



Hacettepe University Graduate School of Social Sciences  
Department of International Relations

# **THE MORAL AND LEGAL OBLIGATION OF THE UN DURING GENOCIDE: THE CASE OF RWANDA**

Sander Boezen

Master's Thesis

Ankara, 2013



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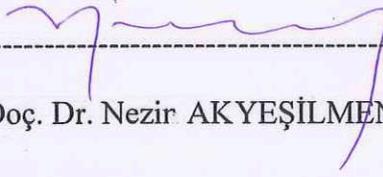
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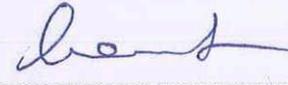
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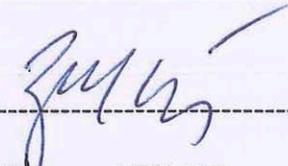
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## ÖZET

BOEZEN, Sander. *Soykırımda BM'nin Ahlaki ve Yasal Sorumluluğu: Ruanda Örneği*, Yüksek Lisans Tezi, Ankara, 2013.

Nisan 1994'ten Haziran 1994'e kadar, çoğunluğu Tutsi olan 800.000 kişi Ruanda'daki korkunç bir soykırıma kurban gitti. Bu soykırım nefret edilen Tutsi azınlığından ülkeyi temizlemek için, çoğunlukta olan Hutu tarafından işlendi. BM'nin soykırım durumunda nasıl bir yanıt vermesi gerektiği konusunda çoğulcu uluslararası toplum ile dayanışmacı uluslararası toplum arasında güçlü bir tartışma var. Solidaristler, 1948 Soykırım Sözleşmesi ve BM Şartı'nı göstererek yasal zorunluluk insani müdahaleyi savunuyorlar. Çoğulcu bilim adamları bu argümanı çürütmek için, insani müdahale için bir yasal çerçeve olmadığını iddia ediyor. Ayrıca BM'nin ahlaki yükümlülüğünü reddediyorlar. Solidaristler adalet ve evrensel hakları savunurken, çoğulcular düzene önem verip egemenlik ve saldırmazlık ilkelerini savunurlar. BM'nin tepkisi, ve özellikle de Güvenlik Konseyi, Ruanda soykırımını sırasında galip çoğulcu motifleri göstermektedir. Güvenlik Konseyi, soykırımın meydana geldiği gerçeğini gizledi. Bunun yerine, bunu sadece siyasi olarak ve Ruandalılar tarafından çözülebilir bir iç savaş olarak tanımladı. Sonunda Güvenlik Konseyi UNAMIR misyonununa yetki verdi. Ama bu girişim çok geç geldi ve etkisiz oldu. Bu nedenle çoğulcu motiflerin, Ruanda'daki dehşeti arttıran bir etkisi olduğunu savunuyorum.

**Anahtar Sözcükler:** Ruanda, Soykırım, Solidarizm, Çoğulculuk, Birleşmiş Milletler, Güvenlik Konseyi, Soykırım Sözleşmesi

## ABSTRACT

BOEZEN, Sander. *The Moral and Legal Obligation of the UN During Genocide: The Case of Rwanda*, Master's Thesis, Ankara, 2013.

From April till June 1994, 800,000 people, mostly Tutsi, fell victim to a horrific genocide in Rwanda. This genocide was committed by the Hutu majority to cleanse the country of the hated Tutsi minority. There is a powerful debate between scholars of the pluralist international society and the solidarist international society about how the UN should respond in case of genocide. Solidarists argue in favor of humanitarian intervention and point to the legal obligation anchored in the 1948 Genocide Convention and the UN Charter. Pluralist scholars refute this argument and claim there is no legal framework for a humanitarian intervention. They also clash on the moral obligation of the UN. Solidarists emphasize justice and universal rights, whereas pluralists stress order and the principles of sovereignty and non-intervention. The response of the UN, and the Security Council in particular, illustrates that pluralist motives prevailed during the Rwandan genocide. The Security Council obscured the fact that genocide was actually occurring. Rather, they defined it a civil war which could only be solved politically and by the Rwandans themselves. Eventually the Security Council authorized the UNAMIR mission. But this initiative came too late and was ineffective. Therefore, I argue in this thesis that pluralist motives contributed to the horrors in Rwanda.

**Key words:** Rwanda, Genocide, Solidarism, Pluralism, United Nations, Security Council, Genocide Convention

## TABLE OF CONTENTS

<b>KABUL VE ONAY</b>	<b>i</b>
<b>BİLDİRİM</b>	<b>ii</b>
<b>ÖZET</b>	<b>iii</b>
<b>ABSTRACT</b>	<b>iv</b>
<b>TABLE OF CONTENTS</b>	<b>v</b>
<b>LIST OF ABBREVIATIONS</b>	<b>vii</b>
<b>INTRODUCTION</b>	<b>1</b>
<b>CHAPTER 1</b>	<b>5</b>
<b>1. THEORETICAL FRAMEWORK AND LITERATURE REVIEW</b>	<b>5</b>
<b>1.1 INTRODUCTION</b>	<b>5</b>
<b>1.2 DEFINING ‘GENOCIDE’</b>	<b>5</b>
<b>1.3 GENOCIDE IN INTERNATIONAL LAW</b>	<b>8</b>
<b>1.4 THE GENOCIDE CONVENTION</b>	<b>10</b>
<b>1.5 APPROACHES TO HUMANITARIAN INTERVENTION</b>	<b>16</b>
<b>1.6 LEGAL FRAMEWORK</b>	<b>18</b>
1.6.1 Customary Law	<b>22</b>
<b>1.7 CLASHING PRINCIPLES</b>	<b>26</b>
<b>1.8 CONCLUSION</b>	<b>29</b>
<b>2. CHAPTER 2 BACKGROUND OF THE RWANDAN CONFLICT</b>	<b>30</b>
<b>2.1. INTRODUCTION</b>	<b>30</b>
<b>2.2. THE TUTSI DEFINED AS AN ETHNIC MINORITY</b>	<b>30</b>
<b>2.3. RWANDA AS A SOVEREIGN STATE</b>	<b>33</b>
<b>2.4. THE RPF INVASION: ETHNIC VIOLENCE FLARES UP AGAIN</b>	<b>37</b>
<b>2.5. ARUSHA ACCORDS</b>	<b>39</b>

<b>2.6. CONCLUSION</b>	<b>41</b>
<b>3. CHAPTER 3 CONTROVERSY DURING THE RWANDAN GENOCIDE: THE UN FORSAKE ITS MORAL AND LEGAL RESPONSIBILITY</b>	<b>42</b>
<b>3.1 INTRODUCTION</b>	<b>42</b>
<b>3.2 EARLY WARNING SIGNS</b>	<b>42</b>
<b>3.3 HUMAN RIGHTS GROUPS</b>	<b>44</b>
<b>3.4 HATE MEDIA IN RWANDA</b>	<b>47</b>
<b>3.5 WARNINGS FROM THE FIELD</b>	<b>49</b>
<b>3.6 THE SECURITY COUNCIL</b>	<b>53</b>
3.6.1 Information Provided by the UN Secretariat	<b>54</b>
3.6.2 Information Gathered by the Members of the UNSC	<b>56</b>
<b>3.7 CONCLUSION</b>	<b>68</b>
<b>4. CHAPTER 4 SOLIDARISM VERSUS PLURALISM: THE CASE OF RWANDA</b>	<b>69</b>
<b>4.1 INTRODUCTION</b>	<b>69</b>
<b>4.2 1992: A MOMENT OF SOLIDARISM</b>	<b>69</b>
<b>4.3 THE TURN TO PLURALISM: GENOCIDE IN RWANDA</b>	<b>71</b>
<b>4.4 A PLEA FOR SOLIDARISM</b>	<b>79</b>
<b>4.5 CONCLUSION</b>	<b>80</b>
<b>CONCLUSION</b>	<b>81</b>
<b>BIBLIOGRAPHY</b>	<b>85</b>
<b>CV</b>	<b>93</b>

**ABBREVIATIONS**

<b>CIA</b>	Central Intelligence Agency
<b>DPKO</b>	Department for Peacekeeping Operations
<b>ICJ</b>	International Court of Justice
<b>MRND</b>	National Republican Movement for Democracy and Development
<b>NATO</b>	North Atlantic Treaty Organization
<b>NGO</b>	Non-Governmental Organization
<b>OAU</b>	Organization of African Unity
<b>PDD</b>	Presidential Decision Directive
<b>RPF</b>	Rwandan Patriotic Front
<b>RTL</b>	Radio Télévision Libre des Mille Collines
<b>UN</b>	United Nations
<b>UNAMIR</b>	United Nations Assistance Mission for Rwanda
<b>UNGC</b>	United Nations Genocide Convention
<b>UNSC</b>	United Nations Security Council

## INTRODUCTION

“If the pictures of tens of thousands of human bodies rotting and being gnawed on by the dogs ... do not wake us up out of our apathy, I don't know what will.”<sup>1</sup> These words belong to Kofi Annan, Undersecretary-General of the United Nations during the 1994 Rwandan genocide. As a fellow human being, reading these words can only elicit an assenting nod. If the Nazi Holocaust evoked one universal agreement, it was that of ‘never again’, anchored in international law under the 1948 Genocide Convention. Nonetheless, it did happen again: in 1994, in a time span of one-hundred days, 800,000 thousand people, mostly Tutsi, were massacred in Rwanda.

The roots of the Rwandan genocide can be placed in the colonial era when an ethnic division between the largest groups in the country, the Hutu and the Tutsi, was created. This division led to major ethnic violence in the 1950s and 1960s, resulting in the persecution of Tutsi by the Hutu majority. Mass violence between the groups flared up again in 1990, when a group of Tutsi exiles united in the militant RPF invaded Rwanda from Uganda. This invasion resulted in a civil war which was, seemingly, ended by the signing of the Arusha Accords in August 1993. This peace agreement was signed under international pressure and paved the way for a UN mission to monitor the process. Nonetheless, after the assassination of president Habyarimana the situation quickly deteriorated again. Under the eye of the international community ethnic violence flared up, resulting in the most ferocious genocide in recorded history.<sup>2</sup> Women, children and old men were massacred because they belonged to a different ethnicity. The accounts were horrifying: Hutu neighbors slaughtered their former Tutsi friends; a Hutu mother beat to death the children of her lifelong friends next door. Before the Tutsi women were murdered, they were often raped, tortured, and mutilated by their Hutu assailants.<sup>3</sup>

This was the reality of the Rwandan genocide. My personal fascination with this subject stems from the question how it was possible that these horrors were met with inaction by the international community? Why did the world hardly take any interest in the

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<sup>1</sup> Cited in Gerard Prunier, *The Rwanda Crisis: History of a Genocide*, (London: C. Hurst and Co. Ltd., 1995), p.276

<sup>2</sup> Philip Zimbardo, *The Lucifer Effect: Understanding How Good People Turn Evil*, (New York: Random House Trade Paperbacks, 2008), p.12

<sup>3</sup> *Ibid.*, pp.12-14

horrors committed in the small African country? The aim of this thesis revolves around these questions by analyzing the role of the United Nations in the prevention of the Rwandan genocide. I will do this by discussing the legal and moral obligation of the UN in case of genocide. The best approach to analyze this question is by discussing the pluralist and solidarist schools of thought within the English School.

I will not analyze which factors caused the Rwandan genocide. The fact is that it took place and the UN was morally and legally obliged to act. Further, I will not go into the question what needed to be done to stop the genocide, or whether a humanitarian intervention would have sufficed to halt the crime.

This thesis is a theoretical analysis which employs a qualitative research methodology. To achieve research objectives the qualitative data needs to be properly analyzed and understood.<sup>4</sup> I will compare and discuss documentary secondary data consisting of books and authentic UN documents relevant to the aim of this thesis. This research will be conducted within the discipline of political science. Further, I will employ a deductive approach. My objectives will be achieved by using the solidarist and pluralist theories of international relations. These two conceptions of international society are imperative to help understand how the international community responds to genocide. The concept of solidarism emphasizes the existence of an international society that distinguishes between just and unjust wars and the protection of universal human rights.<sup>5</sup> The armed prevention of genocide is a clear example of a just war according to solidarists.<sup>6</sup> The pluralist concept stresses the importance of order, achieved by the principles of sovereignty and non-intervention.<sup>7</sup> This approach will be applied to the case-study of the Rwandan genocide, were both theories clash.

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<sup>4</sup> Mark N. K. Saunders, Philip Lewis, Adrian Thornhill, *Research Methods for Business Students*, 5<sup>th</sup> ed., (Essex: Pearson Education Limited, 2009), p.480

<sup>5</sup> Andrew Linklater, "The English School" in *Theories of International Relations*, eds. Scott Burchill et. al., 4<sup>th</sup> ed., (New York: Palgrave Macmillan, 2009), p.95

<sup>6</sup> Nicholas J. Wheeler, *Saving Strangers: Humanitarian Intervention in International Society*, (New York: Oxford University Press, 2000), p.34

<sup>7</sup> Tim Dunne, "The English School" in *International Relations Theories: Discipline and Diversities*, eds. Tim Dunne, Milja Kurki and Steve Smith, 2<sup>nd</sup> ed., (New York: Oxford University Press, 2010), p.145

This thesis consists of four chapters. It will start with the outline of the 1948 Genocide Convention and the debate between pluralist and solidarist international society. These two factors shape the framework of my thesis. In the theoretical framework I will discuss the main fundamentals of this thesis: what is genocide and what is the UN supposed to do in case of its occurrence? A study about UN involvement in genocide must start with the question what the crime exactly consists of. Without answering this question it is impossible to discuss the legal obligation of the UN in Rwanda. Further, I will discuss what the signatories of the Genocide Convention are supposed to do when the crime occurs. Another important factor that I will heed in the theoretical framework is the intricate process of framing a relevant convention on the prevention and punishment of genocide. This discussion will illustrate that there is no universal agreement on what genocide is and how it should be prevented or punished.

The Genocide Convention does, however, obliges the signatories to take action whenever the crime occurs. The pluralist and solidarist approaches on the English School are entangled in a powerful debate about what action should be taken. Adherents of both schools disagree on both legal and moral obligations in times of genocide. In the theoretical framework I will summarize their main arguments and differences. Especially the discussion on the legal relevance of genocide is striking. Whereas pluralists argue that humanitarian interventions are illegal at all times, solidarists assert that international law allows forcible interventions in times of genocide. Both pluralists and solidarists point to the UN Charter as well as customary law to strengthen their claim. Further, adherents of both schools of thought clash on the moral obligation of the international community. Solidarists claim that the UN has a moral obligation to halt genocide and come to the rescue of the victims, while pluralists stress the importance of order and the danger of humanitarian interventions.

The second chapter will continue with a concise background of the Rwandan genocide. I will illustrate that the Tutsi were an ethnic minority. Which is relevant because as an ethnic group the Tutsi had the right of protection under the Genocide Convention, and the international community the obligation to come to their aide. Thereupon, I will discuss Rwanda's independence, which made it a sovereign state and which induced the massive persecution of the Tutsi minority. Besides, as a sovereign state Rwanda could claim the principle of non-interference. The historical background of the Rwandan

conflict demonstrates that the violence in the country, culminating in the 1994 genocide, was always ethnically motivated since its independence. This chapter is important because it provides the reader with the history of how the conflict could have resulted in genocide.

In chapter three I will discuss the controversy about the genocide. Clear warning signals were issued and ample proof was circulating that genocide had occurred. Ample reports from Human Rights Groups, clearly pointing to genocide, were circulating. Further, many national intelligence services warned about the impending horrors. Last, the signals from the African country itself pointed in the direction of a disaster: ethnic hatred and violence was visible on a daily basis. Nonetheless, the UN Secretariat and the Security Council obscured the true nature of the conflict in order to avoid its duty of intervention. Reports were brushed aside or simply ignored and the conflict was defined as a civil war and internal matter for the Rwandans to solve. My aim is to show the reluctance of the international community to come to the aide of the millions of innocent Tutsi and convince the reader that the unmistakable evidence was deliberately obscured.

Naturally, this leads to the question why this was done? In chapter four I will argue that pluralist motives in the Security Council evoked inaction and contributed to the most horrifying genocide in history since the Nazi Holocaust. I will demonstrate that the UN mission sent to Rwanda lacked the capacity to halt the genocide, a decision which was deliberately made in the Security Council in order to keep the costs low. This is striking because only two years prior to the Rwandan conflict, the UN Security Council has emphasized the importance of universal human rights in a meeting. Solidarist motives dominated and resulted in powerful action during the Somali civil war. The failure of this mission, however, resulted in cautiousness and paved the way for the return of pluralist ideals.

In my conclusion I will summarize my findings, summing up that pluralist motives have contributed to the genocide in Rwanda. I will argue that the prevention of genocide can only be achieved through a solidarist approach.

## CHAPTER 1

### 1. THEORETICAL FRAMEWORK AND LITERATURE REVIEW

#### 1.1 INTRODUCTION

This thesis aims to analyze the role of the United Nations in the prevention of the Rwandan genocide. The 1994 conflict in Rwanda is generally known as genocide. Therefore, this study must begin with the question what genocide exactly is and how the United Nations became involved in the prevention of the crime? It is important to understand how the term ‘genocide’ came into being and in which legal framework it has been placed. In this chapter the history of the prohibition of genocide under international law and the difficulties of framing an appropriate definition will be discussed. The second question is: what exactly is the United Nations supposed to do when genocide occurs? I will discuss the main debate concerned with humanitarian interventions and summarize the main assumptions adduced by the adherents of both the pluralist and solidarist schools of thought.

#### 1.2 DEFINING ‘GENOCIDE’

A few months after the end of World War II, the allied victors gathered in Nuremberg to prosecute some of the remaining leading figures of Nazi Germany. The Nuremberg Trials were unprecedented; never before in history were leaders of the losing side in war held legally accountable by the victors. Foremost, it had to serve as a warning to future war-mongers that they would be held accountable for crimes committed against humanity.<sup>8</sup> Therefore, it is not surprising that The Statement of the Offence contained the following indictment:

In some occupied territories the defendants interfered in religious matters, persecuted members of the clergy and monastic orders, and expropriated church property. They conducted deliberate and systematic *genocide*, viz., the extermination of racial and national groups, against the civilian populations of certain occupied territories in order to destroy particular races and classes of people and national, racial, or religious groups, particularly Jews, Poles, and Gypsies and others.<sup>9</sup>

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<sup>8</sup> Andrew Walker, *The Nazi War Trials*, (Harpenden: Pocket Essentials, 2006), pp 11-12

<sup>9</sup> Yale Law School: Lilian Goldman Law Library, *The Avalon Project: Documents in Law, History and Diplomacy*, <http://avalon.law.yale.edu/imt/count3.asp> (Accessed 20 Dec. 2012).

In present times this sentence does not seem anything other than obvious; in contemporary literature the term genocide and Nazi Germany go hand in hand. Anyone unfamiliar with the exact definition of the term would probably refer to the Holocaust of the Jews. However, notice that the creators of the statement deemed it necessary to further elaborate the term. In fact, it was not until the last moment that the term was included in the indictment.<sup>10</sup> According to Leo Kuper this was the “first formal recognition of the crime of genocide.”<sup>11</sup>

The term itself was coined by Raphaël Lemkin in his book *Axis Rule in Occupied Europe*, published in 1944. Lemkin defined the term as “the destruction of a nation or of an ethnic group.” It derives from the ancient Greek word *genos*, meaning race or tribe, and the Latin *cide*, meaning killing.<sup>12</sup> Lemkin’s book came about in the times that some gas chambers were still in operation. He defined the acts of Nazi Germany as a war “not merely against states and their armies but against peoples.”<sup>13</sup> Lemkin distinguished eight different fields in which genocide was carried out: political, social, cultural, economic, biological, physical, religious, and moral.<sup>14</sup> According to Lemkin:

Genocide does not necessarily mean the immediate destruction of a nation, except when accomplished by mass killings of all members of a nation, but is intended rather to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves.<sup>15</sup>

Simply said, every technique used to destroy a national group should be defined as genocide. Lemkin, for example, defined the prohibition to use the vernacular language in schools and printing as *cultural genocide*<sup>16</sup> (in contemporary literature mostly

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<sup>10</sup> John Q. Barrett, “Raphael Lemkin and ‘Genocide’ at Nuremberg, 1945-1946” in *The Genocide Convention Sixty Years after its Adaption*, eds. Cristoph Safferling and Eckart Conze (The Hague: T.M.C Asser Press, 2010), p.45

<sup>11</sup> Leo Kuper, “Genocide: Its Political Use in the Twentieth Century” in *Genocide: An Anthropological Reader*, ed. Alexander Laban Hinton, (Malden, Massachusetts: Blackwell Publishers Inc., 2002), p.55

<sup>12</sup> Raphaël Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis Government, Proposals for Redress*, (Clark, New Jersey: The Lawbook Exchange, LTD., 2005), p.79

<sup>13</sup> *Ibid.*, pp. 80-81

<sup>14</sup> *Ibid.*, pp. 82-90

<sup>15</sup> *Ibid.*, p.79

<sup>16</sup> Steven Leonard Jacobs, *Lemkin on Genocide*, (Lanham, Maryland: Lexington Books, 2012), p.40

referred to as ethnocide), for it represents a “concentrated and coordinated attack upon (an) element of nationhood.”<sup>17</sup>

It is striking that Lemkin speaks in particular about national groups as a target of genocide,<sup>18</sup> and places the Jews outside this classification, while they were conceived by the Nazis as “a race to undermine and poison all other races.”<sup>19</sup> Further, he conceived killed or incarcerated members of political groups and classes within the nation as members of a national group.<sup>20</sup>

Even more strikingly is the fact that it took the extensive lobbying on the part of this Polish lawyer of Jewish descent for the act of genocide to be codified in international law.<sup>21</sup> Hannah Arendt notes: “The massacre of whole peoples are not unprecedented. They were the order of the day in antiquity, and the centuries of colonization and imperialism provide plenty of examples of more or less successful attempts of that sort.”<sup>22</sup>

Kuper cites the terror of the Assyrians in the eighth and seventh century BC, the destruction of Troy, and the Roman destruction of Carthage; all examples of ancient massacres meeting the contemporary definition of genocide. Whole cities were obliterated and populations “carried off or brutally exterminated.”<sup>23</sup> Further, he mentions the names of Genghis Khan and Timur Lenk as “synonyms for the genocides of a later period.”<sup>24</sup> And in later times the ‘religious zeal’ was to supply “the fuel for genocide.”<sup>25</sup> Therefore, a legitimate question would be why it took so long before the horrors of massacring innocent peoples were anchored in international law.

### 1.3 GENOCIDE IN INTERNATIONAL LAW

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<sup>17</sup> Lemkin, op. cit., pp.82-84

<sup>18</sup> Ibid., pp.79-95

<sup>19</sup> Zygmunt Bauman, “Modernity and the Holocaust” in *Genocide: An Anthropological Reader*, ed. Alexander Laban Hinton, (Malden, Massachusetts: Blackwell Pub. Inc., 2002), p.119

<sup>20</sup> Helen Fein, “Genocide: A Sociological Perspective” in *Genocide: An Anthropological Reader*, ed. Alexander Laban Hinton, (Malden, Massachusetts: Blackwell Pub. Inc., 2002), p.77

<sup>21</sup> Kuper, op. cit., pp.55-56

<sup>22</sup> Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil*, (New York: The Viking Press, 1963), p.288

<sup>23</sup> Kuper, op. cit., p.48-49

<sup>24</sup> Loc. cit.

<sup>25</sup> Loc. cit.

