

# Book Notes: The Contribution of the Rwanda Tribunal to the Development of International Law, by L. J. Van Den Herik

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*THE CONTRIBUTION OF THE RWANDA TRIBUNAL TO THE DEVELOPMENT OF INTERNATIONAL LAW*, BY L.J. VAN DEN HERIK. LEIDEN: MARTINUS NIJOFF PUBLISHERS, 2005. Pp. xviii + 324. Bibliography, index, appendices. €80 / USD\$114 hardcover.

BY NURI FRAME

Although largely overshadowed by its more prominent European counterpart, the International Criminal Tribunal for Rwanda (ICTR) has played a critical role in the development of international criminal law over the past decade. L.J. van den Herik's book explores the impact of the Rwanda Tribunal, particularly the contributions it has made in defining and developing the law of genocide, war crimes, and crimes against humanity in the context of an intra-state conflict. Her comparative analysis contextualizes the tribunal's work within the framework of the recent, and ongoing, developments in international criminal and humanitarian law.

The focus of the work is a detailed reading of the case law of the ICTR, which considers its judgments in light of general norms of public international law, the tribunal's statute, and the complementary jurisprudence of the International Criminal Tribunal for the Former Yugoslavia (ICTY). The first two chapters provide a brief overview of the

historical and political context of the Rwandan genocide and examine the factors leading to the creation of the tribunal. Chapters III through V provide the core of van den Herik's analysis, offering an examination of the tribunal's jurisprudence on genocide, crimes against humanity, and war crimes. Chapter VI draws the strands of the research back together, by considering the interrelationship between the three crimes, with particular regard to the tribunal's conflicting decisions regarding the doctrine of concurrence and its relationship to the *ne bis in idem* principle. The author concludes by considering the contributions that the tribunal has made to the development of international law as a whole and its effectiveness as both an adjudicative and a norm-creating institution.

While broadly supportive of the tribunal's work, van den Herik notes several key concerns with the ICTR's case law. Through a comparative reading of the decisions of the ICTY in *Tadic* and the ICTR in *Akayesu* the author highlights the Rwanda Tribunal's propensity to render thinly reasoned or inconsistent opinions, which are of limited precedential value. Additionally, van der Herik offers a particularly trenchant critique of the ICTR's tendency to hold that a principle or norm has the status of customary international law without evidence of the necessary basis in state practice or *opinio juris* to legitimize such an assertion. Until now, detailed comparative analysis of the case law of the ICTR has been sparse and *The Contribution of the Rwanda Tribunal to the Development of International Law* provides a valuable survey of the Tribunal's major jurisprudential developments, frankly assessing both its successes and its failures.

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