REVITALIZING TRADITION TO PROMOTE RECONCILIATION

Learning from the Gacaca Courts in Rwanda

(Tongaren, Brenk, Hellema, & Verhoeven, 2005, pp. 466-471)

By
Basil Ugorji

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(July 25, 2016)
1994 – Map of Rwanda
Learning Objectives

- Understand the emergence of the Gacaca Courts in Rwanda.
- Discover the conflict resolution practice utilized in the Gacaca Courts (pronounced GA-CHA-CHA).
- Reflect on the practice theory of change underlying this intervention.
- Contemplate on Lederach’s (1977) views on “Sustainable Reconciliation in Divided Societies” as applicable to the Gacaca case.
- Understand the lessons learned from this practice theory of change.
- Review and evaluate the conflict intervention and practice theory of change underlying the Gacaca Courts.
Understand the Emergence of the Gacaca Courts in Rwanda

- Focus of the presentation: the post-1994 Rwandan genocide justice and reconciliation process.
- The justice and reconciliation process which the Gacaca Courts represents will be explained in the context of the post-1994 genocide situation.
- However, a brief summary of the pre-genocide events is needed to underscore why the traditional method of conflict resolution and reconciliation was revitalized after the genocide.
## Rwanda: Historical Background

<table>
<thead>
<tr>
<th>Demography/Ethnic Groups</th>
<th>Hutu</th>
<th>Tutsi</th>
<th>Twa</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population in 1994 - more than 7 million</td>
<td>85%</td>
<td>14%</td>
<td>1%</td>
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<tr>
<td>Intermarriages or mixed marriages often occurred among the 3 groups.</td>
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<tr>
<td>Social Status in Pre-Colonial Era</td>
<td>Underprivileged; Lower status; Less powerful</td>
<td>Privileged group; Occupied the highest strata in the social system; Nyinginya (the most powerful)</td>
<td>No privilege; Insignificant; Marginalized</td>
</tr>
<tr>
<td>Traditional Occupation</td>
<td>Farmers</td>
<td>Cattle herders; Soldiers; Administrators</td>
<td>Hunter-gatherers; Potters</td>
</tr>
<tr>
<td>Peace Temperature</td>
<td>Relative peace and harmony, but often land-based disputes, property damage, marital issues, and inheritance rights (Tongaren et al., 2005, p. 466)</td>
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<tr>
<td>Conflict Resolution Practice or Conflict/Peace Intervention Method</td>
<td>The Gacaca system - “a traditional Rwandan method of conflict resolution at the village level” (Tongaren et al., 2005, p. 466); I.e., Mediation (Victim-offender mediation) in which the community leaders served as mediators.</td>
<td>Process outcome: Apology, sanction, restitution or reparation, forgiveness, reconciliation, reintegration, healing.</td>
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<tr>
<td>Timeline</td>
<td>Precursors to Genocide</td>
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<tr>
<td>November 15, 1884</td>
<td>Rwanda is assigned to Germany as part of German East Africa. Under German rule, the existing hierarchy remained intact: Tutsi chiefs maintained order over the majority made up of Hutu lower classes.</td>
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<tr>
<td>October 20, 1924</td>
<td>Belgium gained control of the territory of Rwanda, then called Ruanda-Urundi and ruled indirectly through Tutsi kings.</td>
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<tr>
<td>January 1, 1932</td>
<td>Belgium introduces identity cards distinguishing Hutu, Tutsi, and Twa, changing the relationship dynamics.</td>
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<tr>
<td>November 5, 1959</td>
<td>Hutu uprising. “Throughout the colonial era, the minority Tutsi (14%) were favored over the Hutus (85%). They were given privileges and western-style education, while the Hutus were the oppressed masses. In 1959, the Hutus rebelled against the Belgian colonial power and the Tutsi elite, forcing some 150,000 Tutsis to flee to Burundi”</td>
<td></td>
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<tr>
<td>July 1, 1962</td>
<td>Rwanda gains independence. Gregoire Kayibanda – a hutus – became the new President of Rwanda. Thousands of Tutsis were forced to flee.</td>
<td></td>
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<tr>
<td>December 1, 1963</td>
<td>Massacres of some 20,000 Tutsis in Rwanda in response to a military attack by exiled Tutsis from Burundi.</td>
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<tr>
<td>July 5, 1973</td>
<td>Coup by the army chief of staff Juvenal Habyarimana, a Hutu. He set up a one-party state and introduced a policy of ethnic quotas in all public service employment.</td>
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<tr>
<td>Timeline</td>
<td>Precursors to Genocide</td>
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<tr>
