

PREVENTING THE FALSIFICATION OF HISTORY: An Unintended Consequence of ICTR Disclosure Requirements[©]

Peter Erlinder

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I. INTRODUCTION

It is unfair that politics undermines our work. I find it wounding to see that we have managed to ridicule the principles of international justice.....²

Hon. Carla Del Ponte, ICTR Chief Prosecutor 1999-2003

It is not often that a first-person memoir immediately establishes itself as a foundational source in such esoteric subjects as International Jurisprudence and the theory and practice of International Criminal Law. But, memoir of the former Chief Prosecutor for the UN Tribunals, Carla Del Ponte,³ can legitimately lay claim to being such a book because the Chief ICTR Prosecutor has confirmed that the actual mission of the ICTR is, and has been, the falsification of history and a “cover-up” of the crimes of the victorious RPF with the assistance of the United States and United Kingdom.

Other writers with impeccable UN tribunal credentials have noted that, because the Security Council is essentially a political body at the apex of an inherently political United Nations, it should be no surprise that “politics” and the interests of more-powerful

[©] C. Peter Erlinder, Professor of Law, Wm. Mitchell College of Law, St. Paul, MN, Lead Defence Counsel at the UN International Criminal Tribunal for Rwanda in the Military-1 Trial and President of *Association des Avocats de la Defence* (ADAD), the ICTR Defence Lawyers Association. peter.erlinder@wmitchell.edu

² Hartmann, *Paix et chatiment les guerres de la politique* (Flammarion, Paris September 27, 2007), p. 271-72: “It is unfair that politics undermines our work. I find it wounding to see that we have managed to ridicule the principles of international justice.... because Kagame has signed a bi-lateral agreement [with the United States].”

³ Del Ponte and Sudetic, *Madame Prosecutor: Confrontations with Humanity’s Worst Criminals, and the Culture of Impunity*, (2009)

nations would suffuse the functioning of any judicial body established by the Security Council.⁴ When the former spokesperson for the UN Tribunal for Rwanda like Kingsley Moghalu,⁵ or the Chief Prosecutor for both tribunals like Carla Del Ponte,⁶ or Del Ponte's Press Aide Florence Hartman,⁷ or Kofi Annan's Chief Aide Iqbal Riza,⁸ or Office of Legal Affairs Chief Ralph Zacklin,⁹ make this simple observation, it seems an obvious and logically necessary truism. But, not all ICTR participants are willing to be as straightforward. For example, former ICTR President Navanthem Pillay of South Africa is capable of asserting, without apparent irony:

Yes, justice can be selective, it can be political. But if you ask me if justice is being done here (at the ICTR), I can say, YES!¹⁰

Of course, any concept of "justice" worthy of the name can be *neither* selective *nor* political, but, Judge Pillay's refreshingly straightforward statement demonstrates the distortion of fundamental concepts of equality before the law, and the conflation of *legal* decision-making with political expediency – that has been accepted as "normal" by the current incarnation of international tribunals.

The importance of the issues discussed in the Del Ponte book, and a related book by Florence Hartmann, Ms. Del Ponte's long-time press-aide,¹¹ have been confirmed by the Security Council's criminal prosecution Ms. Hartmann at the ICTY for having revealed the behind-the-scenes influence by Permanent Members of the Security Council at the ICTY and ICTR,¹² as does the Swiss government having prohibited Del Ponte from discussing her book in public.¹³

Ironically, the English edition of Del Ponte's book was published almost simultaneously with the February 9, 2009 release of the written Judgement in the ICTR

⁴ See, Kingsley C. Moghalu, *Rwanda's Genocide: The Politics of Global Justice*, (Palgrave MacMillan 2005) (former official spokesperson for the ICTR); Ralph Zacklin, *The Failings of Ad Hoc International Tribunals*, 2 J. of Int'l. Crim. Justice, 541 (2004) (former Chief of UN Office of Legal Affairs.)

⁵ Kingsley Moghalu, *Rwanda's Genocide: The Politics of Global Justice*, p.5

⁶ Del Ponte, op cit

⁷ Hartmann, op cit

⁸ *Infra*

⁹ *Infra*

¹⁰ See, Bob Braun, *Rwandans Face a Reckoning in UN Trials*, Newhouse News Service, Sept 17, 2002

¹¹ Florence Hartmann, *Paix et Chatiment*, (Flammarion, Paris, 2007)

¹² "Hague court charges ex-official: A former spokesperson for the United Nations war crimes court in The Hague has been charged with revealing confidential information," BBC, August 28, 2008.

¹³ Katie Paul, "Silent Warrior: She's faced down the mob and genocidal dictators. So why is Carla Del Ponte barred from discussing her own book?" | Newsweek Web Exclusive, Feb 27, 2009

Military-1 case, which *acquitted* the four highest-ranking members of the former Rwandan military of “conspiracy” to commit genocide or other crimes,¹⁴ a finding which calls into question the fundamental thesis of the entire OTP description of what happened in Rwanda:

When viewed against the backdrop of targeted killings and massive slaughter perpetrated by civilian and assailants between April and July 1994 as well as earlier cycles of violence, it is understandable why for many this evidence...shows a prior conspiracy to commit genocide....*However, they are also consistent with preparations for a political or military power struggle...when confronted with circumstantial evidence [the Chamber] can only convict where it is the only reasonable inference...the Prosecution has not shown that the only reasonable inference based on credible evidence...was that [genocidal] intention was shared by the Accused...the Chamber is not satisfied that the Prosecution has proven beyond a reasonable doubt that the four Accused conspired among themselves, or with others to commit genocide before it unfolded on 7 April 1994.*¹⁵ (emphasis added)

The Del Ponte book not only confirms the evidence presented by the defense in the Military-1 Trial which points to a completely different explanation for the terrible violence that swept Rwanda in 1994, but admits that evidence of the role of the RPF and President Kagame in precipitating and using the “genocide” to seize power, has been systematically withheld from the Chambers, and the public, by the Office of the Prosecutor.¹⁶

Section II of this article describes aspects of the Del Ponte narrative that confirm manipulation of the ICTR by the United States and United Kingdom to the benefit of the current Rwandan government. Section III describes the Military-1 Trial evidence, much of which is confirmed by Del Ponte, which made it impossible to convict the defendants of “conspiracy.” Section IV describes the consequences of the ongoing *quid pro quo* revealed by Del Ponte. The article concludes that such influence is endemic in the structure of international tribunals, but disclosure requirements¹⁷ may be creatively used

¹⁴ See discussion of *Prosecutor v. Bagosora Judgement*, 98-41-T (announced December 18, 2008, published in full February 9, 2009 (hereinafter, Military-1 Judgement) at 539-40.

