Book Reviews


The gacaca court system in Rwanda is a post-conflict transitional justice mechanism that draws from a traditional model of community participation in the prosecution and hearing of cases. These courts, which run independently from the International Criminal Tribunal for Rwanda, have two primary objectives, namely prosecuting genocide suspects and initiating the process of reconstructing the social fabric (p. 3). In his book, Phil Clark offers a sound analysis of the gacaca system in action in the community, based on extensive empirical field research. He contextualises these courts historically and provides a useful overview of their legal and political foundations, presenting an honest and informed assessment of their merits and shortcomings. The author, a socio-legal commentator, engages in both legal and non-legal questions, interpreting the gacaca as an internally hybrid and dynamic “kinetic social institution” (p. 7). Accordingly, his theoretical framework draws inspiration from the perspectives of different actors involved in the process, thus rejecting a “free-standing conceptual apparatus” disconnected from the social milieu in which it operates (p. 7).

Five main arguments are developed throughout the text: firstly, the gacaca is presented as a highly dynamic socio-legal institution, in contrast to more static and universally accepted mechanisms (I). In close connection to this, Clark stresses that an appropriate methodology to interpret and critique gacaca should concentrate on how its popular ethos and dynamism are able to put its normative element into practice (indeed without lawyers) (II). He claims that it is precisely through collective participation that gacaca is able to provide a holistic response to the legacies of genocide in order to rebuild society (III). For these reasons, he argues that the dominant discourse on gacaca – i.e., the application of strict criminal law standards and objectives to this mechanism – is extremely narrow and ignores the importance of popular ownership in achieving aims that go beyond strictly legal results (IV). Finally, the author expresses his strong conviction that the gacaca experiment has been, overall, a remarkable success (V) (p. 27-28).

The opening chapters (Chapter 1 ‘Framing gacaca: six transitional justice themes’ and Chapter 2 ‘Moulding tradition: the history, law and hybridity of gacaca’) provide the historical and theoretical framework for studying gacaca, situating this...
process in the context of transitional justice and defining key concepts. Phil Clark’s critique of the dominant discourse on gacaca in Chapter 3 (‘Interpreting gacaca: the rationale for analysing a dynamic socio-legal institution’) focuses on the lack of a “clear notion of how to judge gacaca’s effectiveness” (p. 82). He firmly opposes the mainstream views of many non-Rwandan scholars and certain human rights observers who maintain that the gacaca is meant primarily to provide for deterrent justice through the punishment of genocidaires (p. 82 and 92 et seq). According to Clark, this misunderstanding of the main objectives of the gacaca lies at the root of recurrent criticisms directed at it. Conversely, he argues that the key purposes of the gacaca are not limited to retributive and deterrent factors, but are also inclusive of a strong restorative element, thus encompassing processes such as healing, forgiveness and reconciliation. As a result, this book proposes an alternative, broader set of benchmarks by which commentators should assess the success of gacaca and critique its effectiveness in the context of the Rwandan society (pp. 96-97).

The descriptive elements put forth effectively bolster the author’s conceptual framework; Clark generally avoids recounting a narrative in lieu of developing analysis, thus escaping a common flaw frequently linked to extensive field research. For instance, in Chapter 4 (‘The gacaca journey: the rough road to justice and reconciliation’) he uses qualitative research data collected in interviews with three returned detainees to corroborate his arguments with relevant examples (pp. 111 et seq). However, in some paragraphs Clark does get carried away by recalling his personal experiences beyond what is objectively necessary for the argument (at least from the legal perspective): one struggles to appreciate the academic worth in learning that Laurent (one of the returned detainees) was “short, grey-moustached” and “sheltering from the blazing afternoon sun beneath a blue tarpaulin, a tattered bag of clothes by his side and his left knee heavily bandaged” (p. 107). That said, this kind of information, as well as the direct speech that sometimes appears give some passages of this book a literary touch, perhaps making it more accessible to non-academics who may have an interest in this topic.

The combination of analytical and empirical perspectives remains the common structure of the substantive chapters (Chapters 5-10: ‘Gacaca’s modus operandi: engagement through popular participation’; ‘Gacaca’s pragmatic objectives’; ‘Accuser, liberator or reconciler? Truth through gacaca’; ‘Law, order and restoration: peace and justice through gacaca’; ‘Mending hearts and minds: healing and forgiveness through gacaca’; and ‘(Re)fusing social bonds: gacaca and reconciliation’). This section of the book analyses the so-called “pragmatic objectives” of the gacaca, including the backlog of genocide cases, jail conditions and economic development, as well as the “profound objectives” of the process, namely truth, peace, justice, healing, forgiveness, reconciliation. By examining in turn the different perspectives of the government, the population and the commentators, Clark analyses gacaca