<td>June 10, 1987</td>
<td><strong>Rwandan Patriotic Front (RPF) is formed</strong> by the exiled Tutsis in Uganda with the aim of regaining control of Rwanda.</td>
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<tr>
<td>January 1, 1990</td>
<td><strong>Rwandan army began to train and arm civilian militias known as Interahamwe</strong> (&quot;Those who stand together&quot;).</td>
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</tbody>
</table>
| October 1, 1990    | **RPF invades Rwanda from Uganda with a force of 7,000 fighters.**  
*Consequence:* fatalities, IDPs, EDPs, all Tutsis inside the country were labeled accomplices of the RPF, and Hutu members of the opposition parties were labeled as traitors.                                        |
| August 4, 1993     | **"Arusha Accord" Peace Agreement, a power-sharing agreement signed** in Tanzanian by President Habyarimana and the RPF to end the war and allow for the return of refugees and a coalition Hutu-RPF Government.                               |
| October 5, 1993    | **UN Security Council establishes Peacekeeping Mission** called UN Assistance Mission for Rwanda (UNAMIR) under the command of General Romeo Dallaire from Canada.  
*Mistake:* The contingents were mostly from Belgium.                                                                                                                          |
<table>
<thead>
<tr>
<th>Timeline</th>
<th>Precursors to Genocide</th>
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<tbody>
<tr>
<td>April 6, 1994</td>
<td>The plane carrying Presidents of Burundi and Rwanda is shot down in Kigali, killing all aboard. They were returning from a regional meeting at Dar es Salaam, Tanzania.</td>
</tr>
<tr>
<td>April 7, 1994</td>
<td>Rwanda’s Prime Minister, Agathe Uwilingiyimana, and 10 UN peacekeepers are killed – start of the genocide. The Rwandan Armed Forces and the Interahamwe militia set up roadblocks and started going from house to house killing Tutsis and moderate Hutu politicians. Over the course of the following 100 days an estimated 800,000 to 1,000,000 Tutsis and moderate Hutus were killed by extremist Hutus. An estimated 100,000 to 250,000 women were raped during the three months of genocide. Thousands were wounded. Millions of refugees were forced to flee. Loss of property. Trauma.</td>
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<tr>
<td>July 19, 1994</td>
<td>RPF gains control of the country – end of the genocide. The RPF, led by Paul Kagame, captured Kigali in early July, forcing the Hutu Government to flee to Zaire, followed by a tide of refugees. On July 18, the RPF had gained control over the whole of Rwanda except the humanitarian zone controlled by Operation Turquoise. The RPF declared a unilateral cease-fire and, on July 19, set up a Government of National Unity.</td>
</tr>
<tr>
<td>March 12, 1999</td>
<td>Rwanda establishes the National Unity and Reconciliation Commission. The reconciliation process in Rwanda focuses on reconstructing the Rwandan identity, as well as balancing justice, truth, peace and security in the country.</td>
</tr>
</tbody>
</table>
National Unity and Reconciliation Commission

- Justice and reconciliation after the genocide
  - More than 120,000 people were accused of bearing criminal responsibility for their participation in the killings. (Tongaren et al., 2005, p. 466-467).

- Justice pursued on three levels:
  - International Criminal Tribunal for Rwanda;
  - National court system; and
  - Gacaca courts.
### Reasons for the Re-establishment of the Gacaca Court System

|----------------------------|-------------------------------------------------------------------------------------------------|-----------------------------------|---------------------------------------------------|
| **Duration of the Process** | Short/Fast  
Hearings held weekly; “More than 12,000 community-based courts tried more than 1.2 million cases throughout the country;” Elected judges – 250,000 | Long/Slow | Long/Slow |
| **Goals / levels of outcomes** | Truth finding, confession, remorse, apology, forgiveness/letting go, reparation/restitution/community service (*restorative justice*), reconciliation, reintegration, healing, closure, peace. | Justice in terms of retribution, abstract legal principles, deterrence, national order, safety and security. | Justice in terms of retribution, deterrence, abstract legal principles, international order and security. |
| **Process / Procedural Agents** | Judges/jurors are elected from and by the community.  
*Criteria for selecting a judge* – integrity, conduct, lack of involvement in the genocide. (p. 467) | Judges are appointed by the state.  
*Criteria for selecting a judge* – resume | Judges are appointed by the international community.  
*Criteria for selecting a judge* – resume |
| **Cost** | Less expensive | More expensive | Most expensive |
### Types of Crimes Examined

