



NEWSLETTER CRIMINOLOGY AND INTERNATIONAL CRIMES

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Editorial

A book made me change my opinion. The book is about the remaking of Rwanda after the 1994 genocide. It is a compilation of articles by academics about almost all aspects of Rwandan society: memory politics, human rights, justice, foreign relations, land use, education, civil society, ethnicity and many more. In the introduction the editors write that the contributions to the book reveal an underside to Rwanda's post-genocide recovery that belies the dominant public narrative and that raises serious concerns about the extent of social repair in the country. That dominant public narrative is overall positive, praising the Rwandan government for the way they managed to orchestrate the rebuilding of a country that was in total shambles after a devastating genocide. The book brings together opposite opinions, as the editors proudly write.

Reading this book made me feel very uncomfortable. I realise I have this feeling already for some time when scholars criticise Rwanda, which many do. Not because of the criticism as such. Many things go wrong in Rwanda, as in every other country in the world, although in Rwanda because of its recent history maybe a bit more sensitive and consequential. There is no reason to hide or deny the wrongs. The *gacaca* for instance, the popular tribunals that tried over 1,2 million cases of acts in the context of the genocide, were certainly not perfect. With regard to reconciliation

or ethnic division in the country other choices could be made, no doubt about that.

A close friend, survivor of the genocide, points out many wrongs in the government's policy regarding reconciliation, ethnicity, release of prisoners, prosecution of *génocidaires*, etcetera. This is not always based on facts, but his perception of what happens is clear: it is wrong. And as we all know, what people think is true is true in its consequences. He is not willing to reflect on the necessity of measures taken, on alternatives for choices made, or on the complexity of political decisions. That is the prerogative of someone who survived three months of deadly persecution, who saw people being killed, and escaped death several times himself. As it is rather superhuman to expect from him to reconcile, to forgive.

Such refusal to reflect on the context, and more in particular a refusal to think of alternatives for the rejected policy, is more difficult to accept when it regards international human rights organisations, such as Human Rights Watch. Although with great hesitation, I am willing to accept that, as they claim, it is their role to criticise the human rights situation, and not to govern a country. I am willing to accept this at least when the critique is based on facts, without tendentious insinuations, and disregarding the benefit of hindsight, which unfortunately is not always the case. It can be extremely frustrating, nevertheless, when such an organisation refuses for instance to co-organise training for *gacaca* judges on genocidal rape and sexual torture cases because it does not want to lose its freedom to criticise the training and the way the judges tried those cases afterwards.

However, having read the 'opposite academic opinions' about the remaking of Rwanda, I realised that my willingness to accept the refusal to reflect on the reality behind politics has reached its limits. It is true, for years I have preached that it is not the role of a scholar to propose alternatives for abject government policies. The work of a scholar regards academia, not governing a country. Our work is to convince the policy makers that, for instance, their focus on criminal law is wrong; next it is the work of the policy makers to come up with alternatives for their abject policies. But reading the book on

remaking Rwanda I realised that this is too easy. Yes, it is true, a lot of criticism is possible on all aspects of Rwandan government policy, as also this book shows. It is, however, not as easy to find acceptable and realistic alternatives, sometimes virtually impossible. That makes the critique at the same time too easy, hollow, empty. It shows that criminal sciences – law, criminology, victimology – have a responsibility that reaches further than mere criticising. This responsibility does not make our work easier. True, the person, just to mention one example, who has the answer to the question how to reconcile a country after genocide deserves the Nobel Prize for Peace for the next decade every year. The sheer impossibility to find answers does not, however, justify that we shy away from those questions and only write that what is done is wrong. The least we can do is to acknowledge that we don't have the answers either but will strive to finding them.

Roelof Haveman

Agenda

11-16 July 2011

Study Tour Rwanda

Submissions closed

Kigali, Rwanda

[Conference info](#)

19-22 July 2011

Biannual Conference International Association of Genocide Scholars (IAGS)

Submissions closed

Buenos Aires, Argentina

[Conference info](#)

5-9 August 2011

World Congress of the International Society of Criminology (ISC)

Submissions closed

Kobe, Japan

[Conference info](#)

21-24 September 2011

Annual Conference European Society of Criminology (ESC)

Submission closed

Vilnius, Lithuania

[Conference info](#)

16-19 November 2011

Annual Conference American Society of Criminology (ASC)

Submissions closed

Washington DC, US

[Conference info](#)

1-4 April 2012

Annual Conference: International Studies Association (ISA)
Submissions closed
San Diego, California, US
[Conference info](#)

28 June – 1 July 2012

Third Global Conference on Genocide by the International network of Genocide Scholars
San Francisco, USA
Preliminary call
Info: Volker Langbehn (langbehn@sfsu.edu) and Juergen Zimmerer (juergen.zimmerer@uni-hamburg.de).

If you organize a conference, workshop or symposium related to international crimes, please inform us
info@supranationalcriminology.org
and we will make a reference on our website and in the newsletter.

THE HAGUE NEWS VI

By: Barbora Hola

This contribution briefly describes developments taking place in the practice of international criminal courts and tribunals in the period from January till May 2011.

1. ICTY

In the first half of 2011, the ICTY concluded two sets of trial proceedings and one of the two remaining fugitives, Ratko Mladic, was arrested in Serbia and is now going to be transferred to The Hague to stand trial.

On 26 May 2011 the Serbian authorities announced the arrest of **Ratko Mladic** who has evaded justice for 16 years. Originally, Mladić, the Bosnian Serb General and one of the Europe's most wanted war criminals for his alleged role in the Srebrenica massacre, was indicted in 1995 for genocide, crimes against humanity and war crimes allegedly committed during the 1992 to 1995 conflict in Bosnia and Herzegovina. On 27 May 2011 Judge Orić issued a decision on the Prosecution motion to amend the indictment of Ratko Mladić which was filed in 2010 (as reported in the last issue) and ordered the Prosecutor to file the amended indictment.

