



WOMEN AND CONFLICT:  
A FEMINIST PERSPECTIVE OF THE ROLE OF WOMEN AFTER THE GENOCIDE IN  
RWANDA

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## **Abstract**

The genocide that occurs in Rwanda in 1994 was considered by the international community as one of the most horrendous events in the Twentieth century. Many studies tried to understand the causes and consequences, but the role of women before, during and after the event has not been analyze as it should. This research focus on the role of women after the genocide, especially as victims and survivors of such an event. Through a deep and critical analysis of specialized literature the author intends to understand and comprehend the measures taken by the state structure and the international legal system to deal with the aftermath of the genocide in women's bodies and minds. The utilization of the feminist and post-colonial theories are the two main elements that act as a base to understand the formation and development of the Rwandan state and the actions that led to the genocide. The theories will also serve in the analysis that the role of women has on the measures taken by the ICTR, the Rwandan Judicial system and the Gacaca courts, as it will be seen, this instruments lacks feminist perspective and therefore prevented a proper healing and restorative process for women victims of genocide.

Key Words: Women, Genocide, Rwanda, Restorative measures, feminist theory.

## List of Abbreviations

ICTR- International Criminal Court for Rwanda

NGO- Non-Governmental Organization

RPF- Rwandan Patriotic Front

RTLM- Radio Télévision Libre des Mille Collines

UN- United Nations

UNAMIR- United Nations Assistance Mission for Rwanda

## Introduction

The genocide that occurred in Rwanda in 1994 took the life of almost a million people in less than 100 days and is probably one of the most horrendous events the international community witnessed in the last century. The dimension of the event is reflected nowadays in the vast number of studies and research that can be seen related to this topic. The genocide devastated the small country in central Africa, but also showed the incompetence of the international community to (re)act to such an occasion.

Historically, studies and research would focus the analysis on the main event and what led to the escalation of the conflict, pointing out the military and political achievements of each side. This paper, instead, has as its main purpose to break with the mainstream in analyzing conflicts from an over-general perspective, by incorporating the gender perspective and specifically by comprehending the impact the aftermath of such a conflict has on women.

Women were historically relegated from conflict studies, especially if referring to war. Much research would point out the role of women to merely children caring or just as housewives, with no participation on the conflict. The emergence of feminist studies around the world would change that, women not only have an important role before, during and after the conflict but they are now also agents of change, meaning they have a primary role as perpetrators or victims. Through that understanding, this research emerges with questioning. Are women roles during the genocide being studied? What are the main challenges faced by women after the genocide? What are the measures taken to address the specificity of women challenges after the genocide?

This paper intends to answer some of those questions through a critical analysis and a comparative literature review, by understanding the measures taken by the restorative practice field to deal with women challenges in the aftermath of the genocide in Rwanda. Having that in mind, the feminist theory will represent the main basis of analysis when understanding Rwanda.

One of the most important contributions of this paper is the understanding of the role of Africa as a colony, more specifically Rwanda, and the remaining's left by the colonizers in the configuration of the state-nation during the twentieth century. The creation and promotion of a Rwanda state-nation based on patriarchy, misogyny, race, ethnic and gender discrimination would have a devastating impact reflected on the genocide occurred in 1994.

During this paper, the author will refer to the colonizers in a variety of ways, Germans, Belgians, Western Countries, European, among others. The utilization of those terms are not arbitrary. Historically, European countries, and later joined by the United States, have developed a campaign

of invasion, destruction and what was called “civilization” of foreign cultures. The usage of all the terms already mentioned intend to show the impact of the mark left by the colony in the colonized, not only in Rwanda but Asia, America and especially Africa. Considering that, the perspective adopted to understand the role of the colonizers in the Rwandan Genocide will have as a base the post-colonial theory meaning that all the footprints left by Belgium and Germany (and any other foreign country) will be considered as an essential element in the system of oppression developed by the Rwandan state.

An important note must be done. This paper, due to its extension, would not focus its attention on the ethnic/racial differentiation, academia has a vast number of studies and depth analysis of comprehending that distinction, specifically in the Rwandan case, where it can be found relevant arguments about the distinction Tutsi/Hutu as being racial or ethnic. The adoption of a perspective developed by Mamdani (2008) on their book “When victims become killers: Colonialism, Nativism and the Genocide in Rwanda” seems more suitable for this paper. The author understands the “dichotomy” Tutsi/Hutu as political identities that have their interactions based in dynamics of power. This perspective, even though have racial and ethnic elements, considers and allow them to change overtime, meaning that identities are not statics.

It is important to consider that the genocide was (mostly) perpetuated by Hutus against Tutsis and moderate Hutus, this means that the crimes against women also possess an identity element relayed to women identity condition, Hutu/Tutsi. Although that consideration is highly important due to the almost annihilation of Tutsi community in Rwanda, the intention of the paper is to show the gender component on the crimes of sexual nature perpetuated during the genocide.

The dissertation will be structured in five main chapters. On chapter one, an overview of the literature to be used will be advised, in this section the analyses of the three main topics come together, the restorative practice area, war crimes and the main events that occurred before, during and after the genocide in Rwanda. On chapter two the main methodological structure is informed, by the comprehension of qualitative data as the main tool and the two main theories to be used, feminist and post-colonial approach. On chapter three a depth understanding of the Rwanda case is explained by pointing out the main events that led to the genocide in 1994, analyzing the colonial time, the twentieth century as an independent country, the civil war in 1990 arriving at the genocide as a consequence. On chapter four the main measures adopted after the genocide are discussed, the ICTR as an international instrument and the two national mechanism, the Rwanda judicial system and the

Gacaca courts. Finally, the chapter five have the purpose of discussing the measures adopted towards women in the post genocide Rwanda by pointing out the main failures and also the accomplishments.



## **Chapter 1- Literature Review**

In order to understand the importance of the research proposed, it is considered extremely necessary to understand the main research around the areas to be analyzed in the Rwandan case, not only to have a clear and markable standpoint but also to comprehend the specificities of Rwanda as a nation and how the crimes committed might be unique. Having that in mind, the literature review is structured in three main parts. In the first part, the lecture aims to understand the restorative practice area as a field of study, and the specificity in dealing with genocide situations and sexual war crimes in the aftermath of the conflict. In the second part, the lecture focuses on the theories created to explain war crimes, especially considering the mainstream analysis of the international community, at this stage the role of gender and the post-colonial situation of Rwanda are also taken into consideration. In the third part an overview of the Rwandan history is presented along with the main event before and during the genocide occurred between April and June of 1994.

### **The Restorative practice discipline**

As many areas in the social sciences, restorative practices have the focus on the relationships built between humans, in this specific discipline, the attention is given to the repair and rebuild factor. As the main area, restorative practice has many subareas that according to the specific situation are more appropriate to be used, restorative justice, Truth and reconciliation commissions, family group conference, among others. The purpose of this work is the analysis of the restorative measures taken by the government of Rwanda to respond to sexual war crimes committed during the genocide, in that context the focus will be given to the restorative justice elements used by the authorities.

The research produced by United Nations have an invaluable content that is considered extremely helpful in this paper. The definitions and delimitations of the main areas given by UN provide a “neutral” and “broad” understanding in the international field, such as guidance’s for national government, nongovernmental organizations, and civil societies in general.

According to the UN (2006) the general discontent with the formal and traditional justice system, meaning the common and civil law perspectives, on how different countries deal with crimes has generated the emergence of alternative visions and studies about the human behavior in the belief that communities along with the parties involved are able to create and develop alternative solutions to the social disorder created by contemporary societies. United Nations (2006 p. 7) defines the restorative processes as any process where the parties involved on the crime/conflict, offender and victim and in many occasions community members, gather together to solve the matter. These types

of processes are constructed on the understanding that wrongdoing activity not only violates the law but also generates an impact on the offender itself, on the victim and the community as a whole. The participation of the parties is essential on the restorative justice practices, as the main goal lies on creating and developing healthy relationships, reconciling, and agreeing on possible outcomes (United Nations, 2006 p. 8).

United Nations (2006) pointed out an important element for this research, that is the different terms used by different cultures to refer to restorative justice practices, communitarian justice, reparative justice, community justice, among others. In the Rwandan case this element will be extremely important, the instauration and development of the so called Gacaca courts, a type of communitarian justice system installed after the genocide has its roots on the communitarian justice system based on cultural traditions to dealing with conflict.

According to Wright (2002, p. 4), restorative practice as an area and restorative justice as a field of study can be defined as a form of criminal justice based on reparations, understanding reparations as actions taken to repair possible damages caused by the crime committed and by the offender itself. As it was commented before it is understood that due to the magnitude of the crimes committed in Rwanda, the main field to be analyzed will focus on the restorative justice measures developed by the government of Rwanda to deal with the consequences of the genocide, but it is a semantical choice to use restorative practice in general, due to the fact that the government also took action to prevent this type of event to happen again.

Even though this paper intends to analyze the restorative practices measures taken by Rwanda, it is considered highly important the analyses and understanding of this field in Ireland and also in Europe, considered one of the main think tanks at the international level. The National Commission on Restorative Justice (2008, p. 8) points out that the origins of the restorative justice field come from the indigenous traditions and on some of the Celtic practices, but it is believed that the proper use of the term only appear in the United States of America in the 1970's when referring to the victim-offender mediation. The report developed by the National Commission has an important technical and material value, as not only it helps to understand how the discipline is defined and understood by the state apparatus, but also the authority's intentions to deal with an area not yet fully considered by the justice system as a form of dealing with crimes and offenses.

The reports highlight the importance of restorative justice in the process of healing from the crime committed, defined as multiple theory discipline, where a variety of practices, such as mediation, conferencing, sentencing circles, community, panels, courts, or any other community based initiatives

can be used, and requires the crucial participation of the victims, offender and community in some cases, to the resolution of the crimes (The National Commission on Restorative Justice, 2008, p. 11). The understanding of restorative measures on this paper cannot be understood by omitting two of the main elements of this research, violence against women and the genocide context, when an event as the one occurred in Rwanda involving crimes against humanity comes into discussion, the scope of the atrocities committed and the way on dealing with them begin to be questionable, such as, are the restorative justice measures enough to deal with crimes? Is it possible for a community to reconcile in the aftermath? And the most important question, how to avoid this to happen again? On this paper the intention is to deal with crimes against humanity from a feminist perspective, as woman are being affected differently as a result. The feminist scope will allow us to understand the specificity of the crimes and how they affect women and their environment.

In this understanding that there is a specificity on the sexual war crimes against women and more specifically on the context of a genocide, Koss and Hopkins (2005) points out a few elements that configures as barriers on the justice system to act affirmatively against gender violence. Even though the authors situate their research in the United States, the similarities in relation to the bureaucracy process and authorities has similarities that is worthwhile to highlight. The authors understand that the level of reporting gender violence crimes is still low due to the lack of action in the judicial system. According to Human Rights Watch (2004, p. 7) during the Rwanda genocide between 250,000 and 500,000 women were raped, the forms and types varied from gang-rape to sexual enslavement, forced marriage, among many others. As their report informs, sexual violence was one of a variety of injuries women received during genocide. In the Rwandan case the lack of support and guarantees the state provided in relation to the crimes committed against women is one of the main elements showed by women to avoid reporting sexual crimes.

Human Rights Watch (2004, p. 24) considers the stigmatization and re-traumatization of the victims during the process, the continuous stigma around the crime and the cycle of violence victims are inserted into as one of many elements that prevent victims to report crimes.

Human Rights Watch (2004, p. 18) reported that from the Genocide trails prosecuted at the national level between 1996 and 2003 where crimes such as genocide, crimes against humanity among others were involved, only 32 included charges of rape or sexual violence.

As it can be seen throughout this paper, the number of cases prosecuted that involved sexual crimes was low, this type of crimes still involves many consequences for the victims and is still extremely questionable by authorities.

## **Sexual War Crimes and gender-based violence**

To understand the crimes committed to women during the genocide, the classification of war crimes and the differentiation between them are vitally important. But before proceeding to the typification, it is considered highly important the understanding of a concept such as rape and sexual abuse as an intrinsic part of the male-female historic power relationship.

