My flight from London to Nairobi, Kenya begins with an apology. The booming voice on the airplane loudspeaker informs us that the “noise in the back of the plane”—hitherto unnoticed by me—is the sound of an illegal immigrant from Cameroon attempting to resist extradition from England. We are assured that the criminal is both handcuffed and accompanied by three “escorts.”

At first I think this is honestly some kind of distasteful joke. But no, this is simply the beginning of my journey beyond the invisible curtain of the First World. The airplane is mostly filled with “spiritual tourists”—white, Midwestern college-age American Christians heading to Kenya for a ten-day mission trip. A conversation with two of them sitting next to me leads me to think that this is a thinly veiled euphemism for an exotic vacation. But then again, why am I on this plane myself? Why am I traveling to Arusha, Tanzania, to work at the International Criminal Tribunal for Rwanda (the Tribunal)? I try to stay conscious of the precarious balance between self-interest and lofty idealism that has led me here. I truly hope that I may be able to make some kind of contribution, no matter how small, to the unquestionably important and progressive work of the Tribunal. But I’m also here to “play the anthropologist,” hoping to gain some kind of unique insight into the social structure of the institution. And of course I may not forget how great this will look on my resume. I look around at the fresh-faced excitement and nervousness of these modern missionaries around me. I wonder if any of them feel a kind of vague tension about the true purpose of their journey. Tonight we will fly over both Darfur and the Nile.

Most of the other passengers were Arab and spoke an unusual, half-familiar sounding combination of Arabic and English. The man sitting next to me was named Salid. He told me that he was from Nairobi but that he traveled to Arusha regularly to work for a small NGO dealing in small loans to independent agricultural businesses in the area. I asked him if he was familiar with the Tribunal and what his opinion of it was. Salid told me that he had partied with many ICTR interns and that they liked to have a good time. Fair enough. Feeling comfortable now, I asked him the question most fervently burning in my mind: What do Tanzanians think about Americans? He told me that they appreciate the economic benefits that come with the seasonal influx of American tourists to the area but that East Africans generally have a better relationship with the British. There were two reasons for this, he explained: as the British own a majority of the tourist companies, they have a visibly positive impact on the regional economy through the creation of jobs. The second reason was that, as he said, “the British civilized us.” It was difficult to hide my surprise at this explanation. He elaborated, citing the construction of schools and hospitals as evidence of the civilizing forces of British colonization. I could hear my father’s advice ringing in my ears, telling me that while in Africa I would have to be a “post-post-colonialist” and resist the temptation to simplify things into neat moral categories of “good” and “bad.”

After about two hours, we approached the border between Kenya and Tanzania. I must have been the only one on the bus for whom this was the first time crossing, as no directions or advice were provided. I had no problem figuring out how to fill out the paperwork required to exit Kenya, but as I waited in line to have my passport stamped I knew I would be at least temporarily on my own. The bus, with all of my important worldly possessions, drove away into the crowded distance. Disoriented, I nearly got taken for a different kind of ride. Trying not to outright run but hurriedly rushing towards the direction I saw the bus leave, a man stopped me and told me that I must change...
my money before crossing the border. Alone, in sight of not even a face as familiar as one from my bus, I let him lead me to a ragged booth from which a boy offered me 5,000 Tanzanian shillings (TZS) for $50 US in return, as I unhesitatingly pulled out of my wallet in front of them. The overwhelmingly unfamiliar nature of the situation caused me to forget that $1 US = 1,200 TZS. Fortunately, however, avarice got the better of these guys as, seeing the first $50 bill, the man quickly asked, “You don’t have one hundred?” I pulled the fifty out of his hand, gave the boy his shillings back and resumed hurrying towards the border. After only a few steps another man tried to stop me more adamantly, yelling “Hey! Hey! You can’t cross until you get your passport stamped!” The force of his voice gave me pause, but I just said no and finally crossed through the metal gate of the border to find the bus waiting for me.

A few hours later we reached Arusha. Located in northern Tanzania at the base of Mount Meru, about an hour’s drive from Kilimanjaro, Arusha is the gateway to safari in East Africa. Arusha is also the central locus of internationalism in the East African region. Documents granting independence to Tanzania were signed by the British here. The Arusha Accords, the failed peace treaty signed between Rwandan insurgents and the government, were signed here in August 1993, eight months before the Rwandan genocide began. On August 28, 2000, Bill Clinton gave a speech at the Tribunal in which he described the city of Arusha as “the Geneva of Africa.”

Fortunately, this city is more like a small town. Before I arrived, all I knew was that I would be staying with a woman named Suzanne Chenault and that she lived in the center of the city across the street from the Arusha Hotel. The bus dropped us off at the Impala Hotel, a few miles from where I needed to be. I shared a taxi with Salid and he directed the driver to the Arusha Hotel. Sleep-deprived and wide-eyed, I dragged my bags into the lobby, which was clearly well guarded and, thus, a comforting place for a complete newcomer to leave his things. I wandered outside past the gate of the hotel entrance and started to walk around, hoping for some sign of direction towards Suzanne’s house (she was not available to meet me because she was at a conference she had organized). After about two minutes, one of the “street boys” who walk around Arusha selling batik prints of Maasai warriors and idyllic African landscapes to tourists approached me. The sky had been darkening all day and it felt as though it would start raining at any moment. Seeing the colorful pictures wrapped into the cylinder of brown paper he held under his arm, I was about to tell him that I did not want to buy anything. As if he could sense my anxiety, he asked me if I was looking for someone. I told him that I was trying to find the house of Suzanne Chenault. His face lit up and he exclaimed, “Oh yes, Suzee! She lives very close, I can take you.” He was kind enough to walk me to her house about a block away.

