

Seeking justice in Rwanda

by [Kathy Ward](#) in the [August 30, 2000](#) issue

Number of wars in Europe in the past ten years: 4

Number of wars in Africa in the past ten years: 15

Number of European wars in which human rights violators can be prosecuted by an international court: 4

Number of African wars in which human rights violators can be prosecuted by an international court: 1

Though the world is paying increased attention to war crimes, perpetrators are still rarely brought to justice through an international court. This is especially true if the crime takes place outside of Europe. The International Criminal Tribunal for Rwanda (ICTR) is the only international court attempting to restore justice outside of Europe. And it is a fragile thing.

When the UN Security Council established the ICTR in 1994, it declared that the tribunal's purpose was to "contribute to the process of national reconciliation and to the restoration and maintenance of peace." Unlike the UN tribunal for the former Yugoslavia (the ICTY), which covers "events in the former Yugoslavia since 1991," the ICTR's mandate is strictly limited to the events of 1994. Even with those limitations, the tribunal has a huge undertaking.

Despite the importance of its work and the scope and horror of the 1994 genocide, the ICTR remains largely unknown. The work of the Rwandan national courts remains shrouded in even greater obscurity and receives far less financial and political support. Yet the attempt to mete out just punishment in Rwanda offers a relatively bright spot for justice on the African continent. Whether the ICTR succeeds or fails is likely to have a tremendous impact on the willingness of major donor governments to support similar efforts in the future—especially in Africa.

Although the genocide was largely over by midsummer 1994, the ICTR didn't actually begin work until 1995 and its progress was extremely slow. It was hampered by the lack of phone lines, power supplies and secure buildings. Moreover, the heads of the tribunal's three sections are stationed in different

countries. The trial judges and the registry (the administrative wing) are based in Arusha, Tanzania, where the trials are held, while the prosecutor's office is in Kigali, Rwanda. Furthermore, both the chief prosecutor, who is responsible for prosecutions for both the Rwanda and Yugoslav tribunals, and the court of appeals (which also serves both tribunals) are based in The Hague in the Netherlands. Fortunately, new chief prosecutor Carla del Ponte of Switzerland appears to be committed to spending more time in Africa than her predecessor did.

Faced with this complicated structure and a myriad of early problems, the ICTR did not launch its first trial until January 1997. Progress in the courtroom has been very slow. In the past year and a half, however, the pace has picked up. The ICTR has now issued verdicts against seven people, including Rwanda's former prime minister.

Through all this, the ICTR has managed to make some significant contributions. It was the first international court to convict a person for genocide, and its decisions concerning the international law on genocide are now an important part of the fledgling efforts to turn the 1948 code into enforceable law. The ICTR has also succeeded in getting many of the alleged leaders of the genocide into its prison in Arusha. In this respect, it is well ahead of the tribunal for the former Yugoslavia.

Currently 42 detainees are in the Arusha prison, with another two expected to arrive soon from temporary custody elsewhere. The existence of these prisoners testifies to the success of efforts to obtain the cooperation of a wide range of governments in Africa, Europe and the U.S.

But the trial process is still too slow. Cases take far too long to reach trial and the trials last too long. When the slowness can be attributed to the effort to ensure complete and fair trials, the delays are a reasonable price to pay for achieving impartial decisions. But other sources of delay must be eliminated. The number of days per year on which the judges hear trials must be increased. The amount of time devoted by the Appeals Chamber to ICTR work (as opposed to ICTY work) must also increase, as must the number of times that the Appeals Chamber travels to Arusha. (The current average is once a year, and while much of the Appeals Chamber's work does not require it to be in Arusha, its more frequent presence is important for symbolic reasons, if no other.) Lawyers for the prosecution and defense must be held to stricter schedules and sanctioned when they fail to meet their obligations. Finally, the administrative needs of all the parties must be met more quickly and

efficiently so that these tighter schedules can be maintained.

The ICTR has a large backlog of defendants awaiting trial, many of whom have been in the Arusha prison for years. Chief Prosecutor del Ponte has said that her office has upwards of 100 other investigations that could ultimately add to the backlog. Though many of the delays are at the request of defense counsels, they understandably leave many victims and other tribunal watchers wondering whether justice will ever be carried out.

