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Promises of Peace and Reconciliation: Previewing the Legacy of the International Criminal Tribunal for Rwanda

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Predictions of the legacies of the ad hoc International Criminal Tribunals reflect far greater expectations for the impact of justice than earlier historical war crimes prosecutions. The most ambitious of these is the promise of peace and reconciliation. Its formal inclusion in the Security Council's mandate for the International Criminal Tribunal for Rwanda converged with a modern discourse on war crimes prosecutions that infuses the ideals of Nuremberg with the revolutionary aspirations of the human rights movement in a new world order. Contemporary trends invest international justice with powerful assumptions about its capacity to transform post-conflict societies, as is reflected in the Tribunal's own presentation of its role for the future of Rwanda. Alongside the general assumptions regarding the political powers of international justice, are contesting perspectives that make specific allegations of the effects of its failings. Neither rigorously address causality, highlighting the absence of empirical research on international prosecutions and their impact on national communities. It is argued that ambitious expectations have generated ambiguous-and unrealistic- benchmarks for effectively assessing the record of a nascent international justice system. Viable benchmarks are necessary to ground external expectations, and to strengthen and focus institutional performance. To achieve this, expectations should adjust to the modest realities of delivering international justice.

With the old disputes over the legacy of the Nuremberg and Tokyo Trials yet to be resolved, the future legacies of the ad hoc International Criminal Tribunals for Rwanda (ICTR) and the Former Yugoslavia (ICTY) are a matter of rising institutional concern and public interest. This collection of articles in this

European Review underscores how, from varying vantage points over time and across different disciplines, borders and contexts, 'legacy' is far from a static concept. Critiques of the legacies of war crimes trials tend to be as dynamic as the evolution of international criminal justice itself. A unifying feature of each of the major international efforts to prosecute perpetrators of war crimes, however, is the persistent divide between the initial aspirations for these politicized trials and their final achievements. How different communities critically reflect upon legacy is shaped by the expectations they carry for the war crimes trials in the first place.

Never before have there been such ambitious expectations for international prosecutions as for the trials underway at ICTR and ICTY. In theory, the verdict on legacy should still be out, so to speak, at least until all of the Tribunals' verdicts are in. In practice, conclusions proliferate on the impact of the ad hoc international criminal tribunals, from the conventional to the extreme. The trials are credited with feats ranging from the construction of national peace and reconciliation to the escalation of violence and despair in the post atrocity regions. The dramatic death of Slobodan Milosevic may have offered a cautionary tale for pundits who were forced quickly to revise their summaries of the future legacy of The Hague Tribunal. Yet notwithstanding conventional and historical wisdom on the risks of previewing legacy, reams of commentary with confident critiques of the predicted effects (or lack thereof) of the ad hoc international criminal tribunals continue to fill the pages of the learned and popular presses.

We should pay close attention to these legacy previews, not because they necessarily convey empirical truths about the actual impact of international criminal trials on national communities, but rather because they expose our under-explored expectations of what these pilot projects of the high-cost, high-stakes experiment in global criminal justice are meant to achieve. As the ad hoc international criminal tribunals rush to deliver judgements, count convictions, and close their doors, views regarding their legacy will evolve over decades. A modest vision of the future legacy of these trials could claim the creation of an international system of criminal justice, the progressive development of international procedural, humanitarian and human rights law, and above all, convictions. Yet, from the moment that the Security Council established the international criminal tribunals with the expectation that they would contribute to peace and national reconciliation, modesty was never a restraining force on the projected role these Courts were supposed to play in the broader political order. Emerging at the same time was a discourse about international justice that infused the ideals drawn from Nuremberg with the revolutionary international aspirations of the human rights movement in the new world order. This led to expectations for the ad hoc international criminal tribunals that were destined to clash with institutional and regional realities.