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<tr>
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<tbody>
<tr>
<td><strong>Category 4:</strong> Crimes against property</td>
<td><strong>Category 1:</strong> Crimes of the highest level, which include those committed by leaders and planners of the genocide as well as rape and sexual torture</td>
<td>Persons bearing great responsibility for genocide and other serious violations of international humanitarian law committed in Rwanda between 1 January and 31 December 1994.</td>
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<tr>
<td><strong>Category 3:</strong> Serious assaults against the person</td>
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<tr>
<td><strong>Category 2:</strong> Criminal acts that place the perpetrators among the perpetrators and accomplices of international homicide</td>
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</table>
Discover the Conflict Resolution Practice utilized in the Gacaca Courts (pronounced GA-CHA-CHA)

• Non-adversarial – Restorative Justice – Victim Offender Mediation [VOM])

• Unlike the retributive justice (or punitive, repressive), which aims to restore order through the imposition of sufferings, sanctions, revenge, proportionate reprisals, restorative justice (transformative) is concerned with:

  ➢ a) the restoration or reconstruction or refurbishment of the victims; and

  ➢ b) the reintegration of offenders into the community. (Ugorji, 2012)
Focus

- Damage(s) caused
- Reparation
- Restoration of the broken equilibrium among the parties: society, offender and victim
- Reconciliation
- Relationships
- Peace in the community

“A balance between a number of different tensions: a balance between therapeutic and retributive models of justice; a balance between the rights of offenders and the needs of victims, a balance between the need to rehabilitate offenders and the duty to protect the public” (Liebmann, 2007, p. 33)
Major Differences

Restorative Justice

- Asks a different set of questions:
- Who was injured?
- What are their needs?
- Who will take up the responsibility?

Retributive Justice

- Seeks answers to these three questions:
- Which laws were broken?
- Who broke them?
- What sanction do the offenders or guilty deserve?

(Zehr, 2002)
<table>
<thead>
<tr>
<th>Diagnosis/Problem Framing</th>
<th>Intervention Framing &amp; Goals</th>
<th>Methods</th>
<th>How Change Happens</th>
<th>Intended Effects</th>
</tr>
</thead>
<tbody>
<tr>
<td>The need for the Hutus, Tutsis, and Twas survivors to live together in peace and harmony as Rwandans after the genocide and massacre of about one million Tutsi ethnic members and their Hutu sympathizers.</td>
<td>Use non-adversarial and restorative justice system and processes. Revitalize and incorporate the traditional customary dispute resolution system and processes. Establish community-based courts or Gacaca courts and hold hearings.</td>
<td>Engage in victim-offender-mediation. Story telling – perpetrators, victims and witnesses (community members) tell their stories about what happened. Active and reflective listening. Confession.</td>
<td>Using the Gacaca courts system will lead to community grieving, healing of traumatic memories, soothing of anger and pain, and reduction of fears and hatred. Sharing stories and listening to one another lead to metacognition, mutual understanding, and rebuilding of relationship.</td>
<td>National unity. New Rwandan national identity. National reconciliation. New narrative about what happened.</td>
</tr>
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</table>
### The Practice Theory of Change Underlying this Intervention

