Inkiko Gacaca: Rwanda's ambitious project

Inkiko Gacaca: O ambicioso projeto de Ruanda

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Abstract: After the genocide of 1994, the Republic of Rwanda faced one of the major questions posed during transitional periods of political regimes: To punish or not the serious Human Rights violations that took place during the genocide, and what would be the appropriate punishment. In a country desolated and ethnically fragmented, the solution proposed by the central government was to merge elements of local traditional justice with elements of formal western justice: The *Inkiko Gacaca*, special courts entrusted with the arduous task of punishing but also reconciling Rwanda's society. Between praise and criticisms, the special courts finished their assignment in 2012, leaving an important legacy to legal theory, sociology, political science, and anthropology. This article aims to analyze the structural and procedural aspect adopted by the *Gacaca* courts, in order to evaluate the quality of its special trials in terms of fairness and legitimacy, but also its capacity to promote peace and reconciliation in Rwanda's society. This work uses as its framework for its reasoning the international legal principles of legal procedure, as well as elements of criminology and human rights pertinent to the case.

Keywords: transitional justice, Gacaca, Rwanda, international legal procedure, human rights

Resumo: Após o genocídio de 1994, a República de Ruanda esteve diante de um dos maiores questionamentos colocados em períodos de transição de regimes políticos: Punir ou não as graves violações de Direitos Humanos ocorridas durante o genocídio, e de que maneira realizar essa punição. Em um país desolado e fragmentado etnicamente, a solução proposta pelo governo central foi a de mesclar elementos de justiça tradicional local com elementos de justiça formal ocidental: os *Inkiko Gacaca*, tribunais especiais incumbidos com a árdua tarefa de punir, mas também reconciliar os ruandeses. Entre elogios e questionamentos, os trabalhos das cortes de *Gacaca* encerraram-se em 2012, deixando um importante legado para a teoria jurídica, sociológica, política e antropológica. Este artigo busca analisar os aspectos estruturais e procedimentais adotados nas cortes *Gacaca*, para avaliar a qualidade dos julgamentos especiais quanto a sua justiça e legitimidade, além da sua capacidade de promover a paz e a reconciliação na sociedade ruandese. O trabalho utiliza como moldura para sua fundamentação os princípios processuais internacionalmente reconhecidos, assim como elementos de criminologia e direitos humanos pertinentes ao caso.

Palavras-chave: justiça de transição, Gacaca, Ruanda, direito processual internacional, direitos humanos

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Table of contents

INTRODUCTION

Rwanda is a small landlocked country located in the center of Africa that has faced a series of unfortunate events throughout its recent history. The result of the genocide of 1994 that took place in the country left between 500.000 to a million people killed by the *genocidaires* (NWOYE, 2014) and between 250.000 and 500.000 women were raped (RAFFERTY, 2018). In the aftermath, the country was devastated by its internal conflict, with no formal juridical infrastructure (BREHM; GERTZ; SMITH, 2019),[2] and hundreds of thousands of suspects awaiting trial for their alleged participation in the bloody event (BURNET, 2008).[3]

A special international court, the International Criminal Tribunal for Rwanda (ICTR), located in Arusha, Tanzania, was established right after the conflict, in 1994, but it was only responsible for prosecuting the major perpetrators of the generalized violence (BREHM; GERTZ; SMITH, 2019). Therefore, the new government formed by the Rwanda Patriotic Front (RPF) was left with the task of prosecuting the immensurable number of suspects left, a task so inconceivable due to the juridical apparatus of the country at the period that some claimed that all procedures would take approximately 200 years to be concluded (CHAKRAVARTY, 2006).

Three major possibilities arose from the dilemma: An amnesty law was quickly discarded and perceived as a message of impunity (TULLY, 2003; NWOYE, 2014). Also, the idea of a truth commission in the molds of the South African Truth Commission was rejected (SARKIN, 2001). The government was left with a proposal from researchers to resort to a modified model of a traditional method of conflict resolution that dates long

1. The numbers before the genocide are 758 judges, 70 prosecutors and 631 support staff, in comparison to 244 judges, 12 prosecutors and 137 support staff after the genocide (NWOYE, 2014).

