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Restorative Justice and Ancestral ‘Good Living’ The Case of the Arhuaco¹

Abstract

This article investigates the intercultural relationship between Western society and indigenous society. This is the result of two workshops with members of indigenous peoples in Bogota and with Arhuaco indigenous people of the Sierra Nevada de Santa Marta, in the villages of Nabusímake and Simanorua. This article argues that despite the imposition of the model of punitive justice, indigenous peoples resist and reject the punitive model of punishment. The first section compares the relevant elements of Western and indigenous Law. The second section analyzes the tensions among the Western legal institutions, society and Arhuaco law. And finally, the third section emphasizes the importance of resistance as a means to protect “good ancestral living.”

Keywords: Indigenous Society, Arhuaco Indians, Restorative Law, Harmonization and Purification.

1. Introduction

This research emerged as a result of efforts undertaken by UNESCO regarding the rights of indigenous peoples. Across all of the research it was found that the rights to self-determination and autonomy, despite their formal recognition, have been and continue to be materially violated. There is a visible imposition², hybridization³, and resistance⁴ to Western models of governance.

The juridical social challenge of this research lies in the domain of punitive justice. Here we find a range of discourses of “recognition” that are lacking in coherency and respect for the ethnic and cultural diversity of the people. On one side, when an indigenous person is involved in a *crime*⁵, ordinary jurisdiction applies, often with no regard for indigenous conventions or legal/cultural pluralism.

The Court states:

The principle of diversity and personal integration is not simply a rhetorical declaration, but rather it constitutes a projection onto the juridical plane of a democratic character, which must be participatory

¹ The Spanish original version of the essay has been translated by Melisa Vazquez and revised by Mario Ricca.

² Imposition “is the action of imposing or imposing oneself” (RAI, 2017).

³ Hybridization is the “production of hybrid beings” (RAI, 2017).

⁴ Resistance is the “action and effect of resisting or resisting oneself”; “a collective of people who, usually in a clandestine fashion, use distinct methods of refusal against invaders of a land or against a dictatorship” (RAI, 2017).

⁵ According to professor Nils Christie, a crime is a social construction and its relativity depends on space and time.

and pluralistic in the Republic of Columbia, and which must obey the ‘acceptance of alterity bound to the acceptance of a multiplicity of lifestyles and systems of understanding the world that are different from those of Western culture.’ The Political Constitution permits the individual to define his identity based on his specific differences and on concrete ethnic and cultural values, and does not require him to conform to a general and abstract concept of citizenship, such as that defined by monocultural liberal States. The above represents a valid effort to adapt the law to social realities, so as to satisfy the necessities of recognition of those groups that can be characterized for their differences with regard to race or culture. In summary, the recognition of ethnic and cultural diversity must comply with the imperative to construct a democracy that is ever more inclusive and participatory and to be consistent, on the other side, in its conception of justice as an incomplete ideal if it does not attend to the demands of recognition from individuals and communities. (Constitutional Court, Sentence SU 510 from 1998).

It is important to emphasize that the Constitutional Court has developed the legal grounding for indigenous⁶ jurisdiction extensively. Sentence T-397 2016⁷ by the Constitutional Court determines the basis for said jurisdiction:

(i) Greater than the preservation of its uses and customs, greater than autonomy; (ii) fundamental constitutional rights constitute the minimum obligation for living together of all persons; (iii) the legal imperative norms (of public order) of the Republic prevail over the uses and customs of indigenous communities, whenever they directly protect a constitutional value that is greater than the principle of ethnic and cultural diversity and; (iv) the uses and customs of an indigenous community prevail over operative legal norms.

In the prisons to which indigenous people are mistakenly taken, there are no means for the ancestral harmonization necessary for the protection of their culture. In this way, difference is emphasized but not safeguarded, due to the lack of capacity of the average warden to recreate an environment favorable for ancestral culture.

