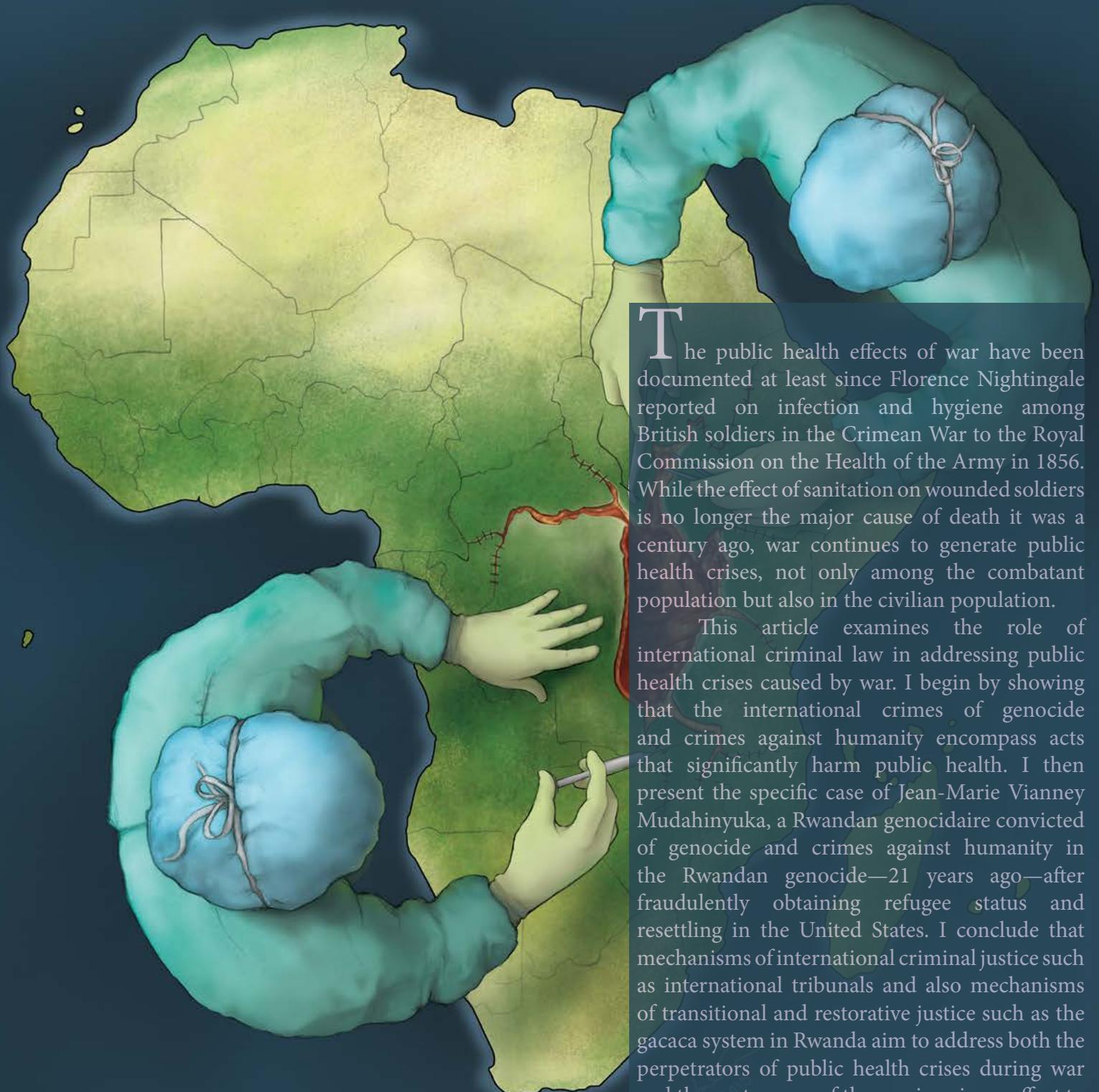


The Synergy of Public Health and International Criminal Law in Post-Genocide Rwanda



The public health effects of war have been documented at least since Florence Nightingale reported on infection and hygiene among British soldiers in the Crimean War to the Royal Commission on the Health of the Army in 1856. While the effect of sanitation on wounded soldiers is no longer the major cause of death it was a century ago, war continues to generate public health crises, not only among the combatant population but also in the civilian population.

