

**AN ANALYSIS OF THE MEANS AND METHODS OF WARFARE EMPLOYED  
DURING THE 1994 RWANDAN GENOCIDE IN RELATION TO  
INTERNATIONAL HUMANITARIAN LAW**

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## LIST OF ABBREVIATIONS

IHL- International Humanitarian Law.

HIV - Human Immunodeficiency Virus

AIDS- Acquired Immunodeficiency Syndrome

RPF- Rwandan Patriotic Front.

FAR- Forces Armées Rwandaises.

RTL- Radio Television Libre des Mille Collines.

UNAMIR-United Nations Mission Assistant for Rwanda.

IDF-Israel Defense Forces.

UN- United Nations.

GDP- Gross Domestic Product.

PTSD- Post Traumatic Stress Disorder.

## DECLARATION

I, **KABONA MELVIN** hereby declare that this thesis is my own original work, and it is to the best of my knowledge and belief. It has not formed the basis for an award of any degree or diploma of Uganda Christian University or any other University or institution. The works cited or referred to from similar titles, books, texts, and other authorities in the thesis has been duly acknowledged.

I, therefore declare that this research is subjected to plagiarism check and carefully acknowledged.

**Signature:** \_\_\_\_\_

**Name:** KABONA MELVIN

**Capacity:** STUDENT

**Date:** \_\_\_\_\_

## APPROVAL

This is to verify that this thesis on “An analysis of the Means and methods of warfare employed during the 1994 Rwandan genocide in relation to International Humanitarian Law” was carried out by **KABONA MELVIN** under the supervision of **MR. JOEL BASOGA**, in partial fulfilment of the requirements for the obtaining of a Bachelor of Laws (“LLB”) degree at Uganda Christian University.

Approved by;

**Signature:** \_\_\_\_\_

**Name:** JOEL BASOGA

**Capacity:** UNIVERSITY SUPERVISOR

**Date:** \_\_\_\_\_

## **ABSTRACT**

This thesis examines the legality of means and methods of warfare employed during the 1994 Rwandan genocide. These included the, use of clubs, machetes, guns, grenades and other blunt instruments, to kill and injure Tutsi civilians and moderate Hutu civilians, raping of Tutsi women and girls with the intention of infecting them with HIV/AIDS, use of propaganda and hate speech, destruction of property and infrastructure, among others. Through a critical analysis of International Humanitarian Law (IHL) sources, this thesis reveals extensive and systematic violations of IHL rules. In light of these observations, the research highlights the need for strengthened accountability mechanisms and improved compliance with International Humanitarian Law, in order to prevent similar atrocities in the future.

## DEDICATION

I would like to dedicate this work to the ALMIGHTY GOD for his constant love and abundant grace upon my life, my beloved parents Mr. OWOR ERIEZAL KABONA and Mrs. AWOR JOSEPHINE KABONA, who I greatly love and appreciate for their total commitment and full support towards the completion of the LLB (*Legum Baccalaureus*) degree.

Many thanks to my supervisor Mr. JOEL BASOGA, who has been of great relevance to me upon the completion of this thesis.

May the Almighty God richly reward and bless you all.

# CHAPTER ONE: PROPOSAL

## 1.1 INTRODUCTION

The Rwandan genocide refers to the large-scale butchery of over 800,000 individuals, including ethnic Tutsi, moderate Hutu, and some Twa, carried out by groups of Hutu extremists in positions of authority in Rwanda.<sup>1</sup> Spanning approximately 100 days, the 1994 Rwandan genocide occurred from 6<sup>th</sup> April to mid-July.<sup>2</sup> The genocide was featured by brutality and cruelty, with victims often massacred by neighbours, and with between 250,000 and 500,000 women raped, portraying extensive sexual violence in the country at that time.<sup>3</sup>

International Humanitarian Law (IHL) is a collection of laws and principles which aims to regulate the humanitarian outcomes of conflicts which involve the use of arms.<sup>4</sup> Alternatively, it can be regarded as the law of armed conflict or the law of war (*jus in bello*). The central goal of IHL is to restrict the means and methods of warfare which state and non-state parties to a conflict may employ and to guarantee that, people who are not actively involved in the hostilities/ non-combatants are treated humanely.<sup>5</sup>

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<sup>1</sup> Michael N Barnett in Afterword (edn) *Eyewitness to a Genocide: The United Nations and Rwanda* (Cornell University Press 2015) 1, 15, 131-132.

<sup>2</sup> Ibid

<sup>3</sup> Gerard Prunier *The Rwandan Crisis, 1959-1994: History of a Genocide* (1995) 247.

<sup>4</sup> Nils Melzer *International Humanitarian Law: A comprehensive Introduction* (2016) 17.

<sup>5</sup> Ibid.

Means of warfare are the weapons and weapon systems used during armed conflicts, whereas Methods of warfare are the tactics employed against enemy forces during conflicts involving the use of arms.<sup>6</sup>

The Rwandan genocide highlighted significant gaps in the enforcement of IHL, through its systemic violations, particularly with regards to safe guarding of civilians in conflicts involving the use of arms such as use of child soldiers, targeting of civilians and civilian objects, the use of restricted weaponry, raping of women and girls. These violations were clearly seen through the employment of the means and methods of warfare during the genocide, including the use clubs, machetes, guns, grenades and other blunt instruments. These weapons were used to kill and injure Tutsi civilians and moderate Hutu civilians, raping of Tutsi women and girls with the intention of infecting them with HIV/AIDS which would later lead to their slow deaths, use of propaganda and hate speech, destruction of property and infrastructure, among others. IHL was flagrantly violated, resulting to catastrophic humanitarian consequences. Atrocities like these raise fundamental questions about the efficacy of IHL in responding to mass atrocities. Therefore, this thesis shall examine the means and methods of warfare employed during the Rwandan genocide, with a view to assessing their compatibility with international Humanitarian Law, with emphasis on the demand for enhanced adherence with IHL.

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<sup>6</sup> Albert Camus *The practical guide to Humanitarian Law: calling things by the wrong name adds to the affliction of the word: Means and methods of warfare* (22<sup>nd</sup> February 2016) 1.

## 1.2 BACKGROUND OF STUDY

Firstly, the 1994 genocide in Rwanda ought to be understood as a result of the colonisation of Rwanda, by the Belgians which begun in the 1930s, in order to comprehend how such an occurrence of grave magnitude could happen.<sup>7</sup> During the colonial period, Rwanda's ethnic groups Hutu, Tutsi, and Twa became discriminated.<sup>8</sup> Therefore, the entrenchment of these identities and their ties to political power paved way for genocidal violence.<sup>9</sup> Subsequent to Rwanda's independence in 1962, the ethnic majority, Hutus, were left in power wherein Hutu governance amounted to extensive marginalisation against Tutsi, therefore setting the stage for the 1994 genocide.<sup>10</sup>

The genocide was also exacerbated by persistent ethnic rivalries, fuelled by the civil war in Rwanda, that commenced in 1990 when the Rwandan Patriotic Front (RPF), primarily composed of Tutsi rebel group, invaded Rwanda from Uganda.<sup>11</sup> When the RPF invaded in October 1990, President Juvenal Habyarimana and the hardliners took advantage of the fact that the population lived in fear, to promote an ideology that targeted Tutsis, known as Hutu Power as suspicion towards the Tutsi population intensified.<sup>12</sup> A pogrom<sup>13</sup> was organized on the 11<sup>th</sup> day of October 1990 in a commune

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<sup>7</sup> College of Liberal Arts 'Holocaust and Genocide Studies: resource guides, Rwanda' (University of Minnesota) 1 <<https://cla.umn.edu/chgs/holocaust-genocide-education/resource-guides/rwanda>> (17<sup>th</sup> February, 2025).

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Ronald Sullivan 'Juvenal Habyarimana, 57, Ruled Rwanda for 21 years' (7<sup>th</sup> April 1994) The New York Times article.

<sup>12</sup> Gérard Prunier *Africa's World War: Congo, the Rwandan Genocide, and the Making of a Continental Catastrophe*. (Oxford University Press 2009) 34-36.

<sup>13</sup> A pogrom is a form of violent riot or attack, typically directed against a particular ethnic or religious group, often with the tacit or explicit support of the authorities.

in Gisenyi Province, killing 383 Tutsi.<sup>14</sup> A faction of officers within the military and some members of the government introduced a magazine called “*Kangura*”, which had a multiplier effect throughout Rwanda.<sup>15</sup> These further disseminated anti-Tutsi propaganda, featuring the Hutu Ten Commandments, a direct series of racist procedures, including labelling as “traitors”, Hutus in mixed marriages with Tutsis.<sup>16</sup>

In the same year 1990, civilians were armed with weaponry and ammunitions such as machetes, and, the Hutu youth in combat were being trained by the army, officially as a programme of “civil-defence” against the Rwandan Patriotic Front (RPF) threat,<sup>17</sup> which weaponry were subsequently employed to fuel the genocide. The *Interahamwe* and the *Impuzamugambi* were the paramilitary or militia force the Hutu Power leaders established and organized.<sup>18</sup> These groups served to offer extra assistance to the gendarmerie, the regular army and the police.<sup>19</sup> These militias were primarily enlisted from majority Hutu who internally displaced people ousted from their communities in the North, and acquired a grand total of 50,000 members on the eve of genocide.<sup>20</sup>

Linda Melvern documented in her 2004 book, that “*in the three years from October 1990, Rwanda, one of the poorest countries in the world, became the third largest importer of weapons in Africa, spending an estimated \$US 112 million.*” She referenced

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<sup>14</sup> André Guichaoua *From War to Genocide: Criminal Politics in Rwanda, 1990-1994* (University of Wisconsin Press 2015).

<sup>15</sup> Linda Melvern *Conspiracy to Murder: The Rwandan Genocide* (London and New York Verso 2004) 49.

<sup>16</sup> Ibid 50.

<sup>17</sup> Ibid 20

<sup>18</sup> Christopher Powell *Barbaric Civilization: A Critical Sociology of Genocide* (McGill- Queen’s University Press 2011) 286.

<sup>19</sup> Samuel Totten and William S Parsons *Centuries of Genocide: Essays and Eyewitness Accounts* (4<sup>th</sup> edn published on 10<sup>th</sup> September, 2012 by Routledge) 408.

<sup>20</sup> Ibid.

major arms deals with Egypt in 1992, followed by agreements with France and South Africa in 1993.<sup>21</sup>

The Hutu Power, in the month of March, 1993, started putting together lists of “traitors” whom they intended to execute, and it is likely that President Habyarimana was named on these lists; with the Coalition for the Defense of the Republic, an exclusively Hutu political party publicly accusing the president of treason.<sup>22</sup> The extremists imported, in the same year, machetes on a large scale compared to what was necessary for agriculture, as well as other equipment which could be used as weaponry, such as razor blades, saws and scissors and these were supplied around the country, apparently as part of the civil defence network.<sup>23</sup>

On the night of 6<sup>th</sup> April 1994, a plane carrying President Juvenal Habyarimana, and his counterpart Cyprien Ntaryamira, the president of Burundi, who were both Hutu Men, was shot down, killing everyone on board.<sup>24</sup> Hutu extremists blamed the RPF (Rwandan Patriotic Front) for the assassination and immediately launched a swift and systematic massacre.<sup>25</sup> The Rwandan Patriotic Front claimed the plane was downed by Hutus as a pretext for the genocide, and to this day, the responsibility for shooting down the plane remains unclear with no conclusive evidence, but theories point to various perpetrators, from moderate Hutus to the Tutsi-led RPF.<sup>26</sup>

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<sup>21</sup> Tim Gallimore, Contributor ‘A Closer Look at Where Rwanda’s Lethal Weapons Came From: By its own admission, the Rwanda government bankrupted its economy to pay for those weapons’ (2014).

<sup>22</sup> Gérard Prunier *The Rwanda Crisis: History of a Genocide* (1995) 182.

<sup>23</sup> Linda Melvern *Conspiracy to Murder: The Rwandan Genocide* (London and New York Verso 2004) 56.

<sup>24</sup> ‘Rwanda genocide: 100 days of slaughter’ BBC News <<https://www.bbc.com/news/world-africa-26875506>> (4<sup>th</sup> April 2019). [4].

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

Following President Habyarimana's death, a crisis management committee was established, consisting of Major General Augustin Ndindiliyimana, Colonel Theoneste Bagosora, and various other senior army staff officers.<sup>27</sup> Though Prime Minister Agathe Uwilingiyimana was the next political successor, the committee refused to acknowledge her authority.<sup>28</sup> On the evening of 6<sup>th</sup> April, Romeo Dallaire held talks with the committee and pressed for Uwilingiyimana's appointment as leader.<sup>29</sup> However, Bagosora refused, emphasizing that Uwilingiyimana did not "enjoy the confidence of the Rwandan people" and was "incapable of governing the nation".<sup>30</sup>

The following day, Genocidal killings began.<sup>31</sup> Soldiers, police, and militia swiftly eliminated important Tutsi and some Hutu military and politicians who would have gained control in the existing leadership void.<sup>32</sup> Roadblocks, checkpoints and barricades were set up to vet all holders of the national identity card of Rwanda, which contained ethnic classifications.<sup>33</sup> This facilitated the systematic identification and slaughter of Tutsis by government forces.