Brownmiller (1993) on her work, pointed out the incapacity of well-known authors, such as Marx and Engels or Freud, to deal with rape. The understanding by man of the power that their sexual organs has and that it could be used as a weapon to generate fear is one of the most significant discoveries in history, generating, in the author's words "a process of intimidation by which all men keep all women in state of fear" (Brownmiller, 1993, p. 14).

According to Brownmiller (1993, p. 31) the man's attitude toward rape is that is inevitable, from the ancient Greek, where rape was socially acceptable, to wars in the name of religion to the fall of Constantinople going through revolution wars, to the first and second world war, rape has been always present, and the environment of war gave man a "tacit license to rape".

According to the Rome Statute of the International Criminal Court (2011) sexual war crimes in the context of genocide are included on the category of crimes against humanity. According to the statutory sexual war crimes can be: "Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity" (2011, p. 3).

Sexual violence was historically used as a weapon during war time, so there is not something new, but according to Minami Uchida (2018, p. 1) it was not until the creation and developments of the International Criminal tribunals for Rwanda and Yugoslavia that the international community begun to debate and really consider rape and other sexual crimes as atrocities that needed to be punished or at least mentioned during trials. The emergence of these topics in the debate is also a consequence of the community activism of feminist collectives around the world.

Authors in the international field may have different approaches for sexual crimes during war, while some of them put the focus on the consequences that rape and other sexual crimes have to the state, their sovereignty and the power balance in the international field, meaning a systemic observation of the phenomena; others put the lenses on the individual, specifically victims, and the consequences the crimes will have to them and their communities in the near future after war is over.

The understanding of the sexual war crimes that occurred in Rwanda during the genocide is more inclined into the second view, used as a weapon to shame the victims, their partners, the future descendent and the communities they are inserted into.

Minami Uchida (2018, p. 4) points out an important element on the understanding of war crimes specifically directed to women, which is the role of the state in the constant oppression. The author understands that women in this context are not only victims but also being oppressed by the state that should have protected them. This element remote not only to the creation and development of state-nations but also to the studies in the area of International Relations as a field. It is at this stage that feminist theories come as an important standpoint to understand the role of women and the injustices and oppression based in gender existing in the international community.

An important element that needs to be brought up along with the feminist theories are the post-colonial theories, also important to understand the Rwanda events. The hegemonic view, understood as European and North American, lack a depth and non-conventional understanding of other realities and cosmovision's, say South-American, African or Asian, or more specifically first nations, indigenous and community cosmovision of the world and the role of "state" and "war" on it. One of the many examples is the instauration of the Gacaca courts as a Rwandan way on dealing with genocide crimes, this practice was widely criticized by the mainstream authors, European and North American, and by the international community, where the mainstream has monopoly to speak. The arguments given were the lack of procedural elements, meaning evidence, expertise of the "judges", among others. The feminist theory and the post-colonial studies would be analyzed in the next chapter as a part of the methodology adopted to understand Rwanda's place in the international community.

### **Rwanda History and Genocide**

The understanding and comprehension of the restorative practice's measures taken to give response to sexual war crimes occurred in Rwanda is intrinsically connected to the history of this genocide and to the consequences Rwandese are still suffering as a consequence.

In order to understand how Rwanda arrives in a Genocide situation, its history, especially its colonial history is crucial. The ethnic differentiation, that was widely known in 1994, was an element imposed by the colonizers. Rwanda, as many countries in the African continent, suffered the invasion and colonization of European countries, first Germany and after Belgium.

In order to understand the origins of the genocide, it is important to understand the social situation of Rwandese people before European countries colonizes. The territory that is nowadays called

Rwanda, was historically run under what is called as Clans, that did not have boundaries of land, race or ethnic. According to Carney (2014, p. 10) the distinction between Hutus and Tutsi goes beyond of distinctions made based on race, ethnicity, socioeconomic status, or political power. The distinctions remote to the divisions generated as a result of the ethnic migration in Rwanda. What is important to be pointed out as Carney (2014, p. 11) highlights is that it existed in fact in their historical relations (among Tutsis, Hutus, and Twa) a moral hierarchy. Some studies will underline that the interactions remote to the feudal system, others to the hierarchy installed after the instauration of what was known as the Kingdom of Rwanda, and there will be also studies that highlight the importance of the mythology on the creation and perpetuation of such hierarchy.

The arrival of the European at the end of nineteenth century can be considered as one of the turning points in the Hutu-Tutsi relationship, following by what was an historically event called as the “scramble of Africa”, an event commanded by the European Colonizers to control the African Continent. In this “division” Germany was in charge of the Continental German Africa, where Rwanda, Burundi and a part of Tanzania were part. The mandate of the Germans lasts up until 1921, where the League of Nations decided due to the defeat of Germany as a consequence of the First World War, to yield the mandate to Belgium (Hatzfeld *et al.* 2005, p. 10).

According to Carney (2014, p. 11) European explorers catalogue the distinction between Hutu and Tutsis as a racial or biological, like the imposition of a social Darwinist theory, as it was also done in America a few decades before. The European developed the theory of “Hamitic race”, an invention to justify slavery and racial distinction, again many similarities can be found with the Social Darwinist theory brought to the Americas. In this distinction the Tutsis were viewed as Hamitic civilizers, meaning they were culturally and racially superior to the Bantu, category that belong to the Hutu population (Carney, 2014, p. 11).

According to the author this thesis was crucial on the years before the genocide, even though the epistemology of the relationship between Hutu-Tutsi is considered highly important to understand and visualize the magnitude of the crimes and actions taken by the Hutu population, it goes beyond our study object. What is important to point out is the “responsibility” of European countries on the segregation and racial differentiation on the contemporary Rwanda, saying after 1914.

Based on this system, the Belgium installed in 1931 what was known as the identity cards, a policy eradicated in 1994; the identity cards were a system where the population could be identified based in their ethnic, crucial during the genocide where perpetrator identify their victims by their cards. Rwanda achieved their independence in 1962 in an already conturbated social environment, Juvénal

Habyarimana initiates mobilization in order to proceed with a coup d'état until he is finally elected president in 1978. Since Rwanda independence until Habyarimana death in 1994, the Tutsi population was constantly threatened and, on many occasions, killed (Hatzfeld *et al.* 2005, p. 16).

The genocide which took the life of 500,000 to a million people, impacted not only due to its magnitude, but also to the barbaric methods used to kill and hurt victims. As it was already said before, violence against women was “common” during genocide time, but also was the intentional spread of illnesses, HIV-AIDS, the genital mutilation, along with non-sexual crimes, such as mass murder and killing using elements as machetes and spears, all accompanied by an effective bureaucratic system on spreading hate and fear around population (Mandani, 2002, p. 4). The slogan was Tutsi population needed to be extinguished, any person or group who opposed it would also be exterminated.

Mandani (2002, p. 5) explained that even though an important number of authors compared the Rwandan genocide with atrocities such as the Jewish extermination during the World War II, the comparison in many areas is not applicable. While the extermination made by the Germans was done in places “far away” from populated cities, saying Concentrations camps and the machinery used were gas chambers. The Rwanda genocide was done in the center of communities at day light and in front of all possible witnesses, the propaganda behind it was also an important weapon used by Hutus authorities “Graves are not yet full”, the Cockroaches term to refer to Tutsis, are just a few examples of the power and magnitude of Hutu action during the 100 days the genocide last.

Mandani (2002, p. 6) pointed out that the genocide was possible due to the civilian participation in the mass killing, all communities and cities have individuals willing or ready to kill, murder, rape and infringe damage in any Tutsi or moderate Hutu. Even if individuals were not willing to kill, they would have to choose their own death or kill.

The events that happened during the genocide will be analyzed in depth in the coming chapters, as they are crucial to understand the magnitude of the restorative practice measures that needed to be taken by the government of Rwanda.

Chapter two will provide an overview of the main research methods and theories used to carry out the current research.

## Chapter 2- Methodology

As it was commented before, the study and understanding of the sexual crimes committed during the genocide and the repercussion it had on women will be critically analyzed in this paper throughout the feminist and postcolonial theory. Although, before entering the mentioned theories, it is important to highlight some academical choices that are crucial during this research.

The epistemological and methodological choice of the topic and the analysis of the restorative practice's measures respond to one of the main areas in the Conflict Resolution field of study, the aftermath of the conflict. Many academics and international specialist dedicate their studies to understand, prevent, and in case prevention is not effective, to deal with conflict by mitigating harm and deescalating the situation. But when conflict arises and turn out in a war or a genocide, the study of the main events are not enough, the understanding of the measures taken by authorities to deal with the consequences of such conflict become primordial. The study and understanding of those measures will help to prevent future similar events and reflect on the role of authorities (national and international) in the post conflict.

This paper will have its main base on the critical analysis of specialized literature in relation to the restorative practice measures taken by Rwanda after the genocide, focusing the analysis on women experiences. The intention to critically analyze reports produced by International Organizations, Non-Governmental organizations, and Rwandan Institutions, based on a literature review analysis, is chosen in purpose and has its main roots on the understanding and comprehension of the topic selected.

An important element needs to be emphasized, the topic selected already have a significant number of theories and data available that will help this research to be well understood and more effective on its final purpose by a comparative literature method of analysis. This has no intention to diminish quantitative data, as it is one of the main sources of this paper, on the understanding of how many people were killed during the genocide, how many women were affected by sexual war crimes during the genocide, among others. This leads to the second element, surveys or interviews will not have a major role in this paper, due to the fact of being a sensitive topic and reaching out to women affected by crimes such as rape, sexual mutilation, and many others could be traumatic for them and that is not the intention of this paper, quite the opposite, the intention is that throughout a critical analysis, to understand the suffer and pain this women went through.

Despite the fact that qualitative data is well-known in academia, according to Shkedi (2019, p. 18) the qualitative research area is, after many decades, still trying to prove its legitimacy, especially due



to the fact that human beings are the main research object. In the definition given by the author (Shkedi, 2019, p. 19) qualitative research is the result of the analysis of the social and cultural environment the individual is inserted on. Having that in mind, the research proposed on this paper aims to understand human behavior in the context of war and the repercussion it has on the post conflict process, considering statistics and taking into consideration the importance and the results provided by the quantitative research. Having that in mind in this research qualitative data gives a richer data set that solves the challenges raised by the research, which quantitative data cannot. Although qualitative research is considered the primary methodological base, it has its limitations that need to be considered. The study of human behavior is not based on exact sciences, which means that it cannot be predicted, and patterns might be difficult to be observed. This element leads to the fact that as seen in the Exact Sciences, where correlation means causation, it does not apply in social sciences, and as a result in qualitative data research. These limitations presented by the qualitative research area that the lecturer intends to transform throughout the paper in strengths for this research.

Along with using qualitative data, the understanding and comprehension of the feminist and post-colonial theory will be crucial during the analysis to be made on this paper. Human behavior cannot be understood if the research does not take into consideration the environment of inequalities and oppression the Rwanda society was inserted on during the genocide event. Having that in mind, both theories will help in the consideration of the role of women in the Rwandan state not only during the genocide but also during the creation and development of the Rwandan state-nation. For this purpose, the role of the colonies will be key and the post-colonial theory will be used to understand the build of the nation-state and the identities imposed by them that still have repercussions

### **Feminist Theory**

In order to incorporate the feminist theory as one of the main methodology tools to be considered in this paper, it is understood the necessity of explaining the main precepts and the better-known categories that integrate the area.

The feminist theory as a whole, has its purpose on the emancipation of women from the oppression and subordination they have been submitted to since the beginning of modern civilization. The diversity of multiple movements inside the feminist theories look forward to the understanding of gender inequalities throughout the comprehension of the social, political, economic, and cultural role of women in societies. One of the main reasons to understand why there is so many feminist

movements nowadays is by analyzing the specific and complex situations women around the world has (and still) suffered, meaning that a woman in an indigenous community in the countryside of Brazil have different and diverse problematics than a woman in the capital city of India. It is this diversity on feminist movements and theories that helps with the integral inclusion of women as actors and especially as subjects of revindication of their rights in the local and international community.

