

## **GACACA JUSTICE SYSTEM AS A PANACEA TO CONFLICT RESOLUTION IN THE NIGERIAN CRIMINAL JUSTICE SYSTEM**

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### **Abstract**

This paper examines the effectiveness of the Gacaca justice system as a traditional African justice system in resolving conflicts and promoting criminal justice in Nigeria. The conventional criminal justice system in Nigeria has been criticized for its inadequacies and ineffectiveness due to corruption, biases and delays in dispensation of justice, leading to widespread cynicism. It has become so bad that even the common man on the street do not have any single trust in the existing criminal justice system. Hence, going to court now appears to be a waste of resources and time. However, the Gacaca, a Rwandan traditional justice system, rooted in communal values and restorative justice, appears to offer a promising alternative. Conflict resolution in Gacaca justice system is not only community-based but aims more at correcting an offender rather than punishing him. This paper therefore examines the conflict resolution mechanisms of the Gacaca justice system and recommends same as a panacea to the Nigerian criminal justice system. Adopting the comparative analysis and descriptive methods, the work argues that the Gacaca as a traditional African justice system, offers a viable alternative to the Nigerian criminal justice system in conflict resolution. The aim of this paper is to show how the Gacaca approach could be integrated into the criminal justice system of Nigeria to help solve the various challenges plaguing conflict resolution in Nigerian criminal justice system. It concludes that integrating elements such as community involvement, reconciliatory and restorative approaches could

help solve the various challenges of conflict resolution plaguing the Nigerian criminal justice system, thus ensuring a more efficient, effective and responsive approach devoid of corruption, delays in dispensation of justice and biases.

**Keywords:** Gacaca, Conflict Resolution, Justice System, Restorative justice and Reconciliation

## **Introduction**

Conflict resolution is an essential aspect of any justice system. According to Alemika (2013), it is a process of maintaining social harmony, promoting peace and ensuring that justice is served. The development and implementation of peaceful strategies for settling conflicts, using alternatives to violence or violent forms of language are known by the general term conflict resolution (Goldstein, 2003). Conflict resolution mechanisms are not new. In conflict resolution, deeply rooted sources of conflict are expected to be addressed and resolved in a non-violent and non-hostile manner (Ramsbotham, Woodhouse & Miall, 2016). At this level, the outcomes of the resolution are to be mutually acceptable by parties concerned for sustained peace and harmony. However, there are different approaches to conflict resolution depending on the culture and civilization of the people and community. In Africa, traditional justice systems have been used for centuries in resolving conflicts and still plays a vital role in many communities today in Africa (Elechi, 2006), considering its diverse ethnic and cultural groups. In conflict resolution, individuals or states seek to resolve their differences in order to make amends through peaceful reconciliation or retribution, depending on the parties involved.

Braithwaite (2002) maintains that the traditional African justice system is less punitive in approach and based more on the principles of restorative justice, which emphasizes the importance of repairing

harm, making amends, promoting peace and reintegration. This approach is in contrast to the retributive justice approach, which focuses more on punishment (Christie, 1977). In traditional African societies, conflicts are often resolved by community elders, leaders, and other stakeholders (Elechi, 2006). The traditional justice system recommends that the offender be reformed and reintegrated into the society as the main aim is not to punish, as it is the case in the formal or modern justice systems today but to correct.

Conflict resolution in traditional African justice system involves a range of mechanisms, including mediation, negotiation, and reconciliation (Alemika, 2013). These mechanisms are most times used in combinations, involving active participation of community members, elders, and leaders (Elechi, 2006). The aim of conflict resolution in traditional African justice systems is to promote social harmony, restore balance, and ensure that justice is served (Braithwaite, 2002). In Africa, the approaches differ from one culture to another as most communities have traditional leaders known as Chiefs or Emirs and have some traditional powers conferred on them to resolve conflicts. It promotes the use of non-violent means to the conflict including grass root community-based activities through good governance, communication and collaboration.

The Gacaca justice system remains one of the celebrated conflict resolution mechanisms adopted in Africa which has impacted positively to the Rwandan justice system after the country's genocide encounter in 1994. As a conflict resolution approach, it is community-based, reconciliatory and restorative in approach.

The Nigerian justice system, on the other hand, is a formal, Western-style system that was imposed on the country during the colonial era (Ojo, 2011). While this system has its strengths, it has been criticized for being corrupt, slow and bias, thus

making it inefficient, ineffective and inaccessible to many Nigerians (Alemika, 2013). Hence, in recent years, there has been a growing recognition of the importance of traditional justice systems in Nigeria, and efforts have been made to integrate these systems into the formal justice system. The Gacaca justice system as a traditional Rwandan approach to justice and reconciliation could offer valuable solutions to various challenges plaguing Nigerian criminal justice system.

