COMPLETING THE TRIBUNAL: ICTR'S CONTRIBUTIONS AND DEFICIENCIES

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Abstract

The International Criminal Tribunal for Rwanda (ICTR) is an *ad hoc* tribunal of great significance in terms of international law. The court has completed nearly its twentieth year, while it has been decided to terminate its mission at the end of 2014 after completing its proceedings, since it is an *ad hoc* tribunal. Concordantly, the judicial power and the ongoing cases will be assigned to national courts and to the Residual Mechanism for Criminal Tribunals, which has been newly established. The Tribunal has left behind many contributions and addressed by some criticisms while coming to an end. The Tribunal, which has numerous contributions to international law, criminal proceedings, regional peace, perception of justice, rule of law, and universal values, deals also with criticisms on issues such as functioning, powers of prosecution, and its limited coverage in terms of region and time span. The contributions of this Tribunal, which is coming to the end of its mission, to international law and reconciliation shall be presented in this study. Then, an overall evaluation of criticisms addressed to the Tribunal and the legal system related with the atrocities in Rwanda.

Keywords: Completion, ICTR, criticisms, contributions

Introduction

The International Criminal Tribunal for Rwanda (ICTR) has been established in 1994 and deployed in Arusha, the capital city of Tanzania, to investigate and prosecute the violations of law that occurred in Rwanda during the period between January 1st and December 31st, 1994, based on the Resolution 955 by the United Nations (UN) Security Council. This Tribunal is one of the significant and uncommon developments in terms of international law. The structure of the Tribunal, international crimes under its jurisdiction, senior officials among those who has been put on trial, and its purpose of establishment to achieve social and regional peace on the initiative of the UN Security Council are the special characteristics of the Tribunal. Nearly twenty years have passed since the founding of the

Tribunal. Since founded temporarily for only a certain location and time span (an *ad hoc* tribunal), the tribunal has reached the stage of termination. While completing its mission, it is leaving a great experience and an idealist perception of law for the international law. The Tribunal has contributed a lot to international law and politics though there are many criticisms toward the Tribunal and the overall legal system within the region. The structure of the Tribunal, founded subsequent to the acts of violence in the region, and international crimes will be mentioned in this study. Then, the strategy of terminating the Tribunal and the contributions and drawbacks thereof will be discussed.

Acts of Violence and the International Community

In Rwanda, Hutus started to kill Tutsis systematically over a period about a hundred days between April and June, 1994. Almost half of the population in the country disappeared in this period due to death and migration. It is clear from the sociological, political and economic point of view that how devastating the events were. In addition to the historical and social reasons of violence occurred in the country, it is also a fact that, the violence came step-by-step and was quite foreseeable in the previous context. A group of people in economic collapse, who were mourning the loss of those who died, and even worse, who are more like to be revengeful, had emerged when the acts of violence was finished. The crimes committed in Rwanda are impossible to be tried in national courts of Rwanda, because the technical infrastructure of the courts would not be adequate to hear these trials due to lack of personnel and premises. Besides, since a large portion of the population took part to the crime, the trials would exceed the court capacity. In addition, the unwillingness of the Rwanda Patriotic Front (Moghalu, 2005) which is the army founded outside Rwanda by Tutsis and the winning party in the Rwandan civil war, to allow trial of their own unlawful acts and their probable obstruction as well as their reluctance to surrender some of their leaders to Hutus are predictable developments. It is important to punish offenders in countries, where so cruel international crimes have been committed, for preventing revenge attempts and for ensuring social, regional, and international law.

For both people living in the country and the international community, it would be appropriate to ponder what could have been done before genocide started. Prevention of violence in the country or not starting at all is out of the question; because the violence actually occurred were just a consequence. The causes of violence were at a saturation point. In fact, brutal actions were likely to occur when structural factors such as economic challenges, political fluctuations, the cycle of violence for retaliation and revenge emerging historically at certain times between the two groups, the

socio-cultural structure based on obedience, and the state's power of monitoring, ruling, and controlling over the people, which were extremely effective, combine with Hutu administrators' decision to destroy Tutsi minority, who were privileged throughout the history. As a matter of fact, the existence of an army composed of Tutsis and supported externally and the effective organization and armament of Hutus indicates that both parties were not intended to stop the violence, but to seize power by violence.

