

## **The Culture of Impunity and Its Impact on The Execution of the 1994 Genocide Against the Tutsi In Rwanda**

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### **Abstract**

From the Social Revolution in 1959 until 1994, the Rwandan culture of impunity encouraged violence against the Tutsi population. This culture contributed to the environment that allowed for the execution of the 1994 Genocide against the Tutsi. Its eradication requires that all genocide perpetrators be tried to end mutual suspicion between Hutu and Tutsi. This paper draws on the testimonies of Genocide survivors, gathered through interviews, to demonstrate the historical development of the culture of impunity, which culminated in the 1994 Genocide against the Tutsi. The findings herein are of interest to both the public, which must be educated about the dangers of impunity, and legal scholars who study laws intended to prevent impunity.

**Keywords:** The Genocide Against the Tutsi, Ethnicity in Rwanda, Rule of Law, Impunity.

### **1. Introduction**

For a period spanning more than three decades following the Social Revolution in 1959, the governments of the first Republic (1962-1973), under President Gregory Kayibanda, and the second (1973-1994), under President Juvenal Habyarimana, institutionalized discrimination against the Tutsi population and subjected them to sporadic violence and massacres with no consequences for the perpetrators. During that period, Rwanda's judicial system was dominated by the president and was only nominally independent, creating the culture of state-sponsored impunity that encouraged crimes against the Tutsi. This crept into every part of society, producing a cycle of ethnically-motivated violence, undermining the democratic process, threatening the rights of individuals, and making silence in the face of injustice the best method for survival.

Facing widespread unpunished violence daily from 1959, Rwandans descended the slippery slope toward genocide. This paper examines how this culture contributed to the execution of the 1994 Genocide against the Tutsi. This paper poses three main questions: (1) Was there a culture of impunity in Rwanda? (2) What were the characteristics of this culture of impunity during the first and second Republics? (3) Was the culture of impunity a factor that contributed to the preparation and execution of the 1994 Genocide against the Tutsi in Rwanda? Through qualitative and documentary analysis, this paper argues that the historical development of the culture of impunity in Rwanda facilitated the execution of the 1994 Genocide against the Tutsi.

### **2. Research Methods**

This research was conducted in eleven districts representative of the Rwanda's former prefectures. They include Muhanga in Gitarama prefecture, Huye in Butare, Nyamagabe in Gikongoro, Rusizi in Cyangugu, Karongi in Kibuye, Rubavu in Gisenyi, Musanze in Ruhengeri, Gicumbi in Byumba, Ngoma in Kibungo, Bugesera in Kigali Ngali, and Kicukiro in Kigali City. The research participants, male and female, included former judges, prosecutors, lawyers, and other officials who held leadership positions at the sector level or above or worked in the judicial system before the 1994 Genocide against the Tutsi. A special attempt was made to recruit survivors whose rights were violated during the first or second Republics. In total, 120 research participants were interviewed.

Research participants were interviewed using an in-depth, semi-structured format with standardized questions, although flexibility in answering and elaborating was allowed. This method was selected because most participants preferred oral communication and because the study's aim was to fully explore respondents' thoughts, emotions, opinions, perceptions, and experiences. The researcher was free to ask for clarification, and to interpret the perceived veracity of interviewees' statements, based on their tone of voice and body language. To allow interviewees to express themselves as freely as possible, the interviews took place in each participant's home. Interviewees were asked to recall instances of violence against Tutsi occurring between 1959 and the beginning of the 1994 Genocide and to evaluate current efforts to eradicate the culture of impunity. Finally, participants were asked to explain the relationship between this culture of impunity and the 1994 Genocide against the Tutsi. Interviews were conducted in Kinyarwanda, the native language of the study's participants, for a period of two hours per individual, and audio recorded so they could be played back for thorough analysis.

Once the interviews were completed, the collected data was transcribed and translated into English, which is the chosen language for publication. After data transcription was complete and a coding scheme was developed, we coded the interviews in NVivo, a qualitative coding program that allowed us to explore key trends in the data. Therefore, interviews were carefully read for deep analysis. Themes found in multiple interviews were examined to generate a holistic analysis of the data. The goal of this process was to create a holistic view of how the culture of impunity influenced the execution of the 1994 Genocide against the Tutsi. In an approach targeted towards answering initial research questions in a careful, efficient, and systematic fashion, transcribed interviews and field notes were analyzed together to ascertain coherent and consistent patterns. This analysis ultimately yielded the conclusions outlined later in this paper, and the quotations presented below were chosen because they were representative of the themes that were uncovered.

### **3. Ethnicity in Rwanda**

Before colonization, Rwandans shared the same language, culture, territory, and king. Since ethnicity is defined by such factors, "there exists one unique ethnic group in Rwanda: the ethnic group of Banyarwanda" [1]. Hutu, Tutsi and Twa were not ethnic groups, but flexible socio-economic classifications. The Tutsi were herders, the Hutu were farmers, and the Twa were hunter gatherers and artisans [2]. Ethnic distinctions between these three groups were introduced in the early twentieth century by colonial authorities, who perceived the Tutsi as natural leaders, superior to the Hutu. Consequently, Hutu chiefs were demoted, and their positions were filled by Tutsi. Westerners also differentiated Hutu, Tutsi, and Twa phenotypically, placing the Twa at the bottom of the hierarchy: ...the Mutwa presents several well-defined somatic characteristics: he is small, chunky, muscular and very hairy with a monkey like flat face and a huge nose; he is quite like the apes that he chases in the forest (Rapport annuel du Territoire de Nyanza (1925) quoted in Jean Rumiya [3].