Peace and reconciliation: from theoretical construct to a legal mandate – the case of Rwanda

Spiralling expectations, and the scepticism that this invites, have been particularly pronounced in the context of the international trials carried out for the Rwandan genocide by the United Nations in the Tanzanian town of Arusha. Compared to its counterpart in The Hague, the ICTR has yet to benefit from sustained and high standard international reporting of its work. International media coverage is fragmented, and is often distracted by the side-show of UN bureaucratic intrigues rather than focused on the substantive complexities of the trials. This problem is further aggravated by the absence of rigorous research on the actual impact of the process of international justice on local communities in Rwanda. Hence, there is a weak empirical basis for projections of the broader legacy of the ICTR and its relationship to peace and reconciliation. Previewing legacy in this case relies heavily upon underlying assumptions regarding the role of international justice in delivering peace.

The ICTR was established eighteen months after the Security Council had created the ICTY under Resolution 827, marking the second time that the United Nations would turn to international prosecutions as a mechanism to maintain international peace and security under Chapter VII of the UN Charter.[1] In November 1994, Security Council Resolution 955 established the ICTR to prosecute persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda between 1 January 1994 and 31 December 1994. It may also prosecute Rwandan citizens responsible for genocide and other such violations of international law committed in the territory of neighbouring states during the same period.[2] It is estimated 800,000 to 1,000,000 Tutsis and politically moderate Hutus were killed in the course of 100 days as the result of a systematically planned genocide that was orchestrated by the Hutu majority in power. From 1994 through the middle of 1995, regional experts estimate that there were also tens of thousands of Hutu civilian deaths and credible reports of serious human rights abuses in turn committed by the Tutsi lead Rwandan Patriotic Front (RPF) that assumed power in July 1994.[3]

Like that of its sister Tribunal in The Hague, the legacy of the ICTR remains unclear. History shows that trials for crimes against humanitarian law are commonly laboured affairs. Even during the comparatively speedy 11-month delivery of justice in the Nuremberg trials, external commentators lamented the slow pace of proceedings.[5] The ad hoc Tribunals have both been located outside of the jurisdiction where the crimes were committed and where the evidence lies. Mandated to try some of the most egregious crimes committed in the 20th century, assessments of the first decade of both Courts highlight the initial lack of

preparedness of the legal profession to undertake the daunting task of prosecuting and judging crimes of this complexity within a trans-national context, and without a pre-established international institutional infrastructure. The administrative challenges of establishing a court within the framework of the United Nations create significant obstacles to efficiency. During the early years of the ICTR, progress was marred by extensive UN mismanagement,[6] and in spite of a transformed institutional performance this has been a stigma that has been difficult to shed. In order to deliver justice, a new system of criminal procedure had to be developed in tandem with an accelerated progressive development of the body of humanitarian and human rights law.

The length and slow pace of proceedings has become a feature of international criminal justice that is seen by human rights observers as a threat to the legitimacy of the system itself. Justice delayed, it has been argued, is justice denied,[7] or as some more moderate critics might claim, at least justice weakened. Unlike the documentary record that constructed the case in Nuremberg, for the ad hoc Tribunals much of the evidence is testimonial. As the wheels of justice slowly turn, most of the accused remain in pre-trial detention, some for years. As time goes on, elderly or ill witnesses may die before testimony is delivered, and as recent events in The Hague highlight, the accused may die before judgment is delivered. For the living witnesses, as memories of crimes erode with time, so does the strength of their oral testimony. Under heightened pressure from the Security Council to expedite its work and implement 'Completion Strategies', there is a greater institutional transparency and understanding of the process of administering justice. Recent confident, detailed Completion Strategy reports presented to the Security Council by the President of the ICTR, Erik Møse, state that first instance trial activity should be finished by the end of 2008, which depends heavily upon the remaining cases being transferred to competent national jurisdictions. Outstanding appeals should be completed by 2010.[8]

While expectations regarding the broader legacy of the trials may not be modest, the quantitative results of the ad hoc Tribunal's convictions certainly are. Since the first trial began in 1997, and 11 years after the establishment of the Tribunal in 1995, the ICTR has convicted 25 individuals and acquitted three. An additional 27 accused are in trial or awaiting judgment.[9] In spite of a mandate focused on peace and reconciliation, the Tribunal was late to develop effective outreach programmes in Rwanda that explained the process of international justice and the progress and substance of the trials to the society most directly affected by the Tribunal's work. Perhaps the greatest obstacle to the Tribunal's function as a reconciliation mechanism has been the exclusive prosecution of Hutu perpetrators of the genocide, and the non-prosecution of the RPF crimes of serious violations of international humanitarian law.