The international community has not been successful in ending or preventing the violence in Rwanda. Well, was it possible for the international forces to stop violence while the groups within the country did not have an intention for this? The UN France, Belgium and the USA were criticized for not making the necessary interventions to acts of violence. The number and authority of the peacekeeping troops within the country had not been increased when the events were about the start in 1994 or during the course of events; on the contrary, the troops were withdrawn and no effective precautions were taken. This is partly understandable, inasmuch as the authorization problem of the Peacekeeping Forces were already known. On the other hand, the international community was capable of creating different troops equipped with more authority and equipment, but this method had not been employed. Although, it would not be realistic to expect the complete stop of violence by the international community, it is possible to change the course of violence and to decrease the number of deaths, if not ended completely, by means of effective troops.

The international community did not managed to prevent violence; however this international criminal court founded in Rwanda under the supervision of the UN was a significant development for serving the justice at least after the acts of violence. The ICTR was a significant development for the international law as well. Since the committed acts of genocide and crimes against humanity are in the category of international crimes and the national court was known to be incapable for these trials, an international tribunal is more effective solution in terms of serving justice.

ICTR's Structure and International Crimes

The Tribunal was founded for the events occurred only in Rwanda and only within the period between January 1st and December 31st, 1994. The offenders, who are the citizens of Rwanda both live in the Rwandan territories and escaped to neighboring countries are under this jurisdiction. The seat of the Tribunal, in Arusha, is composed of the chambers and the prosecution. There are four chambers; one of them functions as an appeal court with sixteen permanent judges and nine *ad litem* judges. Seven of the permanent judges serve on the appeal court (The Statute of the ICTR, 2010).

The prosecution has two fundamental missions, which are evidence collection and investigation. The Prosecution is an independent authority not influenced by any government or by any other sources and works with the assistance staff, each of which is either requested directly by the Prosecutor or chosen by the UN Secretary-General. The Prosecutor is a competent person suggested by the UN Secretary-General and appointed by the Security Council for a four-year term of office. Prosecutors are allowed to be nominated again (The Statute of the ICTR, 2010). Only individuals are prosecuted. Prosecution of the state of Rwanda is out of question. As January 2014, forty-seven cases have been completed by the International Criminal Tribunal for Rwanda and sixteen cases have been sent to appeal. Twelve prisoners in custody have been released. Two prisoners have been released without prosecution. Another two prisoners have been released due to lack of evidence. Ten cases have been transferred to the national jurisdiction of Rwanda. There are also fugitive offenders (The cases of the ICTR, 2014).

The Tribunal has jurisdiction for genocide and crimes against humanity as well as for the crime under the title "Violations of Article 3 common to the Geneva Conventions and of Additional Protocol II" (The Statute of the ICTR, 2010). These three types of crimes are considered as the most devastating crimes on earth; thus it can be clearly seen that failure to punish the perpetrators would be a shame for the international law in addition to new potential conflicts as a result of revenge tendencies of survivors or victims' relatives.

The definition of genocide crime in the Statute of the International Tribunal for Rwanda has been quoted verbatim from the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention, 2014). Pursuant to the first article of the Genocide Convention, governments undertake to prevent and punish genocide at the time of war and peace (Genocide Convention, 2014, Article 2). Genocide has been defined in the second article of both the Statute of the International Tribunal for Rwanda and the Genocide Convention as follows: "Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: a) Killing members of the group; b) Causing serious bodily or mental harm to members of the group; c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; d) Imposing measures intended to prevent births within the group; e) Forcibly transferring children of the group to another group." (Genocide Convention, 2014, Article 2). The following actions are subject to punishment: Genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide, complicity in genocide (Genocide Convention, 2014, Article 3).