Although international law played a role in the protection of national, racial, ethnic, and religious groups since the Peace of Westphalia of 1648,<sup>26</sup> it was far from enough. William Schabas notes that the Peace of Westphalia “provided certain guarantees for religious minorities.” In 1713 a treaty was signed concerning the francophone Roman Catholics within British North America, and in 1829 a Treaty of Peace between Russia and the Ottoman Empire for the protection of Christian minorities within the Sultanate.<sup>27</sup>

The 1854 Crimean War marked the end of a relative peaceful period in Europe<sup>28</sup> and a reason for some major European powers to gather in Geneva. The outcome was the 1864 Convention, which included in Article 5 that: “Inhabitants of the country who bring help to the wounded shall be respected and shall remain free.” Further: “an inhabitant who has given shelter to the wounded shall be exempted from billeting and from a portion of such war contributions as may be levied.”<sup>29</sup> In other words inhabitants of a warring country had the right of protection *only* when assisting the wounded. Nineteenth century humanitarian law mostly codified the protection of medical personnel and the inhibition of certain weapons of destruction.<sup>30</sup>

The preamble to the Hague Regulations of 1899 and 1907, the so-called Martens Clause, was more promising in regard to the protection of inhabitants:

Until a more complete code of the laws of war is issued, the High Contracting Parties think it right to declare that in cases not included in the Regulations adopted by them, populations and belligerents remain under the protection and empire of the principles of international law, as they result from the usages established between civilized nations, from the laws of humanity, and the requirements of the public conscience.<sup>31</sup>

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<sup>26</sup> William A. Schabas, *Genocide in International Law: The Crimes of Crimes*, (Cambridge: Cambridge University Press, 2000), p.15

<sup>27</sup> Loc. cit.

<sup>28</sup> Henry Kissinger, *Diplomacy*, (New York: Simon & Schuster Paperbacks, 1994), p.79

<sup>29</sup> International Committee of the Red Cross, *International Humanitarian Law – Treaties and Documents*, <http://www.icrc.org/ihl.nsf/FULL/120?OpenDocument>, 1864 (Accessed at 21 Dec. 2012).

<sup>30</sup> Schabas, loc. cit.

<sup>31</sup> International Committee of the Red Cross, loc. cit.

Nonetheless, Schabas notes that “aside from sparse references to cultural and religious institutions, nothing in the Regulations suggests any particular focus on vulnerable national or ethnic minorities.”<sup>32</sup>

Humanitarian interventions *did* occur prior to the 1948 Convention,<sup>33</sup> but if we take, for example, the intervention of England, France, and Russia during the Greco-Turkish war in 1827, it is hard to believe that altruism was the only moving factor behind the interference of the major European powers. Probably the first time the term ‘crimes against humanity’ was used in an international law context was when the aforementioned European powers jointly condemned the atrocities committed against the Armenians by the Turks in 1915.<sup>34</sup>

This marked the beginning of the growing role for the international protection of human rights. The 1919 Peace Treaties succeeding World War I codified in Articles 228 to 230 the establishment of international war crimes tribunals, up till then unprecedented in history. And although there was ‘little or no interest’ in the prosecution of the perpetrators of the Armenian genocide,<sup>35</sup> the British did want to try Kaiser Wilhelm for war crimes. The objective was to punish “those who were responsible for the War or for atrocious offences against the laws of war.” Nonetheless, The Kaiser was never tried because the Netherlands refused to extradite him, and other than a few German soldiers, nobody was tried and convicted.<sup>36</sup>

The 1920 Treaty of Sevres between the Ottoman Empire and the Allies included Article 230, stating that: “The Turkish Government undertakes to hand over to the Allied Powers the persons whose surrender may be required by the latter as being responsible for the massacres committed during the continuance of the state of war on territory which formed part of the Turkish Empire on August 1, 1914.”<sup>37</sup> The Treaty was never ratified, however, and replaced in 1923 by the Treaty of Lausanne which included a ‘Declaration of Amnesty.’ This declaration eliminated any liability for “offences

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<sup>32</sup> Schabas, op. cit., p.16

<sup>33</sup> Kuper, op. cit., pp.53-54

<sup>34</sup> Schabas, op. cit., pp.16-17

<sup>35</sup> Although the term is controversial, I employ this term for all consulted literary works have done so.

<sup>36</sup> Ibid., pp.16-20

<sup>37</sup> Ibid., p.22

committed between 1 August 1914 and 20 November 1920.”<sup>38</sup> Unsurprisingly, Schabas concludes that “the post-First World War efforts at international prosecution of war crimes and crimes against humanity were a failure.” Nevertheless, he recognizes that “the idea had been launched.”<sup>39</sup>

#### 1.4 THE GENOCIDE CONVENTION

The ‘idea’ would not be implemented, however, until Nazi Germany’s war of destruction, raging over the European mainland, had come to a definite end. In October 1943, England, Russia, and the United States signed the Declaration of Moscow, issuing a warning to all perpetrators and participants of the atrocities, massacres, or executions, stating that they would face punishment.<sup>40</sup> The Declaration formed the foundation for the Four-Power Agreement of 8 August 1945, consisting of the signatories of England, France, Russia, and the USA. Anchored in the Agreement was the establishment of the Charter for the International Military Tribunal. Three types of crimes fell under the tribunal’s jurisdiction: crimes against peace; war crimes and; crimes against humanity.<sup>41</sup>

The Nuremberg Trials served as the prelude for the resolution passed by the General Assembly on 11 December 1946:

Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings; such denial of the right of existence shocks the conscience of mankind, results in great losses to humanity in the form of cultural and other contributions represented by these human groups, and is contrary to moral law and to the spirit and aims of the United Nations. Many instances of such crimes of genocide have occurred when racial, religious, political, and other groups have been destroyed, entirely or in part. The punishment of the crime of genocide is a matter of international concern.

*The General Assembly, therefore, Affirms that genocide is a crime under international law which the civilized world condemns, and for the commission of which principles and accomplices - whether private individuals, public officials or statesmen, and*

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<sup>38</sup> Loc. cit.

<sup>39</sup> Loc. cit.

<sup>40</sup> Kuper, op. cit., p.54

<sup>41</sup> Ibid., pp.54-55

whether the crime is committed on religious, racial, political or any other grounds --are punishable.<sup>42</sup>

This definition practically resembles the initial definition concocted by Raphaël Lemkin. His national groups are extended to racial, religious, political, and *other* groups. While the grounds upon which genocide is punishable include religious, racial, and political, and is even more capacious by including ‘any *other* grounds.’ Further, the definition was more comprehensive than the delineation used during the Nuremberg Trials, where it was defined as “the extermination of racial and national groups.” Nonetheless, the resolution still needed signatures from the member states, engendering major controversies on the grounds of which groups to protect; the question of intent; the inclusion of cultural genocide; the problem of enforcement and punishment; the extent of destruction; and the essential nature of the crime.<sup>43</sup>

On 8 December 1948 the final text of the UN Genocide Convention was drafted, signed within a few day by 20 states, including the United States and France. Within a year another 21 states signed the Convention, among them the Soviet Union.<sup>44</sup> First of all the Convention states that “genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world.”<sup>45</sup> For this thesis Article II is of significant importance, It asserts:

*In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:*

*(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;*

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<sup>42</sup> United Nations, *Resolutions adopted by the General Assembly during its first session*, <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/033/47/IMG/NR003347.pdf?OpenElement>, 2012 (Accessed at 22 Dec. 2012)

<sup>43</sup> Kuper, op. cit., p.56

<sup>44</sup> United Nations, *United Nations Treaty Collection*, [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-1&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-1&chapter=4&lang=en), 1948, (Accessed at 22 Dec. 2012).

<sup>45</sup> Loc. cit.

(d) *Imposing measures intended to prevent births within the group;*

(e) *Forcibly transferring children of the group to another group.*<sup>46</sup>

At first glance, it is notable that the original text of 1946 by the General Assembly has been significantly mitigated, simply because the initial declaration evoked too many objections from the member states. These objections illustrate that even with the Holocaust fresh in memory many states were unwilling to give up a part of their sovereignty in order to ban genocide. Additionally, the objections have led to a multi-interpretable convention leaving room to what should be included as genocide.

Firstly, objections arose regarding the inclusion of political groups. The Russian delegation, supported by the Polish, argued that the Nazi's had merely exterminated members of political groups because they "formed the intellectual elements of populations to be subjugated."<sup>47</sup> The Russians stressed that the main objective was the complete destruction of civilian *populations*. They pointed out that the new definition proposed by the General Assembly did not correspond with the delineation used during the Nuremberg Trials. Furthermore, they opted for an objective criteria to define groups. The objection of the Iranian delegation corresponded with the Russian reasoning; they distinguished "between those groups, membership of which was inevitable, such as racial, religious or national groups, whose distinctive features were permanent, and those, membership of which was voluntary, such as political groups, whose distinctive features were not permanent."<sup>48</sup>

The United States, in contrast, argued that political groups were identifiable and should be included in the final text. Fear existed that the exclusion of political groups in the Convention could lead to the evasion of punishment by claims that persecution was based on political grounds. Further, all states did seem to realize that the Convention did need to include protection of political groups against violence, followed by destruction, and an agreement seemed to occur upon protection "applied only to the most horrible form of crime against a group, that of its physical destruction."<sup>49</sup>

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<sup>46</sup> Loc. cit.

<sup>47</sup> Kuper, op. cit., p.57

<sup>48</sup> Ibid., p.58

<sup>49</sup> Ibid., p.59

Nonetheless, political groups were left out of the final text due to renewed objections from Iran, Egypt, and Uruguay on 29 November 1948, ten days before the final draft was signed. Kuper argues that the United States delegation was conciliatory, because they “feared non-ratification of the Convention, and rejection of the proposal for an international tribunal, if political groups were included.”<sup>50</sup> According to Helen Fein, Washington “accepted the deletion of political groups in return for a clause allowing the establishment of an international criminal tribunal.”<sup>51</sup>

Other disagreements occurred regarding the inclusion of cultural genocide, which held “any deliberate act committed with the intent to destroy the language, religion, or culture of a national, racial or religious group on grounds of the national or racial origin or religious belief of its members.”<sup>52</sup> In this matter the roles were somewhat reversed; whereas the Soviet Union stressed inclusion, the Western democracies called for exclusion. The Western argument is understandable if one keeps in mind the colonial and imperialist interests of many Western nations.<sup>53</sup> Although cultural genocide was excluded from the final draft, the Convention did include “forcibly transferring children of the group to another group,” in Article II. Another reference to cultural genocide was the inclusion of ethnic groups in the same article.<sup>54</sup>

Another controversial aspect in Article II is ‘the *intent* to destroy.’ Kuper notes that it introduced a ‘subjective element,’ which provided a “ready basis for denial or guilt.”<sup>55</sup> Some scholars simply propose to dismiss the term *intent* as a criterion. Others suggest adopting different grades of intent, as is the case with murder.<sup>56</sup> Fein, in contrast, indicates that the definition of intent has been ‘needlessly confused.’ In her words: “An actor performs an act, we say, with intent if there are foreseeable ends or consequences: for what purpose is different from why or for what motive is the act designed.”<sup>57</sup> She argues “that the Convention has greater flexibility than understood by some.”<sup>58</sup>

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<sup>50</sup> Ibid., p.60

<sup>51</sup> Fein, op. cit., p.78

<sup>52</sup> Kuper, op. cit., p.60

<sup>53</sup> Ibid., p.61

<sup>54</sup> United Nations, loc. cit.

<sup>55</sup> Kuper, op. cit., pp.62-63

<sup>56</sup> Helen Fein, “Defining Genocide as a Sociological Concept” in *The Holocaust: A Reader*, eds. Simone Gigliotti and Berel Lang, (Oxford: Blackwell Publishing, 2005), p.405

<sup>57</sup> Ibid., pp.408-409

<sup>58</sup> Ibid., p.409

The ‘intent’ required by the Convention as a necessary constituent element of the crime of genocide cannot be confused with, or interpreted to mean, ‘motive.’ ... The ‘intent’ clause of article II of the Genocide Convention requires only that the various destructive acts – killings, causing mental and physical harm, deliberately inflicted conditions of life, etc. – have a purposeful or deliberate character as opposed to an accidental or unintentional character.<sup>59</sup>

Fein further notes the complex question whether “nuclear or massive aerial bombardment of civilians in war be construed as intrinsically genocidal?”<sup>60</sup> According to Jean Paul Sartre the atrocities committed in Vietnam by the U.S army meet the legal definition of genocide.<sup>61</sup> Nonetheless, scholars are divided on the subject; some exclude such killings, while others label them under different terms.<sup>62</sup>

Essentially, it comes down to the *numbers game* in the Convention termed as ‘in whole or in part.’ Is a person who murders twenty people out of racial grounds guilty of genocide? Fein argues that “virtually everyone acknowledges that genocide is primarily a crime of *state*.”<sup>63</sup> For Kuper the term should be used in cases with “a ‘substantial’ or an ‘appreciable’ number of victims.”<sup>64</sup> Without explaining what a substantial or appreciable number exactly contains, he does elaborate that the obliteration of whole villages, as, for example, happened in the Czech village Lidice during World War II, should, in his opinion, be considered ‘genocidal massacres.’<sup>65</sup> Helen Fein concurs with Kuper’s explanation; as an example she adduces terrorism, arguing that “modern collective terrorism could fit under the definition of the genocide of the (UN Genocide Convention.)”<sup>66</sup> However, the assumption “that the victimizers do not have the capacity to kill a significant part of the group and that such acts are likely to be episodic rather than continuous,” inhibits us “from labelling such acts as genocide by the definition of

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<sup>59</sup>Hurst Hannum and David Hawk, *The Case Against the Standing Committee of the Communist Party of Kampuchea*, (New York: Cambodia Documentation Commission, 1986) Cited in Fein, “Defining Genocide as a Sociological Concept”, in *The Holocaust: A Reader*, op. cit., p.409

<sup>60</sup> Fein, “Defining Genocide as a Sociological Concept”, in *The Holocaust: A Reader*, op. cit., p.410

<sup>61</sup> Jean-Paul Sartre, *On Genocide: And a summary of the evidence and the judgments of the International War Crimes Tribunal*, (Boston: Beacon Press, 1968), p.23

<sup>62</sup> Fein, “Defining Genocide as a Sociological Concept”, in *The Holocaust: A Reader*, op. cit., p.410

<sup>63</sup> Fein, “Defining Genocide as a Sociological Concept” in *Genocide: An Anthropological Reader*, op. cit., p.79

<sup>64</sup> Kuper, op. cit., p.61-62

<sup>65</sup> Loc. cit.

<sup>66</sup> Fein, “Defining Genocide as a Sociological Concept”, op. cit., p.407

genocide.” Fein suggests we obviate the problem of scale by terming such events ‘genocidal massacres.’ She does not, however, like Kuper, provide a clear delineation other than terming “pogroms, collective terrorism, (and) some race riots,” as genocidal massacres.<sup>67</sup> Obviously, it is impossible to limit the definition of genocide to an exact number of victims, therefore this question remains dependent on interpretation.

Among scholars there is no such controversy regarding the genocide in Rwanda. Indeed, there exists no discussion among academics when it comes to defining the conflict in Rwanda as genocide. In fact, scholars writing on the subject use the term frequently. Helen Hintjens explains that “the 1994 killings were a genocide precisely because they were planned well before April 1994, with predictions of the mass killings that were to take place being made months, and even years, before they actually occurred.”<sup>68</sup> Johan Pottier states “the killings were planned and systematic” and mentions “parallels with Nazi Germany.”<sup>69</sup> Nicholas Wheeler concurs: “The fact is that this genocide, like that of the Holocaust, was the product of deliberate political design.”<sup>70</sup> Gerard Prunier argues “the genocide was a perfectly planned and executed operation.”<sup>71</sup> Philip Gourevitch called it “the most unambiguous case of state-sponsored genocide in an attempt to exterminate a category of humanity, a people, since the Nazi Holocaust of the Jews of Europe.” The Tutsi minority was eliminated solely because they belonged to that ethnic group. Nobody was allowed to get away.<sup>72</sup> He sums up why the conflict in Rwanda was genocide and not, as many claimed at the time, a civil war:

In a civil war, you have essentially two combatant forces. Sometimes they are fighting against one another. Sometimes civilians get involved as militia men or so. In a genocide, there is no political objective ... the idea is to eliminate what is perceived as a blood line. It means anybody who carries that blood must be eliminated. So it doesn't matter if you're a baby. In a civil war, a baby is not a serious enemy element. Here, it is,

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<sup>67</sup> Ibid., p.408

<sup>68</sup> Helen M. Hintjens, “Explaining the 1994 Genocide in Rwanda” in *The Journal of Modern African Studies*, vol.37 no. 2, 1999, p.246

<sup>69</sup> Johan Pottier, *Re-Imagining Rwanda: Conflict, Survival and Disinformation in the Late Twentieth Century*, (Cambridge: Cambridge University Press, 2002), p.32

<sup>70</sup> Wheeler, op. cit., p.209

<sup>71</sup> Gerard Prunier, “Genocide in Rwanda” in *Ethnopolitical Warfare: Causes, Consequences, and Possible Solutions*, eds. Daniel Chirot and Martin E.P. Seligman (Ann Arbor: Edward Brothers, Inc., 2001), p.115

<sup>72</sup> Philip Gourevitch, Interview on Frontline, *The Triumph of Evil*, <http://www.pbs.org/wgbh/pages/frontline/shows/evil/interviews/gourevitch.html>, 2013 (Accessed at 12 June 2013)

because 60 years from now, that baby could be an adult. Grandmothers on their last legs are considered to be eliminated. Pregnant women. ‘You must be careful,’ the Rwandans who were committing the genocide said, ‘to disembowel them and make sure the fetus in their womb was dead.’ That’s what genocide is about.<sup>73</sup>

The UN, as well, defined the killings in Rwanda as genocide in its official documents. On the official UN website it writes: “The Killings ... were clearly acts of genocide.”<sup>74</sup> Resolution 925, adopted on June 8, 1994, stated “acts of genocide have occurred in Rwanda.”<sup>75</sup> In addition, on November 8, 1994, the International Criminal Tribunal for Rwanda was established for the “prosecution of persons responsible for genocide.”<sup>76</sup>

### 1.5 APPROACHES TO HUMANITARIAN INTERVENTION

We have now determined that the UN has rendered genocide a crime under international law. The question now remains: what exactly the signatories were supposed to do when genocide occurred in Rwanda?

For this discussion it is best to analyze the debate between pluralists and solidarists within the English School of IR theory. The issue of humanitarian intervention is a key component of the divide between these two schools of thought,<sup>77</sup> which “raises questions of the utmost moral complexity.”<sup>78</sup> Pluralists emphasize “the centrality of rules of coexistence” in international society.<sup>79</sup> They assert that interventions on humanitarian grounds are violating “the cardinal rules of sovereignty, non-intervention, and non-use of force.” Contrarily, solidarist international-society theory argues in favor

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73 Loc. cit.

74 United Nations, Outreach Programme on the Rwanda Genocide and the United Nations, <http://www.un.org/en/preventgenocide/rwanda/education/rwandagenocide.shtml>, (Accessed at 2 May 2013)

75 United Nations, UN Resolution 925, [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/925\(1994\), 1994](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/925(1994), 1994), (Accessed at 2 May 2013)

76 United Nations, UN Resolution 955, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N95/140/97/PDF/N9514097.pdf?OpenElement>, 1994, (Accessed at 2 May 2013)

77 Hidemi Suganami, “The English School in a Nutshell” in *The International Studies Association of Ritsumeikan University: Ritsumeikan Annual Review of International Studies*, Vol.9, 2010, p.25

78 Martin Wight, *Power Politics*, (New York: Pelican Books, 1979), p.191

79 Barry Buzan, *From International Society to World Society? English School Theory and the Social Structure of Globalisation*, (New York: Cambridge University Press, 2004), p.143

of strengthening “the legitimacy of international society by deepening its commitment to justice.”<sup>80</sup>

The term solidarist international society was coined by Hedley Bull; he defined it as “the collective enforcement of international rules and the guardianship of human rights.”<sup>81</sup> States in the solidarist view are not just bound “by rules of prudence or expediency but also by imperatives of morality and law.”<sup>82</sup> Bull further stressed that the primary purpose of solidarist international society is “not the limitation of war but the triumph in war of the party representing the just cause.”<sup>83</sup> This doctrine is based on the Grotian conviction “that there is a clear distinction between just and unjust wars.”<sup>84</sup> In sum, solidarists argue that justice triumphs over order in case of conflict between the two, while scholars of pluralist international society argue the opposite.

Bull asserted that “expectations of greater solidarity were ‘premature’”<sup>85</sup> He wrote in his book *The Anarchical Society* that solidarists seek to curb conflicts “through the overwhelming power of the collectivity,”<sup>86</sup> but “in the actual circumstances of the twentieth century this solidarity has not been present.”<sup>87</sup> In his opinion pluralist international society has triumphed over solidarism in the history of modern international society.<sup>88</sup>

The discussion between pluralists and solidarists consists mainly of two fundamental questions: is there a legal framework for humanitarian interventions? And, secondly, do states have a moral obligation to intervene when genocide occurs? Firstly, I will analyze the different legal opinions of both schools of thought, followed by an analysis of their divergent attitudes on the clash of the fundamental principles of the UN.

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<sup>80</sup> Wheeler, op. cit., p.11

<sup>81</sup> Tim Dunne, op. cit., p.145

<sup>82</sup> Hedley Bull, *The Anarchical Society*, 3<sup>rd</sup> ed., (New York: Palgrave, 2002), p.25

<sup>83</sup> Ibid., p.151

<sup>84</sup> Andrew Linklater, op. cit., p.95

<sup>85</sup> Loc. cit.

<sup>86</sup> Bull, op. cit., p.236

<sup>87</sup> Ibid., p.231

<sup>88</sup> Linklater, op. cit., p.97

## 1.6 LEGAL FRAMEWORK

As noted above, pre-World War II international legislation had little to say about human rights. In the words of Peter Malanczuk, “in general, the relationship between states and their own nationals was considered to be an internal matter for each state.”<sup>89</sup> However, post-World War II human rights legislation has anchored the condemnation of “widespread and grave violations of human rights” by sovereign states.<sup>90</sup> The question then remains: what are states to do in the case of genocide? In their book *Defending Humanity*, authors Jens Ohlin and George Fletcher state that according to some scholars “not only would the Genocide Convention legitimate foreign intervention, but it might also require intervention as a matter of international law.”<sup>91</sup> Martha Finnemore derived from the text of the Convention that “signatories must stop genocide.”<sup>92</sup> This debate regards the legality and legitimacy of humanitarian interventions in the case that genocide occurs. In this context, it is first necessary to define what a humanitarian intervention precisely entails: Martha Finnemore defined the concept “as deploying military force across borders for the purpose of protecting foreign nationals from manmade violence.”<sup>93</sup> I do not include non-forceful intervention, because it is mostly conducted through cooperation between the state in question and third parties,<sup>94</sup> and therefore not illegal in any case.

