

**TITLE: ILLUMINATING EXTERNAL INSTITUTIONAL BYSTANDER COMPLICITY IN GENOCIDE:
CASE STUDY RWANDA**

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“Again, I observed all the oppression that takes place under the sun. I saw the tears of the oppressed, with no one to comfort them. The oppressors have great power, and their victims are helpless” Ecclesiastes 4:1 (NLT)

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VOLUME I

ABSTRACT

This is a thesis about great crime, namely the mass criminal atrocity of genocide. It is also an exploration of great power, namely the nations who are external bystanders to the crime of genocide in violation of international criminal laws. By (a) utilising documentary evidence, much of which was obtained as a result of numerous Freedom of Information requests to the Foreign and Commonwealth Office, London, and (b) undertaking interviews with British government cabinet members of 1994, British diplomats, Ambassadors [permanent and non-permanent nations] to the United Nations Security Council, prisoners in Rwanda convicted of being leaders and organisers of genocide and victims and survivors of genocide in Rwanda, this thesis provides a detailed insight into the role of the British and French governments as bystanders to the genocide in Rwanda of 1994.

This thesis explores the complex historical interrelations between colonialism and genocide, and includes a socio-legal study of the available international criminal law pertinent to genocide and the utility of the concept of state crime and international law for understanding and responding to the bystander crimes of external nation states during genocide. The empirical work demonstrated that the socio-political colonial aspects of the Rwandan genocide were unavoidable and indeed that such a socio-political colonial impact in the international community's response to the genocide is of significance to the contemporary crisis in the Great Lakes Region of Africa, which has witnessed the loss of several million lives to date. A significant outcome of this thesis is the conclusion that the overt and covert actions of the external institutional bystanders to genocide are disassociated from human rights norms. Instead, these actions are directly attributable to the geopolitical and economic interests of the external institutional bystanders to genocide. The conduct of the French military in the Bisesero mountains of Rwanda is clearly definable as complicity in genocide. The British as an external institutional bystander to genocide in Rwanda shaped conditions in the country every bit as much as the French, albeit their actions were covert and hidden from scrutiny. This study concludes that such behaviours cannot be conceptualised under existing notions of state crime and this research serves to illuminate the inadequacies and limitations of a concept of state crime in international law as it currently stands.

ACRONYMS

APC's	Armoured Personnel Carriers
ASC	American Society of Criminology
AU	African Union
BBTG	Broad-based Transitional Government
CIA	Central Intelligence Agency
DPKO	Department of Peacekeeping Operations
FAR	Forces Armées Rwandaise / Rwandan Government Forces
FCO	Foreign and Commonwealth Office
GOR	Government of Rwanda
HRW	Human Rights Watch
ICC	International Criminal Court
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ICTR	International Criminal Tribunal Rwanda
ICTY	International Criminal Tribunal Yugoslavia
IMF	International Monetary Fund
MDR	Mouvement Démocratique Républicain
MP	Member of Parliament
MRND	Mouvement Révolutionnaire National Pour le Développement
NGO	Non-Government Organisation
OAU	Organisation of African Unity
RANU	Rwandan Alliance for National Unity
RPF	Rwandan Patriotic Front
RTL	Radio Télévision Libre des Mille Collines
SIS	Secret Intelligence service
SZH	Safe Zone Humanitaire
UK	United Kingdom
UN	United Nations
UNAMIR	United Nations Assistance Mission in Rwanda
UNGC	United Nations Genocide Convention (1948)
UNOMUR	United Observation Mission in Uganda-Rwanda
UNSC	United Nations Security Council
US	United States of America

CHAPTER ONE: AN INTRODUCTION

This is a thesis about great crime, namely the mass criminal atrocity of genocide. It is also an exploration of great power, namely the nations who are external bystanders to the crime of genocide in violation of international criminal laws. In the spring of 1994, the impoverished country of Rwanda, hitherto unknown to wider society, suddenly became international front-page news because of genocide. Rwanda is a small, rural, landlocked country in the Great Lakes region of central Africa with few natural resources and minimal industry, primary exports being that of coffee and tea. The same is not true of its near neighbours, Uganda and the Democratic Republic of the Congo (DRC), which are rich in raw materials. Rwanda is approximately 10,000 square miles and is the most densely populated country in Africa. Similar to the experiences of so much of the African continent, Rwanda has a history of racism and colonialism and Rwanda in the post-decolonisation era has witnessed much violence, fear, mass murder and corruption.

Throughout the early 1990s, a low intensity civil war took place within Rwanda between the Hutu dominated Government of Rwanda (GOR) and the Tutsi dominated Rwandan Patriotic Front (RPF) a rebel force of Rwandan refugees who invaded from southern Uganda. The violence culminated on the evening of 6 April 1994, with the launch of a surface to air missile, which struck the plane carrying the President of Rwanda, Juvénal Habyarimana as it descended into Kigali airport causing the plane to crash killing all onboard. In the one hundred days following the plane crash, hundreds of thousands of people became victims of genocide in Rwanda. Most estimates of the death toll are between eight hundred thousand and one million people. An exact count will never be known. The Tutsi-dominated Rwandan Patriotic Front (RPF), the political face of the Rwandan Patriotic Army (RPA) defeated the genocidal government's Rwandan armed forces (FAR), ending the genocide. All serious observers and certainly all international courts have universally declared the events of April to July 1994 in Rwanda genocide fulfilling the criteria to be defined as such by the United Nations Genocide Convention.

There is a consensus globally that the international community 'failed' Rwanda however Snow argues that 'after more than fourteen years of systematic disinformation about Rwanda, there exists a collective ignorance about what really happened and who is responsible'

(2008). By utilising documentary evidence and interviews, this thesis provides a detailed insight into the role of the British and French governments as bystanders to the genocide in Rwanda of 1994. Imperative to this thesis is to establish whether the foreign policies and decision-making processes of the powerful actors of the institutional bystanders both before and during the period of the Rwandan genocide are describable as adhering to the interrelated goals of maintaining power status and ensuring economic interests in key areas. If as hypothesised this was established to be the case, is this compatible to the contracting parties' legal obligations in terms of the Genocide Convention and International Law in general?