Elements of intent or even special intent *(dolus specialis)* should be discovered in order to prove a genocide crime. If this requirement cannot be proved, then the acts cannot be considered as genocide. The victims are not chosen and exposed to genocide actions according to their own personal identities, but because of their affiliation to the group against which intent of genocide exists (Aksar, 2003, p. 216). The main purpose is to destroy the entire group, not only the chosen individual or individuals. The intent can be proved by discovering written documents such as speeches made from communication means, declarations, plans, or party programs (Schabas, 2000, p. 222 and Basak 2003, p. 96). Besides, Lemkin (1944) says that a crime can only be considered as genocide if it is committed within a plan. Discovering such documents would provide evidence for the existence of such a plan (p. 79). The existence of a plan at the administrative level was accepted as an evidence for genocide in the Kambanda case at the International Criminal Tribunal for Rwanda, even not necessary as a preliminary condition ("*The Prosecutor v. Kambanda*", 1998). The commitment of the crime to the same specific group and the systematic nature of the crime can also be taken into account for proving intent of genocide (Basak, 2003). Intensity of actions in terms of quantity and quality is also considered as evidence proving intent (Schabas, 2000). Attempt to destroy a large number of people or to kill persons selectively ("*The Prosecutor v. Jelisic*", 1999) jeopardizing the future existence of the group.

Crimes against humanity is defined in the third article of the ICTR Statute as follows: "The International Tribunal for Rwanda shall have the power to prosecute persons responsible for the following crimes when committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds: murder, extermination, enslavement, deportation, imprisonment, torture, rape, persecutions on political, racial and religious grounds, other inhumane acts" (The Statute of the ICTR, 2010).

Crimes against humanity involve crimes committed against civilian population in times of war and peace. It also means cruelty against national, political, ethnic, racial, or religious groups and individuals, where government agencies directly involves in or provide support to actions. Since political groups are included in this type of crime, it is a larger category compared to genocide. Besides, while intent is required to be proved for the genocide crime, there is no such condition for proving crimes against humanity. Proving just widespread and systematic violations against a targeted group is enough. The crimes against humanity distinguishes from war crimes as well. While a war crime is a crime committed in time of war, crimes against humanity can be encountered in times of both war and peace.

Despite being a concept of international customs and rules, the earliest known reference to the term "crimes against humanity" is in the *Hague Convention 1907* (Horvitz, 2006, p. 110). When the World War II was ended in 1945, the *Nuremberg Charter* was signed to prosecute the crimes of the Nazi government and it was announced that prosecutions would be made for crimes against peace, war crimes, and crimes against humanity (Horvitz, 2006). The scope of the crime has extended since the Nuremberg Charter and began to contain actions such as torture and rape. Governments are allowed to prosecute this crime in their own national legal system without international jurisdiction as well. In addition, no political and military figure can obtain immunity by stating that he/she committed these actions because of given orders and his/or obligation to comply with these orders (Bassiouni, 1999).

Comprehensive crimes are also given under the title Violations of Article 3 common to the Geneva Conventions and of Additional Protocol II. Three Geneva Conventions has been signed in 1864, 1906, and 1929 regarding the requirement of humanitarian treatment to victims of war. One more Geneva Convention has been signed in 1949 to update the previous ones and all of them have been called Geneva Conventions collectively. The third article, which is included in all of these four conventions, envisages protection to the victims of the internal conflicts. While the Geneva Conventions mentioned war victims, this article is the sole article mentioning internal conflicts and victims thereof. It is important in this manner and considered as a small sample of agreement (Horvitz, 2006). The Third Article prescribes minimum standards not only to be respected among governments, but also for governments themselves and opponents within country boundaries. Humanitarian treatment and medical attention, where necessary, to combatants, weapon leavers, and opponents without distinction of gender, race, or religion in addition to assistance by international aid organizations like the Red Cross or Red Crescent to these people are stipulated. Beside the difficulty of implementation, it is known that governments are unwilling to implement the third article.

The Article 3 is defined in the Statute as follows: "International Tribunal for Rwanda shall have the power to prosecute persons committing or ordering to be committed serious violations of Article 3 common to the Geneva Conventions of 12 August 1949 for the Protection of War Victims, and of Additional Protocol II thereto of 8 June 1977. These violations shall include, but shall not be limited to: a) Violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment; b) Collective punishments; c) Taking of hostages; d) Acts of terrorism; e) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape,

enforced prostitution and any form of indecent assault; f) Pillage; g) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples; h) Threats to commit any of the foregoing acts" (The Statute of the ICTR, 2010, Article 4).

