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Understanding the Enforcement of International Law Regarding the Genocide in Rwanda

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Abstract

The genocide in Rwanda in 1994 was one of the most brutal crimes against humanity in modern history, resulting in the deaths of more than 800,000 people over a period of approximately one hundred days. This article aims to understand the genocide through an international law approach by examining relevant legal instruments such as the 1948 Genocide Convention, the 1998 Rome Statute, and the case law of the International Criminal Tribunal for Rwanda (ICTR). A normative and legal approach is employed to assess the international community's response to this crime and the extent to which the principles of international criminal law were upheld in the judicial proceedings against the perpetrators. The research findings reveal that whilst the ICTR has made a significant contribution to the development of international criminal law, various political and technical constraints continue to limit its effectiveness. This study emphasises the importance of strengthening international legal mechanisms to prevent and address future genocides, as well as the need for a global commitment to the principles of justice and humanity.

KEYWORDS *Genocide, International Law, War Crimes, Rwanda, Rome Statute.*

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Introduction

Rwanda is a country in Africa, where the population is predominantly Hutu and Tutsi.[1] These two ethnic groups had coexisted for hundreds of years in a peaceful atmosphere.[2] However, the Belgian colonial administration in Rwanda treated the two ethnic groups differently, with the Tutsi being favoured and regarded as the ruling class, whilst the Hutu were considered ordinary citizens.[3] This unfair treatment sparked a Hutu uprising in 1956. Three years later, the Hutu succeeded in seizing power and drove many Tutsis to flee Rwanda.

After Rwanda gained independence, the oppression of the Tutsi ethnic group continued. In 1994, the shooting down of the plane carrying the Rwandan President triggered a horrific genocide. Hutu extremists accused the Tutsis of being responsible for the president's death and felt compelled to exterminate the Tutsi ethnic group and those who sided with them. In this tragic event, around one million people lost their lives.[4]

The 1994 Rwandan genocide stands as one of the most horrific tragedies in modern history, with an estimated death toll exceeding 800,000 people, the vast majority of whom were Tutsis, within a period of less than one hundred days.[5] This massacre not only left deep scars on the Rwandan people but also called into question the effectiveness of international law and global human rights protection mechanisms.[6] This tragedy serves as a bitter reminder that although the world possesses legal instruments such as the 1948 Genocide Convention, their implementation and enforcement are often weak and influenced by geopolitical interests.

Genocide is an exceptional crime specifically recognised under international law.[7] This crime violates fundamental human values and threatens the survival of a specific group within society. In modern history, various

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1 Adam Jones, "Chomsky and Genocide," *Genocide Studies and Prevention* 14, no. 1 (2020), https://doi.org/10.5038/1911-9933.14.1.1738.

2 Jones.

3 Jonathan R. Beloff, "Rwanda's Securitisation of Genocide Denial: A Political Mechanism for Power or to Combat Ontological Insecurity?," *African Security Review* 30, no. 2 (2021), https://doi.org/10.1080/10246029.2021.1920996.

4 Caroline Williamson Sinalo, Pierre Claver Irakoze, and Angela Veale, "Disclosure of Genocide Experiences in Rwandan Families: Private and Public Sources of Information and Child Outcomes," *Peace and Conflict* 27, no. 4 (2021), https://doi.org/10.1037/pac0000521.

5 Thorsten Rogall, "Mobilizing the Masses for Genocide," *American Economic Review*, 2021, https://doi.org/10.1257/aer.20160999.

6 Charles André, "Phrenology and the Rwandan Genocide," *Arquivos de Neuro-Psiquiatria*, 2018, https://doi.org/10.1590/0004-282x20180022.

7 Zeyad Jaffal, "Rape as Genocide Crime in International Criminal Law - The Case of Yazidi Women in Iraq," *International Journal of Criminal Justice Sciences* 15, no. 2 (2020), https://doi.org/10.5281/zenodo.3841256.

genocidal tragedies have marred the face of world civilisation, ranging from the Armenian genocide in the early 20th century, the Holocaust perpetrated by the Nazi regime, to the tragedy that occurred in Rwanda.[8] Each of these events signifies the collective failure of the international community to prevent and halt systematic mass violence. According to the 1948 Genocide Convention, genocide is defined as acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group. This provision forms the basis for the international community's efforts to prevent and prosecute perpetrators of genocide.[9] However, the tragedy in Rwanda demonstrates that written law alone is insufficient without genuine commitment from states and international institutions.

