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THE RWANDAN GENOCIDE IN NUTSHELL IS NOT CORNY ANYMORE

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Abstract
This Article starts by sketching out the specific historical parameters in which genocide will be examined. It also explores the interrelationship between the mindset of genocidaires and that of bystanders to genocide on the one hand, and, on the other hand, measures adopted in an effort to prevent genocidaires from committing their atrocities. Its chief argument is that a process of abstraction is a key element in the development of genocidal intent, and that an evolving attitude of indifference is prevalent among the observers of genocidal crimes. The starting point for considering each of these elements is the legal approach to the crime of genocide and especially its specific intent and efficacy. The Article adopts a critical attitude to the legal concept of the crime (which refers to the deliberate killing of a large group of people, especially those of a particular nation or ethnic group) and considers the extent to which the current legal analysis of the genocidal mindset contributes to preventing the crime itself. This Article further intends to clarify the concept of the "cultural heritage of all humankind" which is often summarily dismissed by scholars, possibly due to the impression of unscholarly idealism it appears to originate. However, it has long been claimed that the special status of objects of cultural, historical, or religious value is a consequence of their importance to the whole humanity rather than their economic or aesthetic value. Considering that cultural heritage faces increasing risk of intentional destruction for ideological reasons, and the discriminatory intent inherent in such devastations poses a threat to entire international community.

Keywords: Genocide, Rwanda ethnic cleansing, Responsibility of international institutions, Genocide Convention, International Criminal Law

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INTRODUCTION

This section establishes the frameworks by which international juridical and non-juridical institutions have defined genocide (alongside other heinous crimes) based on an array of historical examples. The chapter explains how analyses of these examples, in international tribunals and subsequent academic studies, have specified this definition based on the intent of the perpetrator, the scale of the offence, and the human and forensic context of its aftermath. The chapter traces the implications of determining and defining instances of genocide on a broad range of levels family, community, national governments, and international policy councils and explores the emotional and political costs of not only the crime itself but the complex process of identifying when one has taken place.

In the attempt to trace the origin of the term ‘genocide’ and its development through history, it becomes quickly clear why Winston Churchill alluded to genocide as a crime without a name. The origin of the term reaches back to the law of armed conflict which began in the nineteenth century in the context of international human rights law. The term ‘genocide’ has surfaced only recently even though there have been many accounts of this appalling act in history. An example of this is how 75,000 Armenians were exterminated in Turkey between 1915-1922. The Holocaust, involving the killing of six million Jews, took place thirty years after this event, Hitler having reminded his generals that “nobody remembers the Armenians”. A basic meaning of ‘genocide’ is based on the notion of a collective preparation for pulverizing the basic structure of the life of national group. This can manifest in several forms including the goal of killing/exterminating these groups; nevertheless, the defining feature of genocide is the effort to break down the political and social establishments of a culture, language, national sentiment, religion, and economic presence/livelihood of a national group. Therefore, genocide additionally entails the decimation of individual security, freedom, wellbeing, pride, and even possibly the lives of a people sharing a common heritage.

One can argue that genocide is a deliberate extermination of a racial, religious, or ethnic group. Raphael Lemkin strongly influenced the International Military Tribunal as he took part in a debate on genocide. Lemkin called these malicious acts (rape, killing, using birth control pills in the food of natives to eliminate their caste, or forceful displacement) ‘genocide’, appropriating the concept from the Greek word ‘genos’, meaning race or tribe, and adding the suffix ‘cide’, which refers to the act of killing. There have been many different interpretations of genocide in numerous studies; however, its definition according to international law is dominant because its codification by the Prevention and Punishment of the Crime of Genocide has been ratified by 130 states. Domestic courts in Belgium, Switzerland, and Germany have recognized the seriousness of the crime. Consequently, the international tribunals ICTR, ICTY, and the

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international criminal court have adopted this definition in order to charge perpetrators of their crime.

According to the Convention on the Prevention and Punishment of the Crime of Genocide, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group.

Since the said Convention has been adopted, many efforts have been made by scholars to widen the scope of the crime of Genocide, to include the act of abortion, medical research on humans, and even the regulation of native languages in school as an act that leads to Genocide.

The Law of Genocide and its Subsequent Development

Although the Genocide Convention recognizes at its outset that in all periods of history genocide has inflicted great losses on humanity, what is perhaps the worst of all international crimes had neither a name nor recognition in the law until 1944. Indeed, several references to genocidal acts appear in the Bible, and the Ottoman Empire's campaign against Armenians and other minorities within its borders during World War I is considered to be the first genocide of the twentieth century, which occurred thirty years before the first prosecutions for the "new" crime after World War II. The Nuremberg Charter, which predated the Genocide Convention by three years, did not specifically list genocide as an offense, and the International Military Tribunal therefore accordingly avoided the term in its judgments. But that forum was the first in which genocide was expressly included in an indictment (albeit as a war crime). After Nuremberg and the subsequent adoption of the Genocide Convention, the crime remained unchanged in international courts for fifty years. In the interim, the first true prosecutions of genocide as a standalone offense were pursued in domestic courts in Poland and Israel. As the modern era of international tribunals began, many adopted the Convention's definition precisely including the enabling statutes of the ICTY, the International Criminal Tribunal for Rwanda (ICTR), the International Criminal Court (ICC), and the Iraqi High Tribunal (IHT). The ICTR and ICTY have since developed most of the significant genocide jurisprudence. The *actus reus* elements of the crime are clearly articulated on the face of the Convention and statutes: (1) one or more of the

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five specific acts mentioned above must be (2) directed at a protected *group* rather than at one or more specific individuals. It is the *mens rea* element of the crime that usually gets the most attention from academics because "genocidal intent" is one of the hardest things for a prosecutor to prove. The specific intent of genocide requires not only establishing that the accused genocidaire intended the acts but that he intended those acts to destroy the protected group "as such." And, although there is no threshold requirement for how successful or widespread the destruction of the group must be in the plain language of the Convention or statutes, in 1998, the ICTR determined that genocidal intent can be inferred from context and held that the number of victims, such as "the scale of the atrocities committed", can be a factor in finding the requisite specific intent to destroy a group in whole or in part.

The following year, the ICTY began to quantify the intent inquiry, asking, "What proportion of the group is marked for destruction and beyond what threshold could the crime be qualified as genocide?" Without answering specifically, the court announced that genocidal intent may "consist of desiring the extermination of a very large number of the members of the group." In 2001, the ICTY developed the concept further in the case of *Prosecutor v. Sikirica*, giving the quantification factor a far more detailed treatment, and thus greater weight, than any tribunal had done before. Dusko Sikirica had served as commander of the Keraterm detention camp in the Prijedor municipality in northern Bosnia-Herzegovina. Finding that between 1,000 and 1,400 Bosnian Muslims and Bosnian Croats died or were murdered at the camp, the court proceeded with a mathematical accounting of what proportion that number represented in terms of the broader self-identified Muslim and Croat populations in the Prijedor municipality. It concluded that the number of victims of genocidal acts represented "between 2% and 2.8%" of the broader Muslim population in the area, which "would hardly qualify as a 'reasonably substantial' part of the Bosnian Muslim group in Prijedor." That calculation, which court itself calls the "quantitative criterion", was treated as a threshold matter for determining specific intent.

Mass Graves, Forensic Science, and Humanitarianism

Genocidal operations often result in "multiple victim burial features" such as mass graves. There are at least fifty-two known mass grave sites in Sierra Leone more than 150 in the former Yugoslavia holding up to 3,000 bodies, and more than 270 in Iraq containing as many as 15,000 bodies. Graves continued to be discovered in Iraq years after the overthrow of Saddam Hussein's genocidal regime, and in Bosnia nearly twenty years after the war there. Such sites contain a wealth of forensic evidence that can be extremely useful in genocide prosecutions. Even so, fifteen years before anybody was charged with genocide in an international court, several nongovernmental organizations (NGOs) and the United Nations began worldwide

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humanitarian efforts to exhume mass graves left in the wake of grand atrocities such as those left in Argentina after its “Dirty War.” Central to that work were efforts to identify the victims exhumed to return them to their families. That goal, however, at least in the short term, is not always shared by investigators and prosecutors seeking to hold the perpetrators of those crimes accountable in court. Forensic science, which regularly provides physical and documentary evidence in trials of perpetrators of mass atrocity, has “unparalleled benefits” and “doesn’t lie.” Forensic evidence collected from mass graves helps not only to establish facts but also to maintain them. Whereas documents may be reinterpreted and people’s memories are less than perfect, the bodies in the graves that some scientists call “posthumous witnesses” speak very strongly for themselves in ways that do not easily change with time.

There are important operational differences, however, between excavating a mass grave to gather evidence to present in a genocide prosecution versus doing so to identify and repatriate victims, even though “forensic” techniques may be used in each. In a true forensic exhumation, the actual remains of the buried victims are important but constitute only one among many critical elements of evidence to be recovered with scientific precision from the mass grave. Multidisciplinary excavation teams often include several forensic pathologists, forensic odontologists, medical epidemiologists, anthropologists, osteologists, molecular biologists (when DNA is examined), radiographers, archaeologists, ballistics experts, firearms and tool mark examiners, entomologists, crime scene examiners, evidence handlers, photographers, interviewers, liaisons, police officers, ordinance experts, mortuary technicians, logistics and administrative officers, and fingerprint experts to ensure evidence is properly collected, catalogued, and maintained for admission at a genocide tribunal.

