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*Justice in Africa: Rwanda's Genocide, Its Courts, and the UN
Criminal Tribunal*

Jenia I. Turner
Southern Methodist University, Dedman School of Law

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Justice in Africa: Rwanda's Genocide, Its Courts, and the UN Criminal Tribunal. By Paul J. Magnarella. Aldershot: Ashgate, 2000. Pp. xii, 154. Price: \$59.95 (Hardcover). Reviewed by Jenia A. Iontcheva.

Only six years ago, the Rwandan genocide shocked the world with its brutality and intensity. In the space of 100 days, more than 800,000 Tutsis and moderate Hutus were killed by machete-wielding fellow citizens. The international community, for the most part, stood by in embarrassment, unable to muster the political will to intervene. Instead, it acted only once the conflict was contained, by establishing an international criminal tribunal to judge the individuals responsible for the egregious human rights violations committed in Rwanda.

Paul Magnarella's book offers a crisp review of the origins, the escalation, the resolution, and the adjudication of the Rwandan genocide. In light of recent efforts to create international tribunals for Sierra Leone, East Timor and Cambodia, Magnarella's work is a timely response to a continuing endeavor to confront humanity's violent side. *Justice in Africa* is accordingly aimed at a wide audience. As the author himself declares, it is directed to readers who are not necessarily lawyers or anthropologists, but who want to comprehend why and how the Rwandan tragedy occurred and what has been done in the aftermath to remedy its gross injustices.

Magnarella begins his work with an inquiry into the causes of the Rwandan genocide, utilizing a "human materialist" paradigm. Human materialism attempts to break the agency/structure dichotomy in social science by blending "infrastructural causality with humanistic teleology," (p. 1) and by employing a flexible hierarchy of causes to explain social events. Working within this complex theoretical framework, the author reviews the history of Rwandan society from pre-colonial times until 1995. He focuses on key figures and events, while remaining deeply attentive to material factors shaping the course of Rwandan history, such as the geography and the biological environment in the Great Lakes region. The conclusion Magnarella draws from this historical overview is that Rwanda's critical food-people-land imbalance was an essential condition for the genocide, but that it was ultimately the near-sighted policies and divisive strategies of the Rwandan elites, supported by a traditional culture of obedience, that precipitated the vicious conflict. The author briefly notes and then brushes aside the contention that decisions by the U.N. Secretariat and the Security Council had a significant impact on the unfolding of genocide. Nor are the historical policies of the colonial powers, Germany and Belgium, or the contemporary actions of the international community seen as key contributory factors to the escalation of the interethnic conflict.

In Chapter 2, the author focuses his attention on the role of the international community in the Rwandan debacle. The review is largely expositive, marking the chronology, the nature and the scope of foreign economic, political, and military intervention in Rwanda. Magnarella mentions some critiques of this intervention, such as the 1999 United Nations Inquiry into the actions of the United Nations during the Rwandan genocide.

The inquiry placed the responsibility for failing to prevent or end the genocide on the U.N. Secretariat, U.N. Security Council, Belgium and to a lesser extent the United States. The author himself steers away from these controversies, preferring instead to preserve his self-designated role of detached observer.

In the third chapter, Magnarella focuses on the post-conflict response of the international community to the Rwandan genocide, describing the creation, structure and operations of the United Nations International Criminal Tribunal for Rwanda (ICTR). The author describes some of the jurisprudential innovations of the Tribunal's statute, such as the application to an internal armed conflict of the law of crimes against humanity, Common Article 3 and Additional Protocol II to the 1949 Geneva Conventions.

The discussion of the ICTR's work is not purely legal or theoretical, however. In Chapters 3 and 4, Magnarella considers many of the practical aspects of the Tribunal's operations, such as the material limitations on the Tribunal's functions, the scandals related to alleged mismanagement of the institution and the continuing tension between ensuring both efficiency and fairness of the judicial process. In light of recent strikes by ICTR detainees to protest the Tribunal's allegedly unfair procedures and in view of renewed critiques of the Tribunal's efficiency coming from within the United Nations, this chapter is particularly timely and relevant.

