



CANADA'S PERIODICAL ON REFUGEES REFUGE

Vol. 14 • No. 5

October 1994

SPECIAL ISSUE ON RWANDA

Prediction, Prevention, and Punishment of Genocide: Observation on Rwanda and Future Policies

Helen Fein

Many people are now asking whether we must passively await the predictable escalation of disaster from the politics of hate and fear to crisis, genocide, and gigantic flows of refugees which, in turn, lead to hunger, thirst, epidemics, the erosion of regions, and destabilization of governments.

I think not. These are not inevitable phenomena, like earthquakes, but are man-made calamities. We are witnessing the casualties of the old order of bystander states refusing to take steps to thwart genocide (or stop it in its early stages), justifying their abstention by the lack of national interest, and paying enormous costs to put band-aids on the living casualties. The casualties include the millions of dead, wounded, raped, maimed, and the homeless—refugees and internal exiles. Studies show that the overwhelming majority of refugees—over 16 million by the end of 1993 (not including the refugees from Rwanda)—are created by states committing genocide and gross violations of human rights.

My thesis is that genocide is preventable (as are political mass murders), because it is usually a rational act. That is, the perpetrators calculate the likelihood of success, given their values and objectives. One of the reasons genocide is likely to succeed is

that it is not deterred by other countries—indeed, the patrons of the perpetrators often aid them. Although there is much the international community could do were there the will, we should, for practical purposes, focus first on joint and individual actors

CONTENTS:

Prediction, Prevention, and Punishment of Genocide: Observation on Rwanda and Future Policies	<i>Helen Fein</i>	1
Health Impact of Rights Violations in Conflict Zones and the Humanitarian Imperative: Rwanda—A Case Study	<i>Dr. James Orbinski</i>	5
Forced Migration From Rwanda: Myths and Realities	<i>Edmund Abaka and J. B. Gashugi</i>	9
The Roots of Rwandan Genocide	<i>Charles David Smith</i>	13
The International Context of the Rwandan Crisis	<i>Samuel M. Woldu and Edmund Abaka</i>	15
Politique africaine de la France: arrêtons le massacre	<i>François-Xavier Verschave</i>	18
La rapatriement des réfugiés rwandais: un véritable dilemme	<i>Boniface Shally B. Gachuruzi</i>	21



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Vol. 14 • No. 5
October 1994

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Refuge is dedicated to the encouragement of assistance to refugees by providing a forum for sharing information and opinion on Canadian and international issues pertaining to refugees. *Refuge* was founded in 1981.

It is published ten times a year by York Lanes Press for the Centre for Refugee Studies, York University, Canada. *Refuge* is a nonprofit, independent periodical supported by private donations and by subscriptions. It is a forum for discussion, and the views expressed do not necessarily reflect those of its funders or staff.

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Current subscription rates for one year (ten issues) are:

Canada Can.\$50

All other countries U.S. \$60

Single issues are available at \$6.50 per copy.

Please enclose your purchase order or payment, made payable to York Lanes Press, with your order.

ISSN 0229-5113

rather than on international organizations who could step in to deter genocide. In the contemporary world this usually means patrons, donors, and allies.

The rationality of the perpetrators is sometimes overlooked because of the often dramatic mobilization of fear, hatred, and aggression. Genocide is committed from many motives: ideological, retributive (to prevent or respond to a threat), and economic. Genocide is the calculated murder of a segment or all of a group defined as being outside of the universe of obligation of the perpetrator, in response to a crisis believed to be caused by the vic-

tims, or an opportunity seen to be impeded by them. Crises and opportunities may be a result of war, challenges to the structure of domination, the threat of internal breakdown, or social revolution and economic development. Since 1945, most genocides have been state responses to rebellions or challenges by ethnic groups excluded from power, i.e., challenges to the structure of domination. War was often a precursor or consequence of genocide (Fein 1993).

Rwanda is another example of a modal pattern. The perpetrators represent an elite or segment of the dominant ethnic group that felt threatened



***Letter to the Editor from the Jewish
Civil Rights Educational Founda-
tion of Canada***

In your August-September 1994 edition you quote the statistical summary of various countries' claims and status. I am absolutely outraged that 268 applicants would be or could be declared as refugees by Canada's Immigration and Refugee Board. I plain and simply reject the suggestion that Israel is a country from which there could be legitimate refugees. Any citizen of Israel is free to come and go as [s]he pleases. Israel is a democracy that respects the rule of law. There are human rights commissions, there is an Ombudsman and there is, of course, a highly sophisticated court structure to which all citizens and even non-citizens have access.

I have travelled to Israel many times and have participated in legal seminars and if there is one constant with which I have come away it is the total independence of the Judiciary and its absolute commitment to the preservation of individual human rights.

