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# Rwanda's Gacaca Courts and the Discovery of Mass Graves

Julia Viebach, Denis Bikesha and Allan Moore

## Introduction<sup>1</sup>

Especially for survivors of the 1994 Genocide against the Tutsi<sup>2</sup> it is tremendously important to know how their loved ones were killed and where they were put to rest. Not knowing where loved ones are buried, constitutes a spiritual violence and causes great emotional distress. The gacaca courts that were implemented in the early 2000s – as we will demonstrate – furthered “truth-telling” about where bodies were thrown. Until then however there were only uncoordinated and often private, survivor-led initiatives to find and bury the dead. In the direct aftermath of the Genocide when survivors returned to their communities and villages, they buried bodies that were often strain on floors of churches, schools or administrative buildings, left in the open or dumped in the rivers. Other victims’ bodies were found in latrines or antiseptic tanks. In an initial attempt to provide some degree of dignity to these victims, survivors collected the bodies and buried them in mass graves. The sheer number of bodies however prevented at that stage a burial on the homestead or customary funerary rites.

At this point in time, state-led identification and exhumation of primary mass graves were not given except the international half-hearted attempt of forensic mass grave investigation initiated by the International Criminal Tribunal for Rwanda (hereafter ICTR) in Kibuye and Kigali in 1996.<sup>3</sup> Until the late 90s the (Catholic) Church and survivor organisations, particularly IBUKA<sup>4</sup>, continued to locate, exhume mass graves, often publicly, and re-bury Genocide victims. At some massacre sites,<sup>5</sup> bodies and remains were not (re-)buried but kept in bags or stored in administrative or adjunct church buildings.<sup>6</sup> For instance, at the notorious Murambi poly-technical school – today a national memorial - where about 50.000 people were killed, survivors decided to display the bodies (that were found in mass graves on the compound) in the school’s classrooms.<sup>7</sup> The unique soil and climatic conditions in the South of the country delays the natural decomposition of bodies and makes the preservation of such without high-tech procedures possible.<sup>8</sup> Often, remains that had been stored after exhumation were at a later stage interred at memorial sites’ cemeteries or crypts and afforded a dignified burial in coffins during commemoration ceremonies whilst others – especially at national memorials<sup>9</sup> - were put on display as part of Rwanda’s unique memorialisation strategy.

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<sup>1</sup> The research conducted by Viebach was funded by the Leverhulme Trust Fund, ECF-2014-233.

<sup>2</sup> Hereafter Genocide.

<sup>3</sup> Koff, Clea *The Bone Woman: Among the Dead in Rwanda, Bosnia, Croatia and Kosovo* (Atlantic Books 2004); Haglund W and Sorg MH (eds) *Advances in Forensic Taphonomy: Method, Theory and Archaeological Perspective* (CRC Press 2002 ) 277.

<sup>4</sup> Ibuka means “remember” in Kinyarwanda. Ibuka is the umbrella survivor organisation in Rwanda with headquarters in Kigali.

<sup>5</sup> Many of which were turned into memorial sites such as Nyamata, Nyarabuye or Kibeho.

<sup>6</sup> Fieldwork Viebach. E.g. Nyamata; Gerald Caplan, ‘Rwanda: Walking the road to genocide’. In Allan Thompson (ed) *The Media and the Rwanda genocide* (Pluto Press 2007) 20, 22.

<sup>7</sup> Viebach, Julia, ‘Mediating ‘absence-presence’ at Rwanda’s genocide memorials: of care-taking, memory and proximity to the dead’ *Critical African Studies* (2020) 12(2), 237-269.

<sup>8</sup> The bodies and remains are regularly cleaned and white lime powder applied to them to keep them from decomposing.

<sup>9</sup> Indeed, Memorial Law Law N° 56/2008 of 10/09/2008 Governing Memorial Sites and Cemeteries of Victims of the Genocide Against the Tutsi in Rwanda (renewed in 2016 and 2019 respectively) clarifies that human remains and bodies are only to be displayed at national memorial sites. Despite this law, there are many smaller rural

Only from the early to mid-2000s can we talk of state-led exhumations when the state organised exhumations on a nationwide level.<sup>10</sup> This is on the one hand linked to more state-oversight of memorialisation and on the other to the establishment of the gacaca courts in 2002; the latter afforded many survivors over its lifespan to know who, how and where their loved ones were killed and thrown. This chapter will investigate the role gacaca courts played in the identification and exhumation of mass graves focussing on the importance of these interlinked processes for Genocide survivors. Whilst for many survivors, gacaca trials were a painful process not least because the missing were confirmed dead and knowing how loved ones were killed was hurtful if not unbearable at times,<sup>11</sup> it also meant that many could finally lay their loved ones to rest in dignity and engage in individual and ritualised mourning and re-membering practices.<sup>12</sup>

We argue that gacaca courts have been the structural vehicle for “truth-telling” after the Genocide and through its participatory outlook enabled the discovery and exhumation of mass graves. In other words, without gacaca courts, the discovery of mass graves and the chance for the missing to be discovered would have been slim. Before gacaca courts, a “culture of silence”<sup>13</sup> prevented communication about the events during the Genocide. Rwandans found a mode of existence that was based on “chosen amnesia”<sup>14</sup> that made everyday life possible. In this context, many mass graves remained hidden. The gacaca trials not only helped to locate graves but also to identify victims in both until-then hidden mass graves and in those that were known before the gacaca courts started. The chapter will draw out the process through which Genocide victims were found, exhumed and (sometimes) identified. In doing so, it draws on extensive fieldwork in Rwanda since 2014 and especially on Bikesha’s insights as Director of the National Service of Gacaca Courts (2004-2012) as well as Viebach’s research on memorialisation<sup>15</sup> and her more recent work on lay justice in Rwanda, here especially interviews with gacaca judges.

### Rwanda’s Mass Graves

In contexts of mass atrocity, ante-mortem degradation and post-mortem mutilation are ways of inscribing and altering the “body” of the ethnic other – here Tutsi – to stabilise this otherwise imaginary category and render these bodies inhumane.<sup>16</sup> The management or disposal of the dead is an extension and

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memorials that display human remains based on survivors’ decision to do so. In addition, a memorial must have a burial ground to be classified as genocide memorial. The same law also provided the legal regulations for the burial of Genocide victims at memorials thereby (controversially) stopping traditional burial on the homestead.

<sup>10</sup> Interview Bikesha with former staff of the CNLG, 3 March 2022.

<sup>11</sup> Kristin Doughty, ‘Law and the architecture of social repair: gacaca days in post-genocide Rwanda’ (2015) 21(2) *The Journal of the Royal Anthropological Institute* 419, 420-421.

<sup>12</sup> Julia Viebach, ‘Mediating ‘absence-presence’ at Rwanda’s genocide memorials: of care-taking, memory and proximity to the dead’ *Critical African Studies* (2020) 12(2), 237-269.

<sup>13</sup> Bert Ingelaere, ‘“Does the Truth Pass across the Fire without Burning?” Locating the Short Circuit in Rwanda’s Gacaca Courts’ *The Journal of Modern African Studies* (2009) 47(4), 507-528.