The European Court of Human Rights has held entire investigations to be ineffective when forensic examinations of crime scenes are inadequate. And the Inter-American Court of Human Rights has also chastised governments for conducting poor exhumations of mass graves, sometimes holding that the manner in which an exhumation was conducted was insufficient for trial. The high standards for admitting archaeological and other evidence stems in part from the fact that properly recovered and examined forensic evidence “often provides unequivocal corroboration of what could otherwise be suspect or dubious evidence.” Likewise, solid, credible forensics also can help cure potential problems associated with witnesses’ testimony (including that of anonymous witnesses, which is allowed in the international tribunals) by lending scientific analyses to confirm or contradict eyewitness testimony. Because of this, prosecutions for genocide and other mass atrocities often rely heavily on forensic analysis of mass grave evidence to establish factors not present when investigating individual deaths such as patterns of action for killing and body disposal. This creates a disconnect

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between courts' evidentiary requirements in genocide prosecutions, which as a matter of law already focus on group-level characteristics rather than individual victims, and certain human rights documents based on the individual right to life recognized in the International Covenant on Civil and Political Rights (ICCPR) offer standards for investigating extrajudicial killings on a relatively small scale. Perhaps more importantly, ICCPR demands choices of the local victims' populations as they patiently await the (often many-years-long) prosecution of those alleged to be responsible for the mass atrocities that befell them or forces them to work more quickly to identify the buried victims, possibly at the expense of otherwise valuable evidence in court. Indeed, individual victims' identities often are not necessary for prosecution; merely establishing the victims' ethnicity and cause and manner of death is likely enough to build a genocide case, and it is easier to prove group membership using objective factors such as skull measurements than it is to analyze and cross-reference individual traits to a list of thousands of names and descriptions with the hope of identifying each victim.

Transitional Justice and Victims' Families

A few researchers trust that all examinations concerning human rights infringement or misuse must take into account the compelling introduction of the case in an official courtroom. Other commentators have noted that "while the need for evidence for prosecutorial purposes has not diminished, the needs of the victims' families have gained increased recognition." "Victims' families," however, are not a homogenous group, and their preferences and broader community needs will change over time, influenced by a variety of factors. The people themselves will often demand that justice be carried out against the perpetrators of the crimes committed against them, but they also want "truth" about what happened to them and their loved ones and who was responsible. Furthermore, exhumation teams have noted that a key component to the ultimate success of a forensic effort is "the extent to which the families and their organizations are actively involved in efforts to locate, exhume, identify, rebury, and memorialize the dead." But victims' families understandably can grow impatient at the exacting pace of a forensic exhumation, which can take several weeks to months on-site (not including preparation time or analysis of the collected evidence) as earth is moved inches at a time to minimize disturbance to the underlying human remains and other artifacts and grave features that provide crucial clues to investigators. There have been instances when surviving members of the victim population begin to try exhuming graves themselves in ways that can make forensic work, including identification of the bodies, impossible. The aggrieved have been known to use their hands, backhoes, buckets, wheelbarrows, and even bulldozers to dig, which results in the gouging and commingling of skeletons. The sometimes conflicting priorities between a slow

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justice process with tediously detailed forensic methods and victims' families have yielded differing opinions about what might be the best process to satisfy both the interests of the victims and larger policy considerations.

Some emphasize the correlation between satisfying the public demand for justice, giving people closure for a dark period of their history, and the success of re-stabilizing a torn country. Others view the development of the international criminal justice system and genocide jurisprudence as having overlooked critical humanitarian considerations, concluding that the law has developed to overemphasize statistics and marginalize individual victims in a way that does *not* provide closure to their survivors. There is even one school of thought that suggests legal cognizance of genocide tends ultimately to be counterproductive, both in the sense of limiting recognition of individual murder victims (as "crimes against humanity" is meant to account for) and in the more macro, sociological sense of perpetuating "us versus them" group identity politics. The ICC Statute attempts to offer a balance, requiring prosecutors to consider both the gravity of the alleged crime and the interests of the victims in deciding whether to initiate an investigation. And, in practice, forensic and humanitarian efforts are not entirely isolated from each other: once the grave evidence required for trial is processed, prosecutors usually turn control back to the forensic scientists for pursuing identification efforts. But in the wake of Karadžicn's conviction in the ICTY on 24 March 2016, one commentator observed that, though the tribunal "has ensured there would be no impunity for [genocide, war crimes, and crimes against humanity], there remains much skepticism about its contribution to reconciliation"—even still, that is a complimentary assessment compared to the genocide record of the ICC, which has charged only one individual with the crime, Sudanese President Omar al-Bashir for the genocide in Darfur. Although an international arrest warrant was issued in 2009, Bashir continues to hold his presidency and travel the world, including to States who are members the ICC, without being made to face the allegations against him in court. Still, the allegations against Bashir, as well as the crimes for which Karadžic´ and others have been convicted, lay bare the stark reality of genocide's legal recognition.

Genocidaires do not compile "kill lists"; they do not restrict their targeting to specifically identified dissidents or political enemies. They target identifiable groups of people with the intent to destroy them, and individual victims become so just because of their group identities. As U.S. government officials are reportedly contemplating how to prosecute members of ISIS for genocide, it is clear to many that, from the current perspective of the directly affected populations, there is a definite "connection between the possibility of justice and the future wellbeing of victims." But this also implies a time value of justice, which brings to mind the centuries-old maxim "justice delayed is justice denied".

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The Distinctiveness Feature of the Crime of Genocide

Determining the reason why an individual or group commits such atrocities is centrally important. It is evident that the main cause of genocide is because of the disparities between the offenders and victims. Genocide can be instigated by the economic differences between the government and citizens. There can be a conflict between groups in a community over resources used for survival. Conflict can be caused by the immigrants who work and occupy job opportunities. Many nationals may feel threatened due to the presence of immigrants, which may arouse feelings of resentment. Other racialized forms of genocide can take the form of forced birth control or segregating individuals in a group apart from each other such as the Australian practice of separating bi-racial Aborigine children from their birth parents, the aim being to make the children accustomed to Australian culture.

The common denominator among these and other examples is that, as a response to these disparities, genocide stems from extremism that expresses itself as hate. Feeling the urge to kill and murder each and every individual from the other group by any methods makes this crime not the same as other international violations. The intention of individuals who carry out genocide is to minimize the population of the 'enemy', which becomes dehumanized by the perpetrator. This crime therefore puts innocent lives at risk and endangers many civilians as a consequence of attempting to subordinate and ultimately destroy and dismantle a tribe. Individuals are targeted in the process because they identify with the target groups. In genocide cases, only certain racial or religious groups have the 'right' to exist. Attempts by such groups to eliminate other groups violate the basic human right to life which has developed amongst the international community.

The Convention has banned all types of actions that can potentially cause harm to any given group. Even though rape is not classified as an act of genocide, if carried out in a populated area it would be equivalent to genocide. If a government decreases food resources or medical rations to civilians in response to economic uncertainty, this is not classified as genocide; however, if a government restricts medical provision for a particular population with the intention to cause them harm by starvation or disease, this equates to genocide. According to the UN General Assembly, genocide "shocks the conscience of mankind". Its punishment has been enabled by an entrenched and widely accepted multilateral treaty. Genocide's status as jus cogens, which is the norm of international law, is ratified by many nations. Luke de Pulford suggests that any list of rights should be short and coherent. The right to life would be the highest priority on the list; genocide takes away the right to life of an entire cult solely because of its identity, making it universally a selective practice. When mass murders are carried out

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usually the government gets involved with the intention to control the situation. Their extreme nature necessitates a strong organization to enforce its prevention.

In order for a crime to be classified as genocide, it must fulfill the requisite *actus reus*, which in this case is to cause serious injury both mentally and or physically. Carrying out mass killings is regarded as being an inhumane activity worldwide. Genocide slows down the development of society. In order for *actus reus* to be satisfied, the act must be committed against members of the civilian population and on discriminatory grounds based on national, political, ethnic, racial, or religious identity politics.

A DILEMMA OF GENOCIDE

This section applies the frameworks of introduction section to a close explication of the Rwandan genocide in a thorough case study. It begins by differentiating the characteristics that define the crime of genocide and those that define extermination and crimes against humanity. What follows is a detailed account of the Rwandan genocide—the historical circumstances of interventionist colonization that precipitated it, the internalized violence that followed, and the domestic and international political fallout.

Structural Congruity between Genocide and other Crimes against Humanity

The lack of clarity surrounding the definition of genocide sometimes deters governmental organizations from controlling and preventing the crime. Acts of genocide and international war crimes intertwine; therefore, genocide as a separate entity has lost its importance amongst other international crimes. In order to offset this decrease in importance, genocide has been classified as mass murder.

The salient features of genocide

Genocide can be easily differentiated from other crimes against humanity by examining the offender's intentions. In the case of genocide, victimization of a group or type of people is necessary—the crime must be carried out with the intention to annihilate this targeted group, and the negative impact on the individual and the group of which he/she is a part must be considered. There are many similarities between crimes against humanity and genocide. For instance, Krstic was charged with three individual offenses that he committed during the war, genocide being one of them. Krstic was accused of persecution, and the Trial Chamber was satisfied that the crime of genocide, as defined in the indictment, was committed from 11 July, 1995, onward in the enclave of Srebrenica on the basis of alleged participation in:

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- The murder of thousands of Bosnian Muslim civilians, including men, women, children, and elderly persons;
- The cruel and inhumane treatment of Bosnian Muslim civilians, including severe beatings;
- The terrorizing of Bosnian Muslim civilians;
- The destruction of personal property of Bosnian Muslims; and
- The deportation or forcible transfer of Bosnian Muslims from the Srebrenica enclave.