Placing the Hutu in the middle:

The Bahutu are generally short and thick-set with a big head, a jovial expression, a wide nose and enormous lips. They are extroverts who like to laugh and lead a simple life [4].

And placing the Tutsi at the top:

The Mututsi of good race has nothing of the Negro apart from his color. He is usually very tall, 1.80m at least, often 1.90m or more. He is very thin, his features are very fine: a high brow, thin nose, and fine lips framing beautiful shiny teeth. Gifted with a vivacious intelligence, the Tutsi displays a refinement of feelings which is rare among primitive people. He is a natural born leader capable of extreme self-control and of calculated goodwill [5].

In 1920, the Belgian Minister of Colonies systematized the practice of ethnic discrimination inaugurated by German colonists by officially instituting a policy requiring that all colonial administrative staff be Tutsi [6].

#### 4. **Discriminatory Practices in Rwanda**

In the pre-colonial period, the primary Rwandan identity reference was the “clan,” of which there were at least twenty [7]. Moreover, all Rwandans were considered sons of the same ancestral father, “Kanyarwanda” [8]. Thus, access to political power was not determined by ethnicity.

##### **Discriminatory Practices under German Rule**

In 1899, Rwanda became part of German East Africa and was ruled indirectly through the King of Rwanda as a protectorate. Based on the then popular Hamitic Myth,<sup>1</sup> the Germans divided Rwandans into three ethnic groups, denying that they all had common roots: a Hamitic Caucasian group (the Tutsi); a “Bantu,<sup>2</sup> Negro” group (the Hutu); and a “Pygmoid” group (the Twa). Since the Germans considered Hamitic peoples superior to the other two groups, they put the Tutsi in charge of the Hutu and Twa.

##### **Discriminatory Practices under Belgian Rule**

After Germany's defeat in the First World War, territory including present-day Rwanda was put under Belgian control. In 1933, Belgian colonial authorities introduced identification cards indicating the ethnicity of the bearer. From then onward, the ethnicity of future generations was determined patrilineally. The Belgians' discriminatory practices inadvertently sowed the seeds of ethnic conflict in Rwanda. To an even greater degree than the Germans, the Belgians made the distinction between Tutsi and Hutu the basis of their colonial system, hiring only Tutsi to fill administrative roles [10] and ousting Hutu leaders. By 1957, 95% of the country's civil service was Tutsi. Forty-three out of forty-five chiefs and all but ten of 559 sub-chiefs were Tutsi [11].

By the mid-1950s, when the king and the primarily Tutsi political party Union Nationale Rwandaise (UNR) demanded independence, Belgian authorities nurtured another party called “Parmehutu,” (Party of the Hutu Emancipation Movement) to oppose the UNR. Nine Parmehutu leaders wrote “Note on the social aspect of the indigenous racial problem in Rwanda,” holding the Tutsi responsible for the injustices and social inequalities of the time. This was a political document known as the Hutu Manifesto, published in 1957. Two years later, in 1959, Belgian authorities encouraged the Hutu to rise up against the Tutsi, leading to the massacre of tens of thousands of Tutsi and a mass exodus of survivors.

##### **Discriminatory Practices after the 1959 Social Revolution**

In 1960, Parmehutu overthrew the Tutsi monarchy and established the first Republic, installing Gregory Kayibanda, an author of the Hutu Manifesto, as president. Under the new government, being Hutu became the only necessary characteristic for political and economic advancement. “Cockroaches” became a common term for Tutsi and killing them became normalized. As stated by a research participant:

Violence and killings of the Tutsi population and abuse of their property showed the future to exterminate the Tutsi. Because they were not considered human beings, or Rwandans as no one among the perpetrators was punished. Instead, their actions were rewarded. Killings of Tutsi were normal and heroic acts; from which perpetrators got benefits from because, and after killing Tutsi, their houses were looted, and their properties were confiscated by the killers (Interview, Rusizi district, 2013).

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<sup>1</sup>“Hamitic” is a term historically used to describe the peoples thought to be descendants of Noah's son Ham (Gen. ix. 18-27). European writers linked Ham to the Circassians, a Caucasian sub-group, and identified Tutsi as descendants of Circassians who had migrated to Africa [9].

<sup>2</sup>“Bantu” is used as a general label for sub-Saharan Africans who speak Bantu languages.

Another participant expressed:

Leaders encouraged publically the Hutu to kill Tutsi, emphasizing that they would not give any property to a Hutu unless they presented tangible proof that they had already killed the owner, the Tutsi; they must bring and show their severed head. This obviously stimulated the Hutu to kill Tutsi to have full access to their land and property (Interview, Karongi district, 2013).