The Completion Strategy of the Tribunal

The Tribunal is one of the rare mechanisms deciding on such a great number of severe violations of law in the world history. The trials are exemplary, but much fewer than expected. The main reason for this is the difficulty in proving these crimes. The following figures have been provided in the last report of the Tribunal submitted to the Security Council:

> "…..the Tribunal has completed its work with respect to the substantive cases at the trial level for all 93 accused indicted by the Tribunal. This includes 55 first-instance judgments involving 75 accused, 10 referrals to national jurisdictions (four apprehended accused and six fugitive cases), three top priority fugitives whose cases have been transferred to the International Residual Mechanism for Criminal Tribunals ("the Residual Mechanism"), two withdrawn indictments and three indictees who died prior to or in the course of trial. Appellate proceedings have been concluded in respect of 46 persons. All but one of the remaining appeals will be completed in 2013 and 2014. Owing to residual delays caused by previous translation issues and other factors as described herein, the final appeal (in the *Butare* case) is projected to be completed not before the end of July 2015" (Report on the completion strategy, 2013).

The number of people who should be prosecuted is still high in the country, because the number of people involved in acts of genocide is high. On the other hand, the mission of the Tribunal required to be terminated. In line with the UN Security Council Resolution No. 1503 in 2003, the ICTR Completion Strategy has been formalized. Accordingly, all investigations and "all trial activities at first instance" planed to be completed until the ends of 2004 and 2008, respectively. According to the resolution, the Tribunal will complete all of its trials until the end of 2014 and will delegate its jurisdiction to Residual Mechanism for Criminal Tribunals and completed its mission as of 2015.

Residual Mechanism for Criminal Tribunals is a court having the same functions and jurisdiction with ICTR and International Criminal Tribunal for the Former Yugoslavia (ICTY) which has been founded one year earlier. It has two separate branches for ICTR and ICTY. Its mission is to undertake and conclude the cases which could not be completed by these

two Tribunals. Besides, it has a similar structure with these tribunals. It is also composed of prosecutions and chambers and it has a single appointed prosecutor (The Statute of the International Residual Mechanism for Criminal Tribunals, 2010). The ICTR branch and the ICTY branch have begun to work on July 1st, 2012 and July 1st, 2013, respectively. Both tribunals are obliged to contribute to this new mechanism. The cases remained from these two tribunals will be able to be completed by fewer staff and a smaller budget under a single roof. Furthermore, the missions of these tribunals will be completed and the cases may be transferred to national courts.

Some of the cases which could not be completed in ICTR will be completed by the Residual Mechanism for Criminal Tribunals, whereas some of them will be transferred to the national courts of Rwanda. For instance, the appellate court has left the Bernard Munyagishari case to the Rwanda national court on July 24th, 2013 anticipating that it cannot be completed. There are nine fugitive persons wanted for committing genocide crime. The responsibility of pursuing these persons has been left to the Residual Mechanism for Criminal Tribunals and the national jurisdiction of Rwanda. If they are caught, three of them will be prosecuted by the Residual Mechanism for Criminal Tribunals and the remaining six will be prosecuted by the national courts.

Contributions of the Tribunal

The majority of expenditures to Rwanda are allocated to legal processes. In addition to the ICTR, the existing nationals systems are tried to be improved as well. Training the existing personnel, raising new judges, prosecutors, and lawyers, starting new education institutions to this end, improving the existing court buildings and constructing new ones, opening new prisons and improving the conditions of the existing ones can be considered within this context.

Both the ICTR and the ICTY have contributed a lot to the development of the international criminal law. National courts are reluctant in general to prosecute crimes which can be characterized as widespread and large-scale acts of violence involved and even organized by government agencies and officials like bureaucracy and military officials. Not leaving prosecution processes to the discretion of the government and an international attempt to judge is a quite logical approach. Cases completed and verdicts made by the Tribunal as well as comments and definitions related with the crimes contribute to the international law. Besides, this tribunal is important at the national level as well in terms of supporting the national jurisdiction system of Rwanda, raising legal standards, and ensuring reconciliation.