This thesis explores the complex historical interrelations between colonialism and genocide, and includes a socio-legal study of the available international criminal law pertinent to genocide. As such the definition of genocide in terms of the 1948 United Nations Convention on Genocide which defines genocide as a crime in terms of international law, is useful herein, and will be the definition adhered to throughout. The thesis will explore the utility of the concept of state crime and international law for understanding and responding to the bystander crimes of external nation states during genocide with a detailed examination of overt acts and crimes of omission as complicity in genocide.

The neologism of genocide

Kuper (1981/2002: 52) has argued that many genocidal conflicts are:

'a phenomenon of the plural or divided society, in which division persists between peoples of different race or ethnic group or religion, which have been brought together in the same political unit. Colonization, in its arbitrary delineation of metropolitan domains, has been a great creator of plural societies, and there has been much genocide in the process of decolonization or as an early aftermath of decolonization'

There is no indication as to where or when the first genocide occurred, the evidence from antiquity being contradictory, ambiguous or missing, albeit 'coarseness and brutality of human existence' has manifested itself throughout much of history (Chalk and Jonassohn, 1990: 7). Kuper (1981/2002: 48) makes reference to 'horrifying genocidal massacres' in the eighth and seventh centuries BC in the Assyrian empire, in addition to accounts of the many

genocidal conflicts in the Bible and in the chronicles of Greek and Roman historians when he stated 'the word is new, the crime ancient'.

In a 1941 BBC radio broadcast, the British Prime Minister Winston Churchill described the actions of the Nazis in Europe as 'a crime without a name' (Power, 2002: 29; Elder, 2005: 470). Two years later, Raphael Lemkin, the Polish Jewish specialist in international law and founding figure of the United Nations Genocide Convention (UNGC), created the neologism of 'genocide' to express, 'the use or a user of deliberate, systematic measures such as killing, bodily or mental injury, unliveable conditions, prevention of births, calculated to bring about the extermination of a racial, political, or cultural group or to destroy the language, religion, or culture of a group' (Elder, 2005: 469).

There is no crime in the twentieth century that has been more costly, more devastating, and more global in its impact than genocide¹, which undoubtedly presents one of the most complete and glaring illustrations of the violation of international law and the laws of humanity (Lemkin, 1944/2002: 38).

The concept of state crime

Historically, criminology's main area of concern has been with conventional crimes, a matter that is 'replicated in journal publishing across criminology' (see Tombs and Whyte, 2003: 5-7). Cohen (2003: 548) is a firm believer that 'the extension of criminology into the terrain of state crimes can be justified', and the necessity of including state criminality in the field of criminology, on the grounds that the consequences of state crimes are more widespread and destructive than conventional crime, have been successfully argued (Barak, 1991).

The study of state criminality is by definition a political enterprise that includes the study of power, ideology, law, and public and foreign policy. Michalowski and Kramer (2006: 3) have argued 'there is neither economics nor politics: there is only political-economy' yet despite the enormous costs of economic and political wrongdoing, those who study crime have

¹ Despite a wealth of excellent scholarship on definitions, genocide remains a deeply contested concept with a lack of unanimity about its core definition (Charny, 1999; Alvarez, 2001; Straus, 2001; Rittner et al, 2002, Charny, 2003:23). Despite widespread dissatisfaction amongst genocide scholars with the definition adopted by the 1948 United Nations Genocide Convention (Chalk and Jonassohn, 1990: 44-45), the document is useful in that it acts as a benchmark and an important place to begin a review of definitions.

devoted little attention to the harms emanating from the misuse of political and economic power.

In his 1989 ASC presidential address on state-organized crime, Chambliss highlighted how states can be crucial in the organization and support of activities that violate their own laws and international laws to advance their broader political and economic ambitions (see Chambliss 1989, 1995). Chambliss (1995: 9) stated that the remit of criminology should include violations of international treaties, which is of relevance to this thesis with its focus on international criminal law and the United Nations Convention on the Prevention and Punishment of Genocide (UNGC).

Because of pressure from a few notable commentators who argue that the focus of criminology should also be firmly on state criminality (Schwendinger & Schwendinger, 1975; Cohen, 2001, 2003; Tombs and Whyte, 2003: 4; Green and Ward, 2004), criminology has, over recent years, built a body of theory and data, focused on understanding crimes of states. Indeed, the *British Journal of Criminology* (45:4, 2005) and the *Journal of Critical Criminology* (17:1, 2009) recently published special issues dedicated to state crime. The establishment of state criminality in the field is therefore undisputed albeit there is continued disagreement over definitional issues.

Long-standing debate within criminology about the scope and subject matter of state crime is reflected in the polarity of definitions of the concept, which locate breaches of the law by states at one end of the spectrum, and definitions based on non-statutory breaches of human rights at the other.

Humanistic criminologists have presented a definition of state crime whereby any institution in society that tolerates and/or promotes violations of human rights is criminal irrespective of whether it is an individual, a corporation, or the state that do the depriving (Schwendinger and Schwendinger, (1975: 134). Cohen (2001: 542) views such an assertion as problematical, and argues that the Schwendingers 'missed an opportunity to deal with the core issues of state crime' and spawned a substantial problem, detrimental to the field, by seeking to include a broad spectrum of rights within the realm of criminology. 'Food, shelter, clothing, medical services, challenging work and recreational experiences' were annexed with 'security from predatory individuals or repressive and imperialistic social elites', as rights to be distinguished from 'rewards or privileges'. Genocide and economic exploitation were offered

as examples of socially injurious actions (Schwendinger & Schwendinger, 1975: 133-134). Green and Ward (2000: 104) agree with Cohen's criticisms, arguing that presentation of such a definition endangers obfuscation of the significant distinctions between social harms such as a government failing to ensure appropriate shelter for a society and the more serious human rights abuses including genocide.