On 15 April 2011 Trial Chamber I convicted two Croatian generals, **Ante Gotovina** and **Mladen Markac**, of crimes against humanity and war crimes committed by the Croatian forces during the

Operation Storm military campaign between July and September 1995. Gotovina, Colonel General in the Croatian army and Commander of the Split Military district, and Markač, Assistant Minister of Interior in charge of Special Police matters, were convicted of persecution, deportation, plunder, wanton destruction, two counts of murder, inhumane acts and cruel treatment. They were sentenced to 24 and 18 years' imprisonment respectively. Their co-accused, **Ivan Cermak**, Commander of the Knin Garrison, was acquitted of all charges. Defence for Gotovina and Markac have filed their appeals.

On 23 February 2011 Trial Chamber II rendered its judgment in Dordevic case. **Vlastimir Dordevic**, a former senior Serbian police official, was convicted of crimes against humanity and war crimes committed against Kosovo Albanians in 1999 and sentenced to 27 years of imprisonment. Dordevic was found guilty of participation in a joint criminal enterprise whose aim was to change the ethnic balance of Kosovo to ensure Serbian dominance in the territory by a widespread campaign of terror and violence against ethnic Albanians and convicted of murder, deportation, forcible transfer and persecution committed in 13 Kosovo municipalities. The Dordevic judgment provoked debates over the proper limits of two modes of liability for international crimes: superior responsibility and participation in a joint criminal enterprise. Vlastimir Dordević is the sixth former senior Serbian official convicted for the crimes committed in Kosovo. The case is now pending on appeal.

2. ICTR

In the first half of 2011 the ICTR started trial proceedings in one case, two cases were concluded on trial and two on appeal. One ICTR fugitive, Bernard Munyagishari, was recently arrested.

On 25 May 2011 **Bernard Munyagishari**, former President of the *Interahamwe* for Gisenyi, was arrested in the Democratic Republic of Congo. Munyagishari was indicted by the ICTR for genocide and murder and rape as crimes against humanity in 2005. The accused has allegedly recruited, trained and led *Interahamwe* militiamen in mass killings and rapes of Tutsi women in Gisenyi and its surroundings between April and July 1994.

On 19 January 2011 the trial of **Idelphonse Nizemiyana**, former second-in-command in charge of intelligence and military operations at ESO (*Ecole des Sous Officiers*) started. According to the Prosecution, the Accused was among key officers of the Rwanda Army and played a crucial role in

the genocidal campaign. Nizeyimana, who was initially jointly charged with two others, Tharcisse Muvunyi (sentenced to 15 years) and Ildephonse Hategekimana (sentenced to life imprisonment), is facing four counts of genocide, complicity in genocide, and rape and other inhumane acts as crimes against humanity.

On 29 March 2011, Trial Chamber III convicted **Jean-Baptiste Gatete**, former Mayor of Murambi Commune and Director in the Rwandan Ministry of Women and Family Affairs, of genocide and extermination as crimes against humanity. According to the judgment, Gatete, among others, ordered to kill Tutsi refugees in a coordinated attack at Kiziguro parish, resulting in the killings of hundreds, if not thousands, of Tutsi civilians and he also participated in a second coordinated attack at Mukarange parish resulting in a similarly large number of victims. Gatete was sentenced to life imprisonment. The case is now pending on appeal.

On 17 May 2011 Trial Chamber II delivered a judgment in the so-called Military II case concerning four former senior officials in the Rwandan Army: **Augustin Bizimungu**, Chief of Staff, **François-Xavier Nzuwonemeye**, Commander of the Reconnaissance Battalion (RECCE), **Innocent Sagahutu**, the second-in-command of the RECCE and the "A" company commander of the Battalion and **Augustin Nindiliyimana**, Chief of Staff of the *Gendarmerie Nationale*. The Trial Chamber found Bizimungu guilty on six counts of genocide, crimes against humanity (murder, extermination and rape) and war crimes (murder; rape, humiliating treatment). Nzuwonemeye and Sagahutu were each convicted of two counts of crimes against humanity (murder) and war crimes (murder). Both were found to have ordered the killing of Prime Minister Agathe Uwingiliyimana and to be criminally responsible as superiors for the killing of the Belgian UNAMIR soldiers. Finally Nindiliyimana was found guilty on four counts of genocide, crimes against humanity (murder and extermination) and war crimes (murder). The Trial Chamber sentenced Bizimungu to 30 years in prison, Nzuwonemeye and Sagahutu each to 20 years imprisonment while Nindiliyimana due to significant mitigating factors such as his consistent support for the Arusha peace accords was sentenced to time served since he was arrested in Belgium on 29 January 2000.

The ICTR Appeals Chamber has concluded two sets of proceedings. On 1 April 2011 it reversed two convictions of **Tharcisse Renzaho**, a former prefect of Kigali and Colonel in Rwandese army, in relation to rapes of three witnesses and to ordering the killing of Tutsi civilians at roadblocks in Kigali. It has, however, affirmed the sentence of life imprisonment emphasizing the gravity of the

remaining convictions. On 1 April the Appeals Chamber also affirmed the conviction and sentence of **Tharcisse Muvunyi**, a former Lieutenant Colonel in the Rwanda Army.

3. SCSL

The last remaining SCSL trial with the former Liberian President **Charles Taylor** has entered its final stages. During February and March 2011 the Prosecution and Defence presented their closing arguments and the Judges retired to consider their judgment. The judgment is expected to be delivered later this year.