I served as Chairman for twenty years of Canadian Lawyers and Jurists for Soviet Jewry and have visited the Soviet Union on four occasions. From countless contacts with citizens of the former Soviet Union, Jewish and non-Jewish it was obvious to me that many

considered emigration to Israel as a convenient vehicle to get to the United States or Canada. That in no way diminished their legitimacy in wanting to escape anti-Semitism, persecution and the violation of fundamental human rights in the Soviet Union. Many that were successful in gaining entrance to Israel then simply fled to the United States or Canada for economic considerations but evidently persuaded certain members of the Immigration and Refugee Board that they were legitimate refugees.

It is important for the credibility of the Immigration and Refugee Board that its decisions are based on accurate, honest and factual criteria. It seems to me that those members who granted refugee status to 268 applicants could use a basic course about Israel's democratic institutions and perhaps some insight into the realities of what constitutes a totalitarian, autocratic, or racist regime. To equate Israel with countries such as Iran, Iraq and Sudan is not only odious but it is simply preposterous. In the process it demeans the high regard to which the Board should aspire and it mocks the true definition of a refugee.

Bert Raphael, Q.C.

President, Jewish Civil Rights
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Toronto.

by imposition of a new structure in which their ethnic-group class interests could be subordinated. Although the conflict in Rwanda and Burundi between the Hutu and the Tutsi is frequently cast in a tribal or caste context, it is better understood as that of competing ethnic groups. The ranking and status of members of both groups was rigidified by the Belgian colonizers, who co-opted the Tutsi as administrators and soldiers and prevented individual mobility by mandating the use of identity cards.

The current crisis in Rwanda was instigated by responses to the negotiated settlement between the government and the Tutsi exile-led Rwandan Patriotic Front (RPF) after its invasion in 1990. The settlement authorized the return of Tutsi refugees, who had fled genocidal massacres in Rwanda in 1962, and the sharing of power with them in a transitional government prior to elections. The refugees—now 500,000 persons—added one to every 13.6 Rwandans in the most densely populated country in Africa (257 persons per square kilometer). This must have signified more intense competition for resources in the future.

The donor states and international aid organizations pressed the government to accede to the agreement. President Habyarimana played a double game, pretending he would implement it but bringing into the government an extremist anti-Tutsi party, the Coalition for the Defense of the Republic (CDR). One observer, Roger Winter, Director of the US Committee for Refugees, has called the CDR "Rwanda's version of the Ku Klux Klan" (1994).

The presidents of both Rwanda and Burundi were eliminated in an plane crash on April 6, 1994—an act the Hutu extremists blamed on the RPF and the Tutsi, but outside observers attributed to the extremists. This was followed by a coup of the extremists, who murdered the next-in-line Hutu leaders whom they did not trust and organ-

ized the massacres by military, party, and youth organizations against the Tutsi, and extrajudicial executions of the moderate Hutu.

The period preceding the genocide in Rwanda was marked by the mobilization of hatred and fear against the victims, including (in Rwanda) public injunctions broadcast on the radio to kill Tutsi. Politicians mobilizing their constituency in Rwanda, as elsewhere, could remind their communities that members of the Other had committed crimes against their people. The Hutu could remember the genocide the Tutsi minority military leaders perpetrated in neighbouring Burundi in 1972 against educated Hutu, the subsequent massacres, and the assassination of the first democratically elected Hutu president of Burundi in 1993 by coup-makers in the Tutsi-dominated army.

It was in this early period of crisis (during the weakening of the state in Rwanda from RPF attacks) that patrons and allies had the greatest opportunity to deter the genocide.

The Rwandan government received arms to wage the conflict with the RPF from France, Egypt, and South Africa. France especially fortified the army with weapons and leadership in response to the RPF invasion, which was backed by Uganda. The French have backed Rwanda uncritically until recently, largely because (by their accounts) of the desire to support French-speaking states which they see threatened by English-speaking states (such as Uganda). They could hardly be ignorant of the potential for genocide, for the President's paramilitary militia, the Akazu, had instigated mob killings of the Tutsi in 1990 in response to the RPF invasion. Uganda, which actively assisted the RPF, was acting not only from reciprocity (for the RPF had helped bring President Museveni to power), but from necessity, since refugees were in competition with Ugandans for land and water (Smyth 1994).

This adds to the cases in which genocide leads to war—as in Pakistan in 1971 and Uganda in 1979—by creating great numbers of refugees-warriors,

who can neither stay nor return home unless they dislodge the governments that led them to flee. War and rebel attacks against the state also often lead to genocide as in Bosnia-Herzegovina, Burundi, China in Tibet, Ethiopia, Iraq, and Rwanda, among others.

