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THE RWANDAN GENOCIDE (1994): A NEW PERSPECTIVE ON ITS CAUSES AND ON THE INDIFFERENCE OF THE INTERNATIONAL ACTORS AND INSTITUTIONS TOWARDS THE GENOCIDE

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ABSTRACT
This Article explores the political, ethical, and legal implications of the Rwandan genocide, on the one hand, and the unsatisfactory role of the US and the UN in averting and/or containing the murderous violence, on the other. In addition, this article examines the advantages and disadvantages of community courts, i.e., the Gacaca Tribunals, which were established for trying/prosecuting those who were allegedly involved in the genocide. The role of the Gacaca Tribunals is analyzed in terms of their shortcomings in meting out justice to the perpetrators of the genocide at the grassroot level. Also, the functioning of the Tribunals is probed in terms of their capacity, or its lack thereof, of the Rwandan courts to deal with the number of cases, which it had to handle in case the government had not set up the Tribunals. This article argues that the genocide could have been averted if the Habyarimana-led Rwandan government was stopped from deliberately fanning ethnic tension between the Hutus and Tutsis ethnic groups for political purposes, and had the UN and the US intervened in a timely manner to stop the carnage.
Keywords: Rwanda, Genocide, International Law, Rwanda Patriotic Force (RPF), Gacaca Tribunals.

RWANDA: A BRIEF INTRODUCTION
Rwanda was in the grip of deadly violence between April and July in 1994 in which, according to one estimate, 800, 000 Rwandans (mostly Tutsis) were brutally killed by Hutus extremists, and the bloodbath is considered to be "one of the darkest chapters in human history" (Bhalla, 2019). The murderous violence was rooted in ethnic hatred, in the weaponization of ethnic cleavages for political gains, in the cynical regional politics, and in the indifferent attitudes of great powers such as the US and of the world bodies such as the UN. Before moving on to discuss what really happened and who could have saved hundreds of thousands of lives, it will be useful to have a look at the geography and demography of Rwanda.

Rwanda is a landlocked African country with a closed society. Historically, Rwanda was under German colonial occupation during the nineteenth century "scramble for Africa" and after its defeat in the First World War, Rwanda was taken over by Belgium. The eruption of ethnic violence between the two major ethnic groups, i.e., Hutus and Tutsis of Rwanda happened during Belgium's rule. Dependency theorists argue that Tutsis, a minority, was the ruling group and sharpening the ethnic division in Rwanda was in Belgium's interest, as it brought prices of commodities such as coffee down for customers in Belgium. Rwanda got independence (actually granted) from Belgium in 1962 when Hutus were ruling it after the Tutsi king and a large number of his Tutsi followers fled Rwanda in 1959 (Goldstein, 2003).

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Demographically, it is made up of two ethnic groups: Hutus and Tutsis. The Hutus make up about eighty five percent of the population while Tutsis constitutes about fourteen per cent of the Rwandan population. It is pertinent to mention here that Tutsis were once firmly in control of the state, but later ousted from power position by Hutus in 1959, and many Tutsis fled Rwanda and crossed over to Uganda (BBC, 2019). As is the case with nationalism anywhere in the world, there had been ethnic tension between these two aforementioned dominant ethnic groups in Rwanda.

Scholars of ethnocentrism are of the view that the genocide in Rwanda could be explained through the lens of "ethnic bias." Ethnic bias refers to the development of "in-group biases that can lead to dehumanization of a rival group," and once dehumanized then targeting and harming them become easier (Goldstein, 2003). The eminent expert on nationalism Ernest Gellner notes that "nationalism is primarily a principle, which holds that the political and the national unit should be congruent" (Gellner, 1983). In Rwanda, unfortunately, there was little congruence between the political (the state power structure) and the national (ethnic group) units in the past. Before 1959, Tutsis, a minority, ruled Rwanda in a brutal manner, and when Hutus got a chance to rule it in the 1980s and 1990s, their rule was no less brutal (Epstein, 2017). The long festering hatred of Hutus against Tutsis resulted in a horrendous scale of violence against the latter group. So, Rwandan Tutsis had to face the most rapid genocide ever recorded in human history (a hundred-day massacre) as hundreds of thousands of them were killed by extremist Hutus between April and July 1994. The genocide in Rwanda is a good example of the national government's weaponization of ethnic hatred for political ends, and of the moral failure of both the UN and the US.

