Practical Challenges in Customary Law Translation

The Case of Rwanda's *Gacaca* Law

Télesphore Ngarambe

Organisation for Social Science Research
in Eastern and Southern Africa (OSSREA)

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Dedication

To Charline

Cover Photo Caption: One of the *Gacaca* Courts While on Session.

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I appreciate all my respondents from all the categories who spared their very precious time to listen to me and my research assistants during interviews, and those who read my questionnaires and wrote down their views. I assure them that their contributions have not been wasted.

Finally, my heartfelt gratitude goes to my family members: Charline, Diane, Katia, Enzo and Sammy. Their incessant encouragement and companionship inspired me to the end of the project.

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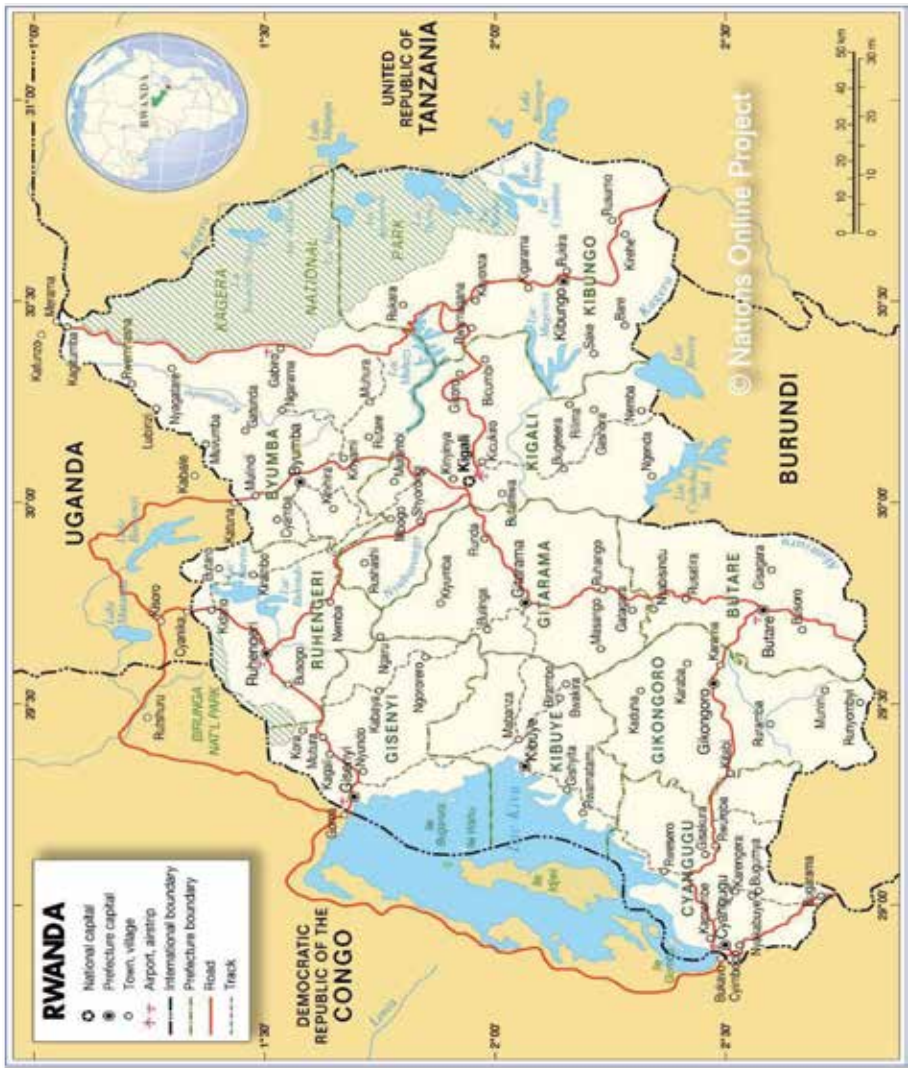