Suzanne quickly became my host, internship supervisor, and friend. She is a slender redhead from California who jokingly refers to herself as “a woman of a certain age.” She speaks English and French, regularly drawing upon French words and pronunciations to express herself more colorfully in English. Her stunningly beautiful home is located two blocks from the Tribunal, a circumstance that would prove invaluable to me, as I wanted to interact with as many local people as possible during my two-month stay in Arusha. A passionate believer in the value of higher education, Suzanne holds degrees from Harvard and UC Berkeley. She has lived in Arusha and worked at the Tribunal for more than eight years. As the position does not exist in the domestic courts of the US, I was intrigued by the nature of her official position of “jurist linguist.”

This position, as I observed it, is what anthropologists refer to as “liminal.” Her responsibilities as jurist linguist technically designate hers as the final word in the translation of documents between English and French, the two “working languages” of the Tribunal. In
reality, however, her responsibilities are so diverse and scattered that they would be better defined as “general linguistic consultant.” Questions of syntax and grammar, the revision of poorly written or translated decisions and motions, and the ghostwriting of all types of legal documents constitute the majority of her day-to-day work. She essentially takes the responsibility of filling in the “gaps” often overlooked by colleagues whose names appear on the finished products. Suzanne provided me with food, housing, advice, transportation, and intellectual insight for which I don’t think it possible to repay.

Generosity is the first word that comes to mind when describing Suzanne, generosity to such a degree that it can easily be mistaken for a kind of deferential anxiety. Through her generosity of spirit, Suzanne compels herself to take upon her own shoulders the work of the Tribunal as a whole but the well-deserved pride that she feels in her linguistic abilities and passionate commitment to her work regularly becomes obscured by the lack of official recognition for her efforts and visible credit for her words. Her incisive intellectualism is only matched by her profound idealism. In this sense, she embodies the very work of the institution of the Tribunal itself in its efforts to reconcile the tragedy of the Rwandan genocide through the application of Western “rationality,” a goal inherently idealistic in its aspirations.

The Legal Labyrinth

The ICTR is unique both in its contribution to international criminal law as well as the nature of the criticism directed at it. Its creation was called for by the new RPF leaders of Rwanda, a member of the UN Security Council during the genocide. However, when it came time to vote on Resolution 955, establishing the creation of the Tribunal, Rwanda’s was the sole vote against. The new leadership of the country claimed to have envisioned a “Nuremberg-like” military tribunal located within the state of Rwanda and capable of enforcing capital punishment against those convicted. They also objected to the limitation of the court’s jurisdiction to crimes committed between January 1 and December 31, 2004 (Bantekas and Nash, 340). The Tribunal was obligated to determine sentencing according to current standards of international law, including the prohibition of capital punishment. It was also to be located in Arusha, Tanzania, where the failed Arusha peace accords had been signed. Thus, from its inception the institution found itself in a precarious position. Criticized from the outside for the slowness of its proceedings and the limits of its capacity for outreach and reconciliation, the Tribunal has also existed in constant tension with the very nation whose name it bears.

This place struck me as simultaneously intimidating and strangely familiar. I had never even visited an international court before and I was anxious to meet the standards of formality and decorum I imagined to be inherent to such a place. I was relieved to discover that the Tribunal is organized very much like any large office complex created for the bureaucratic undertaking of Western business or, in this case, justice. It was this generic quality of architecture and organization of the institution that surprised me the most, particularly because it was this very quality that paradoxically made the place complex and confusing for an outsider to navigate; both the buildings themselves as well as the floors of each building are essentially identical to each other, apart from those containing the judges’ offices or organizations not directly connected to the Tribunal. It took me a whole month before I finally figured out how to get from one place to another without getting lost.

The aspiration towards maximum visibility is central to the organization and operation of the Tribunal. The proceedings of the criminal trials are explicitly intended to be as “public” as possible; while sitting in the gallery of one of the four courtrooms, which are open to any member of the public (local or foreign) who possesses a valid form of ID, one may either watch the proceedings through the bulletproof glass separating the gallery from the courtroom or on one of the two television screens located on either end of the gallery. Hours of
During my second week of work at the Tribunal, I attended the orientation seminar for interns working during the summer 2007 season. Representatives from each of the Tribunal’s organs and branches spoke and I carefully took notes and wrote down the names of a number of individuals who spoke to us as suitable candidates for my research. After the orientation, I sent e-mails to about ten of them. I received only one response, about five minutes after I had sent the initial email. I was overjoyed to see that it was from Moustapha Hassouna, protocol and external relations officer for the Tribunal. A large, imposing man with an even larger and more imposing voice, Mr. Hassouna had provided the interns with an overview of the Tribunal’s history. I was particularly interested in his brief description of the Tribunal’s modest beginnings; according to him, the first documents drafted by the Tribunal were produced on a typewriter in a hotel room in Arusha. I was fascinated by the potential of this story as an illuminating insight into the nature of this place. Anxious but excited to begin my research in earnest, I immediately called Mr. Hassouna’s office (four floors below mine) and arranged a meeting to be held ten minutes later.