The genocide was highly conducted and systematically implemented, where lists of government opponents were distributed to militias who then targeted and killed them, along with all of their families.<sup>34</sup> Neighbours killed neighbours and some men even killed their Tutsi spouses out of fear, having been told they would be killed if they did not

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<sup>27</sup> Romeo Dallaire and Brent Beardsley *Shake Hands with the Devil: The Failure of Humanity in Rwanda*. (London Arrow Books 2004) 222-223.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> United Nations 'Rwanda: A Brief History of the Country' Outreach Programme on the 1994 Genocide against the Tutsi in Rwanda and the United Nations

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

<sup>34</sup> 'Rwanda genocide: 100 days of slaughter' BBC News <<https://www.bbc.com/news/world-africa-26875506>> (4<sup>th</sup> April 2019) [6].

comply.<sup>35</sup> At the time, Rwandan people's ethnic affiliation was listed on Identity cards, so militias established roadblocks to intercept and slaughter Tutsis, often with machetes which were found in Rwandan homes, and these were commonly the weapon of choice.<sup>36</sup>

In the same year 1994, over the course of 100 days, the perpetrators of the Rwandan genocide raped, sexually mutilated, or murdered up to half a million women and children.<sup>37</sup> The perpetrators were largely members of the notorious Hutu militia groups known as Interahamwe, soldiers of the Rwandan Armed Forces (*Forces Armées Rwandaises*, FAR), the Rwandan Presidential Guards and members of the Hutu civilian population, both male and female, and the Rwandan military.<sup>38</sup> Political and military leaders in the furtherance of their goal, executed sexual violence, towards the destruction of the Tutsis.<sup>39</sup> Propaganda was extensively used through both print and radio to encourage violence against women, with both mediums being used to paint Tutsi women as untrustworthy, and as acting in opposition of Hutu majority.<sup>40</sup> In the aftermath of the conflict, an estimation of 2,000 to 10,000 “war babies” were born as a result of Rape.<sup>41</sup> Hutu extremists released hundreds of patients from hospitals, who were suffering from HIV/AIDS, and formed them into “rape squads”, during the armed

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<sup>35</sup> Ibid [7]

<sup>36</sup> Ibid [8]

<sup>37</sup> Binaifer Nowrojee 'Shattered Lives: Sexual Violence during the Rwandan Genocide and its Aftermath' (24<sup>th</sup> September, 1996) Human Rights Watch 1.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> Mark A Drumbl 'She Makes Me Ashamed to Be a Woman: The Genocide Conviction of Pauline Nyiramasuhuko, 2011' (2013) 34 Mich. J Intl Law 559.

conflict.<sup>42</sup> The intention of this was to infect and bring about a deliberate, unavoidable death.<sup>43</sup>

### 1.3 STATEMENT OF RESEARCH PROBLEM

The Rwandan genocide through its systematic violations of IHL, highlighted the need for effective imposition of the same in armed conflicts, particularly with regards to the safe guarding of civilians in conflicts involving the use of arms. The means and methods of warfare employed during the genocide such raping women and girls, the massacre of approximately 110 people of Tutsi identity, including children, who had taken refuge in a Polish *Pallottine* mission church in *Gikondo* (which came to be known as the *Gikondo massacre*),<sup>44</sup> the Hutu militia hunting down victims hiding in churches and school buildings, massacring civilians with among others machetes, rifles, clubs, and other civilians would die due to starvation and dehydration,<sup>45</sup> are prohibited by IHL, and this was a flagrant violation of it, resulting in catastrophic humanitarian consequences.

Despite the clear violations of IHL during the Rwanda genocide, accountability and justice for some victims and their families remains elusive, which exposes the weaknesses of the International Criminal Tribunal for Rwanda's ability to prevent and respond to mass atrocities. Given the fact that it was the first Criminal Tribunal ever established in Africa, in November 1994 by the United Nations Security Council in Resolution 955, with the aim of adjudicating people charged for the Rwanda

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<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> Major Stefan Stec 'UN peacekeeper on 'Mission Impossible' in Rwanda' Independent News (Friday 7<sup>th</sup> October 2005).

<sup>45</sup> Ibid.

genocide and other grave abuses of international Law in Rwanda, or by Rwandan citizens in nearby states between 1<sup>st</sup> January and 31<sup>st</sup> December 2015.<sup>46</sup> These portrayed weaknesses make other parties of different states in conflicts involving the use of arms feel they can get away with the abuse of IHL, which may lead to continuous future atrocities of a similar nature, in armed conflicts.

Therefore, this thesis shall emphasize the need for improved compliance with IHL and more robust mechanisms for humanitarian intervention, by revealing the extensive and systematic abuse of IHL, including the indiscriminate targeting of civilians and their objects, use of child soldiers, the employment of restricted weaponry, raping of women and girls and the denial of humanitarian assistance.

#### 1.4 RESEARCH QUESTIONS

1. How would the events that led to the 1994 Rwandan genocide be classified under International Humanitarian Law?
2. What are the rules on Means and Methods of warfare under IHL?
3. What were the means and methods of warfare employed during the Rwandan genocide and what were the implications of the use of those means and methods of warfare?
4. What factors led to the failure of IHL to prevent the illegal use of the means and methods of warfare employed during the 1994 Rwandan genocide?

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<sup>46</sup> United Nations Security Council Resolution 955 (8 November 1994).

## 1.5 OBJECTIVES

This study has the following objectives;

### 1.5.1 GENERAL OBJECTIVES

1. To examine the means and methods of warfare employed during the Rwandan genocide.
2. To analyse the implications of the use of those means and methods of warfare in relation to International Humanitarian Law.
3. To evaluate the impact of the genocide on the victims and their families.
4. To contribute to a deeper understanding of the complexities of armed conflicts.
5. To analyse the effectiveness of the International Criminal Tribunal for Rwanda in promoting justice to the genocide victims and their families.

### 1.5.2 SPECIFIC OBJECTIVES

6. To identify and document the specific means and methods of warfare used during the Rwanda genocide, such as the use of clubs, machetes, guns, grenades and other blunt instruments, as well as the role of radio broadcasts and other forms of propaganda.
7. To analyse the extent to which these means and methods of warfare violated International Humanitarian Law, such as the 1949 Geneva Conventions of and their Additional Protocols.
8. To examine the role of the key actors, such as the Rwanda Government at the time, the Rwandan Patriotic Front (RPF), and the international organizations (the

United Nations Organization (UNO), in perpetuating or preventing the violations of International Humanitarian Law, respectively.

9. To evaluate the effectiveness of international mechanisms for enforcing International Humanitarian Law, such as the International Criminal Tribunal for Rwanda (ICTR), United Nations Organization and the International Committee of the Red Cross (ICRC).

## 1.6 JUSTIFICATION OF STUDY

The Rwandan genocide was a complex and devastating conflict that highlighted the need for a deeper understanding of the means and methods of warfare used in such conflicts. By analysing and examining the means and methods employed during the genocide, which resulted to the violations of International Humanitarian Law, this study can for one prevent future atrocities, by informing humanitarian policies and practices, particularly as regards to safe guarding of civilians in conflict involving the use of arms, contribute to promoting accountability and justice for the victims and their families, most especially those who never got justice for the atrocities carried out on them by the perpetrators of the genocide.

## 1.7 SIGNIFICANCE OF STUDY

This study shall advance the growth of International Humanitarian Law, by examining the implications of the Rwandan genocide, providing valuable insights on the means and methods of warfare used during this conflict, analysing and examining of the components that resulted into the genocide, which resulted into gross abuse of

International Humanitarian. Wherein the findings can provide valuable lessons for conflict resolutions and peace-building efforts in Rwanda and other countries.

## 1.8 CONCEPTUAL FRAMEWORK

This thesis aims to explore the relationship between the means and methods of warfare used during the Rwandan genocide and International Humanitarian Law. This study seeks to identify the implications of the means and methods used during the genocide in relation to International Humanitarian Law.

### Independent Variable:

#### 1. Means and methods of Warfare used.

- Types of weaponry: the *Interahamwe* and the *Impuzamugambi* used clubs, machetes, guns, grenades and other blunt instruments, to kill and injure Tusti civilians and moderate Hutus.
- Rape and sexual violence as a type of weaponry: Hutu extremists released hundreds of patients from hospitals, who were suffering from HIV/AIDS, and formed them into “rape squads”, during the armed conflict.<sup>47</sup> The intention of this was to infect and bring about a deliberate, unavoidable death.<sup>48</sup> Between 250,000 and 500,000 women raped.<sup>49</sup>
- Military strategy and tactics: militia force known as the *Interahamwe* and the *Impuzamugambi* served to offer extra assistance to the police, the

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<sup>47</sup> Mark A Drumbi ‘She Makes Me Ashamed to Be a Woman: The Genocide Conviction of Pauline Nyiramasuhuko, 2011’ (2013) 34 Mich. J. Int’l L. 559.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

gendarmerie and the regular army.<sup>50</sup> They carried out ambushes and massacres, house-to-house searches, Roadblocks to intercept and kill Tutsi civilians and moderate Hutus attempting to flee, forced displacement, among others.

- Propaganda and hate speech: Propaganda was extensively used through both print and radio to incite violence against women, with both mediums being used to portray Tutsi women as untrustworthy, and as acting against the Hutu majority.<sup>51</sup>
- Destruction of infrastructure and property: The *Interahamwe* and the *Impuzamugambi* destroyed infrastructure and civilian property such as homes, schools, and hospitals, to disrupt the socio-economic fabric of the Tutsi community.

## **Dependent Variable.**

### **1. Violations of International Humanitarian Law.**

- Protection of Civilians and Civilian Objects:
- Prohibition of means and methods used:

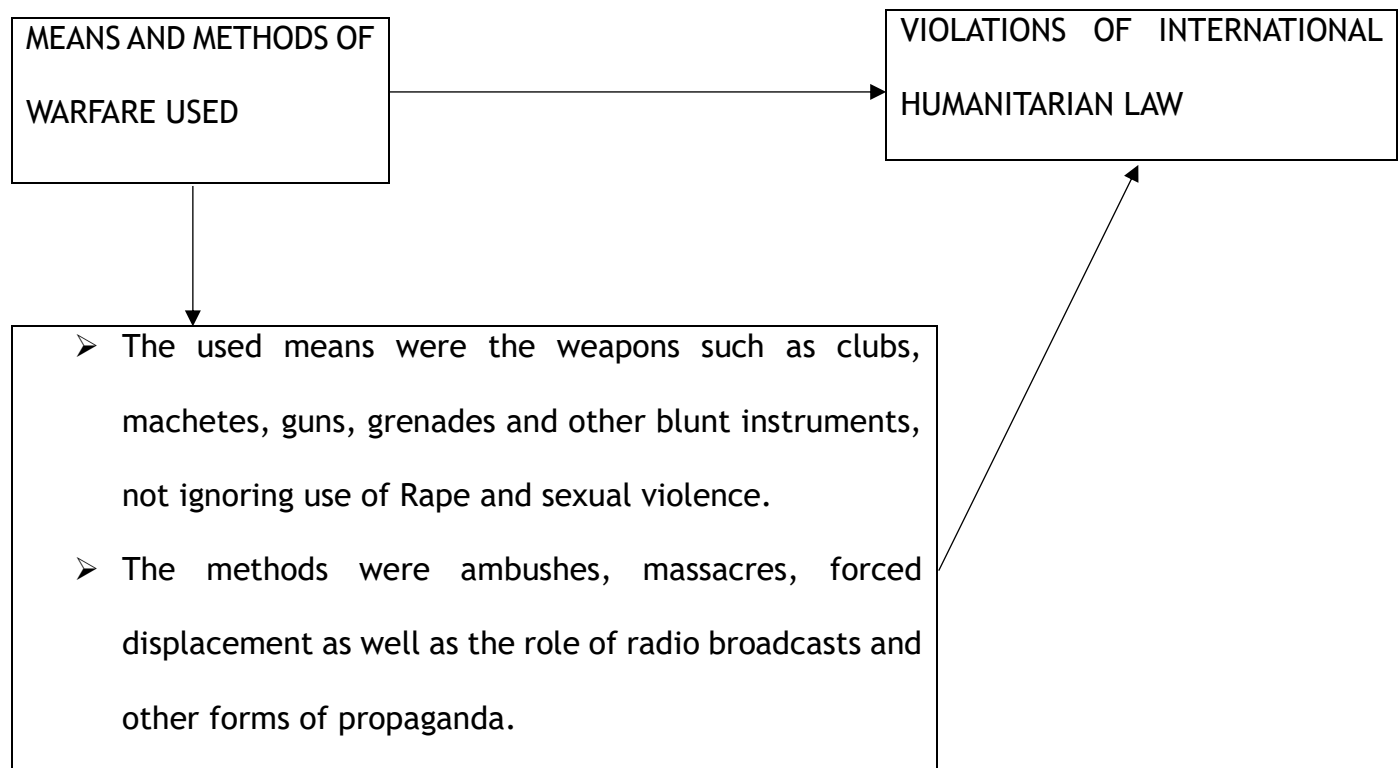
## **Relationship.**

The research hypothesizes a causal/deterministic relationship between the means and methods used during the Rwandan genocide leading to the violation of International Humanitarian Law.

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<sup>50</sup> Samuel Totten and William S Parsons *Centuries of Genocide: Essays and Eyewitness Accounts* (4<sup>th</sup> edn published on 10<sup>th</sup> September, 2012 by Routledge) 408.

<sup>51</sup> Mark A Drumbl 'She Makes Me Ashamed to Be a Woman: The Genocide Conviction of Pauline Nyiramasuhuko, 2011' (2013) 34 Mich. J. Int'l L. 559.



By examining the relationship between independent variable, Means and methods of warfare used during the Rwandan genocide and dependent variable, abuses of IHL, the study shall explain how the specific means and methods of warfare used such as ambushes, massacres, and forced displacement resulted in violations of International Humanitarian Law, including its prescribed principles.

## 1.9 LITERATURE REVIEW

The aspect of the use of means and methods of warfare which result to violations of International Humanitarian Law has captivated a great deal of attention among legal and political scholars. There is an extensive amount of literature ranging from books, reports, papers, articles and commentaries.

Weapons used during the Rwandan genocide such as clubs, machetes, guns, grenades and other blunt instruments, including the use of Rape and sexual violence are strongly prohibited by IHL.

Dr. Obijiofor Aginam argues in his article, that whereas, across the centuries, sexual violence against women is filled with such happenstances of rape during times of war, rape has been used as a weapon in more contemporary conflicts.<sup>52</sup> He believes that the intentional infection of women with HIV/AIDS is evidenced from the testimony of survivors, for instance, Françoise Nduwimana who recorded testimonies from survivors of rape, recalling the testimony of one woman:

*“For 60 days, my body was used as a thoroughfare for all the hoodlums, militia men and soldiers in the district ... Those men completely destroyed me; they caused me so much pain. They raped me in front of my six children ... Three years ago, I discovered I had HIV/AIDS. There is no doubt in my mind that I was infected during these rapes”.*<sup>53</sup>

Aginam also mentions that these testimonies give evidence that the rapists had intentions of infecting women with HIV.<sup>54</sup>

Survivors having testified that the intentional transmission of the HIV virus was a deliberate act by providing information that before they were raped, the men would proudly assure them slow deaths from the virus, which they claimed was worse than killing them there and then.<sup>55</sup> Two-thirds of a sample of 1,200 Rwandan genocide

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<sup>52</sup> Obijiofor Aginam ‘Rape and HIV as Weapons of War’ (27<sup>th</sup> June, 2012) 1.

<sup>53</sup> Ibid.

<sup>54</sup> Ibid.

<sup>55</sup> Stefan Elbe ‘HIV/AIDS and the Changing Landscape of War in Africa’ (2002) *International Security*. 27(2) 159-177.

widows were discovered to have been infected with HIV, and the infection numbers in less developed areas increased after the genocide.<sup>56</sup> There is no information concerning the number of victims who succumbed to AIDS after 1994 who had been intentionally infected with the virus through rape.

