



Rwanda: Genocide and International Humanitarian Law

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ABSTRACT

It was difficult to hold the international world, led by Boutros-Ghali, accountable for starting the Rwandan genocide, which was fueled by vile propaganda and the residual anger of the past that the prime minister's assassination had stoked. However, the UN might be held accountable for ignoring its obvious warning signals. The notorious "genocide fax" was sent to UN headquarters in January by General Romeo Dallaire, the Canadian commander of the tiny international peacekeeping force stationed in Rwanda. He alerted readers about the Hutu junta's intentions to "register all Tutsi" in order to get ready "for their extermination." Gen. Dallaire asked for permission to raid weapons caches that might end up in the hands of Hutus and facilitate their murderous plans in order to stop the carnage. At the time, Kofi Annan led UN peacekeeping efforts. refused his request, citing the need for the blue helmets to maintain their neutrality. The UN would turn a blind eye to the Rwandan situation, just like Pilate did, and genocide would ensue. To address this gap in action, the Responsibility to Protect (R2P) protocol was created, outlining a series of situations in which the UN can and ought to step in. The R2P protocol's development is the topic of this study. The topic of the UN is then examined, with a focus on the organization's capacity to deal with violations of human rights. Using Rwanda as a case study, the Responsibility to Protect protocol is discussed along with the difficulties Rwanda faces in applying international humanitarian law. Given this, the creation of the R2P protocols reviewed, including background information and contemporary implications. A summary of the key ideas and issues covered in this research work is provided in the conclusion

INTRODUCTION

In general, laws that sovereign states enact to specify their legal relations to one another are referred to as international law. Issues occur when countries choose to disregard regulations that could appear to be overly restrictive in favor of enacting those that are most advantageous to their country (Shaw, 2003). The standing of sovereign states is considered to be equal, and international law often derives from the agreements and treaties that governments make. Treaties, rulings and documents from international tribunals, and customary international law are common sources. The primary issue with the implementation of international law is nations' autonomy to enact and uphold international rules (Weissbrodt, & de la Vega, 2007).

Target areas of international law have included apartheid, war and crimes of war, the law of the sea (piracy), and crimes against humanity (slavery, torture, and genocide) (Weissbrodt & de la Vega, 2007, pp. 27-58). A state may decide to make a rule a law or not, and this decision may or may not have an effect on how it interacts with other sovereign states in a particular area. A state's decision to enact a law may or may not truly achieve the goal of the law, since the laws pertaining to target areas aim to lessen and/or alleviate the bad effects connected with commissions of such egregious acts. Consequently, it appears that the law's outcome primarily hinges on the willingness of the the appropriate states to enact, carry out, and uphold the legislation (Shaw, 2003). Ensuring the viability of any particular international law is rather arbitrary in the absence of an enforcement body endowed with genuine powers (military force, the capacity to implement economic sanctions, extradition, and the authority to imprison).

LITERATURE REVIEW

The United Nations

After the unsuccessful League of Nations was dissolved in 1945, the United Nations was founded. Its job is to make member state relations easier in the areas of human rights, security, law, and economics. The UN Security Council, the General Assembly, the Secretariat, the International Court of Justice, and the Economic and Social Council are the five main UN bodies (Ross, 2003). As of right now, Ban Ki Moon serves as the UN Secretary General (United Nations, 2010).

The World Health Organization, the International Monetary Fund, the World Bank, and the World Food Program are just a few of the UN's auxiliary organizations. Other agencies handle matters related to science, atomic energy, labor, economics, and Within the UN, topics including agriculture, maritime affairs, aviation, telecommunication, and more (Ross, 2003).

The 192 member states of the United Nations, an international organization, must all be sovereign nations. Every member state is obligated to participate in the UN charter, which includes promoting global peace (United Nations).

The General Assembly convenes and adopts resolutions, but it lacks the authority to impose or uphold the law because it is not armed nor policed. Instead, they have the ability and willingness to apply the pressure of global

opinion on countries breaking laws, particularly those pertaining to human rights abuses. The UN does not keep a military force of any kind, nor does it possess any armed forces or law enforcement resources. When it comes to matters that intervention, the Secretary-General may attempt to broker peace through diplomatic relations with and/or between belligerent groups. A peacekeeping force may be further deployed by the Security Council in order to implement resolutions to maintain peace. However, the UN's primary role is that of a global mediator with limited authority in the absence of coercive military might. It is dependent on the goodwill of each of its member nations to uphold the United Nations charter (Ross, 2003).