## 5. Violence against the Tutsi from 1959 to 1994

Research participants expressed that violence against the Tutsi was used as a tool of political repression:

From 1959, killings and violence against the Tutsi population were used as a tool of the regime to maintain its power. Those who expressed hatred against the Tutsi and participated in acts of violence against them were considered heroes and patriots; they were admired and were rewarded with leadership positions. Rich and intelligent Hutu who did not express hatred against the Tutsi, who were not active in violence and persecution against the Tutsi became outcasts and were insulted in public. Such living conditions facilitated the permanent violence and abuse against the Tutsi, without any consequences of punishment for the criminals (Interview, Karongi district, 2013).

The Tutsi were killed all over the country, their houses burned, and property destroyed. A large portion of them became stateless:

From 1959, Tutsi were killed and those who survived fled the country. Those who fled were denied the right to come back home. There was a serious effort to kill Tutsi, so it is unbelievable that some of them survived. Houses were burned; their property was confiscated, and so forth (Interview, Karongi district, 2013).

Similarly, most of the research participants stated that, in 1959, the Tutsi population was declining. As one interviewee notes:

Many Tutsi were killed. Even those who were perceived as intelligent revolutionaries expressed their desire to exterminate the Tutsi or expel them from the country (Interview, Bugesera district, 2013).

Another participant notes:

Tutsi were targeted, they were beaten and killed, their houses were burned, their cows were killed and eaten, and their property was confiscated. Those who survived fled the country empty-handed. The rest were transported to Bugesera district, in Nyamata (Interview, Rusizi district, 2013).

In 1960, to aid the Parmehutu's rise to power, Belgium postponed communal elections scheduled for January until June. According to Carney, this move was partly a response to a request from the Parmehutu, which claimed that the party needed more time for the Hutu population to become "sufficiently emancipated to defend their rights effectively" [12]. As one research participant puts it:

During the preparation of election for the Referendum, there was a slogan established by Parmehutu to intimidate the Tutsi. The slogan said: "Hora: Keep quiet, Honga: bribe and Hunga: flee". Hora meant keep silent about everything, do not express that you have been abused; hongga meant pay money to ensure your safety; hunga meant that once you feel unable to resist, you must go into exile (Interview, Karongi district, 2013).

Between 1959 and 1962, Tutsi in northern and western Rwanda were forcibly relocated to the Bugesera<sup>3</sup> region

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<sup>3</sup>In the 1940s, Bugesera was uninhabited and infested with disease-spreading insects.

in the east, losing their property to their Hutu neighbors. One participant spoke about relocation:

Tutsi who survived were deported in Bugesera. From all corners of the country, they were transported in cars called Ruvakwaya. The Belgium army called Kamena helped the Hutu to hunt the Tutsi. During that period, there were written tracts dispatched everywhere in the country, imploring the Hutu to rise up against the Tutsi. These tracts were dispatched through the country by Belgian aircraft (Interview, Kicukiro district, 2013).

Another explained how Tutsi property was redistributed:

After Tutsi survivors left their property, either when they went into exile or were transported elsewhere in Rwanda, their properties were given to their Hutu neighbors. Leaders at the time expressed that for the Tutsi who have refused to return, or those who will delay to return, their property must be given to others. I tried to file a complaint for my parents' property, and I was told that I don't have rights to such properties. Rather, I was advised to meet local authorities and requested to share the property with others (Interview, Gicumbi district, 2013).

In total, 300,000 people were estimated to have been relocated, of which 100,000 did not return to their homes [14]. On July 1, 1962, Belgium granted formal political independence to Rwanda. Instead of restoring unity among Rwandans, independence led to increased violence.

After the Independence, the leadership reinforced ethnic discrimination. Rwanda effectively became a "state of two nations," according to Kayibanda:

Rwanda is a state of two nations. Two nations between whom there is no intercourse. Their citizens don't share culture and values. Citizens seem to have a different origin as if they were dwellers of different zones, or inhabitants of different planets. The country and its all property are for Hutu; because they are the real Rwandans: He was outraged, humiliated and despised by the Tutsi invaders. We must enlighten the masses. We are here to return the country to the Hutu. The small Mututsi came with the great. The forest has been cleared by whom? By Gahutu. So! [13].

### **Massacres of Tutsi in 1962-1963**

One research participant described the increase of discrimination under President Gregory Kayibanda:

President Gregory Kayibanda took power following the violence of 1959, during which Hutu killed Tutsi, burned down their houses, and destroyed their property. The survivors fled to neighboring countries. Thereafter, President Gregory Kayibanda did nothing to unify Rwandans. He did not perceive Tutsi as Rwandans with the same rights as Hutu. Throughout his reign, President Gregory Kayibanda was interested in the emancipation of the Hutu. That was the reason why Tutsi became refugees during his regime and access to their homeland was denied. Kayibanda's political speeches were always discriminatory. He was interested in Hutu, and more importantly, those from Gitarama, where he was born (Interview, Huye district, 2013).