¹⁵ *Id.*

¹⁶ Del Ponte, *op cit.*

¹⁷ Rule 68 of the ICTR Rules of Procedure and Evidence require the prosecution and, arguably the UN as the prosecuting body, to make available to the defense evidence that may be exculpatory. The Ntabakuze Defense asserted an “alternative explanation” for events in Rwanda in 1994 in its Pre-Defense Brief, that made relevant documents and witnesses that were useful to prove-up the defense case. See www.rwandadocumentsproject.net ICTR Military-1 Exhibits, Ntabakuze Trial Brief. pp. 643-677.

by the defense to reveal a more accurate and balanced recreation of history than would have been possible in the absence of the Tribunal disclosure system

II. DEL PONTE AT THE ICTR: CONFIRMATION OF “COVER-UP” AND THE FALSIFICATION OF HISTORY

Del Ponte’s book proudly from quotes her April 2002 opening statement before the Trial Chambers in the Military-1 case in which she describes the conventional story of the “Rwanda Genocide” that was rejected in the February 9, 2009 Decision. No surprisingly, it is the story told by the victors:

“These four men [*Col. Theoneste Bagosora, Col. Anatole Nsengiyumva, Gen. Gratien Kabiligi and Maj. Aloys Ntabakzue*] are among the perpetrators of the genocide....Who is responsible for close to a million deaths in a few months? Who is responsible for all the other victims mutilated, tortured, raped, left for dead.” The indictment alleged that Bagosora and other commanders on trial were part of a group of senior Hutu officers who had, for several years, *planned the systematic extermination of the Tutsi’s and moderate Hutus in order to secure the Hutu Extremist’s political dominance of the country...*¹⁸

But, we now know that, after nearly seven years of evidence and deliberation, the Military-1 Trial Chamber was compelled to conclude that *none* of the defendants in the Military-1 Trial were guilty of any sort of “conspiracy or planning” to kill civilians, much less Tutsi civilians.¹⁹ But, despite Ms. Del Ponte’s opening statement having been proved wrong by the evidence in Military-1 Trial, her book *does* confirm that: the history of the Rwandan War has been falsified; a massive amount evidence has been withheld from the ICTR Chambers; and, the ICTR, itself, has been used to “cover-up” the crimes of the RPF and the role of Security Council members who supported the RPF in 1994, and after.

Rwandan Manipulation of ICTR Investigations: Confirmed by Del Ponte.

Although most of the book is devoted to ICTY *vignettes*, Del Ponte’s revelations about her removal from her job at the International Criminal Tribunal for Rwanda by the U.S. and U.K. in the summer and fall of 2003 are damning.²⁰ She also reports having she learned as early as November 1999 that French examining magistrate Jean-Louis

¹⁸ Del Ponte, at 223.

¹⁹ Military-1 Judgement, pp. 539-540.

²⁰ Steven Edwards, *Del Ponte says UN caved to Rwandan pressure*, National Post, Sept 17, 2003; John Hooper, *I was sacked as Rwanda Genocide Prosecutor for Challenging the President, Says Del Ponte*, Guardian, Sep. 13, 2003; Felicity Barringer, *Annan is said to Want a New Prosecutor for Rwanda War Crimes*, New York Times, July 29, 2003. See also, UN Doc S/Res/203/1503, Aug. 28, 2003, requesting nomination by the Security Council for a new ICTR prosecutor and nominating Del Ponte for re-appointment as ICTY prosecutor.

Bruguiere, a trusted colleague who achieved renown for prosecuting *Carlos the Jackal* and other terrorists, had opened an investigation into the assassination of Habyarimana that pointed to Kagame's troops and, perhaps, to Kagame himself.²¹ Del Ponte's Chief Investigator Laurent Walpen also developed evidence of RPF crimes with "[e]stimates of the dead stood in the tens of thousands,"²² but,

...because President Kagame and the other Tutsi leaders had staked so much of their claim to political legitimacy upon the RPF's victory over the genocidaires in 1994. And they were marketing their takeover of the country as a righteous struggle to halt the genocide.²³

Del Ponte also describes how U.S. intelligence agencies were *assisting* the Rwandans in compromising the security of the ICTR Prosecutor's Office and their investigations:

We knew the Rwandan Intelligence service had received monitoring devices from the United States and was using them to compromise our telephone, fax and Internet traffic.²⁴

At the same Del Ponte was making her opening statement in the ICTR Military-1 Trial, she had already received Judge Bruguiere's confirmation of Kagame's culpability for Habyarimana's assassination, and she must also have known about an earlier recommendation to prosecute Kagame from within the ICTR Office of the Prosecutor in 1997 because, in the year 2000, the ICTR Chambers had ordered Del Ponte to release the report of Michael Hourigan, who had recommended to Louise Arbour, Del Ponte's predecessor, that Kagame be prosecuted, to a defense team.²⁵ And, two days after receiving the evidence on Kagame, Arbour told Hourigan's team to drop the investigation and, in essence, "to burn their notes." This is how Hourigan describes the 1997 Arbour "cover-up:

In late January, or early February 1997, members of the National Team were approached by three informants, either former or serving members of the RPF) claimed direct involvement in the 1994 fatal rocket attack on the President's aircraft. Their evidence specifically implicated the direct involvement of President Paul Kagame...

²¹ *Id.* at 179-180.

²² 182. This same evidence was apparently provided to Ms. Del Ponte's predecessor, Louise Arbour in January 1997 who suppressed the evidence, stopped the investigation and disbanded the investigative team that made the recommendation that Kagame be prosecuted for the assassination of Habyarimana, as described herein. Ms. Del Ponte does not reveal whether she was aware of Ms. Arbour's suppression of the earlier investigation of Kagame.

²³ Del Ponte, p. 183

²⁴ *Id.*

²⁵ See, Kingsley C. Moghalu, *Rwanda's Genocide: The Politics of Global Justice*, (Palgrave MacMillan 2005), p.5.

I informed Judge Arbour in considerable detail about the information implicating President Kagame...

