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**“GENOCIDE IN RWANDA AND RESPONSE OF INTERNATIONAL
LAW”**

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ABSTRACT

This research paper investigates the profound impact of unconscionable atrocities on shaping international human rights standards, focusing on the Rwandan Genocide. The Rwandan Genocide (April-July 1994), claiming around 800,000 lives, represents one of history's most devastating mass atrocities. Orchestrated at local levels by political, military, and civic leaders, as well as trained militia, the genocide revealed a tragic reluctance of global peacekeepers to prioritize African lives over Western lives. The paper specifically examines the response of international law during and after the Rwandan Genocide, analysing mechanisms or their absence in addressing the crisis and holding perpetrators accountable. By scrutinizing the international community's reaction, the research aims to contribute insights into the challenges, limitations, and potential enhancements within the international legal framework concerning mass atrocities. But the irony lies in the fact that the so-called peacekeepers of the world were reluctant to interfere in the matter as for them African lives were not that crucial as western lives. The present paper delves into the historical perspective of Tutsi community, influence of hate speech and roles played by various states and international community during as well as after the Genocide.

Keywords: Rwanda, Genocide, Tutsis, Hutus, UNAMIR, ICTR, RTLM and International Law.

ABBREVIATIONS

WORDS	FULL FORM
BBC	British Broadcasting Channel
RPF	Rwandan Patriotic Front
UNAMIR	United Nations Assistance Mission for Rwanda
UN	United Nations
ICT	International Criminal Tribunal for Rwanda
UNAR	Rwandese National Union
MDR	Republican Democratic Movement-Parmehutu
MRND	National Revolutionary Movement for Development
RPA	Rwandan Patriotic Army
FAR	Rwandan Armed Forces
CDR	Coalition for the Defense of the Republic
BBTG	Broad-Based Transitional Government
RTLM	Radio Television Mille Collines
CITY	International Criminal Tribunal for Yugoslavia
v.	Versus
i.e.	That is

IRIN	Integrated Regional Information Network for Central and Eastern Africa
IWPR	Institute for War and Peace Reporting

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INTRODUCTION

In practical terms, egregious atrocities have significantly stimulated the establishment of standards and the development of institutions within the international human rights system. The emergence of key doctrines such as crimes against humanity, as outlined in the Nuremberg Charter, the Convention on the Prevention and Punishment of the Crime of Genocide, and the Universal Declaration of Human Rights, can be attributed to the widespread moral condemnation of the Holocaust and the egregious actions of Nazi Germany. Furthermore, in the post-Cold War period, instances of "ethnic cleansing" in the former Yugoslavia and genocide in Rwanda have played a comparable role, prompting an unparalleled initiative in institution-building led by the United Nations.¹ Between April and July 1994, Rwanda witnessed one of the most devastating mass atrocities ever recorded, leading to the tragic loss of approximately 800,000 lives. The genocide was initiated on April 6th, marked by the downing of a plane carrying then-President Juvenal Habyarimana and Burundi's counterpart Cyprien Ntaryamira, both belonging to the Hutu ethnic group. This event, occurring on the night of April 6th, 1994, resulted in the death of everyone on board² ... and persisted until the overthrow of the Hutu regime in mid-July. Over this roughly 100-day duration, the government and Hutu extremists executed a premeditated campaign to exterminate Tutsi and moderate Hutu. While the genocide was strategically devised at national and regional levels, its execution occurred at the local level through the actions of political, military, and civic leaders, along with a trained militia known as Interahamwe. The Rwandan genocide stands unparalleled in recorded history, claiming more lives in a shorter span than any

¹ Payam Akhavan, *The International Criminal Tribunal for Rwanda: The Politics and Pragmatics of Punishment*, 90 *The American Journal of International Law* 501 (1996).

² BBC, *Rwanda Genocide: 100 days of slaughter*, BBC NEWS, (4th April, 2019) available at <https://www.bbc.com/news/world-africa-26875506> (last visited Nov. 20, 2023).

other documented mass atrocity.³ The bloodshed ceased solely upon the victory of the Tutsi rebel force, known as the Rwandan Patriotic Front (RPF), over the Hutu extremists.⁴

RESEARCH METHODOLOGY

The present paper adopts the document and analytical method. The data used is secondary in nature and a major portion of the literature was collected from articles published in research journals, newspapers, judicial pronouncements, and blogs published in online websites.

OBJECTIVES OF THE STUDY

- To provide a detailed historical overview of the Rwandan genocide, Tutsis, Hutus, exploring the root causes, events leading to the genocide, and the socio-political context in which it occurred, and the role of various factors such as ethnicity, politics, and media in fuelling the conflict.
- To evaluate the international community's response to the Rwandan genocide, including the actions taken by the United Nations, individual countries, and international organizations.
- To analyze the legal mechanisms employed to bring perpetrators of the Rwandan genocide to justice, including the establishment of the International Criminal Tribunal for Rwanda (ICTR) and national trials, assessing their successes and limitations.
- To distill lessons learned from the Rwandan genocide and subsequent international responses, proposing recommendations for strengthening the international legal framework to prevent and address genocide and other mass atrocities.

RESEARCH QUESTIONS

- ✚ What were the fundamental social, political, and historical elements that led to the onset of genocide in Rwanda?
- ✚ Were there observable early warning signs or indicators that could have been detected by the global community to avert or alleviate the genocide?
- ✚ How did the international community, encompassing the United Nations and individual nations, respond to the Rwandan genocide?