Under the narrow jurisdictional grounds of Chapter VII of the United Nations Charter, Security Council action, including the unprecedented creation of ad hoc international criminal tribunals, must be in response to a situation that 'creates a threat to international peace and security.' Yet an examination of the language in Resolution 955 establishing the ICTR, similar to that of Resolution 827 creating the ICTY, includes more expansive, explicit causal connections embracing a lexicon of criminological theories of justice, from retribution and deterrence to restoration. Such theories, one might add, were developed within long-established national legal traditions and in closely examined sociological contexts. Now transposed to the international criminal justice system, they are loosely applied without any critical scrutiny as to how they should be adapted to reflect the complexities of the post-conflict societies in the Balkans or the African Great Lakes region. Resolution 955 strongly states that the Council is 'convinced' that the prosecutions of those persons responsible for 'serious violations of international humanitarian law' would make it possible to put an end to such crimes, and that taking effective measures to bring to justice the persons who are responsible for them would 'contribute to the process of national reconciliation and to the restoration and maintenance of peace.' It further explains that the Security Council believes that the establishment of an international Tribunal 'will contribute to ensuring that such violations are halted and effectively redressed.'[10] It warrants noting that while the reference to the process of national reconciliation is omitted from Resolution 827 establishing the ICTY, it is an aim that is integrated into both the judgments and official policy of the Tribunal.

Although the language of the mandate is arguably distorted by the narrow empowering provisions under Chapter VII of the UN Charter, it converges with a broader discourse that gained momentum in the 1990s on the appropriate responses to atrocity and their impact on the societies concerned. Whether the mandates of ad hoc Tribunals advanced, or merely mirrored these conceptions of the constructive powers of the institutions of justice, the ambitious mandate of the ICTR (and its sister Tribunal in The Hague) emerged within an amplifying discourse on responses to mass rights violations. By the time of the Rome Statute (the intergovernmental treaty establishing the International Criminal Court), the proclamation of the transformative powers of international criminal justice that can contribute to peace and reconciliation was no longer a semantic by-product of the awkward requirements of the empowering provisions of the UN Charter. It had become a core assumption of many supporters of an international criminal justice system.

This development can be seen in the years following the passage of Resolution 955. Even stronger rhetorical claims on behalf of international criminal justice were advanced by the Secretary General of the UN, Kofi Annan. In response to the first judgment of an international court on the crime of genocide that was

rendered in 1998 by the Trial Chambers of the ICTR in *Prosecutor v. Jean-Paul Akayesu*,[11] Annan expressed: 'the hope that this judgment will contribute to the long-term process of national reconciliation in Rwanda. For there can be no healing without peace; there can be no peace without justice; and there can be no justice without respect for human rights and rule of law.'[12] This trend to proclaim the notion that peace depends on justice as a universal principle was advanced by sectors other than the United Nations. Even the late Pope John Paul II adopted the maxim 'No Peace without Justice,' to which was added 'No Justice without Forgiveness' on World Peace Day in 2001. Reflecting upon past sufferings inflicted by Nazi and Communist totalitarian rule within his lifetime and on the September 11 terrorist attacks, his vision of justice, while based on Isaiah, was framed within a legal construction of the language of human rights. Pope John Paul II elaborated: 'True peace therefore is the fruit of justice, that moral virtue and legal guarantee which ensures full respect for rights and responsibilities, and the just distribution of benefits and burdens.'[13]