The Trial Chamber also defined the crime of prosecution as “the gross or blatant denial, on discriminatory grounds, of a fundamental right, laid down in international customary or treaty law, reaching the same level of gravity as the other acts prohibited in Article 5”.

Instant destruction

As is obvious, the crime of genocide leads to the ultimate destruction of a specified group. The intensity of the crime can only be judged by the intention of an actor, and in the Akayesu case the judges considered when an act leads to “serious bodily or mental harm” as a principle in determining genocide. For example, the rape of Tutsi women, carried out in a public places by Hutu militia as a humiliation technique, was placed in this category, the Trial Chamber considering that mass rape formed part of a plan to achieve the physical destruction of the Tutsi as a group and thus manifested “intent to destroy”. On this issue the Chamber said:

These rapes resulted in physical and psychological destruction of Tutsi women, their families and their communities, sexual violence was an integral part of the process of destruction, specifically targeting Tutsi women and specifically contributing to their destruction and to the destruction of the Tutsi group as a whole. The Trial Chamber also observed that an act directed against immediate victims could by itself “destroy the group” use the following reasoning. Thus, the victim is chosen not because of his individual identity, but rather on account of his membership of a national, ethnic, racial or religious group. The victim of an act is therefore, a member of a group, chosen as such, which, hence, means that the victim of the crime of Genocide is the group, itself and not only the individual. In order to clarify the structure of this crime, the District Court of Jerusalem in the Eichmann case explained its views that acts directed against group members actually destroy the group. In other crimes this characteristic is missing: But it is not only in respect of *Intention* that a distinction lies between the crime of Genocide and the individual crimes of homicide perpetrated during the commission of that crime. The criminal act itself *(actus reus)* of Genocide also differs *in its nature* from the combination of all the individual acts of murder and the other crimes committed during its

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execution. The people, in whole or in part, are the victim of the Extermination which befalls it in consequence of the Extermination of its sons and daughters.

In cases of homicide only the victim is the person killed, but in cases of genocide the victim is killed and the group is also affected because the 'consequences' of the killing of individuals is the destruction of the group. In the Akayesu case, the judges dealt with a case where "serious bodily or mental harm" was caused. The rape of these women in a public environment by members of the Hutu militia was considered. The Trial Chambers recognized that mass rape was carried out with the intention to cause physical harm to the Tutsi group. This then manifested into "intent to destroy". The chambers explained that these assaults brought about physical and mental pulverization of Tutsi ladies, their families, and their groups; sexual savagery was a fundamental part of the procedure of demolition, particularly focusing on Tutsi ladies and particularly adding to their decimation and to the obliteration of the Tutsi aggregate all in all. The women were targeted not as a result of their individual personalities but rather by their national, ethnic, racial, or religious identity. What is clear here is that the casualty of the crime of genocide is the group itself and not just the individuals within it.

In a homicide only the victim is the person killed; this is contrasted with the crime of genocide where an individual victim's death affects the group as a whole. It is not just the intention that draws the line between the crime of genocide and the individual violation of murder—the criminal demonstration itself (*actus reus*) of genocide additionally distinguishes itself as the blend of all the individual demonstrations of killing and alternate wrongdoings carried out by its execution. The general population, entirely or to some extent, is the casualty of the act.

Extermination

The word 'extermination' comes from the Latin *exterminate*, which means "to drive out". Genocide is classed as being distinct from the crime of "extermination", which includes killing and has serious physical impacts on the individual. The victim must be a civilian rather than being part of the military. For a crime to be classified as extermination it is necessary that the perpetrator at least kills one civilian. Crimes against humanity include both persecution and extermination, which international penal tribes have classified as distinct offenses that are not subject to any treaty like the Genocide Convention. Extermination is identified as a crime against humanity by various different International and National instruments. Extermination was included in decisions after World War II by the Nuremberg Military Tribunal and the Supreme National Tribunal of Poland. The ICTR explains that extermination must include the following requisite elements:

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1. The accused took an active role in the killing of certain named or described persons.
2. The act or omission undertaken was unlawful and intentional.
3. The act was part of a widespread or systematic attack.
4. The attack was targeted toward a civilian population.

Genocide and Extermination both share the same *mens rea*, which is the intention to kill or cause serious bodily injury to the victim. The death of the victim must be reasonably foreseeable by the offender. Extermination includes depriving individuals of food and sanitation in order to bring about the destruction of a targeted population; therefore, this crime can be applied to acts committed with the intention to cause death, which can be achieved by directly killing the victim or indirectly by forging situations that facilitate the victim's death. The Report written by the ICC Preparatory Commission indicates that "the perpetrator [should have] killed one or more persons" and that the conduct should play a role in the "mass killing of members of a civilian population". Article 5 of the ICTY Statute covers crimes against humanity referring to acts targeted toward any given civilian population around the world. It is not a requirement that the victims manifest the characteristics that would label them as an enemy or target. In accordance with the Tadic Appeals Judgment, the Trial Chamber believes that it is unnecessary for the victims to be discriminated against on political or religious grounds for the crime of extermination to be established.

The Genocide in Rwanda: Moral Obligations and the Doctrine of Intervention

The Rwandan genocide entailed the killing of over 800,000 Rwandan citizens. This is the figure encompassing the history of the conflict between the Hutu and Tutsi, the 100 days of genocide in 1994, and effects of the massacre on the international community in terms of global justice.

Figure 1. Map of Rwanda

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Rwanda endured a number of events that led up to genocide, but in order to understand correctly why it happened, it is important to know the history of the Hutu and the Tutsi tribes in particular.

Placed Under Belgian Rule

Around the time after World War I, the people of Rwanda became victim to colonialism and were placed under Belgian rule. The Belgians devised a specific plan of racial classification, dividing the Rwandans into three distinct groups: Hutu, Tutsi, and a smaller group called the Twa. It was the Belgians' racist ideas that provided a framework for the social classes that would exist in Rwanda and that would eventually lead to its demise. Because of Belgium's xenophobic way of thinking, ethnic identity cards were introduced and a form of socially constructed racism was developed between the two tribes. Consequentially, the Hutu comprised about 84% of the total population in Rwanda, the Tutsi around 15%.

Establishment of the Tutsi Elite

The Belgians considered the Tutsi superior to the Hutu because of their facial features and the manner in which they lived and presented themselves. The Tutsi were thought to be a more sophisticated race and to possess a higher intelligence than that of the Hutu. These supposed attributes of "superiority" evidently reflected many characteristics of the colonizing white race. As was demonstrated in the 2004 movie *Hotel Rwanda* starring Don Cheadle, these manufactured distinctions were and still are virtually untraceable to the human eye. Despite the Hutu in the movie using the phrase "tall trees" in reference to the supposed historical difference in height, to be able to predict the specific tribe to which a person belonged was nearly impossible, a fact that made the use of identity cards crucial in the days to come. Not only were they believed to be physically superior, but the Tutsi were also granted special privileges that members of other tribes were not. The Belgians offered them schooling and a Christian rearing that was not awarded to members of the other tribes. The Catholic Church also favorably supported the Tutsi and the new social order. Though the population of Rwanda was about ninety percent Hutu, they were denied land ownership, education, and positions of power. It was these privileges among others that became the basis for future anger among the tribes.

The Rise of the Hutu Rebellion

Irritated by their new low-level social status, resentment grew amongst the Hutu toward the Tutsi, and these brewing social tensions finally came to a climax when the Hutu revolution began. Ironically, the Belgians also grew tired of the Tutsi rule and gradually began to support

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the Hutu in their cause. They even assisted in the development of a plan to replace the Tutsi leaders with those of the Hutu. In the end, the Hutu won the struggle for power and, soon after, acted with aggression after inheriting their newfound sense of domination. Many of the new Hutu leaders used their authority to persecute the Tutsi.

Although the Hutu rebellion may have been victorious, that they maintained the practices of ethnic division clearly portrayed a sign of loathing toward the Tutsi for what the Hutu were initially put through. Instead of learning from their own oppression, however, they simply acted out of retribution for what was done to them. They sought revenge. The Hutu eventually began imposing the same oppressive behavior that led to their rebellion in the first place. Only it reached a level far greater than anyone could imagine. These acts of revenge and deep-seeded hatred caused the Hutu to act ruthlessly toward the Tutsi minority. Many Tutsi were forced to flee from Rwanda and were not allowed to return. Those that did choose to stay would eventually be putting their lives in danger, a far greater danger than anyone could have imagined.

A life of vengeance

Refugees that were forced out of Rwanda soon formed militias in the countries that they fled to in hopes of reinstating their power. The Tutsi refugees organized raids against the Hutu government; the Hutu responded by beginning to execute the Tutsi that still lived in Rwanda as a new form of retribution. In the neighboring country of Uganda, the Tutsi formed what became known as the Rwandan Patriotic Front, a rebel army. They were anxious to regain citizenship and return to their homeland. Before long, a civil war broke out between the Tutsi refugees and the Hutu radicals. These refugees invaded northern Rwanda and the war went on for four years.