In order to understand the feminist area, three of the main categories will be analyzed as studied by Alison Jagger (1983), who understands such categories as liberal feminism, radical feminism and socialist feminism.

Liberal feminism, initially known as egalitarian feminism, has its main goal in achieving equality between genders specially on the political and legal areas by transforming social practices. This category is the precursor of the study and analysis of the main differences between gender and sex (Carpenter, 2008, p. 602). As the name suggests, this feminism look forward to a change throughout the liberalism political theory, where the reform of legal system by achieving equality between genders, is mandatory to achieve that goal. The main understanding in this category is the possibility and availability of change inside the existing system by the end of social, political, and economic inequalities arriving at the freedom of its members. In this category, the rights obtained by males does not yet apply to women. Liberal feminism is clearly an American perspective inside the feminism theory, where concepts such as freedom and equality are the center of the analysis (Jagger, 1983, p. 36).

Radical feminism sees the oppression of women as the main element to be eradicated in society, according to its view the responsibility of the historic oppression lived by women has its roots on many other systems of oppressions, having as a consequence the necessity to eradicate also those systems in order to emancipate women. The members of this category, especially developed in the 1960 and 1970 in the United States are characterized for being white, middle class and educated women, denominating themselves as radicals. According to Jagger (1983, p. 84) this category does not, differently from the other ones already cited, adhere to any political or philosophical theory, this movement inquired and developed their own feminist alternatives to areas such as health care systems, technology and more in depth on political, economic, and social arenas. Radical feminism has its main objective on making public and widely visible how the distinctions between genders guide and shape individuals' lives, and also differentiate from other categories due to the fact that they focus not only on that difference, but also on the subordinate conditions of women towards

men. As Jagger (1983, p. 87) states in relation to radical feminism “the theoretical task is to understand the system, the political task is to end it”.

Socialist feminism is also one of the contemporary categories developed after 1950, and as its name suggests, incorporates the Marxist tradition but also concepts of radical feminism. According to Jagger (1983, p. 124) socialist feminism comprehend that the existing categories related to political and economic areas are not sufficient to explain women oppression, so new categories must be created to re-signify public and private spheres where women are inserted on. Socialist feminism will understand those categories from the historical point of view, with the intention of creating their own understanding of the historic materialism. In this feminism, capitalism, racism, and male dominance are not categories that can be understood separately, so the understanding of the capitalist system requires the comprehension of above concepts and how the system structures its inequality chain. Historic materialism will be helpful in that understanding but, authors in socialist feminism, sustain that the conceptual tools adopted by Marx and Engels are not incorporating feminism consciousness. In the comprehension of the world and the role of humans, their base is that differences between women and men are not only physical but, especially, psychological, being the last one the area where many socialist feminists will focus their studies. By the comprehension that women life’s, including bodies and behavior are structured by a gender structure socially imposed, this imposition was made by a system based on capitalism rules, sexual division of labor and exploitation (Jagger, 1983, p.127).

The understanding of the three main categories that regulates feminist theories would help to understand the role of women on diverse categories in the Rwandan case. Megan Carpenter (2008) has an interesting insight about feminism as an area of study but most importantly about the role of justice in its relationship with the feminist theory. The author proposes a deep analysis of the world’s understanding of justice and legal studies, and one element that is considered important for this paper is the role of international law on this dynamic. According to Carpenter (2008) this field excludes women, and this has been since international law was created to respond to sovereign states, meaning nation states based on historical masculinities, where women were and still are, socially, economically, and politically excluded (Carpenter, 2008, p. 612). The international system that regulates law and its prosecution, was not enough to prosecute cases of sexual abuse, reducing the condemnations to just a few. When analyzing the International Criminal Tribunal for Rwanda, it is widely observable the lack of feminist perspective adopted by its members, and the effort of prosecutors and victims looking for inclusion of sexual crimes in the cases to be judged.

There are two elements on the Rwandan case that will have an important role on the understanding of women situation, in the first place, rape and secondly ethnicity. Even though none of the categories on the feminist theory specially analyze it, they need to be considered and enquiries must be made. In relation to rape, on the feminist understanding of sexual violence there are a few elements that are always present, such as the necessity of demystification of the act, many societies still considers rape as something rare and very unusual, when in fact rape is a common practice committed against women, but hardly ever reported or prosecuted due to the fact of revictimization that judicial systems around the world are not able to overcome and as Carpenter (2008) advises not only the national judicial system in Rwanda was unable to prosecute but also the ICTR was not up to the circumstances.

The second element, the ethnicity was, according to many authors, just a simple division between Tutsis and Hutus. Scharlach (2007, p. 394) commented that ethnicity, was an element widely present on rape and sexual violence committed against women during the genocide, many survivors of rape reported the implicit mention to the ethnicity element when the act was being committed. It is also important to highlight that ethnicity is a transversal element that will be present throughout the whole paper, even though it is not the focus of this paper, it will be considered on the analysis realized in the coming chapters.

As it is known, the system put in place in Rwanda after the colonization of Germany and Belgium, was a modified western system, meaning a political and social structure based on western values, democracy, human rights, freedom, and economically a system of subordination by catalogizing Rwanda as a commodity exporter, where the center (Western countries) are the main buyers. In this system, as it was seen up until now, women had a subordinate role, as men were the main providers, not only due to the legislation in place, but also due to dynamics of the capitalism system.

Scharlach (2007, p. 391) commented in her work that women in the Rwanda state were always in disadvantage, as citizen's, women status would have always depended on the male figure beside them, husband, father, brother, etc. Women's political, social, and economic rights were not considered in the twentieth century, although some changes were in place after the genocide in 1994.

As it was seen up until now, the feminist perspectives are varied but at the end they look forward to dismantling with the historical oppression of women, but methods and understanding on how it must be done will vary. The lecturer does not consider that any of the categories fully apply to the Rwandan women, as none of them completely incorporate Rwandan women's problems, especially

considering that radicalism and liberalism theories are unable to observe other realities apart from a western based view and that women affected by the genocide were women of color. But for instance, some concepts inside those categories will help into the understanding the role of women before, during and after the genocide.

### **Post-colonial theory**

The post-colonial theory is considered to be extremely important in the development and understanding of the research proposed. This theory, as other areas in the contemporaries' social sciences has been created to give response to some of the main problems and events that former colonies in the world were living in. That means, the understanding of the footprints that colonies left on now independent states (at least many of them). With this intention the theory sustains that the now "independent states", situated in Asia, Africa, South and Central America, and even in Europe (the Irish case), were built in modernity based on the oppression system imposed by the colonizers. The systems imposed during the colony times have footprints which very hard to delete, such as racism, exclusions, inequalities, and foreign identities that are still present on the independent states. The post-colonial studies understood that the study and analysis of those called "footprints" are key on the comprehension of modern societies.

As many countries in the modern world, Rwanda was invaded by European nations (Germany and Belgium), the understanding of the social, economic, and political control and exploitation produced during colonial times has repercussions not only in the development of Rwanda as a nation, but of the understanding of their role in the international community. The western countries have, historically, recounted the world's history throughout their view of the world, based on a white, European male superiority. In this regard, post-colonial studies aim to deconstruct the understanding of the modern world made by the colonizers in America, Africa and Asia. This understanding could be also complemented by the subaltern studies area developed by Antonio Gramsci. In this context, the colonies idea of "providing" independence to their colonizers based on western values, such as democracy, equality, fraternity, and the construction of nation-states based on freedom and human rights is clearly not possible, and the sublevation of the colonizers to their colonies in the ninetieth and twentieth century was made by the so-called subalterns.

In this context the contributions of Benedict Anderson made on the book "Imagined Communities: reflections on the Origins and spread of Nationalism" are very meaningful. On his understanding of nation such as a social construction imagined and developed by the group that integrate it, the role

of women seem more (in) visible, as it was seen up until now, women does not have a vital role on the creation and development of state nations and the imagined communities that Anderson (2006) refers to were built and developed by the masculinity and patriarchal nation state imposed by the western nations.

In this international environment, where the colonies left the colonizers and proclaimed their independence, the post-colonial theory sustain that the colony does not end at that point, quite the opposite, it is that footprint left by the colonizers that would be important in this paper. In Rwanda's case with the instauration of the identity cards, the racial beliefs of a superiority from the Tutsis over the Hutus and specially the white men over the African men, the gender inequalities, the understanding of women's role in the Rwandan society, among others, have their intellectual, social, political, and economic base on a colonial construction throughout almost a century.

Sexual violence during conflict is not a new event, it has been happening since the beginning of times, but its causes and especially its prosecution were not studied and implemented until recent years. Rwanda and Yugoslavia were the first places where it was internationally recognized women suffered due to sexual violence (Carpenter, 2008, p. 632). The causes can be due to the understanding of women as a property, as a punishment for women that are considered to have more power, using women to satisfy men, for example by increasing their productivity as it happened during the Second World War and the so called "Joy Division", to destroy men due to the fact that raped women represent a shame for the rest of the men in the family and community, at the end the reification of women as a collateral damage consequence of the war is still present in many academics and government reports.

As it is widely known, during the Second World War rape was present not only from the German side, but right after the war, the so called "allies" invaded Germany and rape, especially perpetuated by the Soviets, was a normal coin when Germany was being rebuilt; also, during the invasion of China from Japanese forces rape and sexual violence was present. But an element that needs to be considered is the silence of the international community in the Nuremberg and Tokyo trials when those crimes were not even mentioned or even prosecuted.

As it will be seen later in this paper, sexual crimes during the genocide left around 250,000 to 500,000 women victims, but the number of crimes prosecuted therefore is still insignificant. Some of the restorative practice measures created by the international community to deal with the crimes committed during the genocide were not able to overcome the masculinity present in their

foundations and the Rwanda state was also not able to rebuild on a post-colonial and feminist understanding based on the suffer and trauma that women went through during the year 1994. In the next chapter throughout the presentation of the main data, the lecture intends to give a better understanding of Rwanda situation, and its link with the restorative practice measures.

## Chapter 3 – Presentation of the Data

In order to have a clear understanding of the Rwandan situation and how the country arrives at one of the most horrible events of the twentieth century, the comprehension and analysis of the internal historic dynamics but specially with the colonizers will be crucial. In the coming sections a brief overview of the Rwandan history will be done, focusing on four main sections, the background of the conflict, the civil war and the Arusha Peace agreements, the 100 days the genocide lasted for and the aftermath of the conflict.

### The colony of Rwanda

Among academia, the understanding that the “rivalry” between Tutsi and Hutus has its root on the arrival of the Europeans in the African continent has been demystified. Authors no longer sustain that Hutus and Tutsis lived in harmony and in a peaceful environment before the nineteenth century and proofs have been found to refut it. Even though this clarification is necessary, the intensification to extreme levels such as a genocide has strong links with the European construction of the Rwandan state.

Analyzing the background of a former colony state might differ considerably from the analysis of any European state history. Colonized countries will inherently have strong bonds to their former colonizers, even and way after independency. In the Rwandan case, the accentuation of the ethnic and racial differences, was not only a social element imposed by the colonizers, but it was also a political project. Among academics it is a consensus that the distinction between Tutsis and Hutus cannot be done easily just by defining their differences, such a distinction does not resume to one element such as ethnicity, race, social class, political power, etc.

Before the Europeans arrival in Africa, the territory Rwanda occupies today was integrated by Tutsis, Hutus, and Twas. According to Carney (2014, p. 11) the Banyarwanda<sup>1</sup> myths, which are mythological legends that remote to the 14<sup>th</sup> and 15<sup>th</sup> centuries are very important in the comprehension of the social and political role of the above-mentioned ethnic groups in the organization of the later Rwandan State-nation. Were these the ones that began a legend of the superiority of Tutsis among other population, Hutus and Twa. These myths also served the European project of differentiation in order to eject dominance on the population during the colonization.

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<sup>1</sup> Banyarwanda was a cultural group who settled on what today is known as Rwanda, they built the Kingdom of Rwanda in the fourteen centuries.