This peace and justice axis has come to frame the advocacy efforts of a range of international human rights bodies. Commentators, such as Sharpe, highlight the spread of international justice programmes within leading human rights organizations and the emphasis that these bodies, staffed by lawyers, place upon the indispensable role of prosecution in the quest for peace and reconciliation.[14] One trend of thought from the non-governmental sector takes a precarious step beyond the ambitions of the Security Council resolutions establishing the international criminal tribunals by arguing not simply that justice and judicial proceedings contribute to peace but that their absence actually precludes it. Arguably, Annan's conception of justice could embrace prosecutions as a model of justice that exists *alongside* alternative approaches to restorative justice, such as those advanced by proponents of truth and reconciliation commissions. The banner of 'No Justice, No Peace,' however, casts retribution as the prerequisite for peace.

It is within the context of a powerful movement arguing that international crimes require that justice be achieved through prosecutions that the momentum and political will to establish the International Criminal Court emerged. Yet, the Rome Statute, which is an intergovernmental treaty not a resolution of the Security Council, makes no reference to peace or reconciliation as a stated purpose of this permanent system of international criminal justice. Notably, as the product of state negotiation, it adopts a more nuanced, pragmatic interpretation of the interrelationship between peace and justice – acknowledging that the pursuit of the latter may derail attempts to negotiate the former. Under Article 53 of the Rome Statute, the prosecutor may determine not to initiate an investigation should it be 'against the interests of justice.'[15] This provision may serve as a potential basis upon which the ICC could defer to national reconciliation programmes that

circumvent prosecutions through the establishment of truth commissions and amnesties.[16]

The convergence of independent developments within international law and politics, triggered by the crises in the Balkans and Rwanda, which enabled the creation of the ad hoc international criminal tribunals should be seen against the transformed terrain of human rights law that had emerged by the early 1990s. As the Nuremberg trials were part of a broader process that gave rise to the birth of human rights law, so the contemporary trials in the ad hoc international criminal courts are part of the broader process that ushered human rights law into the mainstream of the international legal order. With the end of the Cold War, the ideological divides that crippled the advance of the human rights movement were dismantled. Hard and soft law human rights instruments proliferated at an unprecedented pace. International humanitarian law had adapted to reflect the precedents of Nuremberg and developed to provide an expanded framework to govern the conduct of modern armed conflicts. Human rights law, once marginalized, and still subversive within the state-centred constructs of international law, had come of age.

From this transformed political and legal terrain emerged a vocal, vigilant and increasingly well-organized and well-funded cross-border community of non-governmental human rights organizations. By the time of the negotiations of the Rome Statute for the International Criminal Court, the profile and participation of these rights-based advocacy groups in the drafting process of the Statute reflected the extent to which they had moved from the margins of international policy formation to assume an influential role as actors on the international stage.[17] This same period was marked by the experiences of the 1980s and the political and legal responses to past atrocities that followed the collapse of authoritarian regimes in South America. This led to a growing body of influential scholarship on the role of transitional justice.[18] By the mid 1990s, international attention was focused on the South African Truth and Reconciliation Commission, and concepts of peace, justice, truth and reconciliation merged together in various equations that promised to deliver healing to broken societies, and the individuals within them. The judgments and transcripts of the Nuremberg, Tokyo and Holocaust trials gave rise to a genre of popular literature on the war crimes trials, and to films romanticizing the historic proceedings, alongside a growing body of critical revisionist scholarly texts.

Previewing legacy and setting benchmarks

As the child of the Chapter VII powers of the Security Council, the language of Resolution 955 established a formal set of objectives that elevated expectations far beyond the formal aims of Nuremberg. The prosecution strategies of the war

crimes trials in the aftermath of World War II clearly embraced the broader policy objectives of the Allied Powers in post-war Europe. Yet the formal mandate of the International Military Tribunal (IMT) of Nuremberg as set forth in the London Agreement referred back to the Moscow Declaration of 1943 issued by the Allied Powers.[19] It focused exclusively on the objective of the prosecution of those responsible for, or having taken a consenting part in, atrocities and crimes, and on establishing individual responsibility for the 'abominable deeds' committed by German officers and Members of the Nazi Party during the war. National post-war policy objectives of each of the Allies notwithstanding, the formal mandate of the IMT under the London Agreement offered an achievable benchmark for measuring the success of the Tribunal: the simple and straightforward aims of prosecution and judgement.