The Role of the US and the UN

Conservative realists argue that the comity of nations could not stop Rwanda-type violence as such kinds of violence are rooted in "ancient ethnic hatred" (Goldstein, 2003). Such arguments suggest complete inaction in the face of brutal violence perpetrated by some against others for who they are, not for their involvement in any direct violence against the aggressor. What happened in Rwanda was a heinous act of murdering of human beings for one simple reason: their ethnic identity (being Tutsis): "in-group [Hutu] biases based on fairly arbitrary group characteristics become amplified by a perceived threat from an out-group [Tutsi], exaggerated by history, myth, and propaganda" (Goldstein, 2003).

The genocide could have been averted if the UN and the US, the sole super power of the world, had intervened early enough to stop it. Moreover, the role of some regional states was problematic as well. For example, Uganda knew that Tutsis were the main target of the Hutu radicals, yet it chose not do anything to prevent the preventable bloodshed. So, Uganda cannot avoid the label of being accomplice in the Rwandan genocide. Moreover, the international community remained silent in the deafening noise of the killing spree which devoured the lives of 800,000 people in Rwanda. The killing spree continued non-stop for around one hundred days, but no nation, including the US, came forward to stop it. Even more alarmingly UN peacekeepers were evacuated from the war theatre (Epstein, 2017). The act of evacuating the peacekeeping force from Rwanda in the middle of the genocide was so callous that Roméo Dallaire, the then commander of the UN peacekeeping force, had to attempt to commit suicide at least four times (CBC Sunday Magazine, 2019). As the sole super power of the time, it was a moral obligation of the US to help the helpless Tutsis of Rwanda, but that was not the case. The question is: why did the US not intervene?

A Silent Witness or an Overly Cautious Super Power?

There are three strands of opinion about the reasons behind the no intervention policy of the US in the Rwandan genocide. One is that the US was reluctant to intervene, as it had exposed itself to massive humiliation the previous year when it ordered its special forces to launch an operation in Somalia in which two Blackhawk helicopters were shot down that resulted in the killing of eighteen Americans. Also, two members of a UN peacekeeping force and hundreds of Somalis lost their lives (CBC Sunday Magazine, 2019). So, another intervention in an African state would have been domestically unpopular, hence politically costly for the Clinton administration. The second reason put forward by some analysts was that US was afraid of instability in Uganda (Uganda was from where insurgency was fomented by the RPF militia, with the active support of the Ugandan government), and the US wanted to promote democracy in Uganda, as it had undergone a number of violent cycles in the past. Simply put, any US effort to put pressure on Uganda would have jeopardized the progress it had made on democracy. There is a third view that points to a possible rejection of US or UN help by the Kagame, the leader of the RPF (Epstein, 2017).

It is generally believed that it was the lack of the will on the part of the United States regarding the genocide in Rwanda, as it could have easily asked wealthy nations to fund, equip a peacekeeping force in Rwanda (Straus S. , 2004). The US, however, would later apologize for not doing enough to avoid the catastrophe. The UN peacekeeping force commander Roméo Dallaire, however, disagreed with all the apology, and argued that the US ignored the genocide so it could hardly self-exonerate itself by tendering apology to the genocide survivors (CBC Sunday Magazine, 2019).