Judge Arbour then advised me that the National Team investigation was at an end because in her view it was not in our mandate...[and] asked me if the memo I prepared was the only copy. I informed her it was and she said she was pleased to hear that and placed it in her office filing cabinet....a short time later I resigned from the ICTR.²⁶

The Hourigan Report was finally put into evidence during the Military-1 Trial by the Defence in late 2006, and was one of the factors eventually leading to acquittal because it helped demonstrate that the assassination of Habyarimana was NOT part of a “plan to commit genocide” by the FAR leadership.²⁷

Despite being a party to suppressing the Hourigan Report, Del Ponte writes that she continued her own investigations of Kagame and the RPF,²⁸ which resulted in the Rwanda government cutting off the flow of all witnesses to the ICTR in June 2002²⁹ and “...blackmailing the tribunal...in order to halt the Office of the Prosecutor’s Special Investigation of crimes allegedly committed by...the RPF in 1994.”³⁰ According to Del Ponte:

...halting the genocide trials was the Rwandan government’s objective, so long as there was a possibility that the tribunal would indict Tutsi leaders and army officers. The motive, it seemed, was preserving the Tutsi regime’s legitimacy and, by extension the rule of President Paul Kagame.³¹

On July 23, 2002, Del Ponte publicly reported to the Security Council that she suspected Kagame and his forces of having committed crimes, and that Rwanda as blocking investigations:

Powerful elements within Rwanda strongly oppose the investigation of the Prosecution...of crimes allegedly committed by members of the Rwandan Patriot Front....the Prosecutor is effectively unable...to achieve the

²⁶ Military-1 Exhibit, DNT 365.

²⁷ For the “alternative explanation” for events in Rwanda, see Ntabakuze Defense Brief, p138-174

²⁸ Bob Braun, “Rwandans Face Reckoning in UN Trials,” *Newhouse News Service*, Sept 17, 2002.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* Kagame was effectively elected President for Life in the fall of 2003, in an elections that including the jailing of all political opponents, as reported by EU election observers, with were not unlike election of Robert Mugabe in Zimbabwe five-years later. See, Colin Waugh, *Paul Kagame and Rwanda: Power, Genocide and the Rwandan Patriotic Front* (MacFarland, USA 2004), pp. 185-206. See also, CHRI Report, August 2009

investigation of crimes alleged to have been committed by the Rwandan Patriotic [Front] in 1994.³²

By November 2002, Del Ponte went public in exposing the refusal of the Kagame government to cooperate her investigations into the crimes, allegedly committed by them or their own compatriots.³³ Del Ponte notes that the Rwandan government again began to permit witnesses to travel to the ICTR under their supervision³⁴ and the Special Investigations continued, but made little headway.³⁵

Rwandan Interference in ICTR Prosecutions, with U.S./U.K. Assistance

On March 3, 2003, the U.S. State Department announced a new area of cooperation between the U.S. and Rwanda, in the form of a signed a “bi-lateral” agreement, initiated by the Bush administration, to exempt each others citizens from prosecution before the International Criminal Court. According to Del Ponte:

“...I suspected that, in return for Rwanda’s signature on the agreement, President Kagame had sought United States support in the campaign to prevent the Rwanda tribunal from completing its Special Investigation and bringing indictments against senior Rwandan military officers, and perhaps Kagame himself, in connection with massacres the Tutsis had allegedly committed in 1994.”³⁶

Although Del Ponte only mentions the *quid pro quo* between the U.S. and Rwanda in May 2003, a “special relationship” had existed between the U.S. and the Kagame government for more than a decade.³⁷ Florence Hartmann observed that U.S. “interest” in the Bruguiere investigation, and Del Ponte’s investigation of Kagame, as early as 2001 and by the beginning of 2003 made it clear that “the Americans wished to subject the court to an entirely political management of its exit strategy.”³⁸ And the evidence in the Military-1 Trial makes clear that a “cover-up” of RPF crimes actually began as early as August 1994,³⁹ even before the Tribunal was voted into existence in November.

According to Del Ponte, and Hartmann, on May 15, 2003, Del Ponte was called to the State Department by Bush Administration Ambassador for War Crimes, Pierre

³² Del Ponte at 227

³³ Id. at 227-230.

³⁴ RPF interference with evidence and witnesses continues, See Prof. Filip Reyntjens, Expert Report, *The Prosecutor v. Kanyabashi*, ICTR-96-15-T, p. 15.

³⁵ Del Ponte at 229.

³⁶ Id. at p. 231.

³⁷ The U.S. and U.K. support for Kagame and the RPF forces is further documented in the Commonwealth Human Rights Initiative Report rejecting the application of Rwanda for admission to the Commonwealth, August 2009. (Hereinafter CHRI Report)

³⁸ Hartmann, pp. 262-263

³⁹ *Infra*.

Prosper, to meet with senior members of the Rwandan government to discuss “cooperation between the Office of the Prosecutor and Rwanda’s government.”⁴⁰ Prosper was no stranger to the ICTR Officer of the Prosecutor, he had been assigned by the Justice Department to prosecute the *Akeyesu* case the first ICTR case to go to trial, and resulted in history’s first conviction for “genocide.”⁴¹ Prosper must also have long been aware of RPF crimes that were known to Del Ponte and Arbour.

So now, it was not just the Rwandans who were involving themselves in blackmail...I had just refused to refrain from bringing indictments against a number of Serb generals. And here I was refusing to cede the tribunal’s authority to investigate the Tutsi-dominated RPF. These prosecutions, in one way or another, involved disturbing a developing political status quo that people in the diplomatic community wanted to develop further.⁴²

By July 2, 2003, Del Ponte was informed by UK Ambassador Colin Budd that his government had requested that Kofi Annan appoint a replacement for Del Ponte, but, according to Del Ponte:

Budd said nothing about the real reason for the proposed changes: the Rwandan government’s opposition to the Special Investigation of alleged atrocities by members of the RPF.⁴³

By the end of July, the *New York Times* cited unnamed Western diplomats and tribunal sources as saying the Rwandan government had won support from the United States and the United Kingdom for removing Del Ponte.⁴⁴ Del Ponte was replaced by Hassan Abubacar Jallow,⁴⁵ who apparently learned from Ms. Del Ponte’s experience and has not indicted *one* member of the victorious RPF army or the Kagame government. As Pierre Prosper, himself, was to note some years later, “war crimes ‘justice’ is political,”⁴⁶ and so it is.

⁴⁰ Del Ponte, at p. 231

⁴¹ *Prosecutor v. Akeyesu*. 96-4-T, Judgement of 2 September 1998.

⁴² Del Ponte at p. 231

⁴³ Del Ponte, at 236

⁴⁴ Felicity Berringer, “Annan is Said to Want a New Prosecutor for Rwanda Crimes,” *N.Y. Times*, July 29, 2003. See also, UN Doc S/Res/2003/1503 August 28, 2003, requesting nomination by the Security Council of a new ICTR prosecutor and nominating Del Ponte to continue as ICTY Prosecutor.