The first Republic became an authoritarian regime based on ethnicity, as expressed by a research participant:

During the meeting of the Parmehutu ruling party, political leaders sung discriminatory songs. Those who understood them and found favor with the regime consequently perceived the Tutsi as foreigners, not Rwandans. Here's an excerpt from a song: "Hutu wherever you are, Rwanda belongs to you." This excerpt indicates that in Rwanda, Hutu perceived themselves as the only true Rwandans, and perceived the Tutsi as though they did not have rights in Rwanda. And this caused sporadic violence against the Tutsi population. Unfortunately, the leaders did nothing to stop violence against the Tutsi or punish perpetrators (Interview, Karongi district, 2013).

## Massacres of Tutsi in 1963-1964

Between 1960 and 1967, Tutsi refugees tried to forcibly return to Rwanda several times, causing retaliatory killings of Tutsi civilians still living in Rwanda, creating new waves of refugees. Kayibanda encouraged these killings [15, 16]. In Gikongoro prefecture, for example, Governor André Nkeramugaba gave an order to eliminate the Tutsi declaring "We have to defend ourselves. And the only way to do it is to paralyze the Tutsi. How? Nkeramugaba quoted in Lemarchand wrote "They must be killed" [17]. As expressed by a research participant:

Nkeramugaba came to Bunyambiriri. I was there because it was during the holidays. The whole population of Bunyambiriri was called to a meeting. They came and gathered at Bamba, in Kaduha. In the meeting, Nkeramugaba said loudly: "Bunyambiriri citizens here present, why don't you understand? Why? Things have changed!" He requested Hutu and Tutsi assemble separately, and then he stood between them. He said that from that time, Tutsi are Tutsi and Hutu are Hutu. He added it was finished for the Tutsi; the Tutsi didn't have any rights in the country. He announced that Tutsi were the inferior population. He concluded, "From that time, return home bearing in mind that Hutu and Tutsi are totally different." Such words were the catalysts for the killings that took place in that region between 1963 and 1964 (Interview, Huye district, 2013).

Those who survived the killings in Gikongoro and did not flee the country were relocated and sent to Nyamata in Bugesera district. According to a research participant:

Violence in Bunyambiriri started on December 25, 1963. On December 26, there was a meeting held at Mamwari. All citizens were present in that meeting. After that meeting, Tutsi who had attended the meeting were immediately killed and thrown in the Rukara River. From December 26 to 28, killings were widespread. On Sunday, December 29, 1963 the Executive Secretary of the sector, Ndengeye Boniface, stopped the killings by loudly demanding, "Peace, pееееееее." Those who were able to survive fled to Burundi and others were transported to Bugesera (Interview, Huye district, 2013).

During the killings, some victims were killed immediately, while others were tortured for several days. Families who refused to leave their houses were barricaded inside and burned alive (Interview, Nyamagabe district, 2013).

Research participants revealed that at Mwogo and Rukarara rivers, victims (men, women, and children, and even babies) were herded to the river and thrown in after having been maimed so that they could not swim (Interview, Nyamagabe district, 2013).

From December 1963 to March 1964, groups of Hutu killed Tutsi men, women, and children [18]. Thousands of Tutsi were exterminated in a manner described as "genocide" by "Le Monde" and "Vatican Radio" [19]. Such killings occurred nationwide. A research participant shared what happened in Mururu parish, in Cyangugu:

In 1963, there was an attack by the Inyenzi. After the attack, Tutsi were arrested and thrown into jail. Then after, we were told that those who were arrested were transferred to Ruhengeri for trials. This was not true because they were killed in Nyungwe Forest. Many Tutsi were killed during that time. The governor of Cyangugu, Pascal Nkirabatware, like André Ngeramugaba of Gikongoro, contributed to the killings of a great number of Tutsi, targeting the educated, the teachers and the wealthy. What was unsettling being that after the killings, no one among the perpetrators was punished for the violence and killings done publicly. As the ruling regime was implicated in violence, it was the reason why no one was punished. For example, Karamira, the Burgomaster of Gafunzo former commune, freely supervised the killing of Tutsi who were burned alive in broad daylight. After the tragedy, he continued to serve as Burgomaster without any problems. (Interview, Rusizi district, 2013)

Similarly, another interviewee added:

Here in Cyangugu, there was a Parmehutu propagandist called Damien Bomgwanubusa. He was always armed.

For him, it was normal to kill any Tutsi without any consequence. He did several worse things to Tutsi. Despite all that, nothing was ever been done to punish him for his criminal acts (Interview, Rusizi district, 2013).

Between 1963 and 1964, 25,000 to 35,000 Tutsi were killed in total [20]. After these massacres, nothing was done to punish perpetrators and rehabilitate victims. For example, as a research participant revealed:

By the time he was asking the population to recount the killings of 1963, Nsabimana Célestin, former Burgomaster in Cyangugu Prefecture, promised the population that an investigation was underway. However, it became astonishing when he stopped those who were attempting to explain what happened. He told him: "remove your radio from there, meaning 'keep quiet' to silence those who observed what happened and wanted to share the truth. Afterwards, he told the population that when someone asked them what happened they must say that those who died were killed by the Inyenzi who attacked the country. And the burgomaster ordered the death of one who was sharing the truth about the killings. This executive decision was aimed at scaring the survivors into silence (Interview, Rusizi district, 2013).