<table>
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<th>Intervention Framing &amp; Goals</th>
<th>Methods</th>
<th>How Change Happens</th>
<th>Intended Effects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Perpetrators need a safe space to confess.</td>
<td>Elect community leaders from the grassroots levels based on their proven records of “integrity, conduct, and lack of involvement in the genocide” to serve as Judges.</td>
<td>Truth finding, acknowledgement and validation.</td>
<td>Confession, remorse, apology, and commitment to reparation elicit forgiveness.</td>
<td>Healing.</td>
</tr>
<tr>
<td>“More than 120,000 people were waiting for trial for bearing criminal responsibility for their participation in the killings.”</td>
<td>Hold the hearings in all the affected communities.</td>
<td>Acknowledgement and validation of hurts and damage caused.</td>
<td>Rehabilitation of offenders leads to public safety.</td>
<td>Closure.</td>
</tr>
<tr>
<td>Time and cost of holding formal judicial court trials for more than 120,000 people.</td>
<td></td>
<td>Remorse, apology, forgiveness, letting go, reparation or restitution, and community service.</td>
<td>Allowing community leaders with good reputation to facilitate the process adds confidence to, and legitimizes, the process.</td>
<td>Reintegration of offenders into the community.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Hold the hearings every week.</td>
<td>Frequent hearings bring relief to the affected population and adds credibility to the process.</td>
<td>Peace.</td>
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<td>Reliable process, inexpensive, and fast.</td>
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</table>
Contemplate on Lederach’s (1977) Views on “Sustainable Reconciliation in Divided Societies” as Applicable to the Gacaca Case

3 Fundamental Questions addressed by “Building Peace”

- What is the nature – what are the key characteristics – of contemporary armed conflicts that divide societies across our globe?

- What are useful concepts and perspectives for building peace in the midst of these conflicts?

- What are practical approaches and activities that move us toward peaceful and constructive transformation of conflict and have the potential for sustaining that movement? (See xvi)

Theoretical Framework and Pillars

- “The nature and characteristics of contemporary conflict suggest the need for a set of concepts and approaches that go beyond traditional statist diplomacy”

- “Building peace in today’s conflicts calls for long-term commitment to establishing an infrastructure across the levels of a society, an infrastructure that empowers the resources for reconciliation from within that society and maximizes the contribution from outside”

- Constructing the house of peace relies on a foundation of multiple actors and activities aimed at achieving and sustaining reconciliation”

- Which is more important – the body or the head? House or rooftop?
Significant Shifts in the Post-Cold War Era: *From International to Intrastate or Intranational Conflicts*

**Why do these armed conflicts occur in this era?**

<table>
<thead>
<tr>
<th>Causes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manifestation or escalation of “historic conflicts” also known as “protracted conflicts”</td>
</tr>
<tr>
<td>“Ethnicity or, in some cases, religion”</td>
</tr>
<tr>
<td><strong>Primary issues:</strong> governance; autonomy; self-governance; redefinition of territory, state formation, control of the state, group rights</td>
</tr>
<tr>
<td><strong>International dimension</strong> – alliance, irredentism, weapons, refugees.</td>
</tr>
</tbody>
</table>

- Fundamental needs not addressed
- Space for participation in decisions not provided
- Equitable distribution of resources and benefits not provided
- Competition and comparison
- **Outcome:** identification with a group becomes attractive.

Lederach, 1997, pp. 7-8
Theoretical Assumptions Underlying the Shift to Ethnic or Identity-based Conflicts

- “Cohesion and identity in contemporary conflict tend to form within increasingly narrower lines than those that encompass national citizenship” (p. 12 -13).
  - Disagreement > antagonism > hostility > strengthening of group’s internal cohesion > response to external threats and enemies (Coleman 1956; Coser 1956, as cited in Lederach, 1997, p. 13).
  - Lack of security, breakdown of centralized authority, distrust, fear, stereotype, negative perceptions, paranoia, violence, division, atrocities, exacerbation of hatred and fear, ideology, control, domination.

- “Factionalization and diffusion of power” (Lederach, 1997, p. 14)
  - Multiplicity of groups > weakened central authority > shifting of alliances > fight for recognition and power > access to, and control of, resources.

- History and memory > Protractability and intractability of the conflict (p. 14)
  - Proximity and immediacy of the ‘other’ > subjective experiences > enduring animosity > perception of enmity > deep-rooted fear > manipulation > “reciprocal causation” > fight for survival.

- Unavailable resources – unethical external interventions in intranational conflicts
  - International laws/charters; “lack of appropriate and adequate concepts, approaches, and modalities for intervention” (p. 16); over-reliance on weak “traditional statist diplomacy” (p. 16).

**Where Are We?**

- Conflict resolution “mechanisms relying solely on statist diplomacy and realpolitik have not demonstrated a capacity to control these conflicts, much less transform them toward constructive, peaceful outcomes.”