<sup>14</sup> Susanne Buckley-Zistel, ‘Remembering to Forget: Chosen Amnesia as a Strategy for Local Coexistence in Post-Genocide Rwanda’ (2006) 76(2) *Africa: Journal of the International African Institute* 131, 144.

<sup>15</sup> See especially Julia Viebach, ‘Mediating ‘absence-presence’ at Rwanda’s genocide memorials: of care-taking, memory and proximity to the dead’ *Critical African Studies* (2020) 12(2), 237-269; Julia Viebach, ‘Of other times: Temporality, memory and trauma in post-genocide Rwanda’ (2019) 25(3) *International Review of Victimology* 277, 287.

<sup>16</sup> J. A. Margold, ‘From cultures of fear and terror to the normalisation of violence: an ethnographic case’, *Critique of Anthropology* (1999) 19:1, 63–88

expression of such violence which manifests itself either in concealment or display of bodies.<sup>17</sup> Anstett refers in this context to visibility or property regimes. Both regimes can be observed in Rwanda which results in a complex landscape of mass graves.

In terms of the visibility regime, the motivation of perpetrators varied. On the one hand, mutilated bodies were purposefully rendered invisible in (mass) graves or thrown into rivers to be carried away by the water.<sup>18</sup> For instance, it is estimated that over 10,000 bodies were thrown into the Nyabugogo river (near Rwanda's capital Kigali) floating about 100 miles away to the shores of Lake Victoria on the Ugandan side.<sup>19</sup> Often graves were dug by ordinary perpetrators to avoid having to deal with decomposing bodies in the communities they lived in or local authorities including the military ordered the creation of pits to either conceal or prevent contamination of water/soil caused by decomposing human remains.<sup>20</sup> In Kigali however it can be assumed that mass graves served the concealment of bodies due to the presence of UN troops and international journalists.<sup>21</sup> For example, at Gikondo in Kigali City, the legal representative of the Methodist church ordered people to dig a big pit on the church premises where the victims were hidden; similarly in Musha, in Rwamagana District, perpetrators concealed the bodies of their victims after the massacre at the local church in the nearby mines.<sup>22</sup> Marching people to mass graves was part of an "efficient" killing strategy and manifestation of the systematic attempt to exterminate Tutsi. Often these graves – as in other atrocity contexts – were located near or even in dump pits.<sup>23</sup> A striking example is Nyanza in Kigali where hundreds of Tutsi were marched from the ETO school (École Technique Officielle) to the nearby pit where they were mutilated and killed. This post-mortem degradation furthered the regime of invisibility of the dead. So, too, can it be interpreted as part of the property regime.

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<sup>17</sup> Nigel Eltringham, 'Display, Concealment and 'Culture': The Disposal of Bodies in the 1994 Rwandan Genocide.' In Jean-Marc Dreyfus and Elisabeth Anstett *Human Remains and Mass Violence: Methodological Approaches* (Manchester University Press, 2015) 161-180.

<sup>18</sup> Approximately 40000 bodies were found in Lake Victoria into which the Akagera River flows. Nigel Eltringham, 'Display, Concealment and 'Culture': The Disposal of Bodies in the 1994 Rwandan Genocide.' In Jean-Marc Dreyfus and Elisabeth Anstett *Human Remains and Mass Violence: Methodological Approaches* (Manchester University Press, 2015) 169, 161-180.

<sup>19</sup> <https://www.justiceinfo.net/en/21279-en-en-090409-rwandagenocide-genocide-victims-of-nyabarongo-river-to-be-honoured-friday1208612086.html>, accessed 2 March 2022. This means there are some mass graves that are not on Rwandan soil. Rwanda has bought a land near Lake Victoria shores in Uganda in preparation for a decent burial of the Genocide victims and during the 15<sup>th</sup> genocide commemoration, these victims were given a decent burial in three places: Lambu, Kasensero and Ggolo in Uganda. It is estimated that around 11,000 bodies thrown into rivers in Rwanda were recovered from the lake and buried by Ugandans; see <https://www.bbc.com/news/10417150>, accessed 2 March 2022.

<sup>20</sup> In many circumstances it is not entirely clear whether perpetrators attempted to purposefully conceal or dispose of bodies for the mentioned reasons.

<sup>21</sup> We can also assume that some perpetrators started to hide bodies in mass graves towards the end of the Genocide, when the Rwandan Patriotic Front advanced and was close to liberating the country. Others, it seems purposefully built houses, latrines or planted trees on graves *after* the Genocide as the discovery of such in recent years demonstrates (see conclusion).

<sup>22</sup> Interview Bikesha with a former staff of the National Commission for the Fight against Genocide, 24<sup>th</sup> February 2022.

<sup>23</sup> Elisabeth Anstett, 'What is a mass grave? toward an anthropology of human remains treatment in contemporary contexts of mass violence'. In Antonius Robben, *A Companion to the Anthropology of Death* (Wiley Blackwell 2018), 177-189.

The latter category refers to either a logic of appropriation by the killers or rejection to “expel the victims from a territory and a social or symbolic order”.<sup>24</sup> The rejection or refusal can be observed in Rwanda in form of the specific disposal of the dead. The location of these “graves” in latrines and antiseptic tanks or in dump pits as sites of internment is an expression of a logic of pollution or contamination<sup>25</sup> which can be situated in the Rwandan cultural symbolism of flow/blockage<sup>26</sup>. As Taylor convincingly argues the Genocide was in many ways a massive act of purification and cleansing the country of “obstructing beings”.<sup>27</sup>

This movement between concealment and display in the 1994 Genocide can be explained by the various actors involved such as the military, Interahamwe, local state authorities and unique for the Rwandan context, the participation of ordinary Rwandans in the perpetration of the crimes. As analysed under the visibility and property regime, these actors had various motivations so that the purpose for internment varied. Lastly however the mass graves “positioned as the product of an intentional deposition (...) signals a highly specific stage in the perpetration of the atrocities in question, namely the bringing together of dead bodies”.<sup>28</sup> Even further, victims interred together *en masse* symbolises the collective identity of the social (Tutsi) body that was altered (through mutilation and degradation post-mortem) rendered “other” and systematically eradicated. This violence inscribed onto the Tutsi body was revealed through the exhumation of thousands of victims after their discovery in mass graves located around the country. Whilst the Genocide was planned and systematically carried out and therefore an intentional deposition given, there was surprisingly no overall strategy of invisibilisation or disposal of the dead. In addition, Tutsi were not killed at few dedicated killing sites as existed in Bosnia or Cambodia (e.g. the Killings Fields); they were murdered all over the country in diverse places such as administrative buildings, schools or churches and particularly at roadblocks of which hundreds existed.<sup>29</sup> The existence of mass graves also varies regionally in Rwanda mirroring the variation in the scale of violence which was especially grave in terms of brutality and number of dead in the South of the country. Additional secondary graves were created after the Genocide – as described above – in an attempt, to give some degree of dignity to the bodies found in churches, schools or those that were left in the open.

In the context of ante-mortem mutilation and post-mortem degradation of bodies, victims of the genocide suffered what is referred to in Rwanda as “bad death” (*bapfuye nabi*).<sup>30</sup> “Killers not only humiliated the ‘living bodies’ of their victims, but also their corpses”<sup>31</sup> as described above. As Viebach discussed

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<sup>24</sup> Élisabeth Anstett, ‘What is a mass grave? toward an anthropology of human remains treatment in contemporary contexts of mass violence’. In Antonius Robben, *A Companion to the Anthropology of Death* (Wiley Blackwell 2018), 186, 177-189.