³ David Rieft, *THE AGE OF GENOCIDE 50-100* (1996).

⁴ Mark R. Amstutz, *Is Reconciliation Possible After Genocide? The Case of Rwanda*, 48 *Journal of Church and State* 541, 550-560 (2006).

- ✚ To what extent did the International Criminal Tribunal for Rwanda (ICTR) effectively hold individuals accountable for their roles in the genocide?
- ✚ Drawing from the insights gained from the Rwandan genocide, what recommendations can be proposed to enhance international mechanisms for preventing and addressing genocide and mass atrocities in the future?

THE TUTSI TIMELINE: A HISTORICAL PERSPECTIVE FROM ORIGIN TO THE GRIEVOUS GENOCIDAL EVENTS

Historians have limited knowledge regarding the usage and meaning of the terms 'Hutu,' 'Tutsi,' and 'Twa' in social discourse before 1860,⁵ however, historical records indicate that the establishment of pre-colonial Rwanda was influenced by the expansion of a central kingdom led by a mwami ('king') who typically belonged to the Bahindiro Tutsi lineage of the Nyiginya clan.⁶ The term 'Tutsi' initially denoted the elite class of cattle herders, including the Miami and his court. Approximately in 1890, chiefs implemented a system of unpaid labor known as burets, compelling tenant farmers to work for the chief. This obligation was imposed exclusively on farmers. As the term 'Tutsi' gradually expanded to encompass all herders, those not part of the elite were referred to as 'Hutu,' a designation previously used for non-elite farmers or cattle herders.⁷ As a result, the primary significance of 'Tutsi' became linked to closeness to the central court and being in proximity to power.⁸ On the other hand, 'Hutu,' originally signifying 'social son, client, or someone who does not possess cattle,'⁹ eventually became associated with and defined by an inferior status.¹⁰ At the pinnacle of this structure, the court of the central kingdom, colonial authorities (German 1897–1916, Belgian 1916 onwards) arrived and mistakenly considered the 'aristocrats of the Rwandan court to be the models of the "Tutsi" in general.' However, it's noteworthy that of the 50,000 Tutsi men in Rwanda in 1900, only 2,500 (5 percent) held any political authority, with the majority being 'petite' or 'non-elite Tutsi'.¹¹ The Belgian authorities, aided considerably by Roman Catholic missionaries, heightened the ongoing process of hierarchization by implementing an indirect rule. This system devolved fresh forms of power and facilitated the accumulation of

⁵ J. Pottier, *RE-IMAGINING RWANDA: CONFLICT, SURVIVAL AND DISINFORMATION IN THE LATE TWENTIETH CENTURY 40-70* (Cambridge University Press, 2002).

⁶ N. Eltringham, *ACCOUNTING FOR HORROR: POST GENOCIDE DEBATES IN RWANDA 12-19* (Pluto Press, 2004).

⁷ J. Vansina, *ANTECEDENTS TO MODERN RWANDA: THE NYIGINYA KINGDOM 134-139* (Oxford, 2004).

⁸ Newbury, *THE COHESION OF OPPRESSION 51* (Columbia University Press, 1974).

⁹ I. Jacob, *DICTIONNAIRE RWANDAIS-FRANÇAIS: EXTRAIT DU DICTIONNAIRE DE L'INSTITUT NATIONAL DE RECHERCHE SCIENTIFIQUE 590* (Institut national de recherche scientifique, 1984).

¹⁰ M. Catharine Newbury, *Ethnicity in Rwanda: The Case of Kinyaga*, 48 *Journal of the International African Institute* 17, 21 (1978).

¹¹ Ian Linden, *CHURCH AND REVOLUTION IN RWANDA 18* (Manchester University Press, 1977).

wealth among the chiefs, further expediting the solidification of social distinctions initiated in the late nineteenth century.¹² These practical changes were substantiated by a racial and social evolutionary ideology known as the Hamitic hypothesis.¹³ This hypothesis posited that African 'civilization' resulted from the influence of racially distinct 'Caucasoid' invaders originating from the north/northeast of Africa.¹⁴ This process of racialization reached its peak with the census of 1933–34, during which each Rwandan was designated an 'ethno-racial' label (15 percent Tutsi, 84 percent Hutu, 1 percent Twa) and issued an ID card bearing this label. According to patrilineal tradition, children inherit the identity recorded on their father's ID card.¹⁵ Until 1997, the French term "ethnic" and the Kinyarwanda term "book" were featured on the ID card. The colonial authorities considered both terms to be "synonyms for race in the biologically determinist sense."¹⁶ As the prospect of independence approached, a recently formed Hutu elite, educated by the Roman Catholic Church, and the Tutsi court both utilized the Hamitic hypothesis. The Hutu elite argued that the conclusion of Belgian rule should signify the end of Tutsi dominance, while the Tutsi court advocated for the retention of the Tutsi monarchy.¹⁷ However, by the late 1950s, the mean family income of both Hutu and petits Tutsi (constituting 90–97 percent of those categorized as Tutsi) was nearly identical.¹⁸ Only 10,000 elite Tutsi (out of a total of 300,000 designated as Tutsi) were linked to the political class,¹⁹ representing a "minority within their community."²⁰ In 1959, two political parties emerged: the Union Nationale Rwandaise (UNAR), representing the elite Tutsi, and the Parti du Mouvement de l'Emancipation Hutu (Parmehutu), founded by Grégoire Kayibanda. Tensions escalated in November 1959 when violence erupted following an assault on a Parmehutu leader by UNAR activists, leading to further unrest;²¹ Approximately 1,000 Tutsi lost their lives, and around 10,000 Tutsi sought refuge outside Rwanda during the unrest.²² Belgian authorities reestablished order in favor of Parmehutu, marking the culmination of the "Social Revolution" by November 14.²³ In July 1960, the rebranded Mouvement Démocratique

¹² *Supra*, note 6, N. Eltringham, at 15.