Binaifer Nowrojee stated in her report that, during the genocide, Tutsi women were not the only main targets, but a small number of Hutu women were also sexually violated, along with, Hutu women who were married to Tutsis and Hutu women who hid Tutsis were targeted.<sup>57</sup> Although the accurate number of women and girls raped will never come to light, rape victim testimonies from indicate that sexually violence was largely existent and that the majority of women and girls were individually raped, gang-raped, raped with objects such as sharpened sticks or gun barrels, held in sexual slavery (either collectively or through forced “marriage”) or sexually mutilated (including brutal vaginal and pelvic injuries inflicted with sharp objects such as machetes, knives, sticks, and other means consisting of boiling water, and acid).<sup>58</sup> Following their eyewitness account of the brutal treatments and murders /execution of their relative and the destruction and looting of their homes, Tutsi women and girls were sexually abused, having these atrocities being part of a series they had to go through.<sup>59</sup> Witness accounts suggest that numerous women were murdered shortly after being subjected to rape and survivors were reportedly told that they were spared so they could suffer a prolonged death from grief, thereby dying of sadness.<sup>60</sup>

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<sup>56</sup>Ibid.

<sup>57</sup> Binaifer Nowrojee ‘Shattered Lives: Sexual Violence during the Rwandan Genocide and its Aftermath’ (24<sup>th</sup> September, 1996) Human Rights Watch 1.

<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

The Radio Television *Libre des Mille Collines* (RTL) was popular among the general population, it broadcast inflammatory messages (propaganda) targeting Tutsis, moderate Hutus, Belgians, and the United Nations Mission Assistant for Rwanda (UNAMIR).<sup>61</sup> In an attempt to dehumanize and degrade, the Radio Television *Libre des Mille Collines* (RTL) consistently referred to Tutsis and the Rwandan Patriotic Front (RPF) as ‘cockroaches’ during their broadcasts.<sup>62</sup> Donald G McNeil, Jr in the New Times Magazine stated that the frequently played music was that of Hutu Simon Bikindi.<sup>63</sup> He had two songs, “*Bene Sebahinzi*” (Sons of the Father of the Farmers), and “*Nanga Abahutu*” (I Hate Hutus), which were later interpreted as inciting hatred against the Tutsis and genocide.<sup>64</sup>

Kantano Habimana, a presenter on the Rwandan radio station RTL at that time, also was a key player in fuelling the genocide against the Tutsi, inciting violence against them.

*“And you people who live down there near Rugunga, even though it is raining, go out. You will see the (cockroaches’) inkotanyi’s straw huts in the marsh where horses are kept. It is clear then that this place shelters Inkotanyi. I think that those who have guns should immediately go to these Inkotanyi before they listen to Radio RTL and flee, stand near this place and encircle them and kill them because they are there.”<sup>65</sup>*

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<sup>61</sup> Prosecutor of the Tribunal V Ferdinand Nahimana Hassan Ngeze Jean Bosco Barayagwiza (The International Criminal Tribunal for Rwanda Case No. ICTR-99-52-T, 5<sup>th</sup> July, 2002)

<sup>62</sup> Ibid.

<sup>63</sup> Donald G McNeil, Jr ‘Killer Songs’ (17<sup>th</sup> March 2002) The New York Times.

<sup>64</sup> Ibid.

<sup>65</sup> Kantano Habimana on RTL, April 12, 1994 4.

In an interviewed reported, a perpetrator stated saying that, “*The radio encouraged people to participate because it said the enemy is the Tutsi. If the radio had not declared things, people would not have gone into the attacks*”.<sup>66</sup>

Jean Hatzfeld in his book, stated that one of the major reasons that Radio RTLM (Radio Television *Libre des Mille Collines*) proved to be a highly effective means of communication, unlike other forms of news sources such as television and newspapers that were not able to be as popularized due to resource limitations.<sup>67</sup> In addition to this communication barrier, regions with limited access to education and high illiteracy rates were more prone to anti- Tutsi sentiment during the genocide against Tutsis.<sup>68</sup> I agree with Jean Hatzfeld, because communication through radios involves listening which has a multiplier effect where many people can access the information conveyed through these radios concurrently over a limited time period, compared to newspapers where concentration is required because it involves reading and doesn’t favour the illiterate, who cannot read.

Philip Verwimp wrote in his journal of Peace Research, in 2006 that, a shipment from Belgium to Rwanda included three boxes of machetes concealed between sheets, according to a private source.<sup>69</sup> From the corporate sector, there was substantial evidence that influential businessmen and state-owned company directors exploited their resources to facilitate imports, transportation and distribution of firearms as well as traditional weapons.<sup>70</sup> Multiple sources reported the presence of arms in both urban

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<sup>66</sup> Rwandan Genocide perpetrator, interviewed by Straus (2007)

<sup>67</sup> Jean Hatzfeld *Machete Season: The Killers in Rwanda Speak* (2006)

<sup>68</sup> Ibid.

<sup>69</sup> Philip Verwimp ‘Machetes and Firearms: The Organization of Massacres in Rwanda’ (2006) 6-7.

<sup>70</sup> Ibid.

and rural areas, such as a man identified only as Jean-Pierre provided documentation to Colonel Luc Marchal, head of the Belgian peacekeeping force, revealing dozens of secret of firearms caches in Kigali in the month of January 1994.<sup>71</sup>

He further stated that from their knowledge of arming civilians with machetes and local police with fire arms, they could formulate a broad theory about the goals of the elite.<sup>72</sup>

With scarce firearms and bullets, the regime aimed to slaughter as many Tutsis as they could, the objective of the regime evident and as a result, firearms, grenades and bullets were used strategically and with specific targets in mind.<sup>73</sup> There was an extensive number of lives claimed by firearms and grenades in locations where Tutsis congregated for safety or were directed to go, like schools, churches and sports stadiums, and in these places, firearms and grenades way used in a very efficient way to kill large numbers of Tutsi.<sup>74</sup>

Stephen D Goose and Frank Smyth in their book, *Arming genocide in Rwanda* gave an insight to the high costs of small arms transfers, stating that humanitarian aid groups estimated that 200,000 to 500,000 people were executed in the genocidal disaster that commenced in April, although some U.S. intelligence experts estimated the fatalities to be above one million. Much of the executions was conducted with machetes, as well as ammunitions were more commonly used.<sup>75</sup> The fact that they were widely available, enabled Hutu extremists conduct their atrocities, and the massive amount of Tutsi corpses massacred in Rwanda in April were contrasted with a large amount of guns in

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<sup>71</sup> Ibid.

<sup>72</sup> Ibid 7-8.

<sup>73</sup> Ibid 7-8.

<sup>74</sup> Ibid 7-8.

<sup>75</sup> Stephen D Goose and Frank Smyth *Arming Genocide in Rwanda: The High costs of small arms transfers* (September 1994) 90-91.

Goma-Zaire, that were confiscated from fleeing Hutu.<sup>76</sup> Prior to the genocide, also subsequently after most foreigners exited Rwandan soil at the commencement of the carnage, Rwandan authorities supplied great numbers of firearms to paramilitary groups and other loyalists, therefore being a sufficient demonstration of the consequences of equipping small arms to those capable of committing crimes against humanity.<sup>77</sup>

They further stated that Human Rights Watch/Africa reported that over 2,800 people who gathered in a church were slaughtered by militia men using ammunitions like machine guns, automatic rifles, grenades, and machetes, and as these people ran, it took the perpetrators four hours to eliminate them all.<sup>78</sup>

Catharine Newbury in her book, stated that a crucial factor in Rwanda's history of ethnic division and politicization had been the development and propagation of an exclusive ethnic ideology.<sup>79</sup> That when Hutu extremists in the government branded all Tutsis in the country as enemies of the state, collective blame was starkly evident during the genocide against the Tutsis in Rwanda in 1994, therefore the genocide was a deliberate attempt to eradicate the Tutsi, as evident in the virulent hate speech in the press and on radio broadcasts.<sup>80</sup>

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<sup>76</sup> Ibid.

<sup>77</sup> Ibid.

<sup>78</sup> Ibid 91.

<sup>79</sup> Catharine Newbury *Ethnicity and the Politics of History in Rwanda* (Indian University Press: Africa Today January- March, 1998) Vol. 45,1 7.

<sup>80</sup> Ibid.

## 1.10 METHODOLOGY

This research is mainly qualitative research that will rely upon a logical, thorough and systematic analysis of the relevant facts, cases, statutes, books, library and desk research from Ham Mukasa library, online study and other legal documentation to develop a convincing rationale that the problem exists, analyses the facts related to the problem, and relates them to the relevant cases and statutes under study.

## 1.11 SCOPE OF STUDY

### 1.11.1 CONTEXTUAL SCOPE

This study solely focuses on an analysis of means and methods employed during the Rwandan genocide in relation to International Humanitarian Law.

### 1.11.2 TIME SCOPE

I will conduct this study between February 2025 and May 2025.

## 1.12 OUTLINE OF CHAPTERS

### CHAPTER TWO

The legal framework of the International Humanitarian Law on the means and methods of warfare employed during the 1994 Rwandan genocide.

This chapter of the thesis shall discuss the legal framework of International Humanitarian Law, including principles and the relevant legal rules from the treaties

and case law across the world, on the means and methods of warfare employed during the 1994 Rwandan genocide.

### CHAPTER THREE

An analysis of the situation on Rwanda and how International Humanitarian Law failed to prevent the illegal means and methods of warfare.

This chapter shall analyse the situation on Rwanda and how International Humanitarian law failed to prevent the illegal means and methods of warfare.

### CHAPTER FOUR

Summary of findings, conclusions and recommendations.

This chapter shall summarize the findings of the means and methods of warfare employed during the Rwandan genocide of 1994 in relation to International Humanitarian Law, and suggest recommendations to that effect.

### 1.13 CONCLUSION

In conclusion, the Rwandan genocide highlighted significant gaps in the imposition of IHL, particularly with regards to the Protection of Civilians in conflicts involving arms, and this was clearly seen in the employment of the means and methods of warfare during the genocide which violated International Humanitarian Law, resulting in catastrophic humanitarian consequences. Therefore, my study can contribute to the development of International Humanitarian Law, by examining the implications of the Rwandan genocide, providing valuable insights on the means and methods of warfare employed during this conflict, analysing and examining of the factors that contributed

to the genocide, which resulted to the violations of International Humanitarian. Wherein the findings can provide valuable lessons for conflict resolutions and peace-building efforts in Rwanda and other countries.

## CHAPTER TWO

### THE LEGAL FRAMEWORK OF THE INTERNATIONAL HUMANITARIAN LAW ON THE MEANS AND METHODS OF WAREFARE EMPLOYED DURING THE 1994 RWANDAN GENOCIDE.

#### 2.0 INTRODUCTION

This chapter of the thesis discusses the legal framework of IHL, including principles and the pertinent legal rules from the treaties and case law across the world, concerning the means and methods of warfare employed during the Rwandan genocide of 1994.

#### ST. PETERSBURG DECLARATION

Numerous treaties/ international agreements exist, protocols and declarations, relating to the laws of armed conflicts, some more significant than others. The 1868 St. Petersburg Declaration stands as those that are important.

The St. Petersburg Declaration marked the first global accord as the first international agreement, signed in Sanit Petersburg, Russian Empire, 29<sup>th</sup> November /11<sup>th</sup> December, 1868 in which the use of technologically advanced weapons were banned due to humanitarian concerns.<sup>81</sup> A century later, Georg Schwarzenberger wrote in his book stating that, *“It is the function of the rules of warfare to impose some limits, however ineffective, to a complete reversion to anarchy by the establishment of minimum standards on the conduct of war.”*<sup>82</sup> Therefore the St. Petersburg’s Declaration

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<sup>81</sup> Gary D Solis *The law of armed conflict: International Humanitarian Law in war* (2010) 50 [1].

<sup>82</sup> Georg Schwarzenberger *International Law as Applied by International Courts and Tribunals: The Law of Armed Conflict* (Cambridge University Press 28<sup>th</sup> March, 2017) vol. 2, 10.

Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight, 29<sup>th</sup> November / 11<sup>th</sup> December 1868, was such a minimum standard.

The 1868 St Petersburg Declaration emphasized that weakening enemy military forces is the sole legitimate goal in war; That for this purpose incapacitating a great number of enemy personnel is sufficient to achieve this objective; That employing arms that aggravate the suffering of disabled soldiers, inflicting unnecessary harm or certain death on such wounded soldiers, exceed the legitimate goal; That the employment of such arms would, therefore, contravene the principle of humanity.<sup>83</sup>

Accordingly, the use of arms, projectiles, or tactics that inflict superfluous injury or unnecessary suffering is banned in combat.<sup>84</sup>

IHL is governed by the pertinent legal rules from treaties such as the Geneva Conventions of August, 1949 and their additional protocols, the Hague Conventions. It is also governed by principles such as the principle of humanity, military necessity, proportionality, distinction, neutrality, and prohibition on causing unnecessary suffering and superfluous injury.

Rwanda illustrates/ serves as a recent example of the potential consequences of supplying small arms and light weapons to countries torn apart by ethnic, religious, or nationalist conflicts.<sup>85</sup> Most civilians and combatants killed in today's conflicts fall victim to small arms and light weapons for they are more frequently used in human rights abuses and other international law infractions and International Humanitarian

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<sup>83</sup> Nils Melzer *International Humanitarian Law: A comprehensive Introduction* (2016) 109.

<sup>84</sup> Article 35 of Protocol Additional to the Geneva Conventions of 12 August, 1949.

<sup>85</sup> Stephen D Goose and Frank Smyth *Arming Genocide in Rwanda: The High costs of small arms transfers* (September 1994) 86.

Law than larger weapon systems.<sup>86</sup> Light conventional arms prolong conflicts amid rising nationalist tensions and border wars, yet international efforts focus on nuclear non-proliferation, overlooking these smaller but deadly weapons.<sup>87</sup> Small arms and light weapons have flooded nations like Rwanda, Sudan, Somalia, and Bosnia-Herzegovina, not only do these arms perpetuate conflict but also obstruct international attempts to impose arms embargoes and to compel parties to respect human rights.<sup>88</sup> The influx of small arms has undermined peacekeeping efforts and strengthened militias by allowing them handle heavily such arms, hence challenging United Nations.<sup>89</sup>

I strongly agree with Stephen D. Goose and Frank Smyth on this because as people concentrate on today's warfare where weapons of massive destruction are being used such as rocket bombs, missiles, nuclear bombs, among others, we tend to ignore the portable weapons (small arms and light weapons) that are sold to nations embroiled in nationalist or religious conflicts. The spread of such weapons amongst such countries might be slow, but the result is treacherous to humanity.

