, 19.

⁷⁵ *Ibid.*, 22–26.

⁷⁶ Rusagara, interview by author, Kigali, May 29, 2006.

⁷⁷ MDRP, *Joint Supervision Mission Report (September 27–October 15, 2003)* (Washington, D.C.: MDRP Secretariat, 2003), 73.

⁷⁸ UNICEF, *Children Affected by Armed Groups* (New York: UNICEF, 2006), 2. Since 2004, there has been no independent child protection agency monitoring the demobilization of child soldiers. See Save the Children-UK, *Crossing the Border*, 47. There are two main reasons for this. First, the MDRP’s emphasis on national ownership of DDR through national commissions has reduced the role of child protection agencies. Second, child soldiers are a low priority for UNICEF and Save the Children, given their low numbers, particularly in comparison to the estimated 1.5 million orphans and other vulnerable children. Alessandra Dentice, Head, Child Protection, UNICEF, interview by author, Kigali, May 23,

2006; and Save the Children-UK representative, interview by author, Kigali, May 30, 2006. Finally, Save the Children has not monitored child soldier activities since its July 2004 report met with what one representative called a “cold reception” from the RDRC. The same representative stated in mid-2006 that there had been “a lapse in communication and interaction” with the RDRC. Save the Children-UK representative, interview by author, Kigali, May 30, 2006. When Save the Children’s contract to provide technical assistance to RDRC ended in 2006, it was not renewed. Save the Children-UK representative, interview by author, Kigali, 2007.

⁷⁹ Former child soldier, interview by author, Muhazi demobilization camp, April 11, 2007.

⁸⁰ Save the Children-UK, *Crossing the Border*, 40.

⁸¹ Former child soldier, interview by author, Muhazi demobilization camp, May 29, 2006.

⁸² Save the Children-UK representative, interview by author, Kigali, May 30, 2006.

⁸³ The kit includes basic items, such as blankets, mosquito nets, hoes, school uniforms, saucepans and crockery. Rusagara, interview by author, Kigali, May 29, 2006.

⁸⁴ MDRP, *Monthly Statistical Progress Report: May 2007*, 31.

⁸⁵ MDRP, *Quarterly Progress Report: January-March 2006*.

⁸⁶ Baldwin, *Analysis of the Reintegration of Demobilized Child Soldiers*, 15.

⁸⁷ Save the Children-UK, *Crossing the Border*, 28.

⁸⁸ Baldwin, *Analysis of the Reintegration of Demobilized Child Soldiers*, 15-16.

⁸⁹ *Ibid.*, 8.

⁹⁰ *Supra* Baldwin, 8. The UNICEF study found that demobilized child soldiers reintegrated more successfully when there were larger numbers in the household, when they were reunified with parents and when they had higher levels of education.

⁹¹ For more detail on the armed groups in Congo, see International Crisis Group, *Rwandan Hutu Rebels in Congo: A New Approach to Disarmament and Reintegration*, Africa Report No. 63 (Brussels: International Crisis Group, 2003); and International Crisis Group, “Solving the FDLR Problem.”

⁹² World Bank, “Aide Mémoire: RDRP Mid-Term Review Mission” (December 10, 2004), 4 and World Bank, “Aide Mémoire: RDRP World Bank and MDRP Secretariat Implementation Support Mission” (May 8, 2005), 2.

⁹³ Alex, interview by author, Kigali, April 2, 2007.

⁹⁴ Zigira, interview by author, Kigali, May 15 and 22, 2006.

⁹⁵ Initially, the World Bank refused to pay for the disarmament and repatriation of armed groups in the Congo, but it changed its position in June 2005 following a request from the Rwandan government. The World Bank has made up to US\$4 million available for the repatriation and reinsertion of dependents. In addition, the Rwandan government stated that up to 25,000 returning dependents would receive the same assistance as returning refugees. (RDRP Aide Mémoire, 4).

⁹⁶ *Ibid.*, 2.