On the other hand, Western authorities offer limited protection for indigenous communities. These authorities have Western judgment protocols and engage in capital punishment inside the Inpec penitentiary system. Capital punishment even takes place (Ariza, 2016) in harmonization areas (Inpec and indigenous authorities) financed by the State *within its territories*. In various Columbian reservations there are harmonization centers that try to limit freedom. In precisely this way these

⁶ Constitutional Court, Sentence C-463, 2014 (M.P. Maria Victoria Calle Correa). In sentences T-496, 1996 and T-728, 2002, the Court referred to indigenous jurisdiction, emphasizing its double dimension, as the law of people that claim an ethnic indigenous identity and are judged according to the regulatory systems of their own communities and, on the other hand, as the institutional guarantee of indigenous autonomy, in the following terms: “From the constitutional recognition of special jurisdictions the rights of the members of indigenous peoples to a court can be derived. In effect, the right to be judged by one’s own authorities is conceded, conforming to its norms and procedures, within its territorial domain in the interests of guaranteeing respect for the particular worldview of the individual.” Precisely such an aspect was reiterated and specified in Sentence T-728, 2002, in this way: “The indigenous court is the right of all members of indigenous communities, because they belong to those communities, to be judged by indigenous authorities, according to their norms and procedures, that is by a judge who is different from those who are usually competent in these matters and whose finality is a judgment in tune with the organization and lifestyle of the community. This recognition is imposed given the impossibility of accurately translating the rules of indigenous systems into the national legal system and vice versa.

⁷ M. P. Gabriel Eduardo Mendoza Martello.

spaces present themselves as places where ethnic and cultural integrity is preserved through the commutation of sentences (more later on how little this objective is accomplished). This is how “intercultural penitentiary treatment” operates, with the intercultural understood as “the goal of achieving cultural reintegration.” (Ariza, 2016).

Field work revealed a strong tension in the Arhuaco indigenous authorities: the dilemma was between conserving their traditions or mixing rights and cultures. Nonetheless, some shamans (highest authority of the Sierra Nevada⁸) are critical of Western influence (excessive punishment) due to its obfuscations and inconsistencies (Resumen Latinoamericano, 2017). Thus, there are ancestral societies that fight for their worldview, culture, and rights. Arhuacan society, despite its enforcement and genuine conception of interculturality, rejects punitive justice.⁹

Suffice it to say for now that it is a model that distorts ancestral justice, given that we think of indigenous peoples using Western values and models of equality that ignore the differences. It also emerges, however, that the Western judicial system, despite its failures in criminal politics, wants to extend the punitive system to the various reservations. For these reasons, the research emphasized the contradictions within the punitive system and its desire to extend itself into a restorative justice society, thereby endangering the identity of ancestral villages.

The question we pose is: can intercultural be successful when it is built on the POWER structures inherent in Western values? Based on this problematic and its accompanying questions, the hypothesis put forward was the following: mestizo imprisonment cannot offer restorative justice. The general objective was to describe the process of cultural hybridization through the imposition of individual punishment without reference to the collective. The specific objectives were: to identify the characteristics of the mestiza and indigenous communities and norms, and to identify what constitutes ancestral “good living” for the Arhuaco people (case study).

The methodology included secondary sources (legal doctrine and jurisprudence) and primary sources (interviews and focus groups with members of the indigenous community of Sierra Nevada de Santa Marta, shamans from the Sierra and indigenous peoples of these ethnicities who live in Bogotá). The aim of this methodology is to understand the cultural hybridizations and resistance to them through the voices of both the authorities and the Arhuaco people. Workshops were held in the Universidad Externado de Colombia (July 2017) and in the reservations (workshop with multicultural interactions, 2017).

The following three sections will present the results of the research regarding mestizo and indigenous perceptions¹⁰ of society and law highlighting societal strengths and restorative justice. The first section offers a comparison of rights and societies. The second looks at the conciliatory aspects of the Arhuaco community with a purifying law. The third and final section will highlight the dilemmas of indigenous communities and the challenges they face in protecting ancestral “good living.”

⁸ “Among the Arhuaco people, the shaman is a spiritual guide that also puts into practice ancestral medicinal knowledge.” “Natural law is simple, humility in taking from Nature and maintaining balance.” This is one of the maxims of Calixto Suarez, shaman of the Arhuaco people.

⁹ “In Columbia, whose Constitution has recognized indigenous law and jurisdiction, indigenous groups like the Paez or the Kogui resolve all kinds of penalties and offenses by members of their communities (including homicides)” (Pesa, Cabedo, Mallol & Lopez, 2002, p. 76).

¹⁰ These insights are the result of the workshops undertaken with members of indigenous communities in Bogotá and the Sierra Nevada de Santa Marta.

2. Societies and Rights

2.1 Society and Mestizo Law

The research workshop¹¹ demonstrated that within indigenous communities, mestiza society perceives itself to be an individualist society in its way of life. Furthermore, it emerged that at the center of this way of life are consumerism and competition. This results in great imbalances, divisions and anonymity.