From the perspective of international law, the Rwandan genocide serves as a key case study for assessing the effectiveness of existing legal instruments.[10] These events led to the establishment of the International Criminal Tribunal for Rwanda (ICTR), which was tasked with trying the principal perpetrators of the crimes.[11] However, this judicial process has also drawn criticism regarding its efficiency, procedural fairness and accessibility for victims at the community level. Furthermore, the Gacaca system, a revived traditional justice system in Rwanda, has become a fascinating phenomenon in the study of transitional justice, as it offers an alternative to formal judicial models by emphasising community participation and reconciliation.[12]

Examining the Rwandan tragedy from an international law perspective also raises fundamental questions regarding the role and responsibilities of the international community. Why did the UN fail to take preventive action? Why did major powers remain passive despite strong indications that genocide was taking place? Criticism of the United Nations (UN) and the member states of the Security Council has given rise to a new doctrine in international relations, namely the Responsibility to Protect (R2P).[13] This doctrine emphasises the

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8 Wilson Rubanzana et al., "Exposure to Genocide and Risk of Suicide in Rwanda: A Population-Based Case-Control Study," *Journal of Epidemiology and Community Health* 69, no. 2 (2015), https://doi.org/10.1136/jech-2014-204307.

9 Melanie O'Brien, "Defining Genocide," *Journal of International Peacekeeping*, 2018, https://doi.org/10.1163/18754112-0220104010.

10 Rene Provost, "Accountability for International Crimes within Insurgent Groups," *SSRN Electronic Journal*, 2015, https://doi.org/10.2139/ssrn.2701951.

11 Md. Hasnath Kabir Fahim, "Rethinking Genocidal Intent: An Interpretation under the International Law and the Jurisprudence of International Criminal Tribunals," *Lex Publica* 9, no. 1 (2022), https://doi.org/10.58829/lp.9.1.2022.58-78.

12 Christine Schliesser, "Whose Justice? Which Democracy? Justice, Reconciliation and Democracy in Post-Genocide Rwanda - Challenges to Public Theology," *International Journal of Public Theology* 12, no. 1 (2018), https://doi.org/10.1163/15697320-12341521.

13 Sascha Nanlohy, "Geopolitics and Genocide: Patron Interests, Client Crises, and Realpolitik," *Journal of Global Security Studies* 9, no. 1 (2024), https://doi.org/10.1093/jogss/ogad023.

obligation of states to protect their citizens from mass atrocities. If a state fails to do so, the international community has the right to take action.

In an academic context, the Rwandan tragedy has been the focus of various interdisciplinary studies, ranging from international law and conflict studies to international relations, political science and sociology.[14] Nevertheless, there is a gap in efforts to integrate normative legal analysis with sociological and political approaches regarding the dynamics of power and ethnic identity that trigger conflict.[15] Therefore, this article aims not only to examine the Rwandan genocide from a textual perspective in international law but also to situate it within the relevant socio-political context to achieve a more comprehensive and transformative understanding.

The primary objective of this article is to contribute to the scholarly discourse in the field of international law by using the Rwandan genocide as the main case study. Specifically, this article will discuss: (1) the concepts and development of international law regarding genocide, (2) the role and effectiveness of the International Criminal Tribunal for Rwanda (ICTR) as an instrument of legal accountability, (3) the Gacaca system as a form of community-based local justice, (4) the failure of the international community to fulfil its preventive and protective mandates, and (5) the relevance and challenges in the application of the Responsibility to Protect principle.

This research is a qualitative study that uses a literature review to examine the Rwandan genocide from an international law perspective. This approach was chosen as it is relevant for exploring and understanding the normative legal framework, historical context, and socio-political dynamics surrounding the genocide. The literature review allows the author to analyse various legal sources and academic literature to gain a comprehensive understanding. The approach adopted in this article combines normative legal and critical sociological approaches.[16] The normative legal approach is used to analyse the rules of international law relating to the crime of genocide, in particular the 1948 Genocide Convention, the 1998 Rome Statute, and other relevant legal instruments. Meanwhile, the critical sociological approach is used to understand the social and political background of the Rwandan genocide, including the construction of ethnic identity, historical conflicts between Hutus and Tutsis, and the role of state and non-state actors in the escalation of violence.

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14 Jones, "Chomsky and Genocide."