The most fundamental contribution of the Tribunal is the much more willing emergence of the perception of functionality of international law, which was suspended during the Cold War. This perception concerning the necessity of prosecuting those who committed major violations of law, no matter who they are, and undertaking of the international law to keep the peace. Accomplice or direction of crime by a government mechanism or involvement of a senior politician or an army commander is a common situation in large-scale crimes such as genocide, crimes against humanity, and war crimes. It is not possible to prosecute such persons when the violence comes to an end, either because they are still in an active position or the lack of the legal infrastructure. In this case, resorting to violence to get revenge by victimized groups is common. ICTR and ICTY have contributed to break this cycle and proved that everyone, including senior officials, shall be prosecuted for these major crimes.

The Tribunal is important for the establishment of the perception of peace and justice. It is expected in particular that the African countries would draw some certain conclusions from the acts of violence experienced in Rwanda and the quests for justice afterwards. It is of great importance to foresee that some social problems can grow and lead to violence. It is important to understand the social structures and problems in Rwanda and reasons thereof not to experience or prevent violence. In every case in the Tribunal, the backgrounds and perceptions encouraging crime are being questioned in detail and shared with the public. The responsibility of politicians here is to study these and to make predictions for their own communities to prevent violence.

The ability of the Tribunal to provide justice for the victims and their relatives is of moral and political significance in the Central Africa, where violence is massive and cyclical. As a matter of fact, unless this perception of justice is consolidated, the victimized party's tendency to resort to violence will be high. ICTR has played an important role in breaking this cycle. In Rwanda, Hutus attacked in 1962. Tutsis and then Hutus attacked in 1963. Hutus attacked in 1972, and Tutsis attacked again as retaliation. Hutus began to attack again in 1973 and 1994. The party started an attack were always retaliated. When Tutsis stopped the attacks of Hutus in the events of 1994, a large part of the Hutu population left the country due to their anticipation of being exposed to violence. This is one of the major indicators of the cyclical course of violence. One of the most important contributions of ICTR is preventing the repetition of this cycle of violence by means of justice provided to victims and their relatives. Although eradicating violence is a quite ambitious expectation, experiencing no violence for a long time is a significant development.

Some of the African countries have entered into positive and strong relationships with the Tribunal. Many people prosecuted and arrested are in prisons of different countries in Africa. Some African countries such as the Republic of Mali, Benin, Swaziland, and Senegal have signed treaties to provide prisons. Those who catch fugitives escaped from Rwanda brought them to the Tribunal. These are developments enhancing the respect to international law and the effectiveness of the Tribunal and contributing to the regional peace.

The groups mentioned in defining genocide and crimes against humanity are frequently used in everyday language, but their meanings in social sciences are contradictive. Letting everyday language or contradictions in social sciences in the field of law is not possible. Since these crimes are committed against groups, it became important to define groups and to establish their legal boundaries. ICTR has undertaken this definition function at least for its on hearings. Afterwards, these definitions has been begun to be used in international law widely. The *Akayesu* case is a landmark in this context.

A national group has been defined in the *Akayesu* case as a "collection of people who are perceived to share a legal bond based on common citizenship, coupled with reciprocity of rights and duties" *("Prosecutor v. Jean Paul Akayesu",* 1996). The definition of ethnic group has also been clarified in the same case by the same Tribunal. Accordingly, an ethnic group has been defined as "as a group whose members share a common language or culture" ("*The Prosecutor v. Jean Paul Akayesu"*, 1996, para. 513). As for religious group, "…is one whose members share the same religion, denomination or mode of worship" *("The Prosecutor v. Jean Paul Akayesu"*, 1996, para. 515). "The definition of racial group is based on the hereditary physical traits often identified with a geographical region, irrespective of linguistic, cultural, national or religious factors." ("*The Prosecutor v. Jean Paul Akayesu*", 1996, para. 514). The definitions made in this case have provided significant contributions to ICTY and the International Criminal Court as well. These developments are exemplary for the national courts and raising the legal standards of Rwanda. Nature and content of cases, types of crime, and the functioning of the prosecution and chambers mean accumulating numerous experience and jurisprudence and contribute significantly to a field of international law, which did not have the opportunity to develop.