Figure 1. Map of Rwanda before 1994

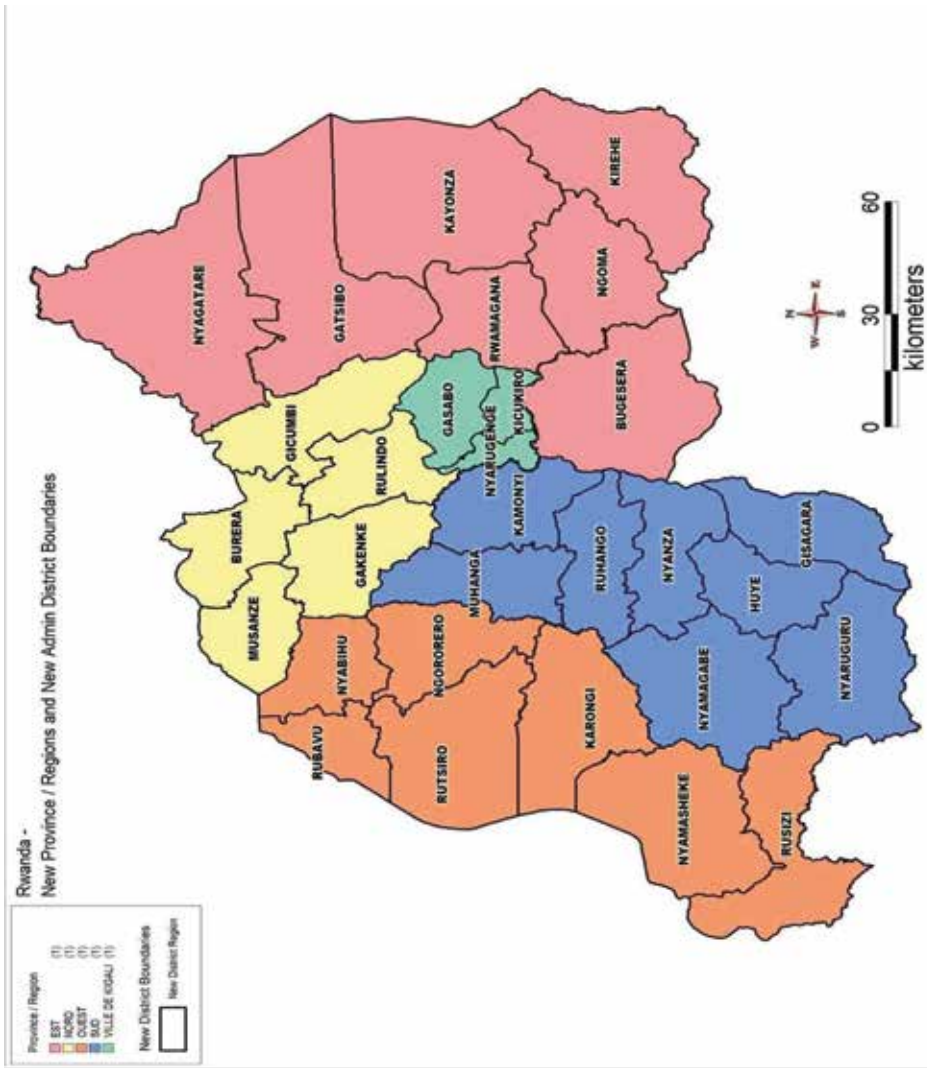

Figure. 2. Map of Rwanda after the 2000 Decentralisation Reform

Abbreviations and Acronyms

CNLG	National Commission for the Fight against Genocide
CPS	Crown Prosecution Service
EU	European Union
HRO	Human Rights Organisations
HRW	Human Rights Watch
ICTR	International Criminal Tribunal for Rwanda
LIPRODHOR	*Lingue Rwandaise pour la Promotion et la Défense des Droits de l'Homme*
MINIJUST	Ministry of Justice
NCO	Native Court Ordinance
NSGJ	National Service for the *Gacaca* Jurisdictions
NUR	National University of Rwanda
PRI	Penal Reform International
ST	Source Text
TIG	*Travaux d'Intérêt Général* [General interest work]
TT	Target Text

Foreword

There are a few remarks that a reader of this book entitled *Customary Law Translation in Rwanda: Practical Challenges* should not lose sight of. The first point is that not many people in the world know that Africa's customary law could be used to solve contemporary and contentious legal issues in the twenty-first century. The people of Rwanda unilaterally decided to go traditional, opting for a home-made legal system (*Gacaca*) instead of the western legal system that proved to be too cumbersome to adapt to the local situation. Thus, the entire world is compelled to know what Africa can offer in terms of its home-grown strategies in solving current problems. The Rwandan justice system known as *Gacaca*, though originally preserved by word of mouth, was revived, documented, tested and used successfully to handle millions of legal cases in the aftermath of the Rwandan genocide against the Tutsi.

Second, in his monograph, Télesphore Ngarambe identified some thorny challenges that any translator of legal documents can be faced with. He also provides some tangible solutions to those challenges. The book goes a step further to propose a translation model that should be followed in translating Rwanda's customary law.

In this context, Télesphore Ngarambe is not different from his predecessors in the field who have made attempts to conceptualise on translation studies. The skopos translation theory that was elaborated in the twentieth century brought in a new dimension for a general theory of translation that focused on text type, purpose and function where translation ceased to concentrate on static word-equivalence but incorporated elements of the context, participants and culture. This brought in other translation theories like that of Peter Newmark (1981) and of formal correspondence and functional equivalence by Eugene Nida (1964). The latter introduced linguistic and communicative dimensions to their translation theory.

The consequence of these shifts is that many theoretical frameworks have entered translation studies, because translation is borne out of many disciplines, such as comparative literature, and linguistics.

Practical Challenges in Customary Law Translation: The Case of Rwanda's Gacaca shows that translation involves language use and transfer as well as communication within a cultural setting. The author of the book amply demonstrates that nobody should downplay linguistic, textual, contextual and cultural cues in translation. He shows that the cultural turn in translation has transformed and re-conceptualised the translation theory

to integrate non-western thought about translation so as to challenge the presuppositions that have dominated the translation discipline since time immemorial. The major theme that runs through this book is that translation as a mediating form between cultures and contexts should not overlook cultural differences because language is a marker of identity.