This paper therefore examines the Gacaca system as a conflict resolution mechanism in the traditional African justice system and how it could help solve the various challenges plaguing the Nigerian criminal justice system. It explores the conflict resolution processes in the Gacaca traditional justice system and conclusively establishes some potential benefits of integrating the system into the formal criminal justice system of Nigeria. Hence, this paper aims to show how the Gacaca approach could be integrated into the criminal justice system of Nigeria to help solve the various challenges plaguing conflict resolution in Nigerian criminal justice system

## **THE GACACA JUSTICE SYSTEM**

### **Conflict Resolution Processes**

Gacaca is a Rwandan Kinyarwanda word that translates to *grassor lawn* (Musengimana, 2024). In the context of conflict resolution in the traditional justice system, it refers to community gatherings or courts held on the grass or in open spaces, where local disputes and conflicts are resolved through community-based justice and reconciliation processes to promote healing. After the 1994 genocide in Rwanda, the Gacaca courts were revived and formalized to address the massive number of cases related to the genocide (Mutisi, 2012). It symbolizes the community gatherings that took place on grassy areas to resolve disputes. The Gacaca

system emphasizes community-based justice; engaging local communities in the justice process to promote accountability and rebuild social cohesion, truth-telling; encouraging perpetrators to confess their crimes and provide information about what happened and reconciliation; fostering healing and reintegration of perpetrators into their communities.

Conflict resolution processes in traditional Africa often involve certain methods and strategies that are community-based, utilizing the wisdom of elders and traditional leaders to resolve disputes. These methods prioritize restorative justice, community cohesion, and the restoration of harmony rather than simply punishing offenders. This is the case in the Gacaca as a traditional justice system which focuses on community involvement, reconciliation and restorative justice. According to Mutisi (2012), the term Gacaca means justice to the grass roots. It operates on an informal, ad hoc basis, through meetings convened whenever the need arises. Traditionally, unless women are a party to the conflict, “only male adults take part in the meetings which are chaired by respected community elders, acting as arbitrators” (Kariuki, 2015, p. 7). Gacaca embodies restorative justice principles because it does not seek to achieve justice by punishing the perpetrator, but to restore social order by finding communal, compromised solutions, and by reintegrating the offender within the community. Like other African traditional conflict resolution systems, Gacaca aims at restoring peace and social harmony within the community affected by conflict (Dolinko, 2003). Although most of the disputes dealt with by Gacaca have a civil nature, some conflicts amounting to minor criminal offenses are also referred to it, resulting not in a criminal sanction but in some sort of civil settlement. Conflicts originally dealt with by Gacaca include disputes over land use and land rights, cattle, marriage, inheritance rights, loans, damage to properties or animals, theft, as well as light bodily injuries (Mutisi, 2012).

“Reflecting its restorative and reconciliatory nature, the sentences it imposes must be accepted by all of the parties involved” (Mutisi, 2012, p. 68). In cases where an agreement between the parties cannot be reached, the case can be referred to the local Cantonal Tribunal. Gacaca meetings have over time become more formalized, being held at regular intervals and with local administrative authorities sometimes acting as arbitrators in the dispute. Although most Gacaca forums ceased to operate during the 1994 genocide, they were reinstated shortly thereafter and are currently active in many areas of the country (Mutisi, 2012).

Known as the Organic Law 40/2000 (Gacaca Law) of Rwanda, was passed on January 26, 2001. As a post-conflict mechanism for justice and reconciliation in Rwanda, the Gacaca system complements the International Criminal Tribunal for Rwanda and the national Rwandan court system, trying thousands of people who participated in the 1994 genocide.

Haskell (2011) states that when officially unveiling the Gacaca system in 2002, the Rwandan President Paul Kagame stated the following as the five basic objectives of Gacaca:

- i. Reveal the truth about what happened
- ii. Accelerate genocide trials;
- iii. Eradicate the culture of impunity;
- iv. Reconcile Rwandans and reinforce their unity
- v. Prove that Rwanda has the capacity to resolve its own problems.

The 2001 Gacaca Law itself promotes similar objectives, aiming to eradicate in its entirety the culture of impunity in order to achieve justice and reconciliation in the country, and thus to “adopt provisions enabling rapid prosecutions and trials of perpetrators and accomplices of genocide, not only with the aim of providing

punishment, but also reconstituting the Rwandan Society that has been destroyed by bad leaders who incited the population into massacring part of the society” (Haskell, 2011, p. 39).

Due to the slow pace of justice in the aftermath of the genocide, the Rwandan government devised a creative solution by reviving and embracing the traditional Gacaca system of informal conflict resolution in order to try genocide-related cases (Itano, 2002). The Gacaca courts are community-based, quasi-judicial forums designed to complement and remedy the failure of the classical system of justice by achieving multiple, ambitious goals such as reduction of delays in the overburdened criminal justice system, the uncovering of the truth, and the achievement of justice and reconciliation through a highly participatory strategy (Itano, 2002). In a unique way, Gacaca are set to do so by means of retributive and re-integrative measures. The recourse to the traditional Gacaca as an ad hoc mechanism to complement the ordinary justice system was first proposed in 1998 by a Commission largely composed of members of parliament, prefects and representatives of the Ministry of Justice (Musengimana, 2024). Although studies conducted in the phase of conceptualization of the Gacaca jurisdictions indicate that they were widely supported by Rwandans real understanding about their functioning appeared to be very limited, with individuals who are the most knowledgeable about the law expressing skepticism regarding the courts’ effectiveness in trying genocide cases (Musengimana, 2024).