At the other end of the spectrum is Chambliss's legalistic approach that limits conceptions of 'state organised crime' to 'acts defined by law as criminal, and committed by state officials in the pursuit of their job as representative of the state' (1989: 184). The use of international law constitutes a substantial footing for defining state crime including as it does a solid legalistic foundation. It must be acknowledged that definitions of state crime are many, and Green and Ward (2004: 2) provide one of the most coherent and considered criminological frameworks for understanding state crime, however, this thesis will limit its sphere of interest in state criminal activities to those that are unambiguously in breach of international law.

Criminology and genocide studies

In light of the increasing pervasiveness of genocide in the twentieth century (Power, 2003; Mann, 2005), it is perhaps surprising that genocide studies have tended to be the remit of historians and theologians. Social scientists rarely turned their attention to the study of this particular type of criminality until the 1970s (Fein, 1979a; Horowitz, 1982:3; Bauman, 1989:3, Fein 1993:5; Fein, 2002:75). Hirsch (1995: 75) suggests that even today sociological attention to this topic has, at best, grown from almost nonexistent to barely existent. Alvarez (2001: 4) believes that this may be 'because of a perception that [genocide] is a foreign phenomenon, exclusive to other societies and times'.

Yacoubian (2001) accuses criminologists in particular of paying little attention to genocide (2000) whilst Alvarez finds it 'remarkable' that there have been no specific criminological explanations applied to genocide even though it has been defined as a crime by various organizations, such as the United Nations, since the 1940s. Raphael Lemkin, the 'founding father of the Genocide Convention' is, according to Hagan et al (2005: 526), barely known to today's criminologists, bearing echoes of the difficulties which Sutherland encountered in convincing scholars and citizens that white-collar crime was crime (Sutherland, 1940, 1945 cited in Hagan et al, 2005: 527). In a similar tradition to Sutherland, this thesis aims to bring genocide to a criminological audience.

The role of the bystander

The examination of the role of bystanders, and even the definition itself, has been relatively neglected by academia with the exception of moral philosophy, which generally identifies bystanders as individuals present at the locus of an event or crime. In what can be viewed as a somewhat innovative concept, Cohen (2001: 17) has argued that 'whole governments' and the 'international community' can be deemed to be bystanders, thereafter developing the term 'bystander nation' to describe the lack of response by Allied governments to early knowledge about the unfolding destruction of European Jews during World War II. It has been argued by moral philosophers that 'the bystander who reacts with non-reaction, with silence in the face of killing, helps legitimize that very killing' (Vetlesen, 2004:529) which is worthy of deliberation when exploring the response of the international community to Rwanda's genocide.

This thesis discusses a body of literature on the topic of bystanders, with the objective of further developing Cohen's concept of the 'bystander nation' as a framework to examine bystander crimes by external nations in the context of the Rwandan genocide. By utilising this framework, it is hoped to not only illuminate potential criminal conduct by bystander governments who are wilfully blind to, or refuse to intervene in, distant conflicts for which they may have indirect responsibility, but to also understand why such decision were reached. Cohen (2001: 162) suggests that wilful blindness to criminal conduct by nation states can be explained in terms of national self-interest; the view that the nation-state is not a moral agent with moral obligations; direct involvement and collusion (arms, training, equipment); and reluctance to infringe the doctrine of national sovereignty along with the popular sentiment that these are indeed other people's problems.

Aim of study

Although historians, political scientists and international jurists have contributed greatly to understandings of international crime, this thesis argues that criminology has an important contribution to make also, and as such it approaches its criminological study of international law by utilising the concept of state crime to understand and respond to institutional bystander crimes of complicity in genocide in terms of international criminal law. The thesis

undertakes a socio-legal approach in the analysis of the available international criminal law pertinent to genocide, addressing unavoidable socio-legal questions in respect of the context of genocide and the influence of powerful institutions. This thesis will explore the limits of legal and academic understandings and the idea of complicity in genocide, and particularly complicity as a bystander to genocide.

The aim of this thesis is; to gain a greater insight into the crime of genocide by illuminating the responses, actions and ultimately the role of the powerful government actors from those nations external to the country of genocide, who are contracting parties to the United Nations Convention on Genocide with a particular focus on the governments of the United Kingdom and France; to establish what drives the foreign policies of such external bystanders when confronted with genocide; and to explore the impact of colonialism on genocidal conflict with the objective of concluding whether the genocide of Rwanda in 1994 requires to be understood in terms of the country's colonial history.

Summary of chapters

This thesis is divided into 7 further chapters:

Chapter 2 is the methodology chapter which detailed how the empirical study was approached and conceptualised and includes justification for the choice of a case study research design and qualitative methods of data collection. Finally the techniques and tools which were used in the interpretation of the data were briefly presented.

Chapter 3 of this thesis provides an overview of the literature pertaining to the historical interrelationship of colonialism and genocide before providing rich detail of the historical, social, political and economic context of developments in Rwanda throughout the late nineteenth and twentieth century, exploring pre-colonial, colonial and independent Rwandan society in an effort to establish a truth regarding ancient internal relationships and the impact of the socially constructed racist categories introduced by Rwanda's European colonisers.

Chapter 4 provides an overview of the literature pertaining to societal and political developments in Rwanda over the previous two decades, highlighting both the formal and informal changes within the country, from late 1990 onwards, in response to the ongoing civil war between the Rwandan Patriotic Front (RPF) and the Rwandan Armed Forces (FAR), culminating in the assassination of President Habyarimana and genocide in 1994. In addition

to providing a descriptive account of genocide in Rwanda, this chapter discusses responsibility for the genocide; responses to the genocide; and crimes of the RPF. As such this chapter provides a comprehensive overview of the key issues of this thesis and shall provide the framework for the subsequent analysis of the role of key nation states in the genocide of 1994 in Rwanda.