2. Approximately 120.00 Rwandans were still waiting for their trails between 1998 and 2001 (CHAKRAVARTY, 132-134).

before the colonial period, called *Gacaca*, majorly used to settle property or marital conflicts (BORNKAMM, 2012). The proposed *Gacaca*, otherwise, would have a series of adaptations and state-laws supporting them (therefore, government oriented) in order to be capable of conducting criminal trials in some sort of pluralist juridical setting. Thus, this government-based *Gacaca* was an additional element to the already established juridical system, composed by western-style courts (BORNKAMM, 2012; NWOYE, 2014).

The so-called *Inkiko Gacaca*[4] had its last trial in June 2012 (BREHM; HOLA, 2016), leaving behind many questions over the way it was conducted, with many claims, especially from international human rights organizations, of violations of fundamental rights and crucial criminal procedure principles, with concerning corruption scandals involving its proceedings (BORNKAMM, 2012). The aim of this paper is to elaborate a balance between the costs and benefits resulted from the *Gacaca* process, taking into consideration the conflict between the western legal mechanisms regarded as fundamental that were set aside, and the final product of such ambitious initiative. In addition, it will be considered the cultural and political settings of the procedure, since the choice for *Gacaca* in detriment of formal courts were due to the lack of a consistent juridical apparatus to conduct the high amount of prosecutions in western-style courts. Yet, the way it was consistently centralized and government-oriented also paid a fundamental role in the outcome of the process (BORNKAMM, 2012).

This paper will start with a brief historical background, describing the Rwandan society and the country's path that led to the events of 1994, emphasizing the crucial aspects to understand the political, social, and cultural settings of *Gacaca*. Afterwards, a

3. The Kinyarwanda term for the new *Gacaca* to differentiate it from its predecessor. Throughout this paper, the *Inkiko Gacaca* will be referred simply as *Gacaca* (BORNKAMM, 2012).

juridical description of *Gacaca* and its major aspects, with its major differences from western courts, are going to be highlighted. Finally, a discussion about the outcome of the process will be raised, especially involving the sacrifice of international fundamental rights of criminal procedure that were left aside throughout the process, emphasizing relativistic arguments against the ones based on international legal standards. Also, the role played by massive incarcerations, involving deplorable prison conditions, will be considered since the preference for an intense retributive policy had raised most polarized views over *Gacaca*'s course of action (THOMSON, 2018). The adoption of *Gacaca* as a mechanism of transitional justice in Rwanda's path to punishment, reconciliation and truth-seeking could have been more meticulous in respecting fundamental principles and rights? This is the question this paper will attempt to consider throughout its sections.

RWANDA: A CLASHING PAST

As a way to understand the *Gacaca* process, it is essential for us to firstly have a brief overview of Rwanda's recent historical, social, and political background. The first Europeans came to the country in the 1890's and they were struck by a highly organized and hierarchical society composed by three major classes/casts which were the *Tutsi* (cattle herders, strongly represented in political functions), the *Hutu* (majorly workers in agriculture) and *Twa* (hunter-gatherers and servants). Most of the population was composed by the *Hutu* (85%), followed by the *Tutsi* (14%), and finally the *Twa* (around 1%). With that in mind, colonization of Rwanda followed a different approach by the European nations responsible for it (firstly Germany, then, after the first World War, Belgium): They opted for an indirect form of ruling, working with the *Tutsi* to control most of the population, and subverting the class/cast social paradigm into an ethnical one. Sustained by theories of Social Darwinism, European colonizers claimed that the *Tutsi* had a genetic superiority towards the *Hutu* population (BORNKAMM, 2012).