<sup>25</sup> Élisabeth Anstett, ‘What is a mass grave? toward an anthropology of human remains treatment in contemporary contexts of mass violence’. In Antonius Robben, *A Companion to the Anthropology of Death* (Wiley Blackwell 2018), 189, 177-189.

<sup>26</sup> Christopher Taylor, *Sacrifice as Terror: The Rwandan Genocide of 1994* (Berg 1999).

<sup>27</sup> Christopher Taylor, *Sacrifice as Terror: The Rwandan Genocide of 1994* (Berg 1999), 101.

<sup>28</sup> Élisabeth Anstett, ‘What is a mass grave? toward an anthropology of human remains treatment in contemporary contexts of mass violence’. In Antonius Robben, *A Companion to the Anthropology of Death* (Wiley Blackwell 2018), 186, 177-189.

<sup>29</sup> Indeed, many of the more recent discoveries are near the location of roadblocks.

<sup>30</sup> Rémi Korman, ‘The Tutsi body in the 1994 genocide: ideology, physical destruction, and Memory’ In Élisabeth Anstett and Jean-Marc Dreyfus (eds) *Destruction and Human Remains - Disposal and Concealment in Genocide and Mass Violence* (Manchester University Press 2017) 226, 232.

<sup>31</sup> Julia Viebach, ‘Mediating ‘absence-presence’ at Rwanda’s genocide memorials: of care-taking, memory and proximity to the dead’ *Critical African Studies* (2020) 12(2), 237-269; Rémi Korman, ‘Bury or display? The politics of

elsewhere, the immense suffering of people during the Genocide and how bodies were humiliated resonates with the idea of a “second violence”<sup>32</sup> that interrupts how social processes of funeral rites and commemoration are carried out. The identification of mass graves and the repatriation of bodies to their families becomes even more significant against this backdrop since the discovery of remains and their dignified burial is a way of meaningfully countering this “second violence”. It is especially through gacaca courts that mass graves were located, their victims exhumed and some identified.

### **Gacaca Courts and the Discovery of Mass Graves**

An estimated 800.000 to one million victims were killed during the Genocide. Many victims have not been found until today whilst others have been exhumed but not identified. As we argue, the semi-judicial gacaca courts, played an important step in the identification and lead-up to exhumations of mass graves.

Gacaca can be described as traditional conflict mechanism used in pre-colonial times (and to a lesser extent during colonial occupation) that was adopted and modernised to try crimes against humanity, genocide and property crimes. For the Rwandan authorities it was clear that a transitional justice model based on amnesty in exchange for information as applied in South Africa would not be suitable for the gravity of the crimes committed. Whilst still following the core transitional justice ideas of truth and reconciliation and upholding the belief that the former heals, Rwanda imagined a home-grown justice mechanism that should fight impunity and unearth the truth of what happened during the Genocide.<sup>33</sup> In 2002 the new gacaca was born and implemented nationwide by 2004. There were 12.103 courts that heard 1.9 million cases and convicted 1.681,648 defendants until their mandate ended in 2012.<sup>34</sup>

Gacaca operated on different political levels (according to the political decentralisation structure: cell, sector and district) that were responsible for different types of crimes. The cell level oversaw the community evidence collection and with the start of the trials dealt with property crimes whilst the sector level heard more serious crimes such as murder, rape and the humiliation of dead bodies.<sup>35</sup> Appeal courts dealt with crimes judicated through gacaca, except property crimes. The trials were led by the bench of *inyangamugayo*<sup>36</sup> lay judges who were elected by their communities.

Important aspects of gacaca were their restorative outlook, their strong lay justice component, and community participation. Whilst all these features have been widely criticised by Western scholars

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exhumation in post-genocide Rwanda’ In Élisabeth Anstett and Jean-Marc Dreyfus (eds) *Human Remains and Identification - Mass Violence, Genocide, and the ‘Forensic Turn’* (Manchester University Press 2015) 203, 205-206.

<sup>32</sup> Joost Fontein, ‘Between Tortured Bodies and Resurfacing Bones: The Politics of the Dead in Zimbabwe’ *Journal of Material Culture* (2010) 15(4), 423-448.

<sup>33</sup> Specifically, gacaca had five goals to be achieved: to reveal the truth about genocide; to speed up the cases of genocide and other crimes against humanity; to eradicate the culture of impunity; to strengthen unity and reconciliation amongst Rwandans; and; to prove Rwandans’ capacity to solve their own problems. See Domitilla Mukantaganzwa, ‘Gacaca Courts in Rwanda’ (National Service of Gacaca Courts June 2012) 33.

<sup>34</sup> Jean-Damascène Gasanabo, Donatien Nikuze, Hollie Nyseth Brehm, and Hannah Parks, ‘Rwanda’s Inyangamugayo: Perspectives from Practitioners in the Gacaca Transitional Justice Mechanism’ (2020) 14(2) *Genocide Studies and Prevention: An International Journal* 153, 156; The National Service of Gacaca Courts, *Gacaca Courts in Rwanda* (2012).

<sup>35</sup> Until 2007 and 2008 respectively, gacaca courts did not hear more serious crimes such as rape or torture; these were tried before the national courts. But with subsequent changes in the legal regulations, the competency of the courts was broadened to include rape and other more serious crimes under genocide and crimes against humanity.

<sup>36</sup> Which means “person of integrity”. The judges (up to 9) were elected by their communities. No legal representatives were allowed during trial proceedings.

and misunderstood by human rights organisations especially,<sup>37</sup> it is precisely these elements of gacaca that contributed successfully to the discovery of mass graves. This emphasis on the mass participation process of gacaca courts afforded that “justice is not merely about the needs of the relatives of the missing. It is also about those victims who barely escaped ending up in a mass grave”.<sup>38</sup> Here the important acknowledgement is that whilst a normal judicial process may not view the fact as legally relevant, a great many individuals in Rwanda may have suffered and faced challenges to survive that would not have had an opportunity to participate and have their experiences validated other than through gacaca trials.

Thus, gacaca courts – as we aim to demonstrate – was not only crucial in locating mass graves and bodies but also in identifying victims. At the same time, the discovery and investigation of mass graves helped the trial benches to collect evidence on the nature and magnitude of crimes committed. Below we describe in detail some of the crucial phases in the gacaca trials that led to mass grave discovery and exhumation using interviews conducted by Viebach in 2017 and 2018 with gacaca judges.<sup>39</sup>

### ***The Evidence Collection Phase***

At the core of gacaca was community “truth-telling” which was framed in the official discourse as “the truth heals”. Truth-telling concerned who committed what type of crimes, but essentially to locate mass graves, give names to the bodies unearthed and to find those whose fate remained unknown. Even though never explicitly stated, the ‘truth-telling aspect relates to the right to know of victims/survivors what happened to their loved ones. The discovery of loved ones’ bodies was indeed – as recounted in many of Viebach’s interviews – a major hope, survivors had about gacaca courts. The evidence collection phase was, to that end, a first crucial step which started nation-wide in 2004.