The process of Gacaca engages the local residents as witnesses who testify for or against the suspects accused to have committed crimes within the communities they are living. Those tried in the Gacaca courts are usually prisoners prepared to confess before their communities for their crimes and hence willing to engage in community resolution (Mutisi, 2012). The courts could sentence anyone confirmed to have committed crimes. For instance, after

the genocide, those confirmed to have involved in crimes during the genocide were sentenced. However, the powers of this court were limited to more serious cases that involve organizing and executing genocide-related killings. The courts were also restricted to provide death penalties or try an army officer (Mutisi, 2012).

Gacaca as a sophisticated and multidimensional social practice, draws on a wide range of legal, political and cultural influences over several generations to produce the hybrid system designed to deal with genocide cases. The new courts are inspired by traditional dispute resolution mechanisms. The judges are elected by popular vote in their cells to hear cases such as murder, assault and property offences (Mutisi, 2012). The judges are lay persons, yet are engaged in complex legal adjudication. The system permits appeals (except for property crimes), though not to the domestic courts. The setting is less formal than criminal courts and promotes confessions from perpetrators and forgiveness from survivors. The accused have no right to legal representation, nor an appeal to the domestic courts. Coupled with this process are two related schemes for victim compensation and community service for those convicted (Mutisi, 2012).

The Gacaca court brings together hostile groups who sit to discuss their mistakes, just like it brought the hostile groups together after the genocide in Rwanda. The trials promote reconciliation by providing a means for the victims to learn the truth about the deaths of their family members, friends and relatives. They also allow perpetrators to confess their crimes, show remorse and ask for forgiveness in front of their community members. These criminals are further given low sentences upon giving full confession of their involvement (Brounéus, 2008). Through the principle of truth telling, witnesses and perpetrators give detailed information including how and where the crimes were carried out, confirm the victims and even disclose where the victim bodies were left (Mutisi, 2012).

According to Staub, Pearlman, Gubin & Hagengimana (2005), the courts aim at healing from psychological wounds created by the past victimization and make it less likely that victims were engaging in unnecessary defensive violence. In reducing pain and suffering, healing makes reconciliation possible and with peace agreement the conflict among ethnic groups can be managed.

### **Community Participation**

The Gacaca system as a community-based justice system now combines traditional conflict resolution practices with elements of formal justice. In promoting reconciliation, the Gacaca courts are community level tribunals that hear cases involving those accused of crimes, aiming to establish truth, seek reconciliation, and impose sentences while acknowledging the community's role (Musengimana, 2024). The Gacaca courts are held at the local level, involving community members in the justice process. Local residents play a crucial role in the proceedings, offering testimonies and their perspectives. Local communities elect judges to oversee trials of individuals accused of crimes, ensuring community involvement in the justice process (Musengimana, 2024).

The Gacaca courts engage the local communities in the trials of crime suspects. It draws on traditional customary practices which emphasizes reconciliation and healing and relies heavily on community members' participation as witnesses and judges. The success of Gacaca in Rwanda has been predicated on this local community participation (Musengimana, 2024). The aims of involving the community have been to uncover the truth about what happened during the genocide, to safeguard the fair trial rights of perpetrators and victims, and to contribute to the healing process of the community as a whole. Local participation has therefore helped to maintain the integrity of the process and to achieve these goals.

Community participation was therefore a basis of the Gacaca justice system in Rwanda. The court sessions are held in open public venues, involving these local communities in the process of trial, justice, and reconciliation. Musengimana (2024) further explains that these courts were established at the local level and had the community members electing judges known as people of integrity to hear cases, and trials were conducted in a local language (Kinyarwanda) which made them more accessible to the community, facilitating informal participation. This participation extended to all members of the community, including victims, perpetrators, and ordinary citizens. Gacaca trials were not just about the accused; they were open to the public, encouraging community members to participate as witnesses, jurors, and even members of the court itself. This public involvement fostered a sense of collective responsibility and accountability for the events of the genocide (Sharf & Rodley, 2002).

Community members are therefore encouraged to take responsibility for addressing injustices and promoting healing, hence encouraging collective accountability and transparency in the justice process. As a participatory system, it helps rebuild trust and promotes social cohesion within communities. It is culturally relevant and an effective approach to justice. The adjudication process ensures that all community members have opportunities to participate in the Gacaca process, providing training and education for the community members on the ideals of the Gacaca system and its principles. Engaging community members in the justice process makes it a transparent system that promotes accountability, reconciliation, and healing, ultimately contributing to a more just and peaceful society (Sharf & Rodley, 2002). This helps to restore trust among community members since it involves open discussions about wrongs committed, thus enabling victims and perpetrators to confront their past together.