Mr. Hassouna greeted me with visible pleasure and interest in the nature of my work. Indeed, his initial responsiveness towards my request for an interview seemed to prove the genuineness of his desire to help me gather information. Thus, I was disheartened and surprised when, after describing the nature of my questions and emphasizing my commitment to strict confidentiality regarding the identity of interviewees, Mr. Hassouna simply told me no. No, he could not give me an interview. I told him that, in addition to the anonymity I was obligated to provide him should he request not to be named, we could conduct an unrecorded interview; I thought perhaps he would be more comfortable if I put the tape recorder away. But this did not make the idea any more palatable. I believe his unwillingness was equally attributable to the nature of my questions – which were focused on personal reflections and opinions about the Tribunal and its operation – as well as the voice recorder I had in my hand as I entered Mr. Hassouna’s office. But I was still quite confused. In my initial email I had quite clearly stated my purpose: to conduct formal interviews with individuals operating at as many levels of the Tribunal as possible, ideally “from judges to janitors.” These would be formal, recorded interviews. I drafted two sets of questions that I intended to ask each willing interviewee. The first question set would focus on the interviewee’s personal and cultural background: Where are you from? How long have you been in Tanzania? What is your favorite kind of music? What do you enjoy doing when you are not working? My second question set would focus on the Tribunal itself: How long have you worked here? What is a typical day of work like for you? In what way do you feel the work of the Tribunal has been successful? How has it failed? Anthropologist Mary H. Nooter’s article titled “Secrecy: African Art That Conceals and Reveals” provides a compelling discussion of the centrality of secrecy in African art, exclusive social groups, and anthropological inquiry itself. Many of its themes resonated in my mind as I formulated question after question about this strange yet familiar organization that seemed to be simultaneously open and closed to me as an “outsider” working inside of it.

As I would soon come to realize, the naïveté of my faith in this method squarely placed me in an old ethnographic dilemma:

“Seldom are researchers… trained to negotiate the burdens they will bear as they acquire knowledge, or find themselves excluded from it. They only know that they must emerge from the field knowing more than they did when they went in. The tools they bring with them, from pens and papers to cameras, flashes, binoculars, tape recorders, and video equipment, are themselves designed to recover, even extract, bodies of knowledge otherwise hidden or dormant.” (57).

These are the tools of both the voyeur and the anthropologist. More importantly, however, they are also the tools of modern proceedings of criminal law.

I began to conceptualize this place as an “open secret,” a paradox central to the social function of secrecy. Nooter describes “the fact that the secret is frequently right on the surface for all to see. Transparent, like glass it is visible yet impenetrable… A secret, in other words, is only secret when identified as such” (88). As an organization, the Tribunal is explicitly and visibly dedicated to precisely this mode of transparency. But it is this very aspect of
organizational transparency that seemed to preclude any possibility for personal transparency on the part of the organization's individual members.

As an organization, the Tribunal may be described in three general ways: (a) a UN institution; (b) a bureaucracy; and (c) an institution of law. Secrecy or "confidentiality" is in fact integral to the functional operation of all three types of organizations. This fact rendered my intended methodology, reliant as it was on the use of a voice recorder, simply impossible to use. While I was able to speak to many people working at all levels of the Tribunal on both a professional and personal level, the moment the word "interview" entered the conversation, an almost visceral aversion to the idea would reveal itself on their faces. Interestingly, the two groups of people most visibly unwilling to make any kind of personal statement on record were the two ends of the social continuum I had hoped to navigate through: judges and janitors.

It is now clear to me that my methodology of formally recorded interviews – an anthropological "norm" of conducting research – essentially amounted to a kind of "interrogation" in the minds of these individuals. Submitting to an obligation to answer questions on record would be the exact inverse of the judges' roles in the courtroom. And the dynamic of agreeing to answer questions posed by a foreigner on record seems to bear a strong resemblance to the court proceedings themselves, consisting of exclusively African defendants on trial before "the international community" of foreign judges and lawyers. The ultimate goal of my proposed project of interviewing "judges to janitors" had been the identification of commonality between the perceptions of these two disparate groups of people. Ironically, I was able to make this identification in the mutually shared unwillingness to answer questions on record.

The Sound of Silence

Amari is an 11-year-old Tanzanian boy. Born Omari Hussein, his Muslim parents fell victim to the AIDS virus currently ravaging Africa. He was seven years old at the time. His closest living relative was his aunt who, having several children of her own, decided that she would be incapable of caring for him. Desperate, she appealed to Suzanne Chenault, a local white woman who had employed Amari's father as a painter. Presenting herself as a "friend of the family," the aunt claimed that Amari had no living relatives left. Suzanne, unmarried and having no children of her own, acted out of profound compassion for this newly orphaned boy who could not speak a word of English. She took him in, committing herself not only to this young child but also to the unknowable pain of his childhood and loss.

Although her mother was Jewish, Suzanne is an ardent Christian. Her house, located directly in the center of urban Arusha, is part of the property of the Anglican Church of Tanzania, which sits directly in front of the house. Perhaps the first decision she made regarding this boy fate had thrust into her hands was that he was to be brought up as a Christian. He would learn English and be instructed in the Western mode of critical reasoning and scientific inquiry. Through Suzanne, Amari would be given more than a "second chance"; he would be given all the opportunities the "First World" bestows upon its youth.

For Suzanne, the most difficult part of this transition was the silence. Every time she would confront Amari about a mistake he had made, he would retreat into a cold, unreadable silence. When Suzanne brought up this issue during one of our many long conversations, I tried talking about my own struggle for expression in confrontational situations. I told her that I too often go silent or "shut down" when confronted with anger or harsh criticism, and I expressed my own observation that although Amari exhibits a remarkable proficiency in the English language, the "international school" that he attends merely teaches students to repeat what is stated by their instructors; he had been taught how to put words together in English but he had never been taught to express himself in English.

This seems to bear a profound connection to one of the problems of the Tribunal itself. As surviving victims of the genocide, Rwandan witnesses are called upon to provide testimony. They do not enter the court as "injured parties" speaking on their own behalf, but rather as "sources of information" summoned for the exclusive purpose of transmitting that information. Consequently, they are subject to the often hostile process of cross-examination; the parameters of their statements are narrowly bound by the questions posed to them by lawyers, many of them foreign. There is, essentially, no room for "storytelling," a process central to the healing of trauma. And this is one of the central ironies of the entire Tribunal "project" of using law to facilitate reconciliation and democratization; it is through adherence to the procedural requirements of Western, common law – the right of a defendant to cross-examine prosecution witnesses – that this legal process may actually work against its own perceived substantive purpose: reconciliation.