Nevertheless, the class struggle between the *Hutu* and *Tutsi* dates back than its period of colonization, with institutionalized exploitation of the *Hutu* and consequent rebellions led by them (THOMSON, 2018). However, the situation worsened drastically after the start of the Belgian ruling over the territory since it was implemented a strict regime of compulsory labor on the *Hutu* population. An official census took place in 1933 to categorize each Rwandan into his/her respective "race", with that information later being displayed on their identity cards (BORNKAMM, 2012).

The rise of the Republic of Rwanda was a simple inversion of such discriminatory policies: The *Hutu* majority ascended to power and consolidated the country's independence in 1962, leaving behind an attempt made by the *Tutsi* to form a monarchical state, not without generalized violence occurring towards the *Tutsi* population, with 10.000 dead and 130.000 others obliged to exile in Uganda (NWOYE, 2014). A *coup d'état* took place in 1973 due to strong dissatisfaction with the country's economic policy, and the continuity of *Tutsi* dominance in diverse fields apart from their loss of protagonism in politics (THOMSON, 2018). The second republic was established: The Major General Júvenal Habyarimana, a *Hutu* from northern Rwanda, declared himself president, bringing some stability in the ethnical conflict, but no improvements regarding equal treatment to the *Tutsi* population, and, consequently, no hopes of return to the ones exiled. *Anti-Tutsi* policies were simply overshadowed by strict anti-opposition in general, and the young nation was now under a totalitarian regime (BORNKAMM, 2012).

In 1986, as the Habyarimana government started to deteriorate, the soldiers of the National Resistance Movement (NRM) in Uganda won the five-year guerrilla war but the new government did not stand by its word of awarding citizenship to the exiled Rwandans that fought along the NRM in the war. On the 1st of October 1990, while Habyarimana was attending a UN summit in New York, Rwandan's former members of the NRM

invaded the country from the North, as the Rwanda Patriotic Army (RPA), the military wing of the Rwanda Patriotic Front (RPF). Even though the totalitarian regime had France's support in the conflict, the guerrilla tactics utilized by the RPA made it impossible to win the dispute. Hence, a peace agreement was sign in August 1993 (the Arusha Accords) which promised consistent political and military reforms in Rwanda to be implemented by a transitional government composed of both sides. Unfortunately, the ground was already set for retaliation: The *northern-Hutu* elites started a consistent *anti-Tutsi* campaign, claiming that their objectives were solely to reinstate the monarchy and subjugate the *Hutu* once again. There were militias and even a radio-television station (*Radio-Télévision Libre de Miles Collines* – RTPM) promoting conspiracy theories and violence towards the *Tutsi* (BORNKAMM, 2012). Habyarimana and the Burundian President Cyprien Ntaryamira were killed by a missile that hit Habyarimana's private jet while it was approaching Kigali airport on the 6th of April 1994. The next day, the Prime Minister, Agathe Uwilingiyiamana, assumed as the head of state but she and her personnel were assassinated by the Presidential Guard without even being able to address the Rwandan population (THOMSON, 2018).

Because of such events, anti-Tutsi violence spread across the nation. In approximately two months, between 500.000 and one million Tutsi and moderate Hutu were murdered. In addition, an unprecedented number of civilians were raped, had their property destroyed or claimed, or were displaced (many to other countries, as refugees) (THOMSON, 2018). The RPA put an end to the blood bath and became the political protagonist in the aftermath of the conflict, forming the new government under RPF's rule (REUCHAMP, 2008).

All in all, the country was devastated by the atrocities that took place, and the new government was left with the question of what should be the course of action regarding

the perpetrators of the genocide. However, the Rwandan situation was particular in comparison to the majority of countries that had to face some sort of transitional justice process in the 20th century: A substantial number of participants were involved. Participants that were not members of organized militias neither members of a military force but ordinary civilians instigated by historical resentment and hate-propaganda. Therefore, the country did not only have to deal with its serious structural and social damages by the end of the conflict but had also to criminally prosecute several suspects that was far beyond their very limited prosecutorial capacity at the period: A challenge even to western states with the most structured and efficient criminal justice systems at their disposal (CHAKRAVARTY, 2006).

