What is Justice?

The Black Lives Matter movement and efforts to address racial inequities in the United States and elsewhere compel us to consider justice to compensate, in part, for centuries of systemic discrimination.

In the United States, we typically think of justice only as retributive justice, punishing the perpetrator of a crime through the criminal justice system. Retribution appeals to our notion of ‘just desserts,’ the idea that people who commit a wrong should be held accountable.

But retributive justice and punishment may not serve the needs of the victims, the perpetrators, or the community. There are other types of justice to consider.

Institutional reform refers to a guarantee for non-repetition of the system under question. This means reforming police departments and judicial procedures to prevent disproportionate victimization of people of color or other targeted status.

Distributive justice is concerned with giving all members of society a ‘fair share’ of the benefits and resources available. We as a nation are engaging in profound discussions of what ‘fair share’ means and how to address it, given profound economic and social inequalities largely based on race.

Reparations and restitution mean giving back what is owed or unjustly taken. Several U.S. cities have passed resolutions to provide reparations for centuries of slavery and injustice. There is a history of government reparation and restitution. The US paid reparations to Japanese people who were unjustly interned during World War II. Holocaust survivors and their descendants have received reparations from the German government. Canada has made reparations to First Nation peoples for removal of children and institutionalization in boarding schools. The British government has paid reparations to Kenyans who were tortured in wars of decolonization. The US has never paid reparations for slavery.

Another form of justice comes through memorialization. Memorials of perpetrators of tyranny, slavery, antisemitism, and despotism have been torn down. Appropriate memorials will move us forward with hope.

Guest writers in this issue present thoughtful discussions of the concept of justice.
Gacaca: Rwanda’s Unique Response to Genocide and Justice

Senior Judge Edward S. Wilson

Judge Wilson served on the Ramsey County, Minnesota District Court from 1987 until he retired in 2018. He was appointed to serve as Senior Judge until July 2021. He is currently on the Board of Directors of World Without Genocide. Judge Wilson visited Rwanda in 2006 to observe the gacaca courts and talk with government officials about the system.

In 1994 a genocide was perpetrated in Rwanda in which more than 800,000 people, primarily ethnic Tutsis and some moderate Hutus, were killed, mainly by ethnic Hutus. The genocide was the culmination of an ongoing war between insurgent Tutsis and the Hutu-led government. The Tutsi forces prevailed, and in the aftermath, the predominately Tutsi government was faced with the inevitable challenge that follows such a tragedy: how to bring political, economic, and social stability to a nation with few resources and simmering hatred?

One of the first issues was which measures of transitional justice to use to deal with over 130,000 suspected perpetrators who had been jailed, most of them in substandard facilities. Rwanda’s judicial system, never a model of efficiency, was much worse after the genocide. All but a handful of its lawyers and judges had either been killed or had fled the country. Few were available to try cases, and even fewer wanted to help people charged with genocide.

Three justice forums were chosen to try the accused. The first two were the International Criminal Tribunal for Rwanda (ICTR) and the national courts of Rwanda, which are classical formal court procedures. The third method was gacaca (pronounced ga-cha-ca), a variation of a traditional Rwandan dispute resolution system that the government reinstituted to try the bulk of people held on charges related to the genocide.

The ICTR and the national courts are retributive justice systems and were focused on punishing the perpetrators. In retributive justice, crime is an offense against the state, with the focus being on the adversarial relationship between the offender and the state. There is little concern for victims’ needs for financial or moral support or resolving the underlying issues that led to the offense. While it is essential to hold the organizers of a genocide accountable, societies emerging from the trauma of genocide and other massive human rights violations need more than the limited type of truth that emerges from these trials. They also need reconciliation.

The retributive justice systems were not sufficient to bring reconciliation to Rwanda. Gacaca, on the other hand, was rooted in restorative justice practices, which were likely to lead to reconciliation. As Samuel Rugege, the Deputy Chief Justice of the Supreme Court of Rwanda has said, “In the ICTR, they are dealing with the crime and guilt or innocence. But for the good of the country, it is necessary to also bring together survivors and perpetrators for reconciliation, if the perpetrator shows remorse and tells the truth.”