Moreover, one of the firsthand accounts of the massacre was given by General Romeo Dallaire, who was present on the ground when all this was happening. He asserted: "I blame the American leadership, which includes the Pentagon, in projecting itself as the world policeman one day and a recluse the next" (qtd in Rohrich, 2008). Whatever is the case, the Rwandans bore the brunt of an incensed violence driven by ethnic hatred, and the US, as the sole super power of the world, could have averted it, but there was a clear lack of the will on part of the then US leadership (Kellow, 1998). It is generally believed that the lives of hundreds of thousands of civilians (mostly Tutsis) could have been saved, if the U.S. had come to their rescue on time. It was quite natural that all eyes would turn to Washington for help, as it was the most dominant player on the world stage. Lexical differences apart— that is, whether one refers to it as "genocide" or an internecine war— the world needs a state or an international body that is powerful enough to help those who fall victims to such horrendous acts of violence. Did the US have any alternative to militarily help Rwanda? The answer is yes.

Alternative to Direct or Indirect Armed Intervention

The US could have used alternative means such as the jamming of communication lines and sanctioning Habyarimana, the leader of Rwanda, for fanning ethnic polarization in his own country to stop the deadly violence, if it did not want to arm Tutsis. There is credible evidence that suggest that under international pressure, Habyarimana allowed opposing political parties to function normally, and that the Hutus and Tutsi citizens of Rwanda were united in criticizing his increasingly despotic and nepotism-rife government. Habyarimana was looking for ways to cash in on the centuries-long acrimony between Hutus and Tutsi for political survival. Hence, he encouraged Hutus to otherize, demonize Tutsi by labelling them "demon Tutsi" and "Nilotics – supposedly warlike pastoralists from Ethiopia who had conquered and enslaved them in the 17th century" (Epstein, 2017). Tutsis were thus otherized and dehumanized through this vicious propaganda campaign mounted by the Habyarimana-led government.

The Hutu people were reminded of the repressive rule of Tutsis in the past, and fanciful stories such as Tutsis "treated the Hutu peasants like serfs, forcing them to work on their land and sometimes beating them like donkeys […] how Tutsis once used their Hutu slaves as spittoons, expectorating into their mouths, instead of on the ground" were concocted by the managers of the genocide. Print and electronic media was used to demonize Tutsi and Hutus were declared as the "the original occupants of the Great Lakes region" (Epstein, 2017). Also, the perpetrators of violence used radio for sharing the locations of the targeted populated in order "to weed out the cockroaches" (BBC, 2019).

The use of the radio not only helped the killers to coordinate their violent activities, but it also brought more efficiency and accuracy to the wanton killing of the Tutsis men, women, and children. What the US could have done was to simply jam the radio transmission that would have disrupted the methodical killing of Tutsis by Hutu extremists (Uvin, 2001). This was the role people were expecting of the world's lone super power, the US, as the world needed a great power in order to rally people around safeguarding the lives of human beings as well as their dignity, property, and happiness. Furthermore, the US could have used its clout at the United Nations to avert the murderous violence in Rwanda.

United Nations: A Story of Inaction and guilt?

The role of United Nations was not effective enough to protect human lives in Rwanda. Unfortunately, more time was wasted on defining genocide than on stopping one. The UN-backed mission was reportedly asked to adopt a hands-off approach— that was, had they intervened in the conflict in Rwanda, "they would be in breach of their role as a protector of peace and not its enforcer" (Uvin, 2001). According to General Dallaire, the UN was "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." More importantly, General Dallaire had cautioned the UN three months in advance of the brewing crisis in Rwanda but his warning was dismissed; he was asked not to raid any arms depot, as "the president's own inner circle was planning the slaughter of Tutsis" (PBS Frontline, 1999).

