

Rwanda, 1990-2013: Politico-Legal Examinations and Strategies

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Abstract: The study examines the “United Nations and International Conflict Resolution in Rwanda, 1990-2010: A Historical Perspective”. We empirically approached this study, using the case study approach, which is a traditional descriptive methodology. We traced the historical background of the Rwandan conflict and also made statement of the problem, in which we unraveled the problems associated with the conflict. We took an in-depth study of all persons that testified before the International Criminal Tribunal for Rwanda (ICTR) as they represented the three ethnic groups in Rwanda (Tutsi, Hutu and Twa). We presented the evidence associated with the conflict, validated our hypothesis and analyzed the three Case Studies One, Two and Three. In our literature review, we examined the works of different scholars on conflict resolution and management and the various Charter of the United Nations. Our findings revealed that the RPF launched its attack in October, 1990, which provoked and legitimized, in the minds of many Rwanda-based Hutu, the extremist sentiments and retaliatory killings during the early 1990s. The RPF invasion in 1994 created conditions in which the Hutu extremists were able to manipulate the fear and confusion of the Hutu peasants to significantly escalate the scope of the killings. The study concluded that the conflict in Rwanda degenerated to genocide and other serious crimes against humanity where nearly one million persons were killed because the strategies employed by the U.N. to resolve the conflict were hampered by the presence of interested colonialist and imperialist interest.

Keywords: International Criminal Tribunal for Rwanda (ICTR), Rwanda (Tutsi, Hutu and Twa).

1. INTRODUCTION

Genocide and other serious crimes against humanity occurred in Rwanda between 1990-1994. Acting under Chapter VII of the Charter of the United Nations, the Security Council by Resolution 955 (1994) of 8th November, 1994, established an International Criminal Tribunal for Rwanda (ICTR) for the sole purpose of prosecuting persons responsible for such crimes in Rwanda. The Tribunal held its first plenary session in June 30, 1995 due to the fact that the Secretary-General of the United Nations has to liaise with the General Assembly and the International Court of Justice for the appointment of Judges and other Staff of the Tribunal and also entering into agreement between the United Nations and the United Republic of Tanzania concerning the headquarters of the Tribunal. The decisions of the Tribunal showed that several citizens of Rwanda were found guilty for the genocide and other serious crimes against humanity.

2. HISTORICAL BACKGROUND OF THE RWANDAN CONFLICT

The Rwandan conflict is traceable to a combination of economic, political, social and ethnic factors. This is because Rwanda has three ethnic groups - Hutu, Tutsi and Twa. Agriculture is the largest sector of Rwandan economy. (World Bank 1998:24).

In 1923, the League of Nations formally gave Belgium the mandate over Rwanda and Burundi. In December 1946, the United Nations General Assembly recognized Rwanda and Burundi as Trusteeship States. When it became independent on 1st July, 1962, the Tutsi continued to dominate the other ethnic groups and aligned with Belgium and France. In fact, Rwanda was heavily dependent on foreign aid and its former colonial masters deprived them of the much needed foreign exchange which caused poverty and the resultant underdevelopment. (UNDO 2001:18).

The internal problem in Rwanda gave rise to the peasant revolution, army take over, the Refugee crisis which degenerated into armed uprisings. The African Union could not quell or resolve the Rwandan conflict as a result of the widening split between the English and French speaking countries as to who should represent the war-torn country.

Consequently, the Rwandan conflict made some Hutus and Tutsi to settle in other Central African States, for example, Burundi, Democratic Republic of Congo and other neighbouring African countries. African Union has to evolve a regional mechanism for resolving the conflict in Rwanda and other neighbouring countries so as to prevent its spillover into other African Countries, while the United Nations' role is aimed at ensuring that such genocide does not repeat itself.

In this study, an attempt will be made to provide answers to these questions: First, to uncover the stage at which the United Nations intervened to resolve the Rwandan conflict? Was there any delay by the UN in resolving or managing the Rwandan conflict? Second, is it that the information of the genocide in Rwanda did not reach the UN on time? Third, what led to the obscured information? Fourth, which of the strategy employed by the UN was more efficacious?

3. STATEMENT OF THE PROBLEM

In view of the fact that the Rwandan conflict will likely spread to other African countries if left unchecked, it becomes imperative that any intervention by the United Nations aimed at conflict resolution or management should first of all identify the nature and causes of the conflict before adopting any operational strategy to resolve the conflict, having regard to the concern of the parties and their socio-political or economic relationship.

