

Book Review: Rwanda's Genocide the Politics of Global Justice, by Kingsley Chiedu Moghalu

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RWANDA'S GENOCIDE: THE POLITICS OF GLOBAL JUSTICE
BY KINGSLEY CHIEDU MOGHALU (NEW YORK: PALGRAVE
MACMILLAN, 2005) 239 pages.¹

BY OBIORA CHINEDU OKAFOR²

Written by a veteran international civil servant and scholar who served for many years as special counsel and spokesperson of the International Criminal Tribunal for Rwanda (ICTR), this book is a riveting account and analysis of the various factors that led to the Rwandan genocide of 1994, the nature of the international response (or non-response) to that immense tragedy, and the politics of international criminal justice that were manifest in the tribunal's struggle to accomplish its objectives. The book's publication is quite timely, given the horrible events that continue to unfold in the Darfur region of the Sudan and the debates that have occurred and continue to occur regarding the form that the international response to that event ought to take. The book will also be useful in thinking through the preference for domestic rather than international criminal trials of suspected terrorists that has been expressed by the current Bush regime in the United States. What is more, the book's methodological emphasis on the politics of law engages a potentially wide audience made up of socio-legal scholars and political scientists, among others. *Rwanda's Genocide* is thus a worthy addition to the broad range of scholarly literature on the politics of global criminal justice as one type of international response to humanitarian crises that occur around the world.

The overall objective of the book is to show the ways in which political and strategic factors have shaped the formation, operation, and effectiveness of the ICTR as well as the overall quest for global justice that is entailed. The book's ten chapters are crosscut by three main themes: the enormous impact that the ICTR's work has had on the development of international humanitarian law; the tribunal's actual and future socio-political impact in Rwanda, the other states of the

¹ [*Rwanda's Genocide*].

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Great Lakes Region of Africa, and in the rest of that continent; and the ways in which the ebb and flow in the relationship between the ICTR and the current Rwandan Patriotic Front (RPF) regime have had important implications for the orientation and effectiveness of the tribunal's work. In the end, the broad argument that the book makes is that although the ICTR has accomplished a lot to date, its orientation, ambitions, and effectiveness have been, quite expectedly, constrained by the vagaries of international politics and grand strategy.

In chapter one, Doctor Moghalu carefully and convincingly makes the important point that it was the exacerbation of existing social fragmentation by deliberate colonial and post-colonial governmental policies and practices that created the racialized myths of Tutsi cunning and domination that culminated in the RPF invasion and the subsequent, well-organized genocide. As the author argues, this was not, as has been widely supposed, some "tribal slaughter."³ In chapter two, the author discusses the international political calculus that shaped the creation of the ICTR by the United Nations Security Council (UNSC). Issues discussed include the United States' leading role in the creation of the tribunal, Rwanda's partially successful lobby to limit the tribunal's remit to exclude atrocities committed by the victorious RPF troops, the desire of most countries in the UNSC to create a tribunal that was independent from Rwanda (hence its physical location outside that country), and the key role that the moral guilt felt by those states for failing to act to stop the genocide played in making the decision to create the ICTR.

Chapter three focuses on the ICTR itself: its location in Arusha, a small regional town in Tanzania, and the associated difficulties of infrastructure that initially slowed down the work of the tribunal; the identity and election of its judges; the roles played by various chief prosecutors (especially former Osgoode Hall Law School Professor Louise Arbour); and the efforts made by successive registrars to facilitate the work of the tribunal (especially the work of Agwu Okali of Nigeria, who is portrayed as a highly skilled and effective manager). Chapter four discusses, among other issues, the international legal and political impact that the landmark decisions of the ICTR in the *Akayesu*⁴

³ *Supra* note 1 at 17.

⁴ *Prosecutor v. Akayesu* (1998), Case No. ICTR-96-4 (International Criminal Tribunal for Rwanda, Trial Chamber I), online: United Nations <<http://www.ictt.org>>.

and *Kambanda*⁵ cases have had; in the author's well-argued view, these and other such cases have helped to develop international humanitarian law and set new "precedents." Chapter five focuses on the "Barayagwiza affair," which involved Rwanda's outrage, protests, and successful political and legal campaign to get the tribunal—which relies on Rwanda's co-operation to access the evidence it needs—to reverse its Appellate Chamber decision to order the release of a defendant on the grounds that he had been detained for too long without knowing the charge against him. Chapter six deals with the practical issues and politics that shaped the decision to remove prosecutions at the ICTR from the responsibilities of Carla Del Ponte, the Hague-based chief prosecutor of both the ICTR and the International Criminal Tribunal for the former Yugoslavia (ICTY). It appears that the most important factor that led to Del Ponte's removal as ICTR chief prosecutor was the current RPF regime's consternation at Del Ponte's efforts to investigate and bring to justice those victorious RPF troops that had committed grave breaches of international humanitarian law during the conflict in Rwanda.