⁴⁵ Steven Edwards, “Del Ponte says UN caved to Rwandan pressure,” *National Post (Canada)*, Sept. 17, 2003, p. A-13

⁴⁶ Kingsley Moghalu, *infra*, p. 6.

III. DEFENSE EVIDENCE IN THE MILITARY-1 TRIAL BEGINS TO UNRAVEL THE “COVER-UP” LATER CONFIRMED BY DEL PONTE

The Del Ponte and Hartmann books confirm that the ICTR has been used to create a false history and impunity for the RPF victors of the war for power in Rwanda. But, the question still remains as to how the documentary evidence from UN and U.S. government files, that has been put into the ICTR in the Military-1 Trial by the Ntabakuze Defence, made it *impossible* to convict members of the vanquished military leadership for the central charges against them, the charges “conspiracy and planning” to commit genocide.⁴⁷

The defense team of Major Aloys Ntabakuze,⁴⁸ made use of ICTR disclosure requirements to secure, and put into evidence, thousands of pages of contemporaneous UN and U.S. government documents and sworn testimony of eyewitnesses that confirmed that: the Rwandan Patriotic Front army of former General Paul Kagame was the militarily-superior aggressor⁴⁹ in April 1994, who initiated the civilian killings by assassinating the former President as part of their own war plan to destabilize the FAR defense of the country.⁵⁰

Further, the UN documents made clear that there was no “coup” after Habyarimana’s assassination, which was confirmed by UNAMIR General Dallaire on April 10, 1994 in a cable to UN Headquarters in which he wrote that a coup *could* have occurred by didn’t.⁵¹ And, by Ralph Zacklin of the UN Office of Legal Affairs,⁵² himself, who went even farther in a May 20, 1994 Legal Opinion, stating that the post-Habyarimana government was the lawful successor government, properly constituted under the 1992 Rwandan Constitution.⁵³ And, this documentary evidence also described Kagame’s rejection of numerous ceasefire offers and to use both armies to

⁴⁷ *Prosecutor v. Bagosora*, February 9, 2009 written Judgement, pp 45-158 and 539-540.

⁴⁸ The author, Lead Counsel for Major Ntabakuze, is largely responsible for locating these contemporaneous documents and other evidence that made convictions for conspiracy and planning genocide impossible, by providing an alternative explanation for the violence that swept Rwanda in April-July 1994. See, Ntabakuze Trial Brief, p. 138-174.

⁴⁹ ICTR Military-1 Exhibit DB-71. UNAMIR Reconnaissance Report of September 1993, authored by Canadian Lt. General Romeo Dallaire, UNAMIR Force Commander

⁵⁰ ICTR Military-1 Exhibit DNT 315. April 7, 1994 cable from U.S. Ambassador Prudence Bushnell.

⁵¹ April 13 Code Cable, Military-1 Exhibit DNT 108..

⁵² This is the same Ralph Zacklin who confirmed to Del Ponte that she was being removed from her ICTR post for political reasons, nine years later *infra*.

⁵³ May 25, 1994 opinion letter from Zacklin, Military-1 Exhibit DNT 193.

stop the civilian killings early on.⁵⁴ The documentary evidence, including General Dallaire's September 1993 Reconnaissance Report⁵⁵ and his March 28 Code Cable to the UN,⁵⁶ the FAR forces lacked the military power to repel the RPF invasion AND to use its troops to put down the civilian massacres. According to Dallaire, General Kagame rejected the ceasefire offers "because he was winning the war" ...against a less militarily powerful army,⁵⁷ which was confirmed by documents put into the record by the Ntabakuze Defence.⁵⁸ And, other documentary evidence revealed now well-documented massacres in the 1/3 to 1/2 of the country (from the Ugandan border north of Byumba to the Burundi border south of Kibungo) that was controlled by the RPF by mid-April.⁵⁹ In fact, a recent analysis of the progress by the war by political scientists Davenport and Stam reports that *many Hutus were killed than Tutsi's*, if estimates of 800,000 to a million deaths is correct.⁶⁰

Rather, the Military-1 Judgement found that the overall policies of FAR officers were completely consistent with those of an army defending the nation from an invading force.⁶¹ And, Del Ponte's book confirms important elements of the Ntabakuze Defence case: the RPF army *did* invade Rwanda from Uganda⁶² (with the help of those countries providing support for Uganda which then, and now, are the U.S./U.K);⁶³ Rwanda's current President, Paul Kagame, was responsible for the killing of the entire Catholic leadership of Rwanda in June 1994;⁶⁴ her ICTR Special Investigations unit identified at least 13 RPF mass-murder sites that, so far, have been charged to the ICTR

⁵⁴ www.rwandadocumentsproject.net ICTR Military-1 Exhibits, Ntabakuze Trial Brief. pp. 643-677.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ See, Code Cable MIR, April 24, 1994 and Dallaire, *Shake Hands with the Devil*, pp. 311.

⁵⁸ Davenport and Stam, re: day-be-day course of the war at www.genodynamics.org.

⁵⁹ See discussion of Gersony Report, *infra*. "Gersony Report" described in Code Cable from Sharyar Khan to Annan. Military-1 Ex. DK112

⁶⁰ Davenport and Stam, "What Really Happened in Rwanda?" www.miller-mccune.com/culture_society/what-really-happened-in-rwanda. October 6, 2009.

⁶¹ *Prosecutor v. Bagosora et al* written ICTR Judgement of Trial Chamber 1, published February 9, 2009, pp. 539-540.

⁶² David Blair, "British ally behind the world's bloodiest conflict," *UK Telegraph*, April 29, 2006. Uganda is the fourth largest recipient of British aid.

⁶³ CHRI Report

⁶⁴ Del Ponte, pp. 177-78, 182.

defendants;⁶⁵ and that the prosecution of high-ranking members of the current Rwandan government is warranted, based on evidence long-held in ICTR-OTP files.⁶⁶

No one disputes that shooting down of the plane carrying Habyarimana and the President of Burundi was the “spark” that ignited the civilian-on-civilian killings between April and July 1994, given that the assassination of Burundi’s President Ndadaye by his own Tutsi military had already triggered massive civilian violence that drove hordes of refugees into Rwanda in October 1993. A similar reaction was widely predicted in Rwanda....without any “plan or conspiracy,” according to U.S. State Department’s Prudence Bushnell:

If, as it appears, both Presidents have been killed, there is a strong likelihood that widespread violence could break out in either or both countries (i.e Rwanda and Burundi), *particularly if it is confirmed that the plane was shot down.* (emphasis added).⁶⁷

Even former U.S. Ambassador to Rwanda, Robert Flaten, testified in Military-1 that he personally warned *both* Habyarimana and Kagame that they would be responsible for massive civilian deaths, like those that had already occurred in Burundi in October 1993, if *either* resumed the war.⁶⁸ As the evidence emerges that Kagame is responsible for the assassination, the entire picture of the “Rwanda Genocide” begins to change.

