

On the Trail Of Genocide

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Sept. 7, 1994



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The prisoners in the Government jail in Kibungo, Rwanda, will tell you they killed their Tutsi neighbors and burned their houses, but they deny they did it willingly. Their testimony has a chilling similarity: not just their repeated invocations of "orders from above" or their matter-of-fact delivery, but their depiction of the massacres as a military operation, a matter of guns and grenades. The duty of the civilian conscripts, they say, was nettoyage, "cleaning up" -- killing the survivors.

But it is unlikely that the several hundred prisoners held in Kibungo will come to trial in the near, or even foreseeable, future. In early August, the United States and the United Nations secured a promise from the new Government of Rwanda that it would not prosecute anyone for genocide. Instead, Rwanda's Prime Minister, Faustin Twagiramungu, agreed to an international war crimes tribunal under U.N. auspices, probably at The Hague.

Yet while the U.N. has relieved the Government of its jurisdiction over war crimes prosecutions, there are few signs that it is ready to commit the resources needed to bring speedy trials. And there are many reasons to believe that trials outside Rwanda would be a mistake.

Under the 1948 Genocide Convention, it is not enough for prosecutors to offer evidence of mass killings to secure a conviction -- they must also prove genocidal intent. A full investigation of the 500,000 to one million murders that have taken place in Rwanda since April will require teams of forensic experts, trained prosecutors, translators and lawyers. Yet until mid-August the U.N. Human Rights Commission had been depending on a single field officer in Rwanda, Karen Kenny, who was given no car, no translator and no telephone.

In late August Ms. Kenny was joined by a handful of U.N. investigators and human rights monitors, and the commission has promised that 14 more monitors will arrive next week. But actual trials are unlikely to be approved until later this fall, when the Security Council, under pressure from the U.S., will probably vote to expand the Bosnia war crimes tribunal at The Hague to include Rwanda.

While the U.N. drags its heels, the Rwandan Government is getting nervous about its ability to keep people from taking the law into their own hands. So far there have only been isolated reports of revenge killings, but Wilson Rutayisire, a Government spokesman, says swift

justice is the only way to stop a long-term cycle of violence. "It is important to remember that there were also killings in 1990, in 1991, '92 and '93," he told me. "The impunity that the killers enjoyed fueled the genocide more than any ethnic hatred."

Viateur Hakizimana, a 25-year-old provincial administrator who used to oversee schools and is now a prisoner in Kibungo, is one of the accused killers who could face trial at The Hague. Staring at some point beyond the walls of his cell, he describes the night this spring when soldiers peeled the iron sheeting from the roof of St. Joseph's Church in Kibungo and killed hundreds of people who had taken refuge inside with fragmentation grenades. He denies throwing any grenades himself, though townspeople say otherwise.

It would be unrealistic to try to prosecute the thousands of Rwandans like Viateur Hakizimana who are accused of participating at some level in the violence. The Rwandan Justice Minister, Alphonse-Marie Nkubito, outlines three tiers of criminals -- those who planned the massacres, those who carried out the orders and those who took part in the violence out of fear. Mr. Nkubito says that only the first two tiers will face prosecution, and that only the convicted planners could get the death penalty. Yet many Hutu refugees still fear that they will be killed on their return. If the R.P.F. is as good as its word, trials in Kigali would be the best way to put those fears to rest.

Many human rights workers fear that trials at The Hague would have the opposite effect. Given the difficulty of communications in Rwanda, The Hague might as well be the moon; ordinary citizens would hear nothing but rumors. The U.N. could sponsor a tribunal in Kigali, or even staff it, and Rwandans could decide for themselves if the new Government is serious about prosecuting the planners of the genocide and discouraging reprisals against the rest of the population. "It doesn't matter whether it's the U.N. or the Rwandan Government," says Alex de Waal of Africa Rights, a London-based group. "The trials should take place in Kigali in full view."

The evidence of genocide is not elusive. There are churches full of skeletal corpses, some of them still clutching identity cards with "Tutsi" printed under the picture. There is ranting propaganda from the months leading up to the massacres, like the "Hutu Ten Commandments" which were printed in Kangura, a leading Rwandan newspaper. No. 8 says, "The Hutu must not have mercy on the Tutsi."

And there were speeches, like the infamous one broadcast in Rwanda in December 1992 by Dr. Leon Mugesera, a Hutu politician, who rails against the Tutsi, "I am telling you that your home is in Ethiopia and we will send you back through the Nyaborongo River as a shortcut." No matter that the Tutsi have lived in Rwanda for 600 years, even if some of their ancestors came from Ethiopia; in 1994, the Nyaborongo river was choked with bodies. No matter that the killing has forever ratified an ethnic distinction that, arguably, never really existed. In

the 1930's Belgian census-takers could find no better distinction between Hutu and Tutsi than the number of cows they possessed. If you had fewer than 10 cows, you were a Hutu; if you had 10 cows or more you were a Tutsi, your ethnicity forever imprinted on an identity card.

Unfortunately, evidence of genocide does not automatically lead to prosecution; the opposite is more often the case. Since World War II, millions have perished in mass killings in Cambodia, China, Pakistan and other countries, yet Bosnia is the only state that has ever tried to bring a case under the Genocide Convention, in March 1993. The World Court made no finding -- perhaps because to do so would have obliged it to countermand the Security Council's arms embargo.

Trials at The Hague might clear the conscience of the international community, but they are not likely to convince Rwandan citizens that their new Government is committed to punishing the planners of genocide and enforcing an amnesty for the rest of the population. Despite obvious difficulties -- reassuring Hutu refugees, for one -- a properly administered tribunal in Kigali could deliver that message.

But trials in Kigali could not succeed without international support -- if only because most people on the Rwandan Government's short list of genocide planners are still at large -- in Zaire, in Tanzania and in the West. Take Dr. Mugesera, the Hutu politician, who not only made inflammatory speeches but is accused of being a member of a death squad. Last year, he moved to Quebec City, where he was advising doctoral students at Laval University. Dr. Mugesera and others like him need to be brought to justice if there is to be a real accounting in Rwanda.