## 2.1 THE LEGAL FRAMEWORK OF INTERNATIONAL HUMANITARIAN LAW, ON THE MEANS AND METHODS OF WARFARE.

IHL treaties and principles were guided by the Martens Clause which originated at the First Hague Peace Conference of 1899 and has since been revised and adopted in numerous international legal frameworks.<sup>90</sup> The preamble of the 1899 Hague

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<sup>86</sup> Ibid.

<sup>87</sup> Ibid.

<sup>88</sup> Stephen D Goose and Frank Smyth *Arming Genocide in Rwanda: The High costs of small arms transfers* (September 1z994) 87.

<sup>89</sup> Ibid.

<sup>90</sup> Hague Regulations, Preamble; GC I, Art. 63; GC II, Art. 62; GC III, Art. 142; GC IV, Art. 158; AP I, Art. 1(2); AP II, Preamble; Convention on Certain Conventional Weapons, Preamble.

Convention II states that, pending a more comprehensive set of laws of war, the high contracting parties deem it necessary to state that, outside the scope of the regulations adopted by them, the principles of the law of nations continue to protect both inhabitants and the belligerents.<sup>91</sup> As they derive from the customs of civilized nations and the principle of humanity, and the dictates of public conscience.<sup>92</sup>

### 2.1.1 THE HAGUE CONVENTIONS OF 1899 AND 1907

The Hague Conventions of 1899 and 1907, also known as the Hague Conventions on the Laws and Customs of War, address the means and methods of warfare in several key areas. The conventions aim to mitigate the impacts of war on people and the environment by establishing rules for the conduct of hostilities and protecting non-combatants. While the Hague Conventions do not cover all aspects of modern warfare, they laid the groundwork for later international humanitarian law treaties, such as the Geneva Conventions and Additional Protocols. These conventions established the laws and customs of war on land, including the law governing means and methods of warfare, protection of civilians, the conduct of hostilities, among others. The conventions and their additional protocols consist of articles which cover topics such as: The laws and customs of war on land, the protection of civilians and civilian objects, the treatment of prisoners of war and the conduct of hostilities.

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<sup>91</sup> Convention (II) with Respect to the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land, 29 July 1899 (Hague Convention No. II), Preamble.

<sup>92</sup> Ibid.

Article 22 of the Hague IV Regulations<sup>93</sup> establishes that belligerents' options for harming the enemy are not without bounds. Therefore, this sets the tone for the rest of the regulations. This is evident in the military necessity principle which recognises that wartime necessities may require measures that would be unacceptable in peacetime, such as causing injury, death and destruction. Therefore, it is not necessary to bring about total destruction of the enemy, its armed forces or its property.

Article 23 of the Hague IV Regulations<sup>94</sup>, prohibits and especially forbids, treacherous harm to enemy soldiers, including those who have surrendered or are defenceless.

Article 26 of the Hague IV Regulations<sup>95</sup> prohibits using explosives or incendiary devices in populated areas. This article aims to prevent unnecessary destruction and harm to civilians.

Therefore, the Hague Conventions of 1907 are important steps towards regulating the conduct of warfare and protecting human life and dignity.

### 2.1.2 THE GENEVA CONVENTIONS OF 12<sup>TH</sup> AUGUST 1949

The Geneva Conventions of 12 August 1949 provides in common article 1 that high contracting parties to a conflict shall undertake to respect and to ensure respect for the preset convention in all circumstances.<sup>96</sup> Therefore the belligerents must comply with their humanitarian obligations in all circumstances and cannot justify failure to respect International Humanitarian Law by invoking the harsh nature of armed conflict.

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<sup>93</sup> Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18<sup>th</sup> October 1907

<sup>94</sup> Ibid.

<sup>95</sup> Ibid.

<sup>96</sup> The Geneva Conventions of 12 August, 1949 (GC1-4)

The regulatory framework for means and methods of warfare, restricts parties to a conflict involving the use of arms from deploying arms or munitions, and warfare is subject to limits, prohibiting methods that cause superfluous injury or unnecessary suffering, and restricting the means parties can employ, pursuant to Article 35 of Additional Protocol 1.<sup>97</sup> Therefore, this clarifies that military necessity doesn't grant unlimited freedom to belligerents, *carte blanche*<sup>98</sup> to wage unrestricted war. Rather, humanity concerns restrict warfare methods and means, and demand humane treatment for those in enemy custody.<sup>99</sup>

Article 36 of Additional Protocol 1,<sup>100</sup> on new weapons provides that before High contracting parties adopt new weapons or warfare methods, they must, assess these new weapons or warfare methods for potential legal prohibitions, for proper compliance with international law.

According to Article 37 of Additional Protocol 1 of 1997,<sup>101</sup> resorting to perfidy to gain advantage over enemies is forbidden to. Actions that deceive enemies into believing that they are entitled to protection, with intent to exploit that trust, are perfidious. Deceptive tactics can involve misuse of United Nations symbols, pretending to be civilians, or falsely claiming neutrality, fake surrender, feigning injury, and pretending to negotiate under false pretences.

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<sup>97</sup> Protocol Additional to the Geneva Conventions of 12 August, 1949.

<sup>98</sup> *Carte blanche* is a French phrase that translates to "blank card". An unlimited authority or freedom to act.

<sup>99</sup> Nils Melzer *International Humanitarian Law: A comprehensive Introduction* (2016) 18.

<sup>100</sup> Protocol Additional to the Geneva Conventions of 12 August, 1949.

<sup>101</sup> *Ibid.*

Article 3, common to the Geneva Conventions of 1949<sup>102</sup> provides for the protection of *hors de combat*. In non- international armed conflicts in the territory of one of the High contracting parties, each party is obligated to treat the non-combatants, combatants who have ceases fire due to *hors de combat* by injury, illness, or detention or any other cause, deserve humane treatment at all times, free from bias based on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. Article 41 of Additional Protocol 1 of 1977<sup>103</sup> on safeguard of an enemy hors de combat takes the same position, stating that those who are out of combat, whether due to injury or surrender, are not legitimate targets.

The basic rule on general protection against effects of Hostilities is prescribed under Article 48 of Additional Protocol 1 of 1977,<sup>104</sup> which is to the effect that parties must direct operations solely against military targets, in order to ensure respect for and protection of the civilians.

A person captured during hostilities is presumed a prisoner of war and protected by the Third Convention, if he appears to be entitled to or assumes the status of prisoner of war. He shall continue to have such status, and therefore qualifies to be protected by the convention and this protocol until such time as a competent tribunal has assessed his position, when any doubt ensues as to whether any such person is entitled to the status of prisoner of war. Pursuant to Article 45 of Additional Protocol 1 of 1977,<sup>105</sup> on Protection of persons who have taken part in hostilities

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<sup>102</sup> The Geneva Conventions of 1949, GCI, GCII, GCIII, GCIV.

<sup>103</sup> Protocol Additional to the Geneva Conventions of 12 August, 1949

<sup>104</sup> Ibid.

<sup>105</sup> Ibid.

Article 51 of Additional Protocol 1<sup>106</sup> makes provisions for protection of the civilian population, and necessitates that the civilian population and individual civilians shall be shielded from dangers ensuing from military operations, hence, they shall not be subject to attack, acts or terrors of brutality, the major goal of which is to incite dread among the civilian population are outlawed.

Pursuant to Article 51(5)(b) of Additional protocol 1 of 1977,<sup>107</sup> an attack which may be foreseen to yield unintentional loss of civilian life, and simultaneously lead to injury to civilians, destruction to civilian possessions, which would be in excess compared to the material and immediate military dominance expected, shall be considered unsystematic, hence restricted.

The use of rape and sexual violence as a type of weaponry violates Article 76(paragraph 1) of Additional protocol 1 of 1977,<sup>108</sup> which provides for protection of women, is to the effect that women must be treated with special respect and protected from rape, forced prostitution and any other form of indecent assault.

The principle of proportionality is embedded in Article 51(5)(b) of Additional Protocol 1<sup>109</sup>, which restricts hostilities which are deemed to amount to unintentional loss of civilian life, injury to civilians, damage to civilian objects, simultaneously, which would be in excess compared to the material and intended military upper hand.

The principle of Humanity imposes specific limitations to the means and methods of warfare, and requires that those who have been captured by the enemy be treated

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<sup>106</sup> Ibid.

<sup>107</sup> Ibid.

<sup>108</sup> Ibid.

<sup>109</sup> Ibid.

humanely at all times. Therefore, it prohibits the targeting of *hors de combat*. Common Article 3 of the Geneva Conventions<sup>110</sup> provides that in the situations of non-international armed conflicts, taking effect in the vicinity of the High Contracting Parties, each Party to the conflict shall be expected to respect, the following provisions: (1) Individuals desisting from involvement in the war, inclusive of individuals part of forces with arms who have given up their arms and those regarded *hors de combat* as a result of sickness, wounds, detention, and other factors, shall in all situations be subjected to humane treatment, in absence of any marginalisation based on race, colour, religion or faith, sex, birth or wealth, or any other related factor.

Attacks shall not exceed military objectives, and as for objects, military objectives are restricted to those objects which, naturally, in respect to their location and application contribute largely to military action and whose entire or restricted desolation, capture or nullification, in the situation present at the time, extends a precise military upper hand, in accordance with Article 52(2) of Additional Protocol 1<sup>111</sup>. Therefore, for an attack to be lawful, it must provide a precise military upper hand.<sup>112</sup>

#### ISRAEL/GAZA OPERATION CAST LEAD

The principle of distinction was laid down in the evidence accorded by the Israeli Minister of foreign affairs in Israel/Gaza operation cast lead. This was a conflict involving the use of arms that lasted for three weeks between Gaza Strip Palestinian paramilitary groups and the Israel Defense Forces (IDF) which commenced on 27<sup>th</sup> December 2008 and ended on 18<sup>th</sup> January 2009 with a unilateral ceasefire. The conflict

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<sup>110</sup> The Geneva Conventions of 12<sup>th</sup> August 1949

<sup>111</sup> Protocol Additional to the Geneva Conventions of 12 August, 1949.

<sup>112</sup> International Committee of the Red Cross Commentary on additional Protocol 685 [2218].

resulted in 1,166-1,417 deaths of Palestinians and Israelites.<sup>113</sup> Over 46,000 homes in Gaza were demolished, leaving over 100,000 people without a home.<sup>114</sup> The nucleus of the Law of conflict involving the use of arms, as reflected both in treaty law and in customary international Law is that, “the parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objects and accordingly shall direct their operations only against military objectives.”<sup>115</sup>

PROSECUTOR VS MOININA FOFANA, ALLIEU KONDEWA (APPEAL JUDGMENT) NO. SPECIAL COURT FOR SIERRA LEONE-04-14-A OF 28<sup>TH</sup> MAY 2008.

The Appeal Chamber upheld the principles and laws of International Law and International Humanitarian Law, in The Prosecutor Vs Moinina Fofana, Allieu Kondewa (Appeal Judgment).<sup>116</sup>

After president Ahmad Tejan Kabbah was overthrown in a military coup on 25<sup>th</sup> may 1997, the kamajors went underground in the bush. However, following an announcement on BBC rallying the kamajors, Kapras, Gbethis, Tamaboros and Donsos, they assembled again in Pujehur District and took up arms to fight against the Armed Forces Revolutionary Council (AFRC).<sup>117</sup> In a bid to re-establish his government, President Kabbah created the Civil Defense Force (CDF) to coordinate the activities within the various militia groups and with ECOMOG.<sup>118</sup> The Civil Defense Force (CDF)

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<sup>113</sup> Al-Mughrabi ‘Nidal Israel tightens grips on urban parts of Gaza’ (9<sup>th</sup> January, 2009).

<sup>114</sup> Jean-Pierre Filiu ‘Gaza: A History’ (Oxford University Press 2014).

<sup>115</sup> Israeli ministry of Foreign Affairs ‘The Operation in Gaza: Factual and Legal Aspects’ (July 2009).

<sup>116</sup> The prosecutor Vs Moinina Fofana, Allieu Kondewa (Appeal Judgment) No. Special Court for Sierra Leone-04-14-A of 28<sup>th</sup> May 2008

<sup>117</sup> Ibid 4 [7].

<sup>118</sup> Ibid 4 [8].

was a security force comprised mainly of kamajors who fought in the conflict in Sierra Leone between November 1996 and December 1999.<sup>119</sup> President Kabbah appointed the Vice-President Albert Joe Demby as Chairman of the CDF, and Sam Hinga Norman (“Norman”) as the National Coordinator. In his capacity as National Coordinator, Norman was responsible for coordinating the activities of the CDF/ Kamajors in supporting the military operations of ECOMOG to reinstate President Kabbah’s government. <sup>120</sup> alleging that Norman, Moinina Fofana and Allieu Kondewa were individually responsible pursuant to Article 6(1) and/or Article 6(3) of the Statute for alleged crimes committed by the kamajors, the Prosecution charged Norman, Fofana and Kondewa under Article 15 of the Statute with crimes against humanity, violations of Article 3 common to the Geneva Conventions and of Additional Protocol II and other serious violations of International Humanitarian Law in Violation of Article 2,3 and 4 of the Statute.<sup>121</sup>

The consolidated indictment charged the three persons pursuant to Article 2 of the Statute with crimes against humanity, namely: murder and other inhumane acts, pursuant to Article 3 of the Statute; violations of Article 3 common to the Geneva Conventions and of Additional Protocol II, namely: violence to life, health and physical or mental well-being of persons, in particular murder and cruel treatment, pillage, acts of terrorism and collective punishments; and, pursuant to Article 4 of the Statute, with a serious violation of International Humanitarian Laws, namely: enlisting children under

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<sup>119</sup> Ibid 4 [8].

<sup>120</sup> Ibid 4-5 [8].

<sup>121</sup> Ibid 5 [15].

the age of 15 years into armed forces or groups and/or using them to participate actively in hostilities.<sup>122</sup>

It was alleged that all acts or omissions charged in the indictment as crimes against humanity were committed as part of a widespread or systematic attack directed against the civilian population of Sierra Leone, stated as referring to persons who took no active part in the hostilities, or were no longer taking an active part in the hostilities.<sup>123</sup>

The Trial Chamber found that the kamajors launched three attacks on Tongo Town. The first attack was in late November or early December 1997. Between 10-12 December 1997, a passing out parade was held at Base zero, the headquarters of the CDF High Command (First Passing Out Parade). Norman, who was the National Coordinator for the CDF, spoke to the kamajors and commanders, and both Fofana and Kondewa attended this parade. Norman said that;

*“The attack on Tongo will determine who the winner or the loser of the war would be” and that “there is no place to keep captured or war prisoners like the juntas, let alone their collaborators”. Norman further said that “if the International Community condemning human rights abuses.... then I take care of the human left abuses,” which he clarified to mean that “any Junta you capture, instead of wasting your bullet, chop off his left hand as an indelible mark... to be a signal to any group that will want to seize power through the barrels of the gun and not the ballot paper; we are in Africa, we want to practice democracy.”*

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<sup>122</sup> Ibid 5 [12].