The evidence collection was undertaken on cell level and broken down to the smallest socio-political entity in Rwanda, which comprised of 10 households, *nyumbakumi*.<sup>40</sup> In this community effort, the members of *nyumbakumi* sat together and provided information on what they knew about what had happened to friends and neighbours during the Genocide. Judge Matthieu offers an insight into how the process worked and who participated in the “truth-telling”.

When gathering information (...) what we would do was to meet and have everyone tell what they saw during the Genocide, that time we worked with security officials so that there weren’t any issues. Prisoners who confessed their crimes would come to testify and then dossiers would be made and sent to the Sector for trial. Some of the information that were reported during that time of gathering, included those who participated in the Genocide, and there were those who were hiding but were able to hear or see what happened, Some of the people came and showed us where they put the bodies of those they killed, like this man that was Conseille (Sector executive secretary) came forward and showed us where they had

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<sup>37</sup> Benjamin Thorne and Julia Viebach, ‘Human rights reporting on Rwanda’s gacaca courts: a story of stagnation and failure’. In Hannah Grayson and Nicki Hitchcott *Rwanda Since 1994* (Liverpool University Press 2019), 41-61; Phil Clark, *The Gacaca Courts, Post-Genocide Justice and Reconciliation in Rwanda: Justice without Lawyers* (Cambridge University Press 2010).

<sup>38</sup> Juhl K and Olsen OE, ‘Societal safety, archaeology and the investigation of contemporary mass graves’ (2006) 8(4) *Journal of Genocide Research* 411, 429.

<sup>39</sup> All names used are pseudonyms. Where possible locations of courts are not revealed to protect the anonymity of interviewees.

<sup>40</sup> *Nyumbakumi* is a Swahili word that means ten households and was the smallest administrative entity in the Cell during the time of collection of information about genocide events. It was an adaption of the “Nyumba Kumi” (ten houses) a system operating in Tanzania.

burnt people that were hiding. At that time, it was not so easy for people to give information but as many prisoners kept on coming and naming [during the trials] those that were with them while killing people some started to come forward.<sup>41</sup>

As alluded to by Matthieu, the evidence collection functioned to draw up lists of victims, of crimes, naming of potential defendants (many of whom were already in prison), listing stolen property and identifying the location of mass graves. Significant in this first stage of gacaca courts was filing dossiers that would contain the information on mass graves. Judge Samuel explained

In giving information sometimes people would say where bodies were kept after being killed, then we would ask questions about those that killed them as we take note in our books that were provided later on those notes would be used while making dossiers<sup>42</sup>

The evidence collection phase was the first careful attempt of communities to shed light on what exactly had happened during the Genocide. It afforded survivors for the first time to come closer to know where their loved ones' remains were left.

### ***Trial Phase***

With few mass graves being discovered in this early phase of gacaca, most locations were disclosed over time during the trials. Judge Jean-Baptiste explained in this context

The bodies were discovered from everywhere, sometimes the information would come from survivors or perpetrators; this came to life in the information collection but as Gacaca continued we got more information<sup>43</sup>

The "truth-telling" about mass graves was furthered through the plea bargain system – one of gacaca's core restorative elements - that included a reduced sentence if full confession of crimes were given, and forgiveness asked. This included the disclosure of the location of (mass) graves and the naming of victims. According to the Organic Law<sup>44</sup> a full confession had to entail how victims were killed, with whom the killings had been carried out, who had been murdered and where. If these elements were not provided, the confession could be rejected by the sitting bench. Many perpetrators asked for forgiveness within the plea-bargaining system and disclosed the information on mass graves. During the evidence collection, i.e. before trials had started, people did not take gacaca as seriously, because in the evidence collection phase, nobody was sent to prison. But during the trials it soon became clear that if defendants would not tell the full truth, they could expect a high prison sentence rather than lenient one or being sentenced to community work. In addition, until 2007 Rwanda had capital punishment. Therefore, there was an incentive to provide information on who, where and with whom Tutsi were killed. As many of Viebach's interviewees reported,

(...) Most of those that confessed their crimes they even shared information on where bodies were dumped. We were able to identify bodies in small villages based on given testimonies.

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<sup>41</sup> Interview Viebach, 2018.

<sup>42</sup> Interview Viebach, 2017.

<sup>43</sup> Interview Viebach, 2018.

<sup>44</sup> Organic Law N°16/2004 Of 19/6/2004 Establishing the Organisation, Competence and Functioning of Gacaca Courts Charged with Prosecuting and Trying the Perpetrators of the Crime of Genocide and Other Crimes Against Humanity, Committed Between October 1, 1990 and December 31, 1994, art.43.



Prisoners are the ones that gave most of the information, they figured that they have nothing to lose, then decided to speak out.<sup>45</sup>

But not only defendants contributed to the discovery of mass graves through their confessions. As part of the community participation, everyone was allowed to come forward and give testimony either in defence of the defendant or against them. As interviews conducted by Viebach with judges reveal, there is a variety of witnesses who came forward to testify during gacaca proceedings. Since the Genocide was perpetrated during daylight, many people had witnessed the killings, some of which were prepared to speak before the courts (sometimes at great risk). This was especially important in contexts where defendants refused to disclose the full “truth”. As judge Maurice reported,

Witnesses were mostly neighbours from those that were killed and survivors, most of the information we reserved came from neighbours of those that were killed. They would tell us how people were killed, who killed them and where bodies were sent after.<sup>46</sup>

He continued, explaining that at his court perpetrators provided information during the evidence collection phase but

(...) most of the time they refused to disclose anything during trials; that’s when some of them talked but many of them didn’t; once they talked though they would tell us how, who and where a person was killed.<sup>47</sup>

In these circumstances, the information provided by survivors was crucial in the discovery of mass graves. However, many judges reported in interviews with Viebach that survivors struggled to provide accurate information because they were either in hiding or “running”. It was therefore difficult for them to know where their loved ones were interred, but the judges found a way of aiding the few information they received from survivors as judge Celestine explained

Survivors helped us because they told us where their loved ones would have been during the genocide then we would start our investigation in those places, or sometimes they would tell us who hid them during the genocide.<sup>48</sup>

Celestine emphasised that this type of information helped to identify rescuers who had more information on the events and sometimes knew where bodies were buried. Some of the interviews suggest that defendants weren’t always willing to tell the full “truth”; at times “truth-telling” needed many trial days and a conflictive communal process for information on mass graves to be revealed. Some were afraid of being held complicit when revealing knowledge on the killings or wanted to protect family and friends.<sup>49</sup> Truth-telling was by no means a smooth process but laden with conflict and characterised by messiness

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<sup>45</sup> Interview Viebach, 2018.

<sup>46</sup> Interview Viebach, 2018.

<sup>47</sup> Interview Viebach, 2018.

<sup>48</sup> Interview Viebach, 2018.