4. ICC

Democratic Republic of Congo

On 25 January 2011, **Callixte Mbarushimana**, a Rwandese national, was transferred to the ICC. According to the 2010 arrest warrant, Mbarushimana is accused of five counts of crimes against humanity (murder, torture, rape, inhumane acts and persecution) and six counts of war crimes (attacks against the civilian population, destruction of property, murder, torture, rape and inhuman treatment). These crimes were allegedly committed in the context of an armed conflict in the Kivu Provinces of the DRC at the beginning of 2009 between the *Forces Démocratiques pour la Libération du Rwanda* (FDLR) and the *Forces Armées de la République Démocratique du Congo* (FARDC). Series of attacks were allegedly carried out on a large scale by FDLR troops against the civilian population of North and South Kivu. Mbarushimana is alleged to have been the Executive Secretary of the FDLR. The confirmation of charges hearing is set to begin on 4 July 2011.

On 20 May 2011, Trial Chamber I ordered the closing of the presentation of evidence stage in the case *Prosecutor v. Thomas Lubanga Dyilo*. The Chamber has decided that the parties and trial participants will present their closing statements on 25 and 26 August 2011.

Darfur, Sudan

In December 2010 Pre-Trial Chamber I issued a second arrest warrant against the President of Sudan **Al Bashir** ruling that there are reasonable grounds to believe he is responsible for three counts of genocide committed against the Fur, Masalit and Zaghawa ethnic groups. This second arrest warrant does not replace the first warrant of arrest issued in 2009.

On 7 March 2011 Pre-Trial Chamber I confirmed the charges of war crimes (violence to life,

intentionally directing attacks against personnel and equipment involved in peacekeeping mission and pillaging) against **Abdallah Banda Abakaer Nourain** (Abdallah Banda), Commander-in-Chief of one of the components of the United Resistance Front, and **Saleh Mohammed Jerbo Jamus** (Saleh Jerbo), former Chief of Staff of SLA-Unity, and committed them to trial. The crimes were allegedly committed against the African Union peacekeeping forces at the Haskanita military camp in Darfur in September 2007. As reported in the last issue, in 2010 the Pre-Trial Chamber I declined to confirm the charges relating to the same incident against Abu Garda.

Republic of Kenya

On 7 and 8 April 2011 Pre-Trial Chamber II set the date of the beginning of the confirmation of charges hearing in the two so called “Ocampo six” cases of 1) *The Prosecutor v. William Samoei Ruto* (suspended Minister of Higher Education, Science and Technology of Kenya), **Henry Kiprono Kosgey** (Member of the Parliament) and **Joshua Arap Sang** (head of operations at Kass FM in Nairobi) and 2) *The Prosecutor v. Francis Kirimi Muthaura* (Head of the Public Service and Secretary to the Cabinet), **Uhuru Muigai Kenyatta** (Deputy Prime Minister and Minister for Finance) and **Mohammed Hussein Ali** (Chief Executive of the Postal Corporation of Kenya) for 1 and 21 September 2011, respectively. The dates were announced at the initial appearance of the Accused before the ICC. In March, the Government of Kenya filed a motion challenging the admissibility of the cases before the ICC under the principle of complementarity. On 30 May 2011 Pre-Trial Chamber rejected the challenges stating that there is no concrete evidence of ongoing proceedings before national judges against the same persons suspected of committing crimes under the ICC jurisdiction.

LIBYA

On 26 February, the UN Security Council referred the situation in Libya since 15 February 2011 to the ICC. The investigations in the situation were opened on 3 March 2011. On 16 May 2011, the Prosecutor submitted to Pre-Trial Chamber I a request to issue warrants of arrest for the Libyan leader **Muammar Abu Minyar Gaddafi**, his son **Saif Al Islam Gaddafi** and the Head of the Intelligence **Abdullah Al Sanousi** for crimes against humanity (murder and persecution) allegedly committed in Libya since 15 February 2011. During the press conference, the Prosecutor announced that his Office gathered direct evidence about orders issued by Muammar Gaddafi himself, direct evidence of Saif Al Islam organizing the recruitment of mercenaries, and direct evidence of

the participation of Al Sanousi in the attacks against demonstrators. The evidence allegedly shows that civilians were attacked in their homes; demonstrations were repressed using live ammunition, heavy artillery was used against participants in funeral processions, and snipers placed to kill those leaving the mosques after the prayers. The Office of the Prosecutor will further investigate allegations of mass rapes, war crimes committed by different parties during the conflict, and attacks against sub-Saharan Africans wrongly perceived to be mercenaries.

Cote d'Ivoire

On 20 May 2011 the ICC Presidency assigned the situation in the Republic of Cote d'Ivoire to Pre-Trial Chamber II in response to the Prosecutor's letter informing the President of the ICC about his intention to submit a request for authorization to open investigations into the situation in Cote d'Ivoire since 28 November 2010. Cote d'Ivoire, not party to the Rome Statute, accepted the jurisdiction of the ICC on 18 April 2003. Since then the situation in Côte d'Ivoire has been under preliminary examination by Prosecutor and the activities intensified since the upsurge of violence following the second-round of the presidential election of 28 November 2010.

5. Special Tribunal for Lebanon

On 4 March 2011, the president of STL, Antonio Cassese, published the second annual report on the activities of the Tribunal. The report emphasized the intensification of investigations carried out by the Prosecutor including the submission of the first indictment. Furthermore, it mentioned the (rather contentious) ruling of the STL Appeals Chamber rendered in February 2011 which (among others) provides for the definition of terrorism.

On 11 March 2011 the STL Prosecutor filed an amended indictment for confirmation by Pre-Trial Judge. According to the Prosecutor "this amendment expands on the scope of the indictment filed on 17 January 2011 in connection with the attack on former Lebanese Prime Minister Rafiq Hariri and others on 14 February 2005". During the review by Pre-Trial Judge the indictment remains confidential.

CONFERENCES

7-8 April 2011 Second Hague Colloquium: Systematic sexual violence and victim's Rights.