<sup>123</sup> Ibid 7 [15].

The Trial Chamber found that he instructed and encouraged the kamajors to kill captured enemy combatants and collaborators, to inflict physical suffering or injury upon them and to destroy their houses.<sup>124</sup> After Norman instructed the kamajors to commit unlawful acts, Fofana, as Director of war, addressed the fighters, saying “*now you have heard the National Coordinator... any commander failing to perform accordingly and losing your own ground, just decide to kill yourself there and don’t come to report to us.*”<sup>125</sup> Further, following the speeches of Norman and Fofana, Kondewa spoke to the kamajors and said “*a rebel is a rebel; surrendered, not surrendered, they are all rebels...the time for their surrender has long since been exhausted, so we don’t need any surrendered rebel.*” *I give you, my blessing; go my boys, go.*”<sup>126</sup>

The Trial Chamber further confirmed the following general requirements of atrocities against humanity as; It must involve an attack, the attack must on a large scale, the attack must be geared towards any civilian population, the acts of the Accused must be inclusive of the attack; and the accused had prior knowledge that his or her acts consist of part of large-scale attack geared towards any civilian population.<sup>127</sup>

Justice Jon kamanda, of the Appeal Chamber in his judgment concurred with the majority view of his distinguished colleagues in the main judgment in the case. Nevertheless, he varied from the decision of the majority on the aspect of sentencing. As a result, he resorted to writing a partially opposing stand which briefly stated that

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<sup>124</sup> Ibid 18-19 [43]

<sup>125</sup> Ibid 19 [44].

<sup>126</sup> Ibid 19 [45].

<sup>127</sup> Ibid 80 [235].

the Trial Chamber was partial because in his opinion, the said Chamber factored in all the necessary evils in providing partial sentences, considering all relevant circumstances.<sup>128</sup>

The two accused, Moinina Fofana and Alieu Kondewa were each charged on 8 counts of offences pursuant to crimes that could broadly be categorised under three heads namely, Crimes against Humanity, War Crimes, and other serious violations of International Humanitarian Law.<sup>129</sup>

PROSECUTOR V STANISLAV GALIC (THE APPEAL CHAMBER JUDGMENT)  
INTERNATIONAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE  
FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED  
IN THE TERRITORY OF FORMER YUGOSLAVIA SINCE 1991 CASE NO. DATE: IT-98-  
29-A OF 30<sup>TH</sup> NOVEMBER 2006.

In Prosecutor v Stanislav Galic (the Appeal Chamber Judgment)<sup>130</sup>. In an indictment filed on 26 February 1999, Galić was charged with conducting a campaign of shelling and sniping against civilian areas of Sarajevo between 10 September 1992 and 10 August 1994, thereby inflicting terror upon its civilian population; a protracted campaign of sniper attacks upon the civilian population of Sarajevo, killing and wounding a large number of persons of all ages and both sexes; and a coordinated and protracted

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<sup>128</sup> Ibid 1 [1] of part VIII (Partially Dissenting Opinion on Sentencing of Justice Jon Kamanda)

<sup>129</sup> Ibid 1 [1] of Part VIII (Partially Dissenting Opinion on Sentencing of Justice Jon Kamanda)

<sup>130</sup> International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of Former Yugoslavia since 1991 Case No. Date: IT-98-29-A of 30<sup>th</sup> November 2006.

campaign of artillery and mortar shelling onto civilians areas of Sarajevo, resulting in thousands of civilians being killed or injured.<sup>131</sup>

Violations of the laws or customs of war: unlawfully inflicting terror upon civilians, with having “conducted a protracted campaign of sniping and shelling upon the civilian population,” was what the appellant was charged with in the indictment in this case. This same criminal conduct also served as a basis for violations of the laws or customs of war: attack on civilians.

The Trial Chamber found that the “series of military attacks on civilians in ABiH-held areas of Sarajevo and during the Indictment period were carried out from SRK controlled territories with the aim to spread terror among the civilian population” and “constituted a campaign of sniping and shelling against civilians.”<sup>132</sup>

Justice Wolfgang Schomburg of the International Tribunal Considering Galić’s individual criminal responsibility, as affirmed on appeal, stated that it was within the Appeals chamber’s power and responsibility to substantially enhance the sentence given by the Trial Chamber.<sup>133</sup> However, the Appeals Chamber erred in confirming Galić’s conviction of the Indictment for the crime of acts and threats of violence aimed at spreading terror among the civilians. While the prohibition of such acts and threats was part of international customary law at the time Galić’s criminal conduct took place, in justice Wolfgang Schomburg’s view the same could not be conscientiously said about its penalization. Galić had to be convicted of the crime of attacks on civilians for the same underlying criminal conduct. Spreading terror among civilians should have been

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<sup>131</sup> Ibid 1 [3], part I.

<sup>132</sup> Ibid 212 [4], part XXII.

<sup>133</sup> Ibid 219 [23], Part XXII.

considered as an aggravating factor in sentencing, impacting the overall sentence, thereby *inter alia* necessitating the adjusted sentence.<sup>134</sup>

PROSECUTOR VS JEAN-PIERRE BEMBA GOMBO INTERNATIONAL CRIMINAL COURT  
CASE NO.: ICC-01/05-01/08 OF 21<sup>ST</sup> MARCH, 2016.

On the 15<sup>th</sup> day of June, 2009, Pre-Trial Chamber II (“Pre-Trial Chamber”) confirmed that there was sufficient evidence to establish substantial grounds to believe that Mr Bemba was responsible as a person effectively acting as a military commander within the meaning of Article 28(a) of the Rome statute for the crimes against humanity of murder, Article 7(1)(a), and rape, Article 7(1)(g), and the war crimes of murder, Article 8(2)(c)(i), rape, Article 8(2)(e)(vi), and pillaging, Article 8(2)(e)(v), allegedly committed on the territory of the Central African Republic (CAR) from or about 26<sup>th</sup> October 2002 to 15<sup>th</sup> March 2003.<sup>135</sup> Pursuant to Article 74(2), the Chamber ensured that the judgment stayed within the bounds of the charges confirmed by the Pre-Trial Chamber.

Where an attack is carried out in an area containing both civilians and non-civilians, factors appropriate in determining whether an attack was geared towards the civilian population include the means and methods rendered during the attack, the status of the casualties, their number, the biased status of the attack, the classification of the atrocities rendered in its course, the form of resistance to the assailants at the time of

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<sup>134</sup> Ibid 219-220 [24], part XXII.

<sup>135</sup> The Prosecutor Vs Jean-Pierre Bemba Gombo International Criminal Court case No.: ICC-01/05-01/08 of 21<sup>st</sup> March, 2016 10-11 [2].

the attack, and the degree to which the belligerent complied with the necessities of the conduct during conflicts.

For instance, as argued by the Prosecution, where the acts rendered during the attack consisted of looting of belongings from civilians, this aspect may be put into consideration to determine whether the attack was geared towards a civilian population.<sup>136</sup> Therefore, the Chamber found beyond reasonable doubt that Mr Bemba was accountable under Article 28(a) of the Rome statute for the crimes against humanity of murder and rape, and the war crimes of murder, rape, and pillaging committed by his forces in the course of the 2002-2003 Central African Republic (CAR) Operation.<sup>137</sup>

Philip Verwimp wrote in his journal of Peace Research, in 2006, stating that “*from the literature on armed conflicts, one expects that age and gender matter in the odds of dying by firearms*”.<sup>138</sup> I agree that indeed it is necessary to put into consideration one’s age in determining whether one can die by firearm in an armed conflict, but since he didn’t specify the status of the persons, I shall give my view on both statuses in regards to age and gender. Those under combatant status, as regards to age, children who have been coerced or recruited as child soldiers are protected under Article 77(paragraph3) of Additional Protocol 1 on Protection of Children which provides that children below the age of fifteen years involve themselves in hostilities and fall into the hands of the opposition, shall continue to reap the rewards of special protection emphasised by this Article, regardless of whether they are prisoners of war or not .<sup>139</sup> This means that in

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<sup>136</sup> Ibid 73 [153].

<sup>137</sup> Ibid 359 [742].

<sup>138</sup> Philip Verwimp ‘Machetes and Firearms: The Organization of Massacres in Rwanda’ (2006) 8.

<sup>139</sup> Protocol Additional to the Geneva Conventions of 12 August, 1949

an armed conflict where an adverse party encounters child soldiers, they are prohibited from attacking them, because they are protected persons under the International Humanitarian Law. Whereas non-combatants who exclude themselves from the conflicts, are considered protected persons and shall not be objects of attack, hence protected under the same Article.

However, I disagree with Philip Verwimp's idea of "gender matters in the odds of dying by firearms", in regards to combatant status. Article 43(paragraph 1)<sup>140</sup> of Additional Protocol 1 defines Combatants as all organised armed forces, groups and units which are under a command structure accountable for their subordinates' actions, regardless of whether the party is represented by a government or authority that the opposing side does not recognize. Therefore, anyone who falls under this definition shall be regarded and treated as a combatant regardless of their gender. Instances where the party to a conflict is attacking the military objectives of the adverse party, combatants of the parties to the armed conflict usually find themselves in cross fires, and since this is the case, a female combatant's may not be spared and can die the same way a male combatant dies by firearms.

## 2.3 CONCLUSION

In conclusion, the legal framework of IHL, including principles and the relevant legal authorities from the treaties and some case law across the world, explained above demonstrates that the use of certain means and methods of warfare are unlawful and unacceptable. For instance, the use of rape and sexual violence as a type of weaponry

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<sup>140</sup> Protocol Additional to the Geneva Conventions of 12 August, 1949

violates Article 76(paragraph 1) of Additional protocol 1 of 1977, the use of weapons such as clubs, machetes, guns, grenades and other blunt instruments, to kill and injure civilians, results in disproportionate harm to civilians, hence violates the principle of proportionality, embedded in Article 51(5)(b) of Additional protocol 1 of 1977, among others.

## CHAPTER THREE

### AN ANALYSIS OF THE 1994 RWANDAN GENOCIDE ON RWANDA AND HOW INTERNATIONAL HUMANITARIAN LAW FAILED TO PREVENT THE ILLEGAL MEANS AND METHODS OF WARFARE EMPLOYED DURING THE ARMED CONFLICT.

#### 3.0 INTRODUCTION

This chapter analyses the Rwandan genocide on Rwanda and how International Humanitarian law failed to prevent the illegal means and methods of warfare, that were employed during the armed conflict.

#### THE RWANDAN GENOCIDE AND ITS CLASSIFICATION UNDER IHL AS AN ARMED CONFLICT

In April 1994, Rwanda experienced a devastating surge of organized violence that claimed approximately one million lives in a mere three months.<sup>141</sup> The country was ravaged by Civil war, genocide targeting the Tutsi minority and retaliatory violence that lasted until 1998, which horrified its inhabitants.<sup>142</sup> The state-monitored genocide was characterised by widespread involvement of the local residents, with neighbours turning on each other using guns, machetes, clubs, house to house searches, at roadblocks and at central congregation points.<sup>143</sup> Looting, destruction of assets, and

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<sup>141</sup> Heide Rieder and Thomas Elbert 'Conflict and Health: Rwanda- lasting imprints of a genocide: trauma, mental health and psychosocial conditions in survivors, former prisoners and their children' (2013) 2.

<sup>142</sup> Ibid 2.

<sup>143</sup> Ibid.

genocidal tendencies which consisted of murder and sexual exploitation were not unheard of.<sup>144</sup> Generally, in excess of 10% of the country's 7.8 million population and approximately 75% of the Tutsi ethnic minority were eliminated and majority of individuals were left widows or orphans.<sup>145</sup>

At the conclusion of the genocide, many of the two million people who attained refugee status in the neighbouring countries did not re-enter Rwanda prior to 1996, when the refugee camps started to collapse and people felt discouraged or forced to return, and in majority of the scenarios, a recourse to Rwanda was met with immediate incarceration.<sup>146</sup> The release of these detainees did not commence before 2002 when *Gacaca*, a judicial goal premised on a rudimentary Rwandan mode of local resolution of disagreements, was established to square up to the estimated 1.2 million cases.<sup>147</sup> Currently, survivors of the atrocities as well as participants in the genocide still associate with each other.<sup>148</sup>

The United Nations (UN) quoted the warfare/ Rwandan genocide as a non-international armed conflict, because it was between the ethnic groups of Rwanda; Hutus against the Tutsis and moderate Hutu, therefore, the decision disregarded key humanitarian law principles, rendering it illogical and unfair.<sup>149</sup>

Although the Rwandan genocide was of a non-international character, the conflict had significant international dimensions that were overlooked by global authorities. A

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<sup>144</sup> Ibid 2.

<sup>145</sup> Ibid 2.

<sup>146</sup> Ibid 2.

<sup>147</sup> Ibid 2.

<sup>148</sup> Ibid 2.

<sup>149</sup> Aditya Khanna 'International humanitarian law: A study on the Rwandan genocide' (29<sup>th</sup> October, 2021) 7 International Journal of Law 5 197.

particularly egregious incident was the killing of Belgian peacekeeping soldiers.<sup>150</sup> Ugandan's role as an external actor in fuelling tensions between the Rwandan Armed Force (at that time) and Rwandan Patriotic Front (RPF).<sup>151</sup> The Rwandan government accused Uganda of supplying the RPF forces with military equipment and participating in joint military operations.<sup>152</sup>

The overall control test discussed in the Tadic case stated that when a state supports or assists another state's internal conflict with military supplies or tactics, it can be classified as an international conflict.<sup>153</sup>

Although the evidence provided to the Security Council was insufficient, finding no intentional involvement of the Ugandan government in the conflict, providing of equipment should not have been over looked by the international authorities. This is because if these authorities had paid close attention to these acts of weapon purchase by Rwandan government and the assistance of Uganda in providing weapons and other equipment to the Rwandan Patriotic Front, International Humanitarian Law would have prevented such a bloodbath.

A conflict involving the use of arms is deemed to be in existence when states' armed forces clash, or when government forces face organized armed groups, or when such groups fight each other within the state.<sup>154</sup>

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<sup>150</sup> Aditya Khanna 'International humanitarian law: A study on the Rwandan genocide' (29<sup>th</sup> October, 2021) 7 International Journal of Law 5 199.

<sup>151</sup> Ibid 199.

<sup>152</sup> Ibid 199.

<sup>153</sup> Ibid 199.

<sup>154</sup> European Parliament 'Armed conflict: A glossary of terms' (December, 2023) 1.

There are two major categories of conflict involving the use of arms which include International armed conflict and non-international armed conflict.