Penal law in a society plagued with imbalances leads to a technical use of law that is carried out in an automatic way. Decisions are formal, lacking deep discussion about legal monism and the harmful effects on ethnic and cultural diversity. The penitentiary system is a reflection of a punitive penal system that classifies based on the confinement affecting a large part of the population. *The punitive model assumes that the society is homogenous, but in practice it is clear that it is diverse.* Western penal law does not account for the social environment without *improving*¹² the individual and the collective. This is the way to manage only one individual responsibility (labeling, stigmatizing, destruction of individual, social and family life) disregarding the social characteristics of the subject. The above is supported by the words of Andre Jean Arnaud, who “recognizes that legal sociologists have brought to light the malaise that people feel before the law and justice due to its excessively formal character and false unity, since the facts reveal the strength of pluralism.” (Gutiérrez Quevado, 2001).

The penitentiary is an institution with more than two centuries of history, which has imposed itself and spread in the West as the only solution to conflicts. This notion has also spread in Columbia and this is way there are nearly 116,757 people imprisoned in an “Inconstitutional State” (Estado de Cosas Inconstitucional)¹³. According to data from Inpec, as of September, 2017, there are 1,111 indigenous people incarcerated.¹⁴ The majority of these people were convicted in civil courts and others judged by indigenous courts, but referred to the penitentiary to be *guarded*¹⁵. The reasons presented by the indigenous authorities are the loss of identity of the prosecuted indigenous person and the lack of resources, since the State does not economically support the implementation of indigenous law.

Legal and cultural pluralism and indigenous law as declared by the Constitution of 1991 have been permeated by the penitentiary system and by Western social control of the various indigenous reservations. This is due to the general phenomenon of globalization. “The phenomenon of

¹¹ The workshops were carried out in Bogotá, at the Universidad Externado de Colombia during the first semester of 2017. Participants were students from different indigenous peoples (*Wayuu, Tikuna, Kametza, Embera, Arhuacos, Kanuamo*, among others) from Columbia and from different departments. Six men and four women, from 22-25 years of age. The majority were children of authorities and leaders of their villages.

¹² *Improving* is something I heard the indigenous authorities repeat as the final goal of all social acts, and specifically of justice.

¹³ See:

http://201.217.206.18:8080/jasperserverpro/flow.html?_flowId=dashboardRuntimeFlow&dashboardResource=public/DEV/dashboards/Dash_Poblacion_Intramural&j_username=inpec_user&j_password=inpec. Accessed May 2018.

¹⁴ See: <http://www.inpec.gov.co>. Accessed September 2017.

¹⁵ An indigenous person is referred to as *guarded* when he has been judged by the indigenous authorities and sent to serve the sentence in an Inpec penitentiary center.

globalization began to intensify all over the planet, with a devastating effect on the interests of the indigenous peoples who ardently resist this cultural homogenization which aimed to become global.” (Rodríguez Ruiz, 2017). This situation has created confusion for the authorities. A legitimization of prison was created without, however, recognizing in essence the institution and the treatment model. The weakening of indigenous justice is caused by an imposition of laws and values that are alien to ancestral societies and frameworks of justice.

On one side there are guaranteed sentences from the Constitutional Court that recognize pluralism¹⁶, and on the other side, there are sentences that impose the penitentiary institution as a sanctioned mechanism without taking any account of the cultural referents¹⁷. Those decisions exert security minimums in the “prisons” in order to re-socialize a foreign culture and indigenous people. These decisions are dangerous, even more so than during the age of the Conquest, for the way in which they are glossed over while insinuating themselves into ancestral societies.

There are other decisions that reflect a legal *schizophrenia*.¹⁸ In the case of Feliciano Valencia, we can observe differing interpretations of indigenous jurisprudence in accordance with the ideologies and political-economic contexts at play. Even though the indigenous Paez territory was violated, and there are laws in place entitling indigenous people to protect it, Feliciano Valencia was charged with seizure and personal injury. Depending on the circumstances of Western judgment, indigenous jurisdiction for Feliciano Valencia was either recognized¹⁹ or rejected.²⁰ There appeared to be two realities. The sentence²¹, a milestone for the Supreme Court of Justice, Criminal Cassation Division, recognizes the autonomy of the people and the respect for indigenous customary law. It highlights the respect that should exist in a country that is pluralistic in its cultural practices and towards ancestral sanctions. “The jurisdictional act that is developed by the indigenous community has constitutional, legal, and jurisprudential backing.”²²

2.2 Societies and Indigenous Law

In the workshops already cited, the perception of indigenous peoples reflects the collective, *an Us and a Nature that seeks equilibrium*. There is a harmony between nature and being. There is a unity among the environment, being and the word. What one’s own and what is ancestral are both recognized. The Other is considered in his spirituality. Living indigenously means harmony and reciprocity. The above exists without the need for Western legitimation.