Mamdani (2002, p. 22) throughout their analysis understands that the organization of power will determine political identities, the author does not comprehend elements such as race and ethnicity as an identity factor inside the community, quite the opposite, those elements are clearly defined in the national law and dynamics of the states. In this comprehension Hutus and Tutsis, cannot be defined by merely adjectives or opposites, the author also understands that getting to the historical roots of Hutu-Tutsi relationship does not lie merely on cultural or biological elements, in contrast it is based on how both ethnicities were constructed throughout political identities in the (colonial) Rwandan state (Mamdani, 2002, p. 34).

It is not new that the distinction Europeans made when arriving in Rwanda, and other parts of Africa, were based on physical elements, as commented on the literature review chapter, they installed the social Darwinist theory<sup>2</sup> around the world and Africa was no exception. Latin America, during the nineteenth century also experienced it and because of it a broad range of authors sustained and supported this theory, these authors were the base of the political discourses that lead in many cases to the independences of the colonies, and specially to the development and creation of national states based on racial, ethnic, and social inequalities.

In the African case, the Darwinist theory was modified, called “Hamitic Race”, according to Eltringham (2006, p. 431) the Europeans, Germany first, and after the First World War Belgium, assumed that Rwanda was already divided into marked categories, Hutu, Tutsi, and Twa. The Tutsis were “in charge” commanding the remaining races or ethnic groups (depending on the perspective) and were viewed as been gifted with intelligence and social skills and it was this narrative used by the Tutsi that the Belgium used to further install and develop a Tutsi elite. This social depiction created by the Europeans began with biological and physical differences and transformed into social and political abilities, arriving at what was seen as social stratum characterized and divided by political and social power.

In this construction of the Rwandan state, the church was also an important political actor. As seen in Latin America with the Jesuit reductions, in Africa the installation of the catholic missions also played an important role in the colonization and stratification of the local population. The catholic missions were in charge of “educating” and “civilizing” local population (Carney, 2014, p. 25). After the change in colonizer authorities the church was still an important actor as the racial and ethnic differentiation was also adopted by them to spread among the population. The education element

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<sup>2</sup> The Social Darwinist theory was created by European and North American academics and it is the application of the biological concepts of natural selection to the sociological and political arena.

provided by the church was crucial in the creation and development of the ethnic and racial construction of the Rwandan state, according to Carney (2014, p. 35) the church developed an education system where Tutsis and Hutus were given clearly a different education basis, to ensure only one group would access power.

During the colonial times, the role of women was particularly marginalized, women were not only segregated from the political arena but also of every possible opportunity to participate in any area of the state creation. As Berry (2018, p. 33) suggests, the gender division during colonial time implies a specific role for women, they were in charge of the children and a variety of farming tasks (depending on her racial/ethnic category), where the main achievement for women lives and especially their duty was to become a mother.

With the Belgium in power, the institutionalization of the racial and ethnic differences became a fact in the Rwandan state. This practice came along with policies that supported it, inclining the balance toward the Tutsis (Brown, 2018, p. 27). One of the most important policies installed by the Belgians came after the census that took place in the country in 1933, where “Hamitic Race” was fully installed. The identification cards, as its name suggests was created and developed not only to certify that the individual belonged to a community or country, but more specifically to distinguish them based on their racial/ethnic differences, and as suggested by Mamdani (2002, p. 99) to allow them to effectively racialize the Hutu/Tutsi.

Six elements composed the identification cards, ethnicity, place of birth, date of birth, profession, home address and name of spouse. In the card, ethnicity is the first element to be filled. As it will be seen on the next section, these identity cards were, during the genocide, a death sentence.

### **Rwandan independence**

The late 1940 and 1950 were characterized in Africa by the revindication of independence, even though in many countries such as South Africa, it was put forward by the minority white elites installed in the countries, the European circumstances allowed African countries to achieve their independence, and Rwanda was no exception. Along with the historical disadvantages the church and the colonizers further implemented, the inequalities lived by the Hutus were increasing the social and political feeling of revenge. In that process a Hutu political movement emerged looking to stop Tutsi monopoly of power.

Hutus and Tutsis looked forward to the independence, based on different state projects and fighting it separately. Between 1959 and 1963 Rwanda experienced violent events rooted in the ethnic

differentiation. During this period, according to Brown (2018, p. 31) the Belgium could have developed a peaceful and harmonious power transition but instead they played with the tools given by the Tutsis and Hutus in order to decide which group would benefit them most.

In 1959, Rwanda went through what was called a revolution, differently from most countries in Africa, where the revolution was against the colonizers, the revolution in Rwanda was started between Tutsis and Hutus (Mamdani, 2002, p. 105), in other words, it was foremost a civil revolution. This revolution is for many academics, the spoiler of the genocide coming in 1994, but for many others, a Hutu majority, an opportunity to install the vote and a democratic system that would lead them to power. This new system came also with rights gained for women, the new constitution would give women the right to vote and participate as candidates on elections (Berry, 2018, p. 36).

After proclaiming independence from Belgium in 1962, Rwanda went through two main political figures in power. Grégoire Kayibanda stays in power until 1973 and his govern was characterized by the relegation of Tutsis from the political sphere, and a massive violence against the Tutsi community, marking the beginning of the Tutsi exile in neighboring countries that will later see their return through the RPF<sup>3</sup>.

During this time, a political division emerge inside the Hutu community, in one side the elite Hutu from the North and on the other side the elite Hutu from the south. This opened a space for a coup d'état commanded by Juvénal Habyarimana in 1973 (Brown, 2018, p. 32). According to Mamdani (2002, p. 138) this action led to the birth of the second republic in Rwanda, especially characterized by twists on the political and social discourse. Tutsis are now a minority, thus a group that can be controlled and relegated due to its privileged past.

In this context Mamdani (2002, p. 138) contributes significantly, as the author suggested that the so called second republic has the mission of justice and reconciliation, but this was only possible as far as the path to reconciliation was done looking for justice for the Hutu community. With that purpose, an important number of actions were taken by the state to bring equality to the Hutu population, affirmative actions such as a quota system in education, civil service, among others, whilst the political (places of power) participation remains exclusive for the Hutus as it was during Kayibanda regime.

Even though women gained the right to vote, basic social and economic rights were still attached to their husbands' approvals such as opening a bank account and owning a business, while the

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<sup>3</sup> RPF was created in the late 1987 by Rwandan refugees in exile, one of the major figures in fighting against the Hutu system is the current president Paul Kagame.

masculine figure still had many powers over women's property and money, all guaranteed by the institutions and the law (Berry, 2018, p. 39).

An interesting element pointed out by Mamdani (2002, p. 146) is the economic and social growth the Rwandan state experienced after the arrival of Habyarimana to power, the numbers by the mid of 1980 were extremely "positive" in relation to other African countries, but this reality would not last long, the international drop of prices of Rwandan main commodity along with the invasion of the RPF on 1990 brought Rwandan international debt to historical figures with a civil war still to come.

### **Civil war and Arusha Peace agreement**

In October 1990, the RPF invades Rwandan territory from the neighbor country Uganda. Without any major success, RPF draws back, but by recruiting more people and strengthening their tactical forces RPF acts again, commanded by Paul Kagame (later president of Rwanda). However, the rebeginning of the group and the small victories on the field were not sufficient to remove Habyarimana from power, as they were missing an important element, community support. Mamdani (2002, p. 187) understands that all areas controlled by the RPF by the end of 1992 and 1993 can be considered ghost towns, as people who lived there left as soon as RPF took control. Exiled Tutsis (RPF) had not yet achieved popular support while the Hutus on power slowly started a campaign about the Tutsi intention, through RFP, of bringing back power to the Tutsi and a possible reemerging of a pre 1959 Rwanda state.

At this stage and right before the signing of Arusha Agreements, the Hutu authorities began to utilize one of the most important tools during the genocide, the propaganda. This element will be analyzed in depth in the next section, but it is important to highlight that the propaganda machine that it will be seen during the genocide was not new at the time, it already existed and was during the previous years a crucial element of "mass alienation".

The civil war that had begun gives the opportunity for the Hutus to create what was called the Interahamwe, this group was at the beginning the youth military arm of the president Habyarimana, but the group will evolve into a more organized and structured army body inside the Rwandan state, becoming during the genocide the main organized militia for committing mass murders (Fletcher, 2007, p. 34).

After the invasion of the RPF, and its failure in the first place, Hutu Militia organized to defend their system. The defense came along with the returning of violence and especially the massacre of the Tutsi population around the country. According to Mamdani (2002, p. 192) four massacres occurred

in total between 1990 and 1993, the number of death is not certain, but the author understands that around 3000 people were killed, a certainty was that those massacres were a prelude of the Genocide that would occur in 1994.

The Guerrilla lasted for about three years, from 1990 until 1993, where the signing of the Arusha Accord is made. In the meantime, negotiations were extremely important, United States, France, Belgium, hosted by neighbor countries such as Burundi, Tanzania and Uganda, with the participation of UN authorities, gathered together with the intention to mediate and negotiate a peace process between the government of Rwanda and the RPF.

The beginning of the Arusha talks was an opportunity for both parties to cease-fire and for the international community to engage in a peace process by strengthening conflict resolution tools. The civil war has its "end" with the signing of the Arusha Accords, at least according to the international community. These accords has the main intention to deescalate the conflict and allow Tutsis and Hutus to live in harmony inside the Rwanda territory. The accords were signed on the 3<sup>rd</sup> of August 1993 and stipulates the beginning of a transitional government whilst the UNAMIR arrived in Rwanda, even though the implementation had never happened.

According to Stettenheim (2000, p. 225) during the Arusha negotiations a clear differentiation was evident in relation to the RPF and the Government of Rwanda; RPF was considered by the author an organized structure that not only can be seen in the battlefield but also in the peace talks; on the other side the Government of Rwanda was seen as a fragmented group, as they already have intraparty divisions unresolved, the moderate and the extremist.

As a result of the Arusha Accords, the peacekeeping operation UNAMIR was created and installed in Rwanda by the end of October 1993 for its implementation. As one of the many UN peacekeeping operations, UNAMIR has no power to act, which means keeping the peace in Rwanda soil without the use of force. By November of 1993, UNAMIR counted with 2500 troops, but its inability to act allowed the escalation of the conflict especially due to the increasing conflict in the neighbor Burundi with the murder of the Hutu president Melchior Ndadaye. In the beginning of 1994, Hutu Militia actions in Rwanda were clear in one direction, genocide, and the conflict that has already escalated was nearing its climax, but still, UN troops and the international community were unable to respond. The Arusha Accords is considered one of the main failures of the international community in the Rwandan conflict, it was not only the lack of (re) action during the genocide, but the incapability of foreign countries and organizations to deal and truly enforce the implementation of the accords in Rwandese soil, the creation and development of UNAMIR was also a reflect of that. The Security

Council along with the General Assembly of UN sent troops to Rwanda in the middle of a civil war to keep the peace, a peace that Rwandan people would not experience in the coming months and that will cost almost a million souls.

### **100 days of genocide**

The date that literature marked as the beginning of the genocide is the night of the 06<sup>th</sup> of April of 1994, this is as a consequence of the plane crash where Rwandan president Habyarimana and Burundian president Cyprien Ntaryamira were on. Although the motives and responsible were not yet found, it is seen from the historical point of view as the trigger for the genocide that lasted for 100 days.

According to Mamdani (2002, p. 215) two were the momentum that are inflexible points toward a genocide. First was the murder of the Hutu president in Burundi, Melchior Ndadaye and second, right after the murder of Habyarimana followed by the prime minister. Both events constitutes to the author the realization toward a radical Hutu of what could happen if Tutsis were back in power.

At this stage, the “elimination” of the Tutsis was not only the main objectives of the ones in power but also the total elimination of the moderate Hutus. The massacre that was ready to begin did not distinguish between Tutsis and moderate Hutus.

The first day of genocide also has an important meaning, due to the escalation of the violence, the Prime Minister Agathe Uwilingiyimana was under custody of Belgium troops, that day the Hutu Militia murders the prime minister along with 10 Belgium troops, marking the days where the international community officially abandoned Rwandese population. The escalation of the violence was encouraged by this move made by Belgium, but also by the withdraw of almost 90% of UN troops of the UNAMIR, quite the opposite of what General Roméo Dallaire asked in his many communications with the General assembly and the Security Council before the genocide started.