The major distinction between the two-armed conflicts is embedded in Article 2 and 3 common to the Geneva Conventions,<sup>155</sup> which depends on identifying the parties involved in the conflict. International armed conflicts are conflicts fought between two different international states, whereas non-international armed conflicts are internal conflicts which occur within a state's borders, involving the government and a rebel faction or multiple rival rebel groups in that state.

International Humanitarian Law, despite its intent to protect civilians, civilian assets and reduce the several means and methods of armed conflict, largely failed to prevent the Rwandan genocide due to several factors. The nature of the conflict hindered the application of some International Humanitarian Law provisions, the limitations of its legal framework, the lack of effective implementation and enforcement mechanisms. The systematic and brutal nature of the Rwandan genocide, involving the targeting of civilians and widespread violence, was difficult for International Humanitarian Law to address due to its focus on formal armed conflict happenings.

### 3.1 GENERAL OVER VIEW OF WEAPONS USED IN THE RWANDA GENOCIDE

Types of weaponry: Hutu militia groups, notably the *Interahamwe* (Those who attack together) and *Impuzamugambi* (Those who have the same goal) used clubs, machetes,

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<sup>155</sup> The Geneva Conventions of 12<sup>th</sup> August, 1949.

guns, grenades and other blunt instruments, to kill and injure Tutsi civilians and moderate Hutus.<sup>156</sup>

Sexual exploitation as a type of weaponry: At the time of the war, Hutu extremists released a large number of patients from medical centres, who infected with the HIV virus, and grouped them into "rape squads".<sup>157</sup> The intent was to infect and cause a "slow, inexorable death".<sup>158</sup> Between 250,000 and 500,000 women were raped.<sup>159</sup>

Most of the eliminations were done with machetes, but ammunitions were also commonly used, and their wide availability helped Hutu extremists carry out their slaughter at an alarming level.<sup>160</sup> The Tutsi corpses slaughtered in Rwanda since April were conflicting with large amounts of guns in Goma, Zaire, that were captured from fleeing Hutu.<sup>161</sup>

### 3.2 METHODS USED DURING THE RWANDAN GENOCIDE

Military strategy and tactics: the *Interahamwe* and the *Impuzamugambi* militia groups assisted the police, the gendarmerie and the regular army in carrying out their violent efforts, including massacres/ execution.<sup>162</sup> They carried out ambushes and massacres,

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<sup>156</sup> Samuel Totten and William S Parsons *Centuries of Genocide: Essays and Eyewitness Accounts* (4<sup>th</sup> edn published on 10<sup>th</sup> September, 2012 by Routledge).

<sup>157</sup> Mark A Drumbl 'She Makes Me Ashamed to Be a Woman: The Genocide Conviction of Pauline Nyiramasuhuko, 2011' (2013) 34 Mich. J. Int'l L. 559.

<sup>158</sup> Ibid.

<sup>159</sup> Ibid.

<sup>160</sup> Stephen D Goose and Frank Smyth *Arming Genocide in Rwanda: The High costs of small arms transfers* (September 1994) 90.

<sup>161</sup> Ibid.

<sup>162</sup> Samuel Totten and William S Parsons *Centuries of Genocide: Essays and Eyewitness Accounts* (4<sup>th</sup> edn published on 10<sup>th</sup> September, 2012 by Routledge) 408.

house-to-house searches, Roadblocks to intercept and kill Tutsi civilians and moderate Hutus attempting to flee, forced displacement, among others.<sup>163</sup>

Human Rights Watch/Africa reported that 2,800 people gathered in a church were slaughtered by militia men using ammunitions. As individuals dispersed fled, took it the military utilised only 4 hours to eliminate them all.<sup>164</sup>

Propaganda and hate speech were another method of warfare employed during the Rwandan genocide. There was grave application of propaganda through both print and radio to fuel aggression against women, with both mediums being used to paint Tutsi women as untrustworthy, and as in opposition of the Hutu majority.<sup>165</sup>

Destruction of infrastructure and property was another method the perpetrators used during the Rwandan genocide. The *Interahamwe* and the *Impuzamugambi* destroyed infrastructure and civilian property such as homes, schools, and hospitals, to disrupt the social and economic fabric of the Tutsi community. Therefore, violated the principle of distinction under International Humanitarian Law.

### 3.3 THE EFFECTS OF THE RWANDAN GENOCIDE ON RWANDA.

The means and methods of warfare employed during the Rwandan genocide were unlawful, and therefore resulted to the breaches of International Humanitarian Law.

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<sup>163</sup> Ibid 408.

<sup>164</sup> Stephen D Goose and Frank Smyth *Arming Genocide in Rwanda: The High costs of small arms transfers* (September 1994) 91.

<sup>165</sup> Mark A Drumbly 'She Makes Me Ashamed to Be a Woman: The Genocide Conviction of Pauline Nyiramasuhuko, 2011' (2013) 34 Mich. J. Int'l L. 559.

The destruction of infrastructure and property of civilians such as homes, schools, hospitals, among others by the perpetrators were a violation of the basic rule on general safe guarding against consequences as a result of hostilities. This is prescribed for under Article 48 of Additional Protocol 1,<sup>166</sup> which provides that to uphold respect for and safe guarding civilians and civilian assets, the Parties to the war must always differentiate the civilian population from combatants and between civilian assets and military aims and therefore shall only target against military objectives.

The use of sexual exploitation as a type of weaponry violated Article 76(paragraph 1) of Additional protocol 1 of 1977, which provides for the protection of women particularly, against rape.

The use of weapons such as clubs, machetes, guns, grenades and other blunt instruments, to kill and injure Tutsi civilians and moderate Hutus, resulted in disproportionate harm to civilians by the perpetrators, hence violated the principle of proportionality, embedded in Article 51(5)(b) of Additional protocol 1 of 1977.

The targeting of civilians, including women, children, the elderly, constituted a clear violation of the principle of distinction under International Humanitarian Law. This principle is prescribed for in the Geneva Conventions of 12 August, 1949, such as Article 51 of Additional Protocol<sup>167</sup> which establishes safeguards of the civilian population.

Following the means and methods used during the Rwandan genocide, the attacks were strongly directed at the Tutsi civilians and moderate Hutu civilians, this was unlawful because there was no military advantage. Therefore, for an attack to be lawful, it must

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<sup>166</sup> Protocol Additional to the Geneva Conventions of 12 August, 1949.

<sup>167</sup> Protocol Additional to the Geneva Conventions of 12 August, 1949.

offer a definite military advantage.<sup>168</sup> Pursuant to Article 52(2) of Additional Protocol 1,<sup>169</sup> attacks shall be geared towards military purpose, and, these military objectives comprise those objects which are expected to contribute to military action and whose entire or partial distortion, capture or neutralization, in the scenarios ruling at the time, offers an exact military purpose. The use of such means and methods of warfare violated this provision.

### 3.4 HOW INTERNATIONAL HUMANITARIAN LAW FAILED TO PREVENT THE ILLEGAL MEANS AND METHODS OF WARFARE.

The year 1994, in a bid for power, the Hutu powered government committed atrocities against Tutsis and several civilians, targeting regions to basically impose their authority over the Tutsis.<sup>170</sup> The conflict resulted in thousands of deaths, marking one of the most brutal civil wars, as the Tutsi-led Rwandan Patriotic Front regained control.<sup>171</sup> Meanwhile, the international community's response was woefully inadequate.<sup>172</sup>

The hindrances of the application of the effective International Humanitarian Law provisions, were due to factors such as the nature of the armed conflict, the limitations of its legal framework, ineffective implementation and enforcement mechanisms.

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<sup>168</sup> International Committee of the Red Cross Commentary on additional Protocol Page 685 paragraph 2218

<sup>169</sup> Protocol Additional to the Geneva Conventions of 12 August, 1949.

<sup>170</sup> Aditya Khanna 'International humanitarian law: A study on the Rwandan genocide' (29<sup>th</sup> October, 2021) 7 International Journal of Law 5 197.

<sup>171</sup> Ibid.

<sup>172</sup> Ibid.

### 3.4.1 THE NATURE OF THE ARMED CONFLICT

The reluctance of the international authorities, such as the United Nations Organization to consider both non-international and international armed conflicts, led to the failure of International Humanitarian law to prevent the illegal means and methods of warfare employed during the Rwandan genocide, which led to very many abuses of International Humanitarian law.

Aditya Khanna in his International Journal of Law: A study on the Rwandan genocide, wrote that it was observed that 10 Belgian soldiers were killed while they were on a peacekeeping mission.<sup>173</sup> It was evident that a war was declared between United Nations Mission Assistant for Rwanda (UNAMIR) and Rwandan Troops, which was running alongside the pre-existing tension between the ethnic communities.<sup>174</sup> Belgium claimed that the soldiers who were sent for a peacekeeping mission by the United Nations became part of the conflict when the Rwandan government troops used weaponry against them.<sup>175</sup> Both the parties in question were governed by the guidelines of the Geneva Conventions and Additional Protocols. The investigation revealed that while soldiers of various nationalities were also present, only the Belgian troops were targeted.<sup>176</sup> This further reveals the underlying reason for initiating the conflict involving arms. The control test, states that there needs to be a specified intent to participate in the conflict, and in this case, evidence showed a deliberate intent to target and kill the Belgian soldiers, therefore, there participation as an international

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<sup>173</sup> Aditya Khanna 'International humanitarian law: A study on the Rwandan genocide' (29<sup>th</sup> October, 2021) 7 International Journal of Law 5 199.

<sup>174</sup> Ibid.

<sup>175</sup> Ibid.

<sup>176</sup> Ibid.

actor could not be disputed.<sup>177</sup> This was reason enough for the international community to use force to halt the bloodshed.

Le Figaro, the French newspaper released evidence that the numbers of projectiles which hit the plane matched the projectiles extracted from Iraq the French during the Gulf War of 1991.<sup>178</sup> The reporter, Patrick de Saint-Exupery, cited testimony from two anonymous officers of the French military, who claimed that the SAM-16 missiles, after being captured by Iraq, were sold to Rwandan government as part of “*le secret defense*.”<sup>179</sup> These projectiles, illegally imported into Rwanda, consisted of a small portion of a large scale influx of munitions that abused the Ceasefire Agreement and generated widespread insecurity.<sup>180</sup> Bernard Debre, the French Minister of Development at the time of the crash, accused the American State Department of supplying the missiles, after repudiating the substance of the Le Figaro story.<sup>181</sup> Debre insisted that the two projectiles were acquired by American, not French, forces in the Gulf, and soon after sold to the neighbouring country of Uganda.<sup>182</sup> However, he presented no evidence to shift blame for the missiles away from the French government.<sup>183</sup> And additional evidence suggests the missiles affair is part of a larger pattern of French favouritism towards the Rwandan government, which could have constituted an International armed conflict.<sup>184</sup>

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<sup>177</sup> Ibid.

<sup>178</sup> Patrick de Saint-Exupery ‘La France et le Rwanda: Nouvelles revelations’ (March 1998) Le Figaro, 31 1.

<sup>179</sup> Ibid.

<sup>180</sup> Ibid.

<sup>181</sup> Ibid.

<sup>182</sup> Philip Shenon ‘Fateful Crash in Africa: Link to U.S. is Denied’ (7 April 1998) New York Times A15.

<sup>183</sup> Ibid.

<sup>184</sup> Ibid.

France was a primary supplier of arms for the Rwandan government under a policy of strong backing for the Hutu regime of Rwandan president, Juvenal Habyarimana.<sup>185</sup> According to the Human Rights Watch Arms Project, despite claiming neutrality in the Rwandan conflict, France provided military equipment, including machine guns, artillery, armoured vehicles, and six Gazelle helicopters to the Rwandan army well known as *Forces Armees Rwandaises* (FAR), after the outbreak of fighting in 1990.<sup>186</sup>

United Nations Assistance Mission in Rwanda (UNAMIR) officials directly noticed the involvement of France in weapons transfers.<sup>187</sup> UNAMIR troops intercepted a consignment of arms from France at the Kigali airport on 22<sup>nd</sup> January, under the directed by Belgian Colonel Luc Marchal, sector commander for Kigali.<sup>188</sup> Stationed at the Kigali airport, a UN military observer witnessed that an unscheduled flight was arriving, and the pilot could present no manifest, which led the Belgian peacekeepers to surround the plane, only do discover a consignment of illegal arms and munitions, which was confiscated.<sup>189</sup> Documents found in the plane revealed that French and Belgian suppliers used deceptive tactics, including fake end-user certificates and circuitous delivery routes.<sup>190</sup>

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<sup>185</sup> According to the 'Arming Rwanda' report, France, Egypt and South Africa were the principal sources of major arms shipments to the Rwandan army during this period.

<sup>186</sup> Ibid.

<sup>187</sup> Walter A Dorn and Jonathan Matloff 'Preventing the Bloodbath: Could the UN have Predicted and Prevented the Rwandan Genocide?' (August 2000) ResearchGate 9 [5].

<sup>188</sup> Ibid.

<sup>189</sup> Ibid.

<sup>190</sup> Ibid.

On 9<sup>th</sup> April, a period after the commencement of the genocide, another shipment was also observed.<sup>191</sup> Basically, the Arusha Ceasefire Agreement was frequently violated, with numerous and blatant breaches, often facilitated by external actors.

Article 3 common to the Geneva Conventions,<sup>192</sup> is to the effect that in the cases non-international conflicts involving arms, in the vicinity of one of the High Contracting Parties, each Party to the conflict shall be tasked with ensuring that people who exclude themselves from hostilities, including members of armed forces who have surrendered and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances shall be accorded humane treatment, without marginalisation.

Disregard for human life through forms such as, killings of all kinds, mutilation, cruel treatment and torture; capturing of hostages; outrages upon personal dignity, in particular humiliating and degrading treatment; the dispensing of sentences and engaging in executions prior to judgment delivered by a regularly constituted court, considering all the judicial commitments which are acknowledged as unavoidable by civilized peoples, remain restricted at any time and in any place. Pursuant to Article 3 common to the Geneva Conventions.<sup>193</sup>

Article 2 common to the Geneva Conventions,<sup>194</sup> reiterates that in situations of armed conflict, other than the provisions which shall be utilised in times of peace, this Convention shall be applicable in all cases of existing warfare or of any other conflict

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<sup>191</sup> Ibid.

<sup>192</sup> The Geneva Conventions of 12<sup>th</sup> August, 1949

<sup>193</sup> Ibid.

<sup>194</sup> Ibid.

involving the use of arms which may ensue between two or more of the High Contracting Parties, despite the fact that the state of war is not approved by one of them.

