Genocide: Just Beyond the Reaches of Justice?

In 1979, Elie Wiesel, a renowned writer and Holocaust survivor, published a play with a striking premise surrounding blame and the desperate search for justice in the wake of horrific acts of violence. *The Trial of God*, taking place in a fictional setting in the 1600s, portrays the few survivors of a recent pogrom attempting to seek justice by placing God on trial for allowing such atrocities to occur. While the complexity of the questions and thoughts presented in Wiesel’s play open countless discussions on how individuals cope with genocide, it also brings forth the question of just how achievable justice is in this world. If it is true that, like the remaining Jews in *The Trial of God* concluded, accountability ultimately rests with a Higher Power, then how can justice truly – or fully – be attained following genocide? The world, though, has taken considerable steps in the seemingly ceaseless fight for justice through the wide-ranging use of tribunals in the hope of safeguarding future generations from the horrors of genocide, and thus offering compelling reasons as to why it is possible to find justice – albeit in the form of reconciliation – in the aftermath of genocide.

There exist countless definitions of “justice” in today’s world, with Merriam-Webster defining it as “the process or result of using laws to fairly judge and punish crimes and criminals”, while another definition states it as “conformity to truth, fact, or reason” (“Justice”). The Center for Economic and Social Justice further defines justice as “giving to each what he or she is due”, opening the question as to what, exactly, is “due” to the victims of genocide (“Defining Economic and Social Justice”). Logically speaking, what ought to be “due” to them is what was taken during the chaos of genocide. But, how can those lost be brought back from the grave? How can stolen livelihoods, broken families, and dismembered communities be restored? Is it even possible to mend some of the traumatic memories and psychological burdens imposed upon so many victims?

Therefore, many tend to resort to the more encompassing definition of “conforming to
true”, which may offer a much easier prospect at fulfilling. At first glance, this perspective may be found to be appealing, even satisfactory in achieving justice after genocide. Certainly it would be the most efficient option; merely have the perpetrators – no, the entire global community – acknowledge the atrocities that were committed and the inherent evil and criminality they were soaked in, and ensure that future generations will be educated on the lessons to be learned from the horrors and crimes associated with genocide. But, for those with a conscience who are educated on the subject, how can simply agreeing on the historical veracity of such genocides be enough to constitute justice? Moreover, it is widely known that there are still many who vehemently deny the Holocaust, and yet more (including both the Turkish and American governments) who refuse to recognize the Armenian genocide of 1915. The world’s genocides are, intrinsically, about people and their stories. While all of the aforementioned definitions of justice are undeniably true, they simply do not afford enough justice to those most affected by genocide.

The almost universal response to genocide and the difficulty of attaining justice associated with it has resulted in the widespread use of special tribunals and international courts to try and penalize the perpetrators. The Nuremberg trials, conducted soon after World War II in 1945 in order to prosecute the instigators of the atrocities committed by the Nazis, are perhaps the finest examples of the international community imposing international law on offenders. In fact, it is regarded as the “first trial in history for crimes against the peace of the world” (Eisikovits). However, even though the Nuremberg trials, viewed often as the “pinnacle of legalism”, were successful in prosecuting 24 Nazi officials and sentencing 19 of them, they were nonetheless “based on ex post facto charges”, revealing questions on the full legitimacy in their authority (Eisikovits). Therefore, new methods of conducting means to punish war criminals have arisen in the years since Nuremberg, such as the Rwandan Gacaca courts.