GACACA: LAW AND TRADITION

All things considered, the government started to evaluate the possibilities to solve the matter. Not prosecuting, due to the brutality of such crimes, was not an option that the RPF took into consideration. The ICTR would be responsible to prosecute only the suspects that played a major role in the event, such as high officials and key instigators,[5] still leaving the burden of judging thousands of Rwandans under national jurisdiction. However, it was clear that the national Rwandan courts that were structured in a western-style manner would not be capable of such task. Consequently, the decision of the government was to adapt a traditional form of conflict resolution, the *Gacaca*, in order to turn it into another institutional form of criminal prosecution. This decision was based after technical proposals and major discussions, some even during the civil war, having

4. The ICTR finished its activities in 2015, having indicted ninety individuals in total (BREHM; GERTZ; SMITH, 2019).

already in mind the astronomical amount of people that would need to be held accountable for their actions (PHILIPPE, 2019).

The meaning of the word *Gacaca* is literally grass in Kinyarwanda (NWOYE, 2014): Its traditional form usually took place at the lawn, in the middle of the villages, somewhere people usually met for all kinds of affairs, and where the conflict regarding the meeting was presented from both sides in front of the *inyangamugayo* (literally, trustworthy person, person of integrity)(BREHM; GASANABO; NIKUSE; PARKS 2020).[6] The dispute usually concerned contractual or marital relationships, and was used all over the country, while criminal matters, however, were usually dealt by the king (*mwami*) or local chiefs (BORNKAMM, 2012). A considerable number of villages, even after the colonization and westernization of Rwanda's juridical system, did keep up with such practice (NWOYE, 2014). The traditional *Gacaca* was in its essence a grassroot process, since it emerged from the villagers themselves and its legal liability depended on the good faith and trust of the parties involved in the process (SARKIN, 2006).

Meanwhile, the government-based *Gacaca* had severe alterations in its constitution: It was structured by national laws;[7] had interference from the central government with agents from the intelligence looking after any corruption or irregularities; was going to sentence people to long periods of jail-time; and were divided into different geographical parcels of jurisprudential and territorial competencies (From district, to sector, and, finally, cells being the smallest ones). The crimes to be brought to justice were divided in 4 different categories from most severe to mild ones, being the first category of exclusive competence of specialized courts (BORNKAMM, 2012;

5. Although, the English translation cannot express all the virtues and qualities behind the term.

6. The first Law being the Organic Law No 40/2000, succeeded by many alterations and amendments throughout *Gacaca*'s course.

REUCHAMP, 2020).[8] The *inyangamugayo* were villagers elected by their fellow locals and were subjected to an exclusionary legal criterion: The most fundamental ones being that no *inyangamugayo* could have had any participation in the genocide, and were supposed to be people of unquestionable moral standards (BREHM; GASANABO; NIKUSE; PARKS 2020). With the assistance of the general assembly and coordination committee, they composed the *Gacaca* court, and were supposed to conduct the whole procedure in three moments: Investigation (consisting mainly of collection of testimonials); classification of suspect (by grouping them in their correspondent category of crime, therefore designating which court was competent to prosecute which individual); and judgement (responsible for the hearing of witnesses and defendant followed by an analysis of testimonials, resulting in a verdict made by the collective of judges present at the trial) (BORNKAMM, 2012).

Bearing that in mind, it is important to point out one crucial and controversial aspect: No court-member had any formal juridical education,[9] most of them did not even had elementary or high-school diplomas, and that is actually one of the main reasons Rwanda resorted to this mixed method: There were not enough educated personnel to conduct so many prosecutions, hence appealing to a traditional method regulated by the central government but conducted by locals was a way to guarantee people's trust in the process while making the task feasible (BORNKAMM, 2012). The problem, however, resided exactly in the mixed element of the initiative, and its retributive goal: *Gacaca* were traditionally solely conducted by locals themselves, and the government was aiming

7. Later, with Organic Law No 10/2007, a considerable number of crimes primarily categorized in group one were transferred to the secondary group, extending *Gacaca's* competence to speed up the trials.