The above International Humanitarian Law provisions and many more others were violated due the reluctance of the international authorities, such as the United Nations Organization to consider both non-international and international armed conflicts, even with the presence of valid evidence to hold countries that supported the perpetrators with military equipment liable. This later resulted to the failure of International Humanitarian Law to prevent the illegal means and methods of warfare employed during the Rwandan genocide.

#### 3.4.2 THE LIMITATIONS OF INTERNATIONAL HUMANITARIAN LAW LEGAL FRAMEWORK, AS A RESULT OF DELAYED RESPONSES AND INADEQUATE PROTECTION.

The ambiguity of the armed conflict, delayed responses and inadequate protection led to the limitations of International Humanitarian Law legal framework, which in turn resulted to the international community to prevent the illegal use of means and methods of warfare employed during the Rwandan genocide.

Another result could be the reluctance of the international community to consider both Non-International and International armed conflict, resulted to limitations of International Humanitarian Law legal Framework to only non-international armed conflict, which later led to the failure of International Humanitarian Law to prevent the illegal means and methods of warfare employed during the Rwandan genocide.

Walter A Dorn and Jonathan Matloff (August 2000) in their article,<sup>195</sup> stated that the culprits, within government bodies, had made careful strategies. For months, a radio station under their control, Radio Mille Collines, had been spewing anti-Tutsi indoctrinations.<sup>196</sup> Secret consignments were kept ready for applications by army personnel and the party militia, the core faction of which equipped with slaughter tactics.<sup>197</sup> Indexes of Tutsis and their Hutu sympathizers had been prepared for targeting, awaiting only a spark to ignite the violence.<sup>198</sup> The assassination of the leader of the Rwandan Government, under whom the atrocities were committed, was declared to be as shocking as the genocide itself. International bodies remained passive, as death plagued the country and even attempted to evade legal obligations to curb this colossal human and humanitarian atrocity.

Secretary-General Kofi Annan, then head of United Nations peacekeeping during the Rwandan genocide, spoke at a press conference on 4<sup>th</sup> May 1998, saying that, *“I agree with United Nations Assistance Mission in Rwanda (UNAMIR) Force Commander, General Dallaire when he says, ‘If I had had one reinforced brigade - 5,000 men - well trained and well equipped, I could have saved thousands of lives.’”*<sup>199</sup> Therefore admitting that they should have acted.

On a visit to Africa in March 1998, President Clinton admitted that *“the world did not act quickly enough”* and that *“we did not immediately call these crimes by their*

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<sup>195</sup> Walter A Dorn and Jonathan Matloff ‘Preventing the Bloodbath: Could the UN have Predicted and Prevented the Rwandan Genocide?’ (August 2000) ResearchGate 1 [1].

<sup>196</sup> Ibid.

<sup>197</sup> Ibid.

<sup>198</sup> Ibid.

<sup>199</sup> Ibid 1 [2].

*rightful name - genocide.*”<sup>200</sup> Secretary of State Albright stated that “*we - the international community - should have been more active in the early stages of the atrocities in Rwanda.*”<sup>201</sup>

To the casual foreign observer, Rwanda's rustic setting along Lake Kivu, its lush hills, its agrarian economy, and its pastoral culture created a semblance of simplicity and placidity.<sup>202</sup> Rwanda seemed too remote, too unsophisticated and too docile of a nation, to produce nation-wide bloodshed and record numbers of refugees.<sup>203</sup> When the United Nations peace-keeping mission was planned in 1993, the assumption was that this would be an easy, relatively trouble-free mission. Romeo Dallaire, the designated Force Commander, spoke of the lead up to the mission saying that, “*there was absolutely no perception that anything except the very positive vibrations that were coming out of Rwanda from both sides . . . the peripheral countries*”, the observers at the Arusha talks, stated that this was going to be classic peace-keeping operation.<sup>204</sup> The mood was one of enormous optimism; buoyant. This perception of Rwanda and the United Nations mission, however, was highly misguided.<sup>205</sup>

The Habyarimana regime played a direct role in the period leading up to Arusha, by the arming civilians, justified as defence against an invasion from outsiders (Ugandan based Tutsis).<sup>206</sup> According to a secret government document obtained by the Human Rights Watch Arms Project, under the guise of “self-defence”, it's goal was to distribute nearly

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<sup>200</sup> Ibid.

<sup>201</sup> Ibid.

<sup>202</sup> Ibid 2 [3].

<sup>203</sup> Ibid.

<sup>204</sup> Ibid.

<sup>205</sup> Ibid.

<sup>206</sup> Ibid 8 [3]

2,000 assault rifles to civilians loyal to the MRND, the president's political party.<sup>207</sup> The report cautioned that “it is frightening to ponder the potential for abuses by large numbers of ill-trained civilians equipped with assault rifles.”<sup>208</sup> This was before the civilian force had not engaged in human abuses to the extent of the *Interahamwe*.<sup>209</sup> High-ranking Rwandan officials were arming their citizens and militia, and trading tea for weapons.<sup>210</sup> After Arusha, no weapons were supposed to come into the country, but that also was systematically flouted.<sup>211</sup>

Arms had become plentiful in Rwanda, such as grenades which were sold alongside mangos and avocados on fruit stands at markets around Kigali.<sup>212</sup> United Nations Assistance Mission in Rwanda (UNAMIR) officials were aware of this, but could not monitor, the extent of illicit arms transfers.<sup>213</sup> They were unsuccessful, moreover, in obtaining the necessary United Nations approval to conduct searches, raids or to confiscate weapons from civilians and militia members.<sup>214</sup> United Nations Assistance Mission in Rwanda (UNAMIR) communications in the months before 6<sup>th</sup> April show that the UNAMIR officers were aware that prodigious amounts of arms and ammunition were flowing into Rwanda and even though concerned about the danger it presented, they were denied permission by United Nations headquarters in New York to take offensive action to confiscate weapons.<sup>215</sup>

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<sup>207</sup> Ibid.

<sup>208</sup> Ibid.

<sup>209</sup> Ibid.

<sup>210</sup> Ibid.

<sup>211</sup> Ibid.

<sup>212</sup> Ibid 8-9.

<sup>213</sup> Ibid.

<sup>214</sup> Ibid.

<sup>215</sup> Ibid.

### 3.4.3 INEFFECTIVE IMPLEMENTATIONS AND ENFORCEMENT MECHANISMS.

The international community, particularly the United Nations Security Council, did not demonstrate the necessary political will/commitment to prevent the genocide or to intervene forcefully once it began. This was evident in the escalating violence and the lack of resources allocated to the UN peacekeeping mission in Rwanda.

The United Nations also ignored a range of possible preventive measures. Before examining in detail these early warning signals and preventive actions, it is important to see if the UN actually had the mandate, if not the means or the initiative, to gather intelligence and to act upon it for prevention. The UN peacekeeping force had a strong mandate to monitor illegal arms, but there was a major deficiency in its investigative capability.<sup>216</sup>

The United Nations Assistance Mission in Rwanda (UNAMIR)'s mandate to help establish and monitor a "weapons secure area" around Kigali was being challenged.<sup>217</sup> Under the mandate, it was agreed that except personal arms, weapons could be transported only under the escort of United Nations military observers. However, machine guns and some heavy weaponries were readily seen.<sup>218</sup> At the end of January 1994, Special Representative of the Secretary-General, Jacques-Roger Booh-Booh griped to the press

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<sup>216</sup> Walter A Dorn and Jonathan Matloff 'Preventing the Bloodbath: Could the UN have Predicted and Prevented the Rwandan Genocide?' (August 2000) ResearchGate 7.

<sup>217</sup> Howard Adelman and Astri Suhrke 'The International Response to Conflict and Genocide: Lessons from the Rwanda Experience, Study 2: Early Warning and Conflict Management' (March 1996) Joint Evaluation of Emergency Assistance to Rwanda 38-39.

<sup>218</sup> Ibid.

that “*weapons are distributed from arms caches around Kigali and even inside town*”.<sup>219</sup>

Even with Conscientious Informers, the International Community failed to prevent the illegal means and methods used during the genocide. In the Chronicle of a genocide foretold, Colonel Luc Marchal, Commander of Kigali sector for United Nations Assistance Mission in Rwanda (UNAMIR), stated,<sup>220</sup> that;

*“Late in the day of January 10<sup>th</sup>, I had a visit from someone who asked to be called ‘Jean Pierre.’ He was a leader of the MRND militia, the famous Interahamwe... He explained that he was struggling with his conscience. He was in the process of systematically arming all cells of the capital. He had received orders several days earlier to identify every Tutsi in each cell, and when word came, to assassinate all of them point blank. From what he told me, they were capable of killing about 1,000 Tutsi every twenty minutes, so this was an extensive organization, and that was our undoing.”*

This was the most startling and explicit early warning came from human sources.<sup>221</sup> High-ranking United Nations officials in Kigali and New York were informed in clear language and with convincing evidence of a sinister plot to sabotage the peace process and to carry out genocide.<sup>222</sup>

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<sup>219</sup> Ibid.

<sup>220</sup> Chronicle of a Genocide Foretold.

<sup>221</sup> Walter A Dorn and Jonathan Matloff ‘Preventing the Bloodbath: Could the UN have Predicted and Prevented the Rwandan Genocide?’ (August 2000) ResearchGate 10.

<sup>222</sup> Ibid.

The key personality was a former security aide to President Habyarimana who was responsible for training the *Interahamwe*.<sup>223</sup> His reference name was “Jean-Pierre,” the informer had several meetings with Dallaire and Marchal in which he disclosed a macabre plot, claiming he could not in clear conscience, be a party.<sup>224</sup> Jean Pierre asserted that, ever since the arrival of the United Nations Assistance Mission in Rwanda (UNAMIR) force, the goals of the *Interahamwe* had changed.<sup>225</sup> The militia were evolving into a partisan strong-arm designed to wreak violence against the country’s Tutsis, even though originally they served as a national force aimed at helping protect the country from RPF attacks.<sup>226</sup> As a leader within the *Interahamwe*, Jean Pierre had been ordered to compile lists of Tutsis in Kigali which he thought were to be used “for their extermination.”<sup>227</sup> The informant said that while he supported the actions against the RPF, he could not support the killing of innocent persons.<sup>228</sup>

The informant further asserted that if, during the swearing-in ceremony, the “Belgian soldiers resorted to force (to prevent the assassinations), a number of them were to be killed and thus guarantying Belgian withdrawal from Rwanda.”<sup>229</sup> In addition, Jean-Pierre pointed out exact locations of *Interahamwe* weapons caches in and around Kigali that were to be used in the subsequent slaughter of Tutsis.<sup>230</sup> According to Marchal, “a United Nations officer accompanied him to *Mouvement Revolutionnaire National pour le Developpement (MRND)*/ National Revolutionary Movement for Development

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<sup>223</sup> Ibid.

<sup>224</sup> Ibid.

<sup>225</sup> Ibid.

<sup>226</sup> Ibid.

<sup>227</sup> Ibid.

<sup>228</sup> Ibid.

<sup>229</sup> Walter A Dorn and Jonathan Matloff ‘Preventing the Bloodbath: Could the UN have Predicted and Prevented the Rwandan Genocide?’ (August 2000) ResearchGate 11[2].

<sup>230</sup> Ibid.

headquarters.<sup>231</sup> And in the building there was indeed a stockpile of arms and ammunition, providing further evidence to UN officials that arms were being improperly stored for distribution by the government.<sup>232</sup>

Dallaire and Marchal were clearly satisfied that immediate action needed to be taken, as Jean-Pierre's assertions backed up their own observations.<sup>233</sup> Around the time of their meetings with Jean-Pierre, faxes were sent to New York giving clear evidence of the informant's credibility.<sup>234</sup>

The informant, Jean-Pierre also explained that deputies of the Broad-Based Transitional Government (BBTG) had been targeted on their way to and from the parliament.<sup>235</sup> Confirming this, the outgoing code cable from Special Representative of the Secretary General, Jacques-Roger Booh-Booh of 11<sup>th</sup> January, 1994 mentions the establishment of road blocks by the Presidential Guard and the *Interahamwe* around Kigali, and that their aim was to prevent the deputies from getting to the parliament and to prevent essential meetings at Prime Minister level and senior political levels in order to solve the impasse between the parties.<sup>236</sup> Civilian drivers were beaten, in the process.<sup>237</sup> The cable also mentioned a description of events which corroborated the informant's story, that hundreds of armed protestors loyal to the National Revolutionary Movement for Development blocked the entrance to the parliament and harassed deputies.<sup>238</sup> In

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<sup>231</sup> Ibid.

<sup>232</sup> Ibid.

<sup>233</sup> Ibid [3]

<sup>234</sup> Ibid.

<sup>235</sup> Ibid.

<sup>236</sup> Ibid.

<sup>237</sup> Ibid.

<sup>238</sup> Ibid.

addition, United Nations officials had verified the existence of the weapons caches first-hand.<sup>239</sup>

The informant's revelations called for a bold United Nations Assistance Mission in Rwanda (UNAMIR) response beginning in January.<sup>240</sup> Dallaire was ready to take preemptive measures, which he described in detail in his fax, but he was denied permission from his superiors in New York to raid the weapons caches.<sup>241</sup> Instead, he was told to divulge the plan to the government head, President Habyarimana, whose inner circle included members of the *Akazu* (little house) who were developing the genocide plot.<sup>242</sup> New York advised Dallaire, "*You should assume that he - Habyarimana (President of Rwanda) is not aware of these activities, but insist that he must immediately look into the situation.*"<sup>243</sup> By denying permission to provide guarantees for Jean-Pierre, by failing to act to gain more information on a continuing basis and by vetoing proactive preventive actions, New York blundered. Dallaire was also told to inform the ambassadors of the United States, Belgium and France, which he dutifully did, perhaps in the hope they would take initiatives where the United Nations did not.<sup>244</sup> Not willing to risk his life and the lives of his family members, Jean-Pierre broke off contact.<sup>245</sup>

Extremist elements within the Rwandan government, throughout the Arusha period including the plotters of the genocide, attempted to whip up public anger, hate and

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<sup>239</sup> Ibid.

<sup>240</sup> Walter A Dorn and Jonathan Matloff 'Preventing the Bloodbath: Could the UN have Predicted and Prevented the Rwandan Genocide?' (August 2000) ResearchGate 12 [3].

<sup>241</sup> Ibid.

<sup>242</sup> Ibid.

<sup>243</sup> Ibid.

<sup>244</sup> Ibid.