Chapter 5 initially draws upon existent literature of ‘the bystander’, before proceeding to a socio-historical discussion of the development and implementation of international criminal law as both a body of proscriptive law and social control. This chapter thereafter discusses in detail the extensive deliberations on the viability of states being held accountable for breaches of international law, including international crimes and delicts arising from state acts.

Chapter 6 endeavours to conceptualise compliance in genocide by a European colonialist state in a post-colonial era by exploring ongoing legal debates in relation to French complicity in the Rwandan genocide. This chapter outlines the post-independence political and military relationship that France nurtured in Rwanda, with a particular focus on the period from 1990 to the genocide of 1994. To aid this thesis, this chapter affords an analysis of primary data from the author’s own fieldwork in Rwanda and secondary data drawn from various sources

Chapter 7 This chapter explores British foreign policy in some detail with regards to its colonies in Africa, and necessarily includes the ‘special relationship’ between the United Kingdom and the United States in both the Cold War and post Cold War eras. British interests in central Africa including Rwanda and Uganda are discussed and thereafter this thesis critically examines British foreign policy in Rwanda during the period of the genocide. This is achieved by an analysis of the reliable and relevant intelligence and information that was in possession of the British government before and during the genocide and thereafter detailing the options available to the government, what their responses were and their explanations for same.

Chapter 8 This chapter is the concluding chapter to the thesis and discusses the analytical research findings and the ability of this thesis to achieve the aims demanded. Strengths of the research are alluded to including the importance and implication of this thesis in the field of

state crime, the aspects of the research which may be considered original and novel and opportunities for future research.

The conceptualisation of this thesis was inspired by the rigorous analytical research of Alison Des Forges, an African historian and human rights activist who at the time of her sudden death on 12 February 2009, was the senior advisor for the African continent at Human Rights Watch. Her speciality was in the Great Lakes region, but she had a particular expertise of the 1994 genocide in Rwanda with a combined breadth of knowledge, clear analysis and depth of historical understanding otherwise unknown by any outside observer of Rwanda. As a result she was able to draw strong conclusions from her careful and full consideration of the data and her investigation *Leave None to Tell the Story* (1999) is the most wide ranging, thoroughly researched and reliable source of information on the 1994 genocide. The scope of Alison's research enabled her to see what is intangible to the majority, namely both sides of the genocidal coin including cease-fire violations, human rights abuses, killings and other abuses committed by the RPF before, during and after the genocide.

A concern of Des Forges was that explanations of the genocide readily pathologized the Hutu of Rwanda as the protagonists of the mass atrocities despite the violent mode of management, discriminatory practices and large numbers of civilians killed by the Tutsi dominated RPF. Rwanda's 'new friends', in particular, the United Kingdom, the United States and the Netherlands, squarely supported the RPF, reasoning in terms of "good guys" and "bad guys", the RPF naturally being the "good guys".

By utilising a framework of state crime, this thesis aims to produce a more complex and layered understanding of both sides of the genocide coin, in the spirit of Alison Des Forges.

CHAPTER TWO: A QUALITATIVE INVESTIGATION OF RESPONSES TO GENOCIDE

RESEARCH DESIGN

It was apparent from the conceptualisation phase of the project that the questions of concern enveloped a particular facet of the social world and how it was interpreted, understood, and experienced, and would necessarily include the 'texture and weave' of everyday political life (Mason, 2002:1). It was therefore essential for the methods of data generation to be both flexible and sensitive to the social context in which the data relevant to this thesis was produced, and to facilitate the systematic and rigorous discovery of evidence in a non-rigid and unstructured manner. Not only did this thesis require an examination of political life through interviews with former United Nations officials and British politicians (Appendix A) and an exploration of official and unofficial documentation, it also required an insight into the experiences of the survivors and victims of the genocide in Rwanda which was achieved through personal interviews during fieldwork in the country and gathering of official and unofficial documentation of the crimes committed in the mountainous area of Bisesero, Rwanda during the genocide of 1994. The majority of these interviews and documentation were in the French language which I learned via intensive teaching for the purposes of this project.

Case-study approach

"The essence of a case study, the central tendency among all types of case study, is that it tries to illuminate a decision or set of decisions: why they were taken, how they were implemented, and with what result" (Schramm, 1971, cited in Yin, 2003)

Having selected an appropriate methodology for investigation and validation of the topic, a natural progression was to select an all-encompassing research strategy that embraces the logic of design, data collection techniques, and specific approaches to data analysis. For this purpose, I chose to utilise a case-study approach that entailed the detailed analysis of the genocide in Rwanda in 1994. A case-study is usually oriented towards 'the holistic description and analysis of the case in question rather than towards (potentially dangerous) generalisations to a wider set of cases' (Pole & Lampard, 2002: 288). Undoubtedly, the use of a case-study approach greatly enhanced 'the capturing of a process of events...provid[ing] a

useful means by which to chart ideas and develop analytical themes' (Walters, 2003: 179). When using such an approach, the data collection procedures are 'not routinized' (Yin, 2003: 58), which meant that I invested substantial energies to the complex and often difficult task of preparing for data collection as insufficient preparation could have jeopardized the entire case study investigation. Regardless of the type of study one is conducting, attention must always be paid to how the data is to be collected, independent of the form that the data might take (Rudestam et al, 2001: 97). The data must be trustworthy and I remained at all times mindful of the importance of 'auditability, credibility and fittingness' (Guba and Lincoln, 1981 cited in Rudestam et al, 2001: 98) for the purposes of triangulation when designing this thesis.

Being a study of a particular series of events at a particular time, this thesis was particularly suited to a design that was capable of being modified by 'new information or discovery' during data collection (Yin, 2003: 55). According to Schramm (1971), the 'essence of a case-study...is that it tries to illuminate a decision or set of decisions' (cited in Yin *ibid*: 12) which was appealing since the objective of our study was to establish the role of the governments of France and the United Kingdom in Rwanda before and during the genocide and the decision-making processes of same.