This article examines the role of international criminal law in addressing public health crises caused by war. I begin by showing that the international crimes of genocide and crimes against humanity encompass acts that significantly harm public health. I then present the specific case of Jean-Marie Vianney Mudahinyuka, a Rwandan genocidaire convicted of genocide and crimes against humanity in the Rwandan genocide—21 years ago—after fraudulently obtaining refugee status and resettling in the United States. I conclude that mechanisms of international criminal justice such as international tribunals and also mechanisms of transitional and restorative justice such as the gacaca system in Rwanda aim to address both the perpetrators of public health crises during war and the root causes of those crises, in an effort to ensure that they never recur.

By

Professor Juliet Sorensen, J.D.

The Intersection of Law and Public Health in War

International law and public health policy complement each other in the realm of atrocity crimes. Holding perpetrators accountable for these acts, including crimes against humanity and genocide, through the criminal justice process not only provides a measure of justice for victims and survivors but also sends a message of deterrence to those who would be inclined to commit such acts. Indeed, although this purpose is rarely expressed by legislators, lawyers, or judges, the criminal process seeks to address and prevent the public health problems caused by war as much as organizations that are focused exclusively on health.

The U.N. Security Council resolution establishing the jurisdiction of the International Criminal Tribunal for Rwanda was enacted in November 1994, and provides one example of the legislative focus on public health problems. The resolution, or statute, provided that the tribunal would have jurisdiction over acts of genocide, crimes against humanity, and war crimes occurring in Rwanda and neighboring states in 1994. The statute defined acts of genocide to include:

- (a) Killing members of the group
- (b) Causing serious bodily or mental harm to members of the group
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part
- (d) Imposing measures intended to prevent births within the group; and
- (e) Forcibly transferring children of the group to another group.¹



Jean Baptiste and Freda reconciliation

The state provided that crimes against humanity included, but were not limited to, the following acts:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation;
- (e) Imprisonment;
- (f) Torture;
- (g) Rape;
- (h) Persecutions on political, racial and religious grounds; and
- (i) Other inhumane acts.²

All of the acts defined by the Security Council as genocide and crimes against humanity may result in morbidity and mortality, but also carry long-term impacts on the physical and mental health of survivors. Thus, the International Criminal Tribunal for Rwanda seeks to provide redress not only for violations of international criminal law arising out of the Rwandan genocide, but also acts detrimental to the public health.

Case study: Jean-Marie Vianney Mudahinyuka

The case of Jean-Marie Vianney Mudahinyuka shows the impact of one person's participation in genocide, its public health implications, and its redress through international criminal justice. The first genocidaire to be prosecuted in the United States for federal crimes arising from the Rwandan genocide of 1994, then deported back to Rwanda, Mudahinyuka, better known by his nickname, "Zuzu," was a prominent government functionary and businessman in Kigali before the genocide. Prior to the genocide, Zuzu was a member of the ruling Hutu political party, the National Movement for Democracy and Development, and was a close associate of Georges Rutiganda, who notoriously took to the radio waves in 1994 urging the extermination of all Tutsis. During the genocide in the spring of 1994, Rutiganda was the vice president of the Interhamwe, or Hutu militia, and he appointed Zuzu to be a councilor of the same group.³

Not only was Zuzu a senior leader of the genocide, but he was also a perpetrator on a personal level. As described in a 2005 article in the Chicago Tribune Sunday Magazine, "The Man Called Zuzu," a witness testified under oath to a federal grand jury in Chicago in terrifying detail about Zuzu's participation in the genocide.⁴ The witness stated that in the spring of 1994, a Hutu family friend took him into his home to protect him from the genocide and the witness pretended to be a member of the family. One day, the witness testified, the people of town were ordered to come to the public square. There stood Zuzu and another man, standing next to a Tutsi. "Hutu power," Zuzu's comrade called to the crowd. "Power. Power. Power," the people responded. The man with Zuzu told the crowd that God had given them permission to slaughter Tutsis and he was going to show them how. He ordered the Tutsi to lie on the ground and then, according to the witness, he chopped the man's legs off at the knees with a machete.