By the morning of the 07<sup>th</sup> of April, the genocide was underway, and the interim government had already been put in place, using one of the most important tools used by militia and genocide perpetrators, the propaganda. At this stage *Radio Télévision Libre des Mille Collines* and the newspaper *Kangura* were already the propaganda arm of this new state machine. As it was commented before, after the RPF invasion in 1990, the newspaper *Kangura* began a campaign of hate against Tutsi population, but it was exponentially incremented after the 06<sup>th</sup> of April.

The radio was still to Rwandan population one of the most important media communications at the time, not only due to the exitance of RTLM, but it was also used by the Habyarimana government to

send official messages to the population in the years before the genocide, as according to the World Bank the literacy average in adults in Rwanda in 1991 was about 57.8% (World Bank, 2021).

The genocide perpetrators relied on the RTLM to spread and incite the killing of Tutsis and moderate Hutus in areas more reluctant to do so, especially in communities inhabited by moderate Hutus. The RTLM developed a prototype of the Hutu objective, according to Des Forges (2007, p. 48) the RTLM warned Hutu population about the possible infiltration of Tutsis as “common” civilians among Rwandese people, and by staying alert the Hutu population would be safe. RTLM has also a central role on spreading and announcing specific places and coordinates of events that were happening live, meaning that killers needed to be ready to go hunt at any minute. The radio was used as an infiltrated spy among Rwandese, the only difference was that it was public and had no filter on spreading hate speech.

The newspaper Kangura also had a very important role on the spreading of hate and inciting murder along Rwanda. In the edition number 6 launched on the 1990, the newspaper listed the ‘Ten Commandments’, created with the purpose of mandating “appropriate” Hutu behavior to face Tutsis. All the mandates showed a patriarchal Rwandan society, matters in relation to political and military areas were directed only to man, while the role of women was subordinate to Hutu men. There are three mandates that are especially interesting for this paper, the stipulation of Tutsi women as a traitor, the extra value Hutu women has in their role as mother and wife and the role of Hutu women in controlling possible Hutu man wrongdoings. According to Kabanda (2007, p. 63) the purpose of the Kangura publication was to demonstrate that Tutsi population were secretly planning a contra revolution, from which Hutus must awake in order to stop it.

Kangura and RTLM were two of the most important tools used by Hutu elite to put in practice the mass murder of almost a million people in less that 100 days, the efficacy of both cannot be denied, as according to Kimani (2007, p. 111) they were able to create an enemy and the narrative to justify why it must be eliminated.

According to Brown (2018, p. 51) the alliance between Kangura and RTLM allowed the spread of fear among Tutsi women, being that the main element of bargain during the genocide. The author understands that fear has a powerful tool in the society as a whole but specifically in the militarization process of a state, being in the Rwandan case highly effective.

Along with women murders, sexual violence was one of the most “effective” weapons used by perpetrators. During the 100 days genocide lasted, rape was used with two main objectives, the first was to provoke shame in women bodies as the damage caused is permanent for them but especially

and most important (in this patriarchal society) for Tutsi men, preventing those women to have a “complete” life, meaning the realization of a proper motherhood, the thinking behind those actions were the property element attached to woman-man relation, “who would like to be with a woman that was raped?”. The second objective was the spread of illnesses, as many women raped were infected with sexual transmitted diseases such as HIV and AIDS. According to Carpenter (2008, p. 636) a study found that 69% of survivors of sexual violence were HIV positive after the genocide.

In these interactions sexual violence was not only resumed to rape, but the behavior of perpetrators would also have many ramifications, from sexual slavery and forced marriage to sexual mutilation and in many cases murder. The result has at least 250,000 women raped, mutilated or victim of sexual violence as a result of the genocide (Brown, 2018, p. 52).

When reflecting about the impact the genocide has in women, there is always a relegated view, which is of the women perpetrators. Literature tends to speak of Hutu perpetrators in a general understanding referring to men, but there were also women perpetrators. The intention of this paper is not “defending” women, but to show the reality women bodies and minds go through after the impact of the genocide. In order to do that, being aware that women were also agent of action during the genocide is to recognize women as an important although secondary role in Rwandan society in 1994. In this analysis it is interesting how literature and academia shows women behavior, especially through the testimonies given by survivors. In many cases the message behind has a strong gender component, such as the lack of empathy from women to other women, the fact that women perpetrators actions were seen, in many cases, as worse than men’s actions, even though the action itself were the same (Brown, 2018, p. 95).

The spread of hate and fear along Tutsi and Hutu population was an opportunity to the elites to kill Tutsis and recruit Hutus. The state of mind along Hutus was “it is them or me” so the only option was to kill in order to satisfy superiors and to not be at risk (Berry, 2018, p. 51).

Many tactics were used to perpetuate the mass murder of almost one million people in such a small number of days. It is widely known the weapons used were machete, spears, swords and axes, objects that are relatively easy to use and find, and have no maintenance costs for reuse, which coupled with the number people wielding them allowed the mass killing and injuries in such a short time.

The “techniques” used to find victims were varied, as it was seen before the media had an important role in unmasking the places where Tutsi people were hiding, but perpetrators also went door to door, the installation of patrols in streets and motor ways also helped to identify possible escaping victims. At the time, churches and schools were also places of refuge, but those places were in



perpetrators view, the places targeted as easy killing, as it would gather 40-50 people and they could be killed together in a matter of minutes (Berry, 2018, p. 51).

On the 15<sup>th</sup> of July 1994, the RPF invade and captured Kigali, marking the beginning of a new era for the small country in the central Africa, the 100 days genocide not only demonstrated what was possible to do in a short time with rudimentary equipment, but most important how the social and political structures developed by Europe condemn to almost a million people to death and most important how Africa is still a forgive continent. As commented before the international community was unable to (re) act, and the consequences will represent one of its biggest fears in the current days.

### **How to rebuild?**

Facing the destruction of the social and political structures, the Rwandese state had now to rebuild, not only the state structures such as social, political and economic but also the trust and harmony through reconciliation among people.

In July 1994 the RPF gained control over Rwanda territory aiming to start a new era in the country, the transition was not smooth, meaning that in the first few years the RPF executed thousands of civilians, especially Hutus, as a form of retaliation (Clark, 2010, p. 20). Along with the reconstruction of political and social trust, the judicial system needed not only to be recreated but to imply necessity of capacitating people to be able to act as judges, prosecutors, among others, as almost the entire judicial labor was killed or exiled as a consequence of the genocide.

At an internal level, Rwanda was not capable of properly installing and prosecuting *genocidaires* until 1996 when with UN support it began a process of capacitation and proper reconstruction of its judicial system. The transition came also with the realization from the international community of the atrocities that took place on the 100 days and the disposition to act accordingly in the aftermath. Three different systems were put in place to face the consequences of the genocide, at the international level the ICTR created in November of 1993 by the UN, and at the national level two main instruments: the Rwandese judicial and the instauration of the so called Gacaca courts.

In the next chapter, the analysis will focus on how these instruments, the ICTR, the Rwandan judicial system and the Gacaca courts dealt with the sexual war crimes committed against women.

## Chapter 4 - Data Analysis/Findings

### The restorative measures

The instruments utilized after the genocide to face the horrendous crimes committed by Hutu leaders and the population would vary according to the type of crime committed.

At this point, the consideration of two concepts, truth, and reconciliation, is crucial. The analysis of whether the three instruments adopted after the genocide looked forward for truth and reconciliation will be discussed, but one of the main elements to be considered is the social and cultural approval of Rwandan community in relation to their “effectiveness”. It is considered important to bring up the social approval of these instruments, as it is one of the main contrasts that can be found between the international community and Rwandan population. It is relevant, as commented by Clark (2010, p. 36) the symbolism these instruments have in the development of post-conflict societies, by suggesting that, unless it could have happened in the past, these crimes would not be left unpunished for the perpetrators.

As it will be seen below, the instruments adopted by the international community and by the Rwandan Judicial system has the focus on the conventional punitive method, meaning a retributive system. The nature of the Gacaca courts, a system that has its main base on the shared truth throughout the community, will come to restore some of the ancient types of justice the Rwandan population was used to, along with demonstrating its capacity to bring some justice.

According to the Organic Law launched in 1996, the crimes committed from October 1990 to 1994 in Rwanda will be classified in 4 different categories correspondent to their severity. The first category is the one involving authorities and high ranked people who planned, organized, instigated, and supervised crimes of genocide or against humanity. Also, people in a position of authority at every level, such as national, community, or local; people who were “notorious” murderers, as referred to by the law, meaning they distinguish from the rest in their communities; and finally, *genocidaires* who committed acts of sexual torture (Organic Law No. 08/1996, 1996).

The second category focus on people whose acts set them as perpetrators or conspirators in intentionally murdering or seriously assaulting, causing death.

The third category will focus on people whose acts set them guilty of other serious assaults not causing death. By 2004, the Gacaca Law will merge these two categories transforming two and three on category number 2.

Finally, the fourth category (after 2004 it becomes the third), will focus on people who damaged or perpetuated offences against property (Organic Law No. 08/1996, 1996).

The law also established the type of sentence according to each category, the appeal process, and the “benefits” in case the accuser provided additional information that led to the clarification of other crimes committed.

## ICTR

In order to help Rwandan rebuild, the international community represented by the security council was now interested in prosecuting the crimes they omitted for almost 100 days. The creation and instauration of the international tribunal came after the success of Nuremberg and Tokyo trials, and right after the instauration of the International Tribunal for the Former Yugoslavia. Once again, the place chosen to seat the trials was Arusha, Tanzania.

According to the resolution 955 (UN, 1994, p. 2) which gave birth to the tribunal, the main objective of its creation was to prosecute the responsible for the genocide and other serious violation of international humanitarian law in the year of 1994. The resolution defines genocide and its inclusion on the declaration has an interesting effect, as it was the same international community whom months earlier refused to define the situation in Rwanda as a genocide, instead it was defined as “acts of genocide”. The definition given was that any act that intends to destroy a group, partially or totally, such as killing, causing mentally and bodily harm, among others. But a tribunal can also prosecute crimes such as murder, torture, and rape. Finally, an important element on the resolution and on the tribunal, itself is the jurisdiction, the ICTR have primacy over any national or local court, which means these courts might have to yield to ICTR principles. The crimes to be judged by the ICTR are framed in the category 1 of the Organic Law from 1996.

According to Wilson (2011, p. 172) the ICTR had epistemological challenges that were not considered by the UN on the resolution that created it. In order to prosecute and condemn individuals or groups for committing genocide, the tribunal must show that the intention to destroy a group was in fact present at the moment of committing crimes, in order to do that, prosecutors had to define two of the most controversial categories for Rwandese population (and not only them), Ethnic and Racial groups.

To situate many defendants in a position of *genocidaires*<sup>4</sup>, the definition and differentiation of the internal social groups that inhabited Rwanda was a key factor. Among many strategies used by the prosecution on different trials, there was one that prevailed. It was the historical narrative based on

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<sup>4</sup> According to Cruvellier (2006, p. 4, 5) the word *genocidaires* was a word created by Rwandese people to refer to the perpetrators, it came from the French word *Genocideurs*.

the colonialist factor, the arrival of German and Belgium and the development of a classification system as the base for the ethnic differentiation and the posterior genocide, basically, it is the understanding of the landmarks left by the colonies that allowed the comprehension of the anthropological interaction in the genocide of 1994 (Wilson, 2011, p. 173).

The first case and the most relevant for this paper is the case of the prosecutor v. Jean-Paul Akayesu, its relevancy is not only due to the symbolism it brought to the international community but also due to be considered the first case in the international history to prosecute rape as an act of genocide. Although rape as a category has been present since the instauration of the international war law in 1919 and is also present in the Convention on the Prevention and Punishment of the Crime of Genocide in 1948, the international community never witnessed the prosecution of rape as war crime until Rwanda and the Akayesu case.