Furthermore it was important to my research planning strategy that the reader should be able to follow the path of the sourcing of evidence from the initial research questions to the ultimate case-study conclusions, a principle which I felt increased the reliability of the information gathered and is referred to by Yin as 'maintain[ing] a chain of evidence' (*ibid*: 105). This case-study examines the socio-historical context of Rwanda in the years before and after the genocide of 1994 in addition to the role of the French and the British government during this period. In terms of empirical methods, such explorations of the role of the French and the UK in said genocide produces two substantively different data sets and may usefully be referred to as sub case-studies of the primary case-study of Rwanda's genocide. By undertaking the case-study approach this thesis was empowered to use multiple sources of evidence concentrating on the same set of facts or findings for the purposes of triangulation. As such the evidence for both sub case-studies herein was sourced from official and unofficial documentation including Freedom of Information Requests from the Foreign and

Commonwealth Office (FCO) and testimonies of the Mucyo Commission² in addition to interviews with United Nations officials or former officials, and British politicians.

Sources of evidence: interviews

In addition to documents, this thesis was dependent on elite and non-elite interviews. Elites can be loosely defined as ‘those with close proximity to power or policy making’ (Lilleker, 2003: 207) with ‘high knowledge, high status, high expressive ability, and low accessibility’ (Da Rocha, 2005). The powerful elite interviewees of this thesis are describable as actors in positions of power within the British Government, the United Nations and/or some of its organs. These range from British government ministers of the most senior level, to civil servants employed within the Foreign and Commonwealth Office at various levels of seniority and key members of the United Nations Security Council of 1994. The non-elite interviews were of equal significance to this study and were undertaken in the city of Kigali and in the insecure mountainous region of Bisesero, Rwanda.

Traditional sociological research interview methods enable the researcher to query the respondent’s opinions and beliefs which was insufficient for this thesis. Elite interviewing was elected for this thesis in the knowledge that such a method is different from traditional sociological empirical research methods in that it has the ability to expose a set of events or historical processes hitherto concealed. Such a form of interviewing permitted interviewees to be probed on strategies and accounts of the events from their own perspective and gave the project the potential to ‘provide a richer insight into the workings of power within different organisations’ (Da Rocha, 2005) including that of powerful policy decision-makers. It was anticipated that the interviews would generate invaluable detail and as suggested by May (2001: 12), yield ‘rich insights into people’s biographies, experiences, opinions, values, aspirations, attitudes and feelings’.

² For the past twelve years, the Rwandan government has made repeated accusations against France in relation to the genocide. In April 2005, Article 2 of the Organic Law of Rwanda (2004) established a ‘Commission of Enquiry to Establish the Role of France in the Genocide of 1994’ referred to generally as the Mucyo Commission, being headed by the former Chief Prosecutor General and Minister of Justice, Jean De Dieu Mucyo. The Mucyo Commission is a domestic tribunal, made up of a seven-member panel of historians, legal experts and a senior military officer of the former Rwandan army. The Mucyo Commission gathered evidence at hearings throughout a seven day period in October 2006 and a further seven day period in December 2006, the aim being to make formal recommendations to the government of Rwanda on whether or not to take legal action against France for genocide-related damages.

After careful consideration, I elected a semi-structured and unstructured interview technique for interviews with the 'elite' and the non-elite sensitive interviews with the survivors of genocide. Choosing this technique allowed a relatively flexible agenda and increased the likelihood of a rich array of personal insights. The semi-structured approach also meant that when interviewing, I was comparatively free to change the structure of the interview as it progressed by developing open-ended questions and probing where it was appropriate and comfortable, without alienating the interviewee (Burnham et al, 2004: 215). Rubin and Rubin have suggested that qualitative interviews may have both more-structured and less-structured parts and 'vary in the balance between them' (1995:5) which was the case in the format of the semi-structured interviews of this thesis.

ELITE INTERVIEWS

Sampling

The logic when deciding on a sample for interviews was to develop a strategy that would assist in the development of a theoretically and empirically grounded argument in response to the research questions posed in this thesis, the question being *who* it would be necessary to interview, as opposed to *how many* interviews to conduct. Clearly, this is a vitally important strategic element of the research design that enabled the project to meaningfully link the data gathered in the interviews to the wider context of the project. After considering practical and resource-based issues, I was of the opinion that it was feasible to approach several key actors of the West pertinent to the decision-making process relevant to this case-study, with a view to gaining insights into the role of bystander nations before and during the Rwandan genocide of 1994. This therefore negated any requirement to utilise selective sampling; a list of sixteen key elite informants from within the United Nations, and the United Kingdom whom the literature suggested could provide meaningful data for this thesis was devised, all of whom were assured complete confidentiality.

"The reality of modern democracy is that many political decisions are taken by small groups of highly qualified and knowledgeable individuals...The shared assumptions and meanings which inform these private worlds still require exploration, and elite interviewing remains the most appropriate technique" (Burnham et al, 2004: 219).

Access is widely acknowledged as being a key difficulty for researchers of the powerful (see for example Tombs and Whyte, 2002 & 2003; Noaks and Wincup, 2004; Hughes, 1996) and indeed Williams suggests that perceived difficulties of obtaining access to respondents in 'studying the culture of the powerful' has discouraged social scientists from this field (1989: 253). Tombs and Whyte have even suggested that 'in the current political climate, the barring of access to sources of data...[is] severely limiting the ability to conduct critical research' (Tombs and Whyte, 2002: 217), gaining access being 'highly problematic' (Noaks and Wincup, 2004: 62).