15 Provost, "Accountability for International Crimes within Insurgent Groups."

16 Muhammad Siddiq Armia, *PENENTUAN METODE & PENDEKATAN PENELITIAN HUKUM*, ed. Chairul Fahmi (Banda Aceh: Lembaga Kajian Konstitusi Indonesia, 2022).

The data sources used consist of primary and secondary sources. Primary sources include international legal documents (the Genocide Convention, the Rome Statute), UN resolutions, judgments of the International Criminal Tribunal for Rwanda (ICTR), official documents of the Rwandan government, and statements by international organisations. Secondary sources include academic journals (particularly articles published in the last 10 years), academic books, reports by non-governmental organisations, dissertations, and other relevant publications.[17]

In addition, a comparative analysis was conducted primarily to assess the effectiveness of the ICTR's judicial mechanisms against the local Gacaca judicial system. This analysis aims to identify the strengths and limitations of each judicial model in addressing crimes of genocide and to provide recommendations to strengthen the international legal system.

Background to the Rwandan Genocide and Socio-Political Complexities

Etymologically, the term 'genocide' derives from two words: 'geno', taken from Greek meaning 'race', and 'cidium', a derivative of Latin meaning 'to kill'.[18] geno" According to the Rome Statute and Article 7(a) of the International Criminal Court Statute, genocide is defined as acts committed with the intent to destroy, in whole or in part, a national, racial, ethnic, or religious group.[19] Such acts may include the killing of members of the group, causing serious bodily or mental harm, creating living conditions calculated to bring about the group's physical destruction, preventing births, and forcibly transferring children from the group.[20]

The 1994 genocide in Rwanda was one of the most horrific humanitarian tragedies of the 20th century, in which more than 800,000 lives were lost in the space of around 100 days.[21] The majority of the victims were members of the Tutsi ethnic group, although there were also moderate Hutus who opposed the violence.[22] This event did not occur suddenly, but was the culmination of a

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17 Arjun Aryal and Yashodham Tripathi, "Black-Letter Methodology in Qualitative Research: Theoretical Perspectives and Applications," *A Bi-Annual South Asian Journal of Research & Innovation* 10, no. 2 (2023), https://doi.org/10.3126/jori.v10i2.71818.

18 O'Brien, "Defining Genocide."

19 O'Brien.

20 Sergey Sayapin, "Principles of International Criminal Law," *The Military Law and the Law of War Review* 53, no. 1 (2023), https://doi.org/10.4337/mllwr.2014.01.13.

21 Rogall, "Mobilizing the Masses for Genocide."

22 André, "Phrenology and the Rwandan Genocide."

long-standing and complex ethnic conflict, rooted in a history of colonialism, systemic discrimination and political exploitation.

Hostility between the Hutu and Tutsi ethnic groups had been forming since the colonial era, particularly during the period of Belgian rule.[23] At that time, Belgium actively reinforced ethnic identity distinctions that had previously been more fluid and based on social class.[24] An identity card system listing an individual's ethnicity and the granting of privileges to the Tutsi ethnic group sowed the seeds of social tension that were inherited by the post-independence regime.[25] After Rwanda gained independence in 1962, power passed into the hands of the Hutu majority.[26] However, this did not bring stability; rather, it gave rise to new patterns of inequality and retaliation.

The genocide explicitly began on 6 April 1994, when the plane carrying President Juvénal Habyarimana was shot down in Kigali.[27] This incident acted as the trigger for the mass killings that had been meticulously planned. A study by Alison Des Forges (1999) in the Human Rights Watch report titled "Leave None to Tell the Story" revealed that this genocide was the result of systematic planning and organisation by extremist Hutu political and military leaders.[28] The government and military structures, including the organised Interahamwe civilian militia, played a direct role in carrying out the massacres.

One crucial aspect of the escalation of this genocide was the role of the media, particularly through Radio Télévision Libre des Mille Collines (RTLM).[29] This media outlet was used as a propaganda tool to spread hatred, incite violence, and urge the Hutu population to kill their Tutsi neighbours. RTLM disseminated hate speech and dehumanising rhetoric and created a narrative that the Tutsi were an existential threat that must be "eliminated", thereby fostering a psychological climate that facilitated public involvement in acts of violence.

