

§ Law in
context

Transnational Legal Processes

Globalisation and Power Disparities

Edited by

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Chapter 19

Racism in civil conflict: domestic and global dimensions

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This chapter examines the role of racism in civil conflicts and identifies the internal and global dimensions of conflict that transnational lawyers must appreciate if their efforts for conflict prevention are to be effective. 'Racism' as understood here is a programme of political action whereby one group finds justification for domination of the other. Political mobilisation for domination can take many forms, but the ideology of racism relies upon perceived notions of genetic superiority and acts and processes of de-humanisation of the 'naturally' inferior 'other'. Through racial ideology, both an aggressive and defensive consciousness can be articulated. 'Racial thinking is not merely an expression of the need to dominate and oppress', Frank Furedi explains, '[a]t times, it expresses a defensive response; a manifestation of the fear of losing power'.²

The state of racism is a state of violence. Racism constitutes *structural violence* to the extent that it produces and institutionalises a pervasive pattern of discrimination and disadvantage for specific ethnic and racial groups. The lived reality of structural violence is a continual negotiation of conflict. None the less, racism does not always lead to concerted, co-ordinated violence between two or more groups. While racism may be a tool for proponents of violent conflict, it alone does not result in widespread violence, absent the added input of certain conditions and catalysts. The concept of race or ethnicity is socially constructed within the context of power struggles.³ As such, it is possible to identify and address the conditions that create incentives for political elites to employ racist ideology as a method of gaining power and waging war. This chapter finds that the societies in which racism plays a role in violent conflict share identifiable internal characteristics and, in particular, historical systems for differentiation

and extreme social polarisation, structural violence, racist propaganda and a culture of victimisation. Still, these internal dimensions of conflict are unlikely to lead to violent conflict without the influence of additional catalysts of a global/trans-boundary nature, such as increased marginalisation of economies of the South, the expanding power of diaspora communities, a burgeoning arms trade and the increased willingness of international bodies to intervene in civil conflicts.

Legal scholars have remarked on the increasing relevance of transnational law for civil conflict, including humanitarian and human rights law as well as customary and treaty law pertaining to the recognition of states, state secession and the use of force.⁴ As David Wippman observes: 'virtually all of the central issues arising out of ethnic conflict implicate key aspects of international law and, from a lawyer's standpoint, should be regulated by international law'.⁵ This chapter does not pretend to catalogue all of the transnational legal issues pertaining to conflict. Instead, it takes a step backwards and identifies underlying domestic and global/trans-boundary dimensions of conflict. Such a discussion is considered a necessary component of understanding the relevance of transnational law as applied to cases of civil conflict. An underlying theme considers that the process of globalisation, marked both by increased interconnectedness and accelerated fragmentation,⁶ acts as a stimulant for conflict, but that in some instances this is unavoidable, and even desirable. It is in this context that transnational legal processes and transnational human rights non-governmental organisations (NGOs) are considered for their potential to help manage conflict before it escalates into violent conflict.

The conflicts in Rwanda and Kosovo serve as case studies where racist ideology served as the impetus for brutal racist acts, as hate manifested itself in attempts to destroy the 'other'. The mass killings in Rwanda and massive deportation of the population in Kosovo were, at their core, stridently racist acts. In each case, violent conflict was made possible because of the dehumanisation of a conceptual 'other.' The 'other' symbolised all those outside the realm of moral obligation; severe and systematic violent acts were said to be necessary to 'preserve' the superior groups, that is the Serbs or Hutus. And yet racism did not *cause* the outbreak of war in Rwanda and Kosovo. The mainstream media portrayed both conflicts as inevitable in its characterisation of the unleashing of primordial ethnic hatred and the eruption of primitive tribalism. It is clear, however, that violent results were not pre-ordained by ancient hatreds in either case. Rather, violence in Rwanda and Kosovo emanated from systematic public structures of differentiation that contributed to the development of a nationalist/racist ideology ripe for manipulation by elites. The violence was fostered by the structural and institutional shortcomings of societies, while global/trans-boundary factors tipped the scale to all-out war.