¹³ N. Eltringham, *Display, Concealment and 'Culture': The Disposal of Bodies in the 1994 Rwandan Genocide* in HUMAN REMAINS AND MASS VIOLENCE: METHODOLOGICAL APPROACHES 162 (Jean-Marc Dreyfus and Élisabeth Anstett, eds. Manchester University Press, 2014).

¹⁴ N. Eltringham, *Invaders who have stolen the country: the Hamitic hypothesis, race and the Rwandan genocide*, 12 *Social Identities* 425, 425-446 (2006).

¹⁵ J.-P. Chrétien *et. al.*, RWANDA: LES MÉDIAS DU GÉNOCIDE 161 (Karthala, 1995).

¹⁶ C. C. Taylor, SACRIFICE AS TERROR: THE RWANDAN GENOCIDE OF 1994 62 (Oxford, 1999).

¹⁷ *Supra*, note 14, N. Eltringham, at 433-435.

¹⁸ *Supra*, note 11, Ian Linden, at 226.

¹⁹ H. Codere, THE BIOGRAPHY OF AN AFRICAN SOCIETY: RWANDA 1900–1960: BASED ON FORTY-EIGHT RWANDAN BIOGRAPHIES 70-100 (Cambridge University Press, 1973).

²⁰ G. Prunier, THE RWANDA CRISIS: HISTORY OF A GENOCIDE 72 (Columbia University Press, 1995).

²¹ *Supra*, note 11, Ian Linden, at 271.

²² F. Reyntjens, L'AFRIQUE DES GRANDS LACS EN CRISE RWANDA–BURUNDI 1988–1994 27 (Karthala, 1994).

²³ *Supra*, note 6, N. Eltringham, at 40.

Républicain-Parmehutu (MDR-Parmehutu) secured a two-thirds majority in communal elections, and by January 1961, it assumed power with Belgian support, leading to Kayibanda becoming Prime Minister. MDR-Parmehutu secured a parliamentary majority in September 1961, with Kayibanda assuming the presidency in October. Subsequently, a referendum abolished the monarchy, and Rwanda gained independence on July 1, 1962.²⁴ In 1960, Tutsi exiles, known as *ingenzi* ('brave') but derogatorily referred to as *inyenzi* ('cockroach') by adversaries, initiated raids. After a raid in December 1963, Tutsi politicians were executed, and approximately 14,000 Tutsi were massacred. By January 1964, around 336,000 Tutsi sought refuge outside Rwanda.²⁵ By 1970, the government was predominantly composed of individuals from Kayibanda's central Rwanda homeland. To mitigate regional tensions, Kayibanda exploited the killing of 150,000 Hutu in Burundi in April 1972 by the Tutsi-dominated army to assess the adherence to the 9 percent Tutsi quota in the civil service and schools.²⁶ Following the unrest, Major-General Juvénal Habyarimana, hailing from the northwest, took control on 5 July 1973. He declared himself President, established a new party in 1975 named the Mouvement Révolutionnaire National pour le Développement (MRND), and marginalized Tutsi from public engagement. In 1987, Tutsi refugees established the Rwandan Patriotic Front (RPF) along with an armed branch, the Rwandan Patriotic Army (RPA).²⁷ Amid an economic crisis and influenced by French President François Mitterand's stipulation of democratization for development aid in June 1990, Habyarimana established a commission to explore 'democratization'. On 1 October, the Rwandan Patriotic Army (RPA) launched an attack from Uganda, but they were thwarted by the Rwandan army, the Forces Armées Rwandaises (FAR), which subsequently massacred 1,500 Tutsi civilians.²⁸ A cease-fire was established in November. In early 1991, the Forces Armées Rwandaises (FAR) killed 1,000 Tutsi. With the introduction of a new constitution in June 1991, opposition parties advocating negotiations with the Rwandan Patriotic Front (RPF) surfaced, including the Mouvement Démocratique Républicain (MDR) and the multi-ethnic Parti Liberal (PL).²⁹ In March 1993, following a claim by the state radio (Radio Rwanda) that the Parti Liberal (PL) and Rwandan Patriotic Front (RPF) were plotting to assassinate opposition leaders, 300 Tutsi were killed by the

²⁴ *Id.*, at 42–44.

²⁵ *Supra*, note 13, N. Eltringham, at 163.

²⁶ F. Reyntjens, *POUVOIR ET DROIT AU RWANDA DROIT PUBLIC ET ÉVOLUTION POLITIQUE 1916–1973* 502, 503 (Musée Royal de l'Afrique Centrale, 1985).

²⁷ W. Cyrus-Reed, *Exile, reform, and the rise of the Rwandan Patriotic Front*, 34 *Journal of Modern African Studies* 479, 480–490 (1996).

²⁸ Filip Reyntjens, *L'AFRIQUE DES GRANDS LACS* 94–96 (1994).

²⁹ *Supra*, note 6, N. Eltringham, at 78–79.