**What then should we do? How can these conflicts be resolved?**

- **Key point:** “Contemporary conflicts necessitate peacebuilding approaches that respond to the real nature of those conflicts”.
- What is therefore needed is “innovation, the development of ideas and practices that go beyond the negotiation of substantive interests and issues.”

Lederach, 1997, p. 25
A Conceptual Framework for Building Peace within the Context of Armed Conflict

<table>
<thead>
<tr>
<th>Issues</th>
<th>Component parts</th>
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</thead>
<tbody>
<tr>
<td>• Structural issues</td>
<td>• Structure</td>
</tr>
<tr>
<td>• Social dynamics of relationship building</td>
<td>• Process</td>
</tr>
<tr>
<td>• Development of a supportive infrastructure for peace</td>
<td>• Relationship</td>
</tr>
<tr>
<td>(Lederach, 1997, p. 21)</td>
<td>• Resources</td>
</tr>
<tr>
<td></td>
<td>• Coordination</td>
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</tbody>
</table>
Neighbor A (The Hutus)          Neighbor B (The Tutsis)

**Commonalities**

- Perpetrators and victims of genocide
- Living side by side in close proximity
- Direct experience of violent trauma
  - Intergenerational enmity
  - Severe stereotyping
  - History of grievance
  - Intense animosity
  - Hostile interaction
  - Deep-rooted fear
  - Interdependent
  - Shared future
Proposed Paradigm Shift in Conflict/Peace Intervention
(Lederach, 1997, pp. 24-25)

From
• “From a concern with the resolution of issues
• From the realm of realism and objectivity (“the negotiation of substantive interests and issues”)
• From a “mechanical strategy”

To
• Toward a frame of reference that focuses on the restoration and rebuilding of relationships”
• To the realm of innovation and subjectivity – “generally accumulated perceptions and deep-rooted hatred and fear”
• To “reconciliation as the central component of peacebuilding.”
How can we “Create a Catalyst for Reconciliation and then Sustain it in Divided Societies”? 

3 Assumptions undergirding a conceptualization of reconciliation:

- Relationship
- Point of Encounter or Meeting Place
- Innovation
Relationship

- Relationship as the basis of conflict and sustainable resolution.
- Engaging as “humans-in-relationship” (Lederach, 1997, p. 26);
- One Body with different parts harmonized in a system through the enactment of relationships.
- Reconciliation helps to restore the broken relationships between the whole and the parts so that the system will begin to work again harmoniously.
Point of Encounter

A meeting place for:

• People – parties to a conflict (enemies)
• Issues
• positions
• Interests
• Needs
• Emotions – trauma, grief, anger, pain, hurt, fears
• History – the past (memories), the present and the future (glimpse of peace and healing; restoration of persons and relationship; through acknowledgement)
Innovation

- Thinking outside the box, what Lederach (1997) calls:
- “Outside the mainstream of international political traditions, discourse, and operational modalities” (p. 27).
- Why: to be able to address “the deep-rooted animosities” (Lederach, 1997, p. 28) that persist in postwar situations.
The Place Called Reconciliation: What Happens?

- Truth and mercy meet together
- Justice and Peace kiss

“Truth and mercy have met together; peace and justice have kissed” (Psalm 85:10 as cited in Lederach, p. 28).
Figure 1. The Place Called Reconciliation
( Lederach, 1997, p. 30)
Definition of Reconciliation

• “Reconciliation involves the creation of the social space where both truth and forgiveness are validated and joined together, rather than being forced into an encounter in which one must win out over the other or envisioned as fragmented and separated parts.”

• “Reconciliation is a process of encounter and a social space.”

Lederach, 1997, p. 29
Basic Paradigm of Reconciliation

- “To embrace paradox”
- “A focus on relationship will provide new ways to address the impasse on issues;
- Providing space for grieving the past permits a reorientation toward the future;
- Envisioning a common future creates new lenses for dealing with the past.”