Foremost, the UN strives to maintain international peace and order,<sup>95</sup> and placing the concept of genocide among these already multi-interpretable principles is a complex matter. The massacre of complete nations in a state does not necessarily affect international politics. Pluralists argue that humanitarian interventions are illegal

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<sup>89</sup> Peter Malanczuk, *Akehurst's Modern Introduction to International Law*, 7<sup>th</sup> revised ed., (New York: Routledge, 1997), p.209

<sup>90</sup> Amy Dowell, “The International Community and Intervention in Cases of Genocide” in *Polis Student Journal*, Vol. 1, 2009, pp.2-3

<sup>91</sup> George P. Fletcher and Jens David Ohlin, *Defending Humanity: When Force is Justified and Why*, (Oxford: Oxford University Press, 2008), p.131

<sup>92</sup> Martha Finnemore, *The Purpose of Intervention: Changing Beliefs About the Use of Force*, (New York: Cornell University Press, 2004), p.79

<sup>93</sup> *Ibid.*, p.53

<sup>94</sup> Charles B. Keely, *Humanitarian intervention and sovereignty: mit deutscher Zusammenfassung*, (Konrad-Adenauer-Stiftung, Internat. Politik, 1995), p.19

<sup>95</sup> Paul Taylor, “The United Nations and International Order” in *The Globalization of World Politics: An Introduction to International Relations*, eds. John Baylis and Steve Smith, 2<sup>nd</sup> ed., (Oxford: Oxford University Press, 2001), p.332

according to the UN Charter. They claim that the Charter clearly implies that intervention in domestic politics of any state, and therefore the violation of its sovereignty, are more hazardous to international peace and order, and are thus prohibited under Article 2(7): “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state.”<sup>96</sup> Further, the use of force is restricted in the UN Charter to the right of self-defense. The renowned scholar Martin Wight wrote in his book *Power Politics*: “In principle, every state is independent in the management of its own affairs and foreign interference is a violation of its rights.”<sup>97</sup>

Besides from the article mentioned above, Article 2(4) seems to render forcible humanitarian interventions illegal: “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”<sup>98</sup> For the majority of international lawyers these articles abundantly render forcible humanitarian interventions illegal.<sup>99</sup>

The pluralist Rosalyn Higgins contends that “the Charter *could* have allowed for sanctions for gross human rights violations but deliberately did not do so.” Can we thus conclude that other than the right of self-defense in Article 51 every use of force is illegal under the UN Charter?<sup>100</sup> Solidarists argue otherwise: Reisman and McDougal counter Higgins’ argument by stating that humanitarian interventions do not challenge the territorial nor sovereign claims of any state. Rather, they are in accordance with “fundamental peremptory norms of the Charter.” Therefore, they claim, “it is a distortion to argue that it is precluded by Article 2 (4).”<sup>101</sup>

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<sup>96</sup> United Nations, *Charter of the United Nations*, <http://www.un.org/en/documents/charter/chapter1.shtml>, 1945, (Accessed at 4 May 2013)

<sup>97</sup> Wight, op. cit., p.191

<sup>98</sup> United Nations, *Charter of the United Nations*, *ibid.*

<sup>99</sup> Keely, op. cit., p.10

<sup>100</sup> Nicholas J. Wheeler and Alex J. Bellamy, “Humanitarian Intervention and World Politics” in *The Globalization of World Politics: An Introduction to International Relations*, eds. John Baylis and Steve Smith, 2<sup>nd</sup> ed., (Oxford: Oxford University Press, 2001), p.472

<sup>101</sup> Cited in Wheeler, op. cit., p.44

Solidarists generally assert that “there is a legal right of unilateral and collective humanitarian intervention in the society of states.” They indicate that the preamble of the UN Charter and Articles 1 (3), 55 and 56 of the Charter support their claim.<sup>102</sup> Indeed, the preamble mentions one of the main purposes of the UN is

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom.<sup>103</sup>

Article 1 (3) anchors the purpose:

to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.<sup>104</sup>

Lastly, to complete the argument let me quote Articles 55 and 56 from Chapter IX:

Article 55:

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- a. higher standards of living, full employment, and conditions of economic and social progress and development;
- b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and

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<sup>102</sup> Wheeler and Bellamy, *op. cit.*, p.472

<sup>103</sup> United Nations, *Charter of the United Nations*, <http://www.un.org/en/documents/charter/preamble.shtml>, 1945, (Accessed at 6 May 2013)

<sup>104</sup> *Ibid.*, <http://www.un.org/en/documents/charter/chapter1.shtml>

c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.<sup>105</sup>

Article 56:

All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.<sup>106</sup>

There is no argument that the UN Charter contains articles including the promotion and encouragement of human rights. However, it is unclear what legal obligations they impose on the signatories. Malanczuk commends that “the use of the word ‘pledge’ implies a legal obligation, but the obligation is probably not to observe human rights *now*, but to work towards their fulfillment in the *future*.”<sup>107</sup> He does maintain, however, that states “moving backwards as far as human rights are concerned would probably be regarded as having broken Article 56, as the attitude of member states regarding the South African apartheid policy illustrated.”<sup>108</sup> Further, he claims that states do not possess absolute sovereignty. He argues that “severe human rights violations no longer belong to the ‘domain reserve’ of states, irrespective of Article 2 (7) of the UN Charter, and may be taken up not only within the United Nations.”<sup>109</sup> Charles Keely, as well, contends that sovereignty brings along responsibilities.<sup>110</sup> Wheeler asks if the principle of sovereignty should be respected if a state abuses rights of its citizens.<sup>111</sup>

Nonetheless, nowhere do these Articles render a legal mandate for a forcible humanitarian intervention, while it does clearly state the opposite. Neither does the text of the UNGC provide the legal basis for a humanitarian intervention: Article I states that genocide, whether committed in time of peace or in time of war, is a crime under international law which (the contracting parties) *undertake to prevent* and to punish

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<sup>105</sup> Ibid., <http://www.un.org/en/documents/charter/chapter9.shtml>

<sup>106</sup> Loc. cit.

<sup>107</sup> Peter Malanczuk, op. Cit., p.212

<sup>108</sup> Loc. cit.

<sup>109</sup> Ibid., p.220

<sup>110</sup> Keely, op. cit., p.23

<sup>111</sup> Wheeler, op. cit., p.27

(emphasis added).<sup>112</sup> Nevertheless, it is not defined in the text what the undertaking to prevent genocide exactly purports. Is an official message from one state leader pressuring a genocidal regime to cease the atrocities an act of undertaking to prevent? What exactly is the international society to do when the crime of genocide is committed within the borders of a sovereign state? Amy Dowell derives from this that although “it can be concluded that while genocide is prohibited under international law there is no legally binding norm of humanitarian intervention that requires states to act to stop it.”<sup>113</sup> There is other legislation which mentions human rights. Yet, in the words of Peter Malanczuk: “all of them are weak and there is no enforcement mechanism laid down.”<sup>114</sup> Consequently, international law does not prescribe the obligation for forcible humanitarian interventions, it does, however, obligates states to prevent genocide. Therefore, the UN was compelled to get involved in the Rwandan conflict once genocide occurred to act to prevent it.

### 1.6.1 Customary law

Treaties are not the only source of international law.<sup>115</sup> Martin Wight wrote that “international law is a system of customary law.”<sup>116</sup> The following text is anchored in Article 53 of the 1969 Vienna Convention on the Law of Treaties:

Treaties conflicting with a peremptory norm of general international law (“jus cogens”) A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.<sup>117</sup>

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<sup>112</sup> United Nations, *UN Genocide Convention*, <http://www.un.org/millennium/law/iv-1.htm>, 1948, (Accessed at 8 May 2013)

<sup>113</sup> Amy Dowell, op cit., p.14

<sup>114</sup> Malanczuk, op. cit., pp.212-16

<sup>115</sup> Ibid., p.39

<sup>116</sup> Wight, op. cit., p.108

<sup>117</sup> United Nations, Vienna Convention on the Law of Treaties, [http://untreaty.un.org/ilc/texts/instruments/english/conventions/1\\_1\\_1969.pdf](http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf), 1968 (Accessed at 9 May 2013)

Malanczuk writes: “The main evidence of customary law is to be found in the actual practice of states.”<sup>118</sup> Thus, the question to be raised is whether humanitarian intervention is a ‘custom’ in international society? Scholars are divided on the subject.<sup>119</sup>

Counter-restrictionists argue that the doctrine of humanitarian intervention can be traced back to the writings of Hugo Grotius in the seventeenth century.<sup>120</sup> Grotius suggested that tyrants practicing “atrocities towards his subjects” should be stopped by ‘others’ taking up arms.<sup>121</sup> Indeed, history had its share of humanitarian interventions, even before the conceptualization of human rights in international law.<sup>122</sup> In her book *Purposes for Intervention* Martha Finnemore emphasizes humanitarian actions taken in the nineteenth century. However, she realizes that nineteenth century humanitarian interventions never occurred “when it jeopardized other articulated goals or interests of a state.”<sup>123</sup> Further, she contends that aside from humanitarian reasons “geostrategic factors were also very important.”<sup>124</sup> Although humanitarian interventions were not new in the twentieth century neither was the principle of non-intervention, which was articulated in the late eighteenth century. Stephen Krasner argues that “weaker states have always been the strongest supporters of the rule of non-intervention.” Non-intervention doctrines by the Argentine lawyer Carlos Calvo in 1868 and by the Argentine foreign minister in 1902 “became recognized claims in international law.”<sup>125</sup> Malanczuk seems to agree with the restrictionist argument: “In general, the relationship between states and their own nationals was considered to be an internal matter for each state.” However, he asserts that World War II “brought about a change.”<sup>126</sup>

Besides from the various post-World War II treaties concerning the protection of human rights, Malanczuk list two other forms of jurisprudence that demonstrate the “moral,

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<sup>118</sup> Malanczuk, op. cit., p.39

<sup>119</sup> Wheeler and Bellamy, op. cit., p.475

<sup>120</sup> Wheeler, op. cit., p.45

<sup>121</sup> Grotius, *De Jure Belli est Paris*, cited in F. Kofi Abiew, *The Evolution of the Doctrine and Practice of Humanitarian Intervention*, (The Hague: Kluwer International Law, 1999), p.35

<sup>122</sup> Martha Finnemore, op. cit., p.64

<sup>123</sup> *Ibid.*, p.65

<sup>124</sup> *Ibid.*, p.59

<sup>125</sup> Stephen D. Krasner, *Sovereignty: Organized Hypocrisy*, (New Jersey: Princeton University Press, 1999), p.21

<sup>126</sup> Malanczuk, op. cit., p.209

political, and legal significance attributed to the idea of human rights.”<sup>127</sup> First of all, the ICJ emphasized in the 1970 Barcelona Traction case the obligation in contemporary international law for “the outlawing of acts of aggression, and of genocide, as also from the principles and rules concerning the basic rights of the human person, including protection from slavery and racial discrimination.”<sup>128</sup> Secondly, Malanczuk cites from Article 19 of the drafts Articles on State Responsibility, which classified slavery, genocide and apartheid as international crimes.<sup>129</sup> He concludes: “The jurisprudence of the ICJ shows that the court has clearly accepted that the obligation to respect fundamental rights is an obligation of general international law.” Malanczuk warns that this “does not necessarily mean customary international law.”<sup>130</sup>

Contrarily, pluralists point to other jurisprudence in international law. Robert Jackson contends that “since the adoption of the UN charter in 1945...international society has been not only cool but hostile to the practice of intervention.”<sup>131</sup> He refers to the UN General Assembly’s 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, which maintains:

Convinced that the strict observance by States of the obligation not to intervene in the affairs of any other State is an essential condition to ensure that nations live together in peace with one another, since the practice of any form of intervention not only violates the spirit and letter of the Charter, but also leads to the creation of situations which threaten international peace and security.<sup>132</sup>

Restrictionist further point to the 1965 Declaration on the Inadmissibility of Intervention<sup>133</sup> declaring all forms of intervention to “endanger the political independence of States, freedom of peoples and permanent sovereignty over their natural resources, adversely affecting thereby the maintenance of international peace

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<sup>127</sup> Ibid., p.220

<sup>128</sup> International Court of Justice, Case Concerning the Barcelona Traction, <http://www.icj-cij.org/docket/files/50/5387.pdf>, 1970 (Accessed at 9 May 2013)

<sup>129</sup> Malanczuk, op. cit., p.220

<sup>130</sup> Loc. cit.

<sup>131</sup> Robert Jackson, *The Global Covenant: Human Conduct in a World of States*, (New York: Oxford University Press, 2000), p.254

<sup>132</sup> United Nations, General Assembly – Twenty Fifth Session, [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/2625\(XXV\)](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/2625(XXV)), 1970 (Accessed at 4 May 2013)

<sup>133</sup> Wheeler, op. cit., p.44

and security.”<sup>134</sup> Jackson concludes that the restrictive doctrine of intervention is “undoubtedly subscribed to by a large majority of states at the present time.”<sup>135</sup>

Even if there is jurisprudence outlawing these crimes it does not entail what action is required from the international society. According to Finnemore, the interventions of Vietnam and Tanzania have demonstrated that interventions were principally rejected during the Cold War. She argues, however, that “this view has changed.”<sup>136</sup> Finnemore contends that “massive or systematic” abuse of citizens are now interpreted as “security threats both because the flows of refugees and social tensions that such policies create are destabilizing to neighbors and because aggressive behavior internally is seen as an indicator of the capacity to behave aggressively externally.”<sup>137</sup> Wheeler finds that “humanitarian claims were not accepted as a legitimate basis for the use of force in the 1970s but that a new norm of UN- authorized humanitarian intervention developed in the 1990s.”<sup>138</sup> Jackson concurs with this assessment, arguing they became “politically feasible” after the end of the Cold War.<sup>139</sup> Nonetheless, Wheeler warns that new norms do not “guarantee changed actions.”<sup>140</sup>

There was a prevailing thought that genocide brought along legal responsibilities in the 1990s.<sup>141</sup> A good example is the Rwandan genocide: the US was unwilling to intervene in Rwanda due to the fiasco in Somalia one year earlier. Consequentially, US officials avoided to refer to the atrocities in Rwanda as genocide, because it “might have implied a duty to intervene.”<sup>142</sup> Finnemore concluded that the case of Rwanda demonstrates states understand they had a duty to intervene.<sup>143</sup> Fletcher and Ohlin, however, argue that “although it was a nice idea, no one takes seriously anymore the idea that the

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<sup>134</sup> United Nations, General Assembly – 91<sup>st</sup> Plenary Meeting, <http://www.un.org/documents/ga/res/36/a36r103.htm>, 1981 (Accessed at 5 May 2013)

<sup>135</sup> Jackson, loc. cit.

<sup>136</sup> Finnemore, op. cit., p.135

<sup>137</sup> Loc. cit.

<sup>138</sup> Wheeler, op. cit., p.8

<sup>139</sup> Jackson, op. cit., p.259

<sup>140</sup> Wheeler, op. cit., p.9

<sup>141</sup> Andrew Linklater, “The English School Conception of International Society: Reflections on Western and non-Western Perspectives” in *The International Studies Association of Ritsumeikan University: Ritsumeikan Annual Review of International Studies*, Vol. 9, 2010, pp.9-10

<sup>142</sup> Fletcher and Ohlin, op. cit., pp.130-31

<sup>143</sup> Finnemore, op. cit., p.80

Convention obligates signatories to launch military forces to intervene.”<sup>144</sup> Accordingly, although the Bush administration felt absolutely no urge to come to the rescue of the victims in Darfur, his administration was not reluctant to define it as genocide.<sup>145</sup>

Malanczuk concludes that it is up to debate whether global human rights documents have resulted in “the emergence of an international customary law of human rights binding upon all states.”<sup>146</sup>

## 1.7 CLASHING PRINCIPLES

Pluralists and solidarist further disagree on which UN principles should be prioritized. Pluralists argue order trumps justice and assert the principles of sovereignty and non-intervention are the prime principles of the international community. Solidarists stress the importance of justice and the defense of human rights.<sup>147</sup> Wheeler wrote that “humanitarian intervention exposes the conflict between order and justice at its starkest.”<sup>148</sup>

According to Jackson, “the debate on humanitarian intervention is not a debate between those who are concerned about human rights and those who are indifferent or callous about human suffering.”<sup>149</sup> There is constant tension between the fundamental UN principles,<sup>150</sup> because, as Nicholas Wheeler notes, the enforcement of global humanitarian norms “fundamentally challenges the established principles of non-intervention and non-use of force.”<sup>151</sup>

Jackson asserts that international order and stability should not be sacrificed for humanitarian justice: “In my view, the stability of international society, especially the unity of the great powers, is more important, indeed far more important, than minority

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<sup>144</sup> Fletcher and Ohlin, op. cit., p.131

<sup>145</sup> Ibid., p.132

<sup>146</sup> Malanczuk, op. cit., p.217

<sup>147</sup> Robert Jackson, “International Society” in *Introduction to International Relations: Theories and Approaches*, eds. Robert Jackson and Georg Sorenson, 3<sup>rd</sup> ed., (Oxford: Oxford University Press, 2007), p.134

<sup>148</sup> Wheeler, op. cit., p.11

<sup>149</sup> Jackson, *The Global Covenant: Human Conduct in a World of States*, op. cit., p.291

<sup>150</sup> Malanczuk, op. cit., p.211

<sup>151</sup> Wheeler, op. cit., p.1

rights and humanitarian protections in Yugoslavia or any other country – if we choose between those two sets of values.”<sup>152</sup> R.J. Vincent concurs: he defines non-intervention as “the fundamental principle of international law.”<sup>153</sup> According to Vincent, the principle of non-intervention inhibits humanitarian interventions from becoming international conduct, which, he writes, would result in endless wars of intervention.<sup>154</sup> Finnemore disagrees, she argues that “the balance seems to have shifted since the end of the Cold War, and humanitarian claims now frequently trump sovereignty claims.”<sup>155</sup> The various humanitarian interventions of the 1990s surely seem to support this thesis. However, Jackson adduces the case of the intervention in Kosovo to stress the downside of humanitarian actions. He asserts that although it was certainly a humanitarian disaster, “it did not present a serious threat to international peace and security either in the Balkans or beyond.” Jackson argues that “there is some basis for believing” that the NATO intervention “may have made the humanitarian disaster worse rather than better.”<sup>156</sup>

This argument is conceptualized in the definition of rule-consequentialism, which states that:

International order and hence general well-being is better served by a general prohibition against humanitarian intervention than by sanctioning humanitarian intervention in the absence of agreement on what principles should govern a right of unilateral humanitarian intervention.<sup>157</sup>

Further, it is important to note that two permanent members of the Security Council, namely China and Russia, are reluctant to legitimize humanitarian interventions because they are deeply suspicious of Western motives. Their concerns find support from many other non-Western states fearing “a new form of ‘imperialism’ that will leave the weak

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<sup>152</sup> Robert Jackson, *The Global Covenant: Human Conduct in a World of States*, loc. cit.

<sup>153</sup> R.J. Vincent, *Human Rights and International Relations*, (Cambridge: Cambridge University Press, 2001), p.113

<sup>154</sup> Vincent, op. cit., p.117

<sup>155</sup> Finnemore, op. cit., p.79

<sup>156</sup> Robert Jackson, *The Global Covenant: Human Conduct in a World of States*, op. cit., pp.292-93

<sup>157</sup> Wheeler and Bellamy, op. cit., p.477

vulnerable to the cultural preferences of the strong.”<sup>158</sup> They find support from many scholars of the English School.<sup>159</sup>

Consequently, Barry Buzan notes in his book *From International Society to World Society?* that it remains contested whether human rights and humanitarian interventions count “as global level institutions or not.”<sup>160</sup> Consensus exists on the necessity and importance of developing international human rights instruments,<sup>161</sup> but to what extent this should be realized is highly debated. Therefore it is not surprising that Wheeler mentions the weakness of human rights enforcement mechanisms.<sup>162</sup>

For Wheeler humanitarian interventions are a moral duty.<sup>163</sup> He adheres to the solidarist supposition that the moral argument can override legality, “in cases of supreme humanitarian emergency.”<sup>164</sup> Linklater agrees: “Some human rights violations might be so shocking that states have to consider setting aside the usual convention that they should not intervene in each other’s internal affairs.”<sup>165</sup> But he concludes from “the debate over NATO’s military action against Serbia in 1999,” that “there is no global consensus about when sovereignty can be overridden for the sake of human rights.”<sup>166</sup> Let me therefore conclude with the words of Hedley Bull, who argued: “The question of order *versus* justice will always be considered by the parties concerned in relation to the merits of a particular case.”<sup>167</sup>

The Rwandan tragedy was no different in that case: should the sovereignty of the country have deterred international action, or should the terrible breach of human rights have elicited action?

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<sup>158</sup> Ibid., p.485

<sup>159</sup> Andrew Linklater, *The English School Conception of International Society: Reflections on Western and non-Western Perspectives*, op. cit., p.10

<sup>160</sup> Barry Buzan, *From International Society to World Society? English School Theory and the Social Structure of Globalisation*, (New York, Cambridge University Press, 2004), p.233

<sup>161</sup> Malanczuk, op. cit., p.217

<sup>162</sup> Wheeler, op. cit., p.1

<sup>163</sup> Wheeler, op. cit., p.13

<sup>164</sup> Ibid., p.41

<sup>165</sup> Andrew Linklater, “The English School” in *Theories of International Relations*, op. cit., pp.97-8

<sup>166</sup> Ibid., p.98

<sup>167</sup> Bull, op. cit., p.93

## **1.8 CONCLUSION**

Sixty-five years after the framing of the UNGC and the prohibition of the crime, it is still not clear how the international community should act in case of its occurrence. International law leaves ample room for discussion and scholars are divided on the question whether order or justice should dominate international society. This chapter has analyzed the laborious road of framing a genocide convention and the multi-interpretable obligations it brings along. Further I have summarized the differences between the pluralist and solidarist schools of thought. My conclusion is that the UN has a legal as well as a moral obligation to intervene when genocide occurs. In the following chapters I will analyze the Rwandan genocide through the solidarist approach and argue that the UN was obliged to come to the rescue of the Tutsi minority in Rwanda.

## CHAPTER 2

### 2. BACKGROUND OF THE RWANDAN CONFLICT

#### 2.1 INTRODUCTION

The Genocide Convention clearly delineates which groups are protected under its articles. This chapter aims to illustrate that the Tutsi minority satisfied the definition of an ethnical group and therefore should have been protected under the Convention. Further, this chapter will analyze Rwanda's independence. This achievement has great significance, because as a sovereign Rwanda's internal matters were subject to the principle of non-interference. The chapter will conclude by illustrating that the 1990 RPF invasion was ethnically motivated and the controversial role of the French in the assistance of the Hutu regime.

#### 2.2 THE TUTSI DEFINED AS AN ETHNIC GROUP

The outburst of the extreme violence between Hutu and Tutsi can be traced back to the colonial era, which began exactly hundred years before the genocide when a German count travelled to Rwanda.<sup>168</sup> Following the division of the African continent by the European super-powers at the 1885 Berlin Conference, the count became Governor of German East Africa, which included contemporary Rwanda. The Germans employed an indirect rule over the small and poor country. It only deployed twenty-four military officers and six administrators to the place.<sup>169</sup> Melvern explains this by pointing out that Rwanda "had few exploitable natural resources and was of little interest to the outside world."<sup>170</sup> The Germans encountered a country that was politically dominated by Tutsi. Kuperman defines the Tutsi as a "social group comprising 17 percent of the populace."<sup>171</sup> The country further comprised of Twa, a mere one percent, and Hutu, the vast majority.<sup>172</sup> These groups lived intermingled for hundreds of years in the country. Kuperman notes that "although the Tutsi have a separate heritage and apparently

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<sup>168</sup> Linda Melvern, *A People Betrayed: The Role of the West in Rwanda's Genocide*, (London, Zed Books Ltd, 2000), p.7

<sup>169</sup> Loc. cit.

<sup>170</sup> Loc. cit.