A government in ruin

Notably, throughout the fighting, the global coffee market crashed. With coffee as the main export of Rwanda, many Rwandans were left fighting unemployment and hunger in addition to the ensuing civil war. The Rwandan president, Juvenal Habyarimana, sought help from the Belgian government but was not given any assistance. Instead the Belgians pressured him into signing a so-called peace agreement with the rebel Tutsi army. This agreement, however, was meaningless on behalf of the Hutu. The Hutu government was still planning revenge on the Tutsi, and nothing less than complete Tutsi extermination would be acceptable. President Habyarimana soon turned to the UN, asking permission for a peacekeeping force to enter the country to help resolve the situation. This UN force probably could have helped to restore justice in the broken country as we learn from General Dallaire's book *Shake Hands with the Devil*, but

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it was ultimately hesitant in establishing authority and providing any real protection. Upon returning from further peace negotiations, President Habyarimana's plane was shot down by what some believe were Hutu extremists, although the exact circumstances of his death are not entirely known. The governmental structure of the country was in ruins, the President was dead, and the struggle for power had grown worse. With an entire country in chaos, it was time for the Hutu to act—firearms and machetes were soon distributed among its citizens.

The bloodbath ensues

The killing began on April 6, 1994. The Hutu initiated the genocide by massacring all who opposed their beliefs, including many of their own political leaders. This strategy was used to eliminate any immediate threats to their cause or questions that would delegitimize their efforts. By convincing their own people to stick to the conforming beliefs, remembering the past while looking forward to a future of dominion, and at the same time eliminating any opposing ideologies, the Hutu truly believed their actions were justified. Tragically, the ways in which they killed and the methods used were no different than those undertaken in Nazi Germany years before. Churches were fronted use to mask slaughter, and checkpoints were nothing but tollbooths demanding payment of death. Women and children were raped and murdered. The killing lasted for one hundred days, leaving more than 800,000 people massacred—one-third of the Tutsi population.

Crimes of war

Four crimes against humanity took place during this genocidal period of Rwandan history: (1) ethnic cleansing, (2) rape, (3) torture, and (4) inaction on behalf of the global community. The remainder of this chapter examines each of these respectively in relation to genocide.

Ethnic cleansing

The crime of genocide is often confused with 'ethnic cleansing'; however, genocide is theoretically and practically different from ethnic cleansing, which lacks a precise legal definition. As a description of a despicable human action, 'ethnic cleansing' entered international vocabulary in 1992 during the war of the former Yugoslavia. It means to 'cleanse' or 'purify' a territory by using terror, rape, and murder as weapons to convince an unwanted group to leave, while genocide entails containing and thereby destroying the group. In the crime of ethnic cleansing, the number of victims must be taken into account, whereas in the crime of genocide, only the perpetrator's intention to exterminate the whole group is required to determine criminality. Hence, we can say that the crime of genocide is conceptually linked with intent, and

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even if the oppressor is relatively unsuccessful in reaching his/her goal, the crime has still been committed if the intention was to destroy the group “in whole or in parts”.

Some inevitable consequences such as the misuse of language have also played a role in obfuscating the precise meaning of genocide. Most of the time, the media are responsible for this misuse; for example, there is a great danger in the way the media applied the term ‘holocaust’ to the devastation wrought by the cholera epidemic in Goma, which has the largest concentration of Rwandan refugees in Zaire. This places a medical disaster that resulted from the massive influx of refugees as a consequence of genocide on the same level as genocide itself, a pre-meditated mass crime, systematically planned and executed. This has resulted in a double error with the exaggerated emphasis focusing on the cholera victims’ catastrophe, thus deflecting attention from the crime of genocide already committed. The fact that cholera does not handpick its victims according to their ethnic origin was completely overlooked. The construction of individual *genocidal* intent in accordance with the knowledge-based approach would bring the definitions of genocide and crimes against humanity into *structural congruity* because both definitions apply to the participation of individual perpetrators in a *systemic act.* Historically, such similarity appears to make sense, for the Armenian case of 1915 shows that the crime of genocide is rooted in the older concept of ‘crime against humanity’. However, one can disagree with the argument that there is any similarity between these two crimes. As stated earlier, genocide is a crime on a different scale than a crime against humanity. Both are systemic crimes, but the specificity of genocide considers the knowledge-based approach, which means that this crime consists of a collective goal to destroy a protected group a goal that significantly differs from the collective impetus to attack a civilian population that drives a crime against humanity.

The systematic extermination taking place in Rwanda constituted the near murder of an entire population. One factor that allowed the Hutu to facilitate such practices includes that of the various checkpoints established along the major routes and borders around Rwanda. These aggressive attempts in Rwanda to destroy a distinct group of people based solely on ethnicity were no different than what Hitler did to the Jews. It is difficult to understand how such an intense level of hatred can arise against one group of people, yet from the outside looking in it would seem so simple to correct. Killing someone based on his or her own personal and uncontrollable attributes is barbaric and contradicts the basic laws of humanity. Genocide is a crime that functions on an altogether alternative scale of depravity to every other unspeakable atrocity and must be viewed as the cruelest of the violations against mankind.

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The slaughters that unfolded in Rwanda have each quality ascribed to genocide and likely constitute the most violent and gravest unspeakable atrocity in the second half of the twentieth century—and yet no group, regardless of whether they were openly involved or not, sufficiently executed efforts to keep this from happening. The Universal Declaration of Human Rights in Article 3 advises us that “everybody has the right to life, freedom, and security of the individual”. The more than 800,000 people that were killed in Rwanda should have also fallen under that category.

Rape

Not only were many people killed during this time period, but many were also raped and tortured in the process. Rape and torture seem to be consistent with crimes of war throughout the history of time, and what happened in Rwanda was no different. Many men were tortured as a result of their ethnic background, and women were raped simply for being who they were. Degrading a woman is cowardly, and for anyone to have to resort to such a crime as a means of self-assurance or power or some form of domination or hatred is utterly despicable.

Torture

Torture is the infliction of severe physical pain as a means of punishment or coercion. It is never necessary and will often lead to death. Even in the case of information gathering, the act often provides the torturer with false information. The torture of these Rwandan people was pure evil. No living being should be forced to suffer to that extent. Article 5 of the Universal Declaration of Human Rights again reconfirms that “nobody should be subjected to torment or too brutal, barbaric or corrupting treatment or discipline”. For some reason, and although this provision had been adopted since as far back as 1975, it was not heeded in this particular situation.

Inaction

The fourth crime is the crime of inaction. Having knowledge to a substantial degree about a certain rise of harmful events can often imply on those in a position to stop those events a type of responsibility to do so. In the United States, in a general sense, many courts rely on the tort law crime of negligence. Its legal meaning hinges upon us as individuals having a specific duty or care towards another person, and breaching that duty. A negligent act must also result in harm that was unnecessary or could have otherwise been prevented. The events in Rwanda were broadcast to the entire world. Regrettably, even the United States is believed to have even made special efforts to downplay the tragedy in the hopes of curbing public outcry. Negligence occurs on many levels, and in the mind of some, it is a crime against humanity to sit idly by as

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your neighbor molests and murders his children. Although the global community may not have been the direct cause of the awful situation in Rwanda, it certainly had the manpower and resources to stop it. Analogous to sitting in a fire truck full of water and watching a burning shed full of people, where does mere carelessness end and criminal negligence begin?

RWANDA GENOCIDE & THE ROLE OF INTERNATIONAL INSTITUTIONS

This section enumerates the political, emotional, and moral fallout of the Rwandan genocide, the moral failings of the US and the UN in their recalcitrant attitude to the crisis, and advantages and disadvantages of the Rwandan approach to taking justice into their own hands in the form of grassroots Gacaca Tribunals. The Gacaca Tribunals are assessed in terms of the deficiencies of transitional/'rogue' justice weighed against the practical inability for the Rwandan judiciary to handle the amount of cases it would otherwise face without the Tribunals.

The Role of the UN and the US

What transpired in Rwanda was the ferocious murdering of human beings simply based on who they were from birth. This tragedy could have been prevented if someone would have simply stepped in and intervened. Despite the fact that the Hutu radicals were the conspicuous enemies of the Tutsi, the nations that watched this terrible catastrophe unfold and expand likewise assumed a key complicit role in the cruelty of this genocide. They remained by noiselessly while very nearly a million people were ruthlessly killed. The killing went on for one hundred days. Amid this time there was no outside assistance from the United States or any other nation.

While somewhat reminiscent of the series finale of the TV sitcom *Seinfeld*, where Jerry goes to jail for a similar act of negligence and lack of assuming responsibility, Rwanda involved millions who were not being robbed or beaten, but slaughtered. Not only is the difference between the United States' lack of intervention and Seinfeld's selfish neglect unparalleled, but also the punishment is just as asymmetrical. Seinfeld went to jail and was punished for his petty crime, but who is being punished in the U.S. for allowing hundreds of thousands to die?

A silent witness

The world was faced with what was the clearest case of genocide in fifty years. The U.S. responded by downplaying the calamity and impeding valuable intervention by U.N. forces to stop the killing. The movie *Hotel Rwanda* states it best when explaining that the Rwandan people, in the eyes of the outside world, were "not even niggers, they were Africans." Rather than realize that an actual genocide going on, U.S. citizens allowed its government to downplay

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the situation and keep its resources at bay. Rape, torture, and murder of innocent people (no matter what the reason or classification) are considered crimes against humanity, yet hidden among the chaos and fury was the crime of disregard in the United States' response to the suffering. One million Rwandan civilians died, but that number could have most certainly been reduced with the aid of the U.S. government along with other governments around the globe. Whether one uses the phrase "acts of genocide" or calls it a "civil war", there should always be someone there to stand up for the innocent and protect their children, for no war is their war.