Lederach, 1997, p. 31
The Praxis of Reconciliation

Integrate a reconciliation paradigm at the middle-range and grassroots levels on both sides of the conflict. Unless that can be accomplished, the innovation and progress made at the highest level of the peace process will always remain under severe stress and in danger of outright collapse. (Lederach, 1997, p. 34)

- Secrecy (or confidentiality) of the process
- From Middle-range to top-level leaders
- Place of encounter leading to intimacy (relationship building)
- Time investment for joint activities
- Prepare the ground for top-level leadership participation
From Middle-Range to Top-Level Leaders

Figure 2. Actors and Approaches to Peacebuilding (Lederach, 1997, p. 39)
An Integrated Framework for Peacebuilding

- Two Key Concepts:
  - **Transformation:**
    - “Represents the change from one status to another.
    - The movement from the latent stage to confrontation to negotiation to dynamic, peaceful relationships.”
  - **Sustainability:**
    - “Proactive process that is capable of regenerating itself over time
    - A spiral of peace and development instead of a spiral of violence and destruction” (Lederach, 1997, p. 75).
- *Peacebuilding* = “sustainable transformation” provided that a framework and a time frame are present.
• Structure + Process = An Integrated Approach to Peacebuilding

• Where:

• “Structure” suggests “the need to think comprehensively about the affected population and systematically about the issues;” and

• “Process underscores the necessity of thinking creatively about the progression of conflict and the sustainability of its transformation by linking roles, functions, and activities in an integrated manner” (Lederach, 1997, p. 79).

Horizontal Axis = The Time Dimension in Peacebuilding (Timeframe Model)

(Lederach, 1997, p. 80)
Conflict Transformation

“change that can be understood in two fundamental ways – descriptively and prescriptively – across four dimensions – personal, relational, structural, and cultural”
(Lederach, 1997, p. 82).

Descriptively

- Conflict transformation describes “the general changes social conflict creates and the patterns it typically follows.”
- I.e. “empirical impact of conflict” or effects produced by social conflict.

Prescriptively

- It is a “deliberate intervention to effect change.”
- I.e. Intervenor’s goal or desired change.
Resources for Sustainable Transformation

**Socioeconomic Resources**
- Categories of action
- Responsibility and accountability
- Strategic commitment

**Sociocultural Resources**
- Sociocultural resources
- Peace constituency
- Cultural resources
Building a Peace Constituency in Conflict Zones

- People should be seen as “resources” and not “recipients”
- “Citizen-based peacemaking must be seen as instrumental and integral, not peripheral, to sustaining change”
- The sphere of the “middle-range actors” linking the “top-level” and the “grassroots-level” actors
- Conditions and qualities of middle-range actors
  - People who have “a vision for peace” or local peacemakers.
  - Capacity to build bridges “across the lines of conflict”
  - Reputation needed to earn public recognition and legitimacy.

(Lederach, 1997, p. 94)

Building on Cultural Resources

- Recognition of existing local “resources, modalities, and mechanisms for building peace” (Lederach, 1997, p. 95).
- Emerging model from Central America supporting the principles of the Gacaca Courts in Rwanda
  - 3 Important cultural concepts and modalities that characterize local conflict resolution and peacebuilding
    - “TNT”
- Where
  - T= Trust (“confianza,” also meaning “confidence”) suggesting “a relationally based, holistic approach to mediation that develops over time”
  - N= Networking (“cuello,” also meaning “neck,” “connection” – connecting head and heart) suggesting that “peacebuilding is dependent on knowing people and being connected” (p. 97).
  - T= Timing (“coyuntura,” also meaning “juncture”) suggesting “sensitivity to events and the perception of possibilities”
    - Lederach, 1997, p. 97
<table>
<thead>
<tr>
<th>Type of Mediator Appropriate to these Cultures</th>
<th>Characteristics of “Insider-Partial” Mediators</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Insider-Partial” (“confianza-cuello”) as opposed to an “outsider-neutral” mediator. (Lederach, 1997, p. 96)</td>
<td>• Appointed from within the community</td>
</tr>
<tr>
<td>“Social Network Mediators” (For their characteristics, see Moore, 2014, p. 29).</td>
<td>• Have “knowledge of the context” (Lederach, 1997, p. 96)</td>
</tr>
<tr>
<td><strong>Reason:</strong> Because in conflict situation, parties “seek help from someone they trust who has the ‘confianza’ of the other side” (p. 96).</td>
<td>• Relationship with parties viewed “as a resource, not an obstacle” (p. 96)</td>
</tr>
<tr>
<td>• Appointed from within the community</td>
<td>• Long-term connection with the parties and tied to the community</td>
</tr>
<tr>
<td>• Have “knowledge of the context” (Lederach, 1997, p. 96)</td>
<td>• “Chosen not for their expertise or profession, but for who they are in the network” (p. 96)</td>
</tr>
<tr>
<td>• Relationship with parties viewed “as a resource, not an obstacle” (p. 96)</td>
<td>• Trusted by the parties and “provide balance and credibility” (p. 96) to the entire process.</td>
</tr>
</tbody>
</table>
Understand the Lessons Learned from this Practice Theory of Change