On the 7-8 April 2011 a committee consisting of Anne-Marie De Brouwer, John Hagan, Terence Halliday, Charlotte Ku, Renée Römkens and Christine Schwöbel organized the second colloquium on sexual violence in The Hague. The Colloquium studied the causes and responses to systematic sexual violence, and the rights and perspectives of victims. The Colloquium assessed the following issues:

- New evidentiary techniques to assist the ICC prosecutor and Court to reach high level officials responsible for systematic sexual violence
- Causal analysis of when systematic sexual violence can be predicted to occur
- Updates on the latest developments in international criminal law on systematic sexual violence
- Who are victims and how do they obtain relief
- How can the ICC deal with the private law concepts of reparation within the public law setting of criminal law?
- What kind of support measures and outreach possibilities are available to victims of sexual violence in Kenya and Cambodia?
- What does participation and protection of victims of sexual violence before the ICC and the ECCC entail?

The colloquium brought together a diverse group of participants, including ICC, international and national court officials and personnel; government officials; academic specialists; those working with victims, NGO's, journalists, medical personnel and activists.

Speakers included: John Hagan, Wenona Rymond-Richmond, Lunn Lawry, Sanja Kutnjak-Ivkovic, Mariana Goetz, Kelly Askin, Anne-Marie de Brouwer, Xabier Agirre, Carsten Stahn. Rianne Letschert, Liesbeth Zegveld and many others.

More information

Selected New Publications

Compiled by: Alette Smeulers and Roelof Haveman

In this section we list a number of books and articles of interest which were published recently. We do not pretend to present a complete list but rather rely on books which we think are worthwhile or which have been recommended to us.

BOOKS

Bassiouni, M. Ch. (2011). Historical evolution and contemporary application, Cambridge: Cambridge University Press.

This book traces the evolution of crimes against humanity (CAH) and their application from the end of World War I to the present day, in terms of both historic legal analysis and subject-matter content. The first part of the book addresses general issues pertaining to the categorization of CAH in normative jurisprudential and doctrinal terms. This is followed by an analysis of the specific contents of CAH, describing its historic phases going through international criminal tribunals, mixed model tribunals, and the International Criminal Court. This includes both a normative and jurisprudential assessment as well as a review of doctrinal material commenting on all of the above. The book examines the general parts and defenses of the crime, along with the history and jurisprudence of both international and national prosecutions. For the first time, a list of all countries that have enacted national legislation specifically directed at CAH is collected, along with all of the national prosecutions that have occurred under national legislation up to 2010. The book constitutes a unique and comprehensive treatment of all legal and historical aspects pertaining to crimes against humanity in a single definitive volume.

Cassese, A. , G.G. Acquaviva, M.D. Fan & A.A. Whiting (2011). *International Criminal Law: cases and commentary*, Oxford: Oxford University Press.

International criminal law: cases and commentary presents a concise and comprehensive explanation of the development of major areas in substantive international criminal law, through a selection of key illustrative cases from domestic and international jurisdictions. The focus is on the law related to individual criminal liability for war crimes, crimes against humanity, genocide and aggression, with specific attention paid to sources of international criminal law, fundamental principles of criminal responsibility and defences.

Clark, Phil (2010). *The Gacaca Courts, Post-Genocide Justice and Reconciliation in Rwanda*, Cambridge: Cambridge University Press.

Since 2001, the Gacaca community courts have been the centrepiece of Rwanda's justice and reconciliation programme. Nearly every adult Rwandan has participated in the trials, principally by providing eyewitness testimony concerning crimes committed during the 1994 genocide. Lawyers are banned from any official involvement, an issue that has generated sustained criticism from human rights organisations and international scepticism regarding Gacaca's efficacy. One of Clark's conclusions, based on nearly 500 interviews with participants in Gacaca trials, is that most

international commentators have grossly overstated the predicted or observed problems with Gacaca: it has not degenerated into mob justice nor constituted a form of state-sanctioned collective condemnation of the entire Hutu population.

Forsythe, D.P. (2011). *The politics of prisoner abuse*, Cambridge: Cambridge University Press.

When states are threatened by war and terrorism, can we really expect them to abide by human rights and humanitarian law? David P. Forsythe's bold analysis of US policies towards terror suspects after 9/11 addresses this issue directly.

The book looks in detail at how the Bush administration deconstructed the international legal framework for the protection of prisoners through the use of military force in Afghanistan and the opening of Guantánamo. It also explores the ally relationships between the US, the UK, and other European countries during this time, and their complicity in practices such as extraordinary rendition.

Examining both the Bush and Obama administrations, and providing an overview of the moral, political and legal factors at play in the handling of enemy detainees by the US after 9/11, this book makes interesting reading for all those who value human rights and humanitarian law.

Heineman, E.D. (ed.) (2011). *Sexual violence in conflict zones – from the ancient world to the era of human rights*, University of Pennsylvania Press.

Since the 1990s, sexual violence in conflict zones has received much media attention. In large part as a result of grassroots feminist organizing in the 1970s and 1980s, mass rapes in the wars in the former Yugoslavia and during the Rwandan genocide received widespread coverage, and international organizations—from courts to NGOs to the UN—have engaged in systematic efforts to hold perpetrators accountable and to ameliorate the effects of wartime sexual violence.

Yet many millennia of conflict preceded these developments, and we know little about the longer-term history of conflict-based sexual violence. *Sexual Violence in Conflict Zones* helps to fill in the historical gaps. It provides insight into subjects that are of deep concern to the human rights community, such as the aftermath of conflict-based sexual violence, legal strategies for prosecuting it, the economic functions of sexual violence, and the ways perceived religious or racial difference can create or aggravate settings of sexual danger.