Other structural factors that have exacerbated this tragedy include deep-seated economic inequality, social exclusion, and the failure of domestic

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23 Marc Sommers and Gerard Prunier, "The Rwanda Crisis: History of a Genocide," *The International Journal of African Historical Studies* 31, no. 1 (1998), https://doi.org/10.2307/220947.

24 Sommers and Prunier.

25 Encyclopaedia Britannica, "Rwanda Genocide of 1994," Encyclopaedia Britannica, Inc, 2023.

26 Sommers and Prunier, "The Rwanda Crisis: History of a Genocide."

27 Richard Akresh and Damien de Walque, "Armed Conflict and Schooling: Evidence from the 1994 Rwandan Genocide," *SSRN Electronic Journal*, 2021, https://doi.org/10.2139/ssrn.1139906.

28 Andrea Römmele et al., "Book Reviews.," *Party Politics* 20, no. 3 (2014).

29 Corine Karema et al., "History of Malaria Control in Rwanda: Implications for Future Elimination in Rwanda and Other Malaria-Endemic Countries," *Malaria Journal* 19, no. 1 (2020), https://doi.org/10.1186/s12936-020-03407-1.

institutions to protect human rights.[30] The political elite used ethnic identity to mobilise the masses and maintain power, whilst the national legal system was dysfunctional and unable to provide protection.[31] The weakness of the rule of law domestically rendered justice ineffective, so that perpetrators of violence felt unthreatened by the punishment that should have been imposed.

From an international legal perspective, the genocide in Rwanda highlights a significant failure on the part of the global community, particularly the United Nations (UN), to prevent and address crimes against humanity effectively.[32] An independent evaluation report compiled by Carlsson in 1999 at the request of the UN Secretary-General revealed fundamental weaknesses in the early warning system and the UN Security Council's decision-making processes. Despite reports from the field regarding escalating violence and indications of genocide, the international community failed to take the necessary intervention measures promptly.[33]

The UN withdrew the majority of its peacekeeping forces (UNAMIR) at the start of the massacres, leaving only a small contingent with no mandate to halt the violence. This situation reflected weaknesses in the international legal framework, which relies on political agreements among member states, as well as the weak implementation of the Responsibility to Protect (R2P) principle, which, at that time, had not yet become an established norm of international law. [34]

The tragedy in Rwanda also marked a significant milestone in the development of international criminal law.[35] The establishment of the International Criminal Tribunal for Rwanda (ICTR) in 1994 through UN Security Council Resolution 955 represented the international community's step towards upholding justice and preventing impunity.[36] This tribunal set new legal precedents, including the recognition that media propaganda could be

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30 Chairul Fahmi, "The Application of International Cultural Rights in Protecting Indigenous Peoples' Land Property in Indonesia," *Https://Doi.Org/10.1177/11771801241235261* 20, no. 1 (March 8, 2024): 157–66, https://doi.org/10.1177/11771801241235261.

31 Vanesa Menéndez Montero, "Between Myth and Legality: The Crime of Destruction of Cultural Heritage in International Criminal Law," *ACDI Anuario Colombiano de Derecho Internacional* 16 (2023), https://doi.org/10.12804/revistas.urosario.edu.co/acdi/a.11174.

32 Nanlohy, "Geopolitics and Genocide: Patron Interests, Client Crises, and Realpolitik."

33 Brad S. Long and Albert J. Mills, "Globalization, Postcolonial Theory, and Organizational Analysis: Lessons from the Rwanda Genocide," *Critical Perspectives on International Business* 4, no. 4 (2008), https://doi.org/10.1108/17422040810915420.

34 Sara E. Brown, "Female Perpetrators of the Rwandan Genocide," *International Feminist Journal of Politics* 16, no. 3 (2014), https://doi.org/10.1080/14616742.2013.788806.

35 María Teresa González Hernández, "The Inclusion of Ecocide to the Rome Statute: A New Tool to Combat the Climate Crisis?," *Revista de Derecho Ambiental(Chile)* 1, no. 19 (2023), https://doi.org/10.5354/0719-4633.2023.68825.

36 Stefanie Bognitz, "Dispute as Critique: Moving beyond 'Post-Genocide Rwanda,'" *Anthropological Theory* 23, no. 4 (2023), https://doi.org/10.1177/14634996231193810.

considered direct incitement to genocide, as affirmed in the cases of Jean-Paul Akayesu and Ferdinand Nahimana and their associates.