The RPF were in sight of victory and settled for reinclusion. But reinclusion or reform could only succeed had the CDR and the Akazu and their followers been isolated and firmly suppressed. Winters notes that, "[r]epeatedly, we have seen extremists in conflicts around the world use incredible violence to forestall a peace they find unacceptable. We saw it most recently in Baruch Goldstein's slaughter in Hebron, in imitation of Hamas's bloody strategy" (1993).

To move from this issue to the general question of deterrence, several initiatives ought to be undertaken by concerned states and human rights organizations. We need to heighten the awareness of patrons and press them to prevent genocide by: a) coordinating the promises of donors with respect to withdrawal of aid and making further aid contingent on observing life-integrity rights (not tolerating massacres, extrajudicial executions, "disappearances," or torture); b) isolating and suppressing extremist parties which resort to violence; c) promoting interdependent solutions; and d) warning the instigators that genocide will not pay. To do this, we have to make sure that it does not pay and stop paying off the perpetrators.

The role of punishment is not only to establish responsibility, but to avoid the future stigma of group guilt which impairs trust and leads to cycles of crime-revenge-crime. Thus, punishment is essential to enable the children of the perpetrators and the victims to start anew, to share a common moral consensus. And if punishment cannot be enforced, judgements still serve a function by shaming the perpetrators. Such shame can be reinforced if other states vow not to honour them or permit them entry, thus marginalizing them in the eyes of the world.

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In this case, it appears that the UN has authorized a rudimentary commission to investigate war crimes. This could be expanded to become an African-based international tribunal, or the tribunal charged with judging war crimes and genocide in Bosnia could be authorized to try genocide in Rwanda. Cohen has argued that it is imperative to try cases in Kigali rather than in Europe in order to assure the refugees' judgement will be made without bias and to give them enough security to return.

Although there may be hope in Rwanda in view of the policy of the RPF against collective retaliation (Kasfir 1994), it is imperative to bring in as many human rights monitors as needed to oversee the return of the refugees and the trials.

In the long run, we ought to create two key institutions on the interna-

there funds available, they could create an international radio network, broadcasting in native languages, that would unmask disinformation and propaganda, unveil the motives of agitators of hate, and promote respect for human rights and peace. This is not beyond the reach of our technology or resources.

The United States vacillated on recognizing genocide in Rwanda and did not do anything to prevent it. Despite spending vast sums of money—which may well exceed \$500 million—for humanitarian assistance in Rwanda, the United States has not made effective use of its power and leadership. Preventive leadership to make the use of genocide a dangerous risk could save millions of lives and dollars.

Warnings and deterrents ought to be backed up by a consistent policy of enforcement of existing American

ing recognition of new states provisional for at least two years.

In order to judge, expose, and shame the perpetrators of genocide when it occurs, we need an international criminal court (as has been discussed) to prosecute not only genocide but also terrorism and other international crimes. Such an institution should enable the victims (and organizations acting on their behalf) to appeal directly to the court to order the perpetrators to stop, to get restitution for the victims, and to make definitive historical findings regarding responsibility. Were there such a court, the revival of the Khmer Rouge since 1979 and the restabilization of the regime of Saddam Hussein after the Gulf War might have been thwarted.

There is a role for governments, international organizations, non-governmental human rights organizations, and the media to play in implementing this agenda. For governments, it would mean placing international human rights above temporary advantages from trading with and arming abusive powers. The movement to change the taken-for-granted assumption, that sovereignty implies indifference to our neighbours' crimes (like respect for family implied overlooking child abuse next door), is yet to emerge from gestation in images of mass flight, chaos, blood, and death. ■

Notes

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tional level because, at present, victims and their representatives cannot invoke the UN Genocide Convention in any way. The first institution is an international criminal court to which victims and their representatives could go to prosecute offenders and ask for restitution. Second, we need a UN rapid-response force, as Brian Urquhart recommended (1993), a force consisting of professional volunteers, answerable to the Security Council (possible under the present structure), which can act immediately to halt or cordon off the perpetrators of genocide, so that we do not repeat the experiences of Bosnia and Rwanda: passing unenforceable resolutions in the first case, and avoiding intervention while the genocide was in progress in the second.

Much more could be done were the non-profit human rights movement and the media to act together. Were

laws, which proscribe giving aid to state perpetrators of gross violations of human rights. This should be extended to the international level, mandating that the world lending institutions demand a Human Rights Impact Statement as well as an Environmental Impact Statement.

At the same time, the international community and private donors could reward states, such as South Africa, Israel, and possibly Northern Ireland, which rectify past policies of violation and negotiate an end to group conflicts. In many cases, we could change the political environment of the potential perpetrators directly and indirectly to make sure that they lack arms and are isolated. We should prevent the escalation of conflicts wherever possible and anticipate the effects of sustaining or breaking up existing states. We could tie political legitimacy to the protection of human rights, mak-