<sup>171</sup> Alan J. Kuperman, *The Limits of Humanitarian Intervention: Genocide in Rwanda*, (Washington: The Brookings Institute, 2001), p.5

<sup>172</sup> Melvern, op. cit., pp.7-8

entered the region somewhat later than the Hutu, the term ‘tribe’ or ‘ethnic group’ has long been inappropriate to distinguish between these two main Rwandan groups.”<sup>173</sup>

Gerard Prunier concurs:

The Tutsi and Hutu are not tribes. An ethnic group, a tribe in Africa or in other parts of the world, is a small nation that may have its own religion, its own territory, its own culture and way of doing things, and its own language. The Hutu and Tutsi have none of these things.<sup>174</sup>

Hintjens remarks that in pre-colonial times “the same individual could be both Tutsi in relations to clients, and Hutu in relation to patrons.”<sup>175</sup> She further notes that the terms Hutu and Tutsi “were used in relation to each other, and more flexibly than later came to be the case.”<sup>176</sup> However, the presence of European powers had a strong effect on the country.<sup>177</sup> Melvern argues that “the idea that Hutu and Tutsi were distinct ethnic groups appears to have originated with the English colonial agent and celebrated explorer John Hanning Speke.”<sup>178</sup> Early German accounts claimed the Tutsi had descended from Ethiopia or the Middle East,<sup>179</sup> and had close ties with the Europeans.<sup>180</sup> This ethnic distinction was further enhanced by the Belgians who took over the rule of Rwanda from the Germans during World War I.<sup>181</sup> Whereas the Germans had ruled through the existing power structure, the Belgians gradually employed direct rule.<sup>182</sup>

The power of the king, who was a fierce opponent of colonization, eroded quickly and in 1931 he was replaced with his son, who became known as ‘the king of the whites.’<sup>183</sup> Two years later the Belgian administration organized a census which divided the whole population into either Hutu, Tutsi, or Twa. Melvern described it as such: “Every

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<sup>173</sup> Kuperman, loc. cit.

<sup>174</sup> Gerard Prunier, op. cit., p.109

<sup>175</sup> Helen M. Hintjens, op. cit., p.250

<sup>176</sup> Ibid., pp.249-50

<sup>177</sup> David Newbury, “Precolonial Burundi and Rwanda: Local Loyalties, Regional Loyalties” in *The International Journal of African Historical Studies*, Vol.34, No.2, 2001, p.313

<sup>178</sup> Melvern, op. cit., p.8

<sup>179</sup> Hintjens, op. cit., p.252

<sup>180</sup> Melvern, op. cit., p.8

<sup>181</sup> Gerard Prunier, op. cit., pp.109-10

<sup>182</sup> Melvern, op. cit., pp.9-10

<sup>183</sup> Ibid., p.10

Rwandan was counted and measured: the height, the length of their noses, the shape of their eyes. Everyone was classified: the Tutsi were the taller, the Hutu were shorter and broader.”<sup>184</sup> The Belgians introduced a system of obligatory identification papers which contained the ethnicity of the pass holder.<sup>185</sup> Hintjens writes about an account of how troublesome it was for the Belgians to distinguish between Hutu and Tutsi, that they came up with “a means-tested system of ethnic identification,” depending on the amount of cattle one owned.<sup>186</sup> The Belgians selected the Tutsi as the ruling class; both because they had dominated the pre-colonial royalty and because the Europeans viewed them “as superior to the rest of the populace.”<sup>187</sup> The Belgians reserved administration jobs, military ranks and education “almost exclusively for the Tutsi,” resulting in a dramatic power increase for Tutsi power.<sup>188</sup>

By doing so, the Belgians created a Tutsi elite and “a system of rigid ethnic classification.”<sup>189</sup> Conclusions drawn by many scholars are harsh. Robert Cribb argues that “we have now been presented with considerable evidence that the ethnic categories of Tutsi and Hutu which underpinned” the Rwandan genocide “were at least partly created by German and Belgian anthropologists.”<sup>190</sup> Johan Pottier, as well, emphasizes the role of the Belgians in the racialization of the “Hutu-Tutsi ethnic division.”<sup>191</sup> Prunier argues that under the Belgian rule, power was centralized in the hands of the Tutsi minority. “The Tutsi had been granted all the privileges by the Belgians. They received educational benefits, greater prestige, more power, and recognition as the only genuine elite.”<sup>192</sup> John R. Bowen sums this discussion up: “It was the colonial powers, and the independent states succeeding them, which declared that each and every person

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<sup>184</sup> Loc. cit.

<sup>185</sup> Peter Uvin, *Aiding Violence: The Development Enterprise in Rwanda*, (Connecticut: Kumarian Press Inc., 1998), p.17

<sup>186</sup> Hintjens, op. cit., p.253

<sup>187</sup> Kuperman, op. cit., p.6

<sup>188</sup> Uvin, loc. cit.

<sup>189</sup> Ibid., p.16

<sup>190</sup> Robert Cribb, “Genocide in the Non-Western World: Implications for Holocaust Studies” in *Genocide: Cases, Comparisons and Contemporary Debates*, ed. Steven L. B. Jensen, (Kopenhagen: Werks Offset A/S, 2003), p.133

<sup>191</sup> Pottier, op. cit., p.15

<sup>192</sup> Prunier, op. cit., p.111

had an ‘ethnic identity’ that determined his or her place within the colony or the postcolonial system.”<sup>193</sup>

This colonial policy led to deep resentment among the Hutu majority for their Tutsi counterparts.<sup>194</sup> The 1994 Rwandan genocide claimed approximately 800,000 lives in a few months. More than ten percent of the total population, mostly Tutsi, fell victim to the massacres.<sup>195</sup> The legal relevance of this fact is that the Tutsi are an ethnic group. Therefore, under article II of the Genocide Convention, they were legally protected against genocide.

### 2.3 RWANDA AS A SOVEREIGN STATE

With the promise of freedom to colonized people, the UN became immediately involved in the affairs of Rwanda. It became a UN trusteeship territory and was visited by a group of four administrators in 1948. The ambassadors noted “rigid ethnic, linguistic and territorial lines of demarcation.” Belgium was castigated for their policies and criticized in the UN General Assembly “for the subservient status of the Hutu masses who were subjected to forced labor and discrimination in all walks of life.”<sup>196</sup> Melvern concludes that this hardly changed anything: “With sparse natural resources, Rwanda was never a high priority for the international community.”<sup>197</sup>

The political struggle in the country started in 1957. A group of Hutu made a demand for their emancipation of the Tutsi domination and called for majority rule. They perceived the Tutsi rule and the accessory monarchy as “an unjust ‘racial’ social order.”<sup>198</sup> A 1957 UN report was pessimistic; it stated there was “little hope for a rapprochement between the *races*.” (emphasis added)<sup>199</sup> The situation further

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<sup>193</sup> John R. Bowen, “The Myth of Global Ethnic Conflict” in *Genocide: An Anthropological Reader*, ed. Alexander Laban Hinton, (Malden, Mass.: Blackwell Publishers Inc., 2002), p.336

<sup>194</sup> Prunier, op. cit., p.112

<sup>195</sup> Rene Lemarchand, “Comparing the Killing Fields: Rwanda, Cambodia and Bosnia” in *Genocide: Cases, Comparisons and Contemporary Debates*, ed. Steven L. B. Jensen, (Kopenhagen: Werks Offset A/S, 2003), pp.145-46

<sup>196</sup> Melvern, op. cit., p.12

<sup>197</sup> Hintjens, op. cit., p.254

<sup>198</sup> Melvern, op. cit., p.13

<sup>199</sup> Cited in loc. cit.

deteriorated when the first political parties “were established along ethnic lines.”<sup>200</sup> Whereas the Tutsi were calling for independence from the Belgians, the Hutu emphasized emancipation from Tutsi domination.<sup>201</sup> As a result, the angry Belgians switched “their sympathies from the Tutsi to the Hutu.”<sup>202</sup> In July 1959 the king of Rwanda died under suspicious circumstances. There was a conviction under certain Tutsi leaders that the Belgians had killed the king with the support of the Hutu. Political tension rose interspersed with assassinations of Hutu leaders.<sup>203</sup> It was the start of widespread violence. Tutsi authorities were attacked, Tutsi houses were burnt, and hundreds of Tutsi were killed. Tens of thousands more fled to neighboring countries.<sup>204</sup> The first legislative elections in 1960 and 1961 resulted in a massive victory for Parmehutu, an anti-Tutsi party. The monarchy was officially abolished and Gregoire Kayibanda became the first president of the country. His Hutu regime was granted formal independence on July 1, 1962.<sup>205</sup>

This act transformed Rwanda into a sovereign state. The pluralists would raise the argument that it was therefore protected under the principles of sovereignty and non-interference. In the later chapters we will see that many Security Council members considered the Rwandan conflict an internal matter which could only be solved by the Rwandans themselves. Nonetheless, already in the early 1960s Rwanda violated its rights as a sovereign and issued clear warnings that its sovereignty brought along a genocidal character.

By 1962 “an estimated 10,000 Tutsi had been killed and ten times that number had been forced to flee the country.”<sup>206</sup> Mass violence flared up again when in November 1963 Tutsi exiles invaded Rwanda from neighboring Burundi and Uganda.<sup>207</sup> The Kayibanda regime responded by murdering prominent political opponents and eliminating internal

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<sup>200</sup> Loc. cit.

<sup>201</sup> Kuperman, op. cit., p.6

<sup>202</sup> Prunier, op. cit., p.111

<sup>203</sup> Melvern, op. cit., p.14

<sup>204</sup> Kuperman, op. cit., pp.6-7

<sup>205</sup> Uvin, op. cit., pp.19-20

<sup>206</sup> Hintjens, op. cit., p.248

<sup>207</sup> Uvin, op. cit., p.20

opposition. Melvern argued that “the murders would mark the end of the role of Tutsi in public life.”<sup>208</sup> It was followed by “an organized slaughter of Tutsi.” Melvern notes:

The element of planned annihilation links the killings in 1963 to the genocide in 1994. The planning and the methods, thirty years apart, are similar. Armed with spears and clubs a group of Hutu started to kill every Tutsi in sight – men, women and children. Some 5,000 people were killed.<sup>209</sup>

Kuperman summarizes:

Overall, from 1959 to 1967, some 20,000 Tutsi were killed. Another 200,000 Tutsi – half their population in Rwanda at the time – were driven from the country as refugees, not to return for at least two decades. As a result, the Tutsi percentage of Rwanda’s population dropped from about 17 to 9 percent, with Hutu representing virtually all the rest.<sup>210</sup>

Therefore, Rwanda became a monoethnic state consisting mainly of Hutu.<sup>211</sup> Peter Uvin notes that “One monoethnic power system had been replaced with another, as the Tutsi totally lost their political and social power, and more than half of them either died or fled the country.”<sup>212</sup> One could argue that by this time genocide had already occurred and the UN was obliged to act. Nonetheless, as argued in the previous chapter, humanitarian interventions were frowned upon in the Cold War era and were never approved.

President Kayibanda ruled the country until July 1973. A relatively bloodless coup removed him from power and installed Major General Juvenal Habyarimana as his successor. Whereas the former president had his power base in the south, Habyarimana’s was among the northern Hutu.<sup>213</sup> Kuperman remarks that “discrimination in Rwanda during this period was not anti-Tutsi, but rather in favor of a narrow section of the Hutu population who came from the president’s home region in

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<sup>208</sup> Melvern, op. cit., p.17

<sup>209</sup> Loc. cit.

<sup>210</sup> Kuperman, op. cit., p.7

<sup>211</sup> Prunier, op. cit., p.112

<sup>212</sup> Uvin, op. cit., p.20

<sup>213</sup> Wheeler, op. cit., p.210

northwestern Rwanda.”<sup>214</sup> As a result, key positions within the government, business, and army were all dominated by this regional group.<sup>215</sup> Habyarimana’s Second Republic was a military dictatorship, weak on human rights. It was not just the Tutsi who were challenged, many former power holders were also targeted.<sup>216</sup> Habyarimana installed a single-party state, making his MRND the only official party in Rwanda.<sup>217</sup> Uvin notes that “elections were a farce in which Habyarimana was always reelected with more than 98 percent of the vote. Any critical press was at the risk of one’s life or freedom, and intellectual and academic speech was closely regulated.”<sup>218</sup>

However, under the reign of Habyarimana Rwanda did experience economic prosperity in the 1970s and early 1980s.<sup>219</sup> With the support of substantial foreign aid the regime was able to “construct an impressive infrastructure.”<sup>220</sup> The Rwandan economy became one of the best in the region and was considered a model in Africa. Des Forges argues this achievement was “remarkable given that Rwanda also had one of the highest rates of population growth on the continent.”<sup>221</sup> Although Rwanda did remarkably well under the first fifteen years of the Habyarimana rule, the prosperity had its downside. It was mainly the northern region that profited from the economic prosperity.<sup>222</sup> Other parts in the country, whether Hutu or Tutsi, was poor with the prospect of becoming even poorer.<sup>223</sup>

And from the mid-1980s on economic austerity started.<sup>224</sup> The sharp price decrease of coffee, which made up for 75 percent of Rwanda’s foreign trade, had devastating consequences.<sup>225</sup> It resulted in political extremism<sup>226</sup> and “extreme levels of poverty in

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<sup>214</sup> Kuperman, op. cit., pp.7-8

<sup>215</sup> Ibid., p.8

<sup>216</sup> Uvin, op. cit., p.23

<sup>217</sup> Alison Des Forges, *Leave None to Tell the Story*, (Human Rights Watch, 1999), p.37

<sup>218</sup> Uvin, op. cit., p.23

<sup>219</sup> Villia Jefremovas, “Socioeconomic Factors, Not Ethnic Hatred, Led to the Genocide” in *The Rwanda Genocide: At Issue in History*, ed. Christina Fisanick, (Chicago: Greenhaven Press, 2004), p.30

<sup>220</sup> Des Forges, op. cit., p.40

<sup>221</sup> Loc. cit.

<sup>222</sup> Kuperman, op. cit., p.8

<sup>223</sup> Des Forges, loc. cit.,

<sup>224</sup> Jefremovas, loc. cit.

<sup>225</sup> Des Forges, op. cit., p.41

<sup>226</sup> Helen M. Hintjens, op. cit., p.242

the late 1980s.”<sup>227</sup> The Habyarimana regime came under growing domestic and international pressure. The International Community insisted on democratization and a solution for the Tutsi refugee issue. But before the president was able to face these challenges Rwanda was invaded from Uganda on October 1, 1990.<sup>228</sup>

## 2.4 THE RPF INVASION: ETHNIC VIOLENCE FLARES UP AGAIN

The mass exodus of Rwandan Tutsis from 1959 onwards created a diaspora in the neighboring countries, including Uganda, “where they were welcomed because of their historical connection” with the royal family.<sup>229</sup> However, this situation quickly changed. The impact the Tutsi refugees had on the successive political regimes through their “meddling in politics, their high-profile military engagements and privileged status as refugees” led to anti-Tutsi sentiment, which has been dubbed ‘hospitality fatigue.’ The refugees were further warned to stop their attacks on their home country from Ugandan territory.<sup>230</sup>

The conditions for the Tutsi refugees deteriorated as they became the subject of prejudice, discrimination and persecution. This culminated in 1982 in the attack of Rwandese communities in Uganda.<sup>231</sup> Thousands of refugees were expelled to Rwanda, “only to be pushed back again across the border shortly after.”<sup>232</sup> In 1986 the Rwandese government announced that the refugees were not allowed to return because there was no room for them.<sup>233</sup> It sparked movement in the refugee community in Uganda, and it was here that the RPF was established. This organization consisted of both a political and military branch and was dedicated to the return of Rwandese refugees.<sup>234</sup> The RPF had only a few thousand soldiers in the beginning, but they were well trained and well armed.<sup>235</sup> They had fought together with the Ugandan rebel forces of Yoweri Museveni against various incumbent regimes. In 1986 Museveni seized power and many top Tutsi

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<sup>227</sup> Pottier, op. cit., p.10

<sup>228</sup> Kuperman, op. cit., p.8

<sup>229</sup> Pottier, op. cit., p.15

<sup>230</sup> Ibid., p.23

<sup>231</sup> Melvern, op. cit., p.25

<sup>232</sup> Des Forges, op. cit., p.42

<sup>233</sup> Melvern, op. cit., p.26

<sup>234</sup> Loc. cit.

<sup>235</sup> Uvin, op. cit., p.61

became senior officials in the Ugandan army. It was here that they were able to recruit thousands of Tutsi refugees to join them.<sup>236</sup> On October 1, 1990 they invaded Rwanda and within a few days they were close to the capital city of Kigali.<sup>237</sup>

Jefremovas argues that the Rwandan army only managed to repel the RPF through the assistance of French and Belgian troops.<sup>238</sup> The French particularly played a highly controversial role in the conflict. Melvern asserts that the Habyarimana regime would have never lasted as long as it did without French assistance. Military cooperation started in 1975 and gradually Paris replaced Belgium as Rwanda's closest foreign ally through military and financial guarantees that Belgium could not provide.<sup>239</sup> French support was instigated by the threat of a potential RPF victory. The English speaking RPF exiles were perceived as a threat to the French sphere of influence.<sup>240</sup> In the words of Christopher Clapham: "Nothing aroused French protective instincts so sharply as the danger that one of their clients might defect to the Anglo-Saxons."<sup>241</sup> France delivered political and moral support as well as direct military aid. Paris deployed troops in October 1990, reinforced in later times of the conflict. Des Forges notes the French contingent consisted of "as many as 1,100 there at one time."<sup>242</sup> They trained the Rwandan army, which more than tripled its number of troops. The steady French support helped the Habyarimana regime to resist the RPF forces, internal dissent, and reproaches from foreign powers.<sup>243</sup>

Prunier argues that French troop deployment for the protection of the Hutu government "gave all the wrong messages."<sup>244</sup>

Of course, the Hutu government tested this French commitment. They did a bit of massacring in October 1990, the again in 1991 – small massacres of about 300 people at a time, nothing much compared to what would happen later. Each time, they watched to

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<sup>236</sup> Kuperman, op. cit., p.9

<sup>237</sup> Des Forges, loc. cit.

<sup>238</sup> Jefremovas, op. cit., p.31

<sup>239</sup> Melvern, op. cit., p.24

<sup>240</sup> Christopher Clapham, *Africa and the International System: The Politics of State Survival* (Cambridge: Cambridge University Press, 1996) pp.240-41

<sup>241</sup> Ibid., p.93

<sup>242</sup> Des Forges, op. cit., p.92

<sup>243</sup> Ibid., pp.91-2

<sup>244</sup> Prunier, op. cit., p.115

see how the French were going to react. The Hutu were pleased by France's tolerance and understanding, and they began to raise the level of violence.<sup>245</sup>

The government of Habyarimana kept receiving weapons and foreign aid, especially out of France, Egypt, and apartheid South Africa.<sup>246</sup> Further, Jefremovas contends, "the period between 1990 and 1994 saw the development of racist propaganda that made the genocide possible."<sup>247</sup> A good example of this racist rhetoric were the "widely circulated and immensely popular" 'Hutu Ten Commandments.' The ominous eighth commandment read: "Hutus must stop having mercy on the Tutsis."<sup>248</sup> Clapham is harsh: The invasion of the RPF "led not only to military support for the Habyarimana regime, but to a high level of French complicity in the 1994 massacres."<sup>249</sup> Des Forges argues the "French authorities understood the risk of genocide" from the start of the conflict in 1990.<sup>250</sup> She cites a close associate of Habyarimana, who told a French general that the Tutsi "are very few in number, we will liquidate them."<sup>251</sup>

## 2.5 ARUSHA ACCORDS

The civil war consisted of sporadic fighting and lasted three years. Melvern remarks that it "divided society" and "created political instability and near economic collapse."<sup>252</sup> Ceasefires were realized in October 1990, and in November and February 1991, but each was violated.<sup>253</sup> The Habyarimana regime and the RPF again entered into negotiations in June 1992.<sup>254</sup> It took another year "of negotiations, agreement, disavowal, and the renewed negotiations" before there finally was agreement on a definite accord. Des Forges argues that Habyarimana's tactics to delay the peace talks were impeded by foreign pressure. She notes "even France was pushing him to accept

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<sup>245</sup> Loc. cit.

<sup>246</sup> Philip Gourevitch, "We Wish to Inform You that Tomorrow We Will Be Killed With Our Families: Stories from Rwanda" in *Violence in War and Peace*, eds. Nancy Scheper Hughes and Philippe Bourgois, (Malden: Blackwell Publishing, 2005), p.140

<sup>247</sup> Jefremovas, op. cit., p.33

<sup>248</sup> Gourevitch, op. cit., p.137

<sup>249</sup> Clapham, loc. cit

<sup>250</sup> Des Forges, op. cit., p.93

<sup>251</sup> Cited in loc. cit.

<sup>252</sup> Melvern, op. cit., p.39

<sup>253</sup> Loc. cit

<sup>254</sup> Wheeler, op. cit., p.211

the Accords.”<sup>255</sup> France and other donor nations had lost their patience by late July and threatened with economic boycotts if Habyarimana did not sign the treaty by August 9. This left him no other option but to sign and on August 4, 1993 a peace agreement was concluded in the Tanzanian town of Arusha.<sup>256</sup>

The Accords appeared to have dealt with all the major issues in a detailed series of agreements that covered the establishment of the rule of law, the transitional institutions to govern until elections could be held, the repatriation of refugees, the resettlement of displaced persons, and the integration of the two opposing armies.<sup>257</sup>

Officially, the signing of the Arusha Accords ended the civil war.<sup>258</sup> Rene Lemarchand, however, calls the Arusha Accords a “continuation of civil war by other means.”<sup>259</sup> He argues: “As the talks were going on, the participants were constantly reassessing their relative strategic positions on the battlefield, making every effort to improve their military posture to negotiate from a position of maximum strength.”<sup>260</sup> The peace agreement was celebrated by the crowds and castigated by radicals. Belgian intelligence reports warned about “much dissatisfaction among both soldiers and civilians.”<sup>261</sup> Habyarimana was berated for yielding to foreign pressure when the army had not been defeated yet.<sup>262</sup>

The Arusha Accords also paved the way for a UN mission to monitor the implementation of the ceasefire. On October 5, 1993 the UN Security Council adopted Resolution 872, which established the UNAMIR. With initially 1,458 troops, later to be expanded to 2,548, UNAMIR “was to oversee the process of demobilization and the creation of a new integrated army.”<sup>263</sup>

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<sup>255</sup> Des Forges, op. cit., p.95

<sup>256</sup> Loc. cit.

<sup>257</sup> Loc. cit.

<sup>258</sup> Filip Reyntjens, “Rwanda Ten Years On: From Genocide to Dictatorship” in *African Affairs*, Vol.103, 2004, p.177

<sup>259</sup> Lemarchand, op. cit., p.6

<sup>260</sup> Loc. cit.

<sup>261</sup> Des Forges, op. cit., p.96

<sup>262</sup> Loc. cit.

<sup>263</sup> Wheeler, op. cit., p.212

The success of the mission was, in accordance with the custom of traditional peacekeeping, greatly determined by the parties' compliance of the Arusha peace agreement. Wheeler asserts, however, that "the peace process was doomed from the outset."<sup>264</sup> Chances of a compromise between the Hutu extremists within president Habyarimana's circle and the Tutsi RPF were negligible. A campaign of murdering Tutsi civilians was initiated by Hutu extremists to eliminate every foundation of compromise with the RPF. While the international community failed to respond, "the idea of a 'final solution' to the problem of the Tutsi became thinkable."<sup>265</sup> The situation quickly deteriorated and one day after the UN had extended the mandate of UNAMIR until July 1994,<sup>266</sup> president Habyarimana was assassinated. This event initiated "one hundred days of genocide."<sup>267</sup>

## 2.6 CONCLUSION

This chapter has summarized the road leading to the 1994 genocide in Rwanda. I have argued that Tutsi are an ethnic group and thus are officially protected by the 1948 Genocide Convention. The mass violence in the 1950s and 1960s were clearly ethnically motivated and should have served as a clear warning to the international community of what might happen when both groups come at odds. Rwanda neglected its responsibilities as a sovereign already in the 1950s. Rwanda's violent history signaled a strong and clear warning that a conflict between the ethnic groups could lead to a catastrophe. And so it was that the violence and hatred culminated in April 1994 in genocide.