Holding trials at the local, grassroots level empowers ordinary people to pursue justice, and encourages the perpetrators-who are judged by their peers and within their communities to contribute to the search for truth, with a potentially liberating effect on the already fragmented communities (Drumbl, 2000). Confessions in Gacaca need to be accompanied not only by full disclosure of the facts, but also by an apology to the victims, thus possibly helping them to achieve a sense of closure. The implication of involving ordinary Rwandans in the process of justice, in Gacaca system appears to be based on the assumption that the offenses were publicly committed before the eyes of the population, which must recount the facts, disclose the truth and participate in prosecuting and trying the alleged perpetrators (Drumbl, 2000). Unlike the formal justice system and the ICTR, Gacaca jurisdictions operate in the absence of legally qualified judges, prosecutors, and legal counsels (Amani, 2021).

## **Reconciliation**

Reconciliation is believed to be the final and central objective of Gacaca system. This is because the courts bring together the hostile groups who sit to discuss their mistakes. The trials promote reconciliation by providing a means for the victims to learn the truth about the crime and how it happened. In the case of Rwanda, it was opportunity for the survivors to know the truth about the deaths of their family members, friends and relatives. It is also an avenue for perpetrators to confess their crimes, show remorse and ask for forgiveness in front of their community members. These criminals are later given low sentences upon giving full confession of the parts they played in committing the crime (Brounqus, 2008). Through the principle of truth-telling, witnesses and perpetrators give detailed information including how and where the crimes were committed, confirm the victims and possibly show where the victims' bodies were left (Mutisi, 2012). Hence,

confession and forgiveness are the stepping stones towards ending any conflict which touches the identity of parties in a reconciliatory effort. Hence, reconciliation through Gacaca courts in Rwanda helped to reduce ethnic tensions among the people under hostile relations at first but now people have decided to work together in building the new Rwanda. Hence, the level of inter-ethnic cooperation has increased and the willingness to support each other even from the opposition side has been identified (Mutisi, 2012).

According to traditions of Rwanda, when a dispute has been resolved, a ritual ceremony will be held to reflect the symbolic and practical importance of the process and to show that reconciliation has taken place. Meals are cooked and eaten in the reconciliation process. The meals eaten during a session of the court bring together the rival parties and show their passion, hence provide a way to reconciliation. The courts aim at healing from psychological wounds created by the past incidence and make it less likely that victims were engaging in unnecessary defensive violence (Staub, Pearlman, Gubin & Hagengimana, 2005). Hence, healing makes reconciliation possible and with peace agreement the disputes among ethnic groups can be managed. However, it has been experienced that the re-emergence of more violence is likely to happen even after these agreements. This is because peace agreement does not by itself change feelings of enmity, fear, mistrust and hostility which have developed out of the conflict rather it needs change in attitudes between the conflicting parties.

However, encouraging detainees to confess their crimes and making peace agreement have been a cornerstone of the Gacaca process, as in many countries that have experienced mass crimes in order to bring about reconciliation. In the Rwandan context, the use of confessions was driven by a desire to find a balance between retributive justice and reconciliation, with the intention

of establishing the truth about what happened (Staub, Pearlman, Gubin & Hagengimana, 2005). It was hoped that this, in turn, could make fact-finding easier and reduce the workload on the Inyangamugayo (judges). Detainees had a powerful incentive for invoking this procedure. Hence, a timely confession allowed those accused to have their sentences reduced and the opportunity to serve half of the remaining sentence in the form of community service. Reconciliation in the Gacaca justice system is therefore pivotal for peace building and social cohesion since both parties continues to exist in the same community (Staub, Pearlman, Gubin & Hagengimana, 2005).

Rwanda represents an interesting test case where solutions have been creatively devised to remedy deficiencies of the criminal trials paradigm. The Gacaca law adopts an innovative and unique approach by combining the punitive-retributive goals normally associated with criminal trials, with restorative measures thereby promoting reconciliation and rehabilitation(Uvin, 2000). Even though this poses the question of how to strike a balance between the backward-looking reactive nature of retribution, and forward-looking restorative justice principles, it is a unique approach that involves the combination of the traditional African and some elements of modern conflict resolution approaches in order to ensure reconciliation and reintegration of offenders within the community (Kritz, 2002).

## **Restorative Justice**

Conflict resolution in Traditional Africa justice system emphasizes restoration of justice. It is a philosophy and approach that emphasizes the active involvement of parties affected by conflict to find solutions that address their needs and ensure accountability for those responsible (Graef, 2000). It focuses on restoring harmony and repairing relationships rather than solely punishing offenders. This

involves a process where individuals, guided by community elders or leaders in most instances, acknowledge responsibility, express remorse, seek forgiveness, and offer reparations for their offences. In traditional Africa, all methods of conflict resolution aim at restoring social order. Conflict resolution was wholesome and tried as much as possible to resolve all underlying causes of conflict by ensuring that the parties to the conflict participated and reached a settlement. In some cases fines and compensation were used but only as means of acknowledging the wrongs done and thus restore the parties or reintegrate the offender into the society. The fines or compensations were not retributive in nature but compensatory. The goal is to achieve reconciliation, restore justice and prevent future conflicts (Graef, 2000). Hence, it focuses on repairing harm and restoring relationships rather than solely on punishment.