Dr. Judith Herman's groundbreaking work on the nature of trauma and secrecy provides great insight into the problem of adjudicating trauma, describing the adversarial legal system as an inherently "hostile environment; it is organized as a battlefield in which strategies of aggressive argument and psychological attack replace those of physical force" (Trauma and Recovery, 72). And here we come to the critical question: are the preservation of defendants' rights and the appropriate treatment of trauma victims mutually exclusive in a court of law?

For Suzanne, it is Amari's silence that has come to represent all of the traumas, both real and imagined, that he has endured in his short life. Indeed, Suzanne's intuitive perception that this silence is an index of traumatic memory is most likely quite accurate: "In their predominance of imagery and bodily sensation, and in their absence of verbal narrative,
traumatic memories resemble the memories of young children” (38). Thus, it is the absence of language that speaks most directly to that insatiable demon of fear. Here we see the dialectic of language come full circle. If trauma is primarily remembered and processed wordlessly, the only way to make this trauma knowable is by creating a vocabulary for it. Indeed, it is the articulation of such unspeakable memories that should be viewed as the ultimate goal of an institution such as the Tribunal. So perhaps this, then, is the real question: Is the “truth” of our rational legal system of objective evidence and the inherently nonverbal truth of individual trauma mutually exclusive? Is there any way to reconcile one with the other? If history has taught us anything, it is that if the truth remains unspoken, there are more than enough lies to take its place.

**Origin of Species**

In Tanzania, July 7 – known as “saba saba” (“seven seven”) – is an annual national holiday, celebrating the creation of the Tanganyika African National Union in 1954. On saba saba, July 7, 2007, I found myself wandering through the ancestral plains of the Great Rift Valley.

A member of the Maasai tribe of semi-nomadic cattle herders who roam the fields of rural Kenya and Tanzania, Saitoti, whose name means “one who has killed a lion,” had worked for Suzanne as an askari or guard since before my arrival here. Suzanne, in her generous way, employs as many local people as guards and domestic helpers as she can. But Saitoti, the one I was least able to communicate with verbally, was paradoxically the one I felt the strongest connection with during my stay with Suzanne. The Maasai speak Swahili as a second language, Maa being their first. Regardless of the fact that Saitoti’s English was only a little bit better than my Swahili, I felt a certain affinity with him. Occasionally Suzanne would send me and Saitoti to walk her dogs at night. With Saitoti at my side, these walks allowed me to explore the city of Arusha during the dark hours of night. I could never have done this alone.

I seized the opportunity to accompany Saitoti to his home, located in the semi-arid plains of the Great Rift Valley in rural Tanzania. Saitoti is a member of what is essentially the last remaining “tribe” in Tanzania, the Maasai. The Maasai are semi-nomadic pastoralists; they roam over the countryside with their cows during the day before returning to their mud-and-stick huts. The boma or traditional Maasai village, consists of a small number of huts arranged in a circular pattern around a central area reserved for cows, donkeys, and chickens. Each boma is composed of a single family.

Tanzania consists of over 120 tribes, virtually all of which have become assimilated into the ever-widening system of global capitalism that primarily emanates from the US but has now come to extend to the very ends of the earth. The Maasai, however, have retained many elements of their culture from ancient, pre-colonial times, including their unmistakable dress, their language, and the structure of their communities. However, it has become increasingly common to see Maasai draped in the vibrant colors of their traditional garments with a walking/herding stick in one hand and a cell phone in the other. Artistic renderings of traditional Maasai life have virtually monopolized the “tourist art” trade in northern Tanzania, from rosewood carvings of stoic male warriors to mass-produced batik fabric watercolors of Maasai lovers entangled in a surrealistic embrace, black limbs twisted and elongated on a bright purple background. It is an ironic twist of global capitalist logic that the same culture that has most visibly resisted the forces of modernization in Tanzania has become one of the most ubiquitous “products” of mass-produced tourist art in East Africa.

Interestingly, this process is effected through the image, not the word. Perhaps by “capturing” the image of the last traditional culture of the region, the masses of modernized tribes in Tanzania betray a nostalgic sense of their own loss of tradition and native culture over the past half-century.

I departed from urban Arusha with Amari, Thomas (another askari), and Saitoti. Suzanne dropped the four of us off at the Arusha bus station, an anarchic mass of bodies, commodities, cars, buses, and diesel fumes. After a short negotiation in a language I did not understand, the four of us got into a battered station wagon: our taxi to the countryside, I presumed. The economics of transportation in East Africa dictate that an empty car seat equals a profit lost and as the car filled with passengers I found myself wedged between the driver and a local woman, sitting in the center “seat” which consisted of nothing but the space between the two seats to either side of me. The car was a manual shift, which meant that each time the driver shifted gears he had to reach between my legs. The speedometer was broken and the windshield cracked. After a ride of about half an hour towards the countryside, we were dropped off. At first I thought that we had reached our destination but upon closer inspection, I realized that this was simply a stop on the way to the boma. We had arrived at a Maasai market, which looked like a construction site, the rudimentary foundations of modern commercial architecture surrounded by men, women, children, cows, and garbage. Saitoti told me that the large building under construction there would be a “real” market when it was finished.

I waited with my companions until a ride showed up; they would know when this would happen and what it would look like. After about an hour of waiting in the midday sun, a blue Toyota pickup overflowing with Maasai came rumbling through the dust and up to the market. To an outsider, the Maasai give the impression of existing as one extended family; everyone seems to know each other. As soon as the pick-up’s cargo unloaded itself, Saitoti engaged in negotiations with the truck’s driver, asking for a ride to his village. In what had by then come to be a stinging familiar situation, the driver’s price was quite steep: 25,000
Tanzanian shillings (about $20). This was an astronomical price and an example of what many foreigners come to understand as a "mzungu tax": he was charging a premium for a white-skinned passenger.