¹⁶ Constitutional Court, Sentence T-002, 2012, (M.P. Juan Carlos Henao Perez).

¹⁷ Constitutional Court, Sentence T-921, 2012 (M.P. Jorge I. Pretelt).

¹⁸ Schizophrenia: disorders and loss of contact with reality.

¹⁹ Judgment of the First Penal Circuit Court of Popayán, which exerts the control functions over the activity of the judges who deliver acquittal or conviction verdicts, as well as decisions aimed to prevent further investigations (defined, in Colombian the legal system, *jueces de conocimiento*), Decision from March 24, 2015.

²⁰ Superior Court of Popayán, Sentence from September 10, 2015. Justice, Criminal Cassation Division

²¹ Supreme Court of Justice, Criminal Cassation Division, S.P. 9243-2017, Rad. 47119, Acta 204 (M.P. Eugenio Fernández Carlier; Sentence from June 28, 2017).

²² *Idem*.

In the conversations conducted with various indigenous Arhuaco authorities from the Sierra Nevada de Santa Maria it emerged that in indigenous communities ancestral authorities are recognized and therefore, justice is a real social product. As the shamans explained it, justice is not an impervious compartment. It is “good living” integrated with nature and culture. The goal is the harmonization of the individual as a social being. Collective responsibility does not stigmatize and does not go towards the destruction of the individual, the family or the society. It treats the problem in a holistic way to care for the person and his community.

The Constitutional Court highlights cultural diversity and therefore judicial diversity. This is why Sentence SU-510, 1998²³ has the following to say regarding the Arhuaco people:

The juridical system of the Ika inserts itself within the religious perspective previously noted and, for them, the basic principle of Ika justice consists in ‘finding the cause of the problem, [which] could be within thoughts and actions of the accused or in the actions, misdemeanors, or offences of the parents and grandparents. The goal is to reestablish the balance and interior harmony of the indigenous peoples of the Sierra and of the Mother.’ Among the Ika, behaviors are considered unlawful or antisocial if they imply an infraction of the ‘Law of the Mother,’ that is, those acts that tend towards the rupture of the balance in which universal and social harmony is founded.

3. Arhuaco Society and Justice

3.1 The Arhuaco Community

Arhuaco society is a society that is integrated with nature without divisions or fragmentation. The Sierra Nevada de Santa Marta is Nature (water, sacred places, organic food, the peaks of the Nevada mountains, lands, the Línea Negra²⁴) that is reflected in the balance of life. The Sierra is the guardian of the world with the aim of making permanent culture, tranquility and strength. The mission of the Arhuacos in the world is to care for nature and the universe.

Sentence T - 849 from 2014²⁵ highlights the importance of Arhuaco society and its integrity with nature:

The ‘Línea Negra’ is a zone of special protection, due to the cultural and spiritual value it has for the four indigenous peoples of the Sierra Nevada de Santa Maria, for that reason those communities should be consulted when a project could affect the exercising of their rights, not doing so would constitute a breach of the obligations of the Columbian state and a violation of the rights of the community.

All beings have a spiritual father represented in Nature, his fountain of life, to whom they should accord their care. His objective is “good living” and “establishing a balance that is endangered by the actions of all humans” (González Puccetti, 2010). The Law of Origini is the Ahigoneshi “that encompasses many things, but basically is a form of self-help as spiritual as it is material” (Pueblo

²³ Constitutional Court, Sentence SU-510, 1998 (M.P. Eduardo Cifuentes Muñoz).

²⁴ The Línea Negra [Black Line] is the “teleological zone of the indigenous communities of the Sierra Nevada de Santa Marta” (Pérez, Higuera, & Bonilla, 2017).

²⁵ Constitutional Court, Sentence T 849, 2014, (M.P. Maria Victoria Sáchica).

Kagaba Kogui). All the forces of the material world come from a thought or energy that is *anugwe*. There are positive forces for good –*anugwe duna*–, and negative forces for bad–*anugwe gunsinna*–. The negative forces should not be eliminated, but managed. These give vibrancy to the universe. From the conflict between the two forces comes the *light*. The shamans are the ones who guide them (Zalabata Torres, 2008).