The ICTR, through its self-presentation, has not sought to deflect the Resolution 955 expectations that it contribute to the process of national reconciliation in Rwanda and to the maintenance of peace within the region. This mandate is not simply represented in the formal legal text introducing the Tribunal to visitors of the court's website. The role of the Tribunal and its future legacy as a conduit for peace and justice is amplified through the visual images used by the Tribunal. There is a shared symbolism in the logos of the ICC and ICTR, both of which depict the scales of justice framed by olive branches of peace. A striking addition appears in the ICTR logo, however, where the scales of justice are superimposed upon a white dove of peace. Through an effective use of graphics, the upward flight of the white dove appears to be released by the scales of justice. From justice comes peace. Interestingly, this message is absent from the ICTY logo, which is presented attached to the logo of the United Nations and emphasizes instead the international character of the Court, through the image of the scales of justice with a tilted globe at its centre.

Through the use of graphic imagery in its commemoration of the 10th anniversary of the Rwandan genocide of 2004, the ICTR refined its institutional message: from international justice comes Rwandan peace. Across the top of the screen on the ICTR Commemoration Site is a banner consisting of a montage of sequenced photographs providing a visual timeline of the history and future legacy of the Tribunal. Through the medium of imagery, the Tribunal conveys a strong message on the role of the justice it is providing in the path to Rwanda's future prosperity, peace and reconciliation. The narrative of the banner begins with a picture of crosses on graves, symbolizing the Rwandan genocide. The following photographs represent stages of the Tribunal's history and its work. They start with the Security Council, and progress with the trials, then the robed prosecutor, and a collage of the judges that have served as the Tribunal's former and current Presidents. The face of international justice is multi-national, racially diverse and gender-balanced. After these representations, the subsequent and final image is

that of a happy, healthy, life affirming African child – the symbol of a new, peaceful and reconciled Rwanda. In the complex context of Rwanda and the Great Lakes region, the self-proclaimed message of the legal route to peace and national reconciliation through international justice may not be persuasive, but it is astoundingly clear. It captures a progressive vision of the capacity of law to heal societies in the aftermath of mass atrocities, reflected in the broader human rights discourse of our era, and concretely directed by Security Resolution 955.

The projection of peace and reconciliation as an implied legacy of international criminal justice is in stark contrast to an absence of viable benchmarks by which we can assess the ICTR's performance. With high expectations comes the risk of deep disappointments. Some recent legal scholarship has thus reconceived international justice as a potential cause of, rather than a cure for, human rights violations. Alongside the expansive dialogue on the powers of international justice, there has been a parallel trend to attribute complex causalities between the work of the Tribunal and policy and practice in the Great Lakes Region. In the absence of a coherent framework for exploring the impact of international criminal justice, some argue that international justice may indeed subvert, rather than advance the progress towards a reconciled post-genocide Rwanda.

The prioritization of the prosecution of genocide undertaken by the then Chief Prosecutor, now UN High Commissioner for Human Rights, Louise Arbour, resulted in a prosecution strategy at the ICTR that effectively excluded Tutsi crimes. To date, the Office of the Prosecutor still has not filed one indictment against a member of the RPF. The further dependence of past and current Prosecutors and the Tribunal on the cooperation of the Rwandan government to facilitate their work in Rwanda, and, crucially, to allow the transfer of witnesses to testify before the Court, stymied efforts to pursue investigations into Tutsi crimes. With the RPF in power in Rwanda, the same 'victors justice' refrain that attached to the Nuremberg and Tokyo trials is now transposed to its modern-day successor trials in the guise of 'selective justice.'