The Rwandan national courts had tried only a fraction of those charged with genocide-related crimes by 2002. As many as 500,000 people participated in the genocide. It might take 100 years to try everyone. Faced with this question, Rwanda recast the traditional system of gacaca for a contemporary problem.

In traditional gacaca, translated to mean “justice on the grass,” community members met outside on the grass to talk about the problem and how to fix it so that ruptures in the community and between the disputants would be repaired. Ultimate decisions would be made by community elders.

The modern reincarnation of gacaca was unlike the traditional form because it handled genocide crimes, murder, rape, and other serious assaults. Further, it was directed by the Justice Ministry of Rwanda. Because it was established by the government, gacaca was criticized by many in the Hutu majority as unfair. In addition, victims’ rights and human rights groups criticized gacaca for the government’s failure to provide adequate security for witnesses.

Beginning in 2005, more than 12,000 gacaca courts were formed. Altogether, they tried more than 1.2 million cases. People in the community were able to hear perpetrators talk about their offenses before local judges who were not legally trained but were chosen because they were known to be “persons of integrity.” The process tried the masses of people who allegedly participated in the genocide, rather than the main leaders who were prosecuted in the ICTR. If people admitted their involvement, they were typically released from prison to perform community service.

In the end, through the gacaca courts, the government reduced the crushing prison population and addressed both justice and reconciliation.
“I can’t breathe.” George Floyd’s plea reverberated around the world. Black, Indigenous, and People of Color (BIPOC) continue to struggle to breathe. Not figuratively – but literally. BIPOC are disproportionately breathing polluted air. This basic human need and human right of clean air, this building block of life and health and sustainability, has become a luxury, a privilege for some and not for others.

The conversation surrounding anti-racism and the dismantling of oppressive systems of white supremacy is incomplete without considering environmental injustices. BIPOC experience the harsh impact of environmental racism.

Globally, air pollution leads to 7 million deaths every year, according to the World Health Organization. It leads to heart disease, lung disease, and asthma.

It’s not just air pollution. Communities of color and low-income communities have faced disproportionate harm from climate change and environmental contaminants for decades. These communities are more likely to be exposed to threats like flooding, storms, and droughts and to homes built on toxins in the land and in the water systems. Indigenous communities have faced disproportionate harm from climate change and environmental contaminants for decades.

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These stories have occupied the front pages of newspapers, the evening news, and our social media feeds about Hinckley, Houston, Flint, New Orleans.

We can slow climate change and promote environmental justice. Join World Without Genocide and organizations around the world in encouraging leaders and decision makers to divest from fossil fuels.

As of April 2020, 1,200 institutions and over 58,000 individuals representing $14.4 trillion in assets worldwide had sold off their stocks in fossil fuel companies, including state public pension funds, England’s National Trust, religious institutions large and small, philanthropic foundations, colleges and universities, great art museums, insurance companies, the country of Ireland, the city of New York, and the American Medical Association. Use your vote and your voice. Information at www.worldwithoutgenocide.org/toolkits/divestment-from-fossil-fuels

### International Criminal Tribunals

**By Dragana Vidovic, Ph.D.**

Dragana’s childhood experience of living through war created a lifelong commitment to pursue justice. She received a master’s degree in peace and conflict studies at the University of Bradford, UK, though a Rotary Peace Fellowship and a Ph.D. in politics at the University of Essex, where she is a Senior Research Office at the Department of Government. She works at the intersection of politics and public health.

I left Bosnia and Herzegovina to study at the College of Saint Benedict in Minnesota. After I graduated, I became a psychophysiology data analyst at the University of Minnesota, a job which I very much enjoyed. A few years later, I applied for a Rotary Peace Fellowship to pursue my passion in peacebuilding and conflict prevention. I could not have imagined that I would, indeed, complete a graduate degree in the UK as a Rotary Peace Fellow. I never would have imagined the next step: working first as an intern and then on the staff at the International Criminal Court for the Former Yugoslavia (ICTY) in The Hague, Netherlands.