The human being should keep his physical and spiritual sides in harmony. Not doing so produces various forms of violence (deaths, murders, displacements, exploitations of land), fear, imbalance, destruction and the loss of customs. When a man faces hardships such as illnesses, conflicts with his fellow man, natural disasters, he must look for elements of the Law of Origin that have been violated, impacting the material world.

3.2 The Arhuaco Restorative Justice

The Arhuaco people believe in the resolution of community conflicts. “[Their belief] is based in the conviction that the application of their own justice guarantees internal cohesion and that their government is imbued with the practices of ancestral authority” (Uscátegui, 2003).

Ancestral justice practices unify the community. They provide a collective mechanism in which various elements are combined: the case that is judged to be unique; the action of the offender is judged in a broad context in which he is not isolated; *offenders belong before anything to a community*. For example, any bloodshed²⁶, past or present, stains the future not only of the individual offender but also that of his descendents²⁷ (Peña, Cabedo Mallol & López, 2002).

The damages caused by offenders to ancestral law are equally expressed in the material domain as in the spiritual one and therefore the resulting sanctions should also be applied in both domains. Violating the Law of Origin means causing harm to people or to nature. The individual who commits an error should begin a process of compensation for material damage and cleansing of negative energy. The acts (damages) are ancestral burdens (causes) that must be balanced through spiritual and material harmonization (Jeremías Torres, personal conversation, August 2017).

Human beings are neither good nor bad, they are ancestral wards that must be healed (education, justice, cures) for the living.

Civil authority, entrusted to the town council and commissary, determines the injury and the sanction in the material domain. It is essential to follow the Principles (according to an interview with the magistrate of the CSJ, Belkis Izquierdo, 2017) of Spirituality, Complementarity, Reciprocity and the Land. The shaman knows the history of his client, or offender. When he applies the Law of Origin he maintains the balance between man-man, man-nature and nature-nature. In this way he is the one who can determine the damage and the sanction in the spiritual order. (Uscátegui, 2003). The shamans direct the work in the spiritual dimension. The offences can be unintentional, so the shaman must investigate the cause from starting with the ancestors. The shamans have the ability to determine the procedures a person must follow when he has committed negative acts.

²⁶ Bloodshed can be represented by a homicide or by personal injuries.

²⁷ See Note 8.

It is what is known in the West as restorative justice (Berrocal Durán, 2010), that invites participation and consensus from all parties. In restorative justice:

The victim and the offender participate, but they also open the door to other affected parties; the goal is to 'treat' the injury. Compensation for the injuries done to the victims and the community is sought, the assumption of direct and complete responsibility. The offender must recognize his wrongdoing, but must also try to repair the damage, explain his behavior to the victim and the community; he must try to put right or at least reconcile what he has wronged and divided. [Restorative justice is] reconciliation between the victim and the offender and of both with the community. (Berrocal Durán, 2010, p.116).

4. Resistance and Ancestral “Good Living”

With regard to the problems of interculturality and Arhuaco pillars and principles, what is happening today with the harmonization centers and ancestral justice? In this section we will see the resistance of the people to enforcement, despite the confusion created by Western institutionalization.

We undertook field work in various communities in order to understand enforcement, the resistance to punishment, and the reconstruction of ancestral equilibrium through the contemplation and interpretation of nature.

At the beginning of this work, we found that mestiza culture (justice institutions) continue to impose themselves. In the town hall of Simanorua there is a “jail” or an “ethnic” lockup. It is intended for indigenous people who maintain their identity but have committed social infractions [disrupted social harmony]. Everyone speaks of the reflection centers (harmonization) “with the end goal that during his years of incarceration the person (which correspond to years of regeneration) with the guidance of the shaman and the community authorities.” In summary, the Arhuaco indigenous people of the Sierra Nevada de Santa Marta have received a penitentiary legacy.

This Western reality is set from above and ends up etiolating the idiomatic local forms of justice. It impinges upon community values²⁸ and creates confusions. With the following example, a perpetrator of homicide who was in a harmonization center, in a way legitimizes incarceration and says it is: “becoming stronger in the culture like a spiritual retraining game.” In an interview²⁹ conducted by the author, a perpetrator of homicide says: “The ‘lockup’ is a school for the law of origin that ensures inner peace. Recognizing that in life there are teachers and becoming aware of the energetic rupture caused, and that it is necessary to harmonize and repair through work: all this gives freedom.”³⁰

This statement shows a hybridization and social transformation of the collective. The detainee is not only the individual but also the collective. The result is a social transformation through the

²⁸ As one indigenous leader states: “Indigenous peoples who have lost their identity and deny the Law of Origin (homicide, guerilla) are referred to the ordinary Western system (put away for having stopped being Indians); thereby they have to bear the material and social burden of imprisonment.”