Presidential Guard and Interahamwe militia.³⁰ However, the opposition parties stood firm, compelling Habyarimana to establish a coalition cabinet with members from opposition parties. On April 1, 1992, the racially exclusive Coalition pour la Défense de la République (CDR), consisting solely of Hutus, was established. On April 2, 1992, Dismas Nsengiyaremye (of the MDR) assumed the position of Prime Minister and initiated negotiations with the RPF in Arusha, Tanzania. These negotiations resulted in the 'Arusha Accords' (see below), which included crucial elements such as the right of Tutsi refugees to return to Rwanda, the integration of the FAR and RPA, and the formation of a multi-party 'Broad-Based Transitional Government' (BBTG) that would incorporate the RPF.³¹ MDR members who endorsed the negotiations with the RPF faced accusations of betrayal from anti-RPF factions within their party, which subsequently identified as 'MDR-Power.'³² Starting from 8 July 1993, the extremist Radio Télévision Libre des Mille Collines (RTLM) initiated its broadcasts.³³ The propaganda asserted the need to safeguard the 'achievements' of the 1959 'Social Revolution' (a state led by 'the Hutu') from the alleged threat of 'Tutsi feudalists' (RPF) aiming to exterminate Hutu, with the assistance of Tutsi 'accomplices' (bits).³⁴ In August 1993, Habyarimana endorsed the Arusha Accords, and by October, the United Nations Security Council sanctioned 2,500 peacekeepers (the United Nations Assistance Mission for Rwanda, UNAMIR) to supervise the establishment of the new multi-party government.³⁵ On October 21, the newly elected President of Burundi, Melchior Ndadaye (a Hutu), was assassinated by Tutsi army officers.³⁶ Two days later, during an MDR-Power rally, Frodauld Karamira (second Vice-President of the MDR) rejected the Arusha Accords and proclaimed, "We have plans 'to work'" (implying violence against Tutsi).³⁷ In 1992, the Mouvement Républicain National pour la Démocratie et le Développement (MRND) established the Interahamwe ('those who fight together') militia, and in 1993, the CDR formed the Impuzamugambi militia ('those who have the same goal').³⁸ Both militias, the Interahamwe established by MRND in 1992 and the Impuzamugambi formed by CDR in 1993, received military training and weapons from the Presidential Guard. On April 6, 1994, while returning from a conference in Dar-es-Salaam, Habyarimana's plane (which also carried President Ntaryamira of Burundi) was shot down by

³⁰ A. Guichaoua, *LES CRISES POLITIQUES AU BURUNDI ET AU RWANDA (1993–1994): ANALYSES, FAITS, ET DOCUMENTS* 611-614 (Paris: Éditions Karthala, ed. 1995).

³¹ *Supra*, note 6, N. Eltringham, at 84,85.

³² *Id.*, at 88–89.

³³ *Supra*, note 13, N. Eltringham, at 164.

³⁴ A. Des Forges, 'LEAVE NONE TO TELL THE STORY': GENOCIDE IN RWANDA 78 (Human Rights Watch, 1999).

³⁵ M. Barnett, *EYEWITNESS TO A GENOCIDE: THE UNITED NATIONS AND RWANDA* (Cornell University Press, 2002).

³⁶ *Supra*, note 20, Prunier, at 199.

³⁷ *Supra*, note 34, Des Forges, at 138.

³⁸ *Id.*, at 106-107.

surface-to-air missiles, resulting in the death of everyone on board. Although responsibility for the attack has been attributed to both Hutu extremists and the RPA.³⁹ A 2012 report by experts appointed by a French judge concluded that the missile responsible for downing the plane was launched from a position held by the Presidential Guard. On April 7, 1994, the Presidential Guard murdered three ministers from the Hutu opposition parties, the Hutu Prime Minister, and ten Belgian UN peacekeepers (Belgium withdrew its UN troops on April 13). As massacres of Tutsi escalated and the RPF initiated a new offensive, an 'interim government' was established during meetings on April 8, chaired by Colonel Théoneste Bagosora, and Jean Kambanda assumed the role of Prime Minister. Military personnel and police distributed weapons and coordinated killings carried out by militias and civilians. Mayors organized house-to-house searches and set up roadblocks. RTLM actively encouraged violence and disclosed the whereabouts of hiding Tutsi individuals. Members of the interim government consistently made broadcasts, urging the killing of 'inyenzi' and 'ibytso.' Tutsi, including men, women, and children, were brutally killed using machetes, hoes, spears, hammers, and nailed clubs. This violence occurred despite seeking refuge in church and hospital complexes, being listed in advance, personally known to their attackers, or identified through ID cards.⁴⁰ Numerous Hutus abstained from participating in the violence and instead chose to shelter Tutsi individuals.⁴¹ The 2001 census approximated that 937,000 Rwandans lost their lives between April and July 1994, with the overwhelming majority being Tutsi.⁴² Towards the end of 1994, a UN official claimed that the RPA alone was responsible for the deaths of 25,000–45,000 Hutu from April to September that year.⁴³

INFLUENCE OF RTLM IN THE RWANDAN GENOCIDE

Upon its initial broadcast, RTLM (Radio-Television Mille Collines) presented itself as a lighthearted and popular station, using Kinyarwanda instead of French, adopting a more informal style compared to the official Rwandan radio, and fostering a connection with its audience. Surprisingly, even RPF troops were reported to prefer RTLM over the official RPF radio. However, RTLM displayed an ominous awareness of future events, hinting at something planned for early April. The radio station's documented role in encouraging the genocide, revealing names of targeted Tutsi and opposition individuals, and disclosing the hiding places of those seeking

³⁹ *Supra*, note 6, N. Eltringham, at 111–118.