<sup>49</sup> Interviews Viebach, 2017 and 2018; see also Bert Ingelaere, “Does the truth pass across the fire without burning?” locating the short circuit in Rwanda's gacaca courts’ *The Journal of Modern African Studies* (2009) 47(4), 507-528; Erin Jessee, *Promoting reconciliation through exhuming and identifying victims in the 1994 Rwandan Genocide*, Discussion Paper (Africa Initiative and The Centre for International Governance Innovation 2012).

and at times even communal upheaval.<sup>50</sup> As survivors in Kibuye, interviewed by Jessee explained “refusal is one of the major tools that extremists use to break the hearts of the survivors” and in her analysis of this interview Jessee emphasises that with the refusal of perpetrators to repatriate their missing loved ones, they ensured that survivors “remained vulnerable and incapable of rejoining Rwandan society”.<sup>51</sup> In the notorious “commune rouge” in Gisenyi for example judges expressed distress about the fact that they found in the evidence collection phase (combining different cells in that area in Gisenyi) that approximately 20000 individuals were missing but only 4000 victims were exhumed in only two mass graves that were disclosed during gacaca proceedings.<sup>52</sup> These accounts point to significant tension between concealment, half-truth and full-truth(s) that made it at times difficult for survivors to find answers to the question where their loved ones were interred. Notwithstanding these troubles in the “truth-telling” process, at that point in time, gacaca was the only forum that produced public knowledge on the location of victims’ bodies.

### ***Prison Gacaca***

A further vehicle for the discovery of mass graves was the so-called ‘prison gacaca’ which started around 1998. In the direct aftermath of the Genocide thousands of suspects were rounded up and arrested waiting for their trials to begin.<sup>53</sup> Even though the state-led gacaca hadn’t begun yet, suspects in the prison started “prison gacaca” which followed the structure of the original pre-colonial gacaca courts to exchange about what had happened during the Genocide. The office of the prosecution and the non-governmental organisation Prison Fellowship had initiated this mechanism in light of the crippling caseload the judiciary was facing and the often, inhumane prison conditions, the prisoners were kept in. During these prison gacaca sittings, a commission of prisoners would listen to confessions from other inmates. The information collected during prison gacaca was used since (before the launch of the gacaca pilot phase) 2001, for the pre-gacaca meetings organised by the Prosecutor Office and the NGO Réseau des Citoyens Justice et Démocratie (RCN).<sup>54</sup> For these meetings the prisoners were transported to the villages they were believed to have committed the crimes so that the local population could testify to the guilt or innocence of the prisoners.<sup>55</sup> The objective to bring the prisoners and communities in question together was not only gacaca’s participatory outlook but at the same time to ensure that information about mass graves was given in close proximity to the sites of killings in order to trigger accurate memory especially given that a couple of years had already passed since the Genocide. That way, the detainees could look for landscape markers such as trees, houses etc. to help their memories. Revealing the information on where the dead were thrown attracted reduced sentence; it was also used to prove the innocence of inmates. At some gacaca courts, judges remembered that

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<sup>50</sup> Kristin Doughty, ‘Law and the architecture of social repair: gacaca days in post-genocide Rwanda’ *The Journal of the Royal Anthropological Institute* (2015) 21(2), 419, 420-421.

<sup>51</sup> Erin Jessee, *Promoting reconciliation through exhuming and identifying victims in the 1994 Rwandan Genocide*, Discussion Paper (Africa Initiative and The Centre for International Governance Innovation 2012), 7.

<sup>52</sup> Interviews Viebach, Gisenyi 2017.

<sup>53</sup> By the turn of the millennium around 100.000 people had been arrested. Given this huge number of prisoners and a crippled judiciary, it would have taken approximately 100 years to try all these suspects through the national courts. This dire situation was one of the reasons to (re)establish gacaca.

<sup>54</sup> These pre-gacaca meetings were introduced for those prisoners without a case file and those who had been declared innocent by prison gacaca.

<sup>55</sup> Paul C. Bornkamm, *Rwanda’s gacaca courts: between retribution and reparation* (Oxford University Press 2012), 39.

The majority of confessions we had were people in prison because they had their own gacaca where they would all meet and learn about what they did and have enough time to reflect then. This is how we learnt about the locations where bodies were dumped.<sup>56</sup>

Prison gacaca helped particularly such courts where the community was reluctant to come forward to disclose information as judges explained. The information coming out of the prison gacaca was combined with the one coming from the cells during evidence collection to form part of the dossiers. As a result of these early confessions during prison gacaca over 23% of detainees were released from prison by the end of 2002, pending trial.<sup>57</sup> It should be noted that the files that were produced during the prison gacaca that had not been tried in national courts were transferred to gacaca courts and additional information could be sought by the *inyangamugayo* whenever it was deemed necessary.<sup>58</sup>

### From Exhumation to Inhumation

The ICTR / Physicians for Human Rights (PHR) work briefly mentioned earlier was not the only mass grave investigation in Rwanda after the Genocide. The World Health Organisation (WHO) and United Nations Children's Fund (UNICEF) funded investigations by the Rwandan Ministry of Work and Social Affairs in exhumations and reburials for two years before responsibility of mass graves was transferred to the Ministry of Culture's dedicated Genocide Memorial Commission.<sup>59</sup> With the number of victims thought to have been interred in mass graves combined with the fact that entire families were massacred and massive population displacement was ongoing, it would have been logistically infeasible to try and establish definitive individual identification of every single body exhumed and locate families to then take possession for private burial on a nationwide level at that stage.<sup>60</sup> When the National University of Rwanda<sup>61</sup> (NUR) reopened after the Genocide, the government worked with NUR and a call was released seeking assistance on work with forensic and preservation issues, however as explained by Korman, post-mortem investigation was not a part of that call and so during those early investigations of exhumed remains at least, causes of death were only implied though obvious visible markings left on bodies or bones that may have appeared to be bullet holes, machete wounds, or club-like injuries, even though those wounds may not have been the primary cause of death for the person in question.<sup>62</sup> Therefore the

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<sup>56</sup> Interview Viebach, 2018.

<sup>57</sup> Paul C. Bornkamm, *Rwanda's gacaca courts: between retribution and reparation* (Oxford University Press 2012), 39.

<sup>58</sup> Organic Law N°16/2004 Of 19/6/2004 Establishing the Organisation, Competence and Functioning of Gacaca Courts Charged with Prosecuting and Trying the Perpetrators of the Crime of Genocide and Other Crimes Against Humanity, Committed Between October 1, 1990 and December 31, 1994, art. 46 and 47.

<sup>59</sup> Rémi Korman, 'Bury or display? The politics of exhumation in post-genocide Rwanda' In Élisabeth Anstett and Jean-Marc Dreyfus (eds.) *Human Remains and Identification - Mass Violence, Genocide, and the 'Forensic Turn'* (Manchester University Press 2015) 203, 205. The Commission worked closely with the National Museum of Rwanda that was then responsible for exhumations and the preservation of human remains/bodies. Korman explains further that under the "emergency decent burial programme" which involved five ministries including MINITRASO and Ministry of Defence (MINADEF) exhumations and reburials were coordinated and carried out.

<sup>60</sup> Gerald Caplan, 'Rwanda: Walking the road to genocide' In Allan Thompson (ed) *The Media and the Rwanda genocide* (Pluto Press 2007) 20, 22.

<sup>61</sup> Since renamed, simply the University of Rwanda following the merger of multiple institutions in 2013.

<sup>62</sup> Rémi Korman, 'Bury or display? The politics of exhumation in post-genocide Rwanda' In Élisabeth Anstett and Jean-Marc Dreyfus (eds.) *Human Remains and Identification - Mass Violence, Genocide, and the 'Forensic Turn'* (Manchester University Press 2015) 203, 207.

objective of these early exhumations was not so much a forensic investigation or even individual identification but rather the preservation of bones and bodies.