Even with its existing problems, the ICTR has made a powerful contribution to efforts to end the impunity that has characterized so many conflicts in Africa and the rest of the world. It is the first concrete instance since World War II in which the international community has joined together to say that genocide will not go unpunished. It has helped push many of the leaders of the genocide into hiding and has helped isolate them from the support bases that would have allowed them to continue the killings.

Consider the difference between the fate of the leaders of the 1994 Rwandan genocide and the leaders of the vicious campaign of amputations and killings waged recently against the people of Sierra Leone. Those who led the Rwandan genocide are largely isolated and out of power. Those who led the Sierra Leone campaign were granted immunity and included in the “unity” government that controlled the nation’s critical diamond trade, while Sierra Leone rebels continue their attacks against innocent civilians. While the lack of a decisive military victory in Rwanda is certainly a crucial factor in the difference between the two countries, the lack of accountability in Sierra Leone is also important. Facing no threat of arrest and trial, rebels in Sierra Leone continued to commit atrocities.

Holding people accountable for the events of 1994 through a prompt and fair legal process is also important for the stability of surrounding nations. Citing continued cross-border attacks and massacres of Rwandan villagers by ex-members of the Forces Armées du Rwanda (FAR) and Interahamwe forces (forces that were at the heart of the genocide machine in 1994) based in the Democratic Republic of Congo (DRC), Rwanda has become embroiled in two separate wars in the DRC in the past five years. Rwanda controls large areas of the eastern DRC in which there are widespread reports of atrocities against Congolese villagers—thus raising the risk of a whole new cycle of vengeance and bloodshed in the Congo as well.

In Burundi, a similar Hutu-Tutsi tension over control of the government and the military fuels a civil war that remained largely unknown outside central Africa until former South African President Nelson Mandela took over as chief negotiator last December. The Tutsi-dominated army in Burundi cites the presence of ex-FAR/Interahamwe forces from the 1994 Rwandan genocide as justification for rounding up over 300,000 ethnic Hutus into regroupment camps.

In short, if the perpetrators of the 1994 Rwandan genocide are not brought to justice in a timely manner, the violence will continue and spread, pulling more and more people and nations into the spiral of bloody revenge. Moreover, if the ICTR does not carry out its full mission, there will be less international willingness to support efforts to bring to justice those committing atrocities in these related wars. The risk would remain of repeated atrocities in Burundi, the DRC and throughout the region by leaders who feel they are beyond the reach of the law.

The ICTR cannot bring justice to Rwanda on its own. It is a limited tribunal that will try only the senior architects of the 1994 atrocities. It is meant to work in coordination with Rwandan domestic efforts to secure justice. With over 125,000 people in custody on genocide-related charges alone, the Rwandan judicial system is completely overloaded. It is also hamstrung by a lack of lawyers, judges and court managers—and of international funding and technical assistance to address that gap. These domestic efforts deserve much more support—and much more monitoring to ensure that the rights of the defendants are respected throughout the detention and trial process. At the moment, neither the defendants nor the judges nor the prosecutors are receiving much assistance, and the government of Rwanda estimates that at the present pace it will take over 200 years to try all the prisoners.

In order to address these problems and to begin a process of reconciliation, the Rwandan government plans to use an adapted version of *gacaca* (pronounced gah-cha-cha)—a traditional Rwandan means of dispute resolution. According to the government's plan, local and regional *gacaca* tribunals throughout the country will hear grievances in cases of lower-level offenses. The idea is to use these forums to begin the process of dialogue about the genocide and, at the same time, to relieve some of the burden on the court system. The details of how the process will work and how the rights of individuals will be protected are still not completely settled, but it is an important initiative that deserves support.

Where does this leave supporters of justice efforts for Rwanda and for the rest of Africa and the developing world? And where does it leave the surviving victims of

the 1994 genocide? The process offers at least the chance that justice will be done. But the quest for justice by Rwanda and by the ICTR needs more attention and support in order to make it clear that genocide will not be tolerated and that the prosecution of war crimes is a universal norm, applied regardless of where those crimes occur.