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Preface

The ambition to produce a book on legal translation came to my mind fifteen years ago, on completion of my undergraduate studies. The knowledge I acquired inspired me to learn more about language as an intrinsic part of culture. Throughout my academic training, I have found that the best way of understanding broad concepts of language and culture is through pursuing translation and interpreting studies. The latter covers a wide range of disciplines and languages; it entails knowledge acquisition on cultural studies, communication, and specialised discourses in literature, law, economics and finance.

My two-year M.A. study in Translation at Witwatersrand University had both theory and practice orientations with emphasis on practical and technical skills in translation. I managed to cope with devising acceptable solutions in the translation of legal texts. I undertook a research project on legal translation dealing with the problems of non-equivalence using the Constitution of Rwanda as a case study. That was the time when the current Constitution of Rwanda had just been produced in Kinyarwanda and translated into French and English. A closer look at the target texts of that Constitution was enough for a keen scholar in the making to detect some unnatural structures inaccurately rendered into the above target languages. The results of my M.A. studies revealed that legal translation constitutes a vast sea any under-informed sailor cannot attempt to cross alone! Though I cannot claim to have exhausted all the non-equivalence problems embedded in the Constitution of Rwanda, I found that most translators tended to opt for 'zero' or 'omission' solutions to most translation problems they encountered in finding readily equivalent terms.

As a way of keeping truck of the legal specialisation in translation, I oriented my research efforts, including those of my students, to translating legal texts of various types. The most interesting of these was that of my student's dissertation on *Legal Terminology Used in the International Criminal Tribunal for Rwanda* by Lambert Havugintwari (2005). The study significantly raised my awareness on some translational challenges faced during the trials of Rwanda's genocide cases. Many other students' research projects, which I later supervised in the legal area, became major sources of inspiration and courage for me in pursuing my doctoral studies on *Practical Challenges in Customary Law Translation,* focusing on the Case of Rwanda's *Gacaca* law.

The choice of this research topic was not by accident. As a Rwandan, I had lived the ordeal that our country had gone through during the 1994 genocide against the Tutsi. Given that I never left my country, I became part of those Rwandans who experienced the dire consequences of the genocide. I was also part of those who were consulted, in one way or another, to contribute to finding solutions to consequences of the genocide. After the Government of National Unity adopted *Gacaca* as one of the solutions to deal with all pending legal genocide cases, I attended *Gacaca*

meetings at all levels, right from the process of information collection to the stage of public hearings. During these trials, judges applied *Gacaca* law and other guiding documents that contained terms that depicted Rwandan culture and setting. There were many people in the audience who could not easily access these documents because of their special nature. Yet, whoever visited Rwanda at that time expressed deep interest in taking a copy for further scrutiny.

After *Gacaca* proved to be a home-made solution to the wounds of genocide, different scholars got interested in it and undertook to conduct many research projects. Even though some of these studies made an attempt to shed light on the operation of *Gacaca* system, none of the researchers investigated the problems that were involved in its translation. This was so despite limited research on translating Rwandan laws.

It should be noted that in a multilingual country like Rwanda, translation is unavoidable. The main reason being that all official documents used in the country, including different types of laws, are presented concurrently in three official languages, i.e. Kinyarwanda, French and English, with each text claiming to enjoy faithful equivalence and authenticity. This implies that both translation and interpretation have a very important role to play in the drafting and dissemination of the majority of laws in the country. The *Official Gazette* and the Constitution of the Republic of Rwanda constitute two most eloquent examples in this regard. These and many other reasons prompted me to embark on a research project of this magnitude for my doctoral studies. The first deliverable from the above initiative was a thesis that I successfully defended in May 2014.

Following the call by OSSREA to support the publication of high quality dissertations in form of peer reviewed monographs, I worked on the dissertation and produced this book entitled *Practical Challenges in Customary Law Translation: The Case of Rwanda's* ***Gacaca*** *Law*. Now that what was a thesis research is turned into a book, I believe this is the right channel to reach a wider readership. My intended audience are all persons eager to comprehend challenges involved in the translation of legal texts, more specifically customary laws. Legal translation has always been complex; but it becomes much more daunting when dealing with customary laws. A case in point is translation of Rwanda's *Gacaca,* which is a hybrid law combining both tradition and modernity.

As the reader of this book, you may not need to go through it at once. It is an enjoyable piece to read, each part being informative on its own. The first three chapters will introduce to you the distinctive features of the main legal systems that came into play in the drafting and translation of the modern *Gacaca* law. In these chapters, I start by depicting the general picture of customary law to end with the specific legal systems involved in the production of the modern *Gacaca* law in three versions, i.e. Kinyarwanda, French and English.