The Hague is a beautiful coastal city an hour from Amsterdam, known as an international city of peace. It is the location of the United Nations International Court of Justice, the International Criminal Court, and the International Criminal Tribunal for former Yugoslavia (ICTY).

ICTY was established to prosecute genocide, war crimes, and crimes against humanity committed during the 1990s conflict in the former Yugoslavia. Whether justified or not, many Serbs perceived the ICTY to be one-sided. To Serbs, The Hague, and the Court became symbols of fear and discontent. To me, a Serb child who lived through the 1990s conflict in Bosnia and Herzegovina, the ICTY represented an unknown, omnipresent entity, with a potential to answer many - and none - of my questions on war and violence.

On my first day at the ICTY, I was pleasantly surprised to find a large and diverse group of students and lawyers from across the former Yugoslavia. Despite the myth of ‘ancient hatreds’ in Yugoslavia, we got along well at the ICTY, as we did before, during, and after the war ended. We attended lectures, wrote reports, reviewed evidence, and engaged in discussions, with personal traumas of war left unspoken or spoken with the dark humor for which we are known. This humor helped us cope with losing a country, a community, a family or a dear friend, Yugoslav identity, and more.

As I prepared evidence for various trials, I wondered about the toll of the tragedy and the victims of war in my hometown. Will they ever have a voice, will they ever be recognized? I think of my mother’s cousin, her elderly parents, and many others who were killed simply because they were Serbs. War is brutal on all sides.

Despite critiques levelled at the ICTY regarding their judicial procedures, failure to promote peace and reconciliation, and failure to prevent future war and violence, international bodies such as the ICTY have a potential to empower local communities. In times of turmoil, when a state fails to adequately respond to needs of its citizens, be it the war in Yugoslavia or the protests in Minneapolis, government institutions must be accountable in both domestic and international courts to protect ordinary citizens.
Most people assume that they have no opportunity to influence a decision in a legal case, that the judge will weigh only the arguments that are presented by the lawyers. This is not quite accurate. There is an interesting legal position called an \textit{amicus curiae}, Latin for “friend of the court.” This “friend” is someone who can participate in a state or federal Supreme Court or in state and federal appellate court proceedings by offering information, expertise, or insight that has a bearing on the issues in the case. The judge can decide whether to consider the information as relevant.

World Without Genocide chose to submit an amicus brief as an \textit{amicus curiae} in a recent Minnesota case having to do with transgender rights. World brought a unique perspective to the case by illuminating the current situation for transgender people: the expansion of rights followed by a corresponding harsh backlash in discrimination, violence, and criminalization facing transgender people in many parts of the world, including in the United States.

Transgender people are among the most vulnerable groups experiencing discrimination, violence, poverty, lack of access to health care and housing, with laws targeting them in at least 26 countries, including in the United States. In 2018, there were at least 26 deaths of transgender or gender non-conforming people in the US due to anti-transgender bias.

Evidence demonstrates that small acts of discrimination can grow and become lethal. Young lesbian, gay, bisexual, transgender, and queer (“LGBTQ”) people who experience harassment suffer more serious depression and higher rates of suicide later in life compared to those in other populations.

Bathroom use is often highly contentious and potentially discriminatory for transgender people, and disputes over bathroom use can exclude a transgender person from fully participating in many basic aspects of life.

In 2019, N.H., a transgender high school student in Minnesota’s Anoka-Hennepin School District, brought a suit against the District after the District prevented the student from using the bathroom that aligned with their gender identity, and instead required the student to use a separately-constructed, private changing facility and restroom designated only for gender non-conforming students. This decision prevented the student from fully participating in educational opportunities, the swim team, and from being a supported student in the District.