As the author proceeds to discuss the post-conflict work of Rwanda's own judiciary in the next chapter, the dilemmas of the ICTR soon appear trifling. It faces a slew of cases and overcrowded detention facilities. In this environment, the severely understaffed and under-funded Rwandan courts have little time for legal niceties, or for fine calculations of the tradeoffs between efficiency and fairness. As Magnarella observes, expediency reigns supreme.

In Chapters 6 and 7, the author breaks the narrative sequence and shifts the focus back to the ICTR, by examining *Kambanda* and *Akayesu*, two of the Tribunal's most prominent cases. Magnarella locates the importance of the trial of Rwandan ex-premier Jean Kambanda primarily in the defendant's extensive admissions of guilt. In the author's view, these confessions, having become part of the public record, should forever dispel doubts about the occurrence of a premeditated genocide in Rwanda and should provide historians with extensive information about the conflict. The trial of former Taba mayor Jean-Paul Akayesu, in turn, is deemed significant in that it was the first genocide trial before an international criminal tribunal. It gave rise to numerous jurisprudential developments, such as the functional interpretation of what constitutes an "ethnic group" protected by the Genocide Convention, the deduction of genocidal intent from a series of factual presumptions, and the conceptualization of sexual violence as genocide.

The conclusion of *Justice in Africa* is as free of evaluative remarks as the main body of the work, positing primarily, and almost in passing, that the ICTR is an institution that has contributed greatly both to the Rwandan reconciliation and to the development of international humanitarian law. Here, as in the rest of the book, the author simply describes events and controversies instead of analyzing them or digesting them for the reader. While this may

appeal to readers looking for a quick guide through the mire of Rwanda's unfortunate recent history, it is also the book's chief imperfection. The author's reluctance to engage in commentary leaves unanswered some of the most intriguing questions underlying his narrative, much to the dissatisfaction of the polemically disposed reader.

The Pinochet Case: A Legal and Constitutional Analysis. Edited by Diana Woodhouse. Portland, OR.: Hart Publishing, 2000. Pp. xx, 297. Price: \$54.00 (Hardcover). Reviewed by Marcos Barbosa Pinto.

Few events in international law have attracted as much attention as the attempted extradition of Chile's former dictator Augusto Pinochet Ugarte from the United Kingdom to Spain. The affair raised and illuminated some fundamental issues of international law and their relation to the British legal system. *The Pinochet Case: A Legal and Constitutional Analysis* is an attempt to analyze some of these fundamental issues.

The book is a collection of essays resulting from a workshop organized by the Centre for Legal Research and Policy Studies, at Oxford-Brookes University, in March of 1999. The book is divided into two parts, each composed of three essays. The first part addresses the consequences of *Pinochet* for British and European law, while the second part addresses issues of international law. The essays are accompanied by the three decisions of the House of Lords on *Pinochet*.

The essays are preceded by an introduction to the facts of the case provided by the book's editor, Diana Woodhouse. She reports on the affair from the arrest of Senator Pinochet in October of 1998, which resulted from a request for extradition issued by a Spanish court. Woodhouse describes the first hearing of the case by the House of Lords in November of 1998, and the reasons why this hearing was subsequently set aside under suspicions of bias. Woodhouse then explains the second hearing of the case in March of 1999, in which the House of Lords found that Senator Pinochet could be legally extradited to Spain for crimes committed after 1988. Unfortunately, although the book was published after Senator Pinochet's release in March of 2000, all of the essays were prepared pre-release and thus the work fails to address the case's final chapter in the annals of English law.

An essay by David Robertson follows the introductory chapter and uses *Pinochet* as a background to assess the aptness of the House of Lords as a political and constitutional court. In Robertson's view, *Pinochet* shows that the House of Lords is not prepared to exercise its assigned adjudicatory function properly. Robertson believes that the court is still attached to a mechanical conception of constitutional adjudication and pays little attention to its role in the political process. Robertson criticizes the *Pinochet* House of Lords because it failed to "give leadership to a nation, to make its legal system more than a technical solution mechanism" (p. 24). He suggests that the court should change its political culture and working methods in order to perform its tasks in the political arena, but Robertson fails to explain thoroughly and defend his contestable assertion.