In the light of the content of these chapters that constitute the configuration of the law under study, Chapter Four develops a theoretical paradigm underpinned by the conviction that the translatability of the modern *Gacaca* law entails a very complex process that requires integrating a number of dimensions: society, culture, language and context.

Chapter Five is the real culmination of all my endeavours gathered for many years to produce this book. Applying socio-cultural and contextual approaches, I identify and describe major challenges involved in the production and translation/interpretation of the *Gacaca* law. On the basis of both primary and secondary data, I suggest strategies to overcome the problems resulting from the differences between the traditional and modern *Gacaca*, as well as the French and English legal systems.

Considering the scope and context of this book, I can admit that its readership is not limited to academia. It is rather general knowledge and an important guide for legal practitioners, professional translators, legal drafters, communicators and any other reader interested in understanding the wisdom of the human tradition. Today, many people are claiming for the revival of indigenous knowledge and creation of home-grown solutions to the panoply of challenges facing humanity. This tremendous undertaking cannot bear fruit if people do not grasp properly the skills required to codify and translate these 'knowledges' and adapt them to the modern situations. In the case of *Gacaca,* I can assure my readers that I have tried to lay a solid foundation for effective exploration and exploitation of this system.

In other words, all who love justice can have their right share in this book. Most of you have many times denounced the failure of the international legal system to handle pending cases in different countries where mass killings have taken place, such as Rwanda, Burundi, Democratic Republic of Congo, Kenya, Sudan, Somalia and Chad. The blatant failure of the international legal apparatus has been incessantly reflected by the International Criminal Tribunal for Rwanda (ICTR) (2010), a court which was established and charged with handling all criminal cases related to the Rwandan genocide. In a span of 14 years, it completed only 36 cases. Nonetheless, the *Gacaca* courts were able to handle more than 700,000 cases in a period of 7 years! (http://www.inkiko-Gacaca.gov.rw/pdf/abaregwa%20english.pdf). This, therefore, implies that the translational solution I propose for this system that is so expeditious will inspire many other legal systems in the world.

I cannot pretend to have exhausted all the challenges involved in the translation of customary laws, however. It is also possible that I have not hit on all the problems that arose in the translation of *Gacaca*. However, my conviction is that this book will remain a main source of inspiration for those who would like to draft and translate laws. It will also enthuse

whoever will undertake writing on the diversity of customs and values that foreign influence and modernity have dumped in old memories to rot as their owners die. After this contribution, however modest it is, I think I should pledge to continue investigating into these systems to unveil their therapy to the many unhealed wounds that our fellow brothers and sisters suffer from throughout the world. This book reminds you that these wounds fester while waiting for foreign laws and judges under the umbrella of what is named 'international justice' that has always proven to be delayed justice.

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INTRODUCTION

"Given the complexity and difficulty of legal translation, one may wonder whether law is translatable and whether true equivalence can be achieved in legal translation" (Cao 2007, 31). This is one of the main statements that stimulated the work on this book entitled *Practical Challenges in Customary Law Translation: The Case of Rwanda's* ***Gacaca*** *Law*. The author applies socio-cultural and contextual approaches to the translatability of some law-, culture- and context-specific aspects embedded in Rwanda's *Gacaca*[1] law from Kinyarwanda into French and English. All the three are official languages of the country. The first is the sole Rwanda's national language. The second is the coloniser's language while the third was adopted through international cooperation and interaction with other countries in the contemporary world.

For years, translatability of legal texts has always been one of the major concerns for translators and specialists in translation studies. This situation becomes more complicated when dealing with texts that bear a lot of the society's cultural and contextual elements. This is the case of the majority of legal texts used in countries as powerful instruments to regulate actions of their community members. The translation task becomes much more problematic when translating customary laws, which are products of traditional societies, and predominantly culture- and context-bound. Customary laws date back to the origins of human beings, and are as diverse as the human communities. Examples of these include: the *Ukgotla* in South Africa, the *Warlpiri* laws (one of the indigenous Aboriginal laws in Australia), the *Sharia* law in the majority of most Islamic countries, *Fewuse Menfessawi* in Ethiopia, *Dina* in Madagascar, Ashanti traditional tribunals in Ghana, the *Barotse* law in Zambia, the Laws of *Lerotholi* in Lesotho, and *Gacaca* of Rwanda that is the main focus of this book.

Gacaca is a Kinyarwanda word that normally refers to a type of grass or a traditional lawn where people could sit to discuss different issues or settle disputes. From the definition given by the Kinyarwanda dictionary by Bizimana and Rwabukumba (2011), we can retain only two main aspects: place and mediation. In a more legal context, Mangquku (200410)) considers *Gacaca* metonymically as a traditional court where perpetrators and victims resolve their differences before a community and a panel of eminent persons. Sources also attest that *Gacaca* is a customary law that was the only legal system used in Rwanda before the arrival of colonisers in the early 20th century.