Criticisms to the Legal System

Although the ICTR has a reputation for its contributions to international law, serious problems in trial processes are being encountered and sometimes the Tribunal becomes inadequate. The ratio of committing or

complicity in criminal offenses or aiding or abetting is very high in the country. Since the number of people required to be investigated and prosecuted is high, both the prosecutor conducting investigations and the judges are overloaded in terms of the number of cases. In addition, it is not easy to find plenty of lawyers working on international criminal law and eager to involve criminal cases of this type. Another problem arises when investigation and prosecution process are over and when the time comes to send those who found guilty to prison. There are unsolved problems in providing prisons to put the persons to be arrested due to the Tribunal's verdicts and even in improving the conditions of the existing prisons and detention units. The number of countries making their own prisons available by means of signing treaties is not sufficient. The thousands of people waiting for prosecutions in prisons are dying because prison conditions and diseases. Moreover, there are unfortunate situations of keeping innocent people in prison for years (Leander, 2008, p. 1611).

As there are a large number of perpetrators within the legal processes, it is obvious that the ICTR cannot be adequate in terms of capacity. The national courts of Rwanda are also working on cases. But, the national courts have bigger problems compared to the international tribunal. At the end of the genocide events, there were only twelve prosecutors and two hundred and forty-four judges were survived within the entire country (by the education program as from 1996, the number of judges and prosecutors has been raised to 841 and 210, respectively, whereas the number of auxiliary personnel has been raised to 910 from 137). Since the privilege of education was provided only for Tutsis, almost all of the lawyers and judges were from Tutsi origin. During the atrocities some part of the Tutsi-origin lawyers either escaped from the country or killed. Moreover, the number of personnel had been decreased extremely. However after 1994 genocide, investigations needed to be launched for about seven hundred and sixty thousand people.

It is obvious that neither national nor international courts on earth can burden this heavy load easily. In order to find a solution to this problem and to alleviate the burden of the courts, the government has established the *Gacaca* court system, which was inspired by traditional courts, and genocide cases have been begun to be tried within this system since 2005 (The *Gacaca* Courts, 2013). The *Gacaca* was an old and traditional legal mechanism in the country for solving problems regarding families and marriage, theft, and land and property issues. In this system, the most trusted elderly people of the village (*inyangamugayo)* listen to problems and try to solve them like a judge. Courts are established on flat areas, hearings are held open to all villagers, and family members, audience, and elders of the village are allowed make comments on the issue. The *Gacaca* courts after 1998 has similar features with the old ones. Hearings are still conducted outdoors on

flat areas and all are open to public participation. Perpetrator and victim relatives are allowed to take the floor during hearings. The court has jurisdiction on crimes like assault and murder. Due to inspiration by international courts, it has been decided not give death penalty. The highest sentence is life imprisonment. Unlike the conventional *Gacaca* system, the judges are not the elderly of the village, but persons provided with legal education by the competent authorities of the UN and the government officials of Rwanda.

The adequacy of education provided for judges of national courts and *Gacaca* courts are often questioned. Furthermore, the majority of judges are Tutsi since most of the educated people of the country are Tutsi. This situation leads to concerns about lack of unbiased treatment of judges. In fact there emerge situations verifying this concern. The *Gacaca* courts, like the national courts, are criticized frequently by human rights organizations. The criticisms are focused on non-fulfillment of basic legal standards, inadequate education of judges, and their biased decisions (Leander, 2008, p. 1611). Another issue being criticized is non-performing investigations on acts of violence by RPF and it is undermining the impartiality of lawyers.