The District has a history of discriminatory policies. A lawsuit several years ago alleged that the District allowed uncontrolled bullying and created unequal access to education. Nine students in the District committed suicide in just two years. As a result, the District was subject to a five-year consent decree to address anti-LGBTQ harassment.

N.H.’s case made its way to the Court of Appeals in 2020. World joined other ‘friends of the court’ including the Minnesota Department of Education, OutFront, JustUs Health, GLBTQ Legal Advocates & Defenders, the National Center for Lesbian Right, the Minnesota Department of Human Rights, and the Minnesota State Bar Association in submitting additional information to the Minnesota Court of Appeals.

World opined that human rights include the right for transgender people to be free from discrimination based on international human rights law, which recognizes the insidious nature of discrimination towards LGBTQ people and attempts to protect against it. The Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations in 1948 following the Holocaust of World War II, affirms that freedom against discrimination and equal protection of the law are human rights. This is interpreted to include transgender peoples’ right to nondiscrimination.

Even if the Court of Appeals were to find that the District did not violate the Minnesota Human Rights Act, the Court has other tools in its toolbox to prohibit the District from making discriminatory policies. Oral arguments were heard on July 9 and a decision from the Court of Appeals is forthcoming.

I was pleased to assist World as it was a “friend of the court” and to support N.H.’s case.
**Justice, Justice Shall You Pursue**

By Fred Amram

Fred is an Emeritus Professor at the University of Minnesota, past board member of World Without Genocide, a Holocaust survivor, and a writer and public speaker on the Holocaust and justice.

Deuteronomy demands, "Thou shalt not steal. Thou shalt not murder." I’ve just written a novel in which the action takes place in rural anti-Jewish Europe during the second half of the 19th century. My Jewish protagonist witnesses desecration of a Jewish cemetery, destruction of a Jewish marketplace, rape, and other injustices. At first, he pursues justice by stealing a horse and two sheep from one of the perpetrators. He sells the animals, and, with the profits, he buys a cow which he gives to a local rabbi to feed the poor in his community. The thief sees this as a form of restorative justice.

After a while, this form of justice becomes unsatisfying. When our protagonist witnesses the burning of his synagogue, he seeks different Biblical instruction, an eye for an eye and a tooth for a tooth. By collecting oil and rags he prepares to fight fire with fire. Of course there is more to the story, and our hero discovers more nuanced forms of justice.

Exploring justice can become complex. We learn “Thou shalt not steal.” Is my thieving protagonist a sinner? Was Robin Hood a sinner? The great Lutheran theologian Dietrich Bonhoeffer, seeing what was happening to Jews and other minorities during the Holocaust, joined a plot to murder Hitler. On the one hand, he taught the Fifth Commandment to his flock, “Thou shalt not murder." On the other hand, he also taught them, “Justice, justice shall you pursue.”

“Justice, justice shall you pursue.” I’ll leave the definitions of justice to wiser philosophers. Let me focus on the second part of the decree. Nowhere do we read that justice will fall from heaven like manna. We are commanded to pursue justice. You and I must chase after justice—however we define it. The statement is a direct call for action, a commandment. There is no wiggle room.

Similarly, in Leviticus we read, “...nor shall you stand by idly when your neighbor’s life is at stake.” Again, a call to action. When I give talks about my life as a Jew in Nazi Germany, I hold the bystanders just as responsible as the perpetrators. My sense of justice declares that the citizens of Germany should have risen up against the bloodletting of my people. Sitting by idly was not an option in my understanding of justice. Today’s genocides, racial discrimination, and poverty cry out for action. Standing by idly is not an option.

“Justice, justice shall you pursue.” Why does Deuteronomy repeat the word “justice?” Because actively pursuing justice is really, REALLY, really an imperative.

The Summer Institute for High School and College Students

By Claire Willett

Claire received the Rose Reis Youth Human Rights Award from the City of Eden Prairie, MN in 2020. She attended the Institute for three years and served as our Benjamin B. Ferencz Young Fellow in Human Rights and Law this past academic year. She is a student at the University of Wisconsin-Madison.