Having selected the sample of key elite officials from within the United Nations and the United Kingdom, it was anticipated that difficulties may arise; firstly locating the potential interviewees, not least owing to the passage of time from the period when they held high status positions in government, civil service or the enclaves of the United Nations or its organs and; secondly, there was uncertainty as to whether they would avail themselves to interview once located. It transpired that most of the elite sample had secretaries and offices and there was little difficulty with traceability. Letters outlining the nature of the project and requesting interviews were created for each of the potential interviewees and thereafter printed on University headed paper. In the letter, the study was carefully explained, ensuring that it was correctly portrayed as a well-grounded piece of academic work. Nevertheless it was felt needful to omit the term criminology and substitute with sociology and also to change the terminology 'bystander nations' to 'international community' from the outset amid concerns that if the research appeared controversial, it may be viewed negatively by potential elite informant interviewees leading to requests for interview being refused.

Seventeen letters were mailed to potential respondents who were asked to reply by either email or post. Within a short space of time seventeen replies were received, fourteen agreeing to arrange an interview and three declining to be interviewed.

Armed with thoughts of Cox's quotation '[h]igh, but not the highest intelligence, combined with the greatest degree of persistence, will achieve greater eminence than the highest degree of intelligence with somewhat less persistence' (Cox, 1926 cited in Welsh, 1975:15), and qualities of perseverance and persistence, I wrote once again to the respondent who refused a face to face interview and requested his reconsideration of the request. He responded

positively and granted consent to a personal face-to-face interview. Additionally the two respondents who refused to be interviewed were re-contacted and also asked to reconsider their decisions. This resulted in one of the respondents rethinking their position and acquiescing to answer questions by mail. The other potential interviewee reiterated their difficulties with personal time-restraints and politely declined to be interviewed. Having established contact with elite respondents, an appropriate relationship was generated by letter or in some cases by email and/or telephone contact, so as to negotiate a mutually suitable date, time and location for a meeting. One of the respondents replied on very high quality writing paper, handwritten with fountain ink pen. It was believed that a favourable impression may be propagated by responding in a like manner and hand-made paper was used and the text hand-written in all correspondence which was commented upon and very favourably received by this particular elite informant (INTERVIEW EL/08)³.

Despite, or perhaps owing to, the historical context of this thesis, the obstacles in locating and accessing the powerful elite proved minimal. Williams argues that there is a 'pessimism' regarding the potentiality of studying the powerful (1989: 253) but based on the specific experiences of this thesis, it is arguable that although obstacles certainly do exist in some realms, the access to and opportunities of studying the powerful elite of governments is more achievable than one would perhaps envisage. Mungham and Thomas have noted that some social scientists portray an element of "defeatism" towards research of the powerful (cited in Williams, 1989: 254) arguing that 'the powerful are unwilling to cooperate, reticent to talk and protective of their privacy' (Williams, 1989: 254) when in fact this thesis discovered a receptiveness amongst the elite informants to the research. The elite respondents of the United Nations and the United Kingdom government appeared enthusiastic at the opportunity of placing their thoughts, views and observations on record although their motives may be mixed, emanating from a desire to correct what they see as misconceptions of their role and work relevant to the study. So although the research began with an expectation of minimal cooperation from the members of the powerful elite of the West this proved to be unjustified although recalling the concerns of Hillyard that '[t]here are powerful forces at work to deny and disguise the nature of state crime' (2003:208), an element of wariness was maintained by classing the research as a sociological endeavour as opposed to criminological as previously noted.

³ A list of interviewees and indication of referencing system used for interviews can be found in appendix A

Interviewing the elite

It was clear from the outset that in order to achieve the maximum potential from elite interviewing, intensive and substantial preparation of interview schedules was required (Burnham et al, 2004:211, Zuckerman, 1972:163). This involved thoroughly researching the historical context of the research questions; establishing in-depth knowledge of the biography of the elite individual and the organization or institution to whom attached at the relevant period; and studying any transcripts of speeches and statements made in the period following the genocide in Rwanda. Only after exhaustive research into each of the elite interviewees were the interview schedules drawn up which, although specific to each individual, also contained some structured questions so as to allow an element of comparability between subjects. Thorough preparation for each elite interview was a hugely time consuming task but one which ultimately paid dividends when snippets of background knowledge became visible during the course of the interview legitimizing the expenditure of time on the interview by the elite.

Over a nine month period, from August 2005 until May 2006, single interviews were carried out with fifteen elite officials of the United Nations and the United Kingdom, all interviews being conducted in London with the exception of two, one of which took place at the offices of the United Nations, New York and the other at the offices of the Department for International Development in East Kilbride, Scotland (see Appendix A). The interaction with all interviewees began with an informal conversation, usually over a cup of coffee, generally on information gleaned from biographical data, which facilitated the building of a rapport when common interests were discussed. On one occasion this involved discussing the breeding and raising of a herd of beef cattle during the interviewees childhood and the technological advances of potato farming. These introductory conversations tended to build an instant rapport without what Burnham et al have described as 'being grovelling or sycophantic' (2004:214). This rapport building conversation was followed by a brief yet detailed description of the study, being careful not to take up too much precious interviewing time.

Each elite interview was digitally recorded with the permission of the respondent using two recorders, thereby ensuring that a back up existed in case of any technical problems. These recordings gave a complete record of the meeting and did not appear to inhibit the respondent

in any way, each interview lasting from between fifty minutes to one hundred and thirty five minutes comfortably allowing all relevant data to be collected. Without exception the interviewer drew the meeting to a close rather than the elite interviewee. One of the interviewees had stipulated prior to the date of the interview that the maximum time available for the meeting was ten minutes. During the informal conversation prior to the start of this interview the time allotted was increased by the respondent to twenty minutes however such was the level of engagement between the interviewer and the interviewee, the actual interview lasted for some sixty minutes and produced rich data as did all interviews.