This is especially troublesome when it comes to genocide, like in the instance of the 1994 Rwandan Genocide. There wasn't much time to wait for a UN resolution to stop the blade from falling on the child's limbs while people were being torturously slaughtered. Given these sad circumstances, the requirement for a binding and enforceable resolution that is prompt, effective, and efficient is vital.

In this regard, the United Nations' efforts to defend the Rwandan people were a colossal failure. The more broad human rights issue boils down to the idea of the obligation of the human race to one another, since no other member state intervened directly with Rwanda to put an end to the crimes.

The Rwandan Genocide

Between April and July of 1994, the majority Hutu ethnic group massacred almost 800,000 members of the Tutsi ethnic minority in Rwanda, which is known as the Genocide in Rwanda. Despite a history of hostility and warfare, the two ethnic groups were covered by a peace agreement in 1993 that expired in 1994. This was a well-planned genocide that included talks at the cabinet level, well-planned killings, and military conflicts with the goal of inflaming Hutu animosity toward the Tutsi minority in order to eradicate them (Sarkin, & Fowler, 2010). Intelligence pointed to a possible genocide. An informant involved in the creation of the Tutsi Hutu extermination plot provided this information to Canadian Lieutenant General Romeo Dallaire, the commander of the UN force in Rwanda. The information was received in January 1994, a long time before the murders and subsequent genocide. The jet carrying the then-president Habyarimana, President Ntaryimira of Burundi, and other officials were shot down on April 6, 1994. After talks about how to resolve the ongoing ethnic violence, the presidents were on their way back from Tanzania. As part of a power-sharing arrangement mediated by the Rwanda Political Front, a Tutsi party, Habyarimana was under pressure to put the Arusha Accords into effect. Strong feelings were expressed against the agreement, and This is connected to the subsequent murder and assassination. Members of the Hutu government and radical Hutu militia organizations went on a killing rampage among Rwandan Tutsi people after Habyarimana was killed. Almost 800,000 individuals lost their lives in 100 days (Barnett, 2002).

The UN did nothing to halt the carnage because they believed it was too dangerous to intervene in Rwanda. It appeared as though the rest of the world had given up on Rwanda. Members of the Tutsi ethnic minority were massacred,

tortured, and raped during this bloody period. Blood ran red in the waterways (Melvern, 2004).

After regrouping their forces, the Rwandan Patriotic Front, a Tutsi-led organization that had been involved in the fighting before the Arusha Accord, seized control of Kigali, the country's capital. Afraid of RPF reprisals, millions of Hutus and genocide perpetrators left the nation. As of 2010, the RPF remained in power, and despite ongoing ethnic strife, Rwanda is seen as an example of development and stability after going through significant political unrest and bloodshed (Beswick, 2010).

The UN has received a lot of flak for doing nothing to stop the genocide in Rwanda. People start to doubt the ability of the worldwide UN organization to step in under such extraordinary situations that call for prompt and decisive action.

Responsibility to Protect

Then-Secretary General Kofi Annan asked the international community whether it should interfere in circumstances relevant to protecting populations because the UN had failed to act effectively during the Rwandan Genocide. At what point does the international community need to take action? (Fowler & Sarkin, 2010)

The Canadian government founded the International Commission on Intervention and State Sovereignty in September 2000. They published a report titled "The Responsibility to Protect" in 2001. The fundamental tenet is that the international community has an obligation to prevent and intervene in cases of mass murder and that sovereignty is a responsibility rather than a right. The study continues by saying that diplomatic measures are the first line of defense and are followed by more aggressive measures. military action is a last resort due to its nature (ICISS, 2000).

New York City hosted the World Summit in 2005, organized by the United Nations. World leaders adopted the Responsibility to Protect protocol in the Outcome Document of the World Summit, formalizing the General Assembly's endorsement of the contemporary R2P idea (United Nations, 2005). As currently understood, the Responsibility to Protect is a set of guidelines for nations to follow when international intervention may be required, rather than a legal requirement (Stahn, 2007).

The norms' tenets are:

1. It is the state's duty to protect its citizens against four categories of criminal activity: ethnic cleansing, war crimes, crimes against humanity, and genocide.
2. Should the state be unable to safeguard its populace, the international community can step in and establish the nations beforehand. warning capacities, such as through mediation, negotiation, and other measures.
3. The international community must step in with military force if early warning systems prove insufficient (Bellamy, 2009).