Gacaca, a system of traditional community justice long an intricate part of the Rwandan culture, was adapted and revised following the Rwandan genocide to most effectively and efficiently prosecute the hundreds of thousands of individuals accused of participating in the genocide – something that would have taken the official legal system centuries to accomplish (Eisikovits). This grassroots form of local conflict resolution
provided both a unique fusion of modern and traditional restorative justice as well as an efficient model that offered the most hope in healing the wounds of a genocide so particularly personal in its implementation. However, the Gacaca courts, according to some legal scholars, appeared to fail in maintaining an adequate balance between retributive and restorative justice, which resulted in the punishment of perpetrators being more frequently foregone or diminished in importance in the attempts to fully mend the broken relationships of Rwandans (Molenaar). Reconciliation is “even more likely to be hindered than facilitated” if there is a lack of punishment during the judicial process, as “punishing offenders is required due to the specific character of the genocide in Rwanda” (Molenaar). These observations ultimately lead to the unfortunate conclusion that, while innovative forms of judicial proceedings such as Gacaca, and traditional tribunals like the paramount Nuremberg trials oftentimes offer promising hopes for justice – no doubt aiding in the formation and preservation of crucial frameworks of international law that increasingly foster a global culture indignant of genocide – but fail to deliver in awarding full justice to the victims, especially in a timely manner. Even Justice Robert Jackson, the chief American prosecutor at the Nuremberg trials, remarked: “Never before in legal history has an effort been made to bring within the scope of a single litigation the developments of a decade, covering a whole continent, and involving a score of nations, countless individuals, and innumerable events”, suggesting, regrettably, the inability of trials, such as those conducted at Nuremberg, to produce justice after genocide simply due to the terrible extent of the atrocities (Jackson).

While tribunals are absolutely necessary and appropriate in furthering the condemnation of genocides, which in turn aids in the prosecution of some criminals, they falter in achieving absolute justice. The question remains, how, then, can justice truly be met in a more perfect world, under modern apparatuses like the international courts? The answer, however, remains as rather unsatisfactory to the righteous demands of many in society. The innumerable crimes of the Holocaust and other genocides are unique to the world and legal system not only in their extreme dreadfulness, but also in the diverse qualities surrounding their execution. Crimes associated with genocide take on varying forms. The neighbor quietly betraying the family next door to the authorities on the basis of their race or religion. The bureaucrats meticulously cataloguing the records of how
many Jews were eradicated at a certain concentration camp on a Tuesday. The nurse assisting in “euthanizing” a group of mentally disabled persons. The regular foot soldier of the Einsatzgruppen in Ukraine executing dozens of Jews in an open field. All of these individuals hold a degree of responsibility and accountability, some more than others, for allowing the injustices of the Holocaust to continue. How is it entirely feasible – let alone morally acceptable – to ensure the collection and exaction of justice upon a mass of people incomprehensibly large, which would approach a situation reminiscent of taking lives on an almost equally astonishing scale?

In the end, the dilemma of determining the possibility of attaining justice returns to the Jews of Shamgorod. The Trial of God raises a plethora of questions on the nature of humanity, God, justice, existence, and morality, among other topics. Ultimately, the play is about placing not only God, but also humanity on trial, as the sins and atrocities committed during pogroms and genocides are demonstrations of how humans fail to be compassionate and “Godlike”. Furthermore, Berish, one of the two surviving Jews of his village and chief indicter of God at the trial, dismisses any notion of “minor, secondary justice, a poor man’s justice…justice that escapes [him], diminishes [him], and makes a mockery out of [him]” (Fox). These diminutive adjectives of justice may seem evocative of the various forms sought through traditional trials and tribunals, as it has been determined that they cannot deliver fulfilling degrees of justice after genocide. Yet, after a long, heated, and intense trial, the reader is denied a definitive view into the minds of the characters (and the author), as the members of the mock trial never had the chance to announce a verdict – another pogrom intervened (Brown). Therefore, like Mendel, the actor playing the role of judge at the trial, notes, “The verdict will be announced by someone else, at a later stage. For the trial will continue – without us” (Fox). The question of whether or not justice can be achieved following genocide is one that will continually be assessed and debated. The answer for today: No. But the answer for tomorrow is unclear. Until a day comes when humanity is able to abandon its inhumaneness that allows for genocides, the closest form of justice achievable is that of reconciliation. This is, perhaps, one of the saddest, and most lingering, effects that genocide imprints upon the world – the cruel sense that it is impossible to fully ensure justice will be served in its wake.
Works Cited