Coinciding with the more regulated oversight of memorial sites due to the establishment of the Commission for the Fight Against Genocide<sup>63</sup> (CNLG) in 2007, a nation-wide programme of exhumation with the objective of re-burying Genocide victims at memorial sites was put in place. Mass graves that were known but remained untouched were opened. For instance, in 2011, at the Cyanika (in the South of the country, near Murambi) parish where thousands of Tutsi were massacred, the mass grave was opened, and bodies and human remains moved to be thoroughly washed and placed into a collective mass of anatomically ordered bones and interred in coffins in the crypts of the Cyanika memorial.<sup>64</sup> Under the auspice of the CNLG secondary and known primary mass graves were exhumed all over the country. One of the largest known mass graves in Kigali City was opened at Nyanza in 2011. In the direct aftermath of the killings, the country was littered with the bodies of Genocide victims including the hills of Kigali. Tutsi returnees and survivors had hastily buried hundreds of bodies often wrapped in blankets or shrouds of clothing in ill-prepared sites.<sup>65</sup> The victims of Nyanza were exhumed to be reburied at the newly built Nyanza genocide memorial on which premises IBUKA has its headquarters. The exhumations of primary mass graves that followed on from gacaca trials were part of this state-led programme and enabled a dignified burial of victims at local memorial sites.

The exhumations as such are characterised by communal participation and the role of volunteer survivors who are the main agents of these exhumations. Major has named this group of survivors, “survivor-exhumers”<sup>66</sup>. Exhumations are generally preceded by the mobilisation of the local population by authorities in the assistance with the unearthing of Genocide victims. Often the population is informed over radio or through their churches that an exhumation is to take place. In a more recent development, due to the danger of re-traumatising survivors through the opening of the graves and seeing the (decomposed) bodies of their loved ones, are supported by trauma counsellors. In addition, medical experts disinfect the places where the exhumation takes place.

Whilst what we could call “general exhumations” did not aim at individual identification, the “gacaca exhumations” aimed at piecing together the story of gacaca testimonies with the narrative of the mass graves recounting the events of the Genocide as well as the lives of the dead by their clothes, personal belongings and domestic items and the weapons left behind by the killers. The next section will explore the identification of victims in more detail.

## Identification

The identification of victims is seen as significant aspect of the right to know the truth of surviving family members and to further reconciliation after war and mass atrocity.<sup>67</sup> In many post-war contexts

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<sup>63</sup> In 2021 Law No. 066/2021 of 15/10/2021 provided for the removal of the CNLG and the establishment of the Ministry of National Unity and Civic Engagement, known as MINUBUMWE.

<sup>64</sup> For a detailed description of the exhumations at Cyanika parish and Nyanza see Laura Major, ‘Unearthing, untangling and re-articulating genocide corpses in Rwanda’ (2015) 7(2) *Critical African Studies* 164, 173.

<sup>65</sup> Laura Major, ‘Unearthing, untangling and re-articulating genocide corpses in Rwanda’ (2015) 7(2) *Critical African Studies* 164, 173.

<sup>66</sup> Laura Major, ‘Unearthing, untangling and re-articulating genocide corpses in Rwanda’ (2015) 7(2) *Critical African Studies* 164, 173.

<sup>67</sup> Erin Jessee, *Promoting reconciliation through exhuming and identifying victims in the 1994 Rwandan Genocide*, Discussion Paper (Africa Initiative and The Centre for International Governance Innovation 2012); Élisabeth Anstett and Jean-Marc Dreyfus, ‘Introduction: why exhume? Why identify?’. In Élisabeth Anstett and Jean-Marc Dreyfus (eds) *Human Remains and Identification - Mass Violence, Genocide, and the ‘Forensic Turn’* (Manchester University Press 2015), 1-14.

international forensic experts support the identification of the dead in mass graves. These forensic investigations are often used in court proceedings as for instance before the International Criminal Tribunal for the Former Yugoslavia (ICTY) in the context of war crimes committed in Bosnia. In Rwanda the ICTR had ordered two mass grave investigations with the objectives “to assemble information instrumental in identifying the victims in order that the remains might be returned to surviving relatives”; and “to create a record that will stand up to historical revisionists” for the purposes of giving a voice to the victims so that their story can be accurately told.<sup>68</sup> However the identification of Genocide victims proved difficult: Juhl states that out of the near five-hundred individuals exhumed at Kibuye, positive identification was only achieved for seventeen of these due to the victims in question having either identification cards on their person or due to clothing that was distinctive to family members, and that even of those identified, living relatives were only found for two.<sup>69</sup> Some explanation and justification can be given for such low number of identified remains, as Major outlines that stripping victims of their identity in order to mystify and hinder allegations of genocide was “a deliberate and meticulously embedded strategy”,<sup>70</sup> thus it ought to be expected that gaining positive identification for a large number of victims exhumed from mass graves was always going to be a difficult task.<sup>71</sup> Whilst this is well-evidenced there was a further issue with the Kibuye exhumations as recounted by Koff, who was part of the forensic team: on “clothing day” the forensic specialist had laid out the clothes of a selected number of victims. The courtyard of the church was simply too small to put out all the victims’ clothes. As Koff recounts much later her own *selection* of clothes had profound impact on survivors who came to St Jean to search for their loved ones.<sup>72</sup> Those who could not identify the belonging of their loved ones on this particular “clothing day” due to Koff’s selection, were left in the liminal state of not knowing what had happened to their loved ones and if their remains were amongst those exhumed by the international team. For the forensic team the clothes seemed to be mere material recovered from the grave but for survivors of Kibuye these were emotive objects or what has been framed by Klinger as “survivor objects”<sup>73</sup>: they are pieces of memory that connect to the past and the individual who perished. Amid the horror a mass grave evokes, these “survivor objects” offer an intimate view into the lives of those who were so brutally killed.

In the exhumation that followed on from gacaca proceedings these objects were put at centre-stage in the identification of bodies. Given the lack of DNA testing, gacaca testimonies and “survivor objects” were the only way of knowing who was lying in the graves. The following interviews with judge Charlotte and Matthieu illustrate this point very well

People could identify bodies when perpetrators confessed and would tell names. We then went there and someone could identify them by their clothes. E.g I recognised my mother by seeing the string, *umweko*, she used like old women do [old women used to wear a string around their waist]; she had put keys in her string and I identified her through that. My mum

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<sup>68</sup> William D Haglund, Melissa Connor, and Douglas D Scott, ‘The Archaeology of Contemporary Mass Graves’ (2001) 35(1) *Historical Archaeology* 57, 57.

<sup>69</sup> K Juhl, *The Contribution by (Forensic) Archaeologists to Human Rights Investigations of Mass Graves* (Stavanger 2005) 44.

<sup>70</sup> Laura Major, ‘Unearthing, untangling and re-articulating genocide corpses in Rwanda’ (2015) 7(2) *Critical African Studies* 164, 173.

<sup>71</sup> It should be noted that those who were exhumed in the early 1990s could not get identified with ease because most of the perpetrators were not yet ready to tell the truth but also there was no appropriate forum before Gacaca courts operated in the collective gathering of information and hearing genocide cases.