***RPF Military Superiority, First Demonstrated in February 1993:
The Key to Understanding the “Genocide”***

There is much, much more documentary evidence and sworn testimony in evidence in the Military-1 record that thoroughly debunks a “genocide plan” by the losing side, and demonstrates that the assassination of the former president was the first shot in a long-planned final, “blitzkrieg-style” RPF assault to seize power.⁶⁹ After the April 6 assassination,⁷⁰ RPF assault troops swept from north to south in the entire eastern 1/3

⁶⁵ *Id* at 177-192 and 193-241.

⁶⁶ *Id.*

⁶⁷ ICTR Military-1 Exhibit DNT 315.

⁶⁸ ICTR Testimony of Robert A. Flaten, June 30-July 1, 2005

⁶⁹ *Genodynamics* website, www.genodynamics.org, Davenport and Stam research shows progress of the Rwanda War April-July 1994. See also, Alan J. Kuperman, *The Limits of Humanitarian Intervention, Genocide in Rwanda*, (Brookings Institution, Washington D.C. 2001)

⁷⁰ Code Cable, MIR 782, April 17, 1994, Dallaire to Barile: item 11A. “The RPF offensive...started in blitzkrieg fashion;...” item 11C. “The RPF do not desire a ceasefire until their preconditions are met...”.

of the country in less than 2-weeks, revealing long-term logistical, strategic and tactical planning.⁷¹

This military superiority is the lens through which the Arusha Accords negotiations, and the resumption of the war in April 1994 must be understood. Had the RPF permitted the Arusha Accords to go into effect, they would have become a minority political party and would have had to give-up their military superiority. All military observers understood that the RPF has established military superiority as early as February 1993, in a surprise assault that was stopped at the gates of Kigali, *only* by the presence French and Belgian military advisors.⁷² Nevertheless, in the summer of 1993, the U.S./U.K. tandem convinced the rest of the Security Council to replace the Rwandan's European military-advisors with non-combatant UNAMIR peacekeepers, under Canadian Lt. General Dallaire, who had no combat experience, or experience in Africa,⁷³ the eventual RPF military take-over was a just matter of time.

Evidence in the record in the Military-1 Trial shows that between the summer of 1993 and the assassination of President Habyarimana in April 1994, Kagame's RPF established at least three weapons caches of 200-300 tons each, in preparation for the final offensive.⁷⁴ And, U.S. diplomatic communiqués confirm that the RPF, not President Habyarimana and his supporters blocked the political settlement, which would have forced the RPF them to share power and give up military superiority.⁷⁵ When all parties, including the western powers and the Vatican, insisted that the RPF enter into the power-sharing agreement in a document published on March 28, 1994,⁷⁶ the stage was set for completion of the final assault, which began with decapitating Rwandan government and military leadership in the missile attack on the evening of April 6.⁷⁷

⁷¹ See Code Cable MIR 829, April 24, 1994, Dallaire to Barile. The Military-1 record includes numerous examples of planning for war by the RPF between June 1993-April 1994, and the rapid movement of troops and materiel demonstrate a high level of pre-planning of a military assault, which was an extension of the February 1993 assault on Kigali.

⁷² Benjamin Valentino, "Final Solutions: Mass Killing and Genocide in the 20th Century" p. 181 (Cornell Studies in Security Affairs, Cornell University Press, Ithaca, NY 2004)

⁷³ Intro to Dallaire's book, "Shaking Hands with the Devil" pp 44 et seq.

⁷⁴ Testimony of former RPF Officer Abdul Ruzibiza, March 10, 2006. See also testimony of former RPF witnesses at ICTR, and Military-1 Exhibit 218: Ruzibiza, "The Secret History of Rwanda," Paris 2005).

⁷⁵ April 1 cable from Rawson to Kampala, Military-1 Exhibit, DNT 121 making clear that the CDR should be admitted to the government under the Arusha Accords.

⁷⁶ Code Cable from Booh-Booh to Annan, March 28, 1994, Military-1 Exhibit DNT104

⁷⁷ Ruzibiza, Ruyenzi and testimony of former RPF officers, affidavits of Hourigan etc.

**ICTR Military-1 Trial Evidence:
U.S.-Assisted “Cover-up” of RPF Crimes Pre-dates the ICTR.**

The documentary evidence in the record in the Military-1 Trial shows that U.S. assistance in covering up RPF crimes actually began no later than August 1994, after an American human rights investigator, Robert Gersony, returned from an independent investigation in RPF-controlled areas of Rwanda to report that the RPF was killing “10,000 civilians a month” in a small area around Kibungo, which had been in RPF control since mid-April 1994.⁷⁸ Gersony had been employed and paid by USAID, but was assigned to the UN High Commissioner for Refugees, Sadao Ogata.⁷⁹ Other UNCHR reports, also in evidence in the Military-1 case, confirm massive RPF killing of civilians and bodies floating down the Akagera River in eastern Rwanda every minute, as early as May 17, 1994.⁸⁰ According to a recent report by the Commonwealth Human Rights Initiative:

Kagame had the powerful support of the United States of America and the United Kingdom, as well as the UN. This is best illustrated by the Gersony report “incident”...His report was scrutinized and forwarded by

⁷⁸ See discussion of Gersony Report in CHRI Report, August 2009 and discussion of Gersony Report in Code Cable between Sharyar Khan and Annan, October 14, 1994 Military-1 Exhibit DK112, entitled “The Gersony ‘Rwanda’ Report.”

⁷⁹ *Id.*

⁸⁰ ICTR Military-1 Exhibit, DNT 259:

Rusomo commune, sector Kigarama, the RPF...called for a “peace meeting.” Those who did not participate voluntarily were forced to the meeting. At the school people were tied together, three by three by three – women and children – and stabbed. The bodies were put on trucks and thrown into the Kagera River....