8. Nonetheless, those elected *inyangamugayo* received some legal training from jurists (students in the final year of their studies, lawyers, and other specialists from international organizations) prior to the beginning of the trials (BREHM; GERTZ; SMITH, 2019).

not only to reconciliate or seek the truth but also condemn the perpetrators, something that was never done before in such setting.

Additionally, the already delicate power structure was even more mistrusted by the general *Hutu* population, since the central government was composed by a *Tutsi* political party (RPF). Also, some serious human rights violations committed in 1994 by the RPA right after the genocide were not being prosecuted and were not planned to be included in the overall quest for justice conducted by the central government. Some ended up classifying the whole process as "Victor's Justice" (NWOYE, 2014, p.188). Furthermore, the *Gacaca* process as a whole was criticized for its lack of substantial compliance with international criminal procedure's fundamental principles: The defendants did not have the right to an attorney; the judgments most of the time relied solely on testimonials as proof (some of these turned out to be false or manipulated); most trials took one to two sections to be appreciated by the *inyangamugayo*; there was institutional pressure and rewards (guilty plea) to make people confess; and there were some concerning corruption scandals involving judges and government officials (BURNET, 2008; CHAKRAVARTY, 2006).

Nonetheless, the population embraced *Gacaca*, since it was one of the few practical ways to bring justice, truth and reconciliation to past events, as it worked as a form of closure for the victims. This is especially evidenced by the testimonies of rape victims, that generally saw the sentencing of their violators as the necessary element to bring themselves some peace of mind (RAFFERTY, 2018). Still, international observers were divided: Some claimed that the absence of core western elements was critical to conduct a fair criminal procedure, and the corruption scandals involving some *Inyangamugayo* invalidated the already "fragile" system. On the other hand, some relativized the circumstances based on cultural relativism, arguing over the exceptional

lack of formal juridical infrastructure to conduct the procedures in a western-style setting, claiming that its grassroots characteristics compensated the absence of such elements (BORNKAMM, 2012; NWOYE, 2014). The next section will be dedicated to explore this dichotomy.

BETWEEN CRITICISMS AND RELATIVISMS

First and foremost, in order to evaluate Rwanda's transitional justice course of action, we have to consider the general conditions of such setting. Transitional Justice in the second half of the 20th century had many forms and ways: You cannot compare the cultural, social and economic background of the extensive variety of countries, from different continents, that experienced turbulent times involving serious human rights violations. In this sense, Rwanda was, at the moment of the 1994 genocide, a country composed majorly by a population with low levels of education that mostly lived in the countryside, working on farms (NWOYE, 2014). The lack of specialized personnel, in addition to all sorts of infra-structure deficiencies, are something that must be hold into account: Justice, specialized western-style justice, has an astronomical economic burden: The ICTR, for example, had cost approximately 1.1 Billion US dollars between 1994 and 2008.[10] Therefore, it is fundamental to bear in mind that *Gacaca* was an alternative venture made by a poor nation to stitch its fresh wounds from a traumatizing event: Something that has already been considered a fundamental aspect of the delicate healing process of a nation and its citizens.[11]

Nevertheless, this is where the cultural relativism must end: In fact, it has been widely discussed that *Gacaca* did not only punish but it actually punished more than it

9. In comparison, Rwanda's *Gacaca* had cost approximately 43 million US dollars (NWOYE, 2014).

10. Though this process does not necessarily include criminal prosecution (NWOYE, 2014).

should have.[12] The discussion over the government's choice does not concern the need for justice or not, this was made extremely clear since day one of the trials. What needs to be evaluated are the decisions taken by the central government in such policy. The difference that *Inkiko Gacaca* had from its predecessors is the key to understand its compromising defects: Traditionally, *Gacaca* were places of reconciliation, not punishment (SAKRIN, 2006). The government's policy was a risky one due to its innovative aspects but also to its ambition: The trials were supposed to seek the truth behind past events, reconcile the two major groups involved, and punish the ones responsible at the same time, while doing it recurring majorly to lay judges.