Reliance upon a Cost-Benefit Analysis

One of the major factors involved in determining the extent and form of foreign intervention, or the lack of it, is money. The costs involved are often very expensive; they may include humanitarian aid, military personnel, and various military supplies as well as heavy vehicles. In the case of Rwanda, the United States was forced to rely on a cost-benefit analysis when determining what the best response would be. The solution to their equation was expected: the people of Rwanda were not their problem. They were not American citizens, they did not pay taxes, they did not vote, help the economy, and they surely posed no immediate threat militarily. The United States responded selfishly when it came to the genocide in Rwanda. Troops were readily available, but it would take the wealthy countries with resources to equip them; even then, the process to do so would take months.

The American response was to quarrel over costs with the U.N. administration and to stall in making military items available, even if these items would have been used to save human life. By the time the U.S. or anyone else was able to send support, hundreds of thousands were already dead. Attempts were made, but too little too late is often the story. Nobody could describe these circumstances better than General Romeo Dallaire, who was right in the middle of the massacre as it happened: "I blame the American leadership, which includes the Pentagon, in projecting itself as the world policeman one day and a recluse the next". Many in our society still use this form of cost-benefit analysis today—whether in relation to the environment, war, or the prevention of war, an economic approach often explains how the world works. One of the reasons the global environment has changed so rapidly and drastically throughout our lives is the fact that there is no care for future generations. Along with the Rwandan people, they mean nothing in the minds of many, and therefore there should be nothing done to protect them from themselves or from what we or others are imposing on them. This is why global warming is not an issue, this is why sweatshops are deemed as beneficial to both parties, and this is exactly the reason why those in Rwanda ended up dying with no help from us when such a thing could have easily been prevented.

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Alternative to arms

Prevention by force and finances may not have been the only alternative to solve the problem. The United States, while demanding to know what is going on around the entire world, was well aware of how the Hutu were operating yet still avoided the conflict in every aspect imaginable. Not only did it know of the genocide but also how it was done and why. The Hutu, for instance, were using radio waves to transmit the locations of various people they were hunting. The use of the radio was an important tool for the killers to collaborate with each other and exterminate the enemy entirely with efficiency and accuracy. The U.S. could have jammed these radio signals, which would have caused chaos amongst the Hutu groups and would have broken their form of communication. Not doing so exhibits a lack of emotion and a strictly capitalist mindset. Its role as a dominant world power, along with the role of the UN, is to prevent injustices such as genocide. When such a crime is occurring in this world that we all share, dominant world powers must take it upon themselves not to impose their own beliefs on others but rather establish around the world a code of conduct when it comes to respecting human life. Genocide falls outside this specific code; whether it benefits us or not, the US must set the example and do something to right the situation. Something as small as jamming a radio signal should not have even been necessary; nonetheless, it ended up being a factor and still the US chose to do nothing.

Nations united by guilt

The United Nations was also ineffective during this crisis. More time was spent trying to define what genocide was then was spent actually trying to prevent it from happening. The backing mission in Rwanda was given orders to stay on standby and was not allowed to intervene. The view was that they would be in breach of their role as a protector of peace and not an enforcer of it. They were in a position to do serious good, but “instead of using the peacekeeping troops to stop the genocide, the U.N. sought primarily to protect its soldiers from harm.” General Dallaire was burdened to witness this lack of support by the U.S. and the U.N. firsthand; he was a contributing factor in what should have been a resistance against the Hutu. As the loss of life mounted, General Dallaire presented an itemized Rapid Reaction Force and required 5,000 warriors to destroy the executing machine of the genocidaire and to stop the Hutu from developing further control. The UN Security Council dismisses the arrangement. The United States even declined to recognize the genocide in order to evade any lawful commitments to offer assistance. The General’s lack of fulfillment has left a void in his very soul, often blaming himself for his inability to act.

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The US did, in the long run, respond to the Rwanda genocide, yet they did so in a way that would not deliver any peril to the people taking an interest in it. Since the genocide occurred, the US expressed its compassion by becoming an active member in the International War Crimes Tribunal, which serves not only to prevent genocide but to deter it from ever happening. After the genocide in Rwanda was over, the U.S. did a number of things to help those in need. Humanitarian efforts were made to help restore a sense of respect in Rwanda and help those in need. Even though what they have done has been beneficial, the time, effort, and money spent to aid the country could have been better used to help prevent the problem from happening in the first place.

Transitional Justice and International Law

With every action comes a consequence. In Rwanda, thousands of people were killed by thousands of people. The severity of a crime such as murder brings with it the extremely complex dilemma of choosing the correct form of punishment: do we use the death penalty, is there enough evidence, etc.? Under these specific circumstances, and due to the enormous scale we are dealing with, it is nearly impossible to litigate such a punishment. Rwanda went about it by taking baby steps. Conventional court systems were set up to try supposed suspects and to provide some sense of justice to the victims, but ultimately these baby steps have been ineffective in getting the job done—many Tutsi are still tortured and even murdered by the Hutu, and criminals are doing everything they can to eliminate potential witnesses who may incriminate them. Lengthy trials have prevented many of the accused killers from ever seeing the inside of a courtroom. The government finally came to the conclusion that a conservative justice system could not be the only solution to the problems they were facing.

Development in international law to treat cultural heritage destruction

The statutes of permanent, mixed, and *ad hoc* international criminal tribunals also offer the opportunity to prosecute individuals for crimes of destruction of cultural property to various extents. As the scope of destruction of cultural and religious heritage in the form of the “ethnic cleansing” during the war in former Yugoslavia was extensive, the case law of the ICTY provides particularly rich research material. Hence, the ethnic hatred prominent in the conflict in the former Yugoslavia and Rwanda translated itself into destruction of two categories of cultural objects. The first one included cultural, educational, and particularly religious buildings and monuments (mosques, churches, Jewish and Muslim cemeteries etc.) of “the others”. For example, in an attempt to eradicate all traces of the Bosnian populace and heritage in the Bosnian town of Foca, all the Muslim population was either killed or expelled, while all mosques

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were systematically levelled. The other category of targets included symbols of peaceful co-existence between the ethnicities pitted against each other during the conflict, such as the Sarajevo Library (Vijećnica) or the Old Bridge in Mostar. Both the Bridge and the Library were singled out for destruction, with no possible military necessity supporting those decisions.

Three distinct evolutionary trends can be identified in the prosecution of crimes against cultural property by the ICTY. The first has to do with the emergence of crimes against cultural property and concerns the terminology applied by the ICTY in addressing offenses against cultural objects; the second one concerns immunity of the cultural object as a function of its location on the battlefield; and the last one pertains to the connection between cultural property and crimes against humanity and genocide.

Initially, the Tribunal relied on enumerations of categories of such property as known to the ICTY Statute in line with the 1907 Hague Rules. It was only in 2001, in the *Kordić and Cerkez* trial judgment, that the Trial Chamber first used the comprehensive legal category of "cultural property" in the meaning of the 1954 Hague Convention. This change in terminology marked a passage from "subsidiary violations" of humanitarian law to the legal status of international crimes. That judgment was also the first to mention a treaty concerned only with the protection of cultural heritage the Roerich Pact. This trend was continued in the significant Dubrovnik trial, which referred to the 1972 World Heritage Convention as both defendants, Miodrag Jokić and Pavle Strugar, were convicted in relation to the bombardment of the Old Town of Dubrovnik, a World Heritage Site. In the trial of Strugar, the Trial Chamber ascertained the customary character of Article 3(d) of the ICTY Statute as a rule applicable both in international and non-international armed conflicts. Jokić pleaded guilty to the crime which, as the Tribunal stated, "Represented a violation of values especially protected by the international community." The Trial Chamber pointed out that an attack on Old Town of Dubrovnik was prohibited under the 1907 Hague Rules, the Hague Convention concerning Bombardment by Naval Forces in Time of War of 18 October 1907, the 1954 Hague Convention, the 1972 World Heritage Convention, and, moreover, the 1977 Additional Protocols, whose Article 53 (Additional Protocol I) and Article 16 (Additional Protocol II) clearly prohibit such attacks "whether or not the attacks result in actual damage." As the Tribunal added, "this immunity is clearly additional to the protection attached to civilian objects" and later elaborated on this notion, stating that "since it is a serious violation of international humanitarian law to attack civilian buildings, it is a crime of even greater seriousness to direct an attack on an especially protected site, such as the Old Town, constituted of civilian buildings and resulting in extensive destruction within the site."

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In an important passage the Trial Chamber thus expounded on the importance of the Old Town of Dubrovnik for the entire humanity:

The whole of the Old Town of Dubrovnik was considered, at the time of the events contained in the Indictment, an especially important part of the world cultural heritage. It was, among other things, an outstanding architectural ensemble illustrating a significant stage in human history. The shelling attack on the Old Town was an attack not only against the history and heritage of the region, but also against the cultural heritage of humankind.

The second important evolution in the case-law of the ICTY pertains to the question of whether the duty to respect cultural heritage may depend on its location during armed strife. In the *Blaskić* trial judgment, the Court declared that in order to enjoy protection, the institutions under Article 3(d) of the ICTY Statute, must not be, firstly, used for military purposes at the time, and secondly, located in the immediate vicinity of military objectives. Thus, the Trial Chamber in that case seemed to indicate that such proximity would result in the withdrawal of their immunity from attack. However, three years later, in the *Naletilić -Martinović* case, the Trial Chamber distanced itself from that contention, emphasizing that "[t]he Chamber does not concur with the view that the mere fact that an institution is in the 'immediate vicinity of military objective' justifies its destruction."[7] The Chamber upheld however the other criterion identified in the *Blaskić* judgment, relating to the use of cultural property for military purposes. The Trial Chamber reiterated this view in the *Martić* case in 2007, further specifying that "[t]he protection of institutions dedicated to religion or education is lost if such institutions are used for a military purpose," adding that this exception applies regardless of whether or not such objects protected under Article 3(d) of the ICTY Statute constitute the cultural or spiritual heritage of peoples.