My mom encouraged me to sign up for my first Institute in 2018. I was always interested in human rights, but I thought that you had to be an adult, a lawyer, or a person with a specific platform to make change. That first Institute taught me that I do have the tools to make a difference, and it gave me a community of like-minded people who care as deeply as I do about pursuing social justice.

At the Institute, I learned about injustices that were new to me and that struck me on a deep level. I became an ‘upstander.’ I door-knocked with a climate organization, spoke out against gun violence, and I contacted my elected officials often.

I returned to the Institute in 2019 and I felt the same empowerment, particularly around issues of discrimination and violence against women and girls. I became a Ferencz Fellow and advocated for the ratification of the Convention for the Elimination of Discrimination Against Women in my town. I testified at a hearing in the Minnesota Senate for a bill to end child marriage and I spoke at a televised press conference at the capitol about the bill. I was quoted in the statewide newspaper in an editorial urging legislators’ support, and when the bill passed, I realized the power that each of us has to make change.

In 2020 I became a summer intern at World Without Genocide, and I assisted with planning and running the 2020 Institute that took place online.

A lot has changed in the three years that I’ve attended the Institute. It is more important than ever that we stand up to combat institutionalized racism, global atrocities, climate change, and challenges on our own soil. Everyone must find their own form of empowerment, and I am so grateful to say that the Institute gives that to me and to other students like me. I dream of working in human rights law. The Institute gave me this dream.
FALL 2020 PROGRAMS

All programs will be offered via Zoom, 7:00-9:00 CT. Registration is required.

Programs present live lectures by genocide survivors, educators, lawyers, and human rights advocates.

Programs are open to the public and offer continuing education credits for lawyers, teachers, nurses, and social workers, and diversity credits for Mitchell Hamline students.

Please visit www.worldwithoutgenocide.org/programs for details. Topics or dates may change.

WEDNESDAY, SEPT. 30 – America v. China: World Dominance and the Genocide in Tibet and of the Uyghurs
TUESDAY, NOV. 17 – From the Nazis’ Jew-Free Cities to Poland’s Gay-Free Cities Today: The Spread of Hate
WEDNESDAY, DEC. 2 – Genocide and Crimes against Humanity: Punishing and Preventing the World’s Worst Crimes

The Justice Project, Mock Trials, Upstanders, and Toolkits

We are so pleased to announce new materials available on our website at no cost.

The Justice Project is a collection of essays about four mechanisms to bring about justice for genocide, crimes against humanity, and war crimes: the UN International Court of Justice, the International Criminal Court, the various UN ad hoc tribunals, and the use of universal jurisdiction in many national courts. See www.worldwithoutgenocide.org/justiceproject

We have added a sixth case to our collection From Genocide to Justice: A Book of Mock Trials. The hypothetical prosecution of President Andrew Jackson for crimes against humanity during the Trail of Tears, the forced relocation of more than 60,000 American Indians from the southwest part of the country, adds to trials representing the genocide of the Armenians, the Holocaust, Syria, Darfur, and Rwanda. The online book is available at www.worldwithoutgenocide.org/mocktrials

For many years we have written ‘readers’ theater’ plays about Upstanders, people who do what is morally right despite the danger and difficulty of their action. Our newest play, Upstanders: Reporters With Courage, highlights Marie Colvin, Jamal Khashoggi, Daniel Pearl, and others who risked everything to preserve freedom of the press. Find these compelling stories at www.worldwithoutgenocide.org/upstanders-reporters

We have also updated the Toolkits section of the website to include steps for action to end atrocities against the Uyghurs; to support transgender rights; and more. Similarly, the extensive materials on past and current conflicts are updated and a summary book has been created, Genocides and Conflicts: An Overview, at www.worldwithoutgenocide.org/genocides-and-conflicts

Over the years our materials have had very wide use. Thank you for educating and advocating about these important issues.