The purpose of this chapter is to explore the interaction of internal and global/trans-boundary conditions that give rise to identity conflict. The discussion is divided into three parts. First, the chapter provides historical context to the case studies in briefly outlining the use of group classification schemes in Kosovo and Rwanda, describing their role in the conflicts and analysing the responses of

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² Furedi (1998) p 25.

³ See Agbese (1999). Agbese explains: 'Contestation over material resources frames the context under which social identities of race and ethnicity are constructed. Once racial or

⁴ See generally Wippman (1998).

the international community in each case. Second, building on the Kosovo and Rwanda illustrations, the chapter identifies the internal characteristics of societies where conflicts have a discernible racial dimension. Finally, the chapter suggests global/trans-boundary factors which aggravate conflict on the one hand, and those which hold the potential for ameliorating conflict, on the other.

CLASSIFICATION SYSTEMS IN RWANDA AND KOSOVO: POTENT FOR CONFLICT

In fundamentally different ways, political elites in Rwanda and Kosovo used group classification schemes to gain power and maintain control. While Rwandan history is marked by colonialism and Yugoslavia's history was shaped by a Tito-style, decentralised federal government, the impact of extreme social polarisation in both cases was strikingly similar. In Rwanda and Kosovo politicians had the incentive and ability for political mobilisation to ground itself in a racist ideology. Each society was transformed from one in which group difference was 'one among many political dimensions of conflict, to one in which it [became] the sole dimension of conflict'.⁷ Further, in each case, the international community issued empty promises to uphold transnational legal norms.

Rwanda

The strategy of racial classification: from colonialism to modern times

Traditionally, there had been 'no age-old animosity' between the Hutus and Tutsis of Rwanda. The tensions between the groups were of relatively recent origin, largely spurred on by European pseudo-science and perpetuated by African politicians as a tool for gaining and maintaining power.

Prior to European colonisation, Hutus and Tutsis lived in a somewhat divided society, but not one based upon racism. Hutus farmed and Tutsis raised cattle, but otherwise they intermarried, fought together, shared a national god ('Imana'), a national language (Kinyarwanda), lived in villages together and were loyal to their Mwami (king), regardless of his tribal background.⁸ The mixing of the groups was so extensive that 'ethnographers and historians have lately come to agree that Hutus and Tutsis cannot properly be called distinct ethnic groups'.⁹ Prior to the 1950s, there were no reported incidents of racism or violence between the two groups.

Germany was the first to colonise Rwanda, and German colonisers subscribed to the 'Victorian race theory' according to which Hutus were the descendants of Ham and, therefore, were destined to be slaves.¹⁰ This gave rise to the colonial tendency to favour Tutsis over Hutus, a practice that was continued in more elaborate fashion by the Belgians, who assumed administering authority over Rwanda after the First World War under the League of Nations system. Belgian 'scientists' undertook physical studies of Hutus and Tutsis in order to establish

the physical differences between the two groups. The Belgians believed because the Tutsi nose was narrower and longer (and closer in resemblance to the Belgian nose), the Tutsis were somehow more noble and innately cognitively superior to the Hutus and other Africans.¹¹ As a result, the Belgians often reserved the best jobs in the administrative system for Tutsis. Thus, Tutsis dominated local rule in Rwanda during the colonial period, at which time they constituted 17% of the population.

The post-colonial government of Rwanda continued the practice of political mobilisation along ethnic lines. In 1959, Rwanda's first president, Gregoire Kayibanda, rode a wave of anti-Tutsi violence to come to power.¹² The 1959 revolution in Rwanda gave an ostensible democratic respectability to Hutu rule, but it failed to give institutional expression to the rights of the Tutsi minority. Instead, it perpetrated systematic racial classification and discrimination based upon group lines. This reversal of the country's original colonial policy in which power was concentrated in the Hutu majority was accomplished with the blessing – and even at the instigation – of the Belgian colonialists. As Philip Gourevitch explains, in 1960 a Belgian colonel named Guy Logiest staged a coup d'état by executive fiat, replacing Tutsi chiefs with Hutu chiefs and giving tacit approval when Hutus began organising violence against Tutsis.¹³ The ensuing violence led to the flight of about half of the Tutsi population to neighbouring states.