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<sup>264</sup> Loc. cit.

<sup>265</sup> Loc. cit.

<sup>266</sup> United Nations, *UN Resolution 909*, [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/909\(1994\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/909(1994)), 1994. (Accessed at 10 June 2013)

<sup>267</sup> Fergal Keane, *Season of Blood: A Rwandan Journey*, (Harmondsworth: Viking Press, 1995), p.29

## CHAPTER 3

### 3. CONTROVERSY DURING THE RWANDAN GENOCIDE: THE UN FORSAKES ITS MORAL AND LEGAL RESPONSIBILITY

#### 3.1 INTRODUCTION

In this chapter I aim to demonstrate that despite the ample proof pointing towards genocide the UN created a controversy by maintaining that there had not been an occurrence of genocide in Rwanda. Instead they deployed euphemistic language extenuating the crime and allowing themselves to avoid their legal and moral responsibilities. I will start by analyzing what information was available and documented, mostly by human rights groups. Thereafter, I will illustrate what the UN did with this information and what the official statement of the Security Council was regarding the events in Rwanda.

#### 3.2 EARLY WARNING SIGNS

The genocide in Rwanda is generally placed between early April until mid-June 1994. It lacks, however, a clear ‘smoking gun’ which “pinpoints a precise moment when certain individuals decided on a master plan to wipe out the Tutsi.”<sup>268</sup> Hutu extremism flourished since the RPF invasion in October 1990, which led to a gradual increase of massacres and culminated in hundred days of genocide. However, when the systematic planning and organizing exactly started is unclear.

One authority says the plot was hatched soon after the October invasion. Another says ‘dress rehearsals’ for genocide began with the formation of death squads in 1991. Genocide, argues another, ‘began to look to the hard-line Akazu circles like both an attractive and feasible proposition’ by late 1992. The plan ‘ was drawn up by January 1994,’ states another.<sup>269</sup>

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<sup>268</sup> International Panel of Eminent Personalities, *Rwanda: The Preventable Genocide*, 2000, p.39

<sup>269</sup> Loc. cit.

The fact is, however, that clear warning signals were issued in the years leading up to the 1994 genocide. These signals were clearly pointing in the direction of a potential catastrophe. The Rwandan army grew rapidly after the RPF invasion. In three years it expanded from a few thousand to 40,000 soldiers, death squads were established as early as 1991, and carefully planned and organized massacres of Tutsi took place.<sup>270</sup> Samantha Power notes that by 1992, “Hutu militia had purchased, stockpiled, and begun distributing an estimated eighty-five tons of munitions, as well as 581,000 machetes – one machete for every third adult male.”<sup>271</sup> An estimated 2,000 people were killed and approximately 10,000 were arrested.<sup>272</sup> Melvern named these massacres a “rehearsal for the genocide to come.”<sup>273</sup> The International Panel concludes that the killers learned two lessons: “they could massacre large numbers of people quickly and efficiently” and that “they could get away with it.”<sup>274</sup>

By the end of December 1993, nearly 1,300 UNAMIR peacekeepers, of which some 400 were Belgian soldiers, were deployed to Rwanda. Negotiations about the installation of a new government commenced, but proved to be difficult. The installation was postponed, from the original date in January to, eventually, early April. Des Forges notes that during the same period tensions increased and a renewed conflict was impending. “The warnings of catastrophe multiplied, some public, like assassinations and riots, some discreet, like confidential letters and coded telegrams, some in the passionate pleas of desperate Rwandans, some in the restrained language of the professional soldier.”<sup>275</sup> Des Forges sums up a sixteen-page-long summary of clear warnings that were signaled in the period between December 1993 and early April 1994, the start of the genocide. They contain distribution of weapons and the armament of the Hutu extremist movement Interahamwe, killing of civilians, deliberate attacks on UN personnel, assassinations of highly-ranked public officials, and plans to exterminate all Tutsi.<sup>276</sup> She emphasizes the “clearly anti-Tutsi character of the continuing

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<sup>270</sup> Ibid., pp.42-5

<sup>271</sup> Samantha Power, *A Problem from Hell: America and the Age of Genocide* (Virginia: Perseus Books Group, 2002) p.337

<sup>272</sup> Melvern, op. cit., p.36

<sup>273</sup> Linda Melvern, “Rwanda and Darfur: The Media and the Security Council” in *International Relations*, Vol. 20(1), 2006, p.94

<sup>274</sup> International Panel of Eminent Personalities, op. cit., p.42

<sup>275</sup> Des Forges, op. cit., p.113

<sup>276</sup> Ibid., pp.114-30

violence.”<sup>277</sup> Melvern argues that by the time the peacekeepers arrived in Rwanda, “it was probably already too late for peacekeeping.”<sup>278</sup> She writes that the planning for genocide was “an open secret” in Kigali. A local newspaper even talked about a ‘final solution’ planned to ‘solve the Tutsi problem.’<sup>279</sup> The extremist rhetoric was abundantly clear. A senior member of Habyarimana’s party spoke in November 1992 to party members:

The fatal mistake we made in 1959 was to let (the Tutsi) get out...They belong in Ethiopia and we are going to find them a shortcut to get there by throwing them into the Nyabarongo River. I must insist on this point. We have to act. Wipe them all out!<sup>280</sup>

The hateful discourse was soon to be followed by the persecution and murder of the Tutsi minority. Human Rights Groups soon picked up on the horrors that were unfolding in Rwanda.

### 3.3 HUMAN RIGHTS GROUPS

Another source of information came from the involvement of non-governmental organizations (NGOs) present in Rwanda long before the 1994 genocide, reporting on the massacres and the involvement of the Rwandan army and government officials.<sup>281</sup> Power argues that by 1993 “the situation had deteriorated dramatically enough” to attract the attention of international and UN bodies.<sup>282</sup> In 1993, David Waller of the international organization Oxfam wrote: “Rwanda stands on the brink of an uncharted abyss of anarchy and violence, and there are all too many historical, ethnic, economic and political pressures that are likely to push it over the edge.”<sup>283</sup> A report of Amnesty International in April 1992, following the violence after the RPF invasion reported:

The detention of more than 8,000 people, accompanied by the torture and killing of many, affected the country deeply, leaving the minority Tutsi ethnic group, to which

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<sup>277</sup> Ibid., p.127

<sup>278</sup> Melvern, Rwanda and Darfur: “The Media and the Security Council”, op. cit., p.95

<sup>279</sup> Loc. cit.

<sup>280</sup> Cited in Power, op. cit., pp.339-40

<sup>281</sup> Fred Grunfeld and Anke Huijboom, *The Failure to Prevent Genocide in Rwanda: The Role of Bystanders*, (Leiden: Koninklijke Brill NV, 2007), p.69

<sup>282</sup> Power, op. cit., p.337

<sup>283</sup> Cited in Pottier, op. cit., p.38

most of the victims belonged, particularly traumatized. Amnesty International believes that many of the detainees were prisoners of conscience, held on account of their ethnic or national origins, political views or family connections with government opponents rather than because there was any evidence of their participation in the rebellion or support for armed government opponents.<sup>284</sup>

A March 1993 report by the International Fact-Finding Commission Concerning Human Rights Violations in Rwanda, found that “large-scale massacres of members of the Tutsi ethnic group” had taken place.<sup>285</sup> Further, it concluded Rwandan life was pervaded by “a climate of terror,” consisting of massive and systematic “violations of human rights, including war crimes.”<sup>286</sup> According to the Commission, the Tutsi were attacked with “deliberate intention.” It concluded that “acts of genocide” had occurred, of which the responsibility lay in the hands of the Habyarimana regime.<sup>287</sup>

In their book *The Failure to Prevent Genocide*, authors Fred Grunfeld and Anke Huijboom note that the Commission entitled their first press release *Genocide and War Crimes in Rwanda*. Yet eventually, the Commission chose a more ambiguous position. “The final report said that there were some who considered ‘acts of genocide’ had been committed, but it did not take a firm position on this point.”<sup>288</sup> Nonetheless, the international community paid hardly any attention to the widely circulated report.<sup>289</sup>

Another clear and outspoken message, warning the crime of genocide had occurred in Rwanda, was issued by Bacre Waly Ndiaye, the UN Special Rapporteur, who wrote a report on his mission to Rwanda from 8 to 17 April 1993. Ndiaye speaks of “massacres of civilian populations” and incriminates governments officials who were involved

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<sup>284</sup> Amnesty International, *Rwanda: Persecution of Tutsi minority and repression of government critics 1990-1992*, 30 April 1992, p.1

<sup>285</sup> Report of the International Fact-Finding Commission Concerning Human Rights Violations in Rwanda Since October 1, 1990 (English Summary), pp.94-100

<http://www.usip.org/files/file/resources/collections/commissions/Rwanda93-Report.pdf>

(accessed on 14.05.2013)

<sup>286</sup> Loc. cit.

<sup>287</sup> Loc. cit.

<sup>288</sup> Grunfeld and Huijboom, op. cit., p.70

<sup>289</sup> Loc. cit.

“time and time again.”<sup>290</sup> He concludes that the victims of the violence are overwhelmingly Tutsi, “targeted solely because of their membership of a certain ethnic group, and for no other objective reason.”<sup>291</sup> Articles II and III of the Genocide Convention, he argues, might therefore apply to the killings in Rwanda.<sup>292</sup> Ndiaye calls upon the international community to take action and “provide its assistance wherever that of the Rwandese State is inadequate or non-existent.”<sup>293</sup>

The Special Rapporteur stated in an interview in 2005 that: “I felt, I saw, I knew this is making a difference on the basis of birth and not on the basis of political motivations or power-politics ... this is not politicide this is genocide...but nobody believed it.”<sup>294</sup> Grunfeld and Huijboom argue that Ndiaye was pressured to alter the report and leave out all genocide references, but he refused: “He wrote of what he had encountered, and according to him that was genocide.”<sup>295</sup> His report was published twice, in August 1993 and February 1994, two months before the genocide. But despite the concrete language his report was brushed aside.<sup>296</sup> Ndiaye later said that he might just as well have put his report in a bottle and thrown it into sea.<sup>297</sup> Grunfeld and Huijboom conclude:

There is no indication that the UN Center of Human Rights or any other part of the UN made it its task to ensure that the report was impressed upon senior UN decision makers. Nor is there any indication that senior decision makers dealing with Rwanda were aware of the report.<sup>298</sup>

A 1994 Human Rights Watch report, named *Arming Rwanda*, accounted that the “small, impoverished nation, which was already unable to meet its own human needs, devoted

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<sup>290</sup> Report by Mr. B. W. Ndiaye, Special Rapporteur, on his mission to Rwanda from 8-17 April, 1993, E/CN.4/1994/7/Add.1, paragraph 28, p.10,

<http://www.preventgenocide.org/prevent/UNdocs/ndiaye1993.htm> (accessed on 14.05.2013)

<sup>291</sup> Report by Mr. B. W. Ndiaye, Special Rapporteur, on his mission to Rwanda from 8-17 April, 1993, E/CN.4/1994/7/Add.1, paragraph 79, p.23, op. cit.

<sup>292</sup> Report by Mr. B. W. Ndiaye, Special Rapporteur, on his mission to Rwanda from 8-17 April, 1993, E/CN.4/1994/7/Add.1, paragraph 79 and 80, p.23, op. cit.

<sup>293</sup> E/CN.4/1994/7/Add.1, paragraph 61, p.17

<sup>294</sup> Cited in Grunfeld and Huijboom, op. cit., p.71

<sup>295</sup> Ibid., pp.71-2

<sup>296</sup> Ibid., p.72

<sup>297</sup> Linda Melvern, “The Security Council: Behind the Scenes” in *International Affairs* 77 (1), 2001, p. 104

<sup>298</sup> Grunfeld and Huijboom, op. cit., p.72

its scarce resources to an unprecedented accumulation of a wide variety of arms.”<sup>299</sup> The International Committee of the Red Cross estimated that by April 11, about 20,000 people had been killed. Approximately half of them had been killed outside Kigali, far away from the war zone.<sup>300</sup> Pottier argues that all these reports containing clear warnings of genocide were “pushed aside.”<sup>301</sup> He further notes that “some knowledgeable academics showed and shared their insights.”<sup>302</sup> Scholars notified media from the very beginning to the fact that the killings were a case of widespread, ethnic violence, mostly carried out by the presidential guard of Habyarimana.<sup>303</sup>

### 3.4 HATE MEDIA IN RWANDA

In October 1990 a magazine with the name Kangura – “Wake It Up” – was published by Hasan Ngeze.<sup>304</sup> Philip Gourevitch describes Ngeze as a “Hutu supremacist with the populist touch.”<sup>305</sup> His magazine was immensely popular and contained harsh anti-Tutsi rhetoric. In December 1990 ‘The Hutu Ten Commandments’ were published, containing among others the commandment stating “Hutu must stop having mercy on the Tutsi.”<sup>306</sup> In February 1991, the magazine called for the extermination of RPF supports: “Let us learn about the inkontanyi and let us exterminate every last one of them.”<sup>307</sup> The issue of November 1991 contained an image of a machete and written next to it the ominous words: “What arms shall we use to conquer the (cockroaches) once and for all??”<sup>308</sup> Ngeze agitated against Arusha from the very start and called it a sellout. By the time UNAMIR arrived in Rwanda he explicitly warned them to stay out of the way. “If the RPF has decided to kill us, then let’s kill each other. Let whatever is

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<sup>299</sup> Human Rights Watch, *Arming Rwanda: The Arms Trade and Human Rights Abuses in the Rwandan War, 1994*, p.5. <http://www.hrw.org/sites/default/files/reports/RWANDA941.PDF> (accessed on 14.05.2013)

<sup>300</sup> Des Forges, *op. cit.*, p.476

<sup>301</sup> Pottier, *op. cit.*, p.38

<sup>302</sup> *Loc. cit.*

<sup>303</sup> *Ibid.*, p.30

<sup>304</sup> Gourevitch, *op. cit.*, p.136

<sup>305</sup> *Ibid.*, p.137

<sup>306</sup> *Loc. cit.*

<sup>307</sup> Cited in Grunfeld and Huijboom, *op. cit.*, p.76

<sup>308</sup> Kangura Issue 26, 1991, [http://www.genocidearchiverwanda.org.rw/index.php?title=Kangura\\_Issue\\_26](http://www.genocidearchiverwanda.org.rw/index.php?title=Kangura_Issue_26) and <http://www.rwandafile.com/Kangura/pdf/k26.pdf> (accessed on 04.06.2013)

smoldering erupt ... At such a time, a lot of blood will be spilled.”<sup>309</sup> These fanatical voices could count on support of the Habyarimana regime and high level members of the Hutu society.<sup>310</sup>

Similar extremist rhetoric was spewed around by the so-called Rwandese hate radio.<sup>311</sup> The following excerpt dates from December 2, 1993, broadcasted by the RTL, a radio station founded by Hutu-extremists.

Tutsi are nomads and invaders who came to Rwanda in search of pasture, but because they are so cunning and malicious, the Tutsi managed to stay and rule. If you allow the Tutsi–Hamites to come back, they will not only rule you in Rwanda, but will also extend their power throughout the Great Lakes Region<sup>312</sup>

Frank Chalk cites excerpts from April 1994 in *Hate Radio in Rwanda*:

RTL called on Hutu to avenge the death of the Rwandese President. Within hours, it declared: ‘The graves are not yet quite full. Who is going to do the good work and help us fill the completely.’ The Washington Post quoted a radio broadcast warning the Tutsi in Rwanda: ‘You cockroaches must know you are made of flesh! We won’t let you kill! We will kill you!’<sup>313</sup>

Nonetheless, there were few Western diplomats who wanted to take action against the extremist and racist language due to the freedom of speech.<sup>314</sup> The International Panel of Eminent Personalities rebutted this argument in their May 2000 report: “tolerance of hate radio goes well beyond the limits of acceptable free speech.”<sup>315</sup> Moreover, the Hate Radio gave clear directives in support of the genocide:

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<sup>309</sup> Cited in Gourevitch, op. cit., p.142

<sup>310</sup> International Panel of Eminent Personalities, op. cit., p.44

<sup>311</sup> Des Forges, op. cit., p.60

<sup>312</sup> David Yanagizawa-Drott, *Propaganda vs. Education: A Case Study of Hate Radio in Rwanda*, Forthcoming Oxford Handbook of Propaganda Studies, 2011  
[http://www.hks.harvard.edu/fs/dyanagi/Research/Propaganda\\_vs\\_Education.pdf](http://www.hks.harvard.edu/fs/dyanagi/Research/Propaganda_vs_Education.pdf) (accessed on 04.06.2013)

<sup>313</sup> Frank Chalk, “Hate Radio in Rwanda” in *The Path of Genocide: The Rwanda Crisis from Uganda to Zaire*, eds. Howard Adelman and Astri Suhrke (New Jersey: Transaction Publishers, 2000), p.98

<sup>314</sup> Grunfeld and Huijboom, op. cit., p.78

<sup>315</sup> International Panel of Eminent Personalities, op. cit., p.222

Radio RTLM, which had incited to genocide before April 6, communicated the orders for implementing the killings after that date. It instructed people to erect barriers and carry out searches; it named persons to be targeted and pointed out areas which should be attacked. Even the more restrained national radio, Radio Rwanda, broadcast directives important to the execution of the genocide.<sup>316</sup>

Des Forges concludes that the elimination of the hate radio would have had “great symbolic as well as practical effect.”<sup>317</sup> The International Panel concludes that “under any sensible criminal code, (hate radio) would have been silenced soon after it went on the air. It is a travesty that this never happened.”<sup>318</sup> Special Rapporteur Ndiaye called Radio Rwanda “the only source of information for the majority of a poorly educated population,” which, he argued, was pivotal in the instigation of several massacres.<sup>319</sup>

### 3.5 WARNINGS FROM THE FIELD

Aside from the ample reports and warnings mentioned above, the international community could rely on information gathered by their own intelligence services.

On January 11, 1994, UNAMIR Commander, General Romeo Dallaire, sent a cable to Headquarters in New York. Dallaire had come in contact with an informant, a former security member of the president and now trainer of the Interahamwe. The informant had told Dallaire about a plan “to provoke the RPF ... and provoke a civil war.”<sup>320</sup> He further wrote: “Belgian troops were to be provoked and if Belgians soldiers resorted to force a number of them were to be killed and thus guarantee Belgian withdrawal from Rwanda.”<sup>321</sup> Even more ominous is that the informant suspected a plan for the extermination of the Tutsi. “(The) example he gave was that in 20 minutes his personnel

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<sup>316</sup> Des Forges, *op. cit.*, p.25

<sup>317</sup> *Ibid.*, p.492

<sup>318</sup> International Panel of Eminent Personalities, *op. cit.*, p.44

<sup>319</sup> Report by Mr. B. W. Ndiaye, Special Rapporteur, on his mission to Rwanda from 8-17 April, 1993, E/CN.4/1994/7/Add.1, paragraph 56, p.17, *op. cit.*

<sup>320</sup> January 11 cable, 1994,

<http://www.pbs.org/wgbh/pages/frontline/shows/evil/warning/cable.html> (accessed on 06.06.2013)

<sup>321</sup> *Loc. cit.*

could kill up to 1000 Tutsis.”<sup>322</sup> This cable is now often referred to as the ‘genocide fax,’<sup>323</sup> and got “considerable press attention.”<sup>324</sup>

Iqbal Riza, deputy of the DPKO and in charge of the mission, said later in an interview that the cable had alarmed them, and that they had not yet received information “of this magnitude” before.<sup>325</sup>

A few days earlier, on January 6, Dallaire had already warned Headquarters about the way the killings were executed:

The manner in which they were conducted, in their execution, in their coordination, in their cover up, and in their political motives, leads us to firmly believe that the perpetrators of these evil deeds were well organized, well-informed, well-motivated and prepared to conduct premeditated murder. We have no reason to believe that such occurrences could not and will not be repeated again in any part of this country where arms are prolific and ethnic tensions are prevalent.<sup>326</sup>

Jacques Roger Booh-Booh, the head of the UNAMIR mission and Dallaire discussed the context of the cable with president Habyarimana. They were instructed to insist on immediate action by the president. Three weeks later, on February 2, Booh-Booh sent a cable to Kofi Annan, then the Assistant Secretary-General of Peacekeeping Operations, stating the president had not informed UNAMIR about his investigation.<sup>327</sup> One day later Dallaire cabled Headquarters in New York:

We can expect more frequent and more violent demonstrations, more grenade and armed attacks on ethnic and political groups, more assassinations and quite possibly outright attacks on UNAMIR installations ... Each day of delay in authorizing deterrent arms recovery operation will result in an ever deteriorating security

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<sup>322</sup> Loc. cit.

<sup>323</sup> Interview with Romeo Dallaire

<http://www.pbs.org/wgbh/pages/frontline/shows/ghosts/interviews/dallaire.html> (accessed on 06.06.2013)

<sup>324</sup> Melvern, “The Security Council: Behind the Scenes”, op. cit., p. 103

<sup>325</sup> Interview with Iqbal Riza,

<http://www.pbs.org/wgbh/pages/frontline/shows/evil/interviews/riza.html> (accessed on 06.06.2013)

<sup>326</sup> Cited in Des Forges, op. cit., p.117

<sup>327</sup> International Panel of Eminent Personalities, op. cit., p.100

situation and may if the arms continue to be distributed result in an inability of UNAMIR to carry out its mandate in all aspects.<sup>328</sup>

In mid February, Booh Booh informed Headquarters that the violence of the previous days might have had ethnical motivations and directed against the Tutsi. He further emphasized that ethnical motivated violence was a constant threat in view of the historical record of ethnic conflict in the country.<sup>329</sup> Dallaire informed Headquarters with clear and outspoken warnings over the next several months, indicating a rapid deterioration of the security situation. According to Melvern, Dallaire “made it abundantly clear that genocide was looming” in the daily reports he sent and phone calls he made.<sup>330</sup>

A culture of violence had erupted in Rwanda, and massacres and political assassinations became part of daily life. Barnett argues that “UNAMIR began to despair that the parties had turned fully away from the Arusha Accords and toward bloodshed.”<sup>331</sup> On April 8, two days after the assassination of president Habyarimana and one day after the murder of ten Belgian peacekeepers, Dallaire cabled New York about a “deliberate campaign of terror initiated principally by the Presidential Guard since the morning after the death of the head of state.”<sup>332</sup> By this time, prevention was no longer a possibility.

Michael Barnett notes that Dallaire shared his information with the United States, France, and Belgium, as well. The general’s impression was, Barnett argues, “that they were not overly surprised by the news, which probably reflected the fact that each had active intelligence network in Rwanda that had been getting whiffs of diabolical plots.”<sup>333</sup>

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<sup>328</sup> Cited in Des Forges, op. cit., p.123

<sup>329</sup> Report of the Independent Inquiry into the Actions of the United Nations During the 1994 Genocide in Rwanda, 1999, p.14

<sup>330</sup> Melvern, *A People Betrayed: The Role of the West in Rwanda’s Genocide*, op. cit., p.153

<sup>331</sup> Michael Barnett, *Eyewitness to a Genocide: The United Nations and Rwanda* (New York: Cornell University Press, 2002), pp.89-90

<sup>332</sup> Melvern, loc. cit.

