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Human Rights Law on Trial in the DRC

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Human Rights Law on Trial in the DRC

Abstract

The ongoing tragedy in Eastern Congo contains so many tragic lessons that it should shake to their very foundations all comfortable ideologies about human rights and politics. The atrocities in the DRC should implicate all but have so far resulted in almost limitless impunity. Here, I briefly put human rights law on trial for its role in perpetuating this tragedy.

Keywords

Human rights, Human rights law, Democratic Republic of Congo, War, Natural resources, Economics, United Nations (UN), Politics

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Human Rights Law on Trial in the DRC

by William Paul Simmons

The ongoing tragedy in Eastern Congo contains so many tragic lessons that it should shake to their very foundations all comfortable ideologies about human rights and politics. The atrocities in the DRC should implicate all but have so far resulted in almost limitless impunity. Here, I briefly put human rights law on trial for its role in perpetuating this tragedy.

Human rights law sanctions human rights violations in both major senses of the term. Obviously it seeks to impose penalties on those actions and individuals that are deemed outside of international and domestic law. But, it also tolerates human rights violations by defining the outer reaches of human rights abuses. Those abuses that do not fit the definitions contained in treaties as understood by tribunals are, in effect, sanctioned. And, these treaties and tribunals are established amidst a socio-political milieu in order to enforce a certain set of standards, standards that have achieved a certain political legitimacy by the hegemonic narrative. The hegemonic narrative reproduces itself when it is codified in law and enforced by judges. The result is that human rights law reduces the complexity of the world to a pre-established grand narrative.

The tragedy in the DRC since 1994 should explode human rights law's grand narrative about the more famous genocide in neighboring Rwanda. We are told that an un-imaginable evil was unleashed in early April 1994 that ceased with the victory of the Tutsi-led RPF in July 1994. With great effort, the UN and others supported the new Tutsi regime of Paul Kagame, and the country has made significant strides toward transitional justice and rebuilding its economy. This narrative only gives lip-service to the social, economic, political, and historical context of the region. It fails to provide an adequate account to the ongoing effects of colonialism, to previous genocides in the region, and to the complexities of the tensions between Hutus and Tutsis in both Rwanda and Burundi. The aftermath of the genocide, including the emigration of millions of Hutus to the DRC and the retributions exacted by Tutsis, are elided from the narrative.

Some much-needed finger-pointing has been done at France, the United Nations, and the US for their role in failing to prevent the genocide but this has done more to absolve these power than to understand their role. This grand narrative of genocide has also led to some sanctioning of high ranking Hutus and thousands of Hutu genocidaires, but it has not stopped the human rights abuses.

Indeed, the grand narrative that has been applied to the Rwandan genocide has sanctioned many of the atrocities in the DRC where we are again told that an African evil has been unleashed as if it was always buried deep in the perpetrator's hearts. Once again, there is little discussion of the complexities behind the atrocities. The Congolese wars of course are rooted in the Rwandan genocides, the effects of colonialism, and the neglect of leading world powers. The Rwandan genocide did not end in 1994 as the grand narrative tells us but has moved to the DRC as Hutu and Tutsi militias continue to do battle with periodic interference by the Rwandan military and other local and regional powers. All of this occurs in a region that has been fragmented by centuries of colonial exploitation within the context of a national power vacuum created by decades of Cold War politics.

Because of the grand narrative of the Rwandan genocide there is little accountability for the Rwandan government for its role in perpetuating the instability in the DRC in order to exact retribution on Hutus or for exploiting the region's resources. The leading powers again remain on the sidelines, but this time they need not seek absolution after the fact. They instead point to all their work in Rwanda since the genocide as proof of their goodwill.

Again, human rights law seeks to impose order on the complexities of the situation by sanctioning some abuses. The International Criminal Court will try individuals like Thomas Lubanga for the use of child soldiers and other atrocities, but it in effect will sanction other abuses. For instance, related abuses in Burundi, Central African Republic, and elsewhere will be elided.

Without a comprehensive approach to the region's tragedies they will continue to mutate into new forms that will not be capture-able by human rights law. It is up to activists from the region and elsewhere to put human rights law on trial to shape it, so that it will more adequately question the hegemonic narrative that it sanctions.

William Paul Simmons is Associate Professor of Political Science and Director of the Masters program in Social Justice and Human Rights at Arizona State University. His work has appeared in such journals as Philosophy and Social Criticism, Yale Human Rights & Development Law Journal, The Journal of International Human Rights, and Social Sciences Quarterly. A forthcoming book examines the potential for reinvigorating human rights law from the perspectives of marginalized peoples. He has served as a consultant on human rights and social justice issues in The Gambia (West Africa), China, and the United States.