Differently from other international tribunals, in the Rwandan cases the lack of (material) evidence was the norm and was, along with the defendant reputation, the main tools used by the defendant in the Akayesu trial. Jean-Paul Akayesu was in 1993 elected as a mayor of the Rwandan city of Taba, during the first days of the genocide he was able to prevent the entry of the Interahamwe in the community, which in fact made him a moderate Hutu, but a meeting of national authorities held on the 18<sup>th</sup> of April will change the course of history for Akayesu and Taba as a whole, on that meeting it was agreed that all communities and regions around Rwanda would join efforts to destroy the enemy (Cruvellier, 2006, p. 20).

An important remark needs to be done when understanding the Akayesu case, in the initial accusation made by the prosecutors, sexual crimes were not included, due to the “difficulty” of proving that type of crimes. But the inclusion of sexual crimes belongs entirely to the victims, it was during the testification of two rape victims, that an amending was made for the inclusion of sexual crimes into the accusation (Troullie, 2013, p. 751). The technical/law element that allowed the inclusion of sexual violence was the possibility of committing those acts with the purpose of destroying or intending to destroy that population.

The sexual and rape crimes occurred in the bureau communal office, which was at the time under Akayesu mandate. Victims were looking for refugee but found violence and in many occasions death. The prosecutors were able to prove that Akayesu knew about the sexual crimes and did not impede to happen whilst in many cases he was the facilitator of those crimes.

On the 02<sup>nd</sup> of September 1998, Akayesu was found guilty of genocide crimes, becoming the first person in history to be charged of such, the charges were incitement to genocide and crimes against

humanity, where rape has a special place, as it was included due to the position held by Akayesu and the responsibility to his subordinates (Cruvellier, 2006, p. 28). According to Troullie (2013, p. 753) the Akayesu trial also allowed the first definition of rape in the international jurisprudence, a physical invasion of a sexual nature where the conditions are coercive to the victims.

Even though this trial was considered a victory for women, the overall of ICTR performance was not, according to Troullie (2013, p. 750) the rate of sexual crimes being prosecuted in the ICTR is still low especially if compared with other crimes such as murder or torture.

On the 31<sup>st</sup> of December 2015 the Tribunal ceased its activities, having as a result 61 individuals sentenced and one of the most important achievements for women at an international level, the prosecution of rape as a mean for committing genocide.

Even though the Tribunal has its importance due to the achievements, for women especially, and the message provided to the international community, the triumphs does not provide a sense of justice for the scale of events Rwanda went through in less than 100 days. The 61 sentences imparted by the Tribunal did not reflect the number of people who participated and instigated the genocide; the Tribunal did not consider Rwandan beliefs and cosmology when established. The rules to be followed were the ones imparted by the international community, meaning occident; the Tribunal failed at an international level but most importantly, failed with the Rwandan victims looking for justice, a justice that was promised but hardly delivered.

### **Rwandan Judicial system**

According to Jones (2010, p. 81) the national courts in Rwanda were, before the genocide, an entity full of suspicious criminal acts such as corruption, a system that lacked trained personnel, and could not be considered an effective judicial system. The genocide further increased the inefficacy of this body as the already few people who were trained and studied in law were either charged with crimes of genocide or in exile. The state had lost any possible structure it had before 1994.

The process of justice and reconciliation began with the massive arrest of genocide suspects, generating an overcrowded and collapsed prison system. According to Amnesty International (2002, p. 6), with these actions, the government aimed to eradicate the culture of impunity present in the time. The NGO was one of the many international organisms to publicly condemn the judicial procedures adopted by the new Rwandan government, due to the lack of guarantees given to the suspects.

The international community along with some of Rwandan institutions began after 1994 a process of reconstruction of the judicial system, United Nations played an important role giving training and funds for that purpose. Approximately 400 people, between prosecutors, inspectors, and judges received training to begin with the prosecution of cases around the country, but the numbers were not enough to give response to the already overwhelmed prison system. Although the international aid helped to improve the situation, the national courts were not able to begin the prosecution of genocide perpetrators until 1996. By 1998, the prison population hit its peak getting up to 180,000 people. The accused were arrested awaiting prosecution, which in many international narratives represents a violation of Human Rights.

An important element to be considered is the role of the genocide crimes in the Rwandan national law. Genocide crimes did not have special legislation in the national law, which also increased the instability in dealing with crimes that were never legislated (Jones, 2010, p. 85). Therefore, the Organic Law launched in 1996 gave response to those crimes, along with the categorization commented in the beginning of the chapter. The cases prosecuted by the judicial system were enclosed in the category one, the most severe cases (Brouwer and Ruvebana, 2013, p. 940).

Even though the post-genocide judicial system received aid from the international community along with the efforts made by the Rwandan government, sexual crimes were one of the less prosecuted crimes after genocide. Human Rights Watch (2004, p. 47) suggested that the lack of training to prosecutor and judges in the specificity of sexual crimes helped to increase the number of non-crimes reported or prosecuted in the traditional system.

The numbers showed by the judicial system were clearly not enough to give response to more than 180,000 prisoners. According to Clark (2010, p. 56) up to the year 2000 only 2500 cases were prosecuted and as commented by Reuchamps (2008, p. 7) up to the year 2008 the judicial system only prosecuted and sentenced less than 10% of crimes related to the genocide. This numbers only showed the massive volume of challenges faced by the Rwandan state to rebuild its state capacities after the genocide.

### **Gacaca Courts**

The instauration and adoption of the so called Gacaca courts<sup>5</sup> happened because of the incapacity of the Rwandan judicial system to deal with the number of cases because of the genocide. It is important

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<sup>5</sup> Gacaca in Kinyarwanda means grass, the activity refers to the return of ancient methods of solving problems, in open spaces surrounded by the community (Clark, 2010, p. 3).

to remember that the Rwandan Judicial System was almost destroyed during the genocide, there was not enough qualified people for the number of cases to be judged.

By the end of 1998 the Rwandan Judicial system had at least 180,000 people imprisoned waiting to be prosecuted and to receive charges as a consequence of the genocide. Facing a collapsed judicial system, the authorities decided to bring population to one of the ancient modes of justice, the Gacaca courts, created by the Organic Law launched in 1996 and the Gacaca Law 2000 and revisited in 2004 and 2008.

The crimes that Gacaca would prosecute are framed in the category two three and four, or two and three after the reformulation of the Gacaca Law in 2008.

According to Clark (2010, p. 48) the Gacaca courts can be considered as a hybrid institution, meaning a modern-traditional body that is able to bring general solutions demanded by the internal situation of Rwanda post-genocide reality. The instauration of Gacaca, was possibly one of the most controversial debates the country faced with the international community. Western countries, in the figure of UN, were firmly opposed to the establishment of Gacaca courts to address genocide crimes, according to their view, not only the methods imposed by the main foundations of the Gacaca but also the rights of the accused might be violated during the process.

The Gacaca began with the premise of retaining some of the pressure the traditional judicial system was facing in the aftermath of the genocide, after its approval, authorities began with the education among communities about the purpose and goals of the Gacaca, by training future judges and embracing communities into the Gacaca process (Clark, 2010, p. 64).

Before the complete implementation of the Gacaca project, Rwandan population went through a face of trial to adapt to the new organism, the so called pre-gacaca were installed with the aim of analyze and comprehend the impact of its application. The election and training of the judges also took place before the start of the main Gacaca courts, it is important to emphasize that the election of judges was a process developed via democratic vote, such as national elections (Sullo, 2018, p. 194).

In 2002 the Gacaca courts were officially working among many Rwandan communities, even though the pilot phase took 2 years and much training for the judges, Gacaca evolved into a considerable success example, according to the circumstances, of a national inner creation to deal with crimes against the community.

The Gacaca court functioned on the two lower levels of organization inside society, sector, and cell, once the judges were elected by the cell/sector population, their role would be determined, such as

president of the court or secretary (Jones, 2010, p. 60). The main elements that integrated the Gacaca process were the gathering of information as the first step, at this stage all raw data was important and must be collected in a orderable and coherent manner; the second step would be marked by the categorization of the information gathered which would ultimately define the category of the crime committed according to the Organic Law. At this stage the accuser can confess or plead guilty the latter was added by the renewed Gacaca process. The trial works in remarkable steps that are usually present in every Gacaca process, the named president begins the process, and the accused has the opportunity to defend himself, witnesses are heard, and members of the assembly are allowed to ask questions (Jones, 2010, p. 66).

Arriving to the end, the verdict, which would vary according to the category of the crime committed, each category has a sentence depending on a few factors, such as if the accuser cooperated, given further information, confessed the crime, among others (Sullo, 2018, p. 190; Jones, 2010, p. 66). As commented before, the main base of the Gacaca is the participation of the community for the community, meaning it developed a mechanism that is able to deal with the most common fears and consequences of crimes committed inside of it.

Until 2008 the Gacaca court did not prosecute crimes of sexual nature, as commented before, those crimes framed into the category number one and were dealt by the Rwandan Judicial system. Sexual crimes testimonies and evidence were heard and collected by the courts, but the prosecution was done by the conventional justice system. In 2008 one of the modifications of the Gacaca law permitted it to judge and investigate crimes of sexual nature, allowing it in 2 years to prosecute more than 7000 cases (Raferty, 2018, p. 99). The functioning of the trials involving sexual crimes were dealt differently than the “conventional” ones, the sexual crimes were held “in camera” meaning that only a specialized panel of judges, the victim, the accused, and trauma counselors were present.

The Gacaca courts and its process were harshly criticized by analysts, academics, and NGOs, especially coming from the Human Rights and Law areas. The main criticism came from the lack of guarantee in relation to the compliance of the system (Gacaca) with International Human Rights standards (Sullo, 2018, p. 188). According to the NGOs and academics, genocide crimes cannot be discussed and judged by the community who suffered such crime due to the possibility of revenge



from the victims. The inclusion of sexual crimes by the Gacaca was also broadly criticized by Human Rights defenders as according to the Gacaca law, all Rwandan citizens must attend the courts when required, this requisite also implied a revictimization of many women who must attend instances where their rapist was at the stand, the lack of sensibilization toward women and its condition after the genocide is possibly one of the main criticism against the Gacaca process (Totten, 2019, p. 117). By June 2012 Gacaca had officially ceased its activities, leaving at least a million people prosecuted for crimes of genocide but nearly two million cases in total, from the crimes prosecuted by the Gacaca at least 67% referred to the last category (Clark, 2010, p. 74; Brouwer and Ruvebana, 2013, p. 940; Sullo, 2018, p. 204).

Due to the nature and the focus of the Gacaca courts, sexual crimes did not frame into any of the categories prosecuted by this system, which also demonstrates a non-gender-based approach, leaving victims concerns about the efficacy that this instrument might have for their cases due to the possible re-victimization during the victim confession (Sullo, 2018, p. 212).

#### **The Prosecution of women sexual violence**

As commented before the measures taken by the Rwandan government and the international community were harshly discussed and considered in instances such as ICTR or by the Rwandan judicial system. At least 250,000 women suffered sexual violence during the genocide, but how to deal with the proportion of those crimes? How to repair, reconcile and look for justice after a genocide that left almost a million deaths and residuals that would live with women bodies and mind forever? Those are some of the questions the lecture proposed to answer, if there is any possible answer to them.

In the next chapter the discussion of women and its role during and after the genocide will be analyzed as it will also be the measures taken to give responses to their most important challenges after the genocide.

## Chapter 5 – Discussion

### Women challenges during the genocide

Up until now, it has been discussed the biggest challenges faced by the general population to overcome and survive the genocide. But did women challenges differ from the rest of the population? The answer might have many justifications, but it is always yes, the challenges faced by women differed, just like the ones faced by any other minority group. During the colonization, African women were hypersexualized, which in the Rwandan case was rapidly transformed into a specificity of the Tutsi women (Brown, 2018, p. 22).

The patriarchal element that can be seen in the formation and development of the Rwandan state must not be considered as a collateral effect in the colonization process, as defined by Bruey (2021, p. 24) patriarchy is a hierarchical system that legitimates gender differences especially characterized by the institutionalization of those differences where women occupy a subordinate place in relation to men. This can be observed on the place women had (or still have nowadays) in the state structure, meaning institutions where decision making is relevant to the development of the country. In this comprehension the specificity of African women is also an element to be considered, it is the specific cultural context in which patriarchy is developed that problematics will emerge, leaving aside the universal notion of patriarchy as one homogeneous interaction around the globe.