It is not easy to rely on the impartiality of the government either. As a matter of fact, the existing Tutsi government has send troops the Democratic Republic of Congo between 1996 and 2002 and involved severe human rights violations here. Besides, it is known that anti-government events are being suppressed by harsh methods (Uvin, 2001, p. 184). Such actions make the government unreliable on the issues of democracy, human rights and break of the belief in reconciliation processes. As Mamdani states; minority Tutsis are afraid of democracy, whereas majority Hutus are afraid of justice (1998, p. 11). There is a situation of using democracy and justice as a mutual strategy of revenge on a continual basis. Nonetheless, the national and international courts in Rwanda required continuing their missions. The existence of such a cyclical violence in the history of the country implies problems cannot be solved and justice that cannot be served.

Efforts for Political Reconciliation

Acts of genocide ended in Rwanda with seizure of the capital city and political power by RPF. A destroyed society in every sense had remained when the violence in the country was over. Tutsi became politically dominant again in the country. The new government is composed of Tutsis like the RPF members. Many Hutus, who were in government or bureaucracy before genocide, were either killed by RPF or escaped from the country. On the other hand, most of the Tutsis survived from the genocide are hiding in places close to borders of the country or have taken refuge in other countries. The first question in mind when the end of violence was

publicly announced is whether RPF and Tutsis, who were exposed to genocide, would attack Hutus in retaliation, because the history of the country is full of acts of violence and revenge strategies of both groups to each other at intervals. The new government has given assurance in this regard and made statements regarding improvements to be made in social and political conditions of Hutus and living together. This circumstance has provided a partial political stability. Yet, it is also known that a rigid control is being employed on the media, civil society organizations, and political parties.

The economic activity has been almost stopped in the country. A large part of the agricultural lands and the production centers, which were already of limited number, were damaged during the civil war. The country is under a serious debt burden. The government has made calls to return to production for economic recovery. Furthermore, international aid agencies and some countries began to provide grants and loans for Rwanda. A large number of international organizations are helping the country for the intended peace and reconciliation environment. The amount of aids and loans supplied by international organizations, grantor companies and individuals, and governments are stated as millions of dollars. It is known that, no foreign aid in such a large amount and no mobilization of international law intuitions to that extent have taken place on earth before for restructuring a state after violence. World Bank, the Red Cross, Amnesty International, the UN's various aid organizations, the International Criminal Tribunal for Rwanda and numerous human rights organizations are still continuing their operations since 1994.

It is important and necessary to try to fix political and economic equilibriums slowly. However, another issue, at least as important as this, is to achieve social reconciliation, peace, and law. Achieving social welfare and starting a harmonious social life by two groups, fought each other previously, is a rare condition. The violence and pain will not be forgotten at least for several generations. It is important to try to serve justice by prosecuting survivors who participated in genocide not to start another cycle of violence. In the absence of such a legal process, it is a high probability that Tutsi survivors and victims' relatives or Hutus who lost the political power may take actions of revenge.

The magnitude of the violence in the country has left traumatic social and psychological scars on survivors. Many academics and representatives of human rights organizations are conducting researches in the country. The outcomes of one of these studies are interesting. Since the group targeted by the genocide is Tutsis, it is an expected situation that Tutsis feels themselves as the victims. A high perception of victimization in Tutsis has been observed during surveys and interviews, but Hutus provided answers about

feeling themselves victimized at least as much as Tutsis (Buckley-Zistel, 2006, p. 137). The main reason for this may be the fact that they are a poor group unable to benefit from the privileges or the conditions in refugee camps or may be acts of violence, and deaths as a consequence, by the RPF against Hutus.

On the other hand, significant traces of trauma and depression on Tutsis, who were assaulted, mutilated, or raped or lost relatives, have been discovered in the studies (Buckley-Zistel, 2006, p. 139). Moreover, HIV/AIDS is common among those who have been raped, because those who carry this virus were provided to rape on purpose (Buckley-Zistel, 2006, p. 139). Both psychological and social impacts of genocide and traces left on physical health are still continuing traumatically. There is a group all over the country who managed to survive from genocide, but waiting for a slow death after genocide.