Thus, the Rwandan genocide is not merely a humanitarian tragedy but also a valuable lesson on the importance of preparedness, responsiveness to international law, and collective responsibility in preventing the crime of genocide. An evaluation of these events forms the basis for formulating more effective policies on prevention and the enforcement of international law in the future.

The Role of the International Community and the Failure of Intervention

One of the most highlighted aspects in the international legal analysis of the 1994 Rwandan Genocide is the international community's weak response to clear signs of impending grave crimes against humanity.[37] This tragedy stands as evidence of the collective failure of the international security system to prevent and halt genocide, despite the existence of an international legal framework that explicitly prohibits and mandates intervention in such cases.

In this context, Article VIII of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide states that "Any State Party to this Convention may request the competent organs of the United Nations to take action as provided for in the Charter of the United Nations to prevent and punish acts of genocide."[38] However, this normative provision was not effectively implemented during the Rwandan crisis. The UN Security Council took the opposite course, reducing the number of peacekeepers in the United Nations Assistance Mission for Rwanda (UNAMIR) from around 2,500 to just 270 as the violence peaked.

In fact, the UN had received numerous reports well before April 1994, including from the UNAMIR Commander, Lieutenant General Roméo Dallaire, who sent the 'Genocide Fax' to UN headquarters in January 1994, warning of a systematic plan to carry out massacres against the Tutsi ethnic group.[39] However, this warning was not only ignored but even met with a passive, " " response. Senior UN officials rejected the report because UNAMIR's

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37 Nanlohy, "Geopolitics and Genocide: Patron Interests, Client Crises, and Realpolitik."

38 UN, "Situation of Human Rights in Myanmar: Resolution Adopted by the General Assembly on 29 December 2014. A/RES/69/248" (United Nations, Geneva, Switzerland, 2014).

39 Felix Bigabo and Angela Jansen, "From Child to Genocide Perpetrator: Narrative Identity Analysis among Genocide Prisoners Incarcerated in Muhanga Prison, Rwanda," *Psychology Research and Behavior Management* 13 (2020), https://doi.org/10.2147/PRBM.S266233.

mandate was limited and did not permit pre-emptive action. This situation demonstrates that the obstacle lay not in a lack of information, but in a failure of decision-making stemming from the political calculations of the permanent members of the Security Council.[40]

Furthermore, a 2024 report by Human Rights Watch revealed that although the international community was aware of the scale of the atrocities taking place, the actions taken were insufficient to prevent or halt the genocide.[41] This demonstrates that whilst an international legal framework exists, its implementation is heavily dependent on the political will of UN member states.

The 30th anniversary of the genocide in 2024 served as a moment of reflection for the international community. UN Secretary-General António Guterres emphasised the importance of combating hate speech and intolerance to prevent the recurrence of similar tragedies in the future. However, criticism persists regarding the effectiveness of the measures taken in the aftermath of the genocide and the need for a stronger commitment to preventing crimes against humanity in the future.

A. The Role and Evaluation of the International Criminal Tribunal for Rwanda (ICTR)

The background to the establishment of the International Criminal Tribunal for Rwanda was rooted in the inter-ethnic conflict in Rwanda, namely the conflict between the Hutu-dominated Rwandan government and the Tutsi-dominated Rwandan Patriotic Front rebels.[42] On 6 April 1994, President Juvenal Habyarimana was killed in a plane crash near Kigali Airport. The crash reignited the conflict, as the Hutu believed the Tutsi were responsible for the plane crash, leading to a mass slaughter of the Tutsi by the Hutu, who were predominantly in the government.[43] In response to these acts of genocide, the UN Security Council, through Resolution No. 995 of 1994, established the International Criminal Tribunal for Rwanda (ICTR) and adopted the ICTR Statute. The jurisdiction of the International Criminal Tribunal for Rwanda is

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40 United Nations, "Security Counccil Resolution No. S/RES/2803 on the Comprehensive Plan to End the Gaza Conflict," Pub. L. No. S/RES/2803, https://www.securitycouncilreport.org/un-documents/document/s-res-2803.php (2026), https://www.securitycouncilreport.org/un-documents/document/s-res-2803.php.

41 B Adams, "Letter to President Thein Sein. Re: Amending the 1982 Citizenship Law" (Human Rights Watch, New York, NY, 2015).