<sup>333</sup> Barnett, op. cit., p.88

A report prepared in December 1990 by the embassies of France, Belgium, Germany, and the EU representative in Rwanda, warned about “the imminent risk of terrible consequences for Rwanda and the entire region” as a consequence of “the rapid deterioration of the relations between the two ethnic groups, the Hutu and the Tutsi.”<sup>334</sup>

The foreign governments most involved in the Rwandan conflict, the United States, France, and Belgium, had all sufficient intelligence about the situation.<sup>335</sup> The CIA warned in January 1993 “of the likelihood of large-scale ethnic violence.” A December 1993 study showed that Rwanda had received some 40 million tons of small arms. And a few months later, in January 1994, an intelligence analyst for the US government made the prediction that in case of conflict in Rwanda half a million people could die.<sup>336</sup> Des Forges argues that “officials in Washington certainly knew that the slaughter was organized, not spontaneous, and that Tutsi were the main targets.”<sup>337</sup> A UNAMIR cable of April 11, published in the New York Times, stated thousands of civilians had sought refuge on UN ground, fearing “the ruthless campaign of ethnic cleansing and terror.”<sup>338</sup>

Belgian’s extensive intelligence network in Rwanda kept Brussels apprised of the deteriorating situation.<sup>339</sup> The Belgian ambassador to Rwanda reported to Brussels in the spring of 1992 of a secret group with plans to exterminate the Tutsi. A particular fax sent by the ambassador about an anonymous pamphlet confirming the extermination plan of the secret group, should have rung “all alarm bells,” as it contained the same rhetoric deployed by the Nazis fifty years ago. Further, the Belgian government gathered information from Belgian experts of the region and an official document of the Rwandan Defence Ministry, defining the Tutsi as principle enemies.<sup>340</sup>

The most controversial role in the Rwandan conflict was reserved for the French. Barnett argues that Paris “had developed intimate knowledge of the political and military situation because of its extensive contacts with the palace and many who

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<sup>334</sup> Melvern, *A People Betrayed: The Role of the West in Rwanda’s Genocide*, op. cit., p.36

<sup>335</sup> Des Forges, op. cit., p.132

<sup>336</sup> Power, op. cit., p.338

<sup>337</sup> Des Forges, op. cit., p.476

<sup>338</sup> Loc. cit.

<sup>339</sup> Barnett, op. cit., p.89

<sup>340</sup> Grunfeld and Huijboom, op. cit., pp.67-69

counted themselves as part of the Hutu power elite.”<sup>341</sup> Paris had been an ally of the Hutu dictatorship for 20 years and had provided them with substantial military assistance and advice during their struggle with the RPF.<sup>342</sup>

In the 2004 documentary *Shake Hands with the Devil*, The UN diplomat Stephen Lewis summarized:

What the world fails to understand is that there was diplomatic information flowing in, in significant quantities. The French, the Italians, the Vatican, the various governments that had missions in Rwanda. They were sending reports by the end of 1993 and early 1994, which signaled an apocalypse.<sup>343</sup>

Melvorn was also harsh in her conclusions:

There are those who were all too aware of the situation in Rwanda, and who nevertheless failed to take action. There are those whose actions contributed directly to events. There are others who helped conceal the reality of what was taking place. And there were some who covered it up. There is evidence that points not just to negligence, but to complicity.<sup>344</sup>

### 3.6 THE SECURITY COUNCIL

In the end, the decision to intervene in Rwanda had to be made by the Security Council. This body had to decide whether a force should have been deployed.<sup>345</sup> The Secretary-General gives his recommendations to the Security Council, based upon the information he gets from the Secretariat, who receive the cables from the field.<sup>346</sup> The International Panel argued that the Secretary-General was informed on an almost-daily basis about

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<sup>341</sup> Barnett, op. cit., p.88

<sup>342</sup> Melvorn, “Rwanda and Darfur: The Media and the Security Council”, op. cit., p.99

<sup>343</sup> *Shake Hands with the Devil: The Journey of Roméo Dallaire*, directed by Peter Raymont, (Canadian Broadcasting Corporation, the Société Radio-Canada, White Pine Pictures, and DOC: The Documentary Channel, 2004)

<sup>344</sup> Melvorn, *A People Betrayed: The Role of the West in Rwanda’s Genocide*, op. cit., p.5

<sup>345</sup> Howard Adelman and Astri Suhrke, “Rwanda” in *The UN Security Council: From the Cold War to the 21<sup>st</sup> Century*, ed. David M. Malone (Colorado: Lynne Rienner Publishers, 2004) p.484

<sup>346</sup> Melvorn, “The Security Council: Behind the Scenes”, op. cit., p.108

the events in Rwanda by incoming cables. They have no doubt that “the Secretary-General was kept informed of key developments in Rwanda.”<sup>347</sup>

### 3.6.1 Information Provided by the UN Secretariat

The Secretariat relied on two divergent voices from the field: the first was that of force commander Romeo Dallaire, the second that of Jacques-Roger Booh-Booh. Des Forges notes that there are two different versions as to why they deployed different tones. According to some observers, the difference lay in the fact that one was a soldier and the other a diplomat. Others claim it involved political loyalties. Booh-Booh had ties with the French and was therefore sympathetic to the Habyarimana regime. Des Forges writes that “Booh-Booh enjoyed Boutros-Ghali’s confidence more than did Dallaire.”<sup>348</sup> The difference in tone is strikingly illustrated by the April 8 cable addressed to New York headquarters. Whereas Dallaire speaks of “a very well planned, organized, deliberate and conducted campaign of terror initiated principally by the presidential guard,” Booh-Booh spoke of a “calm, although tense” situation.<sup>349</sup>

Whereas the permanent members could rely on their own “considerable intelligence gathering,” the non-permanent members relied on the UN briefings, and, Melvern asserts, “no specific information was ever shared with the non-permanent members of the Council.”<sup>350</sup> Britain’s ambassador to the UN David Hannay confirmed this in an interview: “Events proved we were looking in the wrong direction, and that the Secretariat was telling us to look in that direction.”<sup>351</sup> Hannay claimed he had not seen any of the cables sent by the force commander.<sup>352</sup>

Ambassador Colin Keating, the representative of the non-permanent member New Zealand, complained that the Secretariat was very discreet about providing information on the conflict in Rwanda. Melvern notes: “The non-permanent members of the Council came to see Rwanda not as the smoldering volcano that it really was, but rather as a

<sup>347</sup> International Panel of Eminent Personalities, *op. cit.*, p.126

<sup>348</sup> Des Forges, *op. cit.*, p.479

<sup>349</sup> *Loc. cit.*

<sup>350</sup> Melvern, “The Security Council: Behind the Scenes”, *op. cit.*, p.103

<sup>351</sup> Cited in *ibid.*, p.111

<sup>352</sup> *Loc. cit.*

small civil war. The situation was much more complex and dangerous than was ever revealed to the Council.”<sup>353</sup> Keating himself stated: “We were kept in the dark. With better information the Council might have proceeded quite differently.”<sup>354</sup>

During the first month of the genocide in Rwanda, not once was there a debate in the Security Council about the systematic and ongoing slaughter.<sup>355</sup> Melvern argues that neither the January 11 cable, nor any other “dire warnings,” were ever presented to the Security Council.<sup>356</sup> Des Forges claims the cable was marked urgent by a staff member, but it “was not delivered to the council members nor were its contents communicated in summarized form, as was often the case for such messages.”<sup>357</sup>

A 2000 report investigating peace operations concluded:

The Secretariat must tell the Security Council what it needs to know, not what it wants to hear, when recommending force and other resource levels for a new mission, and it must set those levels according to realistic scenarios that take into account likely challenges to implementation.<sup>358</sup>

Riza stated in the interview that he regretted not interpreting “the information in that (11 January) cable to be the truth.”<sup>359</sup> However, he claims, this was not “the only source of information” and “the violence was not connected to a planning of a genocide, nobody saw it like that. It was seen as a result of a political deadlock.”<sup>360</sup> Further, the violence was “nothing new.”<sup>361</sup> First and foremost, the installation of the transitional government was prioritized.<sup>362</sup>

In an interview with Iqbal Riza, the Under-Secretary of Peacekeeping Operations was asked whether he informed the Security Council about Dallaire’s cable of April 8, stating a very well-planned, organized, deliberate campaign of terror was taking place.

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<sup>353</sup> Ibid., p.105

<sup>354</sup> Cited in loc. cit.

<sup>355</sup> Ibid., p.108

<sup>356</sup> Ibid., p.103

<sup>357</sup> Des Forges, op. cit., p.131

<sup>358</sup> Report of the Panel on UN Peace Operations, Executive Summary, A/55/305, [http://www.un.org/peace/reports/peace\\_operations/](http://www.un.org/peace/reports/peace_operations/) (accessed on 09.06.2013)

<sup>359</sup> Interview with Iqbal Riza, op. cit.

<sup>360</sup> Loc. cit.

<sup>361</sup> Loc. cit.

<sup>362</sup> Loc. cit.

Riza did not provide a clear answer but later replied that he thought Dallaire had it wrong: “Oh, yes, even they thought ... there was confusion, there was confusion.”<sup>363</sup>

Philip Gourevitch refutes this confusion in an interview. According to the scholar, there was ample information “floating around UN headquarters” by the time President Habyarimana was assassinated.<sup>364</sup> Gourevitch was harsh: “One had to willfully ignore a lot of information in order to think that when the president's plane was shot down and violence returned to Kigali, that that violence was simply a resumption of the same old civil war, rather than a new order of political massacres.”<sup>365</sup>

Riza seemed to avow some degree of guilt in his interview: “Possibly we did not give all the details. And if we did not, I really can't tell you what happened then to prevent us from giving those details. I really can't.”<sup>366</sup>

### **3.6.2 Information Gathered by the Members of the Security Council**

Naturally, the information flow derived from the UN Secretariat was not the only source available to the Security Council members. As noted above, some of the permanent members had sufficient intelligence of their own to come to the right assessment. Further, it was possible for members to consult human rights groups themselves.<sup>367</sup> Nonetheless, the Security Council failed to identify the genocide in Rwanda.

With all the information pointing towards genocide, it is remarkable that the UN spoke merely of “threats to the civilian populations,” which were “alarming.”<sup>368</sup> Moreover, the request for a peacekeeping mission was met with very little enthusiasm. Both the United States and the United Kingdom argued that the UN was overstretched with missions. The US was carrying 30 percent of the total peacekeeping bill, which had risen from

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<sup>363</sup> Loc. cit.

<sup>364</sup> Interview with Philip Gourevitch, op. cit.

<sup>365</sup> Loc. cit.

<sup>366</sup> Interview with Iqbal Riza, op. cit.

<sup>367</sup> The Czech ambassador Karel Kovanda consulted Alison Des Forges, a consultant for Human Rights Watch/Africa. See Wheeler, op. cit., p.225

<sup>368</sup> UN Resolution 812, 12 March 1993, [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/812\(1993\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/812(1993)) (accessed on 09.06.2013)

\$600 million to \$3 billion. Additionally, two days before the decision was made about a UN mission, eighteen US rangers were gruesomely killed in the streets of Mogadishu, during the UN mission in Somalia. Melvern dubbed it “a grave accident of timing.”<sup>369</sup> The fiasco in Somalia changed US policy regarding peacekeeping missions. During a 1992 televised speech George Bush had said, boastfully, that some crises in the world could not be resolved without the involvement of the US, for only they had “the global reach.”<sup>370</sup> But with the death of their troops in mind, the US insisted on a small mission consisting of traditional peacekeeping, and no more than operating as a neutral buffer between former enemies.<sup>371</sup> This new policy was anchored in the Presidential Decision Directive (PDD) 25.<sup>372</sup> Kuperman summarizes that there was considerable consensus in Washington about not deploying US ground troops in the midst of a civil war. However, consensus was also reached that in case of genocide an exception should be made.<sup>373</sup> Eventually, European and African governments succeeded in persuading the US to agree to a peace operation on the condition that the mission consisted of a narrow monitoring role and costs were low as possible.<sup>374</sup>

On April 5 1994, the United Nations had to decide whether to extend or withdraw the UNAMIR mission. Secretary-General Boutros-Ghali submitted his recommendation report on the matter on March 30. His report carried an optimistic tone and was mostly concerned with the delays in the peace agreement and the installation of the transitional government.<sup>375</sup> He concluded that “despite the increased tensions and insecurity engendered by the political impasse described above, the cease-fire generally appeared to hold during the period under review.”<sup>376</sup> He talked about ‘disturbing incidents’ that “could lead to an environment of widespread and heightened insecurity that could

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<sup>369</sup> Melvern, *A People Betrayed: The Role of the West in Rwanda's Genocide*, op. cit., p.77

<sup>370</sup> The Guardian, US troops in Somalia will do God's work, says Bush, 5 dec. 1992, <http://www.guardian.co.uk/theguardian/2012/dec/05/somalia-george-bush-senior-mogadishu-1992> (accessed on 09.06.2013)

<sup>371</sup> Melvern, “The Security Council: Behind the Scenes”, op. cit., p.104

<sup>372</sup> Presidential Decision Directive 25, 1993 <http://www.fas.org/irp/offdocs/pdd25.htm> (accessed on 09.06.2013)

<sup>373</sup> Kuperman, op. cit., p.1

<sup>374</sup> Alex J. Bellamy and Paul Williams, *Understanding Peacekeeping*, 2<sup>nd</sup> ed., (Cambridge: Polity Press, 2010), p.108

<sup>375</sup> Melvern, “The Security Council: Behind the Scenes”, op. cit., p.106

<sup>376</sup> Second Progress Report of the Secretary-General on the United Nations Assistance Mission for Rwanda, 30 March 1994, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/154/22/PDF/N9415422.pdf?OpenElement> (accessed on 08.06.2013)

hinder seriously the full and effective implementation of the Arusha peace agreement.”<sup>377</sup> The Secretary-General advised to extend the mission for a period of six months, provided that “continued support for UNAMIR would depend upon the full and prompt implementation of the Arusha peace agreement by the parties.”<sup>378</sup> Melvern notes that a ten-page military assessment written by Dallaire, stressing serious deficiencies in both capability and equipment was omitted in his report.<sup>379</sup> His recommendations were adopted by the UNSC and resulted in Resolution 909. The mission was extended, but the warning issued by Boutros-Ghali was parroted word for word. Other than concerns about “the deterioration in security in the country,” the violence is not mentioned.<sup>380</sup>

Nonetheless, the problems Rwanda was facing on April 5 were relatively mild. Barnett notes that the Council observed a country that “was in trouble but still committed to a peace process, respectful of a cease-fire, and making halting process toward the transitional government.”<sup>381</sup> This situation, however, changed dramatically one day later.

Dallaire correctly inferred that the situation would deteriorate quickly after Habyarimana’s plane crash and cabled a message to New York, writing: “Give me the means and I can do more.”<sup>382</sup> His superior officers responded “that nobody in New York was interested in that.”<sup>383</sup> One day later another statement was made by the UN: aware of the murder of the Belgian peacekeepers, the assassination of political leaders, and the initiated massacres of civilians,<sup>384</sup> the UN strongly condemned the “horrific attacks and their perpetrators.”<sup>385</sup> But other than the reaffirmation of the UN’s “commitment to the Arusha Peace Agreement,” no action was taken.<sup>386</sup> Johan Pottier argues that at the UN the Rwandan crisis had “low priority, so low that the UN Security

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<sup>377</sup> Loc. cit.

<sup>378</sup> Loc. cit.

<sup>379</sup> Melvern, “The Security Council: Behind the Scenes”, op. cit., p.106

<sup>380</sup> UN Resolution 909, 5 April 1994, [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/909\(1994\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/909(1994)) (accessed on 08.06.2013)

<sup>381</sup> Barnett, op. cit., p.99

<sup>382</sup> International Panel on Eminent Personalities, op. cit., p.122

<sup>383</sup> Cited in Des Forges, op. cit., p.463

<sup>384</sup> Ibid., p.464

<sup>385</sup> Statement by the President of the Security Council, 7 April 1994, [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/PRST/1994/16](http://www.un.org/ga/search/view_doc.asp?symbol=S/PRST/1994/16) (accessed on 10.06.2013)

<sup>386</sup> Loc. cit.

Council reached a consensus not to intervene to stop the killings.”<sup>387</sup> The representative of the United Kingdom, David Hannay, argued that “however painful it is to say, the council had no right to leave the thought lying around that two battalions of troops, or even less, could protect the civilian population of Rwanda.”<sup>388</sup> Hannay further declared:

There was no evidence, either now or in the foreseeable future, that UNAMIR would be in a position to protect civilians; the council should not lend itself to a ‘tragic fiction’ whereby it merely declared that something would be done.<sup>389</sup>

According to Washington, UNAMIR had no more role to play in the conflict now that there was no cease-fire left to monitor. It was abundantly clear that the UN was not going to intervene to halt the genocide.<sup>390</sup>

On the contrary, instead of broadening the mandate into a Chapter VII mandate the first whispers of UNAMIR’s withdrawal resounded.<sup>391</sup> Washington was worn out with the lack of progress and constant delay in Rwanda and opted to close the mission. Dissident voices of a few non-permanent members argued the country should be given more time in their laborious peace process.<sup>392</sup> On April 13, Nigeria, together with the non-aligned states, submitted a draft resolution favoring the strengthening of UNAMIR. It found no support and was not even discussed in the Council.<sup>393</sup> Iqbal Riza was later asked why the members of the Security Council were so hesitant to help. He answered:

What we call the Somalia Syndrome. What we call the Mogadishu Line. Casualties were not acceptable. Casualties appeared on television screens ... you will recall when the American soldiers were killed and that was simply not acceptable, and so those risks were not to be taken again.<sup>394</sup>

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<sup>387</sup> Johan Pottier, *op. cit.*, p.38

<sup>388</sup> Cited in Des Forges, *op. cit.*, p.480

<sup>389</sup> *Loc. cit.*

<sup>390</sup> *Loc. cit.*

<sup>391</sup> *Ibid.*, pp.464-65

<sup>392</sup> Melvern, “The Security Council: Behind the Scenes”, *op. cit.*, p.106

<sup>393</sup> Neil Fenton, *Understanding the UN Security Council: Coercion or Consent?* (Hampshire: Ashgate Publishing Limited, 2004), p.130

<sup>394</sup> Interview with Riza, *op. cit.*

The Belgians had earlier already opted for a more active role for UNAMIR and the strengthening of its mandate. In February the Belgian Ministry of Foreign Affairs reported that UNAMIR was unable to carry out “a strong maintenance of public order” under the present mandate.<sup>395</sup> New York Headquarters replied to the Belgian request for a broader interpretation of the rules that “no change was necessary and that Dallaire had the authority to interpret the rules according to the needs of the situation.”<sup>396</sup> The Belgians warned the UN that “public opinion would never tolerate having Belgian peacekeepers remain passive witnesses to genocide.”<sup>397</sup> The Belgian ambassador to the UN was instructed to lobby for the reinforcement of the peacekeeping mission in Rwanda.<sup>398</sup> Belgium provided the UN with an ultimatum after the death of their peacekeepers: either broaden the mandate and strengthen the force or Belgium would withdraw. Two days later they assessed that the first option was ruled out.<sup>399</sup> They were informed that both the United States and Britain opposed any increase due to financial reasons.<sup>400</sup> On April 13 the Belgians formally informed the Security Council of their withdrawal, notwithstanding the ongoing slaughter in Rwanda.<sup>401</sup> This was a ‘disaster’ for UNAMIR since one third of the troops were Belgian.<sup>402</sup> However, it was not just the withdrawal of their own troops the Belgian government was after, rather it lobbied fiercely for the complete removal of UNAMIR, apparently to “disguise and lessen Belgian responsibility for deserting Rwanda.”<sup>403</sup> Des Forges states that “the effort devoted to this end far exceeded previous efforts to broaden the mandate.”<sup>404</sup> The Belgian lobby could count on acclaim from others, most notably the U.S., as both the UN and national governments valued the lives of the soldiers more than that of the defenseless civilians.<sup>405</sup> The US ambassador to the UN argued persuasively that UNAMIR “had no business being there.”<sup>406</sup>

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<sup>395</sup> Cited in Des Forges, op. cit., p.126

<sup>396</sup> Ibid., p.462

<sup>397</sup> Ibid., p.464

<sup>398</sup> Melvern, “The Security Council: Behind the Scenes”, op. cit., p.104

<sup>399</sup> Des Forges, op. cit., p.474

<sup>400</sup> Melvern, “The Security Council: Behind the Scenes”, op. cit., p.104

<sup>401</sup> Des Forges, op. cit., p.475

<sup>402</sup> International Panel on Eminent Personalities, op. cit., p.123

<sup>403</sup> Des Forges, op.cit., pp.475-76

<sup>404</sup> Loc. cit.

<sup>405</sup> Loc. cit.

<sup>406</sup> Johan Pottier, op. cit., p.39

Preparations for a ‘humanitarian’ intervention, i.e., the evacuation of foreigners, commenced. On April 8 a plan was proposed to evacuate all foreigners, including UN staff and the UNAMIR forces.<sup>407</sup> Dallaire was informed to prepare for a complete withdrawal, which he objected.<sup>408</sup> The evacuation would have prevented UNAMIR soldiers of being “passive witnesses to genocide.”<sup>409</sup> According to Dallaire, the evacuation force together with the present UNAMIR troops, “could easily have stopped the massacres and showed the people at the barriers that it was dangerous to be there. They would have gone home.”<sup>410</sup> Other generals agreed with this assessment.<sup>411</sup> Colonel Marchal wrote: “When people rightly point the finger at certain individuals presumed responsible for the genocide, I wonder if after all there is not another category of those responsible by ... omission.”<sup>412</sup> The scene was disheartening as foreign troops evacuated their own citizens and abandoned the defenseless Rwandans, including “many Tutsi who had worked in their homes, embassies, and offices.”<sup>413</sup> The foreign troops returned home, applauded by their countrymen, while the genocide in Rwanda was continuing.<sup>414</sup>

An intervention was ruled out, and the question was what to do in Rwanda? The Secretary General offered three options in his report of April 20: the first was the “immediate and massive reinforcement of UNAMIR and a change in its mandate so that it would be equipped and authorized to coerce the opposing forces into a cease-fire.”<sup>415</sup> The second option was to reduce UNAMIR, the third alternative was “the complete withdrawal of UNAMIR.”<sup>416</sup> There was no mentioning of how to protect the Rwandan civilians.<sup>417</sup>

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<sup>407</sup> Des Forges, op. cit., p.466

<sup>408</sup> Wheeler, op. cit., p.219

<sup>409</sup> Des Forges, op. cit., p.126

<sup>410</sup> Cited in *ibid.*, p.468

<sup>411</sup> *Loc. cit.*

<sup>412</sup> Cited in *ibid.*, p.469

<sup>413</sup> Barnett, op. cit., p.100

<sup>414</sup> Des Forges, op. cit., p.471

<sup>415</sup> Special Report of the Secretary-General on the United Nations Assistance Mission for Rwanda, 20 April 1994, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/186/70/PDF/N9418670.pdf?OpenElement> (accessed on 12.06.2013)

<sup>416</sup> *Loc. cit.*

<sup>417</sup> Wheeler, op. cit., p.220

The recommendations were discussed by the Council during an informal meeting the same day. The option of reinforcement was objected by the British ambassador David Hannay. He reminded the Council members about the situation in Somalia a year before. The British supported option two: withdrawal and leaving a small force behind. Nigeria was the only country raising objections to this suggestion. Nonetheless, that same evening the Secretary-General's military advisor, Maurice Baril, briefed a group of ambassadors from the non-permanent members and told them about the terrible conditions under which the soldiers operated. As a consequence all Council members voted in favor of the reduction and on April 21, Resolution 912 was adopted, reducing UNAMIR to a mission of 270 observers.<sup>418</sup> To cite Johan Pottier: "UNAMIR's presence was scaled down as the killings intensified."<sup>419</sup> Regarding this, Des Forges' conclusion was harsh:

The council was not prepared to guarantee the safety even of those who sought refuge with UNAMIR and it ordered the force only 'to monitor and report on developments ... including the safety and security of those who sought protection from them.'<sup>420</sup>

She further notes that "fortunately Dallaire and his subordinates stretched their limited orders in the weeks to come" and were able to keep a force of around 540 soldiers.<sup>421</sup> Consequently, UNAMIR could not do more than offer "sporadic help for a pitifully small number."<sup>422</sup> Howard Adelman judged that the decision "must go down in history as one of the most ignominious actions of the international community in general and the Security Council in particular."<sup>423</sup>

With genocide underway and ample information available, the UN was legally and morally obliged to take action. Nevertheless, the question of the Genocide Convention was evaded by the Security Council and the Secretariat through the use of euphemism and "vague and confused statements that failed to come to terms with the real nature of the genocide."<sup>424</sup> Wheeler asserts that "having decided against intervention, the Clinton

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<sup>418</sup> Ibid., p.221

<sup>419</sup> Johan Pottier, op. cit., p.39

<sup>420</sup> Des Forges, op. cit., p.482

<sup>421</sup> Loc. cit.