The gender component present in the Rwandan genocide is the result of many interactions present in Africa, where the colony effect, the traditional cosmology, the effect of independence movement around the continent, and the inherent gender interaction in Rwandan territory allowed the formation of a state where women were considered and treated as second class citizens.

During the genocide the crimes to which women were victims represent, in great part, sexual crimes, providing with a symbolic message to the role of women in this society, which implies its strong connection with their husband/father/brother to allow them to have land, money and provide for their families. So, when sexual crimes occurred during the genocide, along with the rejection from their husbands, they would also experiment extreme poverty, due to the lack of access to basic goods and isolation from society (Hirschauer, 2014, p. 141). The variety of sexual crimes committed against women, such as rape, sexual slavery, sexual mutilation and forced marriage, as commented before and suggested by Human Rights Watch (1996, n/a), not only affected women's bodies, the damage *genocidaires* wished to make was also directed to the group where these women were part of, being their communities and families, but also to all the remaining identity groups they were identified as, such as racial, ethnical, political or social.

In this line of thought, the role of the state towards women is also important, as it was this state which was supposed to look after the “vulnerable” and “minorities”, the state as an actor has one of the most relevant symbols in this process, it was supposed to protect women and look after them when nobody else was doing it. In a genocide or war situation the role of the state becomes on many occasions the one which perpetrates the crimes instead of stopping them.

As an important remark, it is essential to understand that women as an agent of action were not only victims, but they were also perpetrators during the genocide, and that role although do not have a major relevancy in this paper, is pertinent to understand how the literature creates and develop the narrative on the role of women during the war and specifically during the Rwandan genocide.

According to Brown (2018, p. 20) the international community continue to perpetuate a masculine interpretation of the war, where women have only the role of victims. In this interpretation the ethnic or racial identity overlaps the women identity, meaning that women perpetrators see themselves as Hutus first, which in practice meant that there were not a “sisterhood” in place with other women such as Tutsis. The masculinity view of the role of women in war is not new, although for this paper that analysis does not represent an important input, it is considered important to advise the reader.

### **Consequences for women after the genocide**

To understand the consequences such actions had on women’s bodies and minds, it is relevant to accept that the Rwandan political, economic, and social structures, were constructed by an imperialistic and patriarchal system. This is not new for this paper, but it is necessary to reinforce it, it is this system the one that will determine the three main measures, ICTR, judicial system and Gacaca courts, which are still based on oppression against women. The oppression can also be seen on other modern societies, and how they treat and contemplate women issues.

Historically, rape was seen as a private crime, meaning that it only relates to the personal sphere, war crimes and events such as the ones occurred in Rwanda allowed the literature and the international community to reformulate those stereotypes in the understanding of how the personal spheres interacts with the public ones, and what are the effects it had on women’s lives.

Sharlach (1999, p. 393) understands the issues that affected women after the genocide resides on the disclosure of the rape or not, the (lack of) medical conditions, and the psychological and social problems the crimes generated on them. Estimates by Human Rights Watch (1996, n/a) counts that around 5000 children born after the genocide were consequence of rape and around 70% of the raped women contracted HIV/AIDS. The future after the genocide for many women victims of rape

or sexual violence was the prostitution as they were either widows or abandoned by their partners because of the shame of what happened to them and as otherwise they would not have the means to provide for themselves or their relatives.

Although the future for Rwandese women did not display any “hope”, as suggested by Berry (2018, p. 2), war, along with all the negatives and counterproductive effects it has on women, can also be seen as an opportunity for them as an occasion to reconfigure and restructure their role in society. After the genocide, women had to occupy the role of household, and were now the ones which provided for themselves and their family, which can be seen as a reconfiguration in the patriarchal and gendered structure of the Rwandan state. The statistics showed an important improvement of women’s role in politics and places of power, especially after the new constitution in 2003 and the elections showing that 49% of women were elected in the legislative arena (Totten, 2019, p. 121).

After the genocide, the positive wave about the role of women among Rwandan society must not be assumed with a homogenous role around the country. Although Rwanda is characterized as a rural country, reality for women on the countryside was not akin to the ones in the cities, beginning with the lack of access to medical, psychological, social, and economical resources to face the post genocide era. The access to rights such as freedom to speak in public or to take leadership roles, cannot be seen on women on the countryside, inequalities that are still present not only in Rwandan society but in many rural societies around the world.

According to Bemporad and Warren (2018, p. 228) the Rwandan authorities in the country understood women’s role through two different perspectives. The first one that prevailed up until the RPF took control of the state which considered women as second category individuals, relegated to the role of housewives and constantly marginalized by the patriarchal society and the second perspective suggests that women under the RPF government achieved the right to have opportunities in the social, political, and economic spheres of the new Rwandan state. Although some progress has been made in relation to the achievements made by women after the genocide, as was already commented before and suggested by Berry (2018, p. 2), gender equality in Rwandan society is still far from ideal.

How to achieve gender equality if the crimes committed against women are still not prosecuted?  
How to achieve equality if the instruments that supposed to help women still blame them and re-victimize them?

According to Hirschauer (2014, p. 151) after the genocide and under RPF rule, the authorities refused to speak, investigate, and prosecute rape crimes, instigating a campaign of silence of those crimes

among victims. As it is widely known, the RPF committed war crimes from the start of the conflict in 1990, but these crimes were not prosecuted either nationally or internationally. The control of the Rwandan state was on RPF's hands since 1994, which also implies a lack of guarantees for a democratic and free state, at least from a Western perspective.

Among the RPF authorities there was a clear vision of crimes to be prosecuted, crimes against humanity, and crimes of a sexual nature were not in the loop. This perspective is in many cases internationally adopted. As Human Rights Watch (1996, n/a) suggests, rape is according to the international humanitarian law, a question of honor which in the gender-based violence might have an important and relevant impact. Affecting the honor, instead of categorizing as a crime against physical integrity, reduces the seriousness of such crime making it less important in comparison with crimes such as torture or murder.

National and international prosecution of sexual crimes, not only need the "intention" from authorities to prosecute them, but also a reformulation of the narratives around the typification, because while they are not given the condemnation they should and taken as seriously, impunity against women's bodies and minds will still be present in conflicts.

#### **Measures taken for woman after the genocide**

The aftermath of the genocide was probably one of the most difficult times for women survivors, they witnessed the lack of capacity, not only from the Rwandan state, but also the international community, to address their condition and most importantly to help them in that process. Many suggest that measures were not enough, and others also suggest the impunity towards some cases. According to Jessee (2017, p. 174) many *genocidaires* prosecuted by the traditional system and the Gacaca courts alleged that the most prominent leaders and authorities at the time who instigated and perpetuated the killing of Tutsis and moderate Hutus were not being punished, as many of them had fled the country to either neighboring countries, Europe and the United States. This type of allegation also shows in many NGOs and International Organizations reports in relation to the prosecution of the crimes committed by the RPF since 1990.

#### **ICTR**

The inclusion of sexual crimes was not the norm on the 61 sentences imparted by the Tribunal. The ICTR did not produce significant changes for women's life in Rwanda or the international community

along with the symbolism of Akayesu case, even though some elements incorporated by it needs to be emphasized, as it might transform future international courts or jurisprudence in this field.

As commented by Oosterveld (2019, p. 200) the ICTR brought to the international attention, a rape definition, element that is important not only for women but for men as well, due to that many old definitions of rape being exclusively directed to women, or that it did not consider the utilization of objects as a form of rape. The definition given by the ICTR incorporates a non-gender description of rape as an action that can be perpetuated with or without an object. Defined as “a physical invasion of a sexual nature, committed on a person under coercive circumstances”, it configured as a frame for future understanding but also generating international jurisprudence in the sexual crimes field, allowing the incorporation of other sexual crimes and acknowledging the instauration of the discussion about gender-based violence as an important element in war, genocide, and crimes against humanity (Oosterveld, 2019, p. 203-220).

The symbolism commented before must be pointed out as one of the major achievements of the ICTR, even though the prosecution of gender-based violence in the international community and specifically in conflicts of this magnitude is far from ideal. On their work, Nowrojee (2003, p. 6) brings victims perceptions of the ICTR and the sense of justice. For these victims there are two important elements that need to be analyzed, jurisprudence and justice, meaning public accountability of the crimes and for the ICTR to ensure a legal process, especially for the victims, where they will be taken care of along with being informed of the most important stages on the investigation process. It is usually the lack of these elements which would greatly affect sexual violence survivors.

All the literature consulted, expresses a deep concern with victims' recovery after a sexual violence attack, added to this is the challenge of recovering from an event such as a genocide. Many authors suggests that there is no possible justice for the act committed during the 100 days in Rwanda, others imply that some instruments did “the best they could” according to the circumstances.

Finally, it is important not to ignore the main purpose of an instrument such as ICTR, differently of what might happen in the national arena, the international community had the opportunity to act, condemning and most importantly providing justice for one of the most horrendous events in recent history. Evidence showed that the lack of feminist perspective on the construction and development of this Tribunal prevented justice to be made for victims of sexual violence, the ICTR not only failed Rwandans but it also failed with women population around the world.

### **Rwandan judicial system**

It is not new that the destroyed Rwandan judicial system was not capable to deal with the number of prisoners and trials needed to deliver justice on the post genocide state. In the first years after the genocide many *genocidaires* were prosecuted and publicly executed.

According to Human Rights Watch (2004, p. 17) the Rwandan judicial system and the “benefits” given to the *genocidaires* that confessed crimes have had an unimaginable impact on victims of sexual crimes. Many of the *genocidaires* were released from prison, had their sentences reduced and returned to the same community where the victims live, representing for the latter a threat against their freedom, which triggered a re-traumatization, where many were afraid to report the crimes. The NGO made clear that none of the answers given by the victims had a positive impact on them and on the healing process, getting to a point where victims do not have faith and trust on the institutions for seeking justice.

Along with the victim’s perceptions and feelings about the Rwandan judicial system, the statistics showed a failure on the prosecution of sexual crimes as a consequence of the genocide. The courts, according to Human Rights Watch (2004, p. 30-33) along with the lack of prosecution of sexual crimes have also dismissed an important number of allegations due to the scarcity of evidence.

The urgency on its instauration and the lack of capacitated personnel along with the total dismissal of a gender perspective, generated poor sentences (when there was any) and most importantly, victims totally discontented with it, and as occurred with the ICTR, a loss of faith and trust on the possibility of any justice.

### **Gacaca Courts**

During the Gacaca courts, the population were made, as per the law, to be present as the community’s participation is one of the main elements of this instrument. After 2008, when the reformulation of the Gacaca incorporated sexual crimes, such a participation of the community was not required, due to the type of crime, but women had to participate on their own cases which implied testifying and hearing their offenders in camera, this procedure along with the aftermath, meaning the possibility to coexist with their offender in the same community, depending on the Gacaca decision, would exponentially increase women’s risk in society, especially due to the lack of institutional support to overturn that type of situation.

Although the traditional judicial system and the Gacaca court have specific instances for prosecuted sexual crimes, Human Rights Watch (2004, p. 23) suggests that at the time of the report (and before)

there was in place a series of obstacles that stopped women from reporting those crimes to the authorities. The most common one is the lack of evidence to prove the crime was in fact committed, victims were afraid to accuse a person and not being able to follow up on the case, this element is highly connected with the incapacity of many victims to recognize their attackers, as they never saw their faces or that they simply do not know their attacker.

The Gacaca courts, although an instrument that remote to the ancestral past of Rwanda, need to be critically analyze when dealing with sexual crimes, the lack of guarantees and support given to the victims increased the chances for the accuser to not be punished, to revictimize the women and started a process of discredit of women's testimony.

Gacaca helped to relief the pressure of the judicial system especially when it incorporated sexual crimes, but victims' testimonies of their experiences during Gacaca are not always positive, many of them suggests that the community stigmatization against them after the procedure did not allow them to pursue a "normal life" and many other suggested that the punishment given to perpetrator was unfair as sentences were reduced if they confessed, but apologies to the victims were not "necessary".