Essays in the volume span a broad geographic, chronological, and thematic scope, touching on the ancient world, medieval Europe, the American Revolutionary War, pre-colonial and colonial Africa, Muslim Central Asia, the two world wars, and the Bangladeshi War of Independence. By considering a wide variety of cases, the contributors analyze the factors making sexual violence in conflict zones more or less likely and the resulting trauma more or less devastating. Topics covered range from the experiences of victims and the motivations of perpetrators, to the relationship between wartime and peacetime sexual violence, to the historical background of the contemporary feminist-inflected human rights moment. In bringing together historical and contemporary perspectives, this wide-ranging collection provides historians and human rights activists with tools for understanding long-term consequences of sexual violence as war-ravaged societies struggle to achieve post conflict stability.

Hinton, A.L. (ed.) (2010). *Transitional justice – global mechanisms and local realities after genocide and mass violence*, Rutgers University Press.

How do societies come to terms with the aftermath of genocide and mass violence, and how might the international community contribute to this process? Recently, transitional justice mechanisms such as tribunals and truth commissions have emerged as a favored means of redress. *Transitional Justice*, the first edited collection in anthropology focused directly on this issue, argues that, however well-intentioned, transitional justice needs to more deeply grapple with the complexities of global and transnational involvements and the local on-the-ground realities with which they intersect.

Contributors consider what justice means and how it is negotiated in different localities where transitional justice efforts are underway after genocide and mass atrocity. They address a variety of mechanisms, among them, a memorial site in Bali, truth commissions in Argentina and Chile, First Nations treaty negotiations in Canada, violent youth groups in northern Nigeria, the murder of young women in post-conflict Guatemala, and the *gacaca* courts in Rwanda.

Kutnjak Ivkovich, S. & J. Hagan (2011). *Reclaiming justice: the international tribunal for the former Yugoslavia and the local courts*, Oxford: Oxford University Press.

For the first time in legal history, an indictment was filed against an acting head of state, Slobodan Milosevic, for crimes that he allegedly committed

while in office. Seeking to change the concept of ethnic cleansing from a rationalizing euphemism to an incriminating metaphor, the International Criminal Tribunal for the Former Yugoslavia (ICTY) established precedents and expanded the boundaries of international criminal and humanitarian law.

In *Reclaiming Justice: The International Tribunal for the Former Yugoslavia and Local Courts*, Sanja Kutnjak Ivkovi and John Hagan expand on prior literature about the ICTY by providing a comprehensive view of how people from Bosnia and Herzegovina, Croatia, Kosovo, and Serbia view and evaluate the ICTY. Kutnjak Ivkovi and Hagan raise crucial questions about international justice in a systematic and comprehensive manner, focusing on the ICTY's legality and judicial independence, as well as specific issues of substantive and procedural justice and collective and individual responsibility. They provide an in-depth analysis of perceptions about the ICTY and the subsequent work and decisions reached by its local courts. In addition, they examine the relationship between the views of the ICTY and ethnicity as the war was fought largely along ethnic lines.

Ott, Lisa (2011). *Enforced disappearance in international law*, Antwerp: Intersentia.

This book explores the international legal framework governing the crime and human rights violation of enforced disappearance. It includes a thorough analysis and comparison of the existing international human rights case law and an assessment of the rules of international humanitarian law and international criminal law applicable to enforced disappearance.

The study includes a meticulous review, comparison and analysis of the case law of the international criminal tribunals, the Human Rights Committee, the Inter-American and European Courts of Human Rights and the African Commission on Human and People's Rights. It contains a comparison of the jurisprudence on cases of enforced disappearance with regard to the different aspects of the right to liberty and security, the right to life, the prohibition of torture, the right to be recognized as a person before the law, the right to the truth and the right to privacy and family life. In addition, it reviews the rules that apply to enforced disappearance under international humanitarian law and determines the principles applicable for individual responsibility for the crime of enforced disappearance under international criminal law.

On the basis of this analysis, the author interprets, evaluates and embeds the provisions of the International Convention for the Protection of all

Persons from Enforced Disappearance in the international legal framework. The book provides a useful tool for the interpretation of the International Convention identifies the gaps and inconsistencies contained in the text of the Convention and suggests possible solutions. In addition, it explores how the entering into force of the International Convention may affect the case law of the existing international judicial bodies. This comprehensive and multidisciplinary description of the current international legal framework and its influence on the International Convention is likely to become a standard work as it closes a gap in existing legal literature.

Robinson, G. (2009). *If you leave us here we will die - how genocide was stopped in East Timor*, Princeton University Press.

This is a book about a terrible spate of mass violence. It is also about a rare success in bringing such violence to an end. "If You Leave Us Here, We Will Die" tells the story of East Timor, a half-island that suffered genocide after Indonesia invaded in 1975, and which was again laid to waste after the population voted for independence from Indonesia in 1999. Before international forces intervened, more than half the population had been displaced and 1,500 people killed. Geoffrey Robinson, an expert in Southeast Asian history, was in East Timor with the United Nations in 1999 and provides a gripping first-person account of the violence, as well as a rigorous assessment of the politics and history behind it.

Sadat, L. (ed.) (2011). *Forging a Convention for Crimes against Humanity*, Cambridge University Press.

Crimes against humanity were one of the three categories of crimes elaborated in the Nuremberg Charter. However, unlike genocide and war crimes, they were never set out in a comprehensive international convention. This book represents an effort to complete the Nuremberg legacy by filling this gap. It contains a complete text of a proposed convention on crimes against humanity in English and in French, a comprehensive history of the proposed convention, and fifteen original papers written by leading experts on international criminal law. The papers contain reflections on various aspects of crimes against humanity, including gender crimes, universal jurisdiction, the history of codification efforts, the responsibility to protect, ethnic cleansing, peace and justice dilemmas, amnesties and immunities, the jurisprudence of the ad hoc tribunals, the definition of the crime in customary international law, the ICC definition, the architecture of international criminal justice, modes of criminal participation, crimes against humanity

and terrorism, and the inter-state enforcement regime.