A political and sociological debate has emerged on the consequences of only indicting Hutu perpetrators of international crimes, notwithstanding the substantial evidence of serious crimes against humanity that have been carried out by Tutsis. Some argue that selective prosecution risks perpetuating the ethnic divisions that gave rise to the genocide. Others, such as Eltringham, see the perpetuation of this same genocidal framework in the Trial Chamber's struggle to adapt the concept of ethnicity within the understanding of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.[20] Kamatali makes the paradoxical argument that the language of judgements establishing individual responsibility perpetuates a representation of collective guilt, for example by describing attacks as being led by 'Hutus'.[21]

The process of justice in Arusha has also been seen by some observers to have effects in Rwanda and beyond. For instance, with respect to gender crimes, rights groups have criticized the Court's weak record for prosecuting rape.[22] Wood identifies this as a contributory factor to the ongoing commission of rape in Rwanda and in the Congo, although she does not provide evidence to support the claim.[23] In another instance, in *Stay the Hand of Vengeance*, the political scientist Bass attributes 'much of the blame' for the 1998 mass public executions by the Rwandan government of 22 defendants found guilty after a trial in Kigali, which international observers criticized for breaching the fundamental rights of the accused, as the consequence of the 'glacial pace' of the justice delivered by ICTR.[24] He makes an admittedly logical, but unsubstantiated argument that the failure to try the architects of the genocide expeditiously at an international level, lead to the frustration that produced accelerated high profile, low rights, trials in Rwanda. The fact that these causalities are being assumed rather than rigorously verified, in one of the modern classic scholarly texts on war crimes trials reflects the absence of clarity as to what we should expect of international criminal justice and how we should assess its projected impact.

Media coverage on the impact of international justice in Rwanda often reports that there is an absence of awareness of the work of the international criminal tribunals, apathy towards its work, or outright cynicism regarding the motives of the international community and its standards of justice. Although these reports are often presented as fact, current research reveals a somewhat different and more complex reality. The path breaking empirical study, edited by Stover and Weinstein in 2004, represents the first attempt to explore rigorously the impact of international justice on transitional societies and individuals.[25] In response to the gaps between the aspirations of contemporary discourse and the reality of the international courts, early regional surveys on the perceptions of the role and the effects of the ICTY and ICTR challenge some core assumptions held by both the true believers in the powers of international justice, and the sceptics on the sidelines.

Longman, Phamm and Weinstein used social survey data from 2002 to explore perceptions of justice and reconciliation held by Rwandans, including their attitudes towards the ICTR.[26] The results confirmed that a significant proportion of Rwandans are simply uninformed about the work of the Tribunal – a testament to the delayed development and weakness of the ICTR outreach programmes. Roughly 30% of those surveyed responded that they were 'not informed' and were unable to indicate whether they agreed or disagreed with basic statements related to the legitimacy, role, and progress of the ICTR and the trials underway. Such questions include those that ask whether the ICTR was fair to all ethnic groups, whether it 'was nothing but victor's justice', or 'was established to hide the shame of foreigners (for the failure of the international community to prevent

the genocide).' For those that were informed, however, attitudes reported are not entirely consistent with reports of widespread criticism by Rwandans of the Tribunal's work. Longman, Phamm and Weinstein found that in spite of the limited information held by Rwandan respondents, their overall attitudes to the Tribunal statistically register as 'slightly positive,' with the largest portion of respondents reporting neutral attitudes. Overall, a significantly higher percentage of those surveyed reported positive views (31.8%) rather than negative views (20.9%) of the Tribunal.[27]