Although by no means disrespectful, the elite interviewees of this thesis did exude an air of authority and control over the interview to an extent that on several occasions I had difficulty in exerting any authority or 'power' over the interview. The power relations during such interviews did require careful handling throughout to cope with the challenges of interviewees pre-empting questions and changing the direction of the interview away from the agreed agenda. This necessitated the use of a combination of politeness, firmness and tact in an effort to maintain some semblance of power balance. On occasion, there was no suitable point to interrupt the interviewee and several valuable minutes were lost whilst waiting for an appropriate moment to draw the conversation back on course. However, such transgressions sometimes threw up interesting details amidst irrelevant tangents. During these diversions, I maintained an obvious interest in the response of the interviewee whilst actively seeking to re-direct the interaction back to my own agenda. It would have been unsatisfactory and non-productive to permit the respondent to entirely control the interaction and 'striking the right balance [is] one of the most difficult tasks in elite interviewing, given the balance of authority between the interviewer and the respondent, and the fact that respondents tend to do most of the talking' (Burnham et al, 2004: 214).

These interviews were transcribed within a few days of the meeting, which afforded the opportunity to note any new themes or points arising that required to be followed up in subsequent interviews but without losing sight of the original goals of the research or its central themes. The transcription phase also gave the researcher the opportunity of becoming very close to the data.

The elite interview should not be underestimated as it is a personally exhausting process not only in terms of the actual 'face-to-face interview' but also in terms of the intensive

preparation involved, and the distances one must be prepared to travel in order to access such persons. Accessing the elite for the purposes of this thesis required international flights to Rwanda (see Appendix B) and the United States and numerous domestic flights, lengthy train journeys and overnight stays in London. Copious hand written notes were taken throughout both field trips to Rwanda in 2005, the visit to New York and the six field trips to London. In addition, a research diary was kept which included my reflections on each days processes and my inner most feelings towards those being interviewed – both the elite of the West and the people of Rwanda. The elite interview EL/24 was undertaken by means of written communications and completed in July 2007.

THE RWANDAN INTERVIEWS – VICTIMS AND SURVIVORS

Sampling – a hidden population

From a holistic perspective, it was important that this thesis should also look at the experiences, memories and perceptions of a sample of the people of Rwanda who were survivors or victims of the genocide of 1994. In deciding which categories of the Rwandan population were to be studied I undertook a form of theoretical sampling initially introduced by Glaser and Strauss in the 1960s, which involved selecting groups or categories to study on the basis of their relevance to the research questions posed in the study and the argument being developed by the project.

Once the relevant categories of Rwanda's population had been selected, the next challenge was to identify potential respondents within a distant third world country. Letters, faxes and electronic mail directed to Rwandan government offices and other contacts received no response. The lack of detail of the target population in Rwanda suggested it to be something of a 'hidden population' (Salganik and Heckathorn, 2004: 195) however an important attribute of such a population is that 'they are made of real people connected in a network of relationships' (Salganik and Heckathorn, 2004: 196). I was of the opinion that if it was established that such networks did indeed exist, I would hopefully be in a position to recruit appropriate participants by recommendation. Such a method is sometimes called 'snowball sampling', a name attributed to Coleman (1958).

An exploratory research trip to Rwanda was planned for June 2005. In an effort to reduce the uncertainties, prior to arriving in Rwanda as much detail as possible was established about the

country from both historical accounts, current newspaper accounts and the Bradt travel guide to Rwanda. Due to time restrictions, learning the indigenous language of Kinyarwanda was not feasible however, being aware that many native Rwandans spoke French as a second language, an intensive course in the French language was undertaken. It should also be noted that English is the first language of many members of the current Rwandan government as many of those are persons were raised in Anglophone Uganda and Kenya and have returned to Rwanda from exile.

Access in Rwanda

With the aims and objectives of this thesis in mind, it was evident that useful data could be gathered if access to former members of the rebel RPF, who were now the political party in power in Rwanda could be negotiated during my time in Rwanda. Having established a mobile telephone number for a senior member of the current Rwandan government who was also a former member of the RPF during the genocide, I was able to make direct contact and arrangements made to interview. Having established a rapport with this one particular member of the Rwandan Government I was given access to the contact telephone numbers for others suited to my required category, all of whom agreed to interview (Appendix B).

Frequently, whilst conducting these interviews, the discussion would turn to Rwandan politics. These occasions had to be handled with the utmost sensitivity with the interviewee being tactfully guided back to matters of significance to the project. All interviewees with the exception of one permitted the meeting to be recorded. These recordings were kept in a secure location and transcribed over a four-month period after returning from the field.

Once again, considering the research questions posed in the study and the argument being developed by the project, it was clear that a 'hidden population' located in the mountainous habitat of Bisesero in south west Rwanda were a suitable category for interview. This entire group of people were victims and survivors of the genocide and were the only 'pocket' where there was staunch resistance to genocide. This group, in addition, had encountered the French intervention of Operation Turquoise (this operation is discussed in detail in the following chapter). It was anticipated that such a group would have relevant information and rich detail for the purposes of this thesis should they be willing to participate and as such were a relevant category of study.

Interviewing in Rwanda

Having been reliably informed that the hidden sample of Bisesero only spoke the indigenous language of Kinyarwanda, I made arrangements for a Rwandan driver, who was an employee of a local Non Governmental Organisation (NGO) as a translator on an ad hoc basis, to take me on the long journey to Bisesero the following day. There are no telephones in the mountains of Bisesero, and I arrived in the vicinity unannounced after a hazardous and lengthy journey through mountainous land.

Having explained the reason for my visit, I was overwhelmed by the warm welcome I received and the enthusiasm the group had for my study perhaps because in the eleven years since the genocide, I was the first academic researcher from the West who had visited the area. I later received unconfirmed reports from NGO's that the area continues to be susceptible to outbreaks of violence and is deemed insecure for Western visitors.