The challenge of this study will be to unravel the following problems associated with the Rwandan conflict:-

- (1) Attempt a census of the various conflict resolution and management strategies employed by the United Nations in handling the Rwandan conflict.
- (2) Attempt an identification of the various components and stages involved in each strategy.
- (3) Undertake an assessment of each strategy in terms of results obtained.
- (4) Attempt a comparative analysis of the various strategies in the course of resolving the Rwandan conflict.
- (5) Whether some of the strategies deployed by the UN could be made more efficacious?
- (6) Proffer some suggestions for improving the performance of the United Nations in conflict resolution and management.

4. PRESENTATION OF EVIDENCE AND VALIDATION OF HYPOTHESES

Our study will be presented on the basis of the following three case study areas or approach and which we validated our hypothesis thus:-

- (1) A case study of the United Nations' sponsored negotiations to resolve the Rwandan conflict;
- (2) A case study on the use force to resolving the Rwandan conflict on both sides, that is:
 - (a) Between the Rwandan government, before and after the genocide and the RPF; and
 - (b) Between the Tutsi refugees and the Rwandan government on the one hand and the neighbouring African states on the other hand.
- (3) The impact or operations of the International Criminal Tribunal for Rwanda.

This is one of the important bi-product of the United Nations' intervention in Rwanda, which has given rise to certain rules and principles in international law and politics concerning humanitarian intervention, on the place of "individual" as an actor or subject of international law, and the liability or responsibility of such individual.

5. ANALYSIS OF CASE STUDIES ONE, TWO AND THREE

From the Hypotheses validated in Case Studies One, Two and Three above, it is necessary to make the following analysis on them:-

- (1) Efforts to bring about socio-political change in Rwanda in the early 1990s employed several Tract One conflict resolution approaches – the use of military force, diplomatic and economic coercion and negotiation. The negotiation process was conducted under the auspices of the Arusha Peace Talks which was the predominant official conflict

resolution strategy used between 1992 and 1994. Although the negotiations culminated in a comprehensive power sharing agreement, known as the Arusha Peace Accords, the ink was hardly dry before a full scale genocide erupted in Rwanda.

(2) The principal conflict resolution approaches employed by the disputants and international donors between the initiation of the civil war in 1990 and 1994 were: physical force coercion, negotiation and bargaining. The value of physical force as a means of resolving conflict is controversial. On the one hand, physical force can be and is condoned as a means of resolving disputes between sovereign states, particularly when one state is perceived as a national or international threat or has in fact invaded another's territory.

The evidence presented in Case Studies One, Two and Three above, revealed that there should be Reconciliation/ Reintegration and Psychosocial Healing Strategies. These case studies support the observation by Drumtra (1997:11) thus:

The Rwandan people were psychologically so deeply affected by the genocide that it would be unreasonable to think in four years (its effects) would disappear.

Jews remember who killed them. There is quite a lot of suspicion. I understand that. The question is how to deal with this. There's got to be a stop somewhere.

There has to be some reconciliation.

A surprisingly broad range of reconciliation and psychosocial healing activities have been undertaken since 1994. A number of United Nations agencies, church groups, local and international non-governmental organizations have engaged, in one way or another, in reconciliation and healing processes. The government as well conducted and is continuing to conduct several reconciliation interventions.

A lesson quickly learned was that in the Rwandan socio-cultural context, the very term "reconciliation" may be offensive to those who have lost family members. Cultural connotation of the word may mean the solving of a disagreement between two people in an intimate manner such as by hand-shaking. In early seminars sponsored by Catholic Relief Services (CRS), for instance, Rwandans "kept pointing out that "reconciliation" as they understand the word was literally impossible because one aggrieved party was dead and unavailable to participate (Drumtra, 1997:15).

Kumar and Tardif-Douglin (1996:67) observed that the strategies for addressing the psychosocial needs of the country principally focus on the training of individuals and organizations that interact with the four million children UNICEF categorized as being "of concern", such as unaccompanied children, rape victims, imprisoned, street children, child soldiers and children otherwise traumatized by their recent experiences (De Keersmaeker & Peart, 1998:84). Finally, the hypotheses validated the evidence that individual can be prosecuted for crimes of genocide, war crimes, crimes against humanity and peace.

6. METHODOLOGY

Because of the nature of this study, we employed the Case Study approach rather than the statistical method. In the first place, we examined the United Nations sponsored negotiations to resolve the Rwandan conflict. In the second instance, an analysis was made on the use of force by the United Nations to resolve the Rwandan Conflict, before and after the genocide, between the Tutsi refugees and the Rwandan government on the one hand and on the other hand, with the neighbouring countries. Thirdly, an analysis was made on the use of the international criminal tribunal for Rwandan as a conflict resolution strategy.