42 André, "Phrenology and the Rwandan Genocide."

43 M. K. Speth, "Mutware's Story: (Re)Centreing Humanism via Multispecies Storytelling in Post-Genocide Rwanda," *Journal of Genocide Research* 27, no. 2 (2025), https://doi.org/10.1080/14623528.2024.2444039.

based on that of the ICTY and is largely similar to it. The ICTR also has four areas of jurisdiction.[44]

The United Nations Security Council established the International Criminal Tribunal for Rwanda (ICTR) through Resolution 955 of 1994 in response to the genocide that took place in Rwanda.[45] The primary objective of the ICTR's establishment was to try individuals responsible for crimes of genocide and serious violations of international humanitarian law during the 1994 conflict. The ICTR was based in Arusha, Tanzania, and operated actively until its closure in 2015, at which point the court's residual jurisdiction was transferred to the International Residual Mechanism for Criminal Tribunals (IRMCT).[46]

In practice, the ICTR successfully brought more than 60 defendants to trial, including key political figures, military leaders, government officials and religious leaders involved in the planning and execution of the genocide. One of the ICTR's most significant contributions to the development of international criminal law was its recognition of sexual violence as a form of genocide, as affirmed in the judgment in Prosecutor v. Jean-Paul Akayesu (1998). This judgment not only set an important legal precedent but also broadened the scope of the definition of crimes against humanity in the context of armed conflict.[47]

However, the ICTR has not been without criticism. One of the main criticisms raised by observers and academics is the geographical and sociological disconnect between the court and Rwandan society itself. The court's location outside Rwanda made the judicial process feel distant from victims and grassroots communities, thereby reducing transparency and public participation in the administration of justice. Furthermore, the judicial process at the ICTR is also known to be extremely time-consuming and to require significant financial resources. This creates the perception that international judicial mechanisms are not always efficient, particularly in the context of post-conflict prosecutions, which demand rapid collective healing and national reconciliation.

Another point of contention is the ICTR's limited jurisdiction. The tribunal only tried crimes committed by parties categorised as perpetrators of genocide, namely, primarily, extremist Hutus. On the other hand, no legal action was taken against human rights violations committed by the Rwandan Patriotic Front (RPF), a group then led by Paul Kagame, which eventually took over the

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44 İCRC, "The Geneva Conventions of 12 August 1949," *Ceneva Conventions*, no. August (1949).
45 Jaffal, "Rape as Genocide Crime in International Criminal Law - The Case of Yazidi Women in Iraq."
46 Chairul Fahmi and Peter-Tobias Stoll, "Measuring WTO Approaches in Resolving Palm Oil and Biofuel Trade Disputes from Indonesia," *BESTUUR* 12, no. 2 (December 31, 2024), https://doi.org/10.20961/BESTUUR.V12I2.94203.
47 Provost, "Accountability for International Crimes within Insurgent Groups."

government after the genocide ended. This disparity has raised concerns about selectivity in the enforcement of international law and called into question the objectivity of international judicial institutions in handling politically and militarily complex conflicts.[48]

Nevertheless, the ICTR remains a significant milestone in the history of international justice and served as a precursor to the establishment of the International Criminal Court (ICC). An evaluation of the ICTR's successes and limitations offers important lessons for the development of future international judicial mechanisms, particularly regarding efficiency, inclusivity, and transitional justice.

B. Gacaca: A Model of Local Restorative Justice

The Gacaca Courts are a traditional grassroots process used to resolve local conflicts in response to or as a follow-up to the serious crimes of genocide committed in Rwanda.33 As previously outlined, these Gacaca Courts were established based on a blend of traditional Rwandan practices and the modern criminal justice system, which also encompasses provisions regarding genocide and crimes against humanity. This system was established to address the vast number of suspected perpetrators of genocide or crimes against humanity (numbering over 122,000) through expedited trials.34 With this system in place, perpetrators do not enjoy impunity or escape legal accountability for their actions.[49]

As a complement to the formal mechanisms of the International Criminal Tribunal for Rwanda (ICTR), the Rwandan government reactivated the Gacaca system, a traditional community-based court adapted to handle mid- and low-level genocide offences.[50] The primary aim of this system is not merely to punish perpetrators, but also to facilitate dialogue between victims and perpetrators, encourage admission of guilt, and reconstruct social networks damaged by the conflict. Gacaca has its roots in pre-colonial Rwandan practices, where community elders would sit in an open circle to resolve disputes collectively. In

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48 Suha Hazeem Hassen et al., "In War as in Peace: Sexual Violence and Women's Status," *SSRN Electronic Journal* 21, no. 1 (2016).