Although the connection between cultural property destruction, crimes against humanity, and genocide had already been made in the trials following World War II, the ICTY Statute is silent on the cultural dimension, let alone any relevance of property as such to these crimes against persons *par excellence*. As third development, the ICTY jurisprudence has reinstated the connection between destruction of cultural property, especially that of religious character, and genocide as well as persecution on political, racial and religious grounds. In 2000, in the *Blaskić* judgment, the Trial Chamber sustained the contention of the Prosecution that the crime of persecution may *inter alia* take the form of destruction of symbolic buildings. In the *Kordić* and *Cerkez* trial judgment, the Trial Chamber contended that destruction and damage of religious or educational institutions "when perpetrated with the requisite discriminatory intent, amounts to an attack on the very religious identity of the people. As such it manifests a nearly pure expression of the notion of 'crimes against humanity,' for all of humanity is indeed injured by the destruction of a unique religious culture and its concomitant cultural objects." Therefore, as the Chamber

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concluded, “Destruction and wilful damage of institutions dedicated to Muslim religion or education, coupled with the requisite discriminatory intent, may amount to an act of persecution.”

In *Kordić* , the Trial Chamber stated that whereas the offense of wilful damage or destruction to institutions dedicated to religion overlaps to a certain extent with the offense of unlawful attacks on civilian objects, the object of the latter offense “is more specific: the cultural heritage of a certain population.” Accordingly, the relevant prohibition “is the *lex specialis* as far as acts against cultural heritage are concerned” and “the Trial Chamber intends to apply this more specialised offense to the facts of this case.” As Lenzerini explains, as in the case of such an offense the cultural heritage of a community is targeted, “such an act acquires an especially qualified degree of gravity, which transcends the element of the physical and economic value of the property concerned and acquires a spiritual connotation.”

A year after the *Blaskić* trial judgment, the Trial Chamber stated that in the presence of parallel evidence of criminal intent of physical destruction of a group, cases of cultural destruction not justified by military necessity could be considered as evidence of *mens rea* (the criminal intent) of genocide. The circumstances of the *Krstić* case required an interpretation of the Genocide Convention of 1948, whose approach to the *mens rea* element hinges on biological and physical extermination only, as the reference to “cultural genocide” as a variety of genocide was removed from Article 2 of the Convention in the course of the preparatory work. Nonetheless, referring to the destruction of the principal mosque in Srebrenica and of houses of Bosnian Muslims in Srebrenica and Potočari committed in the wake of the physical extermination of the Bosnian Muslim men, the Trial Chamber considered that “where there is physical or biological destruction there are often simultaneous attacks on the cultural and religious property and symbols of the targeted group as well, attacks which may legitimately be considered as evidence of an intent to physically destroy the group.” In doing so, it referred to a judgment of the Federal Constitutional Court of Germany from 2000, where the Court stated that the prohibition of genocide in international law protects the social, not merely biological existence of a group, and so the culprit's intent does not have to be discerned only from the fact of physical extermination of a substantial number of members of the group.

This approach has been upheld by the International Court of Justice in the Genocide Cases and seems to equally have impacted the consideration of Case 002 by the mixed tribunal called to try serious crimes committed during the Khmer Rouge regime between 1975 and 1979. In that case, the defendants were *inter alia* charged with the destruction of pagodas, sanctuaries, and Buddhist statues, and the conversion of monasteries, pagodas, and sanctuaries for other purposes (meeting halls, detention centres, dining halls, warehouses, and

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pig farms), seizing and burning Qurans, closing or destroying mosques or using them for other purposes (including as pigsties), forcing the Cham Muslim population to eat pork and cut their hair, and prohibiting them from praying, covering their heads, speaking the Cham language, and dressing according to their tradition. The indictment characterized such behavior as falling into the purview of grave breaches of the Geneva Conventions and religious persecution against the Chams and Buddhists. Security Council prove that the protection of cultural heritage in conflict areas can no longer be viewed merely in terms of prevention and minimization of property destruction, but as a matter of international peace and security. In this respect, the acts of barbaric devastation of ancient heritage in the Middle East perpetrated by the Islamic State may well represent another turning point in the evolution of the law and practice in this area.

To conclude, it is worth recalling that Article 4 of the 1972 World Heritage Convention establishes the protection of cultural heritage so that it may pass on to future generations, as the basic duty of the states' parties. As this convention has enjoyed an almost universal endorsement so far, it can be seen as the ultimate recognition of the *erga omnes* character of this duty, i.e. one that is owed not in a state-to-state scheme, but to the entire international community, which has a valid interest in the preservation of cultural heritage of all peoples. The realization that the protection of cultural heritage fosters human rights rather than claiming their primacy in the hierarchy of values is important for ensuring a comprehensive protection of both these categories during armed conflicts.

GENOCIDE IS AN EMBLEM FOR HUMANITY

This section shifts from the psychological mindset of those who commit acts of genocide to the collective mindset of those who unwittingly enable it by normalizing behaviors that gradually lead to the panoply of ‘-isms’ and phobias that subordinate people based on race, sex, sexual orientation, etc. It is these micro-encounters that we encounter every day that ultimately lead to more collective mindsets that kind catapult into the kinds of irrational hatreds that lead to genocide. The chapter concludes with a passionate call to action to defeat the seeds of genocide at its source which is not ‘over there’ somewhere far away but indeed right on our own doorstep.

Findings and Underpinnings

The situation in Rwanda in 1994 is rife with instances of genocide. Perpetrators would say “get to work” or “go down to work” when they meant “go kill the Tutsis”. They talked about “mopping up” a region and “removing the dirt”. In a reference that, without the relevant context, may appear particularly obscure, the statement was made that the Tutsis had to be sent back to

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Ethiopia via the Nyaborongo River where many drowned. It is true that coding did not happen in all cases, but in some instances the perpetrators were indeed quite explicit about their intentions. Perhaps the most important form of abstraction that perpetrators adopted concerned the victims themselves; in the case of genocide, 'the enemy' defies any form of political or military categorization because they are de-humanized and objectified.

Situations of genocide raise questions not only about the mindset of the perpetrators but also that of the bystanders: those who observed the situation and its development from within the State itself and those who did so in other territories. From the perspective of prevention, this is a significant issue, for it is only the inaction and indeed, in some cases, the indifference of the uninvolved that allows for the creation of a climate in which such atrocities can arise.

The Rwandan situation in 1994 certainly led to a good amount of criticism of the lack of efficient reaction by other States but also of the rather subdued attention the Western media gave to the crimes as they escalated. Even *The Times* of London, which did provide regular reports on the atrocities, reflected this general position. The assassination of the Presidents of Rwanda and Burundi on 6 April 1994 did make it to the front page, but as time (and the massacres) went on, Rwanda lost its prominent position and tended to find its place in the 'foreign pages' of the newspaper. When Doctors Without Borders on 24 April reported from Butare on a massacre in a hospital that left 170 people dead, *The Times* relegated this to the 'News in Brief' section without naming the location of the massacre or even making a reference to Butare (the front page on that day was dedicated to a bomb explosion in Johannesburg in which nine people died and a *Times* photographer was injured). Domestic news had more powerful appeal still. The killing of the Rwandan Prime Minister Uwilingiyimana at a time when it became clear that the development of widespread violence throughout the country had to be feared still made the front page, but it was pushed to the very margin of the page where it occupied one column. Centre stage was given to a sizeable article (four columns and a photograph) about the impact that Paul Gascoigne's broken leg might have on the future career of the footballer. To the left of that was another big article (three columns) about government suggestions to require secondary schools to 'teach at least five team games and to take part in league and cup competitions'.

At that level, abstraction also serves a comforting function. It restores the observers' faith in humanity: crimes of this kind do not need to challenge the basic trust in human nature because they were not committed by human beings. Yet it is a dangerous line of thinking. By adopting it, observers commit themselves to the view that genocide is not a crime capable of commission by ordinary persons and thus not capable of commission by themselves, their friends, neighbors, or (even if their own country had been spared that horror in the past) their

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fellow countrymen. That is the effect of disassociation: it promotes thinking in stereotypes rather than in parameters that could be applied to situations that exhibit the same characteristics. That, in cumulative, macro terms, has a profound effect on prevention efforts.

The scope of the definition of genocide can be extended to embrace groups not currently covered under Article II including political groups and gender groups that are continuously targeted by offenders. The scope of the obligations can be extended by State parties. This is to allow them to intervene more easily in order to prevent genocide. NATO can be an influence in ensuring this is done. In order to prevent genocide, one needs to have the ability to identify and recognize its nascent underpinnings. The difficulty lies in distinguishing between ethnic conflict and *bona fide* instances of genocide, which causes people to migrate from targeted hotspots. This results in them becoming refugees or internally displaced people (IDPs). There has been an increase in refugees fleeing to neighboring countries and causing an economic burden on their host countries. Refugees are at the risk of residing in makeshift refugee camps in order to survive.