According to the grand jury witness, Zuzu took a club studded with nails and hit the man in the head three times. "His head split open," the witness said. The man said he also saw the rape of his cousin by Zuzu. After the rape, the witness said, Zuzu took a sharp stick and forcibly inserted it into his cousin's genitals. Zuzu left her there, "bleeding and crying for help. She died."

The tide of the genocide eventually turned against the Hutus, and Zuzu fled Rwanda to the Congo with his family. From there, he made his way to a refugee camp on Lusaka, Zambia. In Lusaka, he applied for refugee status in the United States, falsely stating that his name was Thierry Rugamba and that he was a victim of the genocide. He and his family were granted refugee status, and he moved to the United States in 2000, settling in a Chicago suburb in 2001.



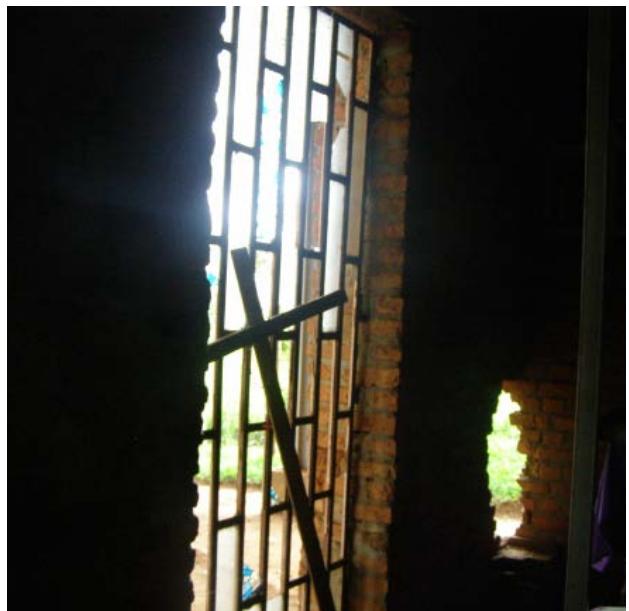
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Mudahinyuka, Public Health, and International Criminal Law

The plain language of the statute creating the International Criminal Tribunal for Rwanda makes clear that Zuzu committed genocide—murder and serious bodily harm with the intent to eliminate a particular ethnic group, that is, Tutsis—and crimes against humanity, including rape against civilians as part of a widespread attack on Tutsis. Zuzu was not alone; on the contrary, the Rwandan genocide was known for “neighbor killing neighbor” with 800,000 people killed in 100 days.⁵ Additionally, the Hutus used mass rape as a weapon of war.⁶ The case of Zuzu illustrates the role of one actor in the genocide but scholars of genocide studies have calculated that between 175,000 and 210,000 individuals actively participated in the genocide.⁷ If each of those individuals committed the same acts as Zuzu, and the same number of those acts, the scope of the nationwide tragedy and the public health consequences for the people of Rwanda are all too apparent.

After the genocide, Zuzu was indicted by the Office of the Rwandan Prosecutor General on charges of genocide and crimes against humanity. But he had vanished—the Rwandan and ICTR investigators couldn’t find him. So they entered an Interpol “red notice,” or international arrest warrant, alerting countries around the world that Zuzu was a fugitive and describing him as “armed and dangerous.” Zuzu, living in a Chicago suburb under the alias of Thierry Rugamba, was unknown to U.S. authorities, and would have continued to be, were it not for Gerard Sefuku.

Sefuku, a Rwandan Tutsi living in South Bend, Indiana, heard from a friend in 2003 that Zuzu—the dreaded councilor of the Interahamwe—was alive, well, and working in an African food store, Chika’s, in Bolingbrook, Illinois. Sefuku, who had lost most of his family in the genocide, decided to drive to Chika’s to see for himself. “The face of evil,” Sefuku Sunday Magazine.⁸ Sefuku then took it upon himself to inform U.S. agents of Zuzu’s presence in the



Rwanda Genocide Memorial

United States, writing letters to then-President George W. Bush, then-Attorney General John Ashcroft, and anyone Sefuku could think of who had authority over the matter.