In this case study approach, we examined and evaluated the following information:-

- (1) The relevant facts or issues at stake that gave rise to the Rwandan conflict;
- (2) Try to see how these issues at stake influenced the actions of the parties involved in the conflict;
- (3) How the conflict was resolved, managed or transformed by the United Nations.

According to Ndagi (1984:18), the case study approach is an objective method of inquiry with generalizations made from organized knowledge. It is important in this study because it deals with the following data:-

- (a) Primary sources like eye witness accounts of the Rwandan conflict can be examined in the United Nations' conflict resolution mechanism.

(b) Secondary sources such as information recorded by others or events observed by such persons, data from books, newspapers, periodicals or archival records written by others.

The primary and secondary evidence were validated in order to ascertain their objectivity. This is because people can reconstruct events or evidence for selfish reasons. Such bias usually affects the method of gathering such data or information as well as the content of the data.

Anikpo (1986:20) observed that the use of case study approach tries to unravel the major elements and characteristics of any phenomenon or attribute. And according to Best (1970:46), it is a research that is concerned with conditions or relationship that exist, practices that prevail, beliefs, points of view or attitudes that are held; processes that are going on; effects that are being felt; or individuals, groups, institutions, methods and materials in order to describe, compare, contrast, classify, analyze and interpret the entities and events.

A review of the works of Cohen and Manion (1984:22) and Best (1970:44), reveals that the case study approach is an aspect of descriptive research which involves an in-dept focus on a particular phenomenon in order to maximize details. It is a research design that deals with the problem of time in social science research and relevant to our present study that seek to evaluate the efficacy of the United Nations conflict resolution and management strategies employed between 1990 and 2010. The time frame of observation of data in this study, have serious implications for the generalization of research findings in terms of whether they accurately represent a situation of some years ago, now or some years in the future (African Development Foundation, ADF, 1993:7).

In our operationalization of the method of this study, we took into consideration the micro and macro environments of the subject matter; such as the political and economic factors of the Rwandan state, legal variables, psycho-social structures, administrative, institution and policy.

7. LITERATURE REVIEW

The general problem of United Nation conflict resolution and management in Rwanda has over the past fifteen years attracted scholarly attention. We shall, however, in this literature review, examine the works of some of the most important scholars on the concept or theory of conflict resolution and management with particular reference to the Rwandan State.

The end of the Cold War generated great concern about the relationship between regional conflicts and global security (Hampson 1996:15). It also generated contradictory expectations about whether the international community can more effectively resolve regional conflicts in the post-Cold War world. Some “pessimists” argued that the Cold War had a dampening effect on regional conflict. In the new multipolar world, the international community will be less capable of resolving the conflicts unleashed by the end of the Cold War (Gaddis 1992:12; Cahil 1996:21 and Holtzman 1996:13). “Optimists”, however, argue that the Cold War both exacerbated regional conflicts and thwarted the ability of international organizations to resolve those conflicts. In this view, the end of the Cold War should facilitate collaboration and increase the ability of the international community to resolve conflicts (Bowden 1997:45 and Krasner 1997:19).

The optimists urge the international community to pursue “preventive diplomacy” to resolve conflicts before hostilities begin (Jentleson 2000:29; Bercovitch 1996:56; Boutros-Ghali 1992:54; Cahill 1996:32; Gareth 1993:43 and Kritz 1995:21). Lund (1996:37) calls preventive diplomacy “action taken in vulnerable places and times to avoid the threat or use of armed force and related forms of coercion by states or groups to settle the political disputes that can arise from the destabilizing effects of economic, social, political, and international change”. According to Lund, preventive diplomacy would depend on an early warning system, regional and/or global powers willing to support preventive action, credible third parties willing to intervene early, and autonomous domestic factions willing to moderate their words and actions.

The importance of third parties is widely held (Young 1967:43; Bercovitch and Rubin 1991:14; Damrosch 1993:33; Hampson 1996:64). The dispute is whether third parties are likely to be more or less effective in the post-Cold War World. The early empirical evidence regarding third party effectiveness in resolving post-Cold War disputes is mixed. For example, Wallenstein and Axell (1994:21) report that of the 43 disputes ending between 1989 and 1993, only six ended with a mediated agreement. Paris (1997:54) argues that only one of seven United Nations post-conflict peace-building efforts was successful. However, Hampson (1996:41) argues that third parties played a significant role in the peacekeeping processes in Cyprus, Namibia, El Salvador, and Cambodia.