<sup>245</sup> Ibid.

vengeance against the Tutsis.<sup>246</sup> Inflammatory speeches and chants were broadcast throughout the country by Radio Television *Libre des Mille Collines* (RTLM). However much the peacekeeping force monitored several of these radio broadcasts, it was hard to take them as serious, authoritative or credible, because they were so extreme.<sup>247</sup> They fully demonized the Tutsis in an incredible and unrealistic fashion, for instance by likening them to cockroaches (*inyenzi*) that needed to be exterminated.<sup>248</sup>

Unfortunately, United Nations Mission Assistant for Rwanda and the United Nations did not analyse these broadcasts to determine what the specific threats and consequences could be, for instance, who might be the next targets for assassination or massacre, even though Belgians were also targets of propaganda.<sup>249</sup>

### 3.5 THE SOCIAL AND ECONOMIC EFFECTS OF THE 1994 RWANDAN GENOCIDE ON RWANDA.

#### SOCIAL IMPACT

In the aftermath of 1994, genocide survivors showed high rates of mental health and psychosocial problems due to the inconceivable, dehumanized brutality that the majority of them had been exposed or witness to.<sup>250</sup> Due to loss of family members, growing mistrust and fear following the genocide, entire family systems as well as the general social fabric that formerly provided support were destroyed.<sup>251</sup> It was evident

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<sup>246</sup> Walter A Dorn and Jonathan Matloff 'Preventing the Bloodbath: Could the UN have Predicted and Prevented the Rwandan Genocide?' (August 2000) ResearchGate 14[1].

<sup>247</sup> Ibid.

<sup>248</sup> RTLM broadcast replayed in part in "Chronicle of a Genocide Foretold," part 2.

<sup>249</sup> Walter A Dorn and Jonathan Matloff 'Preventing the Bloodbath: Could the UN have Predicted and Prevented the Rwandan Genocide?' (August 2000) ResearchGate 14 [1].

<sup>250</sup> Heide Rieder and Thomas Elbert 'Rwanda- lasting imprints of a genocide: trauma, mental health and psychosocial conditions in survivors, former prisoners and their children' (26<sup>th</sup> March 2013) 7 Conflict and Health 2.

<sup>251</sup> Ibid 2.

that a great majority of the survivors were female and woman-headed households who proved to be especially vulnerable, suffering from the effects of economic deprivation, which included lack of food, housing and money for the education of their children.<sup>252</sup>

Besides the general population samples, studies analysing the mental health situation in Rwanda following the genocide mainly focused on groups of widows and orphans or children living in child-headed households.<sup>253</sup> An elevated level of depressive and anxious symptoms as well as Post- Traumatic Stress Disorder (PTSD) was found in each of these groups.<sup>254</sup> On the other hand, after 1994, little to nothing was known about the mental health situation of former prisoners in Rwanda, many of which spent several years in refugee camps. Being suspected of participation in genocide, these former prisoners who were defined as released prisoners were incarcerated in the aftermath of genocide.<sup>255</sup> Therefore, even if they claimed to be innocent, declaring that they had not killed or harmed anyone, all former genocidaires were included.<sup>256</sup> The assumption is that these accused perpetrators and their respective families were also present with mental health problems, whether due to their participation in or exposure to violence, genocide and their refugee status.<sup>257</sup>

A neutral, unaffected group would be nearly impossible to find owing to the pervasive effects of violence on the Rwandan population as a whole.<sup>258</sup> Genocide survivors proved

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<sup>252</sup> Krishna Kumar(ed), Catharine Newbury and others '1 Civil Wars, Women, and Gender Relations: An Overview' (2001) 27-38.

<sup>253</sup> Heide Rieder and Thomas Elbert 'Rwanda- lasting imprints of a genocide: trauma, mental health and psychosocial conditions in survivors, former prisoners and their children' (26<sup>th</sup> March 2013) 7 Conflict and Health 2.

<sup>254</sup> Ibid.

<sup>255</sup> Ibid.

<sup>256</sup> Ibid.

<sup>257</sup> Ibid.

<sup>258</sup> Ibid.

to be mainly women, even though the primary targets of genocidal acts were men and boys, whereas genocide-related crimes were mainly committed by men.<sup>259</sup>

## ECONOMIC IMPACT

In 1994 in Rwanda, relative to the other households and communities, the rural ones that experienced more conflict had lower consumption six years after the end of the violence.<sup>260</sup> Genocide affected areas had lower returns to land, and higher returns to labour and education compared to other areas.<sup>261</sup>

On education, there is also micro evidence for the effects of conflict. Akresh and de Walque (2008) show that with exposed children completing half a year less, the armed conflict in Rwanda had a negative effect on schooling outcomes.<sup>262</sup>

Following the economic set back caused by the conflict in Rwanda, there is only a small body of evidence documenting the same. Lopez and Wodon (2005) using aggregate data over time argue that, the Gross Domestic Product (GDP) per capital in 2000 would have been 25% to 30% higher in Rwanda, if conflict have not occurred.<sup>263</sup> Verpoorten and Berlage (2007), find that these shocks had very little effect on households' income mobility, using panel data to analyse the effects of different types of genocide-related household level shocks between 1990 and 2002.<sup>264</sup> With respect to physical capital, Verpoorten (2009) finds that household cattle stock had fallen by half during 1994, but bounced back to about 74% of its pre-war level by 2002. Justino and Verwimp (2006)

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<sup>259</sup> Jones A 'Gender and genocide in Rwanda' (2002) *Journal of Genocide Research*, 4(1) 65-94.

<sup>260</sup> Pieter Serneels and Marijke Verpoorten 'The Impact of Armed Conflict on Economic Performance: Evidence from Rwanda' (July 2012) *Institute for the Study of Labor (IZA)* 3 [2].

<sup>261</sup> *Ibid.*

<sup>262</sup> *Ibid* 6 [1].

<sup>263</sup> *Ibid*

<sup>264</sup> *Ibid.*

provide descriptive evidence for convergence at the province level (N=10) and hypothesize that this is related to a number of factors including changes in labour-capital ratios, the location of battles, waves of migration and local resurgences.<sup>265</sup>

Pieter Serneels and Marijke Verpoorten's finding state that the genocide targeted the most educated, therefore, returns to skilled labour were slightly lower in conflict areas but not significantly. Due to lack of infrastructure, or that the educated had been replaced by equally educated immigrants, activities where returns to education were highest, like off farm work, were still largely absent in past conflict areas.<sup>266</sup> For instance, because of a lack of infrastructure, or that the educated had been replaced by equally educated immigrants.<sup>267</sup>

As regards migration. In the aftermath of genocide, a substantial number of people had been displaced both internally and externally.<sup>268</sup> However, by 2000 more than 97% of the refugees who moved abroad had returned to Rwanda (UNHCR, 2000).<sup>269</sup> These returnees, as well as the internally displaced, did not necessarily resettle in their communities of origin.<sup>270</sup>

### 3.6 CONCLUSION

In conclusion, the brutal wave of organized violence of the Rwandan genocide involved the use of the illegal means and methods of warfare, such as the use of weapons like clubs, machetes, guns, grenades and other blunt instruments, to kill and injure Tutsi

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<sup>265</sup> Ibid 7 [3]

<sup>266</sup> Ibid 17 [1].

<sup>267</sup> Ibid 17 [1].

<sup>268</sup> Ibid 17 [2].

<sup>269</sup> Ibid.

<sup>270</sup> Ibid.

civilians and moderate Hutus, the targeting of civilians, including women, children, and the elderly, among others resulted to the strong violation of international humanitarian law. Despite the visible-clear warnings from informants and clear observations by the International Communities such as the United Nations Organization of threats of an upcoming genocide, they still ignored the possibility of one happening in Rwanda. This resulted from many factors, among others, the nature of the armed conflict, the limitations of International Humanitarian Law legal framework, ineffective implementation and enforcement mechanisms. Which in turn led to the failure of the International Humanitarian Law to prevent the illegal use of the means and methods employed during the Rwandan genocide.

## CHAPTER 4

### SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

#### 4.0 INTRODUCTION

This chapter summarizes the findings of the means and methods of warfare employed during the 1994 Rwandan genocide in relation to International Humanitarian Law, and suggests recommendations to that effect.

#### 4.1 SUMMARY OF FINDINGS.

This thesis answers the research question on the classification of the event that led to the 1994 Rwandan genocide under IHL. The United Nations classified it as a non-international armed conflict, but I would rather they considered both non-international and international armed conflicts, in order to effectively uphold IHL.

The rules that govern means and methods of warfare are embedded in principles of IHL, relevant legal rules from treaties, case law across the world, among others. The principles of IHL include humanity, military necessity, proportionality, distinction, neutrality, and prohibition on causing unnecessary suffering and superfluous injury. The relevant legal rules from treaties include conventions such as the Hague Conventions of 1899 and 1907, and the Geneva Conventions of 12<sup>th</sup> August 1949. These are the rules on means and methods of warfare under IHL, directly addressing the research question.

This research also examines the general over view of the means and methods of warfare employed during the Rwandan genocide. Such as use clubs, machetes, guns, grenades and other blunt instruments, to kill and injure Tutsi civilians and moderate Hutu

civilians, raping of Tutsi women and girls with the intention of infecting them with HIV/AIDS which would later lead to their slow deaths, use of propaganda and hate speech, destruction of property and infrastructure, among others. Thereby directly addressing the research question on what means and methods were used during the Rwandan genocide.

IHL was violated during the employment of the illegal means and methods of warfare in the 1994 Rwandan genocide. Weapons such as clubs, machetes, guns, grenades and other blunt instruments, were used to kill and injure Tutsi civilians and moderate Hutu civilians, hence violated Article 51 of Additional Protocol 1,<sup>271</sup> which provides for protection of the civilian population. Tutsi women and girls were also raped with the intention of infecting them with HIV/AIDS, which violated Article 76(paragraph 1) of Additional protocol 1 of 1977, which provides for the protection of women particularly, against rape, among others. The question on what were the implications of the use of those means and methods of warfare is duly addressed by the thesis.

Evaluation of the impact of the genocide on the victims and their families has been made, such the negative social impact which involved genocide survivors showing high rates of mental health and psychosocial problems due to the inconceivable, dehumanized brutality that the majority of them had been exposed or witnessed. This evaluation is done by contributing to a deeper understanding of the complexities of armed conflicts, specifically the Rwandan genocide. And through this, the factors that led to the ineffective application of international mechanisms for enforcing IHL, by international communities such as the United Nations (UN), are clearly explained. The

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<sup>271</sup> Protocol Additional to the Geneva Conventions of 12 August, 1949.

factors being, nature of the armed conflict, the limitations of its legal framework, ineffective implementation and enforcement mechanisms. Directly addressing the research question.

## 4.2 CONCLUSIONS.

In conclusion, this thesis examines the means and methods of warfare employed during the 1994 Rwandan genocide, such as use clubs, machetes, guns, grenades and other blunt instruments, to kill and injure Tutsi civilians and moderate Hutu civilians, raping of Tutsi women and girls with the intention of infecting them with HIV/AIDS which would later lead to their slow deaths, use of propaganda and hate speech, destruction of property and infrastructure, among others. With a focus on their compatibility with International Humanitarian Law. Through a critical analysis of primary and secondary sources, this thesis reveals widespread and systematic violations of IHL, including the indiscriminate targeting of civilians, use of child soldiers, the use of prohibited weapons, targeting of civilian objects, raping of women and girls and the denial of humanitarian assistance. Therefore, the findings of this thesis clearly reveal the disregard for IHL principles and highlights the need for strengthened accountability mechanisms and improved compliance with International Humanitarian Law, in order to prevent similar atrocities in the future.

## 4.3 RECOMMENDATIONS.

As President Theodore Roosevelt quoted, *“Justice consists not in being neutral between right and wrong, but in finding out the right and upholding it, wherever found against*

*the wrong*".<sup>272</sup> Justice was negligent in the case of the Rwandan genocide, and the right or wrong was never found.

I would recommend that international communities such as the United Nations Organisation take serious heed to earlier warnings of future atrocities, and not just ignore them basing on the analysis of "who is capable of what" (basically judging the book by its cover). Underestimating ethnic conflicts that fuel purchases of illegal small arms/weapons in secret by one ethnic group, to carry out ethnic cleansing of other ethnic group, can have devastating consequences.

For international humanitarian law to be upheld effectively and efficiently, intended crimes against humanity can be addressed through robust monitoring, international cooperation and effective law enforcement (taking action even at the slightest sight of humanitarian threats that may result to bigger atrocities). It is better to be safe than sorry.

In situations where both international and non-international armed conflicts are clearly laid out, it would be safe for international communities to act accordingly at the first sight of humanitarian threats. Putting into consideration the type of armed conflict and the laws that govern it. If only the United Nations Organization and United Nations Assistance Mission for Rwanda (UNAMIR) treated the killings of the 10 Belgian soldiers who were assigned to protect Rwandan Prime Minister, Agathe Uwilingiyimana, as an international armed conflict, maybe the result of the Rwandan ethnic conflicts between

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<sup>272</sup> Aditya Khanna 'International humanitarian law: A study on the Rwandan genocide' (29<sup>th</sup> October, 2021) 7 International Journal of Law 5 198.

the Hutus and Tutsis would not have resulted to a genocide. Therefore, many lives would have been saved.

Enforcing and enacting laws that govern information given by the media platforms, such as the Television programmes, radio talks and songs, news in the papers and magazines, social media platforms such as Facebook, Instagram and LinkedIn. This is important because these media and social media platforms have multiplier effects which in turn could be a disadvantage if wrong news or propaganda about a particular group of people is shared. Freedom of expression and speech should not be denied, but if such freedom claimed by a person is prejudicial to the fundamental or other human rights of people, and is at the expense of public interest, then the conducts of such claimant cannot be condoned against the victims. This is because persons of good repute will suffer at the mercies of reckless speakers who have audience.

The Ministry of Education of different countries may consider promoting international humanitarian law education. We should not assume that every individual knows the laws governing means and methods of warfare, most especially the military personnels and the largely the civilians do not know their rights and what to do when war breaks out in their specific countries.

International communities may consider enhancing protection measures by setting laws that encourage countries to have humanitarian corridors, established safe zones, providing support to vulnerable populations and survivors. This has a strong possibility of saving many lives during armed conflicts.

#### 4.4 CONCLUSION

In conclusion, under the summary of the findings, it is evident that this thesis addresses the research questions. Such as on classification of the event that led to the 1994 Rwandan genocide under IHL, the rules on means and methods of warfare under IHL, what means and methods of warfare were employed during the Rwandan genocide, what were the implications of the use of those means and methods of warfare, and what factors led to the failure of IHL to prevent the illegal use of the means and methods of warfare employed during the genocide. For IHL to be effective and efficient, I would recommend the international communities such as the United Nation Organisation to take serious heed to earlier warnings of future atrocities, Ministry of Education of different countries may consider promoting International Humanitarian law education, enhancing protection measures by international communities, and government of different countries enforcing and enacting laws that govern information given by the media platforms, among others.

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< [Official UN transcript ICTR-99-52-T; P103/2B](#)>

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