Therefore, there were no consequences for leaders who supervised or perpetrators who participated in the killings. For example, instead of punishing Nkeramugaba for his role in the killings at Bumyambiriri and Bufundu in Gikongoro, he was transferred from Gikongoro to Kibungo and kept the same leadership rank (Interview, Ngoma district, 2013). Lower-level perpetrators looted victims' homes in what they called "enjoying the benefits of democracy" (Research Participant, Nyamagabe District, 2013).

### **Massacres of Tutsi in 1964-1967**

This period was characterized by political calm, but, according to research participants, killings continued:

In 1966, there was one last attack by the Inyenzi from Burundi through Nshili, in Gikongoro prefecture. This attack was the last during President Gregory Kayibanda's regime. Thus, Tutsi living inside the country were abused and killed, accused of being accomplices even though at the time they didn't know anything about the attack. We always suffered after any given attack. And those who participated in violence were always safe without any consequences. There were no human rights in Rwanda at that time. The existing laws were unhelpful (Interview, Nyamagabe district, 2013).

Another research participant shared:

We had serious problems after the attack of the Inyenzi in 1966. Even if we knew nothing about the attack, we were always accused of being accomplices. For me, I was fired from my job. I was a nurse. I woke up in the morning as usual to go to work. Arriving at work, I got a suspension letter. The letter stated that I was suspended because "patients did not trust me." I asked myself, "How?" Despite all, I returned home and lost my job. My colleagues were astonished with the decision. Many Tutsi were fired in different public and private institutions at that time following the attack. We became jobless. Afterwards, I was called by the police to the police station. I was jailed with others, accused of having information about the attack before that I didn't share with the leadership. There were many Tutsi who were killed (Interview, Huye district, 2013).

### **Massacres of Tutsi in 1972-1973**

By the end of 1972, Kayibanda realized that his position had become untenable due to intra-party conflict. To restore unity, he intensified efforts to persecute the Tutsi [21]. As expressed by a research participant:

At school, Tutsi children were always harassed. Hutu children felt it was their right to harass their classmates because they were Tutsi. Those who were not active were perceived as lazy. Tutsi children were therefore expelled from school in 1973. Hutu harassed Tutsi children, arguing that schools are for Hutu, not for Tutsi. They were

obliged to get out of school. Despite all, the ruling regime did nothing to protect victims. The ruling regime was involved secretly (Interview, Gasabo district, 2013).

Purges against the Tutsi population were organized in public and private institutions, sending another wave of exiles into neighbouring countries. Tutsis' homes were burned down and several hundred were killed [22, 23]. As stated by a research participant,

In 1972, I was a teacher. On a morning, I found a tract on the entrance of my classroom, on the door. It was written that I was not allowed to teach again. I returned home and spent more days at home. At the time, there were many teachers who had been arrested and jailed including Callixte; Berthelemy escaped and fled the country with many others. We were abused on the order of Burgomaster Victor Kayumba. They fired Tutsi, arguing that they didn't want Tutsi to continue teach their children. Even my brother Jean Marie was betrayed by the Burgomaster Victor Kayumba. He was a teacher at Ntendezi. However, because the chief of the group who was assigned to kill him was his friend, they did not reach Ntendezi and they returned to their path. Life at that time was not easy in the slightest! (Interview, Rusizi district, 2013).

The first Republic was confronted with further incursions from Tutsi refugees, while Parmehutu threatened to kill Tutsi who remained in Rwanda, leading to more Tutsi seeking refuge in neighbouring countries. As expressed by a research participant:

From 1959 and during the regime of President Gregory Kayibanda, exclusion of and violence against the Tutsi population was widespread. Public speech and official songs reinforced discriminatory practices. Instead of strengthening democracy, leaders stressed the supremacy of Hutu over Tutsi, arguing that the Tutsi had ruled them for a long time and that the country belonged to the Hutu (Interview, Gasabo district, 2013).

### **Massacres of Tutsi in 1973-1990**

On July 5, 1973, Kayibanda was deposed in a coup d'état that brought Juvenal Habyarimana to power. Habyarimana institutionalized the quota system called "ethnic balance," which banned Tutsi from serving in the military and severely limited the number who could hold administrative positions. As one interviewee stated:

After President Juvénal Habyarimana took power and took revenge against the collaborators of President Gregory Kayibanda, he strengthened ethnic and regional discrimination. He brought what was called the *équilibre ethnique* (ethnic balance). Upon the arrival of Aloys Nsekarije, the Minister of Education, he further reinforced this new system. Tutsi were denied the right to education, jobs. Tutsi did not have an easy time getting into the army, etc. This discrimination reached even the Hutu from the South, the origin of Kayibanda. They were not allowed to enter in the Rwandan Army, it was said that they did not have strength. That is why many in the army were from the North, the same area that President Habyarimana was from. In general, Hutu from the North were favored in all aspects of national life (Interview, Rusizi district, 2013).