This study will add to other literatures or on-going policy debates concerning global peacekeeping by breaking down the concepts of “third parties” and “the international community” into categories of great powers, regional actors, and international organizations. The pessimists tend to provide reasons for a decreasing effectiveness of the United Nations without systematically addressing regional actors. And as Lund’s definition of preventive diplomacy illustrates, the optimists tend to provide reasons for an increasing effectiveness of the international community without specifying which category of actor is the most credible and legitimate. Neither side attempts to answer the question “as to why conflicting parties or states should look to the United Nations as a third party” to resolve their conflicts.

Articles 1 and 2 of the United Nations Charter provides the purposes and principles of the United Nations “to maintain international peace and security, and to that end to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice an international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace”. While Article 7 of the United Nations Charter provides the following principal organs of the United Nations: General Assembly, Security Council, Economic and Social Council, Trusteeship Council, International Court of Justice, Secretariat-Role of the Secretary General. Such subsidiary organs as may be found necessary may be established in accordance with the U.N. Charter.

In spite of the functions of the above organs, it is worthy to mention that there are five of its principal organs which the United Nations has involved in settling international disputes. These five principal organs are: the General Assembly, Security Council, International Court of Justice, the Secretariat which is usually through the Secretary-General and such subsidiary organs as may be found necessary may be established in accordance with the Charter.

It is the Resolutions of either the General Assembly or the Security Council that will confer on the Secretary-General the authority to perform his inherent or mandated role. The establishment of the International Criminal Tribunal for Rwanda falls under the subsidiary organs of the United Nations. Looking at pages 1 and 2 of the First Annual Report of the International Criminal Tribunal for the prosecution of persons responsible for Genocide and other serious Crimes, one will observe the procedural steps that were taken by the U.N. Secretary-General for the establishment of the said Tribunal. Consequently, as a means of maintaining international peace and security, the United Nations usually adopts the juridical or non-judicial strategies. The non-judicial mode includes the use of any of the following strategies: to call upon the parties; discussion, good offices mediation and conciliation, Commission of inquiry; Resolution and Recommendation; Preventive Diplomacy; and Arbitration. While the juridical modes, involve the settlement of dispute through a legal process. By this juridical method, evidence is led by parties or their witness stating the causes of the conflict and submitted to a court or tribunal that may be permanent or may have been temporarily created for that purpose. A binding decision or judgment is then handed out. The operation of the International Criminal Tribunal for Rwanda, is an instance of the use of juridical mode of settling conflict.

Prunier (1995:52) and Kritz (1995:3) observed that from the time of Rwanda’s independence movement through to the late 1980s, conflict resolution interventions, involving the United Nations Trusteeship Commission in the late 1950s and early 1960s and insincere efforts by the then Government of Rwanda to effect social policy reform in the 1970s, were half-heartedly implemented and ultimately unsuccessful.

Efforts to bring about socio-political change in the early 1990s employed several Track One conflict resolution approaches - the use of military force, diplomatic and economic coercion and negotiation. The negotiation process was conducted under the auspices of the Arusha Peace Talks which was the predominant official conflict resolution strategy used between 1992 and 1994. Although the negotiations culminated in a comprehensive power sharing agreement, known as the Arusha Peace Accords, the ink was hardly dry before full scale genocide erupted in Rwanda.

8. EMPIRICAL FINDINGS

Documentary evidence available at the period of this study, revealed that the RPF’s civil war, launched in October 1990, provoked and legitimized, in the minds of many Rwanda-based Hutu, the extremist sentiments and retaliatory killings that emerged during the early 1990s (Watson C., 1991:15-17). There is also evidence to suggest that the RPF invasion in April 1994 created conditions in which Hutu extremists were able to manipulate the fear and confusion of the Hutu peasants to significantly escalate the scale and scope of the killings. Whilst the notorious genocide lists were essentially, though not exclusively, comprised of Tutsi and moderate Hutu political leaders and intelligentsia throughout the country and whilst initially the genocide was carried out principally by the militia and Presidential Guard, broad-based participation in the killing of Tutsi peasants swelled dramatically after the RPF forces invaded enmass. Even the FAR, who attempted to

forestall its own involvement in the genocide during the first days of the atrocities, ultimately participated. Prunier (1995:35) alleges that this is partially blamed on the RPF invasion.