During the Rwandan genocide, approximately 10,000 Tutsi died every day and only 133,000 Tutsi were left alive all with everlasting scars. No matter the circumstances we find ourselves in, or we think we are in; it is never justified to act the way in which the Hutu did. The story of Spartacus comes to mind. Spartacus was an ancient gladiator who was forced into slavery at the amusement of others. Death was commonplace in his world, and oppression was all he and his people knew; they were often forced not only to kill but also to execute their very friends for the crowd's entertainment. Spartacus eventually led these slaves to freedom through immense struggle and hardship. Their guardians were ultimately captured and brought before the group of recently liberated gladiators. The slaves, in their newfound freedom, began to enforce upon their previous oppressors the same pain that they went through, the same feelings of inferiority that lead to their rebellion. The guardians were thrown into a circle of death and given swords and forced to kill each other. This punishment seems fitting under these harsh circumstances but only on face value by inflicting this retributive punishment, the former slaves became no better than those who imposed harm upon them and only caused more death and despair. Perhaps this form of blatant retribution was what the Hutu had in mind in the first place, but when does it end? Should the Hutu now be exterminated entirely because of what *they* have done? Is vengeance ever the answer? And if basic and fundamental laws of fairness are being violated, is it not our duty to intervene?

Legal authority is ambitious in its way to provoke change. There are now new laws imposing obligations on nations to stop genocide. The 1948 UN Convention is concerned with defining genocide and establishing rules used to prosecute perpetrators. Article VIII grants

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States the right to appeal though it does not allow them to take action via the military outside the UN framework. Under exceptional circumstances, nations can take military action if it is in self-defense. Intersecting these developments is a fundamental need to emphasize moral standards and values regardless of any boundaries and political barriers. There is a need to give established treaties the importance they deserve. There needs to be a strong shared priority in the international community to take measures to deal with genocide. This will allow the jurisdiction of International Criminal Courts to become more effective in enforcing the International Criminal Treaty and international laws. The institution of the global human rights regime must be strengthened in order to craft a policy of carefully targeting sanctions.

Unlike homicide, genocide originates from the expectation of immunity; events of genocide usually go unpunished with no justice being done about them. People are aware of the problem, but no powerful institutions are willing to intervene because crimes today are not dealt with on an international scale. Nations should therefore cooperate to allow all individuals to prosper in life only a strong sense of international community can prevent genocide in the future. The convention is established to prevent and punish the crime of genocide the responsibility to make proactive and effective use of it rests with us.

CONCLUSION

A vital question arises in connection with all the discussion so far, that being: how has Genocide been allowed to develop and become such a violent and brutal crime? The law of Genocide, if it is to develop, is confronted with two choices between two very different options. The first is to enlarge the scope of the definition of Genocide, mainly by including groups not presently covered by Article II, such as political groups, gender groups and other groups that are the victims of mass killing. The second is to extend the scope of the obligations assumed by the State parties, notably in the direction of the duty to intervene in order to prevent Genocide, and NATO can play a significant role in this regard. Early warning of Genocide requires an ability to identify and recognize the initial symptoms. The real challenge is to distinguish between garden-variety ethnic conflict, of which there is no shortage in the modern world, and genuine signs of positive Genocide.

Acts of Genocide cause people to flee dangerous areas, becoming refugees or internally displaced people (IDPs). Great numbers of refugees fleeing to neighboring countries can be a social, political, and economic burden on those countries. Refugees often encounter discrimination in new countries, and may have no choice but to live in refugee camps, not knowing when or if they will return home. When they do return, they do not know if they will find

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their homes and possessions intact. This is but one of countless problems faced by individuals, communities, and societies after a period of Genocide ends.

The International Criminal Court must have more power and there is a need for court decisions to also include compensation, including the allocation of damages to the victims. Although such payments can never compensate for the suffering of victims' survivors, such people must at least be able to recover lost property and see their destroyed homes rebuilt. The International legal authority for action is also ambiguous. Although there is now a consensus that nations have a moral obligation to stop Genocide, International law is not so clear. The 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide, despite its name, is largely concerned with defining Genocide and creating rules for prosecuting perpetrators rather than preventing Genocide before, or stopping it as, it occurs. Article VIII grants States the right to appeal to the UN for help, but it gives them no right to take military steps outside the UN framework unless it is in self-defence. There would seem to be a need to place more emphasis on our moral standards and values, which are basic, and recognized as fundamental throughout the world, regardless of any boundaries and political barriers. One way or another, it all depends on treaties. Hence, there is a need to give priority to them. As sensible human beings, we must contribute in order to find solutions and resolve these questions. We must build a strong sense in the international community so that the Universal jurisdiction of the International Criminal Court becomes more effective and clear, and this should be enforced with full strength so that International crimes can be tackled efficiently and successfully.

The International Criminal Treaties (ICT) cannot achieve their purpose and develop their actual functions until they are moved in specific International crimes. The implementation of ICT's is in effect the implementation of International Law. However, the implementation of ICT's and other International treaties comprise a theoretical and practical problem that has been assailing the International community and all the States. ICT's implementation is clearly different from that of National criminal law and also International civil and commercial treaties.

Non-Governmental Organizations must continue to alert the world when and where the crime of Genocide is taking place, continuing their development of an early warning system. Additionally, the United Nations must recognize Genocide warning signs and act immediately without going through the long and drawn-out formalities. States must co-operate even if it is not in self-interest. Moreover, we have to strengthen the institutions and actors of a global Human Rights regime, to articulate a cogent philosophy of prudent prevention, to craft a policy of carefully targeted sanctions, and to develop a wise theory and practice of just Humanitarian Intervention.

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The concept of a crime as International in nature is very significant; this is the point at which we have to decide on our morals. As this world has changed to become a global village and most of our norms and values are the same, we have to choose whether we wish to live in a barbarous environment with no rule of law, or in a world with standards, that will allow everyone to have a prosperous life. All too often, those who organize Genocide go unpunished, while those subjected to it can rarely expect to see justice done. This is a lesson that we need to take to heart as we contemplate contemporary cases of Genocide, 'ethnic cleansing', and other crimes against humanity. Genocide is a collective undertaking - those who order and organize it do not carry it out, and those who do the killing claim ignorance of its scope, and emphasize their inability to disobey orders. In other words, unlike homicide, Genocide is deeply rooted in the expectation of impunity. Everyone knows it is happening, but no one seems to be responsible, and no one is willing to intervene. This, to cite the most current example out of scores of others that have occurred since 1945, is what we have seen in Rwanda and in Darfour. Thus, when we ask, 'Who is guilty?' there is only one answer we can come up with, in view of our own willingness to allow such mass murder to go on. The answer is: 'We are.' The topic of genocide is very vast and I recommend investigating this crime from social and economical perspective which means that how it affects the social life and economical stability of the society.

We must all contribute to find solutions and resolve these questions. We must build a strong sense in the International community so that the Universal jurisdiction of the International Criminal law becomes more effective, clear, and is enforced with full strength. The Convention for the Prevention and Punishment of the Crime of Genocide has teeth, now the question is how to use them to stop this crime.

REFERENCES

Adrian Gallagher. (2013). Genocide and its Threat to Contemporary International Order, Hampshire: Macmillan, p 190.

Alan Kuperman, ‘How the Media Missed Rwandan Genocide’, International Press Institute report, no 1, 2000.

Annan, K. (2005) In Larger Freedom: Towards Development, Security and Human Rights for All (New York: United Nations).

Armenians in Turkey (1915-18) 1.5 million, Stalin's forced famine in the Ukraine (1932-33) 7 million, Japanese massacre of Chinese (the rape of Nanjing, 1937) 300,000, Nazi Germany and the holocaust (1938-45) 6 million, Pol Pot in Cambodia (1975-79) 2 million, Bosnia (1992-95) 200,000, Rwanda (1994) 800,000 Source: Committee on Conscience at the US Holocaust Memorial Museum.

Associated Press, Mass Graves Searched for Second Saddam Trial, MSNBC.com access date 11-12-2015.

Attorney General of Israel v. Eichmann, (1968) 36 ILR 5 (District Court, Jerusalem).

Licensed under Creative Common

Attorney-General of the Government of Israel v. Eichmann, District Court Jerusalem, Judgement, 12 December 1961, International Law Reports 36, p.233 (1962).

Attorney-General of the Government of Israel v. Eichmann, District Court Jerusalem, Judgment, 12 December 1961

Ban Ki Moon. (2014, July 4). 20 Years After the Genocide In Rwanda: Lessons Learned And Unlearned, The Huffington Post, p 7.

Benjamin A. Valentino (b. 1971), Final solutions: mass killing and genocide in the twentieth century, (Ithaca, N.Y.: Cornell University Press, 2004).

Bernd Freytag von Loringhoven, Francois de Alancon In the Bunker with Hitler (Weidenfeld & Nicolson, London 2006) 87.

Campbell, KJ. Genocide, and the global village, Palgrave (formerly St. Martin's), August 2001.

Central Luzon Cops Placed under 'Full Red Alert' Status Newspaper article; Manila Bulletin, March 31, 2017.

Charles, M. & Peter U.; Western and Local Approaches to Justice in Rwanda Journal Global Governance, Vol. 9, 2003.

Charny, I. W. (Ed. in Chief). Encyclopaedia of Genocide, Vol. 1-2. Santa Barbara, California 1999.

Chesterman, S. (2000) 'An altogether Different Order: Defining the element of Crimes against Humanity,' Duke Journal of Comparative &International Law 10, p 307, p 344 – 388.

Clayton R & Tomlinson H. The Law of Human Rights (1st Edition 2000)

Convention on the Prevention and Punishment of the Crime of Genocide Adopted by Resolution 60 (III) An of the United Nations General Assembly on 9 December 1948.

Dallaire, Roméo. Shake Hands with The Devil. Carroll & Graf Publishers: New York, NY (2005).

David H, Law Against Genocide: Cosmopolitan Trials, (Cavendish Publishing Ltd. 2003).