⁹⁷ Pierre Englebert and Denis M. Tull, “Postconflict Reconstruction in Africa: Flawed Ideas about Failed States,” *International Security* 32 no. 4 (Spring 2008).

⁹⁸ MONUC official, interview by author, Kigali, April 3, 2007.

⁹⁹ International Crisis Group, “Solving the FDLR Problem,” 5.

¹⁰⁰ President Joseph Kabila banned the FDLR in 2002 and cut off much of its supplies. In late 2002, the Congolese army tried to forcibly demobilize some 1,900 FDLR troops by attacking the Kamina army base where they had been quartered (and confined). That operation led to the forcible repatriation of 359 combatants. See International Crisis Group, “Solving the FDLR Problem,” 2. As the failure of the Kamina operation illustrates, the Congolese military lacks both the military capacity and political will to take on the FDLR. The newly integrated Congolese army is no better equipped for this task. As one UN official stated: “The army only exists on paper. . . . This army is not capable in its current condition of fighting any enemy of the state. They are not trained, not paid, not fed . . . no nothing. So, how do you expect them to fight? At the same time, the army is accepting anyone who wants to integrate, [including] former bandits, former criminals.” Interview by author, Kigali, April 3, 2007. Recognizing the weakness

of the Congolese military, the African Union has considered fielding a peacekeeping force in eastern DRC. The prospect for such a mission appears slim, as the African Union is already overstretched with existing peacekeeping operations.

¹⁰¹ MONUC official, interview by author, Kigali, April 3, 2007.

¹⁰² Ex-combatants from armed groups in Congo, interview by author, Mutobo demobilization camp, May 16, 2006.

¹⁰³ European Union Election Observer Mission [*Mission d'Observation électorale de l'Union européenne*], *Rapport Final, Rwanda, Election Présidentielle 25 août 2003, Elections Legislatives 29 et 30 septembre* (Kigali: European Union Election Observer Mission, 2003).

¹⁰⁴ Front Line, *Front Line Rwanda: Disappearances, Arrests, Threats, Intimidation and Co-optation of Human Rights Defenders, 2001–2004* (Dublin: Front Line, 2005), 20–24.

¹⁰⁵ Human Rights Watch estimated that RPF forces killed between 25,000 and 45,000 Hutu civilians during and immediately after the genocide. See Des Forges, *Leave None to Tell the Story*, 16, 728.

¹⁰⁶ International Federation for Human Rights [*Federation internationale des ligues des droits de l'homme*], *Victims in the Balance: Challenges Ahead for the International Criminal Tribunal for Rwanda* (Paris: International Federation for Human Rights, 2002).

¹⁰⁷ Human Rights Watch, “Preparing for Elections: Tightening Control in the Name of Unity,” Human Rights Watch Briefing Paper (New York: Human Rights Watch, 2003), 8–9.

¹⁰⁸ Hironelle News Agency (Lausanne), “Gacaca Court Might Indict Three Sitting Members of Parliament,” *All Africa*, March 15, 2005.

¹⁰⁹ The proposed Compensation Fund should not be confused with the Genocide Survivors Assistance Fund [*Fonds d'Assistance aux Rescapes du Genocide*] (FARG), a fund that pays mostly education and health care costs for the neediest survivors. The government provides 5 percent of tax revenues each year to the FARG.

¹¹⁰ Project de loi Portant Creation, Organisation et Fonctionnement du Fonds d'indemnisation des Victimes des Infractions Constitutives du Crime de Genocide ou du Crimes Contre l'humanité Commies Entre le 1 octobre 1990 et le 31 decembre 1994; and Heidy Rombouts, “Women and Reparations in Rwanda: A Long Path to Travel,” in *What Happened to the Women? Gender and Reparations for Human Rights Violations*, ed. Ruth Rubio-Marin (New York: Social Science Research Council, 2006), 199–226.

¹¹¹ Johnston Busingye, Secretary-General, Ministry of Justice, interview by author, Kigali, June 12, 2006.

¹¹² Domitilla Mukantaganzwa, Executive Secretary, National Service for Gacaca Jurisdictions, interview by author, Kigali, June 6, 2006.