As the number of casualties rose, people like General Romeo Dallaire felt obliged to act. It was in that situation, he had to put forward a proposal for "an itemized Rapid Reaction Force and required 5,000 warriors to destroy the executing machine of the genocidaire and to stop the Hutus from developing further control," but this proposal was not only rejected by the UN Security Council, but also by the US ((Gilani & AlMatrooshi, 2017). General Dalaire's failure in putting the rapid reaction force in place "left a void in his very soul, often blaming himself for his inability to act" (Straus S. , 2004), which led to his four failed suicidal attempts (CBC, Sunday Magazine, 2019).

Fortunately, the US did learn some lessons from the genocide in Rwanda. From that point on, the US started palying a proactive role in the International War Crimes Tribunal that strives to put an end to genocides. The US also helped by engaging in humanitarian efforts to bring back the dignity of life in Rwanda. Rwandan Tutsis were unlucky to benefit from the time, effort, and money the US had put in international organizations to avoid massacres in other countries.

Rwanda was unfortunately left on its own to deal with the massacre. With no help arrived from the international community, Rwanda had to act to stop such horrendous killings from happening in the future. The first step in that direction was the setting up of "community courts, known as gacaca, were created to speed up the prosecution of hundreds of thousands of genocide suspects awaiting trial" (BBC, 2019) as discussed below.

Transitional Justice and International Law

In a majority of cases, actions and consequences go together. The Rwandan genocide was no exception. As pointed out earlier, around a million people lost their lives in Rwanda in the early 1990s. The severity of such a slaughtering "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.?" (Brown, 2014). Litigating such crimes become well-nigh impossible due to the large scale of violence. Rwanda chose incremental approach to deal with the massive scale of violence: to move slowly and cautiously. Trials of some of those who were involved in the violence did happen, some justice was seen to be done, but that was unfortunately too little too late. The live and properties of the Tutsi population were still not safe. There was an unending violence against Tutsis as the murderers wanted to get rid of potential eyewitnesses who could identify them in courts. Many of them avoided any prison time due to the sheer length of the trial period. The government had then to conclude that the conventional justice system was too slow, over-burdened to deal with the daunting challenge of trying those who were involved in the genocide (Smeulers & Hoex, 2010). So, it had to set up its own tribunals, the Gacaca Tribunals, to deal with the aftermath of the genocide.

Gacaca Tribunals: A way forward?

Given the shortage of judges and lawyers, it would have taken forever for normal courts to try the suspects, who, as some figures suggest, numbered around 80,000 or more. As a result, the country had to resort to a more non-traditional system of justice. Tribunals, known as the Gacaca Tribunals, were established to relieve the burden on prisons and courts, and to enforce justice in a country where justice was long overdue. The Gacaca hearings were a somewhat informal way to implement justice within the community. Alleged criminals were charged and community members were then called upon to testify for or against the accused. This system did away with the rules and regulations of a normal court and provided for a new type of participatory justice in which the entire society took part—not just those with professional, judicial authority.

The heads of all the households in a particular community, for example, would come together and serve as judges, working with one another side by side to solve disputes. It was a voluntary structure founded on virtue, which was somewhat alien compared to what was used in most of first world countries. This unusual system, although controversial, was necessary for the country to help deal with the incredible excess of suspects awaiting trial in conventional courts on charges of involvement in the genocide.

Testimony in Court and the Handling of Evidence

The very feeling of revenge itself might have impacted the testimonies people provided in courts. As the court system relies on voluntary confession and honest testimony, it is tenable to believe that one's testimony could be altered due to the deep-seated hate and thirst for revenge that they feel. Looking at this from another angle, one may not want to confess to anything or may feel inclined to give inaccurate information driven by the fear of revenge that he exposes himself to by so doing. An example of this may be the killing of a man who is about to give incriminating testimony against an influential member

of the community or the murder of a man who has recently testified of his crimes and is killed by someone out of pure anger who decides to take the law into his own hands. For a crime such as this in Rwanda, another impossible factor to deal with is evidence. The fact that there were, in most cases, no other witnesses were available, might have resulted in considerable difficulties for judges to arrive at difficult decisions in courts. Many would have been too scared to testify in a public court because it would be taken as their testimony against the accused, and without anyone to protect them, it was liking danger to themselves (Nowrojee, 1996). In Rwanda, collecting hard and credible evidence was thus an incredibly complicated task.

