

UN waters down genocide charges against Rwandan forces in Congo Colum Lynch Turtle Bay

1 October 2010

(...) Despite the changes, the final report still constitutes the most comprehensive and damning official account of crimes committed in one of Africa's deadliest conflict zones. And it continues to assert that an alliance of Rwandan, Burundian soldiers and Congolese rebels may have committed genocide during military operations in eastern Congo during the 1990s.

But it has softened its finding with numerous words and phrases -- including "alleged", "suggests" "apparent" and "if proven in a court of law" -- that serve to lessen the force of some of the final conclusions. Instead of stating whether crimes had been committed, the final report leaves it to a court to definitively decide (...)

(...) The decision to amend the final text came after U.N. Secretary General

Ban Ki-moon

's top advisors, including his chief of staff,

Vijay Nambiar

, voiced concern to the High Commissioner,

Navi Pillay

, about the legal basis for the genocide charge. A top U.N. official, who was involved in the deliberations, insisted that the effort to revise the text was not carried out to assuage the Rwandans (...)

The report's release comes weeks after Ban Ki-moon, his peacekeeping chief, and his human rights advisors, traveled to Kigali to meet with President Kagame. After the meeting, Kagame backed down from a threat to withdraw his peacekeepers. But he has made it clear that he will carry through with it if the U.N. presses ahead with the prosecution of Rwandan officers implicated in the crimes.

Human rights activists said they were confident that despite amendments that softened the report it still presented an overwhelming body of evidence that will now be hard to ignore. The challenge now, they say, is to press ahead with some mechanism for holding perpetrators accountable. "The real question is, does the political will exist to have a process that identifies individual perpetrators, or those most responsible, and brings them to justice? The report does a good job of fleshing out the facts as they are known."

(...) Here's a sample of the changes the U.N. introduced into the final report:

BEFORE:

With the respect to the charge of genocide, the original draft report noted that there were

developments -- like Rwanda's repatriation of hundreds of thousands of Hutu refugee -- that would cause jurists to hesitate in reaching a genocide ruling.

AFTER:

The final version included a far more detailed account of the challenges in securing a genocide finding: "In the absence of direct evidence of intent to destroy the group, such intent can only be inferred from circumstantial facts and evidence, that is, from the conduct of the alleged perpetrator, if it is the only reasonable inference possible. Where an alternative inference can be drawn from the conduct of the alleged perpetrator, the clear 'intent to destroy' required is difficult to establish. A number of alternative explanation or inferences could be drawn from the conduct of the RPA/AFDL in attacking the camps in Zaire in 1996 and 1997. The intent underlying the killings could be deemed as collective retribution against Hutu civilians in Zaire suspected of involvement with the ex-FAR/Interhamwe, reinforced by the RPA/AFDL's conviction that upon destroying the camps, all Hutu remaining in Zaire were in sympathy with the perpetrators of the 1994 genocide in Rwanda."

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