<sup>72</sup> Zoe Norridge, ‘Professional Witnessing in Rwanda: human rights and creative responses to genocide’. In Antony Rowland and Jane Kilby (ed) *The Future of Testimony* (Routledge 2014), 129-144.

<sup>73</sup> Jane E. Klinger, ‘When so few traces remain’ *Les Cahiers Sirice* (2017) 19(2), 93-104.

was at Bisesero, she hid with someone but they found her. Someone tried to bury her body in the soil. After the genocide I buried her in the memorial. I learnt about it through gacaca<sup>74</sup>

At times we would recognize bodies because killers would say that so and so were buried here and there, and sometimes relatives would recognize their loved ones by their clothes, there were some bodies that we never got to know who they were

In some mass graves it was still possible to identify (nearly) intact bodies or body parts and see the injuries that were inflicted on the victims. Charlotte describes in her interview further

Yes, sometimes they [defendants] would say a number of people they dumped somewhere and when we reached there we would find the same number. So when we observed the bodies we could see how the heads were damaged or the use of other tools. The few ppl killed by bullets you could see where the bullet went through. You could still see a mother with her baby or parts of it. This is how you could know how people were killed. So you could tell this is a woman's body or if it was a man mostly when bodies were not severely tortured (...) And sometimes you would find bodies that still have their flesh, so people could identify them by seeing their body parts like teeth and even sometimes bodies still had skin on them and this could help identify. Sometimes bodies would still look a bit ok depending on locations. For instance, in cold places bodies would be decomposed but sometimes still have some flesh skin, others only bones, other bodies had hair.

Depending on the region and the time that had passed since the Genocide, survivors were able to identify loved ones' remains as Charlotte illustrates above. Particularly in the South of the country the climatic conditions and nature of soil enabled the preservation of (often fully intact) exhumed bodies and their display at memorial sites such as at Murambi, Kibeho, Kinanzi or Cyanika. In the majority of cases, however, identification was rather difficult because many victims were subjected to extreme violence far beyond what was necessary to cause their death. Charlotte refers to this above when she talks about "not severely tortured" and in another part of the interview she speaks of "Nta mpongano (clubs picked with nails, they would use to kill people) its meaning was, that no matter what you do, I'll kill you; that weapon was used whenever they wanted to kill people badly". The use of such extreme violence resulted "in corpses which were inhuman in appearance – dismembered, disembowelled, burned"<sup>75</sup>. This is another reason why "survivor objects" are crucial in the identification process. As judge Felicien remarked in this context "identifying bodies was mostly based on what they wore at the time because it was not possible to identify them"<sup>76</sup>.

Another challenge in the identification of victims in the mass graves was the sheer number of bodies, when thousands and thousands of victims had been thrown in pits. Charlotte above mentions in the same interview that it was impossible to identify victims in the mass graves surrounding Gatwa stadium. Judge Samson recounted that<sup>77</sup>

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<sup>74</sup> Interview Viebach 2018.

<sup>75</sup> Laura Major, 'Spectres of death: exhuming the human remains of the 1994 Genocide in Rwanda' *Humanity Journal Blog* (2018), <http://humanityjournal.org/blog/laura-major/>, accessed 1 March 2022. It can be assumed that with the decay of time, it will become increasingly difficult to identify victims or their clothes in the mass graves especially without DNA testing technology.

<sup>76</sup> Interview Viebach, 2017.

<sup>77</sup> Interview Viebach, 2017.

It is said that there were so many people at the hostel and the Catholic Church; I myself was not there. So, most of them were killed by soldiers on the prefect's approval, even it was him who started the killings by shooting a person with a short gun and that was the start of the killings. We were told that bodies were gathered and taken at once so it is not easy to say this skull or that one belongs to who and who. A few survivors, who are living here, are the ones that could tell that so and so were here.

Thus, even if defendants would confess who they had killed and where they had thrown the bodies, it was extremely challenging to single out sets of remains or even clothes. This was especially the case when military was involved in the killings because much of military participation was not heard before gacaca, i.e. there was no defendant testimony to rely on in the search for bodies and their identification. Given the participatory process of the exhumations however the community would help in identifying the dead, too.

Community members were the ones that were helping on mass graves, in doing so they would recognize some bodies, everyone was asked to come and help when we found mass graves because it was a community issue not just an individual issue

Identifying bodies was not easy, it was mostly based on what they were wearing, survivors would see a piece of clothing they recognized, even people in the community would see things they recognized and mention it.

Despite gacaca and the significance of "survivor objects" as discussed above, the identification of victims remains unstable and fleeting. One reason for this, is that the objectives of state and survivors stand in sharp contrast to each other. For the government the identification is given by the virtue of mass graves containing Genocide victims, which means Tutsi victims. A further identification is in this reading not necessary but helps to emphasise the magnitude of the Genocide and the narrative of bodies and graves as evidence that a Genocide happened (rather than a war). Survivors in contrast would like to identify the dead individually.<sup>78</sup> Contrary to other exhumations carried out in post-war contexts (e.g. Spain or Guatemala and Bosnia) but in line with the government's necro-politics, even if the bodies or body parts of victims are individually identified they are not repatriated to their surviving family members but *collectively* buried. By the identification of clothes and personal belongings, survivors get to know that loved ones are in the mass grave, but they wouldn't necessarily be able to identify a specific set of remains as their loved ones'. This is complicated by the fact that at the end of the exhumation process be it of the "general exhumations" or the "gacaca exhumations" is the collective burial of *disentangled* remains. "Bodies are removed from the graves, bones and soft tissues disentangled from personal possessions and placed in collective. The remains are washed with soap and water and organised into the collectives of rough anatomical type that sit at the centre of memorials"<sup>79</sup>. As Viebach has discussed elsewhere, the ritual practice of "care-taking" that follows on from these exhumations is, for survivors working at memorials, a way of reimagining these remains as their loved ones. In the private space of memorial

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<sup>78</sup> Rémi Korman, 'Bury or display? The politics of exhumation in post-genocide Rwanda' In Élisabeth Anstett and Jean-Marc Dreyfus (eds.) *Human Remains and Identification - Mass Violence, Genocide, and the 'Forensic Turn'* (Manchester University Press 2015) 203, 205; Erin Jessee, *Promoting reconciliation through exhuming and identifying victims in the 1994 Rwandan Genocide*, Discussion Paper (Africa Initiative and The Centre for International Governance Innovation 2012).

