

## Observations from the International Criminal Tribunal for Rwanda

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In 2008, I had the honor of visiting the International Criminal Tribunal for Rwanda. I attended as part of a study abroad program that focused on Peace and Conflict Studies in the Lake Victoria Basin. Throughout the program, we visited refugee camps, met with organizations working toward reconciliation, and lived with families who had been affected by conflict. My host family in Rwanda fled to Southern Uganda during the genocide. My host family in Uganda lived in an IDP camp for seventeen years where their youngest son, my host brother, was kidnapped. He was forced into child soldiery for four years before escaping. These interactions taught me firsthand that there is no one more forgotten or neglected than an innocent civilian who is caught in the throes of violence. Sadly, often enough it seems that the same disregard applies when it comes to justice.

While at the courts, we spoke with Mr. Charles Phillips, the Senior Trial Attorney from the Office of the Prosecutor. Mr. Phillips tried several landmark cases during his time at ICTR, including a case involving Pauline Nyiramasuhuko, the first woman to ever be tried for crimes against humanity and the first woman to ever be charged with using rape as a crime of genocide. While she did not actually commit the rapes, she abused her power as Minister of Family and Women's affairs to incite the militia to rape thousands of women.

Hearing about the ICTR from a judge who had been involved from the beginning shed light onto the extreme importance of an international code of justice. The courts were an important step in establishing accountability and an international standard of acceptable behavior. They took strides to define rape as a tool of genocide, held key players responsible for organizing crimes during the genocide, and began the long process of overcoming an international indifference to genocide. However, Mr. Phillips also brought attention to the many intricate steps involved in actually determining superior responsibility, and in finding and keeping the witnesses necessary to prove someone guilty. These challenges are just a few examples in the string of difficulties that face the ICTR.

While sitting in on cases was fascinating, it was interacting with people outside of the ICTR that really provoked questions of what justice means in the context of genocide. Three big questions stood out at the time.

First, who actually benefits from the form of justice given by ICTR? Who does that justice serve?

In the case that I sat in on, the room for observers was completely full of people – and every single one of them was white. When talking about this later, my host father said that in Rwanda, people do not feel connected to the courts or know the outcomes of them because Arusha is too far away for Rwandese to travel to, and translated transcripts are not sent back or distributed. He questioned whether the international community might be benefiting more from Rwanda's courts than he was as a Rwandese citizen.

With most of the people viewing the cases not part of the actual genocide, whose justice was it really? I wondered about my host family, and the kids I had met at refugee camps in Uganda. Does locking perpetrators up behind bars in these faraway cases actually mean anything to them? Does it give them closure or any sort of benefit? Maybe in the long term – with the conflicts in Eastern and Central Africa

becoming increasingly interconnected, arresting the ringleaders of one genocide might very well help to prevent the next. Arresting Joseph Kony in Uganda will ultimately benefit people in Congo and Sudan as well. But what about the short term? What about an apology or assistance for the boy I met in an orphanage whose parents were killed in front of his eyes at the age of 4? He has lived his life as an orphan since then. What about the young woman who was raped, infected with HIV, and is now an outcast from society because the rape was perceived as her fault? They are the ones whose lives were destroyed, not the international community. The kids in orphanages and refugee camps will most likely never physically see the men who organized so many crimes against them. Will they be able to come to terms with being orphans simply because the men who organized the massacre killing their parents are in jail? What justice is served for every child who lost a parent, every family who lost years of life and education in a refugee camp, and every generation of lost children? Or can any system ever create adequate individual justice for what was lost? The Gacaca courts were an important step, but people still slip through the cracks. My host sister was scoffed at when she tried to present her case of being raped because a.) it was her word against a man's, and b.) she was fourteen years old at the time and was accused of making the story up.

So first, who benefits from the justice?

The second question that came up was who should be held accountable or tried for the crimes committed, and who gets to decide that?

My dad was a criminal military judge for 28 years. Growing up I always saw his work as clear-cut. There were the good guys and the bad guys. The bad guys were always guilty. Sentencing them to years in jail was the clear solution. Those who were victims were therefore innocent, and could then live in peace when the perpetrators were imprisoned. But what happens once the distinction between victim and perpetrator is blurred, and the line between innocent and guilty is not so straight?

