THE RWANDA TRIBUNAL AND GENOCIDE

Lennart Aspegren & Jamie A. Williamson*

Introduction

The preamble of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention),\(^1\) stipulates that genocide is a crime against international law, contrary to the aims of the United Nations and condemned by the civilized world. The Contracting Parties to the Genocide Convention, which included the vast majority of UN Member States, had undertaken under its Article 1 to prevent and to punish genocide, whether it occurred in time peace or war.

In 1994 unfolded the tragic massacre of hundreds of thousands of civilian men, women and children in Rwanda. The killings went on whilst the international community debated whether there were grounds sufficient to intervene. Less than fifty years after the solemn proclamation by the international community that never again would humanity have to endure such horrors as in the 1930s and 1940s, the world seemed unable to act. More than eight hundred thousand civilians, mainly from the Tutsi ethnic group, lost their lives.

The majority of the official reports to come back from Rwanda concluded that the killings between April and July 1994 had an obvious ethnic dimension. However, despite these reports and the repeated statements of UN Secretary-General Boutros Boutros-Ghali that genocide was once again being witnessed, the obligation stemming from the Genocide Convention to prevent genocide was tardily met. By contrast, States acted swiftly to see to it that the offenders were punished. Indeed, as early as November 1994, acting on the recommendation of a commission of experts, the UN Security

---

* Lennart Aspegren was Judge at the ICTR (Trial Chamber I) from 1995 to 2000, and Jamie A. Williamson was Legal Officer from 1996 to 2005.

\(^1\) Adopted by resolution 260(III) of the United Nations General Assembly on 9 December 1948, and which entered into force on 12 January 1951.
Council established the UN International Criminal Tribunal for Rwanda (ICTR) to bring to justice those responsible for the atrocities.

In 1995, Judge Laïty Kama (Sénégal) was elected by the UN General Assembly as one of the first six judges of the ICTR. His colleagues unanimously chose him to be the first President of the Tribunal. Sitting as a Member of Trial Chamber I, Judge Kama presided over many of the early cases before the Tribunal.

1. The Massacres

Returning from Tanzania, on 6 April 1994, around 20:30 hours, the plane carrying the Presidents of Rwanda and Burundi was brought down over Kigali. Rwanda’s President Juvénal Habyarimana and his counterpart from Burundi lost their lives, as unknown perpetrators, using anti-aircraft weaponry, shot down their plane as it arrived in Kigali. Wreckage fell into the grounds of the Presidential Palace. All on board were killed. Early in the morning of 7 April 1994, the Rwandan army, supported by the youth militia Interahamwe, launched a mass slaughter of civilians. The majority of the victims were Tutsis, referred to by the extremist media as “cockroaches”. Moderate Hutus, accused of being “accomplices” of the rebellion Rwandan Patriotic Front (RPF) were also targeted. Over the next few weeks, it was widely reported that the massacres spread from Kigali to the rest of Rwanda.

In a short time, the ancient ‘land of a thousand hills’ was turned into hell on earth. Throughout communes and prefectures across Rwanda, roadblocks, often manned by Interahamwe and inebriated youths, were erected. At these, Hutus and Tutsis were separated on the basis of the ethnicity which was stamped in their identity cards. Thousands of people, principally Tutsis, were taken away to be shot or hacked to death. Other victims, whose names appeared on previously drawn up “death lists” were tracked down by the killers. No place was a safe haven. Mass killings occurred at churches, hospitals and schools. Thousands of women and young girls and children were raped, after which many of them were left for dead, if not drowned in latrines or thrown into mass graves.

The scope and manner in which the massacres enveloped Rwanda suggested that they had been meticulously planned. Many observers compared the killing of the Tutsi to the Nazi “final solution”. Indeed, the killers spoke of “finally solving the Tutsi problem”, in other words, to exterminate the country’s Tutsi minority.