The Gacaca justice system is a unique example of restorative justice in action. This community-based approach focuses on repairing harm, promoting reconciliation, and reintegrating offenders into the society. In the context of Rwanda, this kind of justice was needed to handle various challenges left by the 1994 genocide against the Tutsi. The first action undertaken by the Government of Rwanda was to end impunity and make everyone accountable of his/her actions, not only for punishing but also to plan ahead on how punishment may be effective, with a moral lesson to the perpetrators. The Government of Rwanda introduced a system of repentance through the Gacaca court system and other judicial court system towards the national reconciliation (Government of Rwanda, 2001).

Restorative justice in post-genocide Rwanda therefore served as an essential mechanism for reconciliation by emphasizing dialogue, accountability, and community healing rather than punishment alone. This approach recognizes that crimes are not

merely offenses against the state but violations of personal and communal relationships. Hence, restorative justice in Rwanda was operationalized through community-based courts known as Gacaca Courts (Gatwa & Mbonyinkebe, 2019).

Rwandan government implemented the Gacaca court system as its primary mechanism for addressing accountability for the genocide. This approach was adopted after the government recognized that the formal criminal justice system lacked the capacity to handle the magnitude of cases and was inadequate for achieving Rwanda's transitional justice goals (Gahima, 2012). Hence, the Gacaca court system represented an innovative application of restorative justice, based on traditional Rwandan community-based conflict resolution practices.

As a traditional African conflict resolution approach, the Gacaca ensures restoration of justice in the reconciliation process between conflicting parties or criminal offenders. Its restorative aspects enable offenders to make amends for their actions in a way that establishes a human relationship between them, the victims and others in the community (Graef, 2000). Apart from Community participation, the process of Gacaca involves various aspects that ensure that justice is restored such as:

**Truth-Telling and Acknowledgment of Guilt:** The Gacaca system encourages perpetrators to confess their crimes and survivors to share their experiences by revealing the truth of all that happened and at the same time acknowledge that they are guilty (Graef, 2000). This shows remorse and willingness to make peace and thus be forgiven. This therefore promotes healing and accountability on the survivors and the criminals respectively.

**Community Service and Reconciliation:** The emphasis on community service and reconciliation represents a shift away from purely punitive justice, fostering social cohesion and rebuilding trust within communities. This is in agreement with the aims of the Gacaca justice system since it aims to correct and not necessarily to punish offenders. These criminals who have confessed and acknowledged their crimes engage in community services as a form of punishment and thus brings about reparation, rehabilitation and restoration of justice (Graef, 2000). Hence, the Gacaca courts prioritize repairing harm, promoting reconciliation, and reintegrating offenders into their communities, rather than solely punishing them.

## **INTEGRATING THE GACACA INTO THE CRIMINAL JUSTICE SYSTEM IN NIGERIA**

### **Community-Based with Existing Customs**

The Nigerian criminal justice system is a borrowed formal justice system from the West. It is more retributive than restorative in nature. The process is alien to the African traditional means of settling disputes, especially offences against the society. The Process is mainly backed up by state laws which do not reflect the customs and traditions of the people (Lamle & Mabas, 2022). Nigeria is a multi-ethnic society and as such there exist multiple customs that guide various communities but these customs appear to have little or no influence over the existing conflict resolution mechanisms within the criminal justice system of Nigeria. Hence, there is lack of community involvement in conflict resolution process within the Nigerian criminal justice system.

The formal criminal justice system of Nigeria employs a top-down approach with little or no input from the local communities and their needs. This brings about a form of disconnect between the

needs of the people and the existing justice system (Lamle & Mabas, 2022). Hence, there is limited access to justice especially in the rural areas where the people are not familiar with the alien processes of conflict resolution which does not reflect their customs and traditions. Participation of community members is not encouraged and they may not have adequate access to justice due to the element of cultural insensitivity within the justice system. It does not account for local customs, values and norms and this potentially leads to lack of trust in the system.

Integrating the element of community involvement of the Gacaca into the Nigerian criminal justice system will go a long way in fostering an effective and responsive justice system that ensures justice to all and sundry. Community participation has proven to be effective within the Gacaca system adopted in Rwanda. This ensures a community-based approach in resolving disputes with members of the local community having a significant input through their active participation in the resolution process in order to bring about reconciliation, restoration and reintegration within the society. This way, the people feels a sense of justice and trust in the system considering the fact that the justice system not only recognizes their existing customs but at the same engages them both as judges and witnesses. This encourages truth-telling and accountability in the existing formal criminal justice system of Nigeria as evident in the traditional Gacaca approach as a process of conflict resolution. Besides, the success story of the Gacaca system in Rwanda was possible because the people participated and believed to own the entire process. Regardless of their ethnic divisions (Twa, Hutu or Tutsi), they all embraced the process from the beginning to the end. This attribute is possible across the ethnic groups in Nigeria if community involvement is integrated into the criminal justice system in Nigeria. This could help dowse ethnic tensions and conflicts across the country.