Before entering Rwanda, we visited a refugee camp in Uganda comprised of 95% Hutu refugees. The men and women in this camp dictated a completely different story of what had occurred during the genocide than that told by Tutsis. They also gave us a glimpse into the discrimination that currently faces Hutus today. In their stories they focused much more on the long history leading up to the 1994 genocide – on the widespread massacre of Hutus in Burundi – on the RPF invasion of Rwanda in 1990. According to the refugees, the violence was far from one-sided. One man showed us scars all over his head from an axe that a Tutsi official had cut him with. Another claimed that some of the piles of bones that were discovered and are now being memorialized were actually bones from mass killings of Hutus. They also said that today Hutus have no freedom of speech in schools or workplaces, that the term “survivor of genocide” brings only Tutsis to the minds of most people, and that every April for genocide remembrance month, only Tutsis are remembered. Moderate Hutus are given no place in the story. It is possible that this is all denial, and that the perpetrators are making excuses for their actions. It is also possible, however, that the division between victim and perpetrator is not as clear cut as we thought.

But if and when there is uncertainty in the distinction between perpetrator and victim, who has the right to decide which side attains justice and which side is tried? Is it simply because one side is currently in power? At the time I visited, not one Tutsi had been tried at the ICTR. Hutus were not allowed to make accusations at local Gacaca courts, and memorials failed to remember the moderate Hutus who had been killed.

Continuing along this vein, when the definition of perpetrator is blurred, at what point do we reach even further out to cast responsibility for the crimes committed? Should we hold colonists responsible for converting the terms Hutu and Tutsi from an economic differentiator into an ethnic divide? Tutsi was originally used to describe someone who owned 10 cows or more, and people moved easily between being Hutu and Tutsi based on their economic situation. Or should we blame the US media who played the O.J. Simpson trial over and over again on the news instead of sharing coverage with the genocide in Rwanda? What happens to the justice system when everyone has contributed to the genocide in some way? A close colleague of mine wrote an essay about justice after her time at ICTR. She wrote, "The only justice that would be enough is too great for me to fathom. It would indict all of us, every human being on this planet. Every person who has participated in or benefitted from colonialism. Every person who killed another. Every person who supplied arms to combatants. Every person who remained silent when the genocide was happening. Every person who remains silent now. The scale of guilt is too great. No human justice can ever be great enough to encompass it."

The ICTR was not promised as the end-all answer to justice for everyone and every situation. But with so many uncertainties involved in international justice, the final question that came to mind from my time spent at ICTR was how can we proceed with justice when we do not know the whole truth?

After the abroad program I found myself not wanting to fully believe in anything I heard or experienced. There were so many sides to everything that it was overwhelming. It made me question whether anybody can ever believe in something concretely enough to devote his or her entire life to it and not have it be a lie. I even began doubting my own doubts, thinking that by even questioning the genocide's story, and trying to study it intellectually, I was somehow taking away from the stories that people told. And that by trying to find facts rather than just absorbing the emotion of the genocide I was taking away people's right to their own truths.

It is really difficult to see something you know needs to be resolved and want to help out so badly but feel like there is no solution. Such a feeling of uncertainty has almost driven me away many times. I remember thinking how easy it would be to pursue a lifestyle that ignores all of this inequity. I have a privilege to do that – but how could I live with that when I know that not everyone is in a situation to do that, and that because of our interconnectedness I would somehow be benefiting from others' pain. Many people choose to take this life of privilege without looking back. It is so easy to do, and this is where greed comes in, this is where genocide and violence happens – in forgetting the other, in thinking only of oneself, of one's own survival. But what would the world be like without the other? Don't we all shape each other? Aren't we all apart of each other? As my host brother said, "It seems key to always think about the other as your own...if you think about him and he thinks about you, then you have 2 people looking out for yourself rather than only 1, and soon the whole world is looking after each other."

To me, justice is denying the option of turning the other way, acknowledging our own personal involvement in every situation, and working to end the negative ramifications of our individual actions. Above all, the experiences at ICTR and in Rwanda emphasized that we should always strive to question what is before us and to embrace those who are around us.