After about an hour of long and seemingly complex negotiations, Saitoti finally managed to persuade the driver to take us for no more than the cost of gasoline, about 7,000 TZS. We drove for 20 minutes on the same highway we had taken to the market until we turned off the paved road and into the vast plains that the Maasai call home. I chose not to sit in the seat at the front of the pickup truck, preferring to stand on a bench placed in the back in order to take in the landscape more fully. As we entered the undeveloped landscape of desolate beauty leading to the boma, the eyes of those we passed were fixated on me. Apparently, I was rendered a spectacle by the relative remoteness of this area in terms of common tourist routes and safari expeditions.

It was quite fortunate for me that when we arrived, Saitoti not only warmly introduced me to his entire family but implored me to take a multitude of pictures of his family and his home. I was especially struck by the beauty and intense curiosity of the children here. I was told that these children had never seen a white person before. Most of them regarded me with a countenance of reserved fascination; put simply, they stared at me with a mixture of fear, interest, and shyness. Very quickly, however, the more assertive and extroverted of them began to ask me questions, laughing at my lack of understanding and dumb, nodding smiles.

We had arrived hot, tired, and a bit sore from the bumpy ride, so after introductions and some preliminary family pictures, the four of us joined the men for lunch under a nearby tree. The menu consisted of goat leg roasted on an open fire and our utensils were machetes and fingers. When I asked where all the women were, I was told, simply, that men rosted on an open fire and our utensils were machetes and fingers.

After lunch, we departed the boma to explore the countryside. The ecological diversity of the area was absolutely shocking; in this place, home to the most ancient of human experiences, desert, forest, mountain, and plain converge into an environment impossible to describe by any name but "Earth." The remnants of past volcanic eruptions carved scars of ash across the dusty plains of the Valley. Bushes made of thorns dotted the landscape and tugged at our clothes as we passed. The Rift itself divided the land like a serpent. This place, which gave birth to the first human thought, looked as much like the end of the world as the beginning.

We hiked for hours, stopping to rest occasionally at a camel, cave, or cliff. Finally, when we had reached the furthest leg of our journey and I the saturation point of exhaustion, we came to the top of a very steep hill. One Maasai man was curing a strip of animal hide hanging from a leafless tree. At the edge of the precipice was a young Maasai girl who immediately caught my attention. Her eyes contained a fierce, passionate curiosity equaled only by the reserved shyness that tempered it. My gaze reflected hers as the intensity of her stare drove me to a self-conscious shyness myself. Thomas asked her if she spoke Swahili. She shook her head. School? No. I somehow knew that I had reached the furthest point of my journey. And in the eyes of this girl, with whom I could never communicate with words, I felt as if I were somehow…home.

As we began our hike back to the boma, this girl’s gaze burned into my memory as a kind of psychic landmark of a place beyond my memory yet somehow familiar. Just as it is through images that the Maasai have become one of the most profitable “cultural products” of Tanzania, the image of this young girl’s stare formed for me a kind of wordless connection to a past beyond memory.

That night the only visible light was provided by stars, rendering my eyes — dulled by the incessant glare of electric light — virtually blind. When it was time for bed, two of the children mercifully took my hands and guided me towards the hut I was to sleep in that night, as if they could sense my blindness. I slept in the hut of Saitoti’s mother and, while the smoke from the fire lit inside the hut for warmth and light burned my eyes, I slept relatively well. The next morning the children were much more open in their curiosity towards me. When I knelt down to try and interact with them face to face, they all reached out to run their fingers through my strange-looking hair. I let them each try on my glasses and they laughed in turn at their relative blindness through the lenses.

The next morning being a Sunday, Saitoti asked me if I would like to go to church with him. The Maasai, who have always practiced a form of monotheism, were converted to Lutheranism by the Germans. The Germans were the first to colonize this area in the late nineteenth century and the Lutheran Church is one of the remnants of their conquest. While waiting for the service to start, Saitoti brought me into the office of the church, a small room adjoined to the main building. He explained to the church council who I was and where I was from. They told me, through Amari, that I was welcome; the only requirement would be that I introduce myself to the congregation and state whether or not I would be joining their church. As Amari, a child of 11 years, possessed the greatest understanding of both English and Swahili, he was compelled to serve as my translator. Here’s what I said:

"Hello and good morning. I would like to thank all of you very much for welcoming me into your church. It is a great blessing to me to be able to hear your music and your words. My own grandfather was a Lutheran preacher but I myself am a Jew, from..."
Towards the end of the sermon, the preacher addressed me directly in English: “People here like you. You are very welcome.”

Constructing a Legacy

The opportunity to contribute to the formulation of a “legacy symposium” scheduled for the November before its final year of operation in 2008 provided me unique insight into the “institutional culture” of the ICTR and how this culture shapes the Tribunal’s view of itself. In the process of drafting several documents related to the preparation of the event, including invitation letters, contact lists of individuals, and organizations, the event program, grant proposals, and general project descriptions, I collaborated daily with Suzanne and Timothy Gallimore, spokesman for the prosecution and an infinite source of valuable insight. Together we deliberated about the nuances of the language we were to use in describing the event as well as the list of topics. We settled on a list of seven:

1. Genocide, Crimes Against Humanity and War Crimes: Case Studies in Criminal Responsibility
2. Freedom of Speech and Incitement to Criminal Activity: A Delicate Balance
3. Sexual Violence Under International Law
4. Fairness of the Proceedings
5. Outreach of International Justice: How Can the Work of an International Criminal Tribunal Foster the Rule of Law in National Jurisdictions?
6. Transfer of ICTR Jurisprudence to Rwanda and Beyond
7. East Africa and the Future of International Law

The structure of the topics was intended to be both retrospective and forward-looking, beginning with a discussion of the past work of the Tribunal and the jurisprudence it has developed and ending with an evaluation of this new law’s potential for promoting a legal culture of human rights in Rwanda and the East African region. On June 11, during my first month at the Tribunal, the prosecutor filed the first official request for the transfer of a case to the national jurisdiction of Rwanda, where lawmakers had officially voted to abolish the death penalty earlier in the month. The question of how to transfer the work of the Tribunal itself to Rwanda was one of our main concerns in structuring the program.