- At...sectors Nyamugari, Gisenyi, Nyarubuje, the RPF comes at 05h00...the villagers are caught and taken away to the river by trucks. No one has returned. Refugees in the area have seen people being tied together and thrown into the river. It seems guns are only used if somebody tries to escape...
- At...sector Muzaza,...the RPF launched several attacks on the village and its population. On 13.05 40 RPF soldiers...surrounded the village. Villagers were gathered in houses, which were burned down. An eye witness saw 20 people burned this way. 8 villagers were thrown into a latrine and the latrine was filled with soil. Asked by UNCHR field officer refugees said that RPF did not care whether the victims were hutu or tutsi villagers...
- On 15.05...a group of Rwandan people were observed running away from 20-35 soldiers...some jumped into the river. One person drowned. The soldiers rounded up a group of civilians and marched them off...
- An IRC staff person wrote to their office: “Things are getting very bad at the border here...Each day there are more and more bodies in the river and most of them without their heads; the count is between 20 to 30 each 30 minutes...
- We believe that only Tanzania...only border open to refugees – Zaire has been closed to them; ...Burundi are undesirable because of RPF presence and instability...RPF atrocities on the other side of the river will force people to flee...
- We will be overwhelmed here unless someone takes action to the bloodshed, the atrocities, the massacres, in Rwanda.

the High Commissioner for Human Rights, Ms. Sadako Ogata...UN Secretary General Boutros –Ghali became very concerned about the impact on the UN. He ensured that the report was not published, and initiated the process of de-legitimising Gersony's findings, with the approval of the United States of America. Kofi Annan...was instructed to follow up, and to ensure that the report was not made public....There certainly were crimes against humanity in that period within the ICTR jurisdiction, but powerful international forces in collusion with the RPF ensured that the ICTR took no action.⁸¹

Sadly, documents in evidence in the Military-1 Trial also reveal that these RPF crimes had been reported directly to Secretary of State Warren Christopher no later than September 10, 1994.⁸² Reports of these crimes were further confirmed by contemporaneous Amnesty International⁸³ and Human Rights Watch⁸⁴ reports, were also

⁸¹ CHRI Report, p. 33

⁸² See, Military-1 Exhibit 264, September 10, 1994 from George Moose to U.S. Secretary of State Warren Christopher:

A UNCHR investigative team that spent July and August in Rwanda (i.e. Gersony - author) has reported systematic human rights abuses by the GOR (i.e. RPA) forces – including systematic killings – in the south and southeast of the country. The team has concluded that the GOR (RPF author) is aware of these reprisals against Hutu civilians and may have sanctioned them....

On the basis of interviews with refugees/individuals, the UNHCR team concluded that a pattern of killing had emerged. The RPA convened meetings of displaced persons to discuss peace and security. Once the displaced persons were assembled, RPA soldiers moved in and killed them. In addition to these massacres, the RPA engaged in house to house sweeps and hunted down individuals hiding in camps. Victims were usually killed with hoes, axes, machetes and with fire. Although males 18-40 were at highest risk the young and elderly were not spared. The team estimated that the RPA and Tutsi civilian surrogates had killed 10,000 of more Hutu civilians per month, with the RPA accounting for 95% of the killing. (emphasis added)

The UNHCR team speculated that the purpose of the killing was a campaign of ethnic cleansing intended to clear areas in the south of Rwanda for Tutsi habitation. The killings also served to reduce the population of Hutu males and discouraged refugees from returning to claim their land.

⁸³ See, ICTR Military-1 Exhibit DNT 258, Rwanda: Reports of killings and abductions by the Rwandese Patriotic Army, April-August 1994, Amnesty International October 20, 1994: Introduction:

Amnesty International has known for years that the RPF closely monitored and controlled movements of foreigners in areas under its control. Journalists and representatives of humanitarian organizations rarely talked to Rwandan citizens under the control of the RPF without an RPF official being present. This ensured that before the new government came to power on July 19, 1994, very limited information about the abuses by the RPA could be gathered and made public....However, Amnesty International has received numerous reports of human rights abuses committed by the RPA since the war in Rwanda began in October 1990. These have included hundreds of deliberate and arbitrary killings or possible extrajudicial executions and disappearances...[including] reports of civilian supporters of the RPF being allowed to kill opponents. .

put into evidence at the ICTR in late 2006 and early 2007. And, these reports are confirmed by the sworn ICTR testimony of former RPF Foreign Minister, Jean Marie Ndagijimana of November 2006,⁸⁵ who described his meetings with Kofi Annan at UN Headquarters in NY and with USAID Chief Brian Atwood at the State Department in early September 1994, in which they informed him of the RPF crimes of which they were aware. He testified that went into exile, rather than associated himself with a criminal government.⁸⁶

The UN documents in the Military-1 record confirm that Annan considered the RPF crimes a source of “embarrassment” for the UN and the U.S. for reasons unexplained. However, former U.S.AID Chief Atwood, offered that the RPF crimes were and “inconvenient truth” because U.S. AID had not been aware how deeply the U.S. Pentagon had been involved with Kagame and the RPF invasion of Rwanda.⁸⁷

IV. WHY A U.S.-ASSISTED ICTR “COVER-UP”? THE LONG-TERM U.S.-KAGAME MILITARY TIES

Although Del Ponte traces the Rwanda/U.S. *quid pro quo* only to 2003, the evidence in the Military-1 Trial and accumulating in the public record, indicates that the U.S./Kagame connections developed long before Kagame seized power in July 1994. The recent Report of the Commonwealth Human Rights Institute documents the long-standing support from the U.S. and the U.K. for the Museveni Regime in Uganda, while Kagame was Museveni’s Military Intelligence Chief and Rwanda’s current status as one largest recipients of U.S. and U.K. military and economic assistance in the Africa, *per*

⁸⁴ Absence of Prosecution, Continued Killings, Human Rights Watch, September 1994, p. 5: “The RPF Killing of Civilians During the War.”