¹¹³ Benoît Kaboyi, Executive Secretary, IBUKA, interview by author, Kigali, June 14, 2006.

¹¹⁴ There have been several important transnational genocide prosecutions, but those have involved relatively low-level suspects (in custody) and have not had any appreciable impact on the FDLR in Congo. For example, Belgian courts have handed down criminal convictions against six Rwandans (two nuns, three businessmen and an educator), while a Swiss military tribunal sentenced a former mayor. The Canadian Supreme Court ordered the deportation of a Rwandan who incited the killing of Tutsi two years before the genocide. A U.S. federal court sanctioned a Hutu extremist in absentia in a case brought under the Alien Tort Claims Act. For an overview of those transnational cases, see Alison Des Forges and Timothy Longman, “Legal Responses to Genocide in Rwanda,” in *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, ed. Eric Stover and Harvey M. Weinstein (New York: Cambridge University Press, 2004), 49–68.

¹¹⁵ International Crisis Group, *The International Criminal Tribunal for Rwanda: Justice Delayed*, Africa Report No. 30 (Brussels: International Crisis Group, 2001); International Crisis Group, *The International Criminal Tribunal for Rwanda: The Countdown*, Africa Report No. 50 (Brussels: International Crisis Group, 2002); International Crisis Group, *The International Criminal Tribunal for Rwanda: Time for Pragmatism*, Africa Report No. 69 (Brussels: International Crisis Group, 2003); and United Nations International Criminal Tribunal for Rwanda, *Twelfth Annual Report of the International Criminal*

Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, UN Doc. A/62/284 S/2007/502. Initial funding for the ICTR was woefully inadequate, particularly when compared to its sister tribunal, the International Criminal Tribunal for the former Yugoslavia in The Hague. Since 1998, however, the Tribunal has been adequately funded. The UN and donors committed US\$247 million (net) for 2006 and 2007. See United Nations International Criminal Tribunal for Rwanda, *Twelfth Annual Report*. Some donors, however, have been slow to pay their share.

¹¹⁶ For example, the alleged architect of the genocide, Colonel Theoneste Bagosora, was in detention for five and a half years before finally being brought to trial.

¹¹⁷ Rwanda has agreed not to impose death sentences on any of those convicted.

¹¹⁸ United Nations International Criminal Tribunal for Rwanda, *Twelfth Annual Report*.

¹¹⁹ Timothy Longman, Phuong Pham, and Harvey M. Weinstein, “Connecting Justice to Human Experience: Attitudes Toward Accountability and Reconciliation in Rwanda,” in *My Neighbor, My Enemy*, 213. Among those Rwandans informed about the Tribunal, more were positive than negative about it, and, somewhat surprisingly, less than 18 percent saw it as victors’ justice.

¹²⁰ International Federation for Human Rights, *Victims in the Balance*.

¹²¹ In 2001, the ICTR and ICTY leadership asked the Security Council to establish a compensation fund, but no action has been taken on that proposal.

¹²² International Federation for Human Rights, *Victims in the Balance*, 47–52.

¹²³ Jean-Louis Bruguiere, “Delivrance de mandats d’arret internationaux,” *Le Monde*, November 17, 2006.

¹²⁴ In early 2001, the Red Cross estimated that about 3,500 genocide detainees were women. A 1999 UN report found 4,454 children detained on genocide charges. See United Nations Commission on Human Rights, Michel Moussali, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World: Report on the Situation of Human Rights in Rwanda, Submitted by the Special Representative, Michel Moussali, Pursuant to Commission Resolution 1999/20*, UN Doc. E/CN.4/2000/41, para. 180. Since then, the government has released most, if not all, detainees who were minors in 1994. In January 2003, President Kagame suddenly ordered the release of several categories of detainees and prisoners, including *abacagenzi* (infiltrators) and confessed low-level *genocidaires* who had already served their maximum possible sentence. See Penal Reform International, *Research on the Gacaca (Report V): Cell-level Preparations* (Kigali: Penal Reform International, 2003), 10–17. A few months later, approximately 14,500 confessed *genocidaires* were released back to their communities after undergoing reeducation in “solidarity camps.” See Ministry of Justice, *Imbonerahamwe igaragaza ibisabwa n’intangazo ryaturutse muri Perezidansi ya Repubulika*, 2003. With another mass release of prisoners in mid-2005, the number of genocide detainees and prisoners had dropped to approximately 56,000 by March 2006. The prison population has increased significantly since then, largely as a result of convictions in gacaca. By February 2007, the genocide prisoners numbered approximately 74,000. That same month, the government provisionally released another 6,700 genocide detainees. Interviews by author, Kigali, March–April 2007.