Schabas, W. A. & N. Bernaz (ed.) (2011). *Routledge handbook of international criminal law*, Abingdon: Routledge

International criminal law has developed extraordinarily quickly over the last decade, with the creation of ad hoc tribunals in the former Yugoslavia and Rwanda, and the establishment of a permanent International Criminal Court. This book provides a timely and comprehensive survey of emerging and existing areas of international criminal law. The Handbook features new, specially commissioned papers by a range of international and leading experts in the field. It contains reflections on the theoretical aspects and contemporary debates in international criminal law. The book is split into four parts for ease of reference: The historical and institutional framework - sets international criminal law firmly in context with individual chapters on the important developments and key institutions which have been established. The crimes - identifies and analyses international crimes, including a chapter on aggression. The practice of international tribunals - focuses on topics relating to the practice and procedure of international criminal law. Key issues in international criminal law - goes on to explore issues of importance such as universal jurisdiction, amnesties and international criminal law and human rights. Providing easy access to up-to-date and authoritative articles covering all key aspects of international criminal law, this book is an essential reference work for students, scholars and practitioners working in the field.

Schmid, A.P. (Ed.) (2011). *The Routledge handbook of terrorism*, Abingdon: Routledge

This major new Handbook synthesizes more than two decades of scholarly research, and provides a comprehensive overview of the field of terrorism studies. The content of the Handbook is based on the responses to a questionnaire by nearly 100 experts from more than 20 countries as well as the specific expertise and experience of the volume editor and the various contributors. Together, they guide the reader through the voluminous literature on terrorism, and propose a new consensus definition of terrorism, based on an extensive review of existing conceptualizations. The work also features a large collection of typologies and surveys a wide range of theories of terrorism. Additional chapters survey terrorist databases and provide a guide to available resources on terrorism in libraries and on the Internet. It also includes the most comprehensive World Directory of Extremist, Terrorist and other Organizations associated with

Guerrilla Warfare, Political Violence, Protest and Organized- and Cyber-Crime.

The Routledge Handbook of Terrorism Research will be an essential work of reference for students and researchers of terrorism and political violence, security studies, criminology, political science and international relations, and of great interest to policymakers and professionals in the field of counter-terrorism.

Straus, S. & L. Waldorf (2011). *Remaking Rwanda; State Building and Human Rights after Mass Violence, The University of Wisconsin Press.*

Since in 1994 the Rwandan Patriotic Front ended the genocide in Rwanda and took over power it has been undertaken a highly ambitious effort to rebuild the country in many aspects, and received international praise for its achievements. This book brings together opposite opinions, registering considerable concerns about the medium- and long-term social and political consequences of Rwanda's post-genocide model. Issues to be discussed include memory politics, human rights, justice, foreign relations, land use, education. The editors claim to reveal an underside to Rwanda's post-genocide recovery that belies the dominant public narrative and that raises serious concerns about the extent of social repair in the country.

Totten, S. & R. Ubaldo (ed.) (2011). *We cannot forget – interviews with survivors of the 1994 Genocide in Rwanda, Rutgers State University*

During a one-hundred-day period in 1994, Hutu murdered between half a million and a million Tutsi in Rwanda. The numbers are staggering; the methods of killing were unspeakable. Through personal interviews with trauma survivors living in Rwandan cities, towns, and dusty villages, *We Cannot Forget* relates what happened during this period and what their lives were like both prior to and following the genocide. Through powerful stories that are at once memorable, disturbing, and informative, readers gain a critical sense of the tensions and violence that preceded the genocide, how it erupted and was carried out, and what these people faced in the first sixteen years following the genocide.

JOURNALS

Sumarized by: Tom van den Berg, Barbora Hola, Alette Smeulders, Maartje Weerdesteijn and Joris van Wijk.

Genocide Studies and Prevention

The **first issue of *Genocide Studies and Prevention* of 2011** is a special issue on the 2010 *Mass Atrocity Response Operations (MARO)*; *A Military Planning Handbook* that was created by the Carr Centre for Human Rights Policy of Harvard University's Kennedy School and the United States Army's Peacekeeping and Stability Operations Institute. It contains a variety of short, mostly very critical, evaluations of the handbook.

The editor's introduction credits the book that, despite its flaws, it opens up a discussion with theoretical as well as practical implications. The issue is divided into non-US perspectives and perspectives stemming from the US and starts with a more elaborate analytical overview by Henry C. Theriault. Theriault evaluates the handbook on the basis of two questions; whether it provides a useful guideline assuming that intervention is justified and whether intervention is justified at all. The latter seems to be beyond the scope of the handbook but according to Theriault the question of how to intervene cannot be separated from the moral question whether one should.

Theriault's analytical overview is followed by four highly critical articles from authors with a non-US perspective. Uğur Ümit Üngör criticizes the report for failing to incorporate the political dimension of genocide and of naively neglecting to consider how MARO would function if a powerful ally of the US would commit the atrocities. Daniel Feierstein similarly criticizes the report of being overly simplistic by assuming that there is always one victim and one perpetrator group and that military intervention is the only option to effectively act against gross human rights violations.

Frederico Gaitan Hairabedian looks at MARO from an Argentinian perspective, evaluating the handbook on the basis of historical and legal considerations. This also leads Hairabedian to the argument that who should intervene, and the legitimacy of the intervention, cannot be separated from how the intervention should be construed.

Hiebert subsequently looks at MARO as part of the operationalization of the Responsibility to Protect, namely as a guideline for the responsibility to react. She credits the report for taking a nuanced approach that acknowledges many complexities but at the same time is critical that the report glances over the US' historical lack of enthusiasm of military cooperation with the UN, fails to address how coalition forces may work together and how intelligence can be collected and analyzed. She also criticizes the assumption the US would always be successful on the battlefield.