²⁹ Interview carried out in 2017 on the Simanorua reservation.

³⁰ Decision of the Arhuaco Reservation of the Sierra. Nabusímake. Judicial Act No. 002 of 2017. Decision of the Arhuaco indigenous authorities in the exercise of their own Law. Case [identity preserved].

enforcement of a disguised penitentiary law. Furthermore, some shamans are losing power due to political impact and Western values where hybridization is tangible.

Nevertheless, in Simanorua the authorities claim that Western incarceration is not productive because it is an imitation of a Western model of punishment. Today the communities avoid using the harmonization centers (prisons) as they are places separating people from nature and, in their words, “constitute the intrusion of a punitive law that transforms society.”

The prison in Simanorua has open doors and accessible keys. After much reflection, it is in a process of being eliminated. The authorities are open to this transition because:

The rules are not fixed given that nothing is predetermined. We learn every day from listening to different positions. The important thing is to restore the people by attending to them and creating a good indigenous person, a leader, a people. Through healing we save and protect the life of the individual, the social and the universal. Nature is the orienting axis of that process. Restitutions are fundamental to creating dignity.

On the other hand, in the town hall of Nabusímake there is also a center of reflection and harmonization (prison). Despite recognizing the historical impositions regarding punishment that have affected individual and social identity, the authorities sometimes find themselves to be “colonized” ideologically. It is the impact of these homogenizing ideologies. The ‘narration’ of “interculturality” results in a concoction that does not consider the other in his culture and reality. It is a hybridization that is invasive and degrading. “Christianity was not simply a religion, it was a culture, or as Habermas would say, a totalizing vision of the world” (González Puccetti, 2010).

In Nabusímake, however, reflection is considered fundamental. That reflection accompanies the ordeal and strengthens the indigenous person so that he may become a balanced [harmonized] person and even a future shaman. The central axis is reflection, dialogue and support so that he may respond appropriately to the damage done to nature and the social universe. The authorities interviewed in Nabusímake and Simanorua say: “The practices, methods and means of ancestral justice integrate the community. Through them the indigenous people are provided with a mechanism of collective restorative justice in which various elements are combined.”

In Nabusímake the harmonization center remains even so in disuse.

For some shamans imprisonment is never the solution, since it could mistakenly punish the innocent and leave the victims without restitution. What is important is redress, confession, traditional jobs and reintegration (interview with authorities from the Nabusímake governing Town Hall, 2017). Reconciliation between the offender and the victim is sought, and of both with the community. The role of the victim and offender should not endure, contrary to the Western penal system. Instead, they should only be temporary since they come to their conclusion through restitution. It is what is known as “spiritual repair, through the guidance of the shamans, in the spaces appropriately designed for that end.” In this way, harmonious social relations are assured for the Arhuaco people, in a clear expression of common law.” (Tayrona, 2015).



Simanorua Harmonization Center

5. Conclusions

There is a neocolonial legal penetration, which must be assessed insofar as its mechanisms of “interculturality” are driving out the juridical and cultural richness of indigenous peoples. Ethnic and cultural diversity should develop in a pluralistic rather than monistic fashion, “[...] The State should protect the rights of the cultural community, without limiting itself to a politics of subjective equality but rather developing a politics of recognition like that applied by the Court to protect the rights of the Arhuaco community” (González Puccetti, 2010). It is the respect for ethnic and cultural diversity and everything it implies: identity, practices and respect for nature as a means toward universal balance. Interculturality is a challenge for our societies and our laws. Culture and systems for “good living” are more restorative than punitive, conserving our ancestral cultures. It is important to think of the other from his point of view, not from ours. As González says:

Intercultural dialogue necessarily takes its inputs from cultural memories, from the adversarial parts, so that through processes of transculturation new universal values can be produced in which difference is recognized; specific areas from which we can identify problems for ethnographic investigation are thus

highlighted by cultural conflicts through our comparison of different models adopted by specific social actors conducting their daily lives in accordance with their own cultural patterns, and consequentially taking in account the contexts of action in which these spheres of life are inscribed. (González, 2017).

The challenge is to recognize that a discriminatory ideology has been in place for generations. What is important is reflection and debate with the end goal of shedding light upon and transforming negative stereotypes affecting the indigenous peoples of Columbia.

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