In late 1960, Colonel Logiest proudly proclaimed that 'the revolution is over'. On taking office, Gregoire Kayibanda declared, 'democracy has triumphed over feudalism'.¹⁴

The 'democratic turn' pleased some Western observers but, as Gourevitch observes, it was a democratic charade. 'So Hutu dictatorship masqueraded as popular democracy, and Rwanda's power struggles became an internal affair of the Hutu elite, very much as the feuds among royal Tutsi clans had been in the past.'

From their posts in Uganda and Burundi, exiled Tutsi leaders repeatedly launched attacks on Rwandan territory to regain power. Rwanda's Hutu leaders repelled those attacks and perpetrated reprisals against local Tutsis. The worst violence occurred shortly before Christmas in 1963 when several hundred Tutsis crossed into Rwandan territory from their camps in Burundi and advanced to a position within 12 miles of Kigali. Rwandan forces under Belgian command wiped out the insurgents, and President Kayibanda unleashed a reign of terror over Tutsis by announcing a state of national emergency to combat 'counter-revolutionaries'.¹⁵

The fighting had subsided by the time a 1973 coup brought to power Juvenal Habyarimana, a Hutu from a clan in the north. Habyarimana's clan-based oligarchy, known as the *akazu* ('little house'), practised discrimination against both Hutus from southern Rwanda and Tutsis.¹⁶ 'Habyarimana and the *akazu* had learned the lessons of the Hutu-Tutsi opposition in the Kayibanda regime and used

¹¹ Chege (1996–97).

¹² Jones (1999) p. 123.

¹³ See Lemarchand (1993).

¹⁴ Gourevitch (1998) p. 60.

¹⁵ Watson (1991).

¹⁶ Watson (1991).

⁷ De Figueiredo and Weingast (1999) p. 293.

⁸ Corry (1998).

⁹ Gourevitch (1998) p. 48. See also Parker (1994); Kagame (1999) pp. 71–72; Lemarchand (1993).

ethnic tension to strengthen their own rule', Bruce Jones observes.²⁰ While the ethnic tension manifested itself as discrimination and abuse, it did not erupt into communal violence for 16 years.

In the late 1980s, the international community introduced structural adjustment programme conditionalities and exerted diplomatic pressure to push for democratic and human rights reforms in Rwanda. As a result of the structural adjustment initiatives, the government's budget was slashed in half, taxes rose and famine grew widespread. Habyarimana announced democratic reforms in early 1990, only to shelve them months later when a group of Ugandan Tutsi invaded Rwanda in October 1990, under the banner of the 'Rwanda Patriotic Front' (RPF). Hutu leaders battled the invaders and attacked domestic Tutsis thought to be RPF sympathisers. In contrast to the conflicts of the 1960s, however, the Tutsi invaders made significant advances. Not only did the RPF gain a small parcel of territory in northern Rwanda, they also garnered the support of opposition Hutu and the sympathy of much of the international community. The akazu intensified their rhetorical and violent attacks against Tutsis, thereby attempting to unify all Hutu against a common enemy. The Rwandan government, however, was dependent upon foreign aid and vulnerable to international pressure for political negotiations.

In April 1992, international pressure led to the creation of a coalition government in Rwanda, whereby power was shared with opposition parties and political negotiations were undertaken with the RPF. Culminating in 1994, the Arusha Peace Accords represented a radical transfer of power, from the akazu to a coalition government that would include the regime, opposition parties and the RPF. The Arusha settlement 'produced violent reactions among power holders in Kigali'.²¹ In particular, the ruling regime was insulted by being assigned a weak position in the transitional government and felt threatened by the powerful role the RPF was to have in the integrated army.