Moreover, Habyarimana refused to allow Tutsi refugees to return to Rwanda, arguing that the country was overpopulated. According to one interviewee, this claim was false:

Except that President Juvénal Habyarimana did not care about the Tutsi, he could have easily found a place in the country to host his compatriots. Where are they after their return to the country? What is worrying is that they were Rwandans who had long lived in Rwanda and had their roots in the country! He did not want their return simply because they were Tutsi. Other reasons were unfounded (Interview, Ngoma district, 2013).

### **Massacres of Tutsi on the eve of Genocide (1990-1994)**

In 1990, a group of young refugees, organized into the Rwandan Patriotic Front (RPF), launched a liberation war.

Habyarimana referred to the invasion as “the return of feudalism” and claimed that the Tutsi wanted to exterminate the Hutu and reintroduce forced labor (ubuhake) [24]. All Tutsi living inside the country were denounced as secret supporters of the RPF and nearly 13,000 were imprisoned (Des Forges, 1999:49). Many of them were detained for months; some of them were tortured and killed. Politicians encouraged killings of Tutsi in the extremist Hutu newspaper Kangura, and on Radio Télévision des Milles Collines (RTLM). As one research participant expressed:

After the Rwandan Patriotic Front launched the liberation war in 1990, Tutsi were imprisoned, accused of being their accomplices and supporters. There was even a son of my elder brother who was imprisoned. In prison, they were seriously tortured; they drank sorghum porridge from boots. For that reason, he no longer eats sorghum porridge. A great number of Tutsi were killed, and some others were released without being tried or being informed of the reasons for their arrests. From 1990, the ruling regime started comparing the present situation to the revolution of 1959, inciting the Hutu to kill the Tutsi before the Tutsi killed them (Interview, Rusizi district, 2013).

### **Compromised rule of law from 1959 till 1994**

From 1959 until 1994, nothing was ever done to punish known perpetrators of the violence leading up to the 1994 Genocide against the Tutsi. As stated by a research participant:

In general, the ruling regime was not interested in the prevention and punishment of crimes and abuse against the Tutsi population. This is confirmed by the fact that punishing criminals was very rare. And even those who were prosecuted and convicted were not arrested or obliged to retribute what they had damaged. What was worrying was that most of the time, the even given punishment did not fit the gravity of the committed crimes (Interview, Karongi district, 2013).

As confirmed by another interviewee:

The Chief prosecutor and his deputy were usually Hutu. And by the time a Hutu committed criminal acts against the Tutsi population, the file was transferred to the prosecution office. When it arrived, the Chief prosecutor requested the file arguing that “he would take care of it [criminal file]. After getting the file, he kept it, with no further action. Once someone was jailed, he was immediately released. Therefore, the victims made the follow up of the case in vain. Most of the time, criminal files were closed without being transferred to the court (Interview, Nyamagabe district, 2013).

After incidents of violence, local officials disingenuously promised victims that investigations would be done, and perpetrators would be punished (Interview, Huye District, 2013). Investigations were not forthcoming, and the rule of law was continuously compromised. As expressed by a former prosecutor:

The law is abstract, the law is general, and the law is impersonal. When one says, “rule of law,” it necessitates that the law be applied to everyone without any distinction. Within the principle of the equality before the law, it is necessary that each citizen be treated in a manner identical to his or her comrade; that everyone be punished in the same manner (Interview, Rusizi district, 2013).

## **6. Characteristics of the Culture of Impunity during the first and second Republics in Rwanda**

### **a) Absence of Impartial and Independent Judicial Organs**

As revealed by Dupaquier, before the 1994 Genocide against the Tutsi, the existing government used the courts as a political tool [25]. As expressed by a former judge:

In general, the justice system was not independent. Judges followed rules and regulations from the executive—that is, from the local administration. The justice system worked in close collaboration with the local administration, because, most of the time we [judges] received guidance from the local administration of what to do regarding a criminal case. And when courts investigated cases against the will of local leaders, the prosecution appealed directly so that the case should be addressed in desirable way by the ruling regime. There was no independence for the judicial system at all (Interview, Musanze district, 2013).

The Prefectural Security Councils brought administrative and judicial authorities under the control of prefects, who were thus in a position to impose their will. As a former judge recalls, “There were many cases they [local leaders] told us to abandon, saying they would make follow up themselves. It seems as if they were judges or prosecutors” (Interview, Rubavu district, 2013). As expressed by a research participant, justice had been rendered impotent:

If there were a judicial system, it wasn't doing anything. It seems as if judicial organs did not exist. Several times, there were crimes committed against the Tutsi population with no further follow-up and prosecution of the perpetrators. Tutsi had no value in this country. The Tutsi population was not considered human. Violence and abuse against them were normal acts, without any consequences for the perpetrators. Instead of punishing perpetrators, they were glorified. Tutsi were perceived as enemies without rights in the country. That's why the existing judicial system was not interested by prosecuting crimes committed against the Tutsi (Interview, Musanze district, 2013).