⁴⁰ L. A. Fujii, *KILLING NEIGH-BOURS: WEBS OF VIOLENCE IN RWANDA* (Cornell University Press, 2009).

⁴¹ African Rights, *RWANDA: TRIBUTE TO COURAGE* (African Rights, 2002).

⁴² IRIN, *Government puts genocide victims at 1.07 million*, IRIN NEWS (19th December, 2001) available at <https://reliefweb.int/report/rwanda/rwanda-government-puts-genocide-victims-107-million> (last visited Nov. 22, 2023).

⁴³ S. M. Khan, *THE SHALLOW GRAVES OF RWANDA* 51-54 (I. B. Tauris, 2000).

refuge from militias during the genocide is well-established. This information disseminated by RTLM frequently enabled the killing squads (Interahamwe) to locate individuals concealed with family or neighbors.⁴⁴ RTLM transmissions would pinpoint and condemn an individual, prompting immediate actions by Interahamwe groups to locate and assault the mentioned person.⁴⁵ Upon RTLM's erroneous declaration that the Tutsi opposition force from Uganda had launched an invasion, and that Hutus should be on the lookout for Rwandese Patriotic Front (RPF) infiltrators in specific neighborhoods, roadblocks were promptly set up as requested.⁴⁶ RTLM consistently claimed that Tutsi forces in Burundi, Uganda, and Rwanda were plotting against the Hutu, emphasizing the necessity for Hutus to react.⁴⁷

RTLM incited the perpetrators to commit murder. On April 15, the broadcasters asserted, "If you do not want to witness the extermination of Rwandans... stand up, take action... irrespective of international opinion." The channel broadcasted a speech by Jean Kambanda, the Prime Minister of the "interim" Hutu Government, declaring the war against the invading RPF as a definitive conflict that "must be concluded." In the case of *Prosecutor v. Nahimana, Barayagwiza, and Ngeze* (the Media Case),⁴⁸ the International Criminal Tribunal for Rwanda (ICTR) undertook the inaugural re-evaluation within international criminal law of the relationship between mass media and widespread violence. The tribunal found three media executives guilty for the role of their newspaper and radio station in the 1994 genocide in Rwanda. Trial Chamber I established the defendants' culpability for genocide, direct and public incitement to genocide, conspiracy to commit genocide, and two crimes against humanity (persecution and extermination).⁴⁹ This legal action underscored the acknowledgment that hate speech could constitute one of the gravest crimes under international law.⁵⁰

REACTIONS AND INVOLVEMENT OF DIFFERENT STATES AND THE INTERNATIONAL COMMUNITY

⁴⁴ Linda Kirschke, BROADCASTING GENOCIDE: CENSORSHIP, PROPAGANDA & STATE-SPONSORED VIOLENCE IN RWANDA 1990-94 80 (Article 19, 1996).

⁴⁵ *Id.*, at 94-95.

⁴⁶ *Id.*, at 97.

⁴⁷ *Id.*, at 88-89.

⁴⁸ *The Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza, Hassan Ngeze (Appeal Judgment)*, ICTR-99-52-A, International Criminal Tribunal for Rwanda (ICTR), 28 November 2007.

⁴⁹ *Id.* at 1091-94.

⁵⁰ *International Law—Genocide—U.N. Tribunal Finds That Mass Media Hate Speech Constitutes Genocide, Incitement to Genocide, and Crimes Against Humanity—Prosecutor v. Nahimana, Barayagwiza, and Ngeze (Media Case)*, Case No. ICTR-99-52-T (International Criminal Tribunal for Rwanda Trial Chamber I Dec. 3, 2003), 117 *Harvard Law Review* 2769, 2773 (2004).

In the initial phase of the genocide, governments promptly evacuated foreign nationals and ill-equipped UN peacekeepers, concentrating solely on this objective. This focus overwhelmed foreign policymakers, providing the genocidal forces with the opportunity to execute their horrific mission. Urgent planning for military and police intervention was crucial, but it was delayed and muddled, rendering it ineffective. The challenge of reconciling conflicting priorities—evacuating foreign nationals and forcefully intervening in crisis planning—persists for policymakers today. Shortly after April 6, 1994, UN officials recognized that if a ceasefire was unattainable, UNAMIR and all foreign nationals should be evacuated. On April 13, 1994, UN Secretary-General Boutros-Boutros Ghali supported the withdrawal of UNAMIR in response to Belgium's insistence on extracting its peacekeepers. However, non-aligned and African states opposed a complete UNAMIR withdrawal, leading to reconsideration. The remaining options were to temporarily leave UNAMIR deployed in Rwanda without the Belgians or to reduce the mission to a small political presence. Despite later revelations that the Secretary-General had not recommended UNAMIR withdrawal, Resolution 914 was adopted after further Security Council deliberations. It maintained a UNAMIR presence but reduced it to about 27 personnel—an insufficient number to deter further genocide, reflecting a political compromise within the Security Council. Unfortunately, the credibility of the United States was already tarnished, as the perception grew that it supported abandoning the Rwandan Tutsis to genocide.⁵¹ Now, let us discuss in brief the roles played by various states, during and after the genocide, which are as follows:

FRANCE

The report highlights that Rwanda enjoyed a robust association with France in the early 1990s, which contributed to the international community's inaction. The precise nature of this relationship, according to the report, is a subject of considerable debate, although France played a significant role as a major supplier of military resources to Rwanda. Despite being regarded as the Rwandan government's "closest foreign ally," the panel asserts that France intentionally refrained from leveraging its considerable influence to halt human rights violations. Based on these considerations, the panel deems the French government's stance, disavowing any responsibility for the Rwandan genocide, as entirely unacceptable.⁵² The French not only refrained from intervening against the Hutu instigators of the massacres but also played a role in the aftermath by aiding numerous Hutu Power individuals in escaping to Zaire. The Panel identifies this action as "the

⁵¹ David Scheffer, *Lessons from the Rwandan Genocide*, 5 *Georgetown Journal of International Affairs* 125, 125-132 (2004).