Prunier (1995:8) observed that the RPF invasion did ultimately play a decisive and highly commendable role in bringing the genocide to an end, particularly in light of the inability of the United Nations to fulfill its own mandate by enforcing the terms and conditions of the Arusha Agreement and the Convention for the Prevention and Punishment of the Crime of Genocide (1948). The pertinent question here is not the legitimacy of the RPF's intervention in ending genocide - there is unanimous agreement on this point; rather, did the decision to opt for a military solution to the problems of the exiled Tutsi, however inadvertently, set in motion events that spun widely out of control?

From the evidence presented in this study, it is obvious that there was early warning information to the U.N. concerning the Rwandan conflict but the U.N. could not implement appropriate steps to resolve the conflict as a result of the overwhelming colonial interest. Even when the U.N. established UNAMIR, it was obvious that the number of Belgian and French forces were more, thereby taking side with the Rwandan government that was made-up of Tutsi to suppress the agitation by the Hutus, hence the genocide. In the past, the U.N. while establishing peacekeeping forces in African states, usually barred former colonial powers from serving in such peacekeeping roles. But this was not the case in Rwanda where the U.N. gave no reason to justify the situation of allowing large number of French and Belgian forces in eth UNAMIR.

The evidence presented in this study further revealed that the strategies employed by the U.N. to resolve the Rwandan conflict were hampered by the presence of interested colonial and imperialist interest. Previous attempts at resolving the conflict have been futile, lacking in political will and guided by a widely influential set of theories about human nature that assume the causes of violence are rooted in notions of a humanity ruled by biological and psychological urges.

Our findings in this study also revealed that the establishment of the International Criminal Tribunal for Rwanda (ICTR) was mainly to punish the Hutus and other violators for the offence of genocide, war crimes, crimes against peace and humanity. There is difference between the establishment of judicial panel or commission of inquiry and an international criminal tribunal. A judicial panel or commission of inquiry, is a fact-finding commission aimed at hearing from the parties to the conflict, investigating the causes of the conflict and recommending to the appointing authority the ways and means to resolve the conflict. While the aim of the ICTR is to exercise criminal jurisdiction and to punish persons that committed the offence. That was why there were four categories of persons for the said offences, (ICG, 1999:6).

In the light of the above observation, the discussion of our findings in this study has shown that there were abundant documentary evidence to prove that the information of the Rwandan conflict reached the UN on time and it could not take adequate steps or measure to resolve the conflict until it escalated to genocide, war crime, crimes against peace and humanity. The intervention by the U.N. through the establishment of the ICTR, was purely to punish those who have committed such heinous crimes against the Rwandan state, which is an offence in international law and not geared at resolving the conflict that gave rise to the genocide.

Consequently, the United Nations had embarked on a lot of conflict resolution and management in many countries including Rwanda, between 1990 and 2010. In several of these occasions, it was observed that the U.N. performed well in resolving interstate conflicts but had difficulties in resolving intra state conflict as was observed in Rwandan crisis.

Finally, our findings in this study has added information to the on-going debate on international humanitarian law that individuals are now subjects of international law as they can be punished for the offence of genocide, war crimes and other international crimes against humanity. By so doing, the absolute concept of state sovereignty ha now been eroded.

9. CONCLUSION

An evaluation of the strategies employed by the UN between 1990 and 2010 to resolve the Rwandan conflict discovered that:-

- (1) The U.N. can enhance or employ strategies to resolve the Rwandan conflict;
- (2) The U.N. can help adversaries in the Rwandan conflict to understand the risk of conflict and to help them strengthen their own capacities for conflict resolution so as to avert the repetition of such conflict in future;
- (3) The U.N. can mobilize the intellectual, technical, financial and moral resources to resolve or prevent the Rwandan conflict.

It was also discovered in this study that the strategies employed by the U.N. to resolve the Rwandan conflict had some tactics in common, as it dealt with issues, focused on areas of agreement at the initial stages of discussion, negotiated concessions on each side and arrangement for continuing dialogue amongst the warring parties. Such strategies were in stages and we examined them in our case studies one, two and three to cement our analysis that they provided the framework for peacemaking strategy.

Finally, the establishment of the ICTR by the UN and the trial, conviction and sentencing of the persons that committed the crimes of genocide and other crimes against humanity, has further buttressed the politico-legal viewpoint that “individuals” has now been elevated to the status of “subjects” of international law, quite unlike the age-long politico-legal view that only regarded “states” as the subject while individuals as objects of traditional international community has turned its attention to establishing more effective mechanisms to punish human rights violations.

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