The Number of Arrests and its Attendant Controversy

The number of arrests sharply increased, so did the prison populations. There had been complaints against the way the RPF had been handling the situation, causing many Rwandans to flee the country for safety. There had been instances where no collecting of evidence or filing charges had occurred. The army would often arrest anyone they saw, and in a community with many deaths involved, they would arrest everyone and the people were deemed pretty much guilty until proven innocent. Others fled the country out of fear from regular citizens who could seek to take revenge for a lost family member, even if that person had not been proven to be involved in any such crime at all. Many had to await trial and hundreds, if not thousands, more would eventually end up in prison.

FINDINGS AND UNDERPINNINGS

The Rwandan genocide of 1994 is a dark chapter in human history. Death was literally dancing in the streets of Rwanda. Just look at the language used: Killers would use phrases such as "get to work" or "go down to work" when they were out to find and kill Tutsis (Kellow, 1998), and "mopping up" and "removing the dirt," for wanton killings (Behrens, 2016). Hutu leaders would urge their people "to take responsibility ourselves and wipe out this scum […] to return the Tutsis to Ethiopia by way of the Nyabarongo River […] [that] the law mandated death to 'accomplices' of the 'cockroaches'" (Gourevitch, 2003). This shows that the perpetrators of the genocide were absolute clear in their intention— what they were doing, i.e., killing Tutsis. It is a well-documented fact that the mass level violence occurred following a massive propaganda campaign wherein the Tutsis were otherized, demonized, objectified hence liable to be exterminated.

Furthermore, the role of bystanders as well as of mass participation in Rwanda-type atrocious violence is also important. The onlookers not only provide conducive environment for perpetrators to commit violence without any reaction from the populace, but they also encourage otherwise peaceful populace to participate in the ongoing violence. Alette Smeulers and Lotte Hoex have rightly observed:

> Once a group accepts certain norms and brutalizes, it is very difficult to control the group's momentum and prevent escalation. The major cause of both the mass participation and the extreme nature of the violence was the fact that killing Tutsis was ordered, planned and incited by the political and military authorities (Smeulers & Hoex, 2010).

There is a reason to believe that the temporal dimension matters a good deal where the formulation of preventative approaches is concerned. Once destructive intent is formed in the minds of those who have access to lethal weapons or who are in a position to influence his peers, it becomes difficult to stop such crimes from happening. But it is also a fact that you cannot punish for wrong intents unless a crime is committed.

It is therefore imperative that measures are taken to counter such acts of crimes. It certainly does depend on the societal position of individuals faced with situations in which such warning signs have manifested themselves (Brown, 2014). Once signs of mass level violence manifest themselves the role of civil society and political becomes extremely important. So is the case of the deployment of the tools of the criminal justice system as well as of the availability of clear, well-defined terminologies.

As pointed out earlier, the genocide in Rwanda was sanctioned by civil and military authorities, therefore the definition of genocide under Article II, which only includes non-state perpetrators of violence, must be extended to state functionaries. Such an inclusion will pave the way for humanitarian intervention in states where the hands of state officials are stained with the blood of their own citizens. Moreover, disagreement over the use and definition of the word genocide is important as it has practical consequences. For example, some declassified US sources point towards the fact that "US officials not only knew what was going on but also chose not to use the word genocide because that would have

obliged them to intervene" (Shah, 2006). An already agreed upon definition of genocide would have thus allowed for the US to intervene on time and stop the genocide in its early stage.