The doors to the ICTR may soon close without the prosecutor having issued a single indictment against a member of the RPF. Under the label of victor's justice that shadowed the Nuremberg prosecutions, some critics predict a darker legacy for the Arusha trials than that envisioned by Security Council Resolution 955.[28] One of the interesting outcomes of the data presented by Longman, Phamm and Weinstein is that the issue of selective prosecutions did not figure as a dominant factor affecting perceptions of the legitimacy of the Tribunal's work. When presented with the statement that the 'Arusha Tribunal was nothing but victor's justice', only 17.6% of the respondents agreed, compared to 30% who disagreed. The real verdict on the legacy of the ICTR, however, may rest with the evolving views of the other 50% of Rwandans surveyed who were unable to respond to the proposition because they were either 'uncertain' or 'not informed.'[29]

This article began with the identification of a persistent gap between the expectations of war crimes trials and their actual effects. The ambitious expectations placed upon the contemporary international criminal trials reveal another pronounced divide. The rhetorical potential of international criminal justice to transform post-atrocity societies is separated by a gulf from an empirical understanding of the evolving dynamics of international prosecutions and their impact on national communities. The effectiveness of international criminal institutions requires it to be accountable to both the afflicted society and the international community for the justice it delivers. Ambitious expectations, whether emerging from the Security Council or the slogans of the human rights movement, create ambiguous benchmarks for measuring the record of a young and awkward international justice system. Viable benchmarks are necessary to govern external expectations, and strengthen and focus institutional performance. To achieve this, we should adjust our expectations to more modestly conceived realities of implementing international justice.

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References

1. SC res. 827, UN SCOR 48th sess., 3217th mtg. at 1–2 (1993); 32 ILM 1159 (1993).
2. SC res. 955, UN SCOR 49th sess., 3453rd mtg, U.N. Doc. S/Res/955 (1994); 33 ILM 1598 (1994).
3. L. Reydams, (2005) *The ICTR Ten Years On: Back to the Nuremberg Paradigm*, **3**(4), 982.
4. 59 Stat. 1031; TS 993; 3 Bevans 1153.
5. K. Bader (1955) 'Review', in W. Benton and G. Grimm (eds), *Nuremberg: German Views of the War Trials* (Dallas: Southern Methodist University Press), pp. 153–159.
6. *Report of the Secretary-General on the Activities of the Office of Internal Oversight Services*, A/51/789, dated 6 February 1997. The Office of Internal Oversight Service ('OIOS') concluded that there were serious operational deficiencies in the operation of the Tribunal. In the Registry, not a single administrative area functioned effectively.
7. International Crisis Group, 'International Criminal Tribunal for Rwanda,' 7 June 2001, (http://www.crisisgroup.org/text/index.cfm?id = 1649 last visited 4 May 2006).
8. *Completion Strategy of the International Criminal Tribunal for Rwanda*, 1 June 2006 (S/2006/358).
9. ICTR Press Release, 28 June 2006 (http://www.ictr.org last visited 2 August 2006).
10. SC res. 955, UN SCOR 49th sess., 3453rd mtg, U.N. Doc. S/Res/955 (1994); 33 ILM 1598 (1994).
11. *Prosecutor v. Jean- Paul Akayesu* (ICTR 96–4-T), Trial Chamber, 2 September 1998.
12. About The Tribunal: Message from Kofi Annan, ICTR (http://69.94.11.53/default.htm last visited 4 May 2006).
13. Message of His Holiness John Paul II for the Celebration of World Peace Day, 1 January 2002 (http://www.vatican.va/holy_father/john_paul_ii/messages/peace/documents/hf_jp-ii_mes_20011211_xxxv-world-day last visited 4 May 2006).
14. D. Sharpe (2003) Prosecutions, development, and justice: the trial of Hissein Habre, *Harvard Human Rights Review*, **16**(1), 147.
15. Rome Statute of the International Criminal Court, UN Doc. A/CONF. 183/9; 37 ILM 1002 (1998); 2187 UNTS 90, Art. 53.
16. D. Robinson, (2003) Serving the interests of justice: amnesties, Truth Commissions and the International Criminal Court, *European Journal of International Law*, **14**(3) 481–505.
17. W. Pace and J. Schense (2002) The role of non-governmental organizations. In: A. Cassesse, P. Gaeta and J. Jones (eds) *The Rome Statute of the International Criminal Court: A Commentary* (Oxford: Oxford University Press) (2002).
18. A. Roht (1990) State responsibility to investigate and prosecute grave human rights violations in international law, *California Law Review*, **78**, 451–513. D.F. Orentlicher (1991) Settling accounts: the duty to