According to Vanhove (1941), the sole Rwanda's customary law *Gacaca* consisted of societal regulations on succession, marriage, obligations and contracts. In accordance with *Gacaca*, the King was the supreme authority of the country invested with all the powers, including the judiciary as the highest judge to adjudicate on all judicial matters. However, at that time, most criminal and civil matters were settled between friends and families in

the *Gacaca* system. The primary objective during these *Gacaca* sessions was, in addition to ending the violation of shared values, to restore the social order by reintegrating those who had transgressed within the community. As specified in a document entitled 'Integrated Report on *Gacaca* Research and Monitoring' (Penal Reform International (PRI 2005, 12), the principal goal of *Gacaca* was thus "neither to determine guilt nor to apply State law […] but to restore social harmony and social order in a given community and to re-include the person who was the source of the disorder."

Nonetheless, before 1994, Rwanda had never experienced a crime as serious and deadly as that of genocide. As defined by the United Nations in 1948, genocide means any act committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group (historyplace.com). The 1994 genocide was the deadliest of all the 20th century mass killings, for it took away the lives of 1,364,020 persons (Chavanieux 2000) in a period of one hundred days. During this tragedy, the country was completely devastated, and nearly three million people were forced into exile. Institutions responsible for law enforcement, such as the justice system, the courts, the police and administration ceased to function for about 3 months. All prisons throughout the country became overcrowded ─ over 120,000 persons (PRI 2005, 10) ─ with many other untried suspects. Since so many people were directly or indirectly involved in the killings during the Rwandan genocide, the Government of National Unity, established in July 1994, believed that peace and unity could only be achieved by striking at the root causes of the genocide and, in particular, the "culture of impunity".

To solve all the judicial problems resulting from the genocide, the government of Rwanda therefore resorted to its traditional way of handling cases. This option was motivated by the fact that the conventional courts in the country were limited both in number and capacity, and, worse still, they were overwhelmed by exponential number of genocide suspects. In addition, some cases that could be prosecuted in foreign countries to which a significant number of genocide suspects had fled, notably in Belgium, Canada, France, etc. were not handled satisfactorily.

As stated in PRI (2005), as of June 30, 2005, the International Criminal Tribunal for Rwanda (ICTR), based in Arusha, Tanzania, had managed to try only 24 out of 60 cases over a span of eleven years. Five years later in April 2010, the situation had not improved. According to the ICTR detailed report on the status of its detainees, out of 80, only 48 cases of detainees had been handled to completion (ICTR 2010).

Moreover, many analysts have estimated that, at the rate of around 1,000 verdicts per year in Rwanda's conventional courts, it would have taken more than a hundred and twenty years to try those cases. In addition to the length of time, there were many other problems that included:

- little possibility of knowing the truth about what had happened;

- keeping and taking too many people in prisons with no charge or trial;
- possible impunity for some of those who had committed genocide; and
- innumerable financial and material means.

To overcome these challenges, Rwandans revisited their tradition and drew their inspiration from their traditional legal system, which was deemed to be less costly, more efficient and expeditious than the modern one. In that respect, the *Gacaca* system, traced back in history before the colonial rule, was identified. After wide consultations with different strata of the Rwandan population, this traditional participatory judicial system was found to be one of the best remedies to heal the wounds of the Rwandan society. Most of these consultation fora are described in 'Integrated Report on *Gacaca* Research and Monitoring' as follows:

> The 'Saturday talks' created and piloted by Pasteur Bizimungu, the former President of Rwanda -with the collaboration of representatives from the government and from civil society- led, in October 1998, to the creation of a commission mandated to study the possible application of *Gacaca* to genocide trials. (PRI 2005, 13).

In the terms of Ingelaere (2008, 3), Rwandans "turned their attention to their legacy of indigenous [ways] of disputes settlement and reconciliation". The *Gacaca* courts were therefore officially established for the first time by the Government of Rwanda (GoR) in 2001 by the Organic Law No. 40/2000 of January 26, 2001 (GoR 2001a) which underwent a number of amendments as reflected in the Organic Law No. 16/2004 of June 19, 2004 (GoR 2004). The law was drafted in Kinyarwanda and translated into English and French to facilitate its comprehension by a wider audience, including the international community.

Even though the system of *Gacaca* has been severely criticised by some national and international bodies on account of being fraught with a number of pitfalls,[2] such as the use of inexperienced, minimally trained judges dealing with complex cases, possibilities of false accusations or confessions, revenge or fear of revenge and inconsistent application of the law, it has achieved some tremendous results. Thousands of people have been punished, others have been freed, and more importantly, Rwandans and the international community have known some truth about how the Rwandan genocide was planned and executed. *Gacaca* has also been hailed as a voice and a therapeutic catharsis to genocide survivors and the whole society— this is stressed in a documentary by the United States Institute of Peace (2002), with the work entitled, "*Gacaca*, Living Together Again in Rwanda?" Furthermore, this system is serving as a lesson to some nations, especially in Africa, where similar atrocities have been experienced. Some cases in point such as Sudan, Sierra Leone, Somalia and Burundi are denounced in "Amnesty International Report 2014/2015: Africa Regional Overview". In addition, a number of research individuals and institutions, mainly United States Institute of Peace (2002), International Crisis Group

(2008), and Huyse and Salter (2008) have recommended similar home-grown solutions such as Rwandan *Gacaca*, the Ivorian *audiences foraines*, and the South African 'Truth and Reconciliation Commission', as a durable way out of different ramifications of conflicts in Africa.