#### **b) Amnesties for Perpetrators of Crimes against the Tutsi**

The leniency shown towards those who committed crimes against the Tutsi was codified in “Amnesty Laws,” which originally granted unconditional amnesty to the perpetrators of the 1959-62 massacres. The law states:

A general and unconditional Amnesty is granted to all offenses committed in the time of the Social Revolution during the period from October 1, 1959 to July 1, 1962 which, because of their nature, their mobile, circumstances or reasons inspired them, fall in the scope of participation in the national liberation struggle and are of a political nature even if they are common law offenses [26].

Furthermore, following the violence against the Tutsi in 1972, an additional amnesty law was created [27]. However, amnesty laws should only be used as complements to criminal investigations and prosecutions. For example, in post-apartheid, South Africa amnesty was effectively used to pursue truth, thereby serving the interests of victims. Victims expressed the desire to forgive without knowing who to pardon [28] and sought information on what happened to their missing relatives. The Truth and Reconciliation Commission granted amnesty to perpetrators of apartheid crimes only if they fully cooperated in the court's search for truth.

#### **c) Rewarding Criminal Acts**

As expressed by a research participant, Hutu perpetrators benefited economically from the violence they committed:

It was very clear to every Hutu that killing Tutsi was not a problem; to the contrary, there were benefits, economic benefits. The culture of not punishing those who perpetrated violence against the innocent Tutsi population gave the wrongdoers a reason to continue carrying out atrocities. This culture of not punishing criminals, of gaining wealth through criminal acts, encouraged even the young to participate in the 1994 Genocide against the Tutsi. As usual, they thought that there would be no further consequences. They were sure that after exterminating the Tutsi; they would loot all their properties. That's why, during the genocide, killers looted the homes of the victims, the Tutsi. They were thirsty for the property of Tutsi (Interview, Karongi district, 2013).

Another research participant shared:

The culture of violence without consequence encouraged participation of genocide perpetrators in the execution of the 1994 Genocide. As violence and killings against the Tutsi were not punishable crimes, genocide perpetrators participated actively to fulfil the will of the ruling regime. They engaged in mass killings, thinking that there would be no further consequences. The killers thought that after the killings the ruling regime would acknowledge the work done and they would be rewarded with leadership positions as usual (Interview, Karongi district, 2013).

## **7. Impact of the Culture of Impunity on the Preparation and Execution of the 1994 Genocide against the Tutsi**

Generally, genocide occurs in cultures that consider members of a particular group to be subhuman and thus not worthy of the consideration that others enjoy. The Tutsi were considered such a group in Rwanda for more than three decades following the 1959 Social Revolution. Therefore, killing Tutsi was a normalized practice with no consequences for the murderers. Hutu were never arrested or brought to justice for sporadic massacres of Tutsi that took place in the years before the 1994 Genocide. The culture of impunity, born from these unaddressed atrocities, is one of many factors that contributed to the 1994 Genocide against the Tutsi. Instead of holding perpetrators accountable for crimes committed against the Tutsi population, the government proactively shielded them from punishment. Under the administrations of President Gregory Kayibanda and Juvénal Habyarimana, a series of laws were passed providing amnesty to perpetrators of serious violations of human rights committed against the Tutsi population. This amnesty led to the institutionalisation of impunity and the permissive legal environment in which mass violence could be perpetrated without concern for accountability.

As stated by a research participant, in 1994 many perpetrators believed that this genocide would be no different from its predecessors, for which they had been granted amnesty:

The lack of punishment encouraged perpetrators and incentivized those who were not involved in the violence initially to participate in the Genocide. From 1959, no one who participated in violence against the Tutsi population was punished. Instead those who persecuted the Tutsi got benefits: material gain from looting Tutsi property and recognition as heroes and patriots by the ruling regime. That's why in 1994, the Hutu thought that it would be the same, and actively engaged in exterminating their Tutsi neighbors in order to get their cows and land. This encouraged a great number of genocide perpetrators, as they were motivated by material interests. Punishment was not an issue, as it had never existed. The desire for others' property is a dangerous thing; it can motivate someone to harm another. In general, Hutu were well prepared and believed that there would be no further consequences for killing Tutsi (Interview, Gasabo district, 2013).

The UN also noted the key role of impunity in encouraging violence:

No legal steps have been taken against those responsible for the earliest and present massacres although they are known to the public and the authority. On the contrary, they continue to live quietly and move about freely, quite undisturbed and with complete impunity. Worse still, many local officials who particularly distinguished themselves by their acts of cruelty have been promoted, whereas those who managed to keep the peace and prevent massacres were quite simply dismissed [29]

Likewise, former ICTR Prosecutor Hassan Bubacar Jallow has declared that "one structural precondition that appears to have paved the way towards Genocide in Rwanda was immunity from prosecution for those who had perpetrated violence against the Tutsi in the second half of the 20<sup>th</sup> century" [30]. It is this pattern of committing sporadic killings without subsequent accountability that undoubtedly contributed to the terrible bloodshed of the 1994 Genocide against the Tutsi.

## 8. Combating Impunity in Post-Genocide Rwanda

The post Genocide government strives to enforce the law impartially in order to eradicate Rwanda's long-established culture of impunity. As stated by former Prosecutor General Martin Ngoga, "[T]hose responsible [for the Genocide] must be brought to justice if the culture of impunity is to be eradicated" [31].