¹²⁵ Human Rights Watch, “Preparing for Elections.”

¹²⁶ Arthur Asiimwe, “Rwanda: Country Scraps Death Penalty,” *Monitor*, June 10, 2007.

¹²⁷ Martine Schotsmans, *Le Droit a la Réparations des Victimes de Violences Sexuelles pendant le Génocide: Analyse de l’état actuel* (Brussels: Avocats Sans Frontières, 2000); and Human Rights Watch, *Struggling to Survive: Barriers to Justice for Rape Victims in Rwanda* (New York: Human Rights Watch, 2004), 18–20.

¹²⁸ See, e.g., Human Rights Watch, *Struggling to Survive*, 20.

¹²⁹ For detailed analyses of gacaca, see Avocats Sans Frontières, *Monitoring des Jurisdictions Gacaca, Phase de Jugement, Rapport Analytique* (Brussels: Avocats Sans Frontières, 2005); Penal Reform

International, *Integrated Report on Gacaca Research and Monitoring: Pilot Phase January 2002–December 2004* (Kigali: Penal Reform International, 2005); and Lars Waldorf, “Mass Justice for Mass Atrocity: Rethinking Local Justice as Transitional Justice,” *Temple Law Review* 79, no. 1 (2006): 1–87.

¹³⁰ Ordinary courts still hear the cases against leaders and planners of the genocide, notorious killers and perpetrators of sexual violence.

¹³¹ *Gacaca*, which means “lawn” or “small grass,” refers to the place where dispute resolution traditionally took place.

¹³² Filip Reyntjens and Stef Vandeginste, “Rwanda: An Atypical Transition,” in *Roads to Reconciliation*, ed. Elin Skaar, Siri Gloppen, and Astri Suhrke (Lanham, MD: Lexington, 2005), 118.

¹³³ Penal Reform International, *Research on the Gacaca (Report V): Cell-level Preparations*, 27; Urusaro Alice Karekezi, Alphonse Nshimiyimana, and Beth Mutamba, “Localizing Justice; *Gacaca* Courts in Post-Genocide Rwanda,” in *My Neighbor, My Enemy*, 82.

¹³⁴ Penal Reform International, *Research on Gacaca (Report IV): The Guilty Plea Procedure, Cornerstone of the Rwandan Justice System* (Kigali: Penal Reform International, 2003), 36.

¹³⁵ Penal Reform International, *Research on Gacaca (Report VI): From Camp to Hill*, 50–54, 104–09.

¹³⁶ Human Rights Watch, “Killings in Eastern Rwanda,” Human Rights Watch Briefing Paper (New York: Human Rights Watch, 2007); and Monitoring Program of the Gacaca Court Process [*Projet d’appui de la société civile au processus gacaca au Rwanda*] (PAPG), *Les cas d’insecureté des témoins et des rescapés du génocide dans les juridictions gacaca* (Kigali: PAPG, 2003).

¹³⁷ National Service of Gacaca Courts, 2006, www.inkiko-gacaca.gov.rw/En/EnIntroduction.htm. The government amended the gacaca law again in March 2007, partly to reduce the number of suspects classified as the worst offenders (Gacaca Law 2007).

¹³⁸ Gacaca Law 2004, arts. 38, 47.