As already commented, women perpetrators did exist during the genocide, and Gacaca court along with the prosecution of men, allowed the prosecution of a couple of thousands women that were actively part of the genocide. According to Brown (2018, p. 126) up to the year 2004 the majority of people incarcerated were male, only 3.4% correspond to women, the incorporation of the Gacaca courts would increase that number achieving almost 97,000 women suspected of genocide in the Gacaca and ordinary courts. In the author's view, the constant relegation of women as perpetrators during conflict time is one the answers given by patriarchal societies in order to avoid further violence.

### **Restoratives measures for women**

Arriving at the final stage on this paper the lecturer understands that the comprehension of the measures taken by Rwanda and the international community were not enough, due to the lack of gender perspective in their creation and implementation, to the consideration of Rwandan ancestral traditions and to the understanding and critical analysis of the specificity of the system of oppressions present on the Rwandan case at the moment of the genocide (and before).



As a result, a few inquiries came up. Are there, in the international system, measures directed to women based on gender? Is there any specificity on the genocide nature of these crimes? Must they be dealt with differently than ordinary gender-based crimes?

Although the answer to those questions represents the research and writing of another thesis, the intention is to give an overview of other measures based on gender that the restorative area has been used to help victims of sexual violence aiming to understand the importance of gender, tradition, and culture on this process.

The European Forum for Restorative Justice suggests that some of the main instruments to address crimes of sexual nature in this area are the victims-offender mediation or the conferencing. Both instruments have the specificity to allow and encourage the victims and offenders participation in a safe structure where accountability, justice, and reconciliation is possible.

As commented by Pali and Sten Madsen (2011, p. 51) there are many arguments against such instruments, and in a genocide case many more can be added, such as the importance of this crimes if compared with the “type” of instrument being used, meaning the instrument is not strong enough to deliver the justice needed in the case. Although the arguments seem strong enough, victims and offenders must have an important participation on the decision about its “effectiveness”. Researches pointed out that the utilization of these instruments is due to the lack of effectiveness of the conventional mechanisms, where the stereotype and lack of gender perspective prevail.

Are victim-offender mediation and conferencing instruments suitable for a genocidal situation? The answer to this question would rather be seen on the practice, but at first sight it is important to at least contemplate. Although genocide is characterized by the massiveness of the event, it is considered that the implementation would have helped victims rather than inflict more harm.

Human Rights Watch (2004, p. 22) on one of their many documents enumerate a list of recommendations for the Rwandan state to address sexual violence. On the document, a few elements are highlighted as obstacles to report those crimes. Some of them can be found not only on the specificity of Rwandan case, quite the opposite, there are obstacles present on contemporary societies that lack gender perspective in the judicial, political, and social system. The apprehension of victims in relation to the possible “lack” of evidence, the stigmatization of the community/society towards victims, the poor protection systems available to them in the aftermath, are some of the concerns present not only in the Rwandan case but in almost every contemporary society. In the Rwandan case one of the main concerns was the public nature of the Gacaca courts, the clear

possibility of revictimization in the process and the lack of clarity on the judicial instruments of defining rape and sexual violence.

On the same report, some of the elements pointed out by the organization consists of enumerating the variety of international conventions that Rwanda participates and the “obligations” to the signatory states towards crimes of sexual nature such as financial reparation, but also relating to health care (Human Rights Watch, 2004, p 54-55). Other reports resulting on the study of victim’s survivors in the Rwandan case (Rafferty, 2018; Sharlach, 1999; Brouwer and Ruvebana, 2013) suggests that victims have different perspectives relating to justice, some of them wanted to be heard, especially by expressing to their offender all the harm they caused, and others wanted them to be punished.

One cultural element that can be observed in almost all the victim’s testimony is the expectation toward the instruments (ICTR, Rwandan Judicial System or Gacaca courts), they all wanted the mechanism to help them heal, granting them peace in the community. Although for some justice was in fact made, many victims sustain that that the instruments did not help in their daily lives on the aftermath of the genocide, the challenges faced were still “the same” as before the process. This element showed in fact a lack of perspective adopted by the three mechanisms to deal with sexual crimes victims in the Rwandan case.

This section aimed to bring some of the main concerns for victims of crimes of sexual nature in Rwanda, the discussion focused on the main challenges and the future perspective for them in society, especially by understanding the role of the ICTR, Rwandan judicial system and the Gacaca court in that process. The Rwandan events were unique in their nature, there are no other events that can be compared so the instruments used have also unique components that made them particular in their field.

There are still challenges, and specially criticism, to the instruments adopted to deal with the aftermath, critically analyzing and discussing in the academia and community might help to address wrongdoings and improve them for future measures.

## Conclusion

The analysis presented has the purpose to serve as an initial approach to one of the less analyzed topics in the conflict resolution area, the role and participation of women.

Were the measures taken to address the challenges of the genocide enough for this minority group?

As it was seen along the paper, measures taken to respond to women victims of the genocide were not enough, not only due the challenges of such an event but also due to the lack of gender perspective on the formulation and development of public policy directed to women. The specificity of sexual crimes that affected adult females during the genocide left, as seen before, marks on their bodies and minds that are still lurking nowadays.

The system of oppression installed in Rwanda allowed the violation and continued perpetuation of crimes against women not only during the genocide but before and after. Although women after the genocide gained spaces in the political and social arena positioning Rwanda at one of the places with more women in the legislative arena, these efforts are not enough while the state apparatus continue to violate and perpetuate a culture of oppression against them.

As it was observed, Rwanda was not the only who failed women, the international community had and still have an important responsibility on the decision making before, during and after the genocide and was also incapable to give specific answers to women challenges. The role of the international community left marks that can be seen today in 2022 with plans such as the “partnership” presented in April 2022 by the United Kingdom along with Rwanda in relation to African asylum seekers, which for many analysts represent the base role of the colonizers in the interaction with the colony, a rude and shameless violation of human rights made by the Western against African population.

The genocide occurred in Rwanda in 1994 was a consequence of the footprints left by the colonizers and the state structures built to maintain it, in this understanding the methodological approach through feminist and postcolonial theory allowed to comprehend the role of African women in this process.

Although this paper focused on the consequences of the genocide in women bodies and minds, it is important to highlight that the regime orchestrated since 1990 by the RPF also had consequences on women, first through the civil war and after they took the power of the state. Reports produced by international organizations and NGOs showed a massive violation of human rights in the years following the genocide by the authorities and a lack of guarantees to any individual who intended to report violations and crimes made by the RPF before, during and after the genocide.

The narrative proposed through this paper has the main base of recording the history through a feminist perspective where the role of women is a leading role, understanding and transforming that role when the narrative is being made represent not only a change on the mainstream but also an input that it is possible to put the focus on the roles that were historically relegated, called as minorities. These changes on perspectives must be done not only with women but with every population that was submitted to oppression and prevented from talking. Much work still needs to be done in order to achieve gender equality and eradicate sexual based violence against women around the world. The system of oppression such as capitalism, misogyny, patriarchy, racism, have led historically to the relegation of the role of women in societies. Research and critical analysis through feminist perspective, eradicating the stigma suffered by victims of sexual violence and encouraging their voice in the story to be told in this paper intend to be one of the first steps in the changing nature of the role of women in contemporary societies.

## Reflection

The research process was marked, in my understanding, by two elements. The first one, was my internal questioning about how women can support such atrocities. And the second one, was the role of the colonizers and the condemnation of their acts that continue to have such an important role in the development of the so called “third world” societies.

I could not find yet “rational” answers to the genocide, and probably that is my mistake. I am trying to find explanations to actions that (maybe) does not have any. When I am referring to rational answers, I mean a conscious justification to kill, torture and rape a person. But at the same time, all the history classes I was present on, comes to my mind and reinforce the belief that humanitarian sciences differs a lot from the exact ones. We need to stop looking for rationale on actions that has been happening in history since the creation and development of modern societies.

In this process of research and understanding women realities in Rwanda, a few elements were advised by my supervisor, this is not an “easy” “straightforward” or “banal” topic, which I knew, but during this process I got to understand not only one of the most horrendous and heinous crimes committed by humans but also the privileges I have as a white woman in the contemporary society. These privileges I have, were given to me since I was born, even though I come from a Latin-American family raised in middle class, they need to be acknowledged (at least by me) in this process.

We, as an agent of change (if we could call ourselves that) need to understand our role in modern societies. I refer to privileges, because if only a few women in the world can have it, then it is not a right, it is a privilege. At the time, this research generates a deeper and more enthusiastic interest on the feminism, not only because I am a woman, but because every day at every small action we do as a part of society, we are being affected by the system around us, how we dress, how we speak, how much make up we wear, we are on a trial 24/7, to prove that we are enough to this society and especially to men expectations.

I have observed when doing the research that many of the authors, especially men, did not have any “special note” to the role of women during the genocide, their role was passive, but when they refer to women, their role always have an implicit responsibility over men lives, it was women’s responsibility to stop their husbands, brothers and son of committing such atrocities. It is clear that none of the authors said that with the words I am using, but the narrative is implicit in many cases, especially when speaking about the colonies and ancestral times.

During the development of the research there was one element that I was extremely curious about, the colonial times. As an already graduated and postgraduate from a social sciences career, my

understanding of the role of the colonizers especially in Latin America has already been formed, but the colony in Africa was a different event. Europe went to Africa to “steal” people to use as slaves, it was Europe who divided Africa according to their will and intentions. During many years and decades black people were relegated from their own societies as a second-class citizen with the apartheid for example, so how can I possibly compare those two processes? In fact, there are many elements in common, we were colonized by the same people, the European, and as I commented on my paper, many elements were similar. But many elements differ and made me realize that the colonial times in Africa not only destroyed their societies but created societies that allowed events such as genocides for example.

The role of the European in the Rwanda process is key. I do not think this event can be compared with the Holocaust, I comprehend and understand the causes of the Holocaust, and how the killing machine allowed almost 6 million people to death. But the genocide in Rwanda killed 4 times more people if we consider the amount of time it lasted for. While during the holocaust the SS regime would have killed 270.000 people in 100 days, in Rwanda, almost a million people were found dead in the same 100 days. Although, numbers have a very important role, my consideration about the main differences of those huge events, are impartially affected by the role of the international community on them, as we may know the Holocaust happened during the Second World War, where the most powerful countries through an alliance were involved fighting the axis. In the Rwandan situation the international community did not care, they were warned, aware and had plenty of time to act, but decided not to, probably because Rwanda did not have gold or petrol on their soil, or simply because that it is the way the international community looked at the third world, with indifference and always by generating restorative measures for the after conflict.

In this regard, I consider that the international community, specifically speaking of Europe and United States should take responsibility not only for the lack of action during the Genocide and the previous years where the violence escalated drastically, but also take responsibility on their role in every international event they were/are part of. The colonization of more than half of the world and the creation of inequal societies full of social, political, and economic gaps that prevents them to develop and more contemporary events such as the invasion of Irak and Afghanistan, the Syria war, the Balkans war, among many others are events that count with the western participation in a starring role, but the aftermath is always the same, their total absence in the reconstruction of societies.

I consider that my research would have had a very interest insight if I was able to get victims testimonials, their words and thoughts would have changed my understanding of the events, I believe

that this is still possible for a future PHD, where I can recall their testimonies in the first person and try to understand their suffer and pain. Also, another element that I would like to incorporate in future research is my role as a more “neutral” academic agent, I believe I lack a lot of impartiality in my research analysis, I do not think that is bad itself, but I also would like to incorporate more accurate thoughts, that help me develop my critical analysis in a more academic path. The genocide showed me that this event does not belong to the Rwandese people, it belongs to humanity, and we need to take responsibility for it, some more than others, but we all are bit responsible for the event. The research process is still changing my thoughts, in all aspects, in the way I face the authors when reading them, but also, in the way I am interpreting them. Since I started with a feminist perspective of the genocide, my understanding of the historical event, not only in Rwanda but in the whole world has shifted, it is not “easy” to explain in words, but I become to realize that even the historical events starring women were blindless by the patriarchy society and interpretation of the world. My path is still being created and I hope to become a more intellectual person in the feminist theory and its application on the public arena, but most importantly, I hope to become an agent able to change the reality of at least one-woman reality in a more equal and fair society for us.

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