### - General Overview of the Role of Punishment in Overcoming Impunity

The theories of utilitarianism and retributivism help elucidate the effect of punishment on social relations and social order. The utilitarian school of thought asserts that punishment should prevent future wrongdoing [32], using deterrence and rehabilitation to eliminate crime [33]. Retributionists take into consideration the offender's intent and the severity of his or her acts [34], seeking to enact punishment proportionate to the crime [35] to restore balance to society [36] and reduce the desire for revenge [37]. Combining these two schools of thought, the denunciation model focuses on enhancing social cohesion and relationships [38] and offering wrongdoers moral guidance [39]. However, none of the above theories acknowledge the needs of the victim. It is this deficiency that the post-genocide Rwanda sought to correct by promulgating genocide related legislation and establishing Gacaca courts.

### - Legislation Addressing Genocide-related Crimes

Until the 1994 Genocide against the Tutsi, Rwandan legislation didn't classify genocide as a punishable offense. Even though Rwanda had ratified the international convention on genocide, there was no domestic law punishing genocide in Rwandan legislation. This was indeed a gap that would have needed to be corrected to be consistent with international commitments and to punish the perpetrators of genocide. To address this deficiency, "Organic law N° 08/96 of 30/8/1996 on the organization of prosecutions for offences constituting the crime of Genocide and other crimes against humanity committed since October 1, 1990" was adopted. This law was passed with a special retroactive statute that acts as the basis for the prosecution of genocide perpetrators. In addition, a law punishing crimes of genocide ideology [40] was promulgated. This law criminalizes incitement, negation, minimization, and justification of genocide, and suppression or destruction of evidence of the Genocide. Discrimination and sectarianism have also been made illegal acts [41].

### - Gacaca Courts in Fighting Impunity

Due to the sheer amount of genocide perpetrators, the government of Rwanda realized that ordinary courts could not try all suspected genocide perpetrators. Therefore, the government decided to adapt the traditional Gacaca system, historically used to adjudicate minor disputes, to try the majority of Genocide-related cases. In total, Gacaca courts heard 1,958,634 cases, handing down about 1.7 million convictions.

A core principle of the Gacaca jurisdictions was bringing together all relevant parties to the scene of the crime, including the survivors, witnesses and perpetrators. After the establishment of the truth of the accusations, perpetrators were given the opportunity to confess their crimes, show remorse and ask for forgiveness in front of their community, promoting reconciliation. In many cases those who repented were freed and allowed to go back to the community and be part of the reconciliation program where victims and perpetrators live side by side and talk to each other. In sum, the Gacaca courts were used as one of the ways to eradicate the culture of impunity.

### - Institutions Fighting Impunity in Rwanda

National Commission for Human Rights: This commission is responsible for examining all violations of human rights committed on Rwandan territory, and by so doing helps eradicate the culture of impunity.

National Commission for the Fight against Genocide (CNLG): The CNLG is a permanent institution established by the Law No.09/2007 of February 16, 2007, which, by conducting research exposes the truth about genocide, which helps fight impunity.

Witnesses and Victims Protection Program under the National Public Prosecution Authority and the Supreme Court of the Republic of Rwanda: These programs help fight impunity by ensuring that witnesses and victims are able to identify guilty parties.

Genocide Fugitives Tracking Unit: Under the National Public Prosecution Authority, the goal of Genocide Fugitive Tracking Unit (GFTU) is to find suspected genocide perpetrators who fled abroad and to facilitate their extradition to Rwanda. It has obtained extraditions and convictions of genocide perpetrators, including Jean-Bosco Uwinkindi, Ladislav Ntaganzwa and Bernard Munyagishari from ICTR; Dr. Leon Mugesera from Canada; Charles Bandora from Norway; Emmanuel Mbarushimana from Denmark; Dr. Leopold Munyakazi from the United States, and so forth.

## 9. Challenges to Fighting Impunity in Post-Genocide Rwanda

Despite the measures put in place to eradicate the culture of impunity, genocide ideology remains a grave problem. Immediately following the Genocide, crimes such as killing genocide survivors, witnesses and Gacaca judges in order to prevent perpetrators from being convicted were widespread, although their frequency has since decreased.

Despite all, post-genocide Rwanda is now committed to do its best to prosecute perpetrators and protect victims to ensure that evil on the magnitude of the 1994 Genocide against the Tutsi will never happen again.

## Conclusion

This paper assesses the impact of the culture of impunity on the execution of the 1994 Genocide against the Tutsi in Rwanda. 1959 marked the birth of this culture in Rwanda, which thrived throughout the first and second Republics. Decades of unpunished violence against the Tutsi, accompanied by economic benefits for perpetrators, encouraged widespread participation in the 1994 Genocide against the Tutsi. Since then, the government has dedicated itself to combating impunity by passing laws punishing crimes of Genocide, genocide ideology and establishing the Gacaca courts as well as institutions such as National Commission for Human Rights among others. An essential element of reconstruction in Rwanda has been the creation of a justice system that holds genocide perpetrators accountable, thus ending the culture of impunity.

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