⁵² Rachel Murray, *The Report of the OAU's International Panel of Eminent Personalities to Investigate the 1994 Genocide in Rwanda and the Surrounding Events*, 45 *Journal of African Law* 123, 123-133 (2001).

most pivotal post-genocide occurrence in the broader Great Lakes Region," initiating a sequence of events that ultimately led to widespread conflict in the region and beyond.⁵³

BELGIUM

Belgium had a colonial history in Rwanda as it administered the territory under a League of Nations mandate from 1916 until 1962. Belgium played a significant role in shaping the post-colonial political landscape in Rwanda, particularly in terms of favoring the Tutsi minority, which contributed to ethnic tensions. Belgium supplied weapons to the Rwandan government, which was controlled by the Hutu ethnic majority. This military support potentially exacerbated the ethnic tensions. Belgium supported the government of President Juvénal Habyarimana, providing economic and military aid. This support continued even as signs of ethnic violence escalated. Belgium also had a military contingent in the United Nations Assistance Mission for Rwanda (UNAMIR). The death of ten Belgian peacekeepers in April 1994 prompted Belgium to withdraw its troops, leading to a reduction in UNAMIR's effectiveness. Belgium's withdrawal from UNAMIR is controversial. Some argue that the decision to pull out troops in the early stages of the genocide left a significant void in international intervention. In subsequent years, Belgian authorities acknowledged their failure to prevent or respond adequately to the genocide. Belgium expressed regret for not doing more to prevent the violence.⁵⁴

UNITED KINGDOM

Although the UK did not possess a colonial history in Rwanda, its historical engagement in the region through colonial presence in neighboring countries impacted regional dynamics. The UK, in tandem with other Western nations, was cognizant of escalating ethnic tensions preceding the genocide in Rwanda. However, there was a deficiency in substantial diplomatic intervention to address underlying issues or forestall the violence. As a permanent member of the United Nations Security Council, the UK partook in discussions related to the Rwandan Genocide. Nevertheless, the UN failed to take decisive action, including the prompt deployment of peacekeeping forces. The UN Assistance Mission for Rwanda (UNAMIR), mandated to implement the Arusha Accords and monitor the situation, proved largely ineffective due to insufficient resources and conflicting mandates. During the initial phases of the genocide, the UK, alongside other nations, participated in evacuating foreign nationals, yet there was a conspicuous absence of a robust response to shield Rwandan civilians. While the UK extended some humanitarian aid during and after the genocide,

⁵³ Hazel Cameron, *The French Connection: Complicity in the 1994 Genocide in Rwanda*, 8 *African Security* 96, 96-119 (2015).

⁵⁴ Danielle De Lame, *(Im)Possible Belgian Mourning for Rwanda*, 48(2) *African Studies Review* 33, 33-43 (2005).

critics contend that more could have been done to alleviate the humanitarian crisis and support the victims. In subsequent years, the UK, along with other Western nations, acknowledged shortcomings in responding to the genocide, offering official apologies for the international community's failure to prevent or halt the violence. The UK's role in the Rwandan Genocide is frequently interpreted through the broader lens of international inaction during this tragic period in Rwandan history.⁵⁵

INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA [ICTR]

The International Criminal Tribunal for Rwanda (ICTR) was established in Arusha, Tanzania, through UN Security Council Resolution 955 in November 1994, to prosecute individuals deemed "responsible for serious violations of international criminal law committed in the territory of Rwanda and Rwandan citizens responsible for such violations committed in the territory of neighboring states between 1st January 1994, and 31st December 1994." This ad hoc tribunal aimed to adjudicate those most accountable for crimes against humanity during the 100-day genocide in Rwanda, including former Prime Minister Jean Kambanda. As of October 2023, the tribunal has indicted 93 individuals, resulting in 62 convictions, 14 acquittals, 10 cases referred to national jurisdictions, 3 fugitives referred to the Mechanism for International Criminal Tribunals (MICT), 2 individuals deceased before judgment, and 2 indictments withdrawn before trial.⁵⁶ The Mechanism for International Criminal Tribunals (MICT) assumed the residual functions of the ICTR starting from July 1, 2012. Among its critical responsibilities is the tracking and apprehension of the three individuals indicted by the ICTR—Félicien Kabuga, Protais Mpiranya, and Augustin Bizimana—who face charges of genocide and crimes against humanity. Despite the charges, these accused individuals have managed to evade justice thus far. The successful apprehension of these fugitives relies significantly on the ongoing cooperation of national governments and the international community. Once apprehended, the Mechanism will oversee their trials and supervise any sentences imposed, along with those previously issued by the ICTR.⁵⁷ The court has encountered several challenges, including the absence of official documentation of the genocide. This has compelled prosecutors to heavily depend on witness testimony for evidence. Nevertheless, the tribunal has played a pivotal role in shaping international criminal jurisprudence,

⁵⁵ Hazel Cameron, *BRITISH STATE COMPLICITY IN GENOCIDE: RWANDA 1994*, 1(1) *State Crime Journal* 70, 70-87 (2012).