49 Rubanzana et al., "Exposure to Genocide and Risk of Suicide in Rwanda: A Population-Based Case-Control Study."

50 Brown, "Female Perpetrators of the Rwandan Genocide."

the post-genocide context, this approach was institutionally adapted to meet the needs of modern transitional justice.[51]

The key strength of the Gacaca system is its remarkable scalability. Compared to the ICTR, which tried only dozens of high-level perpetrators, Gacaca successfully processed around two million cases over more than a decade. This makes Gacaca one of the largest post-conflict justice systems ever implemented in modern history. Through Gacaca, thousands of perpetrators admitted their crimes, apologised publicly, and subsequently served their sentences or were given social rehabilitation. According to Clark (2021), Gacaca's effectiveness in reaching perpetrators at the grassroots level has been a crucial foundation for Rwanda's national reconciliation process.[52]

However, the system is not without its critics. One of the main issues frequently raised is the lack of protection for the accused's rights. The absence of professional legal counsel in the majority of trials raises concerns regarding procedural justice. Furthermore, the intense social pressure on perpetrators to confess and the potential for political bias in some cases raise questions about the process's neutrality and legitimacy. Some observers note that, in practice, Gacaca often serves as a space for reproducing the state's official narrative, in which criticism of the ruling regime can be deemed subversive, even when made in the context of historical accountability.

C. The Responsibility to Protect (R2P) Approach and the Failure of Intervention

In the 1999 UN report by Carlsson, Sembiring & Kupolati, the humanitarian tragedy that unfolded in Rwanda in 1994 marked a turning point in international legal discourse, particularly in the formulation and development of the norm of the Responsibility to Protect (R2P).[53] The concept of R2P emerged as a moral and political response to the international community's failure to prevent genocide, crimes against humanity, ethnic cleansing and war crimes. First appearing in the 2001 Report of the International Commission on Intervention and State Sovereignty (ICISS) and enshrined in the 2005 World Summit Outcome Document, R2P emphasises that states bear the primary

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51 I. Gede Agus Kurniawan et al., "Utilitarianism versus Communalism: A Legal Theory Analysis of Intellectual Property Rights Ethics in Global North and South," *Jambe Law Journal* 8, no. 1 (2025), https://doi.org/10.22437/jlj.8.1.229-254.

52 Vernon Pierson, "Westerner Radicalization: Rethinking the Psychology of Terrorism," *Homeland Security Affairs*, 2017.

53 Mustafa Menshawy, "Constructing State, Territory, and Sovereignty in the Syrian Conflict," *Politics* 39, no. 3 (2019), https://doi.org/10.1177/0263395718770348.

responsibility for protecting their populations.[54] However, should a state fail to do so, that responsibility shifts to the international community.

In the context of the Rwandan genocide, the fundamental principles of R2P should have provided a normative and legal justification for both preventive action and multilateral intervention.[55] In reality, however, what occurred was institutional paralysis and a lack of global political will. Although intelligence information and field reports from UNAMIR forces had indicated the possibility of an escalation of violence since early 1994, the UN Security Council did not take adequate action. On the contrary, UNAMIR's mandate was significantly reduced following the killing of 10 Belgian soldiers, leaving the peacekeeping forces powerless in the face of the ongoing mass violence.

The 1999 UN report by Carlsson, Sembiring & Kupolati explicitly stated that this failure constituted a "failure of responsibility" on the part of UN member states, particularly major powers such as the United States, the United Kingdom and France. The international community's political reluctance to label the events as "genocide" is clear evidence that geopolitical considerations heavily influence the interpretation of international law. Diplomats at UN Headquarters in New York deliberately avoided using the term "genocide", as this would legally and morally bind them to act in accordance with the 1948 Genocide Convention.[56]

This failure serves as a central argument for advocates of R2P that the international community requires a stronger legal and normative framework, as well as emergency response mechanisms capable of transcending state political interests. In practice, although R2P has achieved global consensus in principle, its implementation on the ground continues to face major challenges, including a lack of political will, the dualism of sovereignty norms, and logistical and legal constraints in multilateral interventions.[57]

Critical Evaluation: International Law, Global Politics, and Justice

The case of Rwanda demonstrates that international law cannot function effectively without global political support. Schabas (2022) and Tiemessen

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54 Jones, "Chomsky and Genocide."