prosecute human rights violations of a prior regime. *The Yale Law Journal*, **100**(8), 2537–2615. C.S. Nino (1991) The duty to punish past abuses of human rights put into context: the case of Argentina, *The Yale Law Journal*, **100**(8), 2619–2640. C. Edelenbosch (1994) Human rights violations – a duty to prosecute? *Leiden Journal of International Law*, **7**(2), 5–22. S.R. Ratner and J.S. Abrams (1997) *Accountability for Human Rights Atrocities in International Law. Beyond the Nuremberg Legacy* (Oxford: Clarendon Press). R.J. Goldstone (1996) Justice as a tool for peace-making: truth commissions and international criminal tribunals. *New York University Journal of International Law and Politics*, **28**(3), 485–503. N.J. Kritz (1996) Coming to terms with atrocities: a review of accountability mechanisms for mass violations of human rights. *Law and Contemporary Problems*, **59**(4) 127–152. T. Meron (1995) The international criminalisation of internal atrocities. *American Journal of International Law*, **89**, 554.

19. Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, 82 UNTS 279; 59 Stat. 1544; 3 Bevans 1238, 39 AJILs 257 (1945).
20. 1948 Convention on the Prevention and Punishment of the Crime of Genocide, 78 UNTS 277, Art. 2. N. Eltringham (2004) *Accounting for Horror: Post-Genocide Debates in Rwanda* (London: Pluto Press)
21. J.M. Kamatali (2003) The challenge of linking international criminal justice and national reconciliation: the case of the ICTR. *Leiden Journal of International Law*, **16**, 115
22. Coalition for Women's Human Rights in Conflict Situations (2003) Rwandan Rape Victims Denied Justice by ICTR, (http://www.womensrightscoalition.org/index_en.htm last visited 4 May 2006). B. Nowrojee (2004) We can do better investigating and prosecuting international crimes of sexual violence, (www.womensrightscoalition.org/index_en.htm last visited 4 May 2006).
23. S. Wood (2004) A woman scorned for the least condemned war crime: precedent and problem with prosecuting rape as a serious war crime in the International Criminal Tribunal for Rwanda. *Columbia Journal of Gender and Law*, **13**(2), 274.
24. G. Bass (2000) *Stay the Hand of Vengeance*: *The Politics of War Crimes Tribunals* (Princeton: Princeton University Press), pp. 307–308.
25. E. Stover and H. Weinstein (2004) *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity* (Cambridge: Cambridge University Press).
26. T. Longman, P. Phamm and H. Weinstein (2004) Connecting justice to human experience: attitudes toward accountability and reconciliation in Rwanda. In: E. Stover and H. Weinstein (2004) *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity* (Cambridge: Cambridge University Press), pp. 206–225.
27. T. Longman, P. Phamm and H. Weinstein (2004) Connecting justice to human experience: attitudes toward accountability and reconciliation in Rwanda. In: E. Stover and H. Weinstein (2004) *My Neighbor, My*

Enemy: Justice and Community in the Aftermath of Mass Atrocity (Cambridge: Cambridge University Press), pp. 212–213.
28. L. Reydams (2005) *The ICTR Ten Years On: Back to the Nuremberg Paradigm*, **3**(4), 977–988. T. Cruvellier (2006) *Le Tribunal des Vaincus: Un Nuremberg pour le Rwanda* (Paris: Calmann-Levy).
29. T. Longman, P. Phamm and H. Weinstein (2004) Connecting justice to human experience: attitudes toward accountability and reconciliation in Rwanda. In: E. Stover and H. Weinstein (2004) *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity* (Cambridge: Cambridge University Press), pp. 206–225.

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