It is apt to note here that the death rate per day of Tutsis was ten thousand per day, and those were left alive had indelible scars on their bodies and souls. The logical question is how such heinous crimes could be averted in the future. Here comes the 1948 Genocide Convention of the UN. The Convention not only defines genocide but it also establishes a mechanism whereby the perpetrators of such crimes can be prosecuted. Additionally, the extension of jurisdiction of the International Court of Justice (ICJ) can be extended so that it becomes more effective in implementing international treaties regarding mass level violence. Moreover, there is a strong need for strengthening the international human rights regime with the aim to impose rigorous, punitive sanctions on the perpetrators of genocide. In all, both national justice system and international human rights regime need to be bolstered with aim to put an end to genocide-level violence. For the national justice system, Rwandan government had to set up grassroot tribunals, called the Gacaca Tribunals, for dealing with genocide related crimes.

The Gacaca Tribunals: A Critique

The Gacaca Tribunals represents a completely different and unique form of justice: it provided the voiceless people of Rwanda with a voice; it gave them the opportunity to take part in the system themselves and make sure that it was done rightly. The tribunals have successfully helped to facilitate and accelerate the justice process, which affords a feeling of relief for some victims. However, this grassroots system, like many others, also has its downsides.

First of all, the Gacaca Tribunals were populated by young and inexperienced people, and the judges were given a bare minimum training. Of the 19 community-elected judges in each local court, few if any would have the appropriate education. Oftentimes they would be assigned to a particularly perplexing case and not have the legal training or background experience to know how to handle it (Yanagizawa-Drott, 2014). All this led to problems such as inappropriate sentencing or inconsistent punishments and could cause the entire system to crumble. Furthermore, there were instances where accusations of bias were leveled against the judges of the tribunals, as they failed to give a fair hearing to both parties in the conflict. The nature of the courts would allow for the possibility of false or forced testimony and confession. The way the Rwandan Patriotic Front had been dealing with things, for instance, could often put an innocent man in a position in which he had no way out save finding himself in prison. It is argued that to be fair the court should not only have tried those responsible for the mass murders during the genocide but also those affiliated with the Rwandan Patriotic Front who were involved in the same degree of heinous murders as an act of punishment.

Although Hutus were the ones directly responsible for the mass murders throughout the genocide, the Tutsi-led Rwanda Patriotic Front had also been accused of violent acts of vengeance after the former rebel group ousted the Hutus of their power.

Finally, the then government of Rwanda had been denying such accusations and claimed that such vengeful acts were an abnormality. It is however a settled fact that there is no way any government can function if its citizens do not believe and trust that the society as a whole is running a smooth, efficient, and fair system of justice. One Rwandan analysts cogently argues that if we do not learn from the past and correct our mistakes, we will forever be caught in a vicious cycle of hate and revenge (Melvern, 2006).

CONCLUSION

The genocide in Rwanda is a dark chapter in human history. It was a result of multiple factors such as: ethnic rivalries between the Hutus and the Tutsi, the use of ethnic hatred for political purposes by the Rwandan government under Habyarimana, and the indifference of international bodies like UN and great powers like US. The Tutsi men, women, children paid a steep price for all these political machinations— at national, regional, and international level. In order to stop such events from happening, a mechanism of accountability must be put in place so that nobody has the freedom to use internal sovereignty as a license to torture, rape, and kill their own citizens. Second, people must be made aware of such problems, and great powers and international bodies must act in a timely manner to stop genocide from happening at an early stage. Finally, the cooperation of states with each other is therefore a must to put an end to genocide. It is high time to strengthen the international convention on genocide, i.e., Convention on the Prevention and Punishment of the Crime of Genocide whereby those who are involved in genocide are prosecuted and punished, as the door on genocide can only be shut by

taking such steps. Last but not least, all states need to avoid politicizing the Convention, both at national and international levels. Internally, states need not be allowed to hide behind the mask of internal sovereignty, as was the case in Rwanda; externally, great powers and institutions need not to bog themselves down in defining terms such as genocide, while innocent people are being killed on a daily basis.

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