55 Magdalena Maksymiuk, "The Response of the International Community to the Genocide in Rwanda and the War in Ukraine," *Review of European and Comparative Law* 2023, no. Special Issue (2023), https://doi.org/10.31743/recl.16470.

56 Fahim, "Rethinking Genocidal Intent: An Interpretation under the International Law and the Jurisprudence of International Criminal Tribunals."

57 Jones, "Chomsky and Genocide."

(2023) emphasise that judicial efforts to address genocide often depend on geopolitical interests and on the support of global institutions such as the UN Security Council. Furthermore, bias within judicial processes—whether at the ICTR or in national courts—reflects the reality that justice in a post-conflict context is complex and sometimes not neutral.[58]

In practice, not all perpetrators of violence are tried fairly, particularly those from the victorious warring faction (the RPF). This underscores the challenges in ensuring the principle *of equality before the law* within transitional justice systems. Furthermore, demands for reparative justice remain inadequately addressed, even though for victims, social and psychological recovery is just as important as the punishment of perpetrators. Theoretically, the Rwandan case broadens understanding of the constitutive elements of genocide and enriches the literature on transitional justice and legal pluralism. In practice, Rwanda demonstrates that a combination of formal (ICTR) and local (Gacaca) approaches can yield more comprehensive results.

Furthermore, Rwanda's experience serves as a crucial reference in designing future mechanisms for genocide prevention. This can be achieved through enhancing the capacity of UN Peacekeeping, reforming the structure of the UN Security Council to make it more responsive, and strengthening domestic legal capacities in conflict-prone countries. This combination is a vital prerequisite for ensuring that the principle of "Never Again" is truly upheld universally.

Conclusion

The 1994 Rwandan Genocide was a humanitarian tragedy that reflected the systemic paralysis of the international community in preventing extraordinary crimes against humanity. Within the framework of international law, this event served as a significant catalyst, shaking confidence in the effectiveness of long-established norms, particularly the 1948 Genocide Convention. The failure to act preventively and responsively to the early warning signs of ethnic violence in Rwanda demonstrated that the existence of legal norms does not guarantee real protection for vulnerable groups unless accompanied by political will and effective enforcement mechanisms.

The International Criminal Tribunal for Rwanda (ICTR), whilst having achieved several significant milestones in the development of international jurisprudence, still faces considerable criticism. Slow judicial proceedings,

[58] Kehinde K. Kanmodi et al., "Dental Caries in Rwanda: A Scoping Review," *Health Science Reports*, 2023, https://doi.org/10.1002/hsr2.1258.

limited access for victims, and an approach that is overly elitist and detached from local communities have created a gap between legal justice and social justice. In this context, the existence of local justice mechanisms such as the Gacaca Courts offers an important lesson regarding the role of participatory justice in addressing the impact of major conflicts. Although the Gacaca system also has many shortcomings, including concerns about fair trial standards and judicial independence, the community's direct participation in the process demonstrates that reconciliation and social recovery cannot be left solely to international institutions.

The Responsibility to Protect (R2P) approach emerged as a response to the international community's failure in Rwanda. R2P shifts the paradigm from the principle of absolute sovereignty towards an international responsibility to protect civilian populations. However, as seen in various conflicts following Rwanda, including in Syria, Myanmar and South Sudan, the implementation of this principle remains highly selective and prone to politicisation. This indicates that reform of international institutional structures, particularly the UN Security Council, is imperative if principles such as R2P are to be implemented consistently.

Furthermore, Rwanda's experience demonstrates that the enforcement of international law cannot stand alone. Post-conflict development policies, the healing of collective trauma, and the involvement of local communities in the formulation and implementation of justice must accompany it. Genocide is not merely a crime against individuals, but against the socio-political order of a nation. Therefore, a purely legalistic approach is insufficient. Synergy is required between retributive, restorative, and transformational justice.

Thus, the lessons from Rwanda underscore that the prevention of genocide requires more than early warnings and political declarations. It necessitates an international legal system that is not only robust on paper but also effectively implemented and responsive to the dynamics of conflict on the ground. The collective commitment of the world's nations, the participation of civil society, and institutional reform are the three key pillars in ensuring that such tragedies are not repeated in the future. International law must move from mere norms to practice, from symbolism to substance, and from rhetoric to real justice.

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