## **Alternative to Formal Courts and Corrupt System**

The Nigerian courts today are congested with lots of cases such that there is delay to justice and some are denied justice in the process. There is therefore the need for alternative process of adjudication that does not involve the complex system of adjudication within the formal court system. Apart from the delays in justice delivery, there are so many cases of bribery and corruption in the judicial system. Bribery within the judicial system appears to be normal especially among the politicians and the elite. Judges collect bribes and decide cases in favour of these bribe givers. Judgments of the courts are these days delivered in favour of the highest bidder. This hinders justice in conflict resolution within the Nigerian criminal justice system.

Corruption significantly hinders conflict resolution within Nigeria's criminal justice system (Obi, 2018). It not only leads to delayed justice but also leads to biased decisions, and loss of public trust. People now find it difficult to approach the court for conflict resolution. Those on criminal trials do not have a single trust and hope for justice. These corrupt practices take the forms of bribery, extortion, abuse of judicial discretion or decision, and undue influence from politicians, affecting the fairness and integrity of legal proceedings. For instance, some officials, such as the police, court staff, and judicial officers demand bribes or extort money to influence case outcomes, delaying justice and undermining the legal process. Corruption within Nigeria's judiciary takes many forms, each seriously threatening the legitimacy and efficiency of the legal system (Alemika & Chukwuma, 2010). One widespread form is bribery, where parties such as litigants or lawyers offer monetary or material incentives to judicial officials to secure favorable rulings (Adewale, 2016). This practice damages judicial integrity, compromises judges' impartiality, and diminishes public trust in the judiciary. Another common form is extortion, where

judicial officials demand unlawful payments or favors from litigants or others in return for faster case processing, favorable decisions, or avoiding penalties (Transparency International, 2020). Extortion exploits those seeking justice, intensifies inequalities, and blocks access to fair legal remedies. Influence peddling is also common in Nigeria's judiciary, where individuals or groups with political, economic, or social power exert undue influence on judicial officials to sway legal outcomes (Human Rights Watch, 2019). Political interference, nepotism, and favoritism weaken judicial independence and undermine the principle of separation of powers.

The Nigeria Police Force is responsible for investigating and arresting individuals, presenting them to court for trial (Nwosu & Eze, 2019). However, these functions seem to have been undermined because the police is plagued by corruption. This can involve corruption in the investigation, the arrest, and the trial of individuals, resulting in biased outcomes or the release of individuals who should be held accountable (Nwosu & Eze, 2019). All these anomalies have triggered the call for alternative courts, especially in conflict resolution matters because there is loss of public trust in the conflict resolution processes within the Nigerian criminal justice system.

Integrating the Gacaca court system as an alternative to existing formal courts in Nigeria could help improve the criminal justice system in Nigeria. It serves as an avenue to expedite the backlogs of cases in the formal courts today and thus prevent the challenges of delay in justice delivery and also checkmate the issue of corruption in the judicial system. Just like these alternative Gacaca courts were effective during the genocide trials, it could be effective if integrated into the conflict resolution processes of the criminal justice system in Nigeria. This will help reduce the backlog of cases piled up in the formal courts, promote speedy and efficient justice delivery

and also help to flush away corruption among the police, judicial officers, judges, counsels in charge of the cases and so on, which takes the form of bribery and extortion. Besides, as an alternative court system, it is less expensive compared to the formal court proceedings, encourages community participation and restorative in its quest for reconciliation.

## **Reconciliation and Restoration of Justice**

The Nigerian criminal justice system's sole reliance on retributive justice and traditional antagonistic methods has created a system characterized by delays, court congestion, and overcrowded prisons, highlighting the need for other alternative reconciliatory approaches that offer potential benefits, such as promoting fairness, restoring relationships, and reducing recidivism (Alemika & Chukwuma, 2010). The conflict resolution process within the Nigerian criminal justice system is retributive and thus targets more of punishing the offender. Hence, this kind of process which takes place in the formal courts seems to make the offender feel victimized especially in cases where such a person may be innocent. The outcome of such cases are not reconciliatory, rather it may bring hatred and perpetual anger on the victim who may in future resort to recidivism. It therefore brings enmity between the parties instead of resulting to reconciliation, restoration of justice and reintegration into the society. Even the Alternative Dispute Resolution (ADR), as established by Administration of Criminal Justice, 2015, appears to have offered little or solution to most of these challenges of conflict resolution in the Nigerian criminal justice system.

Conflict resolution efforts in the formal criminal justice system of Nigeria seem to focus more on punishing offenders rather than rehabilitation of offenders. Restorative justice focuses on the needs of the offender, the victim and even the community rather than satisfying the abstract legal principles or punishing the offender.