However, despite all these achievements, probably not exhausted in this book, some nations and organisations continue to inquire into this judicial system that helped Rwanda to cope with the dire consequences of genocide in terms of justice. Countless articles and books that have been produced on Rwanda's *Gacaca* are well noted by Huyse and Salter (2008, 1). Arguably, one of the main reasons that are still hampering this inquiry is that the translation *of Gacaca* has not been accurate enough to shed light on the system. In addition, to the best of my knowledge, there has not been a book-length treatment of the challenges encountered in the translation of customary laws, more specifically, Rwanda's *Gacaca*; a legal system that has attracted people's attention worldwide.

The translation of the *Gacaca* law into foreign languages, such as French and English implies confronting different legal language systems. The Rwandan traditional legal system differs significantly from other legal systems in terms of procedures, structure, terminology, and administration. The modern *Gacaca* system combines both tradition and modernity for, in the past, the proceedings were mainly oral — without any codified provisions — and jurisprudence-based. Traditionally, the system was resorted to whenever social norms were violated or whenever conflicts arose (land disputes, damage to property, marital problems, and struggles over inheritance), and the parties were brought together during informal and non-permanent sessions presided over by *inyangamugayo* (a concept that is referred to as *elders* by some writers) which literally means "those who detest disgrace". However, this gloss can be misleading in that the term *elder* does not necessarily imply all the semantic features of the Kinyarwanda term *inyangamugayo*. The term is semantically complex and is loaded with the following implied qualities: maturity, honesty, equity, trustworthiness, dependability, truthfulness, and more other moral values constituting the Rwandan socio-cultural moral and ethical standards. The Kinyarwanda term *inyangamugayo*, thus, refers to one or many persons who meet the above required qualities as determined by the Rwandan socio-cultural moral and ethical standards.

Today's *Gacaca* is an adaptation of the traditional one, involving innovative mechanisms of transitional justice. It aims, among other things, at meeting the exceptional challenges of prosecuting and trying exponential numbers of genocide suspects. In its implementation process, there have been some legislative changes to support the chosen empirical attempts to respond to the limitations and obstacles encountered. Like the former, the current *Gacaca* embodies participatory justice while also aiming to achieve the goal of repairing the social fabric. Nevertheless, today's *Gacaca* differs

considerably from its original model in as much as it handles serious crimes, such as genocide.

All these factors make the translation of this legal system into foreign languages very complex. Even in normal circumstances, legal translation is not easy especially when involving more than two languages that reflect different cultures and world outlooks. The few research reports (Ngarambe 2004; Muneza 2006; and Niyitegeka 2007) that have attempted to study the translatability of other Rwandan laws point to the fact that Kinyarwanda does not have enough appropriate terms to refer to a significant number of the legal concepts expressed in both French and English. Yet, especially in the case of Rwanda, the three languages have to coexist and interact through translation. However, in this book, I present even a more different scenario where we need to translate the legal system that bears a lot of Rwandan tradition-bound concepts and practices to suit other different systems and settings.

The main aim of this book is therefore to identify, describe and translate these legal aspects in their socio-cultural context and eventually suggest some solutions which shed more light on the relevance and meaning of these problematic areas. More specifically, it applies theoretical approaches related to ideology as developed by Thompson (1984). One of the principles underlying this theory is that "it is through language that meaning is mobilised in the social world". The book also leans on the aspects of meaning, context and reality construction (Nida 2001; Nord 1997 and Katan 1999). According to Katan (1999, 90), "reality is what our language says it is". Additionally, since the *Gacaca* texts are legal in nature, this study draws on a similar approach as suggested by Alcaraz and Hughes (2002, 37) to be applied in legal translation: "the selection of the best, or the most appropriate, or the most natural or effective term will always depend also on other factors, such as context, traditional usage, genre and even subgenre". In this regard, the analysis of the *Gacaca* law makes use of extralinguistic context that Alcaraz and Hughes (2002, 37) classify as the third head of context. This extralinguistic context consists of "habits, expectations and conventions characteristic of the society concerned". In the case of *Gacaca*, these aspects refer to the world of lawyers and the law, with its customs, its practice, its assumptions, its values and procedural routines.

In this regard, though originally applied to literary translation, the content of this book is inclined towards post-colonial translation approaches developed by two translation studies scholars in their rapprochement between cultural studies and translation studies under what they termed a "cultural turn" in translation studies (Bassnett and Lefevere 1990; and Lefevere 1992). In this approach, Lefevere (1992, 17) views language as "the expression and repository of a culture". In the same line, (Lefevere and Bassnett 1990, 8) envisage that "neither the word, nor the text, but the culture becomes the operational 'unit' of translation". Particularly, the book

exploits theories of culture in relation to language (Boas 1986 and Steiner 1998). Boas (1986, 7), for example, argues: "the form of the language will be moulded by the state of that culture". The importance of culture in the area of translation finds its justification in the Iceberg Theory developed by Hall in his *Silent Language* (1990). All these theoretical dimensions intersect into a fusion of cultural and translational studies that has a useful contribution to make to the aims and objectives of this book.