<sup>422</sup> Loc. cit.

<sup>423</sup> Cited in Wheeler, op. cit., p.221

<sup>424</sup> Des Forges, op. cit., p.478

administration mobilized against those governments, NGO's, and media that wanted to name Rwanda a genocide."<sup>425</sup> This seemed the only possible way to avoid "the awkward legal question" whether intervention was obligatory under the Genocide Convention.<sup>426</sup> By the time the extermination program of the Tutsi was in full motion, the US was still focusing on reestablishing the cease-fire and the implementation of the Arusha Accords.<sup>427</sup> They were not alone in their assertion. Rather than defining the massacres as genocide, terms like 'chaos' were employed. Most briefings at the Security Council failed to implicate the Rwandan government as responsible for the killings.<sup>428</sup> Wheeler argues that by obfuscating what was really happening, but instead defining it a civil war, the Secretariat legitimized the "decision not to intervene to stop the massacres."<sup>429</sup>

The Secretary General, as well, refrained from strong language. Boutros-Ghali pointed to "the violence in the streets" and "a people who have fallen into calamitous circumstances."<sup>430</sup> This failure to identify the violence as genocide was motivated by a reluctance to take action. The 1999 Independent Inquiry into the Actions of the United Nations During the 1994 Genocide in Rwanda called this motivation "deplorable."<sup>431</sup> While thousands were massacred "the Security Council was mired in discussion about UNAMIR that seemed to lead nowhere and that rarely mentioned the fate of Rwandans."<sup>432</sup> Des Forges concludes that there was simply no interest in coming to the rescue of the Rwandan civilians.<sup>433</sup> The OAU proved just as reluctant to define the genocide "by its rightful name."<sup>434</sup> Instead they referred to "'carnage and bloodletting' and massacres and wanton killings."<sup>435</sup>

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<sup>425</sup> Wheeler, op. cit., p.224

<sup>426</sup> Ibid., p.225

<sup>427</sup> Power, op. cit., p.347

<sup>428</sup> Des Forges, op. cit., p.478

<sup>429</sup> Wheeler, op. cit., p.221

<sup>430</sup> Special Report of the Secretary-General on the United Nations Assistance Mission for Rwanda, op. cit.

<sup>431</sup> Report of the Independent Inquiry into the Actions of the United Nations During the 1994 Genocide in Rwanda, op. cit., p.38

<sup>432</sup> Des Forges, op. cit., p.479

<sup>433</sup> Loc. cit.

<sup>434</sup> Loc. cit.

<sup>435</sup> Cited in loc. cit., p.497

After the genocide had finally attracted widespread media coverage by the end of April, the Council was forced to take action. Pressured by the Secretary General and the governments of non-permanent members New Zealand and the Czech Republic, an informal meeting was convoked on 28 and 29 April. Both the Czech ambassador, Karel Kovanda, and the representative of New Zealand, Colin Keating, shocked by the information they had gathered independently, proposed a statement to condemn the killings as genocide.<sup>436</sup> China, the USA, and Britain strongly opposed the choice of wording. Hannay warned that the UN would become a ‘laughing stock.’<sup>437</sup> Not because it was untrue, but rather because the UN would not be able to find the necessary troops, impairing the UN’s credibility for standing on the sidelines while genocide was committed.<sup>438</sup> A compromise was reached and a statement was issued on April 30. The statement read: “the Security Council recalls that the killing of members of an ethnic group with the intention of destroying such a group in whole or in part constitutes a crime punishable under international law.” The word genocide, however, was not used in the text.<sup>439</sup> Wheeler concludes that:

(t)his analysis still betrayed a reluctance to accept that a genocide was taking place, but (the president of the Security Council’s) recommendation that the Security Council consider authorizing member states to use force ‘to restore law and order and end the massacres’ indicated that the Security Council was at last seized of the urgent need to rescue Rwandan civilians.<sup>440</sup>

In a May 6 letter the President of the Security Council addressed Boutros-Ghali, stating that there was agreement in the Council “that in view of the unabated hostilities and killings, urgent and effective means of actions be considered.”<sup>441</sup> The Secretary General submitted his recommendations a week later and opted for the creation of UNAMIR II, a “well-armed and highly militarized force” of 5,500 troops. Boutros-Ghali

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<sup>436</sup> Wheeler, op. cit., p.226

<sup>437</sup> Loc. cit.

<sup>438</sup> Loc. cit.

<sup>439</sup> Statement by the President of the Security Council, 30 April 1994, <http://www.undemocracy.com/S-PRST-1994-21.pdf> (accessed on 13.06.2013)

<sup>440</sup> Wheeler, op. cit., pp.226-27

<sup>441</sup> Letter from the President of the Security Council to the Secretary-General, 6 May 1994 (S/1994/546), <http://www.rwandadocumentsproject.net/gsd/collect/usdocs/index/assoc/HASH1812/7c1931f8.dir/1273.pdf> (accessed on 13.06.2013)

recommended the deployment of an expanded mandate to “provide safe conditions for displaced persons and other groups in Rwanda who have been affected by the hostilities or are otherwise in need.”<sup>442</sup> There was still no mentioning of genocide or the malevolent role of the Rwandan government, nor did he opt for a Chapter VII mandate. Boutros-Ghali still focused on the implementation of the Arusha agreement, which was “the solution to the crisis.”<sup>443</sup>

On the 16th of May, the Council met to discuss the deployment of a new mission. Fenton criticizes the “self-congratulatory tone” of the statements made by the representatives, giving “the impression that the Council was taking extraordinary steps to assist the people of Rwanda.”<sup>444</sup> The ambassador of France stated: “Faced with a humanitarian catastrophe of such magnitude the international community could not fail to react.”<sup>445</sup> The Chinese representative claimed that Resolution 918, establishing UNAMIR II, was a “reflection of the international community’s good will and its sincere desire to create conditions for the early restoration of peace and security in Rwanda.”<sup>446</sup> The ultimate solution to save innocent civilians, some argued, lay in the hands of the Rwandans themselves. There was no need for a Chapter VII mandate, nor was it ever mentioned. The Czech ambassador Kovanda was the only representative that used the word genocide: “This situation is being described as a humanitarian crisis as though it were a famine or perhaps a natural disaster. In the view of my delegation, the proper description is genocide.”<sup>447</sup> Fenton concludes that “although the members of the UNSC had gained a better understanding of the Rwandan situation by the middle of May 1994, their desire to assist the Rwandan people remained limited.”<sup>448</sup> The main concern in the Council was the minimization of risk. The United States raised the sternest objections among the Council members. It took substantial pressure and the promise of a phased implementation of the UNAMIR II mission before they abandoned

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<sup>442</sup> Report of the Secretary-General on the Situation in Rwanda, 13 May 1994, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/215/13/IMG/N9421513.pdf?OpenElement> (accessed on 13.06.2013)

<sup>443</sup> Loc. cit.

<sup>444</sup> Fenton, op. cit., p.136

<sup>445</sup> Security Council Meeting (S/PV.3377), 16 May 1994, <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Chap%20VII%20SPV%203377.pdf> (accessed on 15.06.2013)

<sup>446</sup> Loc. cit.

<sup>447</sup> Loc. cit.

<sup>448</sup> Fenton, op. cit., p.135

their objections.<sup>449</sup> On May 17, Resolution 918 was adopted, establishing the deployment of an additional 5,500 troops.<sup>450</sup>

Boutros-Ghali addressed the Security Council again on 31 May due to the delay in the implementation of deploying the UNAMIR II forces.<sup>451</sup> Iqbal Riza later stated it had been “extremely difficult” to find troops.<sup>452</sup> Fenton argued that by early June “only 354 fully equipped soldiers had been volunteered to the new force, despite the Secretariat having approached over 50 states for support.”<sup>453</sup> During his new address to the Council, the Secretary General for the first time spoke of genocide and incriminated the Rwandan government: “On the basis of the evidence that has emerged, there can be little doubt that (the violence) constitutes genocide.”<sup>454</sup> He further claimed there was “strong evidence that the overwhelming responsibility lies with the ‘interim government’ and the Rwandan government forces.”<sup>455</sup> He concluded in a gloomy tone: “The delay in reaction by the international community to the genocide in Rwanda has demonstrated graphically its extreme inadequacy to respond urgently with prompt and decisive action to humanitarian crises entwined with armed conflict.”<sup>456</sup>

The UN was unable to deploy the 5,500 troops to Rwanda, simply because none of the governments able to deliver suitable troops was willing to offer them. Boutros-Ghali eventually raised the suggestion to accept an offer of the French, who had requested a Chapter VII mandate to lead a force in order to provide protection for the Rwandans under threat.<sup>457</sup> No matter what the motives of the French government were to intervene in Rwanda, it was much too late and it failed to conceal the failure of the UN.

In 1999, Secretary-General Kofi Annan established an independent inquiry to investigate the actions of the UN during the Rwanda genocide. The Inquiry, led by

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<sup>449</sup> Ibid., p.137

<sup>450</sup> UN Resolution 918, 17 May 1994, [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/918\(1994\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/918(1994)) (accessed on 16.06.2013)

<sup>451</sup> Wheeler, op. cit., p.229

<sup>452</sup> Riza interview, op. cit.

<sup>453</sup> Fenton, op. cit., pp.138-39

<sup>454</sup> Report of the Secretary-General on the Situation in Rwanda (S/1994/640), 31 May 1994. <http://daccess-ods.un.org/TMP/3891448.67658615.html> (accessed on 15.06.2013)

<sup>455</sup> Loc. cit.

<sup>456</sup> Loc. cit.

<sup>457</sup> Fenton, op. cit., p.139

Ingvar Independent, found that “was not sufficient focus or institutional resources for early warnings and risk analysis” at New York Headquarters.<sup>458</sup> It further discussed whether it was possible to predict the genocide: “The inquiry has received very different replies to this question, both from Rwandese and international actors whom it interviewed.”<sup>459</sup> Nonetheless, it concluded that the reports issued by NGOs and human rights groups “were not sufficiently taken into account.”<sup>460</sup> The inquiry clearly indicated that the UN should have known that genocide was taking place: “There were warning signs of the possibility of a genocide in Rwanda, and furthermore clear indications that mass killings were being planned and could take place in Rwanda in early 1994.”<sup>461</sup>

The International Panel of Eminent Personalities was less ambiguous about the question whether the UN knew about the genocide: “In our view, this is not a serious debate. The major actors in the drama, the world that mattered to Rwanda – most of its Great Lakes Region neighbors, the UN and the major western powers – knew a great deal about what was happening.”<sup>462</sup> The Panel was harsh in its reproaches:

They knew that this was no senseless case of ‘Hutu killing Tutsi and Tutsi killing Hutu,’ as it was sometimes dismissively described. That world knew that a terrible fate had befallen Rwanda. They even knew, and reported, that some individuals in Rwanda were talking openly of eliminating all Tutsi.<sup>463</sup>

Howard Adelman and Astri Suhrke write in the 1996 report of *The Joint Evaluation of Emergency Assistance to Rwanda* that the signs reaching the Secretariat indicating disaster were plenty and unequivocal.<sup>464</sup> They conclude:

Pieces of information were available that, if put together and analyzed, would have permitted policy-makers to draw the conclusion that both political assassinations and

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<sup>458</sup> Report of the Independent Inquiry into the Actions of the United Nations During the 1994 Genocide in Rwanda, op. cit., p.42

<sup>459</sup> Loc. cit.

<sup>460</sup> Loc. cit.

<sup>461</sup> Loc. cit.

<sup>462</sup> International Panel of Eminent Personalities, op. cit., p.42

<sup>463</sup> International Panel, op. cit., p.42

<sup>464</sup> Astri Suhrke and Howard Adelman, “Early Warning and Conflict Management” in *The International Response to Conflict and Genocide: Lessons from the Rwanda Experience*, ed. John Eriksson (1996), p.17, <https://www1.oecd.org/derec/sweden/50189495.pdf> (accessed on 15.06.2013)

genocide might occur, and that the scale would be different from past patterns (1959–1963; 1991–1993) of “just” hundreds or thousands of victims.<sup>465</sup>

Although it is impossible to determine who knew what exactly, and at which point, it is fair to say that the UN was aware genocide was occurring in Rwanda and had therefore the legal and moral obligation to prevent it. The question then remains: why did the UN fail to do so?

### **3.7 CONCLUSION**

This chapter has illustrated that the UN was aware genocide had occurred in Rwanda but decided not to act accordingly. Many reports and clear warning were brushed aside or simply ignored. Despite the promise of ‘never again’ in the 1948 Genocide Convention, the international community remained on the sidelines and did nothing while 800.000 Tutsi were massacred. This seems incomprehensible and raises the question how this was possible? The next chapter will analyze how pluralism defeated solidarism in the Security Council and paved the way for indifference while genocide was underway.

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<sup>465</sup> Loc. cit.

## CHAPTER 4

### 4. SOLIDARISM VERSUS PLURALISM: THE CASE OF RWANDA

#### 4.1 INTRODUCTION

This chapter aims to explain why the UN failed its moral and legal responsibility to intervene on behalf of the Tutsi minority in Rwanda. I will argue that pluralist motives were responsible for the collective failure. I will start this chapter by illustrating how solidarism dominated during the years preceding the Rwandan genocide. However, after the fiasco in Somalia, pluralism reoccurred and instigated inaction. Finally, I will argue solidarism was justified and necessary in the case of Rwanda.

#### 4.2 1992: A MOMENT OF SOLIDARISM

On January 31, 1992, a UNSC meeting took place in New York. Present were the state leaders of the five permanent and ten non-permanent members.<sup>466</sup> Melvern noted the meeting “captured the spirit of the age.”<sup>467</sup> Britain’s Prime Minister John Major presided the meeting and opened by saying: “The world now has the best chance for peace, security and development since the founding of the United Nations.”<sup>468</sup> The Council meeting was filled with hopeful, solidarist promises about the preservation and protection of human rights. The French president Mitterand stated: “Human rights have triumphed.”<sup>469</sup> The Russian president Boris Jeltsin listed human rights as a clear and simple principle of the United Nations: “The Security Council is called upon to underscore the civilized world's collective responsibility for the protection of human rights and freedoms.”<sup>470</sup> The Belgian Prime Minister emphasized that “state rights are subservient to human rights.”<sup>471</sup>

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<sup>466</sup> UN Doc. Provisional Verbatim Record. S/PV. 3046. 31 January 1992, [http://www.un.org/en/sc/repertoire/89-92/Chapter%208/GENERAL%20ISSUES/Item%2029\\_Agenda%20for%20peace\\_.pdf](http://www.un.org/en/sc/repertoire/89-92/Chapter%208/GENERAL%20ISSUES/Item%2029_Agenda%20for%20peace_.pdf) (accessed on 15.06.2013)

<sup>467</sup> Melvern, “The Security Council: Behind the Scenes”, op. cit., p.101

<sup>468</sup> UN Doc. Provisional Verbatim Record. S/PV. 3046, op. cit.

<sup>469</sup> Loc. cit.

<sup>470</sup> Loc. cit.

<sup>471</sup> Loc. cit.

John Major concluded the meeting by speaking in name of the Council members. He noted the peacekeeping tasks of the United Nations “have increased and broadened considerably.”<sup>472</sup> Further, he claimed: “The members of the Council stress the importance of strengthening and improving the United Nations to increase its effectiveness.”<sup>473</sup> Major reminded the Council that this was the best chance for the world to achieve “international peace and security since the foundation of the United Nations.”<sup>474</sup> The Council also called upon the Secretary-General to prepare his recommendations and analysis to improve the UN capacity for preventive diplomacy, peacemaking, and peacekeeping.<sup>475</sup>

Secretary General Boutros Ghali responded with the optimistic manifesto *An Agenda for Peace*. This document indeed suggested a wider scope of UN operations, including preventive diplomacy, peacemaking, and peacekeeping.<sup>476</sup>

The Organization’s aims should be the following: to seek to identify at the earliest possible stage situations that could produce conflict, and to try through diplomacy to remove the sources of danger before violence resulted; where conflict had erupted, to engage in peacemaking aimed at resolving the issues that had led to conflict; through peacekeeping, to work to preserve peace where fighting had been halted, and to assist in implementing agreements achieved by the peacemakers; to stand ready to assist in peacebuilding in its differing contexts; and to address the deepest causes of conflict.<sup>477</sup>

The spirit of the 1992 meeting dominated the conflict in Somalia. Wheeler claims that several members of the Security Council “argued in December 1992 that the Security Council had a responsibility or obligation to intervene to rescue the Somali people.”<sup>478</sup> Indeed, UN Resolution 794, adopted on December 3, 1992, authorized “action under Chapter VII of the Charter to use all necessary means to establish as soon as possible a

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<sup>472</sup> Loc. cit.

<sup>473</sup> Loc. cit.

<sup>474</sup> Loc. cit.

<sup>475</sup> Loc. cit.

<sup>476</sup> Joanna Weschler, “Human Rights” in *The UN Security Council: From the Cold War to the 21<sup>st</sup> Century*, ed. David M. Malone (Colorado: Lynne Rienner Publishers, 2004), p.63

<sup>477</sup> *An Agenda for Peace* (1992), [http://www.un.org/en/sc/repertoire/89-92/Chapter%208/GENERAL%20ISSUES/Item%2029\\_Agenda%20for%20peace\\_.pdf](http://www.un.org/en/sc/repertoire/89-92/Chapter%208/GENERAL%20ISSUES/Item%2029_Agenda%20for%20peace_.pdf) (accessed on 17.06.2013)

<sup>478</sup> Wheeler, op. cit., p.185

secure environment for humanitarian relief operations in Somalia.”<sup>479</sup> Wheeler argues that the unanimously adopted Resolution might be considered as the change of “normative context of legitimate intervention.”<sup>480</sup> He emphasizes that “for the first time, humanitarian claims were being advanced and legitimated by members as justification for the use of force.”<sup>481</sup>

#### **4.3 THE TURN TO PLURALISM: GENOCIDE IN RWANDA**

If the UN felt morally responsible to save Somalis from famine and civil strife, common sense tells us genocide would elicit even stronger actions. A Chapter VII mandate would be even easier to justify when it was deployed in order to defend millions of innocent civilians. However, as noted in the previous chapter, the dramatic outcomes of the intervention in Somalia brought about a change in the mentality of the Security Council members. The UN mission in Somalia had been deployed under a Chapter VII mandate, unprecedented since then, and had led to the loss of UN prestige, credibility, and US alacrity.<sup>482</sup> Pluralist motives reappeared, which paralyzed the Security Council. We have seen that, historically, ethnic violence against the Tutsi dominated the conflict in Rwanda. Therefore, it was imperative that the UN became involved immediately when the conflict flared up again.

Nonetheless, the civil war was already waging for one-and-a-half years, and it took the Security Council another year before they became involved in March 1993. Adelman and Suhrki blame this belated action on symptomatic indifference due to the “marginal importance of Rwanda.”<sup>483</sup> Just two years after a moment of solidarity, pluralist arguments of national interest and statism quickly reversed those words and trumped universal human rights. Adelman and Suhrki further claim that when the UN became involved, “it was a conditional rather than proactive form of diplomacy.”<sup>484</sup> Des Forges accused the UN in her report *Leave None to Tell the Story* of being ‘slow’ and

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<sup>479</sup> UN Resolution 794, 3 December 1992, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N92/772/11/PDF/N9277211.pdf?OpenElement> (17.06.2013)

<sup>480</sup> Wheeler, op. cit., p.185

<sup>481</sup> Loc. cit.

<sup>482</sup> Melvern, “The Security Council: Behind the Scenes”, op. cit., pp.102-03

<sup>483</sup> Howard Adelman and Astri Suhrke, “Rwanda”, op. cit., pp.485-88

<sup>484</sup> Ibid., pp.485-86

‘stingy.’<sup>485</sup> Although the OAU had sent a small observer mission to Rwanda in mid-1992, the UN did not put the conflict on the agenda until a formal request was issued by both Rwanda on the one hand, supported by the French, and Uganda on the other, to send an observer-mission for the monitoring of their common border in March 1993.<sup>486</sup>

Moreover, when the Security Council finally authorized the deployment of UNAMIR, it was done so under strict conditions instigated by pluralist motives. Rwanda had low priority for the national interests of most Council members. The mandate of UNAMIR clearly illustrated that the Rwandan conflict was of little interest. UNAMIR was restricted to an observer’s mission, present to assist the involved parties and monitor the cease-fire. Resolution 872 gave a mandate to “contribute to the security of the city of Kigali inter alia within a weapons-secure area established by the parties in and around the city,” and to “monitor observance of the cease-fire agreement.”<sup>487</sup> The Resolution strictly limited UNAMIR to act in cooperation with the local police and gendarmerie.<sup>488</sup> Furthermore, it was an attenuated version of the desires put forward in the Arusha Agreements. Whereas they called for a Neutral International Force to “guarantee the overall security of the country,”<sup>489</sup> Resolution 872 limited the UN’s presence to Kigali, and spoke of contributing, instead of guaranteeing. It was a clear signal that the international community was only prepared to get involved at the lowest costs.