This seems to be lacking in the conflict resolution process of the criminal justice system of Nigeria due to its retributive nature. It therefore focuses on punishing the offender rather than correcting an offender with love, repairing harm and restoring relationships. It considers crime as offence against the state rather than against the individual and the community. Restorative justice an approach to justice should focus on the needs of the victims, offenders and the community rather than just satisfying abstract legal principles or punishing the offenders. Victims ought to take active role in the process of the resolution while offenders are advised to take responsibility for their actions in order to repair the harm they have done by apologizing, restitution or community service. Restorative justice considers crime more as an offence against an individual and community rather than the state (Marty, 2000). This is not the case with the criminal justice system of Nigeria which considers crime as an offence against the state, thereby neglecting the needs of the victim, the offender and the community. Hence, the need for a more reconciliatory and restorative approach in addressing conflicts within the criminal justice in Nigeria.

First, integrating the reconciliatory element of the Gacaca justice system in its conflict resolution process into the criminal justice system of Nigeria could help solve the problems of delays, court congestion, overcrowded prisons, recidivism and so on. Reconciliation is very important in any justice system in order to avoid grudges. What we see in the Nigerian criminal justice system is a situation where an offender is tried and possibly punished and yet comes back to live in the same society with the disputant. This offender who is punished see the other party as an enemy and such enmity could cut across generations of both parties. Hence, to avoid this kind of situation, reconciliation remains very necessary. However, this cannot be realized through the retributive-focused criminal justice system of Nigeria. Hence, the need to integrate the Gacaca system which is community-based and reconciliatory

in approach. This could ensure proper reconciliation, restoration of justice and peaceful reintegration of offenders into the society.

Second, integrating the restorative aspect of the Gacaca conflict resolution process into the Nigerian criminal justice system could help repair harms caused by offenders and as well reintegrate them into the society. Hence, the victim and the offender together with the community members take active participation in the reconciliation process. This could go a long way in making offenders within the Nigerian criminal justice system accountable for their actions and correcting them in the process with little or no punishment. This not only helps restore social cohesion and harmony removes the complex and expensive process of appeals at the higher courts in Nigeria.

## **EVALUATION**

Despite its positive score on reconciliatory, restorative and transitional justice, the Gacaca has not been spared of criticism. These challenges include but not limited to the following.

There is lack of fair trial and opportunity for appeal to a higher court as seen in the formal court system. Also, under the Gacaca law, defendants are not entitled to be represented by a lawyer(Lamle & Mabas, 2022). This is not in line with the international fair trial standards. These standards establish the right to have legal counsel assigned by the state to poor defendants where the interest of justice so requires (Lamle & Mabas, 2022). Such determination is usually based on the seriousness of the offense and the potential maximum punishment. However, these provisions seem to be neglected in the Gacaca justice system. To address this challenge, there should opportunity for fair trial in line with international standards by ensuring that victims have access to legal representatives and provisions should made to enable a victim to appeal to the supreme

courts of the land in cases where they are not satisfied with the outcome of the judgments of the Gacaca courts.

Furthermore, the Gacaca judges receive little or no compensation for their work and have a greater propensity for accepting bribes, thus undermining the authority of the Gacaca proceedings. The fact that these judges are not paid, it is argued that they can easily be bribed into rendering erroneous judgments in favour of the highest bidder. To an extent, this seems not be different from the same challenge facing the formal courts where judges can be bought over for some amount of money or rewards. Hence, the fact that Gacaca judges received no state remuneration also made the judges vulnerable to corruption. To address this problem, the Gacaca judges should be provided with adequate compensations. They should be remunerated well to enable them dispense their functions without resorting to bribery. This should be in addition to the already existing rule of taking care of the education needs of the judges' families. To ensure that the judges are devoid of bribes and other related corrupt practices even after being adequately remunerated, they should be engaged in a form of ethical training and retraining from time to time. This is to constantly remind them their roles as advocates of justice and morality. This will stop or at least reduce to the barest minimum, issues of high profile corrupt practices and bribery within the judiciary. In addition, the Judicial Council should come up with a strict rule against bribery and corruption such that anyone found wanting would be sanctioned or dismissed without fear or favour. With these in place, the issue of bribery and corruption among the judges can be curtailed to some extent.

There is the problem of achieving the retributive and reconciliatory aims in the Gacaca system. Combining punishment and reconciliation seems to be incompatible in the light of a process that fosters restorative justice. For instance, through

the implementation of the Gacaca jurisdictions, the Rwandan authorities wanted to punish those responsible for the genocide, while encouraging reconciliation between Rwandans. However, combining these two aims has revealed itself to be hard to achieve, so very different can they be conciliate. Justice can contribute to restoring social peace, but reconciliation seems to be a concept that is far wider that can be dealt with in a court of law. At best the court would be able to contribute to achieving reconciliation in conjunction with other bodies. The combination of punishment and reconciliation in the Gacaca process appears in some respects to be a hindrance to restorative justice. To resolve this issue, the retributive aspect of the Gacaca system should be scrapped. This removes the difficulty of achieving a comprehensive justice due to the combination of punishment and reconciliation. This ensures the reconciliatory and restorative aims and characteristics of the Gacaca as a traditional African justice system.