David Smith. (2013) Unspeakable Horrors in a Country on the Verge of Genocide, The Guardian, Nov. 22

Decoust & Michple. Australia's Forgotten Dreamtime. (Le Monde Diplomatique, October 2010).

Ellen Frankel Paul and Fred D. Miller Jr New Essays in Political and Social Philosophy: Volume 29, Part 1 (Social Philosophy and Policy) 30 Aug 2013.

Eric Stover & Rachel Shigekane, The Missing in the Aftermath of War: When Do the Needs of Victims' Families and International War Crimes Tribunals Clash?, 84 IRRC (No. 848), 845, 846 (2002).

Eric, DW. A century of genocide: utopias of race and nation, Princeton, NJ : Princeton University Press, 2003.

Featherston, S (2004) 'Review of Stephen C. Schlesinger Act of Creation: The Founding of the United Nations' SAIS Review, 24 (1): 201-203.

Genocide vs. Individuals Newspaper article; The Washington Times, May 17, 2002.

Genocide: The Crime of the Century; the Jurisprudence of Death at the Dawn of the New Millennium Journal article by Matthew Lippman; Houston Journal of International Law, Vol. 23, 2001.

Geremy Sarkin. (2010). The Responsibility to Protect and Humanitarian Intervention in Africa, New York: MartinusNijhoff publishers, p 371.

Global Governance and Genocide in Rwanda Journal article by F., Jr. Anthony Lang; Ethics & International Affairs, Vol. 16, 2012.

Gourevitch, Phillip. We wish to inform you that tomorrow we will be killed with our families. Picador: New York, NY (1998).

Gutman, Roy & Reiff, David Crime of War; W.W. Norton & Company. New York, NY (1999)

Licensed under Creative Common

Harff, B. (2013, Aug). Early Warning of Communal Conflict and Genocide: Linking Empirical Research to International Responses, Westview Press.

Harff, B. Early Warning of Communal Conflict and Genocide: Linking Empirical Research to International Responses, Westview Press, August 2013.

Heidenrich, J. G. How to prevent genocide: a guide for Policymakers, Scholars, and the Concerned Citizen, Westport, Connecticut 2001.

Hill, FHC. The origins of Nazi genocide from euthanasia to the final solution (University of North Carolina Press 1995)

http://pages.cpsc.ucalgary.ca/~carman/courses/kosovo.html access date (14 Aug 2015)

http://www.genocidewatch.org/HOWWECANPREVENTGENOCIDE.htm access date (13 June 2015)

http://www.globalpolicy.org/security/issues/uvin.htm access date (14 July 2015)

http://www.gov.rw/government/07_11_01_genocideweek3.htm access date (12 June 2016)

http://www.law.duke.edu/journals/djcil/articles/djcil7p461.htm#H1N1 access date (24th May 2015)

http://www.preventgenocide.org/lemkin/americanscholar1946.htm access date (24th May 2015)

http://www.preventgenocide.org/lemkin/ASIL1947.htm access date (24th May 2005)

http://www.preventgenocide.org/prevent/UNdocs/KofiAnnansActionPlantoPreventGenocide7 Apr 2014.htm access date (12 June 2005)

http://www.washingtonpost.com/wp-dyn/articles/A9102-2005Mar5.html access date (22nd April 2015)

Jones, A. Genocide, war crimes, and the West: History and Complicity (London 2004)

Judgment, The Prosecutor v. Jean-Paul Akayesu, case no. ICTR-96-4-T, 2 September 1998, paras. 591-592; Jugement,

Karcy (1988) for a discussion of the domestic political forces and fears explaining the UN's delayed responses.

Kayishema (Trial Chamber), para 538, Nchamihigo Indictment, para 20.

Kayishema (Trial Chamber), para 539; Ruggiu (Trial Chamber), at iv.

Krstić (Appeals Chamber), Shahabuddeen Opinion, para 43.

Kuper, L. Genocide, its political use in the twentieth century, New Haven: Yale University Press, 1981, p 12.

Lemkin, R. A Polish scholar coined the word 'genocide' in his book Axis Rule in Occupied Europe in 1944.

Lukes, S. Five Fables about Human Rights, in On Human Rights 19, 38 (Stephen Shute and Susan Hurley eds., 1993)

Melvern, L. Conspiracy to murder: the Rwanda genocide (London; New York: Verso, 2004).

Mugesera v Minister of Citizenship and Immigration, 11 July 1996, see William Schabas,

Paul Behrens, 'Genocide and the Question of Motives', 10:3 Journal of International Criminal Justice (2012), 501, 510.

Peterson, MD. "Starving Armenians": America and the Armenian Genocide, 1915-1930 and after, Charlottesville: University of Virginia Press, 2004.

Poland v. Greiser (Supreme Nat'l Tribunal of Pol.), 13 LRTWC (1949) 70; Att'y Gen. of Isr. v.

Eichmann, 36 I.L.R. 5 (IsrDC 1962) (IsrSC 1962) (Israel).

Prosecution v. Akayesu, Case No. IT-96-4-T, Judgement, 2 September 1998.

Licensed under Creative Common

Prosecutor v. DuskoTadic International Criminal Court. Case No. IT-94-1-R & Case No.IT-95-1-A, Judgement 15 July 1999.

Prosecutor v. Jelisic (ICTY-1-95-10). However, the ICTY has considered the aspect of Genocide in a number of important decisions under rule 61, and in decisions confirming indictments.

Prosecutor v. Krstic, case No. IT-98-33-A Judgement, 19 April 2004.

Prosecutor v. Rutaganda, case no. ICTR-96-3-T, 6 December 1999, paras. 82-84; Judgment,

Ratner, S.R. Accountability for Human Rights Atrocities in International Law Beyond the Nuremberg Legacy (Clarendon Press, 2014).

Remains of 12 People Discovered in Mass Grave, Wash. Post Express, Dec. 4, 2007, at 7.

Resolution 60 (III) A of the United Nations General Assembly on 9 December 1948.

Robinson Genocide Convention, p. 84; Drost, Genocide, pp. 101-2, Malcolm N Shaw, International Law 2nd edition (Cambridge Grotius Publications), 1986.

S, Totten., W.S. Parsons & I.W. Charny, Century of Genocide: Critical Essays and Eyewitness Accounts, 2nd edition, Routledge, 2013.

Samuel T, William S. P & Israel W. Charny, A century of genocide: critical essays and eyewitness accounts - Second Edition, (New York: Routledge, 2004.)

Schabas, WA. Genocide in International Law, the crimes of the crimes (Cambridge University press 2000)

Shaw, M. War and genocide: organized killing in modern society, Malden, MA: Polity Press, June 2003.

Steven, L., Five Fables about Human Rights, in On Human Rights 19, 38 (Stephen Shute and Susan Hurley eds., 1993).

Stone, R. Textbook on Civil Liberties & Human Rights (4th Edition Oxford University Press 2002).

Sudan Guilty of Genocide; Keep a Watchful Eye to Hold Regime Accountable Newspaper article; The Washington Times, November 4, 2002.

Sunga, L.S., The Emerging System of International Criminal Law: Developments in Codification and Implementation , Kluwer (1997) p 508.

Systemic Approaches to the Understanding and Prevention of Genocide and Mass Killing Journal article by Michael G. Wessells; Peace and Conflict, Vol. 5, 1999

The Origins and Prevention of Genocide, Mass Killing, and Other Collective Violence Journal article by Ervin Staub; Peace and Conflict, Vol. 5, 1999

The Prosecutor v. Kambanda, case no. ICTR-97-23, 4 September 1998; Judgment,

The Prosecutor v. Kayishema/Ruzindana, case no. ICTR-95-1-T, 21 May 1999.

The Prosecutor v. Musema, case no. ICTR-96-13-T, 27 January 2000.

The Rome Statute of the International Criminal Court (ICC) came into force on July 1, 2002.

The Times, ‘Blueprint for Revival of School Sport’, 8 April 1994.

The Times, ‘Broken Leg Threatens Gascoigne's Career’, 8 April 1994.

The Times, ‘Mob Kills Rwandan Premier and UN Soldiers’, 8 April 1994.

The Times, ‘Patients Die in Rwanda Massacre’, 25 April 1994.

The Times, ‘Two African Presidents Assassinated’, 7 April 1994. The article, at 84 words, was the smallest item on the front page on that day. An advertisement for Philips telephones, in the column next to it, occupied more than twice its space.

Totten, S & Parsons, WS & Charny, IW. A century of genocide: critical essays and eyewitness accounts - Second Editon, (New York: Routledge, 2004.)

Licensed under Creative Common

Triffterer, O. (2001), ‘Genocide its particular intent to destroy in whole or in part the group as such,’ Leiden Journal of International Law 14, p 399, p 400.

UN Confusion as Sudan Conflict Is No Longer 'Genocide' Commentary Newspaper article by Alec Russell; Daily Telegraph (London, England), February 2, 2005.

Vahram Abyazayn. (2012). Genocide: Intent, Motivation and Types. Contemporary issues. Toronto: International Institute for Genocide and Human Rights Studies, Vol.5, No.1.

Valentino, B.A. Final Solutions: Mass Killing and Genocide in the 20th Century, Cornell University Press, 2014.

William Schabas. (2009). Genocide in International law: the crime of crimes, (2nd ed). London: Cambridge University Press, p 520.

William, LH. (b. 1947), Defining the horrific: readings on genocide and Holocaust in the 20th century, Upper Saddle River, NJ: Pearson Education, 2004.

Zachary Kaufman. (2011). Africa: South of the Sahara, London and New York: Routledge, p 249.

Licensed under Creative Common