Alan J. Kuperman is the first author to comment on the report from a US perspective. Although

acknowledging several important lessons that can be learned from the report he too sees shortcomings. The report focuses too much on military operations, neglecting political strategies, and often refers to a simplistic, idealistic conflict scenario. In addition he notes as well that since intervention may backfire, the how to intervene question should not be separated from whether to intervene.

Stephen F. Burgess notes the past unwillingness of the US to place soldiers on the ground in order to stop atrocities and questions for this reason whether the DoD and NSC would adopt the report. He therefore argues the report should be spread more widely to states more willing to intervene.

The notion that the report seems to put forward that military intervention is the best option to deal with situations of mass atrocity is scrutinized by Alex Alvarez who believes more attention should be paid to the political context in which these crimes occur. The final assessment comes from Roger W. Smith who wonders whether it is feasible to live up to the high expectations the report raises and notes the question of competence is overlooked.

The second part of *Genocide Studies and Prevention* contains an article by Marko Attila Hoare that elucidates why and how international justice underachieved in punishing the crimes in Bosnia despite the fact that two international courts (ICTY and ICJ) established that genocide was committed. The research note of Antonis Klapsis subsequently calls attention to the lesser known mass atrocities that have taken place in the 20th century. Klapsis contributes to filling this gap by analyzing the measures taken by the US to help Greek refugees escape from Asia Minor from 1922-1923. The issue concludes with two book reviews. Scot Nicholas Romaniuk reviewed Daniel Jonah Goldhagen's *Worse than War: Genocide, Eliminationism, and the Ongoing Assault on Humanity* and Steven Leonard Jacobs reviewed the book of Richard L. Rubenstein *Jihad and Genocide*.

Journal of Genocide Research vol. 13, nr. 1-2 (2011) – special issue on genocide and philosophy.

There are 5 articles in this issue next to the introduction by Dan Stone. Robin May Schott's article is entitled war rape, natality and genocide. Curthoys focuses on Hannah Arendt and the twentieth century revival of philosophical anthropology. Takayoshi wonders whether philosophy can explain Nazi violence. Woesner reconsiders the slaughter bench of history: genocide, theodicy and the philosophy of history.

Journal of International Criminal Justice, Vol. 8 nrs. 4 and 5 (2010) and vol. 9 nr. 1 (2011)

The **fourth issue of 2010** starts off with a reaction from Pellet to the discussion on whether the ICC has jurisdiction over the crimes committed on the Palestinian territories, now that the Palestinian Authorities have declared their recognition of the Court. Pellet takes a different standpoint in this discussion, which predominantly revolves around the question of statehood, than Ronen and Shany in earlier contributions published in issues one and two, arguing that the Court should resort to a functional interpretation of the ICC Statute and accept jurisdiction over these crimes. The second article by Acquaviva elaborates on the tension between teaching and practicing international criminal law and international humanitarian law and domestic interests of the national government. This is illustrated by two recent cases from the US and Rwanda. The article section focuses on war crime trials. Sivakumaran considers contributions made by the Special Court of Sierra Leone to the clarification of war crimes law, by setting out and critiquing pronouncements of the Special Court. The other two articles on this subject rediscover and elaborate on little-known judicial decisions. Cheah identifies possible lessons for dealing with issues of omissions and attribution in international criminal law by examining British trials conducted in Singapore against defendants accused of mistreatment of prisoners aboard Japanese 'hell-ships'. Mettraux discusses one of the first recorded trials for war crimes: a court martial proceeding held in the immediate aftermath of the American civil war against a commandant of a Confederate prison for the cruel treatment of Union prisoners. The Symposium section of this issue delivers six essays on the life and work of the eminent judge and scholar, B.V.A. Röling (1906-1985), written by Nico Schrijver, Constantijn Kelk, Robert Cryer, Harmen van der Wilt and Antonio Cassese.

The first section of the **fifth issue of 2010** presents a preliminary assessment of the main results of the ICC Review Conference at Kampala with two papers by observers who were directly involved in the negotiations. Kreß and Von Holtzendorff describe and analyze the steps leading to the adoption of the package proposal on the crime of aggression from an insider's perspective, and characterize the consensus decision as a breakthrough. Alamuddin and Webb discuss the amendment made to the Rome Statute during the conference expanding the Court's jurisdiction over the use of prohibited weapons in international armed conflicts to their use in armed conflicts of a non-international character. Two articles in this issue are on theoretical and practical aspects of

international criminal law and the relationship between the ICC Statute and domestic legal systems. The first one, by Payam Akhavan, focuses on the obligation of states to prosecute international crimes; the second, by Müller and Stegmiller, deals with the topic of self-referrals. The subject of the symposium section is the power of the Special Tribunal for Lebanon (STL) of holding proceedings *in absentia*. Riachy compares and contrasts the Lebanese procedural rules on trials *in absentia* with those provided for in the Statute and the Rules of Procedure and Evidence of the Special Tribunal for Lebanon, and concludes that, provided the rights of the defense and the good administration of justice are safeguarded, there is nothing that per se bars an international criminal tribunal from adopting the mechanism of trials *in absentia*. Pons comes to somewhat the same conclusion after exploring some possible solutions on how to reconcile the right of the accused to be present at trial and the interest of the judicial system in pursuing accountability, in the case where a state fails or refuses to hand over an accused to the STL. The last article is a comment by Gustafson on the liability concept of the Joint Criminal Enterprise.