<sup>79</sup> Laura Major, 'Spectres of death: exhuming the human remains of the 1994 Genocide in Rwanda' *Humanity Journal Blog* (2018), <http://humanityjournal.org/blog/laura-major/>, accessed 1 March 2022.

crypts, they give back dignity to their loved ones by washing and preserving their remains. But there is also an attempt of piecing back together their lives through “survivor objects” unearthed: necklaces, bracelets, jumpers and shoes that care-takers decorate the crypts with. Whilst the identification of loved ones is fleeting, the remains extend the dead’s personhood and afford an emotive space in which their existence can be reimagined and re-membered into the lives of the living.<sup>80</sup>

### **A Future for Mass Grave Discovery in Rwanda?**

With the end of gacaca in 2012, the search for the missing remains a gruelling task largely dependent on the good will of those who have tacit knowledge about the events in their neighbourhoods. Today mass graves are discovered from the testimonies of returnees who were not in the country during gacaca, remorseful perpetrators or coincidentally during construction work. One of the most significant recoveries was made at Kigali’s outskirts in 2018 where approximately 85000 victims were exhumed in mass graves that were built near a roadblock in 1994 which was to hinder Tutsi from fleeing the capital.<sup>81</sup> Some 143 pits were found beneath homes that contained thousands of remains and “survivor objects”. It is believed that homeowners knew about the graves. Another sombre find was made in the Gasabo district in 2020 when 2000-3000 victims – that were killed at a roadblock - were exhumed in a neighbourhood.<sup>82</sup> The graves were hidden underneath latrines and in the foundation of houses. Approximately 30000 victims were recovered from a mass grave hidden underneath a dam in 2020.<sup>83</sup>

These recoveries raise questions as to the full truthfulness of some perpetrator confessions and why people in these neighbourhoods did not reveal the location of mass graves earlier to allow a dignified burial of Genocide victims. It can be assumed that one reason is that many perpetrators have served their prison sentence and feel more comfortable or remorseful to provide information on mass graves with the passage of time. The uncovering of these graves also suggests that at least some perpetrators purposefully tried to conceal their crimes by throwing victims in their premises’ wells, planted trees over pits or built their houses on them. Another participatory forum however – the annual mourning period– has proven to be a new outlet for information on mass graves provided by remorseful perpetrator testimonies during commemoration ceremonies. For instance, in 2018 and 2019, about 84 bodies were discovered in Gahoromani, at the outskirts of Kigali through the confession of a remorseful perpetrator during commemoration. When local press interviewed one of the local leaders, he noted that the killers had ensured that the victims could not be found because after killing them, they threw their bodies in a mass grave, sealed and planted banana trees on top of it.<sup>84</sup>

With the passage of time and a transformation of society after the Genocide, perhaps more mass graves will be discovered either via individual remorse expressed in public testimony or informal oral transmission on community level. It must remain speculative and subject to further micro-level research as to why and under which conditions perpetrators and eyewitnesses reveal such information in the aftermath and alongside structured state-sponsored semi-judicial and communal truth-telling mechanisms. But it is evident that these confessions provide another avenue for survivors to know where

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<sup>80</sup> Julia Viebach, ‘Mediating ‘absence-presence’ at Rwanda’s genocide memorials: of care-taking, memory and proximity to the dead’ *Critical African Studies* (2020) 12(2), 237-269;

<sup>81</sup> <https://www.dw.com/en/rwanda-buries-remains-of-nearly-85000-genocide-victims/a-48604654>, accessed 2 March 2022.

<sup>82</sup> <https://www.npr.org/2018/05/02/607781596/in-rwandan-mass-graves-clothing-is-one-of-the-only-ways-to-identify-dead>, accessed 28 February 2022.

<sup>83</sup> <https://www.independent.co.uk/news/world/africa/rwanda-genocide-grave-bodies-deaths-tutsi-hutus-a9449646.html>, accessed 2 March 2022.

<sup>84</sup> <https://www.rba.co.rw/post/Imibiri-ibihumbi-9-yabarokotse-Jenoside-yakorewe-Abatutsi-yavanwe-mu-mirima-yo-Mugahoromani>, available in Kinyarwanda (2021), accessed 4 March 2022.



their loved ones are; in 2018-2019 alone as the CNLG reports, 118.049 victims were discovered in 17 of Rwanda's districts.<sup>85</sup>

These numbers demonstrate that gacaca courts despite being a significant vehicle in unearthing the "truth" about the Genocide and in discovering mass graves, cannot claim to have found the full truth(s) about mass graves or have revealed the full extent of crimes committed in 1994. Thus, whilst gacaca courts were undoubtedly the major forum to tell the "truth" about where victims were interred, between 2002 and 2012, challenges and uncertainties remain regarding the future discovery and burial of the missing as a rough estimate of at least 20% of bodies have not been identified. Some families have completely vanished without much hope of ever identifying their fate. This includes for instance those victims that were thrown into the rivers or died agonising deaths in the Bugesera swamps which is known to be full of dead bodies.<sup>86</sup> The empty walls of names at the nearest memorial, the Ntarama site but also those endless empty rows at the Kigali Genocide Memorial where alone approximately 250000 victims are buried, speak for themselves.

Today, those survivors who have not found their loved ones, are left with little hope of finding them. A next crucial step might be, as Jesse argues, to follow the example of other post-war countries such as Bosnia and introduce forensic DNA identification technology. According to her study, the survivors interviewed in Kibuye, were in favour of re-exhumations alongside the creation of a DNA database to help this process.<sup>87</sup> The government however continues its preservation-oriented policy regarding the management of the dead. In 2017, the CNLG initiated the Genocide Artifact Conservation Programme with the help of the US Embassy's Fund for Cultural Preservation to preserve the clothing of around 450000 victims displayed at the Nyamata church – today a national memorial site.<sup>88</sup> With the passage of time, the decay of bodies and "survivor objects" is a great concern for survivors.<sup>89</sup> Since around 2012 the CNLG has invested in modern technology for the preservation of remains with the help of international experts in Great Britain and Germany.<sup>90</sup> At Murambi, the only national memorial site that displays fully intact mummified bodies, a mobile forensic laboratory was built to identify the injuries inflicted on (only approximately 25 of the 50000 bodies) the bodies displayed in the school's classrooms to be laid to rest in the air-tight glass coffins in the exhibition space.<sup>91</sup>

The mass graves and preservation of bodies and objects continue to evidence the scale and brutality of the 1994 Genocide. For survivors however human remains and bodies transcend concerns around evidence.<sup>92</sup> The gacaca courts afforded many survivors to lay their loved ones to rest at memorial sites – emotive and intimate spaces, where remembering the dead continues to be a task for the future and as such does not know an ending or closure.

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<sup>85</sup> [http://www.xinhuanet.com/english/2020-10/29/c\\_139475549.htm](http://www.xinhuanet.com/english/2020-10/29/c_139475549.htm), accessed 1 March 2022.

<sup>86</sup> These victims are acknowledged and commemorated in a march every year during commemoration; see fieldwork Viebach 2014.

<sup>87</sup> Erin Jesse, *Promoting reconciliation through exhuming and identifying victims in the 1994 Rwandan Genocide*, Discussion Paper (Africa Initiative and The Centre for International Governance Innovation 2012).

<sup>88</sup> <https://survivors-fund.org.uk/memory/conservation/>, accessed 4 March 2022.

<sup>89</sup> Julia Viebach, 'Of other times: Temporality, memory and trauma in post-genocide Rwanda' (2019) 25(3) *International Review of Victimology* 277, 287.

<sup>90</sup> <https://www.newtimes.co.rw/section/read/56068>, accessed 4 March 2022.

<sup>91</sup> <https://www.voanews.com/a/rwanda-pepares-to-rebury-genocide-victims/1451782.html>, accessed 3 March 2022. This is a pilot project and when proven successful is planned to be extended.

<sup>92</sup> Julia Viebach, 'Mediating 'absence-presence' at Rwanda's genocide memorials: of care-taking, memory and proximity to the dead' *Critical African Studies* (2020) 12(2), 237-269.