As judicial decisions under international law are technically non-binding, unlike decisions in the common law system from which the Tribunal draws the majority of its procedural standards and conventions, the question of what to do with this body of law is valid and indeed crucial. As an ad-hoc international court created by the UN Security Council, the Tribunal is a temporary court. Its autonomy and authority are bound by the limitation of time as well as the transparently political origins of its foundation. Thus, an accurate evaluation of its contribution to the world will remain problematic at best and impossible at worst until many years after the court’s mandate has expired.

One of the documents I drafted was a synopsis of the event titled “Information on the ICTR Symposium on the Legacy of International Criminal Courts and Tribunals for Africa.” Apart from the bureaucratic formalism immediately apparent in the very title of the document, the use of the preposition “for” is illustrative of an inevitable sense of superiority both latently and explicitly embedded in the culture of the institution, most clearly exemplified by the institution’s name itself: the UN International Criminal Tribunal for Rwanda. This attitude is most clearly evident in the Tribunal’s description of its “Outreach Programme.” At first, the element of superiority is obscured by the liberalism inherent in the Tribunal’s self-perception; a document on the Tribunal’s website titled “The Tribunal at a Glance” under the heading of “Future Outreach” reads:

Despite its achievements, the ICTR still faces the challenge of informing Rwanda’s rural population of its progress... It is envisaged that outreach activities will be expanded to provincial levels. This project will engage key target groups, inform them about the ICTR, mobilize them to promote human rights and foster the culture of accountability inside and outside of Rwanda.

This statement of purpose includes both procedural (“engage... inform...mobilize”) and substantive (“promote human rights...foster the culture of accountability”) goals. However, there is a certain disjunction of logic evident here. This statement encapsulates an attitude towards the value of information that is generally Western and particularly bureaucratic. This statement belies a fundamental assumption implicit in the culture of the institution itself: that the concealment of knowledge is inextricably correlated with undemocratic forms of social and political interactions; thus, the dissemination of knowledge becomes both a means and an end in itself. The relationship between the information to be spread and the cultural effect this information will have is assumed to be self-executing. According to this understanding, the ostensibly simple action of “informing [Rwanda’s rural population] about the ICTR” will serve as an adequate mechanism for the accomplishment of the Tribunal’s substantive goals of human rights promotion and the fostering of a culture of accountability.

However, such logic is both circular by nature and profoundly resonant with the history of proselytization and colonialism in Africa. Whether it be the New Testament or the judgments of the International Criminal Tribunal for Rwanda, “the Word” is socially constructed as possessing a quality of universal truth that is self-evident upon its acquisition by hitherto “ignorant” masses. Official Tribunal trips to
Rwanda are called “missions.” In order to become truly effective, efforts at outreach undertaken by the “international community” must become aware of the limitations inherent in this approach and its resonance with historical models of religious colonial hegemony.

But this has no bearing whatsoever on the value of these efforts’ substantive goals. I believe that the ICTR is an institution that possesses an unprecedented awareness of its own limitations and that this awareness is a product of both the material limitations under which it is obligated to fulfill its broad mandate as well as its unique position within the trajectory of institutions of international law since Nuremberg. This unique awareness is central to the Tribunal’s conception of its own legacy and what this legacy will look like.

The “Information” document I worked on, which is available on the Tribunal’s website, states that, in light of the Tribunal’s rapidly approaching dissolution, “a myriad of issues related to the impact of the Tribunal’s work and its subsequent repercussions within the complementary fields of national and international law have emerged.” The nature of this “complementarity” is central to an understanding of the Tribunal itself. And here we encounter a paradox. As stated in Article 9 of its governing statute, the Tribunal is expressly delegated the authority to “have primacy over national courts” and “may formally request national courts to defer to the competence of the International Tribunal.” Thus, the Tribunal is rendered an authority superior to any possessed by any domestic, national jurisdiction. However, as the Tribunal’s mandate is temporary in nature, this supremacy is rendered equally ephemeral. Subsequently, a discussion of the Tribunal’s legacy is really a discussion about the transference of this authority – embodied in the Tribunal’s jurisprudence – to the domestic jurisdictions over which it has “reigned supreme” during its existence.

Here we encounter a question on the international level strikingly similar to the question of the court’s outreach to Rwandan citizens on the domestic level. The presentation, discussion, and dissemination of jurisprudence take center stage as the primary mechanism of effecting the changes inherent to the transformation of society that the institutional culture of the Tribunal values as paramount. Presentation of this jurisprudence is the first step in this process as envisioned by the synopsis: “The ICTR’s jurisprudential developments will serve as the starting point for discussion directed towards the formulation of ideas and initiatives intended to strengthen Africa’s capacity to serve as a global centre of international law.” Next, discussion is conceived of as the next step in the process of legacy creation, the value of this discussion determined by its adherence to democratic principles: “The follow-up discussions will facilitate mutually beneficial interaction between participants and presenters by incorporating the perspectives of all. The ultimate goal will be the attainment of a great diversity of voices and opinions.”