⁸⁵ See, ICTR Testimony of Jean Marie Ndagijimana, November 16, 2006 and Code Cable between Sharyar Khan and Annan, Exhibit DK 112 at www.rwandadocumentsproject.net

⁸⁶ *Id.*

⁸⁷ Interview with author, December 22, 2007, See JURIST at <http://.law.pitt.edu/forum/2008/02/Rwanda-genocide-cover-up.php>. See *also* CHRI Report, et seq.

capita.⁸⁸ The Rwandan army has expanded from approximately 7,000 in 1990 under Habyarimana, to at least 70,000 today.⁸⁹

It is also undeniable that Kagame was studying at the U.S. Army War College at Ft. Leavenworth Kansas when he returned to take command of the former Ugandan troops invading Rwanda in late 1990.⁹⁰ And according to U.S. Army Colonel James McDonough, who was later to become U.S. Special Forces Commander in Rwanda in 1996-97, Kagame was already well-known in U.S. military circles in 1994 and was considered "...an intellectual figure. I would rate him as a first class operational fighter."⁹¹

Even before the resumption of the war in April 1994, with the assassination of Habyarimana, Kagame's U.S. military connections stood him in good stead. During the "peace negotiations" that led to the replacement of French and Belgian advisors and combat troops, with UN non-combatants. U.S. Major Anthony Marley, a classmate of Kagame's at the Ft. Leavenworth War College in 1990 was also the U.S. representative to the Arusha Accords negotiations in the summer of 1993. Given Marley's military expertise, he must have been well-aware of the military and political implications of the RP/F military superiority demonstrated in the nearly successful assault on the capital, Kigali, by RPA/F forces in February 1993. Marley demonstrated the willingness of Pentagon personnel to overlook the ongoing crimes of the RPF was demonstrated two years *after* Kagame's forces had invaded and occupied the eastern Congo, according to Marley in 1998:

One reason why American officials are enamored with Rwanda Vice-president Paul Kagame is that he knows how to communicate with them in a quintessentially 'American way'....⁹²

Apparently, the U.S./Kagame "special-relationship" began long before March 2003 mentioned by Del Ponte. And, if such a long-term relationship exists, the ICTR

⁸⁸ CHRI Report, p. 9: "Rwanda has relied heavily for its revenue (to fund its institutions and elites) on the plunder of the mineral resources of the DRC – and extraordinarily generous development assistance from the United Kingdom and the United States and some other Western governments. It bears primary responsibility for the political and economic instability in the Great Lakes Region...It practices, and has contributed to, a complex regional regime of illegal economic transactions, evasion of UN sanctions, arming of militias and criminal business organizations, and disregard of neighbor's borders and fiscal systems, which has greatly impoverished the region."

⁸⁹ Dallaire, UNAMIR Reconnaissance Report, September 1993, Military-1 Ex.DB-71; and, http://wikipedia.org/wiki/List_of_countries_by_number_of_troops.

⁹⁰ Colin Waugh, *Paul Kagame and Rwanda*, (MacFarland, New York 2004) p. 222

⁹¹ *Washington Post*, April 27, 1994.

⁹² Monograph No. 35: Peace and Security in Africa, Symposium on International Peace and Security, April 3, 1998, cited in Colin Waugh, *Paul Kagame and Rwanda* (MacFarland, New York, 2004 p. 222.

prosecution of Kagame and other senior RPF leaders would certainly lead to international exposure of the nature and extent of that relationship. The responsibility of the U.S. for the Rwandan Genocide may well extend far beyond “failing to act” for which President Clinton famously apologized. Simply put, it appears that: (a) the RPF invasion of Rwanda was actually being supported by U.S./U.K. interests; (b) the military victory of the RPF was assured when French and Belgian military advisors were replaced with UNAMIR non-combatants by the Security Council; (c) U.S./U.K. support for Kagame and the RPF continued through the resumption of the war in April 1994;⁹³ U.S./U.K. support has made prosecution of Kagame and RPF crimes impossible, at the ICTR.⁹⁴

The Consequences of the “Cover-up” of Kagame-RPF Crimes: ... 5 million killed in the Congo by the RPF “Saviors of Rwanda”

Although the ICTR has chosen not to prosecute RPF crimes, other nations have undertaken to do so. In November 2007, Judge Bruguiere issued an indictment for members of the RPF assassination team that shot down President Habyarimana’s and triggered the civilian killings.⁹⁵ And, in February 2008, Spanish Judge Mereles Abreu issued another detailed 182-page indictment naming Kagame and his followers as responsible for more than 312,726,000 civilian deaths:⁹⁶

- Kigali-19,331 dead;
- Kigali Rural- 37,410 dead;
- Gitarama-39,912 dead;
- Butare-33,433 dead;
- Gikongo-17,545 dead;
- Kibuye-23,775 dead;
- Gisenyi-3,100 dead;
- Ruhengeri-8,750 dead;
- Byumba-73,365 dead;
- Kibungo (site of Gersony’s investigations) -39,745 dead.

Despite these indictments by UN member-states, the ICTR failure to fulfill its mandate has actually *created* impunity for the victors in the Rwanda War, an “impunity” that continues to have long-term tragic consequences. As is well-

⁹³ See, Michel Chossudovsky, *The Global of Poverty and the New World Order*, Ch. 7, part II (Global Outlook, Shanty Bay, Ontario 2003).

⁹⁴ Del Ponte and Hartmann, *supra* and *infra*.

⁹⁵ Prudence Bushnell April 7 memo, *infra*.

⁹⁶ “Spain judge indicts Rwanda forces” BBC News, February 6,2008.. See, Indictment of February 6, 2008 alleging war crimes, crimes against humanity and genocide committed by Paul Kagame and 40 senior officers, allegations include civilian deaths by Prefecture.

known, using the “genocide” as justification, the armies of Rwanda and Uganda invaded the Congo in 1996 and 1998, and continue to occupy large areas of the Eastern Congo today that have been estimated as 15-times larger than Rwanda, in which Rwanda’s troops in the Congo outnumbered Congolese forces by 4-1.⁹⁷ Reports to the Security Council in 2001, 2002, 2003,⁹⁸ and December 8, 2008,⁹⁹ explain that stolen Congolese resources explain the relative prosperity in Kigali and the fortunes being made by insiders in the Rwandan and Ugandan governments.¹⁰⁰ According to the August 2009 Commonwealth Human Rights Initiative Report:

The RPF has used an extraordinary amount of violence, domestically and internationally, in the pursuit of its illegitimate aims. It is responsible for killing almost 500,000 persons, whether citizens or not, and is responsible for the deaths of many times more through displacement, malnutrition and hunger...The UN has voluminous documented these practices...

This ongoing Rwandan “rape of the Congo” is well known in Washington, and the Security Council.¹⁰¹ According to former State Department Africa expert Hermann J. Cohen:

...from 1996 to today, the Tutsi-led Rwandan government has been in effective control of Congo’s eastern provinces of North and South Kivu. This control has been maintained through intermittent military occupation and the presence of Congolese financed and trained by the Rwandan Army...During these 12-years of Rwandan control, the mineral-rich provinces have been economically integrated into Rwanda.¹⁰²

⁹⁷ www.hrw.org/background/Africa/Rwanda/13101.