Epistemologically, the methodology of this book follows the principle of deductivism, in which according to Bryman (2008, 13), the purpose of theory is "to generate hypotheses that can be tested and that will thereby allow explanations of laws to be assessed". In addition, an ontological position of constructionism is adopted in order to devise better techniques to apply to the translatability of customary laws, particularly the *Gacaca* law, which has been transformed to meet the current social needs. According to Bryman (2008, 19), the ontological position asserts that "social phenomena and their meaning are continually being accomplished by social actors. It implies that social phenomena and categories are not only produced through social interaction but are in a constant state of revision". The constructionism position adopted in this book sees the *Gacaca* law as a product of culture and as "an emergent reality in a continuous state of construction and reconstruction" (Bryman 2008, 20). The following lines from Becker (1982, 521) can help to explain my stand clearly:

> People create culture continuously ... No set of cultural understandings ... provides a perfectly applicable solution to any problem people have to solve in the course of their day, and therefore must remake those solutions, adapt their understandings to the new situation in the light of what is different about it.

Furthermore a multi-thronged methodology is espoused in the collection of both primary and secondary data. The basic approach adopted in this book is qualitative, which implies that, as suggested by Williams and Chesterman (2002, 65), it often necessitated empathy from the researcher (e.g. interview) and imagination (e.g. in discourse analysis).

It is very important to note here that the study does not pretend to generalise the views collected from the selected informants. Sample representativeness was not my main objective. Instead, the results presented in this book are based on the informants' understanding, explanation and interpretation of the identified areas of translation difficulty in *Gacaca* law. Primary data is, therefore, qualitative and was collected by means of an interview guide administered to 30 informants purposively selected at different categories as detailed in Table 1.

Table 1. Informants, their categories and selection criteria

Category	Selected institutions and individuals	Selection criteria	No. of informants
Government institutions	Ministry of Justice (MINIJUST)	Law drafting and implementation	1
	Ministry of Sports and Culture	In charge of culture	1
	National Service for the *Gacaca* Jurisdictions (NSGJ)	The *Gacaca* law implementation	1
	National Commission of Human Rights	Investigation and follow-up of human rights violations	1
	National Commission for the Fight against Genocide (CNLG)	Fight against genocide	1
Private institutions	National Bar Association	Legal defence	1
	Amnesty International	International organisation in charge of human rights defence	1
	Human Rights Watch	International organisation in charge of human rights defence	1
	Ligue Rwandaise pour la Promotion et la Defense des Droits de l'Homme LIPRODHOR	National organisation in charge of human rights defence	1
	Inteko Izirikana	Wisdom and preservation of Rwandan culture	1
Individuals	Linguists	Language expertise	3
	Lawyers	Law expertise	3
	Gacaca judges	The *Gacaca* law implementation	3
	Historians	Knowledge about past developments and experiences	3
	Gacaca judges	The *Gacaca* law implementation	3
	Historians	Knowledge about past developments and experiences	3
	Sociologists/anthropologist	Knowledge about development, organisation and functioning of human society	3
	Other knowledgeable persons	General knowledge about Rwandan, English and French culture and history	5
Total Number			**30**

As presented in Table 1, in the sampling process, I only selected categories of people at the institutional and individual levels with a direct link to the subject under study. In this respect, among government institutions, the following structures were selected for the reasons provided here:

1. Ministry of Justice: it spearheads law drafting and implementation, and collaborates closely with NSGJ for the latter is one of the Ministry's semi-autonomous agencies.
2. Ministry of Sports and Culture: it is in charge of all matters related to culture in the country.
3. National Service for *Gacaca* Jurisdictions (NSGJ): It is the state organ in charge of coordinating *Gacaca* courts and the *Gacaca* law implementation.
4. National Commission of Human Rights: it is a semi-autonomous agency under the supervision of the Ministry of Justice in charge of "investigating and following up human rights violations committed by anyone on the Rwandan territory, especially the State organs and individuals under the cover of the State organs as well as any national organisations working in Rwanda".
5. National Commission for the Fight against Genocide (CNLG): is an independent and permanent institution whose mission, among others, is to put in place a permanent framework for the exchange of ideas on genocide, its consequences and the strategies for its prevention and eradication.