¹³⁹ Mukantaganzwa, interview by author, Kigali, June 6, 2006.

¹⁴⁰ Zigira, interview by author, Kigali, May 15 and 22, 2006.

¹⁴¹ Alex, interview by author, Kigali, May 17, 2006.

¹⁴² Diplomat, interview by author, Kigali, May 23, 2006.

¹⁴³ World Bank, *Greater Great Lakes Regional Strategy for Demobilization and Reintegration* (Washington, D.C.: World Bank, 2002), 20.

¹⁴⁴ MONUC official, interview by author, Kigali, May 23, 2006.

¹⁴⁵ Zigira, interview by author, May 15 and 22, 2006.

¹⁴⁶ Busingye, interview by author, Kigali, June 12, 2006.

¹⁴⁷ Zigira, interview by author, May 15 and 22, 2006.

¹⁴⁸ Jean Sayinzoga, Chairman, RDRC, interview by author, Kigali, June 5, 2006.

¹⁴⁹ The government, however, does provide 5 percent of tax revenues to FARG. See n111 above.

¹⁵⁰ Fatuma Ndagiza, Executive Secretary, National Unity and Reconciliation Commission, interview by author, Kigali, June 13, 2006.

¹⁵¹ Kaboyi, interview by author, Kigali, June 14, 2006.

¹⁵² Consolee Mukanyiligira, AVEGA-AGAHOZA, interview by author, Kigali, June 27, 2006.

¹⁵³ Penal Reform International, *Integrated Report on Gacaca Research and Monitoring*, 50.

¹⁵⁴ Sayinzoga, interview by author, Kigali, June 5, 2006.

¹⁵⁵ Zigira, interview by author, May 15 and 22, 2006.

¹⁵⁶ Mukanyiligira, interview by author, Kigali, June 27, 2006.

¹⁵⁷ Another researcher, however, did hear survivors voice resentment over the aid to ex-combatants from the armed groups. Mgbako, “‘Ingando’ Solidarity Camps.”

¹⁵⁸ Ex-FAR, interview by author, Western Province, June 2, 2006.

¹⁵⁹ MONUC official, interview by author, Kigali, May 23, 2006.

¹⁶⁰ Major General Paul Rwarakabije, Commissioner, RDRC, interview by author, Kigali, June 5, 2006.

¹⁶¹ Ex-FAR, interview by author, Western Province, June 2, 2006.

¹⁶² The interviews for this paper were conducted before the military court handed down its verdict.

¹⁶³ Ex-FAR, interview by author, Western Province, June 2, 2006.

¹⁶⁴ Ex-FAR, interview by author, Western Province, June 2, 2006.

¹⁶⁵ Ex-FAR, interview by author, Southern Province, June 3, 2006.

¹⁶⁶ Mehreteab, “Rwanda Demobilization and Reintegration Program,” 23.

¹⁶⁷ She further noted the “very small number” of suspects who were between fourteen and eighteen years of age at the time of the genocide, who would be subject to reduced penalties in gacaca. Under the 1996 Genocide Law and subsequent Gacaca Laws, children under the age of fourteen at the time of the crime cannot be prosecuted, while those between fourteen and eighteen can only receive half the sentence. Child suspects can be prosecuted in national courts if they are categorized among the worst perpetrators, but they are not eligible for the death penalty; rather, they face a maximum sentence of twenty years.

¹⁶⁸ Alex, interview by author, Kigali, April 2, 2007.

¹⁶⁹ RDRC staff, interview by author, Muhazi demobilization camp, May 29, 2006.

¹⁷⁰ Interviews at Mutobo demobilization camp, May 16, 2006, and Muhazi demobilization camp, May 29, 2006, and April 11, 2007.

¹⁷¹ Zigira, interview by author, Kigali, May 15 and 22, 2006.

¹⁷² Sayinzoga, interview by author, Kigali, June 5, 2006.

¹⁷³ MONUC official, interview by author, Kigali, May 23, 2006.

¹⁷⁴ Rwarakabije, interview by author, Kigali, June 5, 2006.