Here we see again a well-intentioned conflation of means and ends. The event’s purpose was to be the formulation of policy recommendations for the transference of law from the international to the regional and national levels. But the method proposed to effect this formulation – discussions designed to include a maximally diverse array of opinions – is one that rarely lends itself to the coherence and unity necessary to create such policy recommendations. There is an underlying assumption here that if the discussion itself is conducted in a democratic way, then the discussion will have a democratic effect.

Both the procedural and substantive ambitions of the symposium are summarized as follows:

…this symposium will serve to accomplish multiple goals, drawing upon a maximally diverse roster of participants and speakers in order to contribute to the development of deeper and broader understandings of the correlations between international criminal law, democratization, reconciliation and the implementation of human rights.

Here we confront a nexus between the legal, the political, and the cultural, a nexus that, I argue, contributes to the uniqueness of the institution itself as well as the problems it faces. Shoshana Felman’s The Juridical Unconscious explores the ways that critical legal events exist “precisely at the juncture — at the very critical convergence — of the legal and the political” (63). The legacy symposium may be viewed as an event located at the critical convergence of several junctures simultaneously: between the legal and the political; between the international legal community and the legal community of the surrounding region; between presenters and participants; and, most importantly, between the Tribunal and Rwanda.

The Tribunal’s utilization of jurisprudence as the primary tool for effecting positive legal change in the East African region is revealing. Felman expounds upon the potentially transformative use of legal verdicts upon society and collective memory: “In their arbitrating functions between contradictory facts and between conflicting versions of the truth, verdicts are decisions about what to admit into and what to transmit of collective memory. Law is, in this way, an organizing force of the significance of history” (84). Indeed, the legacy symposium is an event that seeks to consolidate the Tribunal’s role as “an organizing force of the significance” of the Rwandan genocide itself. The consciousness that the genocide was a result of simultaneous legal, political, and cultural “failure” on both the international and domestic level is a central element in the particular culture of the Tribunal itself, an element that renders the institution unique in both its approach towards post-conflict resolution and the problems inherent in effecting this approach. This consciousness is clearly evident in the conceptualization of the legacy symposium in particular and the Tribunal’s institutional doctrine of outreach in general. Both require the Tribunal as an entity entrusted with the
credibility of the international community to transcend the exclusively legal and to engage with its potential effect on the political and cultural realms of the East African region.

"French Soldiers Were Playing Volley Here"

Towards the end of my two months in Africa I was presented with an incredible opportunity: the chance to visit Rwanda. As a Tribunal intern, I was eligible to take the private UN plane reserved for legal officers and witnesses alike. Fortunately, although I had not planned this journey in advance, I would be accompanied by two other Tribunal interns: Vikas and Nate. Vikas was of Indian descent and Nate half-Italian and half-Ethiopian. While all three of us were American, I remained the mzungu of the group.

The motorbike roared like a chainsaw as it persisted up the winding, unpaved Rwandan road towards the top of the hill it was hugging. One of the most common and popular ways to travel in Rwanda, these "moto-taxis" are just large enough for one passenger; drivers always carry an extra helmet with them for their clients. Having been in the country for two days, I had decided that now, delving furthest into the "heart" or center of the African continent, would be the perfect time to take pictures of the landscape rushing past me.

The splendor of seemingly endless, vernally green hills quickly spun my mind into a euphoric happiness. Not only death but life in Rwanda looks more vivid to the outsider. I had finally immersed myself, successfully just being where I was, trusting in the elements of humanity and nature around me. I didn't even know where the moto-taxi I was riding was going, having abandoned the knowledge of place for the experience of it.

The day before, Vikas had met an extremely amiable local man who agreed to show us around Butare, a province in south Rwanda that borders the country of Burundi. Probably because of the barely manageable language barrier between us, our guide did not tell us anything about Murambi apart from its name. I knew that some of the worst massacres of the genocide had occurred in Butare but Vikas, Nate, and I had spent the day visiting the local university and national museum. Neither place really gave us any vivid insight into this fact. When we reached the top of the large hill and dismounted from our moto-taxis, I quickly pulled my helmet off and looked at the pictures I had taken. They were absolutely amazing, by far the most beautiful pictures of an African landscape that I had captured. The fact that I had shot them while riding a speeding motorbike up a rough dirt road made them even more impressive to me. I enthusiastically showed them off to Vikas and Nate. I was so absorbed in the images I had captured that I did not notice the group of about 40 Rwandans standing about a hundred feet away from me.

As we headed towards the plain, uniform buildings ahead of us, I stared, entranced, at the view of the landscape that this hilltop gave to its visitors. I had enough time for a few more pictures until everyone began walking towards the building complex. This place consists of several mundane looking rectangular buildings, made out of right angles and brick, surrounded by fertile hillsides. A perfect example of what may be called "bureaucratic architecture," its outward appearance betrayed nothing of its nature; it could be a prison, hospital, library, office complex, or dormitory. It was in fact originally designed as a technical college. In 1994 it became used as a French military post and a mass grave for the victims of massacres in the area. Now it is a memorial.

The rooms are filled with powder white skeletons laid out on tables, twisted and mutilated beyond recognition as anything except a horrifying reflection of something which was at one time human. Some of them are still wearing clothes. Many of them are quite small. I walked through each room, my horror tempered only by my curiosity. The pungent aroma of lime burned in my nostrils. I had never seen anything like this. As I walked from room to identical room and building to identical building, my mind compulsively flooded with images of the Holocaust. It occurred to me that at the level of bone we are all identical.

The shock of these exposed skeletons forced me to reconsider the way I had conceptualized my "place" in Africa, particularly in terms of "privilege." From my experiences in Arusha, an undeniably poor but relatively stable tourist town, I had struggled with the fact of my privilege in primarily economic terms: I am from a rich country, I am in a poor country. While this is an obvious simplification, it was this basic fact that came to mediate my interactions with local people in often frustrating ways. Regardless of these frustrations, however, I had spent all of my time until now coming to terms with the fact itself. But Murambi shattered these reflections. I am privileged because I have never had to even consider the possibility of my right to life being violated. I am privileged simply because I am alive.