The Challenges of false confessions and accusations undermines the Gacaca process. The victims and the witnesses can present false confessions and accusations respectively. The victim can give false confessions just to have his sentence reduced especially where there is little or no evidence from the witness, thus leading to miscarriage of justice. The witnesses on the other hand can falsely accuse the victim just to see him get punished especially when the case involves the witness' family member. Accusing people in Gacaca thus became a means of taking revenge on enemies and eliminating rivals. To address this problem, judgments should not be solely based on the confessions and evidences of the victims and witnesses alone. Rather, there should be a standard that prescribes how the victim is rehabilitated and reintegrated into the society. The most important thing should be that the victims acknowledges his crimes and seeks forgiveness and reconciliation. With this, there would be no need for a witness and thus no room for false accusations.

There is lack of suitable mechanism at the courts to guarantee safety of witnesses and this limits adequate and sufficient information available for the trials. The court also has only one law which allows it to sentence an individual up to three years in prison for anyone who refuses to testify or gives false testimony. Transparency International, Hence, since the security of survivors and witnesses is not guaranteed after the court sessions, this kind of court process may stimulate identity-based hatred and subsequently revive certain identity problems. The solution to this challenge is hinged on removing witness involvement. Since there would no longer be a need for witnesses, there is no need to worry about their safety. With this, safety of the survivors is ensured.

Also, the effectiveness of the Gacaca courts in Rwanda was undermined by government interference and exclusion of the Rwandan Patriotic Front (RPF) crimes from the process. The decision to focus Gacaca proceedings exclusively on genocide crimes undermined their ability to provide accountability and promote rule of law. Subtle government intimidation compromised the integrity of the courts, leading to the convictions of thousands of individuals, including critics of the government, on erroneous charges and limited evidence. In the end, the Gacaca justice system did not contribute so much in bridging the gap between perpetrators and victims as the very ethnic divisions that were at the heart of the genocide continued to linger. This is also evident in the government's decision to exclude the crimes of the RPF from the Gacaca process. This has been considered one of the effects of interference from the government which undermines the credibility of the Gacaca system in dispensing justice. The government utilized it in removing potential critics. Large number of people were convicted based on very limited evidence, and many were found guilty for merely participating in the patrols and barricades. To address this problem, the Gacaca system should be established independently to handle cases without government

interference. Every community should be empowered as it is the case to elect judges who would dispense their functions without fear or favour without any form of obstruction or interference from the government and other local authorities. Also, for the sake of justice and integrity, the Rwandan government should make arrangements to investigate and facilitate the trial of RPF crimes during the 1994 genocide. This will restore the hope and trust of the people in the present administration which has been in power since after the genocide.

## **CONCLUSION**

The Gacaca justice system as a traditional African approach to conflict resolution adopted as a restorative justice in post-genocide Rwanda functions as a vital mechanism for reconciliation by fostering dialogue, promoting forgiveness, and rebuilding community ties. It facilitates individual healing and also encourages a collective commitment to peace and unity. In the context of Rwanda, it is also undeniable that the Gacaca enabled an almost unbelievable speeding up of trials and the rapid handling of the genocide caseload.

Despite its positive score on reconciliatory, restorative and transitional justice, the Gacaca has not been spared of criticism. It has its short-comings which includes but not limited to the following: Lack of fair trial and legal representative, potential for corruption, challenge of combining retribution and reconciliation, potential for false confessions and accusations, lack of protection for witnesses, government's interference and exclusion of RPF crimes from the process as seen in Rwanda and so on. However, the Gacaca system remains an effective traditional African conflict resolution approach that fosters community participation, reconciliation and restoration of justice. It should be noted that this paper never imply that the Gacaca is devoid of corrupt and retributive tendencies. In fact, it recognizes these and that is why

it recommends for the scrapping of the retributive aspect of the Gacaca justice system. It further recommends a form ethical training and retraining for the judges and that the Judicial Council should come up with strict rules that will ensure that those judges who persist in bribery and corruption despite adequate compensation should be sanctioned or dismissed.

The Nigerian criminal justice system on other hand appears to be more retributive than reconciliatory and restorative in approach. It is plagued with so many challenges ranging from delays in dispensation of justice, corruption, biases and backlog of cases. There is therefore so much distrust in the system as it appears to be ineffective, inefficient and non-responsive. Despite changing the names of our prisons to correctional centers, it is only a change in nomenclature because nothing changed. Inmates still receive same treatment and the formalities remain the same. Hence, the need for a more corrective and restorative approach that fosters community participation, reconciliation and restoration of relationships. This work therefore concludes that the integration of the Gacaca system as a traditional African conflict resolution approach that is community-based, reconciliatory and restorative in approach into the criminal justice system of Nigeria could help mitigate some of the challenges of conflict resolution plaguing the criminal justice system in Nigeria in order to ensure a more efficient, effective and responsive criminal justice system. However, the retributive aspect of the Gacaca system should be removed considering the social and cultural differences between Nigeria as a multi-ethnic society and Rwanda with about three ethnic groups. This enables the system to ensure that justice is served at all times while offenders are reconciled peacefully and reintegrated into the society. And this helps sustain the reconciliatory and restorative aim and characteristics of the Gacaca as a traditional African conflict resolution approach.

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