The letter to Attorney General Ashcroft went straight to the point:

Dear Sir:

We, the survivors of the Rwandan genocide residing in Michigan and Indiana, would like to inform you of the presence of Mr. Vianney Mudahinyuka a.k.a. Zuzu . . . a genocider . . .

. . . While our community is trying to settle and put behind the 1994 Rwanda atrocities, we are becoming convinced that the United States of America is becoming a safe haven for Rwanda war criminals . . .⁹

Zuzu was arrested by federal agents on May 12, 2004, at his home in Illinois, on charges of immigration fraud—lying about his past and his identity to obtain refugee status. During the arrest, Zuzu assaulted two of the arresting agents,

taking hold of the weapon of one of the agents and pushing back and injuring the other's finger, so he was also subsequently charged with assault on a federal officer, a federal crime.¹⁰ Eleven days before his trial was scheduled to begin, Zuzu pled guilty.¹¹ After serving a sentence of 51 months in U.S. months in U.S. prison.¹² Zuzu was deported in 2011 to Rwanda, where he had already been tried in the meantime by a gacaca court, convicted, and sentenced to 19 years in prison.¹³

International Criminal Law, Public Health, and Rwanda today

The criminal process is traditionally viewed as reactive. A crime is committed, and the system responds. If the accused is convicted, he or she is punished. Health practitioners criticize the legal approach as one that is inefficient due to its focus on one case at a time.

To be sure, criminal cases can only proceed against named defendants. However, to condemn international criminal justice as myopic ignores the system's stated goal of deterrence. A judge may only rule on the individual who stands before the court, but the judge's ruling and indeed, the filing of charges against that person may send a message of deterrence to those who would tend to commit the same acts with which that person is charged.¹⁴ In the gacaca system, where community members can come together in the community and give evidence about the events in question, there is an additional opportunity for collective healing, reconciliation, and the ability to move on.¹⁵

How have these judicial efforts concretely affected public health in Rwanda since the genocide, exactly twenty years ago? Without reconciliation and collective healing there can be no meaningful foundation for collective public health progress. Indeed improvements in countrywide health indicators have been remarkable.¹⁶ From 2000 to 2005, HIV prevalence dropped from 12% to 3% in 6 years, according to the 2010 Demographic and Health Survey.¹⁷ As for malaria, the latest indications show the mobility and mortality of malaria have

Gacaca, which in Kinyarwanda means "to sit down and discuss an issue," were community justice commissions formed both to bring reconciliation to the horrible intimacy of neighbors killing neighbors, and also to relieve the daunting backlog of cases faced by the court system in a small country.

decreased by 60% in Rwanda.¹⁸ Rwanda is going to be one of the few countries to successfully reach Millennium Development Goals 4 (infant mortality) and 5 (maternal health) in 2015, and has made significant progress towards other MDGs.¹⁹ Moreover, this is coupled with steady economic growth: according to the World Bank, between 2001 and 2012, real GDP growth averaged 8.1% per annum.²⁰ The poverty rate dropped from 59% in 2001 to 45% in 2011. Looking to the future, Rwanda's long-term development goals are embedded in what the government has called Vision 2020, which seeks to transform Rwanda from a low-income agriculture-based economy to a knowledge-based, service-oriented economy by 2020.²¹

The wounds from the genocide will never heal. However, rising from its ashes, the country has experienced substantial economic growth and improvement in health indicators. A restored faith in justice is essential to communal reconciliation. A survey done last year by Rwanda's National Unity and Reconciliation Commission found that 87% of Rwandans believed that their country would not experience another genocide. International criminal justice, as exemplified by the case of Zuzu, has contributed to this outlook through its message of justice, general deterrence, and prevention, reinforcing progress in public health and development.

Juliet Sorensen is Clinical Associate Professor of Law at Northwestern's Pritzker School of Law. Her interests include international criminal law, corruption, and health and human rights.

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