Although it is evident that some concessions had to be made in order to achieve such strenuous objectives simultaneously, we must not forget the fact that we are still discussing a model of criminal prosecution which sentenced many people to jail in its aftermath. Therefore, the seriousness of such trials must comply with minimum standards: The ones present in article 14 of the International Covenant of Civil and Political Rights (ICCPR) were used to elaborate most critics (BORNKAMM, 2012). Even though the ICCPR plays a fundamental role internationally, some of its rigid conditions cannot be an ultimate measurement instrument, especially in adverse conditions such as Rwanda's at the time (TULLY, 2003). However, even within a broader/abstract theoretical framework, the process seems to fail in observe minimum conditions: According to Lippke, there are three fundamental values that should be taken into consideration in a criminal procedure, which are human dignity, truth and fairness (LIPPKE, 2019). Unfortunately, it appears that the central government was also not able to go along with these core values in their totality: In terms of human dignity, there were

11. The guilty plea mechanism proved to be flawed: There were overcrowded prisons full of suspects awaiting their trials, with many of whom had produced false testimonies (even if not guilty) to be provisionally released (BORNKAMMM, 2012).

arbitrary arrests, with poor prison conditions (BREHM; HOLA, 2016); In terms of Truth, parsed into subsidiary values of integrity and rigor, the procedures had problems with corrupted officials, false accusations for personal interests, and the fact that investigations majorly relied on witnesses testimonies (BRUNET, 2008; THOMSON, 2018); Finally, concerning fairness, it also seemed to be ignored in some cases, having people being discriminated by their social condition while having their role in the genocide exacerbated, with one of its most shocking examples being the case of a *Hutu* woman that was sentenced to 25 years in jail for providing food to some enemy soldiers during the conflict (BORNKAMM, 2012).

However, Lippke's chapter (2019) is just another metric that can help us to evaluate the overall accordance of *Gacaca* to minimum standards of dignity and fairness, and their abstractness cannot provide a precise example of how criminal procedures should take place. It is important to point out that the problems elucidated in the last paragraph are also present in western systems with more or less prevalence depending on the country, and that the optimization of criminal prosecution is an ongoing process. Also, some of these problems were mitigated by the fact that defendants had the possibility to appeal to superior courts that were structured in a western setting, within the Rwanda legal system, yet some problems were persistent at those courts.[13] What is more, the government recognized some of the flaws within the system and tried to correct them with alterations and amendments (BREHM; HOLA, 2016).

All things considered, it seems that *Gacaca*'s ambition had a considerable downside: The central government's thirst for justice and its use as a political weapon ended up incarcerating many innocents, especially in the pre-trial phase (that was considerably extensive) and had resulted in the opposite outcome of bringing

12. The court of appeal would simply reevaluate the files of the past court, without a full new inquiry (BORNKAMM, 2012).

reconciliation between the *Hutu* and the *Tutsi*. It appears that the criminal system was adapted not only to prevent impunity but also to legitimize the new government's rule (THOMSON, 2011).

According to Baraduc (2020), Rwanda's precarious penitentiary system was not only full of human rights violations, with high mortality rates, but also a place where the institutional history of the genocide was molded to fit the RPF's narrative. The concerning data provided from Baraduc's study pointed out the critical conditions of national prisons and its inefficiency to provide any true reeducation of inmates.