The R2P idea has been adopted by African nations, and it is included in the African Union's Constitutive Act, which unites the Organization of African Unity's member states (Organization of African Unity, 2000). Burundi and Rwanda are members of the OAU. Rwanda is also a member of the East African

Community, which is an association that brings together the governments of Tanzania, Burundi, Kenya, Uganda, and Rwanda. Since the 1994 massacres, the international community, sovereign governments, and R2P have all had a responsibility to act when there is a mass atrocity against human rights and to acknowledge when such a failure has occurred. Rwanda has developed into a form of development that embraces the Responsibility to Protect, has political and economic stability, and is a member of African and international unions.

The United Nations Security Council established the International Criminal Tribunal for Rwanda (ICTR) with the goal of "prosecuting persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and neighboring States, between 1 January 1994 and 31 December 1994." To put it briefly, this tribunal was created. The Tribunal has offices in Kigali, Rwanda, and is based in Arusha, Tanzania. The Hague, Netherlands is home to the court's appeals chamber. Since its establishment in 1995, the Tribunal has brought charges against ninety-three people whom it deemed accountable for grave breaches of international humanitarian law that occurred in Rwanda in 1994. High-ranking members of the armed forces and administration, legislators, businesspeople, and leaders in the media, religion, and militia are among those charged. Along with its sibling foreign courts and tribunals, the A significant amount of law on genocide, crimes against humanity, war crimes, and forms of individual and superior culpability has been produced by the International Criminal Tribunal for Rwanda (ICTR), which has been crucial in the development of a respectable international criminal justice system. The International Criminal Tribunal for Rwanda (ICTR) is the first international tribunal to rule on cases pertaining to genocide and the first to interpret the 1948 Geneva Convention's definition of genocide. It is also the first international tribunal to acknowledge rape as a tool of genocide and to define rape in terms of international criminal law. The "Media case" marked yet another significant milestone, as the ICTR became the first international tribunal to hold media professionals accountable for broadcasts meant to incite the public to conduct acts of On December 20, 2012, the ICTR handed down its final trial ruling in the Ndirakobuca case. After reaching this milestone, the Appeals Chamber is now the only entity left in charge of the Tribunal's remaining judicial duties. The ICTR Appeals Chamber had just one case, consisting of six distinct appeals, pending as of October 2014. After taking over the ICTR's residual responsibilities on July 1, 2012, the Mechanism for International Criminal Tribunals' appeals chamber handled one further appeal from the trial judgment in the Ndirakobuca case in December 2014.

METHODOLOGY

Tracking down and apprehending the three accused who are still on the run from the law is one of the Mechanism's primary responsibilities. Félicien Kabuga, Protais Mpiranya, and Augustin Bizimana were indicted by the ICTR on allegations of crimes against humanity and genocide; however, the accused have so far eluded prosecution. The successful capture of these fugitives depends critically on the ongoing collaboration of national governments and the international community at large. Once they are captured, the Mechanism will oversee all of the sentences that have already been handed out by the ICTR and conduct their trials.

The return of the ruling from the Appeals Chamber in its most recent appeal is planned to coincide with the official conclusion of the ICTR. Through a combination of judicial, outreach, and capacity-building measures, the ICTR will continue to work toward ending impunity for those responsible for the Genocide until that judgement is returned in 2015. By carrying out these initiatives, the ICTR will fulfill its mandate to provide justice to the Genocide victims and, in doing so, seeks to dissuade future perpetrators of similar crimes.

RESULTS AND DISCUSSION

A framework based on reason and rationality, international law allows sovereign nations to relate to one another in ways that are mutually understood. Comprising sovereign member states that have committed to upholding UN statutes, the United Nations is an international organization. It is difficult to force a sovereign state to abide by a UN resolution, treaty, ruling, or other document (which may or may not be regarded as international law) because each member state is ultimately free to fulfill its commitment to uphold international law and the UN charter. The UN can operationalize a peacekeeping force through its Security Council, but it lacks a military force (Sambanis, 2008).

The Rwandan Genocide serves as an example of the UN's inability to stop the crimes taking place, despite prior intelligence providing a warning system for possible mediation and other diplomatic measures. The victims' battles went unnoticed by the world community, which failed to provide any decisive backing or coalition to intervene and stop the executions. Such a deficiency in accountability is evident in the international community's and the UN's lack of power as an international peacekeeping organization (Stahn, 2007).