One might argue that, at the time, a traditional peacekeeping mandate under Chapter VI seemed to suffice: a peace agreement had been signed, the UN mission had the cooperation and consent of the involved parties, and the parties seemed willing to honour the cease-fire agreement.<sup>490</sup> However, it was clear from the beginning that even a basic peacekeeping operation was more than the Council desired. In accordance with the promises made to Washington, the Secretary General was “to consider ways of

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<sup>485</sup> Des Forges, op. cit., p.99

<sup>486</sup> Adelman and Suhrke, op. cit., p.487

<sup>487</sup> UN Resolution 872, 5 October 1993,

[http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/872\(1993\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/872(1993)) (accessed on 17.06.2013)

<sup>488</sup> Turid Laegreid, “U.N. Peacekeeping in Rwanda” in *The Path of Genocide: The Rwanda Crisis from Uganda to Zaire*, eds. Howard Adelman and Astri Suhrke (New Jersey: Transaction Publishers, 2000), p.234

<sup>489</sup> Arusha Accords, August 1993,

<http://www.incore.ulst.ac.uk/services/cds/agreements/pdf/rwan1.pdf> (accessed on 13.05.2013)

<sup>490</sup> Neil Fenton, op. cit., p.126

reducing the total maximum strength of UNAMIR.”<sup>491</sup> Eventually, the UN deployed 2,548 troops to Rwanda, much less than the 8,000 troops recommended by a UN military expert, and the 4,500 troops UNAMIR commander Romeo Dallaire had asked for after his reconnaissance mission.<sup>492</sup> Dallaire was told this number was unrealistic, not because less troops would suffice but because the Secretariat “believed that it would not be possible to get Council support for that number of troops.”<sup>493</sup> The Independent Inquiry notes that “this picture of the political commitment at the time was probably correct.”<sup>494</sup> Further, the budget for the operation was not approved until two days before the genocide commenced, resulting in the lack of reserves of basic commodities and military supplies for UNAMIR personnel.<sup>495</sup> General Dallaire complained in the documentary *Shake Hands with the Devil*: “We were to be an easy peacekeeping mission that could be done on the cheap. We started with nothing: a few pieces of paper, a pencil, not even enough to pay for the phone bills back to New York.”<sup>496</sup> Des Forges was also harsh in her conclusions:

The delay in funding, in addition to other administrative problems, resulted in the force not receiving essential equipment and supplies, including armored personnel carriers and ammunition. When the killing began in April, UNAMIR lacked reserves of such basic commodities as food and medicine as well as military supplies.<sup>497</sup>

According to the Panel, “the Secretariat knew full well that UNAMIR was barely equipped even for a minimalist role.”<sup>498</sup> However, New York denied UNAMIR “neither new authority nor fresh supplies.”<sup>499</sup> On top of that the International Panel concluded that the UN Secretariat “imposed on UNAMIR the tightest constraints imaginable, refusing it the slightest flexibility even when lives were directly at stake.”<sup>500</sup>

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<sup>491</sup> UN Resolution 872, op. cit.

<sup>492</sup> Bellamy and Williams, op. cit., p.203

<sup>493</sup> Report of the Independent Inquiry into the Actions of the United Nations During the 1994 Genocide in Rwanda, op. cit., p.32

<sup>494</sup> Loc. cit.

<sup>495</sup> Des Forges, op. cit., p.100

<sup>496</sup> *Shake Hands with the Devil: The Journey of Roméo Dallaire*, op. cit.

<sup>497</sup> Des Forges, loc. cit.

<sup>498</sup> International Panel of Eminent Personalities, op. cit., p.122

<sup>499</sup> Loc. cit.

<sup>500</sup> Ibid., p.128

On April 7, ten Belgian peacekeepers were murdered on a mission to escort the Prime Minister.<sup>501</sup> Dallaire got orders not to risk any further lives or even take any actions that might result in reprisals from the enemy. Dallaire later commented:

An operation should begin with the objective and then consider how best to achieve it with minimal risk. Instead, our operations began with an evaluation of risk and if there was risk, the objective was forgotten. You can't begin by asking if there is a risk. If there is no risk, they could have sent Boy Scouts, not soldiers.<sup>502</sup>

Success of the mission was thus closely interlinked with the willingness of the Rwandese parties to implement the Arusha Accords.<sup>503</sup> Indeed, rather than stressing the moral and legal obligation of the international community, the Security Council emphasized that the conflict was an internal problem for the Rwandans themselves to solve. During the Security Council meeting of May 16, with the genocide in its fifth week, most agreed that there was only a political solution to the conflict. The Chinese ambassador emphasized in his statement that the only solution is for the two Rwandan sides to stop the violence. The Russians were also clear that the conflict was foremost an internal issue. The western permanent members, as well, stressed that the Arusha agreement was the only possible solution for the conflict, only feasible if both parties committed to a cease-fire. The American ambassador declared “whatever efforts the United Nations may undertake, the true key to the problems in Rwanda is in the hands of the Rwandese people.”<sup>504</sup> Almost unanimous consensus existed that the UN had no business in intervening on behalf of the Tutsi.<sup>505</sup> Just two years prior consensus existed regarding the deployment of military force to come to the aid of the victims in Somalia, but the Rwandan genocide was marked no priority. Never was there a serious discussion about the application of the Genocide Convention until it was already much too late. Nor did the Council stress its moral obligation to intervene.

Pluralist policy was also clearly tangible in the field. UNAMIR was kept on a leash, even after genocide had broken out. In a cable of April 9, Kofi Annan and Iqbal Riza

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<sup>501</sup> Linda Melvern, *Conspiracy to Murder: The Rwandan Genocide*, rev. ed., (New York: Verso, 2006), p.163

<sup>502</sup> Cited in Des Forges, op. cit., p.464

<sup>503</sup> Laegreid, loc. cit.

<sup>504</sup> Security Council Meeting (S/PV.3377), op. cit.

<sup>505</sup> Loc. cit.

directed Dallaire to “make every effort not to compromise (Dallaire’s) impartiality or to act beyond (his) mandate.”<sup>506</sup> It continued: “but (you) may exercise your discretion to do so should this be essential for the evacuation of foreign nationals. This should not, repeat not, extend to participating in possible combat except in self-defense.”<sup>507</sup> The International Panel berated this “outrageous double standard,” and asked whether there was “a conclusion we can draw from this incident other than that expatriate lives were considered more valuable than African lives?”<sup>508</sup> In the aforementioned interview with Iqbal Riza, the UN functionary stated that “Somalia was always there in any operations that involved risk.”<sup>509</sup> There was a deep belief that the execution of offensive operations in Rwanda would be met with opposition from the Security Council, and with the experience of Somalia fresh in mind, the DPKO was reluctant to strengthen the mandate without the approval of the Council.<sup>510</sup>

The Independent Inquiry concluded:

UNAMIR’s mandate was cautious in its conception; it was to become equally so in its application on the ground. Headquarters consistently decided to apply the mandate in a manner which would preserve a neutral role of UNAMIR under a traditional peacekeeping mandate. This was the scope of action that was perceived to have support in the Security Council. Despite facing a deteriorating security situation which would have motivated a more assertive and preventive role for the UN, no steps were taken to adjust the mandate to the reality of the needs in Rwanda.<sup>511</sup>

Not only was UNAMIR unprepared for the looming crisis, its presence “created a false sense of security.”<sup>512</sup> The extremists became quickly aware that UNAMIR was unable or unwilling to adequately respond to violent means. They figured that the UN would rather retreat than fight, “which encouraged them to think more grandly – that is,

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<sup>506</sup> Cited in International Panel of Eminent Personalities, *op. cit.*, p.67

<sup>507</sup> *Loc. cit.*

<sup>508</sup> *Loc. cit.*

<sup>509</sup> Interview with Iqbal Riza, *op. cit.*

<sup>510</sup> Laegreid, *loc. cit.*

<sup>511</sup> Report of the Independent Inquiry into the Actions of the United Nations During the 1994 Genocide in Rwanda, *op. cit.*, p.32

<sup>512</sup> Suhrke and Adelman, “Early Warning and Conflict Management”, *loc. cit.*

violently.”<sup>513</sup> Even if the will was there, in its condition UNAMIR could not have acted as a “credible deterrent force.”<sup>514</sup>

It was clear that the UN was not prepared to come to the rescue of the Rwandan civilians. Nothing illustrates this better than the Rules of Engagement UNAMIR was to follow. The soldiers of UNAMIR were provided with a one-page summary of the Rules of Engagement. The DPKO had condensed the original version into six points; force was to be deployed only in case of self-defense, or when explicitly authorized by superiors; in case of incident the soldiers were instructed to show restraint and deploy nonaggressive and cooperative behavior; incidents were to be resolved verbally and with the assistance of the Rwandan gendarmerie; if these actions failed to defuse the situation, soldiers were still obliged to get authorization before using force.<sup>515</sup> An incident in March 1994, just one month prior to the genocide, illustrates how strict these rules were followed by the Headquarters in New York. A battalion unit had responded to a rowdy crowd by firing without obtaining authorization. The unit received a stern reprimand and was sent back home, despite the fact that there had been no victims during the incident.<sup>516</sup>

More dramatic is the example of the ten Belgian soldiers murdered by the Rwandan army. UNAMIR had engaged in the protection of moderate Rwandan politicians marked for assassination. After the death of president Habyarimana on April 6, Dallaire understood the pertinence of protecting the moderate voices in the country. On the morning of April 7, he sent ten Belgian soldiers to the house of prime minister Agathe Uwilingiyimana with the task to escort her safely to a radio station where she would urge the country to keep the calm. Upon arrival, the Belgians were quickly surrounded by Rwandan soldiers and told to surrender their weapons. The prime minister managed to escape only to be murdered a few hours later. The Belgians reported to headquarters with the message that they were about to be lynched. The Belgian colonel lieutenant in charge inferred they were exaggerating and ordered them to comply. The soldiers

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<sup>513</sup> Barnett, op. cit., p.90

<sup>514</sup> Ibid., p.98

<sup>515</sup> Astri Suhrke “Dilemmas of Protection: The Log of the Kigali Battalion” in *The Path of Genocide: The Rwanda Crisis from Uganda to Zaire*, eds. Howard Adelman and Astri Suhrke (New Jersey: Transaction Publishers, 2000), p.255

<sup>516</sup> Ibid., p.256

surrendered their weapons and were later tortured and mutilated, to be left dead on a pile.<sup>517</sup>

The Independent Inquiry found that the Rules of Engagement for the UNAMIR troops have always been an element of confusion.<sup>518</sup> Upon arrival in Rwanda, General Dallaire and his staff drew up Rules of Engagement for UNAMIR troops to follow.<sup>519</sup> Force was only to be used in case of self-defense, “to defend themselves, other UN lives, or persons under their protection against direct attack.”<sup>520</sup> Additionally, UNAMIR troops were directed to use force “when other lives are in mortal danger.”<sup>521</sup> Des Forges notes that “the overriding rule was to be the use of minimum force.”<sup>522</sup> Accordingly, UNAMIR was lightly armed.<sup>523</sup> The strongest language was employed in Paragraph 17 of the Rules of Engagement, which pointed out that UNAMIR was “morally and legally” required “to use all available means to halt” ethnically or politically motivated criminal acts.<sup>524</sup> The text specified such acts as “executions, attacks on displaced persons or refugees, ethnic riots, attacks on demobilized soldiers, etc.”<sup>525</sup> In conclusion UNAMIR was obligated to “take the necessary action to prevent any crime against humanity.”<sup>526</sup>

Des Forges further emphasized the first paragraph of the document, which held that the Rules of Engagement “are drafted by the Force, but are approved by the U.N. and may only be changed with U.N. authority.”<sup>527</sup> She noted:

Although the document was marked ‘interim,’ it was accepted by U.N. headquarters in New York and was not amended by it. It was circulated to the member states that provided troops to UNAMIR and was in effect at the time of the genocide.<sup>528</sup>

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<sup>517</sup> Barnett, *op. cit.*, p.99

<sup>518</sup> Report of the Independent Inquiry into the Actions of the United Nations During the 1994 Genocide in Rwanda, *op. cit.*, p.35

<sup>519</sup> Des Forges, *op. cit.*, p.100

<sup>520</sup> Cited in *ibid.*, p.462

<sup>521</sup> *Loc. cit.*

<sup>522</sup> *Ibid.*, p.100

<sup>523</sup> *Loc. cit.*

<sup>524</sup> Cited in *loc. cit.*

<sup>525</sup> *Loc. cit.*

<sup>526</sup> *Loc. cit.*

<sup>527</sup> *Ibid.*, p.101

<sup>528</sup> *Loc. cit.*

The Independent Inquiry argues, however, that UN Headquarters never responded to the Rules of Engagement drafted by Force Commander Dallaire. For this reason, it states, was it ‘reasonable’ for the Force Commander to consider them “approved and in effect.”<sup>529</sup> Nevertheless, according to a senior member of the UNAMIR command, these Rules of Engagement “did not conform to reality and he ignored them.”<sup>530</sup> The Independent Inquiry’s findings were harsh: “It is disturbing ... that there was such a lack of clarity in the communications between UNAMIR and Headquarters regarding which rules were in force.”<sup>531</sup>

Des Forges concluded that the UN headquarters in New York “had insisted repeatedly on a narrow definition of what was permitted under the mandate and the Rules of Engagement.”<sup>532</sup> This was later confirmed by Assistant Secretary-General Iqbal Riza: “UNAMIR was not to fire until fired upon.”<sup>533</sup> The Rwanda Report of the International Panel of Eminent Personalities concluded: “The killers could do their worst; so long as they did not directly attack Blue Helmets, they could get away with murder.”<sup>534</sup>

The confusion about the Rules of Engagement was so comprehensive that some of the Belgian soldiers thought there were no appropriate circumstances to legitimize force.<sup>535</sup> The confusion and contradictions are clearly demonstrated by the following excerpt of the interview with Iqbal Riza:<sup>536</sup>

**Q: Why didn't you tell (your men on the ground) to open fire to protect civilians?**

A: The first reaction of the troops on the ground was to try and save whomever they saw in danger. General Dallaire was one of our most courageous commanders, and he did what he could, first to get his own people to safety, naturally, but then to use his armed soldiers to try and protect civilian lives. They did not need any orders for that, they did that automatically.

**Q: Was it within the mandate to open fire to protect civilians?**

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529 Report of the Independent Inquiry into the Actions of the United Nations During the 1994 Genocide in Rwanda, loc. cit.

530 Loc. cit.

531 Loc. cit.

532 Des Forges, op. cit., p.462

533 International Panel on Eminent Personalities, op. cit., p.122

534 Loc. cit.

<sup>535</sup> Des Forges, loc. cit.

<sup>536</sup> Interview with Iqbal Riza, op. cit.

A: Not strictly, but in a situation like this, if they were to have done it nobody would have blamed them.

**Q: So they could have opened fire to protect civilian lives.**

A: I believe some of them did.

**Q: Well, not very many of them.**

A: No, not very many, but not because they were told by New York not to fire.

**Q: They appear to have thought that they didn't have permission from New York and ...**

A: No. We should not mix up things like using offensive operations to recover weapons, and using weapons to protect lives. They're two different things. They did not need instructions from New York. They have their weapons, those weapons are loaded, and ... while lives are threatened, in self-protection or to prevent loss of other life, they could have opened fire. This is in the broad rules of engagement that apply to all peacekeeping operations.

**Q: So you're quite clear that the men on the ground and the force commander did not need to seek permission to open fire to protect civilians?**

A: Not in those conditions. We can imagine those conditions. It was chaos, people were being killed, they were rampaging ... and it was in Kigali, remember that we were concentrated in Kigali and just near the border, near Uganda. So they did what they could. They shepherded civilians into stadiums, into churches, into schools, they guarded them. And they risked their lives, and if I remember, some lost their lives.

**Q: But the United Nations soldiers on the ground told us that one reason they did not open fire was because they didn't have permission.**

A: I cannot understand that. I do not recall and as I said, I was in charge of the operation. I cannot recall a request coming in from the field that said, 'Hell has broken loose around us, can we open fire?' and a cable going back and saying, 'Let hell run its course, don't open fire.' I do not recall this.

Nonetheless, it is striking how it was possible that there was confusion whether the protection of innocent civilians was allowed or not? Every UN mandate should emphasize the protection of innocent civilians. Pluralist motives in the Security Council paralyzed the UN mission in Rwanda and resulted in complete disaster. The conflict in Rwanda clearly called for solidarism within the international community.

#### **4.4 A PLEA FOR SOLIDARISM**

The genocide in Rwanda met the conditions required to apply the Genocide Convention. Nonetheless, as noted in the previous chapter, the UN obfuscated the true nature of the

situation in Rwanda in order to justify their inaction. This was a deplorable decision resulting in a major failure. In the first chapter I quoted Hedley Bull, who said the primary purpose of solidarist international society is “the triumph in war of the party representing the just cause.”<sup>537</sup> The Rwandan conflict screamed for justice, a justice which was simultaneously anchored in international law. Halting genocide falls under the principle of the Just War tradition.<sup>538</sup> Wheeler argues genocide is the best example of “extraordinary acts of killing and brutality that belong to the category of ‘crimes against humanity.’”<sup>539</sup> Had solidarist motives trumped pluralist ones like they did in 1992, a humanitarian intervention would have taken place. And although it is hard to say what the outcome would have been, it would have been morally and legally the right. The UN would have held the promise of ‘never again.’ Moreover, the UN missed the chance to deter future genocidal killers and show the world genocide will be opposed with all means necessary. Instead, pluralist motives have contributed to a disaster in Rwanda, a pitch-black page in history.

#### 4.5 CONCLUSION

In this chapter I have argued that pluralism has contributed to the disaster in Rwanda. This genocide clearly called for a humanitarian intervention, which was both legally and morally justified. Had the solidarist spirit of 1992 survived the outcome of the conflict would have been different. But pluralism had returned and there was never any serious discussion in the Council whether it had the obligation to halt the genocide by force. The UNAMIR mission was deployed with an insufficient mandate and strict Rules of Engagement. Every time it was emphasized that the only solution was a political one, namely the Arusha agreement, and that the conflict was foremost an internal affair for Rwanda to cope with itself. This was a betrayal to the promise anchored in the Genocide Convention and the auspicious rhetoric dominating the end of the Cold War. Rwanda was not worth any sacrifices.

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<sup>537</sup> Bull, op. cit., p.151

<sup>538</sup> Wheeler, op. cit., p.34

<sup>539</sup> Loc. cit.

## CONCLUSION

In this thesis I have analyzed the role of the UN in the prevention of the 1994 Rwandan genocide. Numerous literature is available on this subject. However, most literature either analyzes the case of Rwanda as part of a comparison to UN action in other war-torn countries, or describes the mistakes made during the decision-making process of the UN. The first approach is not valid in my opinion. Rwanda can't be placed in the same light as for example Kosovo or Somalia. In those cases there was no question of genocide, therefore the Genocide Convention was not applicable. My research has a very strong link to the Genocide Convention which is only valid in the case of Rwanda. The second approach is closer to my research. Nonetheless, most works do not clearly enough point to the pluralist motives which dominated the Security Council during the Rwandan Genocide. In my thesis I have emphasized that pluralism trumped solidarism during those fateful months, and that this was the main reason leading to UN inaction and apathy.

I have supported this claim with two main conclusions. First of all, I have argued that although the UN was aware of the genocide raging in Rwanda, it did not act accordingly. Ample information was available of the horrors in Rwanda but the UN obscured the facts and decided to stay as passive as possible. Instead of condemning genocide and pointing towards the perpetrators, terms as civil war and mass violence were deployed. The UN Security Council was almost unanimous in its decision that the conflict was foremost an internal matter which could only be solved politically with the consent of the fighting parties.

Secondly, the reason behind the UN's deplorable inaction derive from the fact that pluralism had triumphed over solidarism in the Security Council. The humiliation of the intervention in Somalia led to the complete reversal of the auspicious words proclaimed in 1992. The genocide in Rwanda was simply not a priority and certainly not worth losing lives over. The UN was prepared to authorize a mission to Rwanda, but this mission had to cost as little as possible. With an insufficient mandate and strict Rules of Engagement, UNAMIR was deployed to the country. These motives have contributed to the horrors in Rwanda. Furthermore, the UN has failed to honor its legal and moral obligations.

Whether there is a legal and moral obligation to come to the aid of a population suffering from genocide is open for debate. Pluralists and solidarists disagree on which principal trumps the other: pluralists emphasize order, while the solidarists stress the importance of justice. The solidarist argument maintains that states are also bound by imperatives of morality and law. They assert that there is a distinction between just and unjust wars, and that humanitarian interventions to halt genocide represent a just cause. They claim that the preamble of the UN Charters and Articles 1 (3), 55 and 56 of the Charter support their stance that there is a legal framework for humanitarian interventions.

By contrast, pluralists point to Articles 2 (4) and 2 (7) in the UN Charter, rendering humanitarian interventions illegal. According to pluralists, every form of armed interference is illegal under international law except when it regards self-defense. Indeed, international law does not render a legal mandate for forcible humanitarian interventions. Even the Genocide Convention does not give a clear mandate for a humanitarian intervention to halt the crime. Rather, it obliges the signatories to prevent and punish the crime, without defining how.

I have further concluded that customary law fails to provide a clear answer: scholars remain divided on the issue. The question whether customary law provides a legal mandate for humanitarian interventions to protect human rights is up to debate. Solidarists argue that the doctrine of humanitarian interventions can be traced back to the seventeenth century, while pluralists point to post-World War II jurisprudence and the hostile stance of the international society to the practice of interventions during the Cold War.

International law is equivocal at best on the topic of humanitarian interventions. Non-intervention is an ironclad principle of international law, but the protection of human rights is anchored as well. Although the Genocide Convention seems to proclaim that in case of genocide human rights trump sovereignty and non-intervention, and it does legally protect the Tutsi as an ethnic group against the crime, it does not state clearly what should be done. Therefore pluralists have a valid point when they claim there is no legal framework for humanitarian interventions.

Maybe we can conclude that the pluralist argument is stronger legally, but what about the moral obligation? In times of genocide, order should trump justice. How can anyone remain aloof in times of genocide morally? This crime shook the world in the 1940s and even resulted in a convention designed specifically to deter the crime from ever happening again. Every politician agrees that the Nazi Holocaust can never be forgotten, yet during those fateful months in 1994 it *was* forgotten.

The Genocide Convention applied to the conflict in Rwanda. Nonetheless, the UNSC obscured the events and was reluctant to act. I have argued that the reason behind the UN's inaction is a turn from solidarism in the first years after the Cold War to pluralism after the fateful operation in Somalia. During a 1992 UNSC meeting, two years prior to the Rwandan genocide, the members agreed that the UN had the obligation to protect universal human rights. The promising rhetoric by the Security Council was followed by the optimistic manifesto *An Agenda for Peace*, outlining a wider scope of UN operations, including preventive diplomacy, peacemaking, and peacekeeping. The solidarist spirit instigated a Chapter VII mandate to protect innocent civilians in Somalia during the civil war.

I have drawn the conclusion that the failure of the Somali operation has led to the return of pluralism, resulting in inaction during the Rwandan genocide. The UN was too late with its response and its actions were inadequate. UNAMIR's mandate was insufficient and the Rules of Engagement too confusing and strict. The UN failed its responsibility to come to the rescue of the millions of innocent civilians. The genocide in Rwanda was a perfect opportunity for the UN to deter future genocidal regimes by issuing a clear warning that the international community will not stand idle when the crime occurs.

The genocide in Rwanda took place around twenty years ago. The question is whether the lessons of Rwanda have been learned. Can we conclude that since the 1994 genocide and all the apologies that have been made, things have changed within the UN? Does the record of UN action since the Rwandan genocide suggest the international community has become more solidarist? I would argue that this is not the case. Genocide does not invoke automatic action by the international community. The discussion whether genocide necessitates a humanitarian intervention is still unsettled.

The fact is that there is no clear legal framework for what to do in times of genocide, and state leaders always have the possibility to obscure or even ignore the horrors.

Therefore, the international community should work on a clear legal framework which obliges forceful action in times of genocide. Without such a framework genocide will always be subject to the whims of national interests. Naturally, such a legal framework is very difficult to realize, yet the horrors of genocide require it. States must restate their promise of 'never again', and anchor this promise in international law. This would give a clear signal to all potential genocidaires that the international community will not stand idle like it did in Rwanda. This would also give a clear signal that the lessons of Rwanda have indeed been learned.

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