There are also some factors that make it difficult to overcome the social trauma. The most important one of these factors is the exact continuance of the agriculture-based social and economic structure, which existed before genocide as well. Overpopulation, geographical structure convenient for surveillance, many people working in the same places, and the high level of social hierarchy and control continue without any change. Considering those returned to the country when violence was over and Hutus came from Burundi, the population of the country has rapidly reached the figures close to population before genocide. In such an environment, those who survived, assaulted, lost relatives, involved in genocide acts, and waiting to be prosecuted in courts have to continue agricultural activities together and compelled to cooperate with each other. Being worked under such conditions just because he/she has to, indicates that the wounds have not been healed and even that the strength of the potential of violence. Buckley-Zistel states that feelings of mistrust and hatred are still continuing implicitly without any decrease among these groups (2006, p. 139).

Issues of confidence in international and national law are also among the factors effective on continuance of these social traumas. Existence of Hutus known to be involved in assaults, but released by the courts due to lack of evidence, of those who have been prosecuted and imprisoned despite being innocent, and of Tutsi RPF members who have not been prosecuted though involved in many assaults undermine confidence in the legal system.

There is a belief concerning the efforts of the government to create a perception of peace by force. On the other hand, pretending as if reconciled rather than actually trying to reconcile has become a commonly-accepted pattern of behavior. Furthermore, what is understood from peace and reconciliation is often blurred. Zorbas states that, social peace and reconciliation processes are perceived completely different by various

segments of the population. Some groups perceive this process as the function of courts, while some others considers it as the reinstatement of everything (Zorbas, 2009, p. 127). The study provides some other astonishing data as well. For example, it has been observed that there is nobody talking about forgiving, reconciling and living together, or purifying from violence, which are the real targets of a reconciliation process (Zorbas, 2009, p. 127). Since the data relating to the results of the reconciliation process has not been collected yet, it is difficult to predict the success of the process or potential of violence.

The measures to prevent the recurrence of violence are expected to be realized by means of social reconciliation processes. These processes are multi-dimensional and require serious efforts. Taking these measures effectively may prevent potential hazards in future. These measures must be dealt with in terms of legal, politic, and economic aspects. As we mentioned before, legal measures are being realized through prosecutions of the crimes. The prosecutions are being held in the *Gacaca* courts, ICTR, and other national courts. Punishment of perpetrators may prevent to a great extent resorting to violence by survivors and victim's relatives to implement their own justice. In addition, improvements are required to be made on the national judicial system. The government is about to lose credibility that prosecutions of the RPF members are not hold.

The political aspect of reconciliation is also important. There is a democratic system in the country in appearance, but there are serious problems regarding both implementation of the system and democratic attitudes. In addition, the National Unity and Reconciliation Commission is in a struggle for establishing national unity and a supra identity by means of a discourse of Rwandan identity and being a Rwandan through radio broadcasts and meetings (Buckley-Zistel, 2006, p. 142). Besides, changing identities containing differences sharpened with a history full of violence and feelings of mutual hatred with a new supra identity is a quite hard mission.

There is also much work to do and many measures to be taken regarding economic and social rights. Tutsis and Hutus are required to receive proportionate shares from the economic and social cycle in the country, while privileges granted to Tutsis must be offered to everyone equally. The expectations of Hutus for being equal citizens are not met. Equality in military, administrative posts, commerce, and education must be provided. It is essential not to obstruct some certain economic activities of Hutus and their freedom of education. A legal infrastructure, not letting these rights be altered by future governments through new implementations, should be established. Tolerance education from an early age emphasizing the importance of living with a different group would be one of the attempts with benefits in the long run.

Conclusion

The effectiveness of the measures taken regarding the tragic events in Rwanda will always remain questionable. Taking into account that Rwanda is a country experiencing a cycle of violence on a continuous basis, the need for a successful and fair reconciliation processes in terms of politic, economic, and legal aspects is obvious. It is necessary to take measures to prevent the country falling into another violence cycle. Providing justice is an important but only one part of these measures. The legal system should be supported by politic and economic improvements. The international community has not been successful in stopping the violence, but developed a legal system here, which is significant for Rwanda, Africa, and the for the international community in general, by mobilizing a great labor for and making investments in ICTR. Despite all criticisms and deficiencies, ICTR is an important tribunal in terms of improving international law, quest for justice, and the rule of law. While the Tribunal is about to complete its mission, it left numerous case studies, methods, and contributions behind.

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