Had *Gacaca* been implemented with less or no punitive characteristics, it could have better succeeded in its reconciliatory and truth-seeking aspirations (REUCHAMP, 2008). Nonetheless, as though as prison abolitionism (MCLEOD, 2015) could be a debatable goal in such setting, what can be assured is the fact that massive incarcerations cannot possibly be the answer to a conflict that is much more complex than the events that took place in 1994. There should be punishment, especially to the architects and major leaders of such monstrosity, but not at the cost of numerous unfair incarcerations accompanied by no human dignity in overcrowded prisons (OSIEL, 2000). It is possible to conclude that *Gacaca* was responsible for a considerable number of detainees in extremely adverse conditions, which was harmful to national healing. Unfortunately, more than 25 years later, the reconciliation process seems to be full of vices, and the country's current economic prosperity a mere illusion (THOMSON, 2018).

CONCLUSION

Considering the complexity and various implications of *Gacaca*, there is much more to be said about this whole process in a juridical, anthropological, political, sociological and even spiritual sense. This paper was merely an attempt to contribute to one of the many possible discussions and reflections over the topic. Unfortunately,

Transitional Justice has been much discussed recently, due to the considerable number of countries that had faced some sort of transition towards a democratic regime with the difficult task of accounting serious past human rights violations in the process. The question of which model of transitional justice is best to solve the problems derived from these atrocities is still particular to each scenario (BORNKAMM, 2012). Nevertheless, some assumptions are already consolidated through experience, such as the animosity towards amnesty laws that completely exempted even the worst perpetrators from any criminal prosecution, like the ones that many South American countries had promulgated back in the 1980's and 1990's (NWOYE, 2014).

What is more, experiences involving Transitional Justice are fascinating moments for Legal Theory in general: The forensic work derived from it has the capacity to put in question the feasibility of certain dogmas but also reassure their importance in legal practice. Therefore, what is essential to have in mind is the fact that the doctrine of Human Rights, the catalogue of international charts and agreements, are the best instruments that we have today to assess the presence of not only western, but core human values. However, local experience should not be diminished: Law and legal expertise is constantly evolving, so experiences of legal pluralism are keen to further its development into a more effective, critical, and decolonial practice, promoting the participation of so long silenced social and cultural groups in the public and academic sphere. Therefore, Rwanda's experience should be analyzed not only in technical but also in juridical-anthropological terms (COLAÇO; DAMÁZIO, 2010).

Finally, the answer to the question posed at the beginning of this paper is probably that Rwanda could have been more diligent in respecting international fundamental values of criminal prosecution. The country's ambition with *Gacaca* was also its doom: In the end, its multiple objectives seemed to collide with each other, resulting in

noticeable deficiencies: Truth telling being inaccurate or false; reconciliation between the *Tutsi* and the *Hutu* being superficial and/or marked by rivalries in court; and impetuous prison sentences compromising the fulfillment of the first two objectives. The exhausted relationship between Rwandans *Hutu* and *Tutsi* is a cultural, sociological and political matter, so criminal prosecution is only capable of alleviating immediate tensions but not solving such deteriorated state of affairs.

Moreover, Rwanda's decision to massively investigate and prosecute the wrongdoings that took place during the genocide was a political choice and the country surely should not have chosen such path in detriment of human dignity in prisons. As an alternative, Rwanda's government could have focused its attention to the victims of the atrocity: According to a study conducted by David and Choi (2009), reparatory measures such as financial compensations can diminish retributive desires by elevating the victims to a social condition once taken from them. If reparatory measures were broader than retributive ones, the country's current situation could have been better since more citizens would have access to basic necessities while less hate and resentment would be fed in prisons.

All in all, incarceration should be regarded exclusively as *ultima ratio* since its social, psychological and economic implications are more than evidenced (LIPPKE, 2019). To severely punish less people but with the necessary procedural rigor invested would probably be the solution for *Gacaca's* struggle and would possibly have lessened its criticisms (OSIEL, 2000). In any case, *Gacaca* consistently contributed and expanded the legal debate over mechanisms of transitional justice, and, even with its flaws, it had raised academic and international awareness of the embodied pertinence of traditional models of conflict resolution.

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