Chapter seven focuses on the challenges and triumphs that the ICTR experienced as it sought to locate a number of fugitives from its justice and extradite them into its custody. Of note here are the eventually successful attempts to obtain the surrender of a former Christian pastor from his place of refuge in the United States and the dramatic arrest of seven suspected perpetrators of genocide at the airport in Nairobi, including former Rwandan prime minister Jean Kambanda. Chapter eight deals with the public image problems that beset the ICTR despite its many achievements (25 trials, 22 convictions, another 18 awaiting trial, and 69 of 81 indicted persons already in its custody). The author assigns some of the blame for this negative image to the tribunal's location in Arusha, a long way from any of the major global media centres or their African outposts. For example, Arusha is a good four-hour drive from Nairobi, the nearest such outpost. Other reasons offered by the author include the greater attention paid by the largely Western global media outlets to the work of the Hague tribunal and the disdain for, and ignorance of, Africa exhibited in far too many Western media reports about the work of the ICTR. For example, as the

⁵ *Prosecutor v. Kambanda* (1998), Case No. ICTR-97-23 (International Criminal Tribunal for Rwanda, Trial Chamber I), online: United Nations <<http://www.ictt.org>>.

author notes, the *National Post* once reported that Canadian lawyers were forced to make a “20 hour trek to Arusha,” a town that this newspaper also gratuitously described as a “malaria-infested town of 200,000 in the northeastern part of Tanzania.”⁶ The same newspaper failed to highlight the fact that these lawyers were paid up to 21 thousand U.S. dollars *a month* for their efforts and that this generous compensation package seemed to be worth the trek by any standards!

On the whole, the book is highly impressive. It is full of detailed and insightful analyses. For example, it is rich with insights about the nature of the genocide, as being planned and systematic, as opposed to being “tribal warfare” as many in Canada and the rest of the world are wont to believe. The book is also full of insights about the constitutive effects of the strategic noose around the neck of international humanitarian efforts and how the world’s moral guilt about its non-intervention to stop the genocide has placed Rwanda’s current leadership at an advantage in its attempt to shape much of the work of the ICTR to suit its own tastes. A very well-crafted book, it is also interspersed with many instances of the use of creative prose and titles (for example, “the Million-Victim Question”).⁷ Another laudable feature of the book is the painstakingly balanced presentation of the arguments. The pros and cons of every question are canvassed before a conclusion is reached; thus, the arguments in the book come across as nuanced and sophisticated. This sophistication is also apparent in the way the author manages to avoid both the pitfall of cynical afro-pessimism and the trap of romantic afro-optimism. In the end, the author’s work comes across as very thoughtful, well-reasoned, and afro-realistic. Given the heavy afro-pessimistic bias of much of the writing on Africa, this in and of itself is no mean feat.

The only criticisms that can be made of the book, if one can describe them as such, are as follows. The first is that despite the fact that the book was published in 2005, not much is said in it about the tenure of Adama Dieng, who has served as the Registrar of the ICTR since 2001. The second is that the author’s oft-repeated conclusion that the ICTR and such international institutions are “epiphenomenal” may not accord with the dominant view held by scholars of international

⁶ *Supra* note 1 at 195-96.

⁷ *Ibid.* at 50.

politics. While realists and neo-realists will readily agree with the author on this score, those schools of thought are in obvious retreat and their ranks deplete daily in the academe. Others such as liberals, neo-liberals, and constructivists would be hard put to agree with that conclusion in whole or in part. The third is that the book has no bibliography. This is a significant issue because bibliographies are essential tools for other scholars who wish to conduct further research in the area; however, the book's copious endnotes may help somewhat in that respect. The last is that the book contains a minor error in spelling, perhaps the only one in the entire book, which is only significant given my own institutional affiliation and the venue of publication of this book review. The book misspells the word "Osgoode" (in Osgoode Hall Law School) as "Osgood."⁸

Overall, this excellent book is a must-read for anyone interested in the nature and politics of global criminal justice, the Rwandan genocide, or the effectiveness of international judicial intervention in local conflicts. Doctor Moghalu is to be highly commended for this impressive scholarly effort.

⁸ *Ibid.* at 58.