Private institutions selected included: the national and international organisations in charge of culture, law implementation and human rights; American National Bar Association; Amnesty International; Human Rights Watch; LIPRODHOR; and *Inteko Izirikana* (a Rwandan Association of Wise and Elderly Persons). Among the category of individuals, I selected linguists, lawyers, *Gacaca* judges, historians, sociologists and other resource persons in the field. Another source of primary data was different organic laws governing the *Gacaca* courts as published in the *Official Gazette* of the Government of Rwanda. The main ones included:

- Organic Law No. 33/2001 of 22/06/2001 setting up "*Gacaca* Jurisdictions" and organising prosecutions for offences constituting the crime of genocide or crimes against humanity committed between October 1, 1990 and December 1994 [The Law was drafted in three versions: Kinyarwanda, French and English].
- Organic Law No. 16/2004 of 19/06/2004 setting up "*Gacaca* Jurisdictions" and organising prosecutions for offences constituting the crime of genocide or crimes against humanity committed between October 1, 1990 and December 1994 [The law is in three versions: Kinyarwanda, French and English].

Organic Law Nº 13/2008 of 19/05/2008 modifying and complementing Organic Law No. 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 as modified and complemented to date [The law is in three versions: Kinyarwanda, French and English]. After scrutinising the three organic laws, it was found that the organic law No. 16/2004 of June 19, 2004 as amended to date is the main law. The organic law No. 40/2000 of 2001 is the initial law that guided the pilot phase of the *Gacaca* process, whereas the third and others that were enacted later came as amendments or complements to the one of 2004. Still in the review process, it was established that the law is produced in the three official languages used in Rwanda (i.e. Kinyarwanda, English and French). Following the parallel presentation of the three versions and the naturalness of the Kinyarwanda version, Kinyarwanda was determined to be the source language. This was confirmed by the Legal Adviser from NSGJ during the interview phase. This implies that the two versions in French and English are the target texts.

In the source text review and analysis, the study applied socio-cultural, 'intertextuality' and 'interdiscursive analysis approaches as respectively advocated for by Williams and Chesterman (2002), Bryman (2008), and Fairclough (2003a) in order to overcome possible challenges encountered in the translation of the *Gacaca* law that combines both tradition and modernity. The prime rationale behind the confinement of this book within the boundaries of all these theories is to construct an integrated theory particularly suited to the purposes of the book while at the same time 'testing' Euro-American theoretical ideas against the Rwandan context, thus constituting a breakthrough in the translatability of the *Gacaca* law, and/or, by extension, of other similar customary laws. The secondary data were extracted from soft or hard relevant reading materials. Most of these documents are related to translation studies with emphasis on legal translation, customary law in general, the Rwandan, French, and English legal systems, and the international law on the crime of genocide. The analysis applies a socio-cultural approach to triangulate all the data collected. This helped to improve on the existing target texts, and where possible, formulate some grounding information to shed some light on the identified areas deemed to cause some misunderstanding to the target audience who are not conversant with the *Gacaca* system. By doing so, the socio-cultural approach I devised is in conformity with the recommendation by Newmark (1988, 23): "to supplement the linguistic level, the text level with the referential level, the factual level with the necessary additional information (no more) from this level of reality, the fact of the matter". While applying the socio-cultural and contextual approach to translate the *Gacaca* law provisions from Kinyarwanda into English and French, the book focuses on the following main areas: *Gacaca*'s traditional and modern

legal aspects; and socio-cultural and contextual aspects incorporated in the *Gacaca* law. It was discovered that, due to the hybrid nature of the modern *Gacaca* law, all of the aspects identified under these themes constitute huge challenges for translators. The law combines both traditional and modern legal aspects the translation of which requires an in-depth analysis of the socio-cultural context in which the law was produced. As a solution, besides a number of adjustments to be made in the body of the text, some grounding information at the beginning of each problematic provision to shed some more light on its meaning and context was found to be indispensable.

The book is organised along the four specific objectives that guided this study. Those were to:

1. establish distinctive features of indigenous customary law;
2. provide an overview of distinctive features of the Rwandan, French and English legal systems;
3. analyse and describe *Gacaca* texts in their socio-cultural context;
4. identify and describe the challenges involved in the translation of some traditional and modern aspects selected in the *Gacaca* law, and devise alternative translation techniques that the researcher felt are likely to facilitate a better understanding of the *Gacaca* system.

To begin with, **Chapter One** describes the main features of customary laws. Starting from the meaning and scope of the legal system in question, the chapter presents major aspects shared by customary laws in different parts of the world, more specifically in Africa. **Chapter Two** singles out the Rwandan legal system that constitutes the source system of the *Gacaca* law. **Chapter Three** describes the target legal systems (French and English) involved in the *Gacaca* law translation in terms of their sources, court structure and competence. **Chapter Four** introduces major approaches adopted to investigate the translatability of *Gacaca* namely socio-cultural and contextual approaches. Finally, **Chapter Five** is the core of the book. It adopts the socio-cultural and contextual approach to the analysis and translation of the selected aspects embedded in the modern *Gacaca* law deemed to cause problems in its translation into French and English.

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[1] The Kinyarwanda word is pronounced as follows: [ga' ʧ aaʧ a]

[2] For further accusations levelled against the *Gacaca* system you can see for example the report *Rwanda: Jutsice Compromised; the Lagacy of Rwanda's Community-Based Gacaca* (2011) by Human Right Watch.