Supporters of the regime would not relinquish power so easily; instead they launched an intensified racist propaganda campaign against the Tutsis and 'created widespread fear among the Rwandan population – not out of nothing, but through the skilful manipulation of an existing social cleavage, ethnicity'.²² These fears were not allayed by the international community's promise at Arusha to deploy a multinational force in Rwanda to guarantee peace and security. This force, the UN Mission in Rwanda (UNAMIR),²³ was slow to be deployed and was generally regarded by locals as a paper tiger.

The outbreak of genocidal conflict

On 6 April 1994, a plane carrying President Juvenal Habyarimana of Rwanda and the president of Burundi was shot down while attempting to land at Kigali.²⁴ The Hutu government blamed the attack on Tutsi rebels of the RPF. The violence, however, represented instead an effort by the akazu and its supporters to consolidate Hutu power by wiping out the Tutsis. As Human Rights Watch observed in their 1999 report:

20 Jones (1999) p 123.

21 Jones (1999) p 124. See also Adelman, Suhrke and Jones (1996).

22 Jones (1999) p 126.

23 For a detailed analysis of the UN's failure to act in Rwanda, see Human Rights Watch (1999b) p 1-2.

'This genocide resulted from the deliberate choice of a modern elite to foster and fear to keep itself in power. This small, privileged group first set the n against the minority to counter a growing political opposition within Rwanda faced with RPF success on the battlefield and at the negotiating table, the power holders transformed the strategy of ethnic division into genocide. They b that the extermination campaign would restore the solidarity of the Hutu their leadership and help them win the war, or at least improve their cha negotiating a favourable peace. They seized control of the state and used its ma and its authority to carry out the slaughter.'²⁵

Supporting evidence for the strategic nature of the conflict includes the with which the killings began and the methodical nature of the violence. Rw authorities had been distributing weapons as early as 1992, with more ext distributions occurring in 1993 and 1994.²⁶ Within one hour of the presi plane crash, Kigali, the capital of Rwanda, had been surrounded by road and the killings had begun.²⁷ Within a week of the plane crash, approxi 20,000 people had been killed in Kigali and the immediately surrounding The total killed ran into the hundreds of thousands.

Further support for the premise that the conflict was strategically manip comes from the evidence of killings of non-Tutsis. Some of the earliest v included Prime Minister Agathe Uwilingiyimana and President of the Su Court Joseph Kavaruganda, both Hutus.²⁸ In addition, those who formed the opposition politicians were killed along with independent journalists, l rights activists and senior civil servants.²⁹ Other groups targeted at an earl included members of the international community, and, in particul Belgium peacekeepers who were first taken hostage and later killed.

The existence of other victims does not detract from the fact that the vi in Rwanda was, at its core, a planned genocide.³⁰ The attack was an atte destroy the whole Tutsi population. The international community had know of the planned atrocities³¹ and yet it failed to take effective action, eit prevent the violence or to take action to stop it once it had already begun. C contrary, the killing of the Belgian peacekeepers led to a withdrawal of al handful of UN troops. While the UN eventually sent fresh troops into Rv they did not arrive until the genocidal killings were over.

Kosovo

Manipulation of group classifications: from Tito's Yugoslavia to Milosevic

In Tito's Yugoslavia, officially everyone enjoyed Yugoslav nationality and united for 'brotherhood and unity'. In constitutional terms, howev Yugoslavia people were divided into two categories – in Zoran Pajic's teri 'hosts and the historical guests'.³² Under this system, the hosts, or 'nations' (

25 Human Rights Watch (1999b) p 1-2.

26 Human Rights Watch (1999b) p 2.

27 Human Rights Watch/Africa (1994) pp 1, 3.

28 Human Rights Watch/Africa (1994) p 3. See also Parker (1994).

29 African Rights (1995) p xxi. See also Anonymous (1994a).

30 Human Rights Watch (1999b) pp 1-2.