The first article of the **first issue of 2011** by Spiga is an critical assessment of the ruling of the Court of Justice of the Economic Community of West African States in which it ruled that Senegal courts cannot judge Hissène Habré but that he should be tried by an ad hoc court. In the second article Milanovic discusses whether the Rome Statute is binding on individuals, i.e. whether the provisions which define international crimes are substantive or jurisdictional in nature and what the consequences thereof are. In the third article Boas concludes that self-representation at the ICTY has in the past often led to obstruction, delay and abuse and argues that nothing in international law dictates self-representation in those cases. In the special sections Bellal discussed the resolution of the institute of international law on immunity and international crimes and Swoboda discusses the Boere case.

The main focus of this issue is however on indirect perpetration or perpetration by means. Indirect perpetration is recognized in art. 25(3) ICCSt. and used in the cases of the pre-trial chamber of the ICC. Werle and Burghardt note that 'indirect perpetration by means of control over an organized power structure serves as a tool for ascribing criminal responsibility as a principal instead of mere accessory liability.' It is in other words a means to attach the main criminal responsibility to those who set in motion the commission of crimes. In this issue the translation of Roxin's original article on this topic is published as well as the judgment in the East German border case in which this doctrine was used. Next to these two translated

texts, 5 scholars discuss this concept which has –as it turns out– advantages and disadvantages. Weigend doubts whether this concept is useful in the context of systematic violence. Mundoz-Conde and Olasolo discuss the application of this concept in Latin America and Spain. Ambos analyzes the Fujimori judgment and sets out the 5 requirements demanded in relation to this concept by this Peruvian court. Manacorda and Meloni compare the concept of indirect perpetration with command responsibility and joint criminal enterprise concepts used by the ICTY. The last contribution in this section is a reflective article on this concept by Fletcher entitled New Court, Old Dogmatik.

Crime, law and social change vol. 55, nr. 4 (2010) special issue: stepping out of terrorism and criminal organizations.

In this special issue there are several articles related to stepping out of terrorism and organized crime such as the two opening articles by Frank Bovenkerk. The third article is on dreams and disillusionment: engagement and disengagement from militant extremist groups by Tore Bjorgo. Mark Dechesne writes on deradicalization. Clare Dwyer and Sahadd Maruna studies the Northern Irish situation and focused on the reintegration of politically motivated former prisoners. An article by Amir studies age and aging in organized crime in Israel. The last article by Richardson is entitled Deprogramming: from private self-help to governmental organized repression.

The British Journal of Sociology vol. 62, nr. 1

In its first issue of 2011 the British Journal of Sociology invited John Hagan to deliver the annual lecture on Darfur. Central to the discussion in this issue is consequently an article by Hagan (co-authored by Kaiser) on Darfur. The authors distinguish between extermination and elimination and argue that in searching for the causes of genocide not enough attention is devoted to the elimination process which they see as a form of genocide. In the article the authors explain how in Darfur Black African were forced from their homes by elimination policies which included apart from killing and rape, poisoning of water and food, stealing and killing of livestock, burning of houses, crops and livestock. Next to the 200,000 -300,000 Darfurians who have died, two to three million have been involuntarily displaced. Several other authors have been invited to react to the article by Hagan and Kaiser. Tim Allen and Manfred Mann seem to agree on the points that we indeed need to look into the consequences of forced displacements but Allen argues that Hagan and Kaiser go a step too far in qualifying forced displacement as genocide. Manfred Mann is of the opinion that

forced displacement is fundamentally different from genocide. Moon is critical about the fact that the authors seem to take international criminal law as it stands for granted and argues that the authors fail to attend critically to the underpinnings of international law. All authors however agree that the main aim of Hagan was to put the study of genocide on the agenda of sociologists and that he succeeded in this aim.

International Journal of Transitional Justice vol. 5, nr. 1 (2011).

This issue opens up with an article by Harvey Weinstein entitled the myth of closure, the illusion of reconciliation. In this article he looks back on five years as co-editor-in-chief. Thomson and Nagy interviewed 37 Rwandese people and discuss the nature of post genocide justice and reconciliation. An author who wishes to stay anonymous discusses the transitional justice in Sri Lanka. Peskin and Boduszynski discuss the role of the EU in relation to the ICTY in Serbia. Robins focuses on the needs of the family members of people who disappeared in Nepal. Zunino notes the tension between universal and local conceptions of justice in Guatemala. Saunders argues that forgiveness should not be considered a priori good of transitional justice. Pressure to forgive might result on psychic distress. DeFalco notes that famine often accompanies a period of international crimes and discusses how the extra-ordinary chambers in Cambodia can discuss this issue.

Special Issue on Victims and the International Criminal Court, International Review of Victimology 2009, Vol. 16

Victimology is the academic study of the possible role of victims in the genesis of crimes, the consequences of crimes for victims and the various ways of victim assistance to minimize these consequences. Although victimology emerged soon after WWII the early victimologists did not address the roles and needs of victims of international crimes. This has changed especially after the establishment of the ICC, since this is the first international tribunal to give victims' rights. In this special Issue of the IRV various authors provide their views on victim reparation. Mégret examines symbolic reparation and asks why the ICC does not explicitly mention this form of reparation. She concludes that in addition to monetary reparation symbolic forms should be made available. Rombouts & Parmentier in their article emphasize the therapeutic function of reparation and argue that reparation is not about going back to the way things were before. The authors propose a process-oriented approach in which victims and their organizations would be involved in determining the

content of the reparation for the harm inflicted upon them. De Brouwer examines the extent to which sexual violence has been included in ICC cases and concludes that often charges of sexual violence are lacking or the charges unduly narrow and limited. Wemmers, in the fourth and final article, evaluates the success of the ICC with respect to victims. She does so on the basis of interviews with professionals working for the ICC. It turns out that one of the biggest challenges faced by the Court is that on the one hand, the success of the Court will depend largely on perceptions within the community of victims, while on the other hand, only a relatively small group of victims will actually have contact with the Court.

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