⁵⁶ UNICTR available at <https://unictr.irmct.org/en/tribunal> (last visited Nov. 22, 2023).

⁵⁷ *Id.*

achieving landmark convictions such as the first international conviction for genocide and the initial conviction for rape as a war crime. Additionally, the trial of key figures involved in the genocide disrupted the capacity of perpetrators to regroup. Despite these achievements, Rwanda's tribunal has faced criticism on various fronts, with particular emphasis on the slow pace of its proceedings. The President of Rwanda, Paul Kagame, has asserted that the ICTR was established to accomplish minimal impact.⁵⁸ The estimated expense of the tribunal exceeds \$1.2 billion, in stark contrast to the \$100 million allocated for the reconstruction of Rwanda's domestic criminal justice system. This system is grappling with the challenge of addressing nearly 120,000 individuals detained under suspicion of involvement in the 1994 genocide.⁵⁹ Some argue that the most egregious human rights violators have managed to evade Rwanda's death penalty by presenting themselves before the international court in Arusha. The perceived exclusion of Rwandans from significant positions within the ICTR's chambers was considered detrimental to its legitimacy. It was not until 2003, eight years into its investigations, that the Prosecutor's office appointed three Rwandans to offer advice on its work. Critics, including Kagame, have expressed dissatisfaction with the court's failure to prosecute Western individuals complicit in the 1994 genocide. The Rwandan government has been accused of hesitating to allow its soldiers to stand trial before the international tribunal. Detractors of the tribunal additionally assert that it has not successfully connected with the Rwandan people, who largely remained disengaged from the proceedings in Arusha.⁶⁰ The Court's emphasis on individual perpetrators has faced criticism, as victims only participate as witnesses subject to cross-examination, hindering reconciliation efforts. To address this challenge and expedite the legal resolution of the genocide, Rwanda's law on the organization of the prosecution of genocide and crimes against humanity outlines four categories for prosecution. Category 1 offenses, involving planning, instigating, or supervising genocide or crimes against humanity, are handled within the traditional judicial system. For the majority of crimes, an alternative justice system is employed:

1. Category 1: About masterminds of the genocide, facing the death penalty or life imprisonment, with a potential reduction to 25 years for those confessing.
2. Category 2: Involving other offenses like homicide or sex offenses, with life imprisonment potentially reduced to twelve years for complete confessions.

⁵⁸ Stephanie Nieuwoudt, *Slow Progress at Rwandan Tribunal* IWPR (2nd August, 2006) available at <https://iwpr.net/global-voices/slow-progress-rwandan-tribunal> (last visited Nov. 23, 2023).

⁵⁹ David Wippman, *The Costs of International Justice*, 100(4) *The American Journal of International Law* 861 (2006).

⁶⁰ *Id.*, at 870.

3. Category 3: Concerning assaults without the intent to kill, with sentences of one to three years, or community services, for offenders confessing.
4. Category 4: Addressing property offenses, where offenders must make restitution rather than face prison, upon confession.

This legal framework allows significant sentence reductions for those admitting guilt, fostering collaboration with the prosecution and penal authorities.⁶¹ Jean-Paul Akayesu secured the distinction of being the inaugural individual convicted of genocide by an international tribunal. In its ruling on September 2, 1998, the ICTR introduced a broad interpretation. The Akayesu Chamber articulated that genocide stands apart from other crimes against humanity by encompassing a specific intent—to wholly or partially annihilate a national, ethnic, racial, or religious group. Establishing the accused's guilt necessitates proving this particular intention, emphasizing that victims are selected not based on individual identity but due to their membership in the targeted group. Hence, according to the Akayesu Chamber, "the victim of the crime of genocide is the group itself and not only the individual."⁶²

IS RECONCILIATION POSSIBLE AFTER GENOCIDE?

Political reconciliation involves the reestablishment of harmonious relationships. Achieving reconciliation means overcoming alienation, division, and enmity, aiming to restore peaceful and cooperative connections grounded in a collective dedication to communal solidarity. In Rwanda, where historical tensions exist between Hutus and Tutsis, the reconciliation process will inevitably entail the cultivation of a shared identity that prioritizes common commitment over cultural, ethnic, and tribal affiliations. Additionally, reconciliation can be viewed as a gradual development of trust among individuals who were previously adversaries. Trust, a fundamental aspect of a nation's social capital, stands as a crucial characteristic for fostering stability, democracy, and economic prosperity within a society.⁶³ The prevalent method in contemporary societies for addressing crime is legal prosecution. Grounded in the principles of retributive justice, this approach assumes that individuals are safeguarded through the rule of law—a system that mandates legal accountability for one's actions. Given that crime disrupts the essential moral equality among individuals, the repair of relationships necessitates holding offenders answerable

⁶¹ Hildegard Lingnau, *An alternative approach to justice — The Gacaca jurisdictions in Rwanda*, 36(4) Law and Politics in Africa, Asia and Latin America 582, 582-589 (2003).

⁶² *The Prosecutor v. Jean-Paul Akayesu (Trial Judgement)*, ICTR-96-4-T, International Criminal Tribunal for Rwanda (ICTR), 2nd September, 1998, at para. 521.