⁹⁸ *UN Security Council Panel of Experts Report on the Illegal Exploitation of National Resources and Other Forms of Wealth from the Democratic Republic of the Congo*, October 20, 2003. (S/2003/1146, October 20, 2003 and other report available through the UN)

⁹⁹ *UN Security Council Panel of Experts Report on the Illegal Exploitation of National Resources and Other Forms of Wealth from the Democratic Republic of the Congo*, December 8, 2008

See also, Michell Faul and Todd Pittman, *Fears rise of wider conflict in the Congo*, Associated Press, November 4, 2004. Jeffrey Gettleman, *Rwanda Stirs Deadly Brew of Troubles in the Congo*, N.Y. Times, Dec. 3, 2008, A-6: “The Rwanda has denied any military involvement in the latest fighting, the UN says Uruguayan peacekeepers saw Rwandan artillery fire into the Congo last week as Nkunda’s forces advanced. Uruguayan army chief Gen. Jorge Rosales said intelligence reports indicated Rwandan troops were already, “integrated into the rebel forces.”

¹⁰⁰ *The Rwandan army stole nature resources worth \$250 million from 1999-2000 alone*. Adam Hochschild, *The dark heart of mineral exploitation in Congo: back on the brink II*. International Herald Tribune, Dec. 24, 2004, p. 6.

¹⁰¹ Jeffrey Gettleman, “Rwanda Stirs Deadly Brew of Troubles in Congo,” *N.Y. Times*, Dec. 3, 2008 at A.6

¹⁰² Former U.S. Ambassador for African, Herman J. Cohen, “Can Africa Trade its Way to Peace?” *International Herald Tribune*, December 17, 2008, p.6.

Although the reasons *why* this slaughter has not received the attention of the world's press or Human Rights community is beyond the scope of this article, one cannot help but note that these massive crimes have been committed during the same period that Darfur has been the center of attention of the Human Rights World, although the tragedy of 250,000 Darfur deaths is equaled every few months in Congo.

However, it is worth noting that Rwanda's 70,000 troops are 10-times the number maintained under Habyarimana¹⁰³ and provide one of the largest UN paid-for contingent or Darfur "peacekeepers", played a major role in the U.S.-sponsored "Ethiopian" invasion of Somali in 2006,¹⁰⁴ and may even be active in Iraq.¹⁰⁵ Given the apparent U.S. interest in *ongoing* military operations in Africa, evidenced by the establishment of AFRICOM, a separate military command structure for the Continent, a large, English-speaking proxy-army in Central Africa with close ties to the Pentagon provides U.S. policy-makers with military-options that U.S. troops or NATO troops cannot provide.

V. CONCLUSION

A moment of thought, and common sense, makes plain that no one should be surprised that the story of the *any* war would be told the victors, at least until historians have been able to unearth the evidence necessary for a more balanced view. Ironically, the disclosure requirements of the Rwanda Tribunal have had the unintended consequence of requiring that documents in UN and U.S. Government files that would not have been made public for many years have come into the public record within a few years after the end of the war.¹⁰⁶ These documents, now in evidence at the ICTR in the Military-1 Trial not only made "conspiracy" convictions impossible, but will eventually

¹⁰³ Dallaire, Reconnaissance Report, September 1993, Military-1 Exhibit DB-71

¹⁰⁴ "Rwanda to send troops to Somalia," Posted by *africanpress* on June 30, 2008:

Rwanda President Paul Kagame on Sunday said his country would send peacekeeping troops to Somalia, APA learnt on Sunday.

Rwanda is among the few African countries that pledged to send troops to Somalia. The AU planned to have 8,000 troops deployed.

Other countries are Nigeria, Ghana and Malawi, Uganda and Burundi.

However it is only Uganda and Burundi troops, numbering around 2,600, that are currently deployed in Somalia.

The federal transitional government of Somalia is also backed by Ethiopian troops which have been in the country since December 2006.

Countries that pledged to send troops but have not done so cite political and financial constraints.

¹⁰⁵ Max Delaney, "Why Ugandans are Eagerly Serving in Iraq," *Christian Science Monitor*, March 6, 2009.

¹⁰⁶ ICTR Military-1 Exhibits and www.rwandadocumentsproject.net

require a complete reassessment of the story of the Rwanda War that has been told by the “victors” and reinforced by members of the Security Council.¹⁰⁷

The more troubling question is, then, how is it that the ICTR has come to be involved in shaping an apparently false history, by telling a story required to fit the needs of the victorious RPF? The books by Del Ponte and Hartmann indicate that international tribunals are inextricably bound by power relationships in international affairs and *cannot* mete out anything *other* than “victor’s justice,” as long as powerful nations continue to assert their own interests, unconstrained by the “Rule of Law. The Del Ponte and Hartmann books reveal that the supposedly neutral post-WW II international tribunals, are *not* unlike the Nuremburg and Tokyo tribunals that stripped “impunity” *from* German and Japanese leaders, only to *create* “impunity” for the crimes of the victorious Allies.

As former U.S. Secretary of State Robert McNamara famously observed in his Vietnam War *mea culpa*, the documentary film, *The Fog of War*:

...if the Allies had lost the war, those of us who planned the gasoline bombing of Tokyo would have been the war criminals...¹⁰⁸

The Del Ponte/Hartmann books make clear that, in terms of the “victors justice” meted out at the Nuremburg and Tokyo tribunals, the post WW-II tribunals were actually more honest in their stated, and *actual*, purpose than the ICTR, which has failed in its mandate to prosecute all crimes committed in Rwanda in 1994.

And, “human rights” activists who fail to comprehend the international political-power realities *underlying* all international bodies, and who fail to demand *equal application* of the “rule of law” to the powerful, as well as the weak, are actually complicit in the misuse of the entire “international justice” project. Un-critical political analysis of the power-relationships under lying international tribunals will ensure politically-motivated “international revenge” visited on the disfavored and less-powerful, as Ms. Del Ponte’s book makes clear. But, despite these limitations that are built in to the system of international tribunals, the Military-1 case use of disclosure principles to tell “the untold story of the Rwanda War” demonstrates that legal rules, when taken seriously and aggressively pursued, make it possible for the “vanquished” to prevent the wholesale “falsification of history” by victors...perhaps, for the first time in history.

¹⁰⁷ See discussion in Del Ponte and Hartmann, *supra*.

¹⁰⁸ Quoting opening sequence of “The Fog of War”, the 2004 Academy Award winning documentary by Errol Garner at www.sonyclassics.com/fogofwar/