The UN's and the international community's egregious failures to act during the Rwandan Genocide led to the creation of the Responsibility to Protect policy. It is the duty of sovereign governments to safeguard their citizens; in the event that they are unable to do so, the international community may intervene by using preventative measures or, in extreme cases, military force, to put an end to crimes (Evans, 2009).

The R2P protocol has been incorporated into the constitution of the African Union in addition to being adopted by the UN and other international organizations since 1994, the year of the Rwandan Genocide. Moreover, Rwanda and the other member states of the East African Community are heading toward federalization.

In such a context, challenges to international law could potentially take one of two forms: either political, economic, and social stability brought about by the federalization and union of African states into larger regional entities will lessen historical conflicts and the need for international intervention, or conflict and corruption will give rise to a new level of power struggles that will make it more difficult for the international community to intervene in national affairs when populations are at risk from internal events (Beswick, 2010).

CONCLUSIONS AND RECOMMENDATIONS

The United Nations' inability to act in cases of mass atrocities and the international community's inaction and reluctance to become involved in situations such as the Rwandan Genocide may have led to the development of the Responsibility to Protect protocol. R2P is one way that nations choose to normalize the responsibility that comes with being a member of the world community. Humanity has a commitment to itself. The United Nations may not have that kind of centralized authority since there is an inherent risk associated with creating a global armed force. There might be a lot of abuse there. But as the world changes and states participate in global affairs, domestic concerns of various nations are no longer private affairs. One such standard that permits the international community to actively intervene in defending individuals against genocide, torture, slavery, and other human rights crimes is the Responsibility to Protect (R2P) protocol. The biggest obstacles facing Rwanda, international law, and Responsibility to Protect (R2P) center on how Africa's internal political structure develops. Even federalization initiatives could be fraught with issues, and long-standing disputes can die a harsh death. Larger regional, centralized governments, on the other hand, might be an inevitable result of ethnic conflicts; techniques such as R2P are only instruments meant to facilitate the development of a more secure and stable social and political environment.

FURTHER STUDY

This research still has limitations, so it is necessary to carry out further research related to the topic of Rwanda: Genocide and International Humanitarian Law in order to improve this research and add insight to readers.

REFERENCES

- Barnett, M. (2002). *Eyewitness to a genocide: the United Nations and Rwanda*. Cornell: Cornell University Press.
- Bellamy, A. (2009). *Responsibility to protect: the global effort to end mass atrocities*. Cambridge: Polity Press.
- Beswick, D. (2010). *Managing Dissent in a Post-genocide Environment: The Challenge of Courts in Conflict. Interpreting the Layers of Justice in Post-Genocide Rwanda*, Nicola

- Courts. Lessons to Learn from the Rwandan Justice Approaches to Genocide, Charity
- Evans, G. (2009). The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All. *Irish Studies in International Affairs* , 7-13.
- Forsythe, D. (2006). *Human rights in international relations*. Cambridge: Cambridge University Press.
- Gacaca Courts versus the International Criminal Tribunal for Rwanda and National
- ICISS. (2000, September 11). Responsibility to Protect. Retrieved June 20, 2010, from International Commission on Intervention and State Sovereignty: <http://www.iciss.ca/menu - en.asp>
- Melvern, L. (2004). *Conspiracy to murder: the Rwandan genocide* By Linda Melvern. New York: Verso.
- Organization of African Unity. (2000, July 11). Constitutive Act of the African Union. Retrieved June 20, 2010, from African Union Summit: http://www.au2002.gov.za/docs/key_oau/au_act.htm
- Northampton, MA, 2017, 544 pp., ISBN: 9781784711696 - hardcover (160 £).
- Palmer, Oxford University Press, 2015, 238 pp., ISBN: 9780199398195 – hardcover (71 £) / 2019 paperback (25.99 £).
- Political Space in Rwanda. *Development and Change* , 225-251.
- Ross, S. (2003). *The United Nations*. Chicago: Heinemann.
- Sambanis, N. (2008). Short- and Long-Term Effects of United Nations Peace Operations. *The World Bank Economic Review* , 9-32.
- The Elgar Companion to the International Criminal Tribunal for Rwanda, eds. Anne Marie de Brouwer and Alette Smeulers, Edward Elgar Publishing, Cheltenham, UK,
- Transitional Justice in Rwanda. *Accountability for Atrocity*, Gerald Gahima, Routledge, 2013, 422 pp., ISBN: 9780415522786 - hardcover (88 £).
- Wibabara, Nomos, 2014, 298 pp., ISBN: 9783848712472 - paperback (79 €).