- Traditional Gacaca *versus* Modern Gacaca

*Differences*

- **Traditional system:** Gacaca meetings convened spontaneously by local elders; cases are mainly interpersonal disputes.
- **Modern system:** Initiated by the Rwandan government; under the supervision of the “Supreme Court and the Ministry of Justice” (p. 467); cases are mainly based on genocide.

*Similarities*

- “The local population acts as witness, judge, and party to the trials” (Tongaren et al., 2005, p. 467).
- “Focus on the communal process of reconciliation” (Tongaren et al., 2005, p. 468).
Review and Evaluate the Conflict Intervention and Practice
Theory of Change Underlying the Gacaca Courts

Weaknesses

- Logistical
- Legal
- Operational
- Participation (issues of non-compensation raised questions about participation – survivors question the gain in participating since at the end, family members will not be brought back; fear of retaliation after testifying at the courts inhibits participation)
- Lack of compensation for judges
- “Neither the defendants nor the victims have a right to legal advice or counsel” (Tongaren et al., 2005, p. 468).
- Competence of Gacaca judges
- Conflicts of interest
- “Adherence of the Gacaca courts to the principle of the presumption of innocence” (Tongaren et al., 2005, p. 468)
- Confession under torture
- Double jeopardy (“meaning persons already acquitted under a national court could still be tried under the Gacaca courts” p. 468)
- Integrity issues: misuse of the process to give false testimonies against other community members leading to “tensions rather than enhancing reconciliation” (p. 469).
- Women’s reluctance to “come forward and speak about sexual violence” in public hearings (p. 470).

Strengths

- Inclusion of women in the process
- Provisions for special/private hearings on cases of sexual abuse/violence
- The Gacaca system created space for public dialogue about the 1994 genocide and its consequences on victims and perpetrators and on the society.
- “The dialogue meetings have enabled both families of victims and perpetrators to understand that both sides have suffered as a result of this genocide; that both sides have been victims.
- People have come to understand that many of the perpetrators were manipulated by the political leaders of the time” (International Alert, 2004, as cited in (Tongaren et al., 2005, p. 471).
Gacaca Courts: Outside the Paradigm of Western Conflict Resolution Models

- Salem’s “Critique of Western Conflict Resolution from a Nonwestern Perspective” seeks to address the fundamental philosophical cum cultural grounds on which Western conflict resolution theories and practice are founded, and the challenges involved in transporting these theories and values to non-western cultures, especially the Arab world.
- The author’s critique of Western conflict resolution could be understood from thirteen perspectives the summary of which are itemized as follows:
- Peace and empire, virtue of peace and battle, the notion of struggle, meaning of pain and pleasure, change and stagnation, opening up and tradition or formality in negotiation, citizens’ education and role, understanding of conflict, “descent to psychology”, role of the anonymous third party intervener, the idea of working together or team player, agreement and its enforcement, and conflict resolution in a “society of haves and have-nots.” (Salem, 2007)
• A conflict resolution model that fails to recognize goodness in conflict, struggle and war cannot be accepted in cultures that see war as a necessary good that is conditioned by the sacred to happen for socio-political and spiritual revival.
Discussion

An Invitation to Brainstorm Together

• The four major concepts at the heart of the Gacaca courts’ reconciliation program and this week’s reading are: Truth, Mercy, Justice, and Peace.

  Discuss each concept as if it were a person, and describe the images it brings to mind, and what each concept says about the post-1994 Rwandan genocide or any other violent conflict around the world.

• Lederach believes that the middle-range or the subsystem’s roles are those of infrastructure building, facilitation, the design of social change, and linkage – “linking the immediate experience of crisis with a better future in which such crises can be prevented.

  How can we put into place mechanisms that make the transition to sustainable transformation possible?

  How is reconciliation related to conflict transformation?
References