⁶³ *Supra*, note 4, Mark R. Amstutz, at 545.

for their transgressions through legal prosecution and subsequent punishment. From this standpoint, a failure by the state to prosecute criminals is seen as an act of impunity, undermining the moral foundation of political society.⁶⁴ Following the Rwandan Genocide, the triumphant Tutsis confronted the formidable challenge of delivering justice to those responsible for the appalling crimes. However, the devastation of Rwanda's courts during the genocide, along with the deficiencies in the existing justice system, presented substantial hurdles. The depletion of legal professionals due to death or departure added to the complexities faced by the new regime. Despite these obstacles, the Rwandan government remained dedicated to ensuring legal accountability for genocide offenders, deeming impunity unacceptable.⁶⁵ The Rwandan government's dedication to justice manifested in its endeavors to revive the nation's criminal justice system and bring suspects to account. Punishments varied from death penalties to life imprisonment, yet executions were restricted due to Western objections to capital punishment.⁶⁶ Confronting the difficulties presented by traditional trials and the constraints of the ICTR, Rwanda embraced the Gacaca courts in 2001. These informal mechanisms for conflict resolution, inspired by pre-colonial traditions, sought to accelerate trials and engage communities in the justice system. Nevertheless, Gacaca encountered censure for its perceived partiality, deficiencies in legal safeguards, and failure to adhere to minimum justice standards.⁶⁷ Despite facing critique, Gacaca yielded positive results. By 2012, when the Gacaca courts concluded their official operations, close to two million trials had been conducted, with the majority (86%) resulting in guilty verdicts, although avenues for appeal remained available.⁶⁸ The procedure promoted the healing of relationships between victims and perpetrators and served as a substitute for the overwhelmed formal legal system. Nevertheless, human rights groups resisted Gacaca, expressing worries about its impartiality, equity, and susceptibility to manipulation. The omission of Tutsi war crimes from Gacaca resulted in claims of "victor's justice," with critics contending that true reconciliation requires equal application of justice to both Hutu and Tutsi offenders.⁶⁹ In summary, Rwanda encountered significant obstacles in pursuing justice following the genocide. The utilization of Gacaca courts, with acknowledged imperfections, symbolized a creative strategy to manage the extensive caseload and engage

⁶⁴ *Id.*, at 550.

⁶⁵ *Supra*, note 1, Payam Akhavan, at 505.

⁶⁶ *Supra*, note 53, Danielle De Lame, at 38.

⁶⁷ Elizabeth Kiss, TRUTH V. JUSTICE: THE MORALITY OF TRUTH COMMISSIONS 68-98 (Robert I. Rotberg and Dennis Thompson, eds. Princeton University Press, 2000).

⁶⁸ BBC, *Rwanda 'gacaca' genocide courts finish work*, BBC NEWS, (18 June, 2012) available at <https://www.bbc.com/news/world-africa-18490348> (last visited Nov. 22, 2023).

⁶⁹ Alana Eerin Tiemessen, *After Arusha: Gacaca Justice in Post-Genocide*, 8 African Studies Quarterly 57 (Fall 2004).

communities in the reconciliation process. The pursuit of justice in post-genocide Rwanda remains an intricate and dynamic undertaking.

SUGGESTIONS

1. **Strengthen Early Warning Systems**: Enhance international collaboration to improve early warning systems for identifying potential genocidal situations, ensuring swift and coordinated responses to emerging crises.
2. **Educational Initiatives**: Support educational programs at both national and international levels to promote awareness and understanding of the consequences of genocide, fostering a culture of prevention and responsibility.
3. **Reform and Strengthen International Legal Framework**: Advocate for continuous review and reform of international legal frameworks to address evolving challenges, ensuring comprehensive coverage and effectiveness in preventing and prosecuting genocide.
4. **Community-Based Reconciliation Programs**: Invest in community-based reconciliation programs in post-genocidal societies, focusing on grassroots initiatives that promote healing, dialogue, and understanding among affected communities.
5. **Enhanced International Cooperation**: Strengthen international cooperation mechanisms, fostering collaboration between nations, regional organizations, and the United Nations to respond more effectively to cases of genocide and mass atrocities.

These suggestions and recommendations aim to contribute to a comprehensive and proactive approach to preventing genocide and responding effectively when crises arise.

CONCLUSION

The genocide in Rwanda stands as a tragic chapter in human history, underscoring the devastating consequences of unchecked hatred and ethnic violence. The failure of the international community to intervene promptly and decisively during the Rwandan genocide highlights the limitations of existing international legal frameworks. The United Nations and its member states, despite possessing the means to prevent the mass killings, were hindered by political considerations, lack of coordination, and a failure to recognize the urgency of the situation. The establishment of the International Criminal Tribunal for Rwanda (ICTR) marked a belated effort to bring perpetrators to justice, yet the delayed response exposed a critical gap in the timely enforcement of international law. The Israel-Hamas conflict, while distinct from the Rwandan genocide, raises questions about the adequacy of the international legal framework in preventing and addressing situations with the potential for mass atrocities. In conclusion, the response to the genocide in Rwanda highlights the

need for a more robust, timely, and coordinated international approach to prevent and respond to mass atrocities. The Israel-Hamas conflict serves as a contemporary test case, prompting further reflection on the international community's capacity to uphold the principles of justice, accountability, the prevention of genocide in the face of complex geopolitical realities, and the designation of actors as perpetrators or defenders underscores the challenges of applying international law in real-time, often amid intense political and ideological divisions.

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