I still had my camera out and I used it. I took six photographs of the skeletons, bones and skulls laid to rest. I told myself that I was taking these images for myself as much as for everyone I cared about back home. After a few minutes, one of the Rwandan visitors let out a cry of mourning and collapsed. Before we left we saw a Rwandan woman crying with her face covered, escorted by several friends or family members. I could not help but wonder whether her face would have been covered had I not been there.

The grounds were marked with a number of memorial signs. Most of these signs indicated areas where mass graves were located during and after the massacres that claimed 50,000 human lives. The skeletons laid out in the rooms were taken from these mass graves. Next to one of them, a signs reads:
As I reached the site of the mass grave at the edge of the hilltop, I was shocked to see houses and people only a few hundred feet from where I was standing. As a small boy ran towards me, the faint echoes of children and cows in the close distance washed over me. Confronted again with the stunning beauty of this place, I felt for the first time that intimate embrace between beauty and horror.

I came to Rwanda thinking myself aware of the limitations of my own capacity for understanding the lives, history, and culture of this country. I knew that despite my own Jewish heritage there would be no possible way for me to even begin to comprehend. My fundamentally complete ignorance about Murambi seems almost proof of this fact; the inner experience of the genocide – that thing I came here to “study” – is essentially unknowable to me. In revealing to me the extent to which I cannot know, these bones spoke volumes.

The Legacy of Arusha and the Promise of Nuremberg

I believe that the legacy of the Tribunal will be, as are all meaningful legacies, one of mixed success and failure. By the Tribunal’s very first judgment in Akayesu, it had already accomplished an unprecedented goal in passing a conviction on the crime of genocide, the first in history. Thus, the Tribunal’s legacy is inextricably linked to Nuremberg and its “promise.” The Nuremberg International Military Tribunal of Allied Powers was not, as it is now remembered to be, a “genocide court.” The word “genocide” never appears in the Charter or judgments of that historic tribunal. While Nuremberg was undoubtedly and influentially progressive in its attempt at prosecuting crimes against humanity, it was primarily concerned with prosecuting individuals for war crimes, crimes against peace, and conspiracy to commit any of these actions – essentially putting on trial the crime of “war” itself, not genocide. Crimes against humanity were considered legally justiciable only within the context of these “larger” crimes and were subsequently rendered extrajudicial in nature as crimes of their own (Schabas, 40). Furthermore, the prosecution of Nuremberg took a predominantly “documentary” approach towards evidence, attempting to avoid the potentially disrupting effect of calling upon recently traumatized individuals to provide evidence in court.

This is not a fact commonly attributed to the Nuremberg Tribunal for two main reasons. The first is that much of the evidence against the defendants was based on their involvement in the deportation and extermination of Jews. Because of this, Raphael Lemkin, the man who created the word “genocide,” stated that “[t]he evidence produced at the Nuremberg trial gave full support to the crime of genocide” (Lemkin, 147). And this leads directly to the second reason that Nuremberg’s failure to establish genocide as a crime unto itself has been forgotten: with the explosion of Holocaust-consciousness that erupted in the early 1960s, following the Eichmann trial in Jerusalem, the significance of the Nuremberg proceedings changed. As the concept of genocide began to become more and more consciously accepted and considered, Nuremberg became (at least in America) the collectively agreed upon model for using the “rule of law” to enforce international human rights. Thus, the “promise of Nuremberg” is a remarkably accurate phrase; as Nuremberg is commonly credited for establishing a legal norm it never actually established, the legal conviction of individuals guilty of the crime of genocide as such was a project left unfinished, just as a promise refers to a future action.

The International Criminal Tribunal for Rwanda has fulfilled the promise of Nuremberg. By creating the legal framework for the prosecution of genocide as a crime, the Tribunal’s very first judgment established this as a fact. However, this success of the Tribunal is also the root of its central problems and difficulties. Nuremberg was undoubtedly a crucial model for the work of the ICTR, particularly in the use of simultaneous translation systems and the fusion of two different, albeit Western, legal systems: common law and civil law. The limitation in using Nuremberg as a model is most apparent in the Tribunal’s effect on traumatized witnesses, because Nuremberg was not intended to prosecute the crime of genocide. Due to the nature of the crimes prosecuted at Nuremberg, the dynamic of the cross-examination as a “battleground” was appropriate to the type of information needed to prosecute these crimes. However, in order to accomplish goals very different from Nuremberg’s, namely the ICTR’s stated goals of “reconciliation” and “democratization,” a serious and non-ideological evaluation of the adversarial legal system’s potential to re-traumatize survivors of genocidal violence needs to be undertaken. This problem is an example of what sociologist Max Weber described as an “iron cage” in which bureaucracies apply procedural rules in ways that harm those they are intended to serve (Brubaker, 173).

In order to accomplish this and begin to formulate alternative models for the adjudication of genocidal crimes, I believe we must open the doors of legal admissibility to non-verbal forms of expression. Contemporary psychological understandings of trauma must be incorporated into the judicial process of assigning responsibility for the infliction of such trauma. If, as Felman states, “what has to be heard in court is precisely what cannot be articulated in legal language,” we must redefine our conceptions of the admissibility of verbal evidence provided by traumatized individuals in an adversarial courtroom (4). As trauma is often experienced and remembered as an image-like imprint, the incorporation of non-verbal evidence would render these proceedings less “objective” in the strict sense but would actually hold the potential for less translation to be required. When the words to describe such crimes fail even the most articulate, we must look beyond words.
Sources Cited and Further Reading