The vast majority of the people of Bisesero are adult males owing to the women and children having been less able to escape the génocidaires of 1994 over the rough terrain of the mountains and being killed at the hands of the militia. Indeed I saw no women at all during my day visiting the mountains. Several of the men of Bisesero indicated their willingness to share their experiences of the genocide with me on the understanding that I in return would visit their genocide memorial first. I was thereafter led to a wooden shed like building with a corrugated iron roof which was locked and it was explained to me by my translator that the invitation was something of an honour. Inside the small building lay the remains of thousands of the victims of genocide. In 1996, some two years after the end of the genocide, the men of the 'hill of resistance' scoured the different hills and valleys and gathered all the bones and skulls into one place with the intention of one day burying them with dignity. That day has yet to arrive and the building generally stays locked to mourners.

On leaving the building, the inhabitants began to come forward to tell me of their experiences in Bisesero during the genocide of 1994. These unstructured conversations were translated to me verbatim. I was unable to take hand written notes at this time due to the sensitivity of the topic and the risk that note taking may cause offence. These significant conversation style interviews were recorded and the translations provided in the field verified with a Rwandan speaker on my return to the United Kingdom (see appendix C)

During this summer fieldtrip to Rwanda a total of twenty interviews were carried out with survivors of varying backgrounds and categories. All those interviewed were selected randomly on their willingness to discuss an event which remains extremely traumatic to each individual with the interviews being unstructured and conversational in style. These interviews provided me with an insight into the impact that the lack of early intervention to either prevent or stop Rwandan's genocide on the grassroots people of Rwanda. Not all this detail was relevant to this academic study. The interviews analysed are noted in Appendix D. It is acknowledged that due to the context of the research phenomenon under study and the continuing deep-seated emotions, the information gathered in the field in Rwanda has been treated critically and reflexively as to its accuracy and reliability.

During this period I had also established a rapport with a senior member of the Rwandan Government, namely the Minister of the Interior, Joseph Mutaboba, who was a previous Rwandan Ambassador to the United Nations. He proved to be a willing key informant who had the authority to negotiate my access to prisoners who were allegedly leaders and organisers of genocide. As such, arrangements were made for a return field trip to Rwanda in December 2005 and I made the necessary negotiations for the same professional Rwandan translator from the Bisesero visit, to accompany me when undertaking interviews within the prisons when I returned in a few months time as the majority of these people only spoke the indigenous language of Kinyarwanda.

During this initial exploratory field visit, the opportunity presented itself for cultural immersion that included the observation of the daily routines and difficulties faced by survivors of genocide; the impact of the responses to the Rwandan genocide of 1994 by the international community; and the development of infra-structure in Kigali. Mason argued that the belief that 'everything we are interested in exists in language or text...can be argued to be a rather limited and uncreative one' (2002: 104) and my cultural immersion and observation allowed me to acquire 'a multidimensional perspective on a phenomenon' (Mason, 2002:103) that was personally enriching.

The politics of translation

Within a few hours of arriving in Rwanda in December 2005, I was summoned by telephone to the government offices of the Chief Prosecutor at the Parquet General in the capital of Kigali. On my arrival and without consultation, a translator was allocated to my project by a

government official who was a lawyer in the Rwandan domestic Supreme Court. I realised very quickly that this person was not a trained translator and I strongly suspected him of being in the employ of the government, his role being to maintain observations on the progress of my study and hidden agenda's I may be harbouring.⁴

Very few researchers note in their methodologies the effects of having to employ interpreters and translators in research projects with little written about their involvement in research interviews. Language difference and the use of third parties in communication across languages did have implications for this thesis as 'there is no one correct translation...the translator is like Aladdin in the enchanted vaults: spoiled for choice' (Bassnet, 1994 cited in Temple & Edwards, 2002: 1). During the field trip, the three basic problems which arose from the use of this interpreter were observable namely 'the interpreter's effect on the informant, the interpreter's effect on the communicative process, and the interpreter's effect on the translation' (Kluckhohn, 1945, cited in Phillips, 1960: 297). The interpreter effect in this instance was greatly enhanced as a result of continuing divisionism and security concerns restricting what the interviewee was prepared to divulge in the presence of a person they could clearly identify as being in the employ of the government. I can whole heartedly agree with Temple's assertion that the use of translators and interpreters 'is not merely a technical matter that has little bearing on the outcome. It is of epistemological consequence as it influences what is "found" ' (1997: 614).

The translator was quite overt in his methods of monitoring both me and my research. He continually directed me away from my chosen respondents and instead would introduce me to 'interviewees' who would provide the mythical and politically correct version of the history of the Rwandan genocide as portrayed by the current government (see Chapter 5). This was despite my repeated intimations to all respondents that the research agenda did not include Rwandan politics which was the case at that period of time. The translator insisted on being present during all my meetings whether the services of a translator were required or not and in spite of my protestations. This clearly allowed the content of all conversations to be reported back to the government including the identities and responses of participants with whom contact had been arranged other than through the translator or key government officials.

⁴ It was later confirmed to me by a reliable source that this person was indeed a Rwandan intelligence officer.

It was also evident that the translator was introducing a political agenda into each interview from the responses given by the interviewees. With Rwandan dissidents reportedly being exiled or killed by the current government (Human Rights Watch, 2005, Amnesty International, 2006), it became clear that if the research process was to continue in Rwanda it was imperative that it was continued out with the presence of the government allocated translator. I also suspected that my telephone conversations and email transmissions were being monitored, a point which was confirmed by a lawyer and member of the Rwandan government at a later date. Devereux and Hoddinott (1993: 3) have noted that '[t]hird World governments are frequently suspicious of Western researchers' often suspecting that a fieldworker's conclusions will be critical. Considering the history of Rwanda throughout the twentieth century, this position is perhaps quite understandable.

Having concluded that the interviews undertaken with the government employed translator were not viable, I took steps to evade the translator/gatekeepers control and created a position whereby the project could continue without the requirement of the translator. Taking such an assertive step against the wishes of the Rwandan government caused fear and anxiety.

I had previously been granted an interview with a prisoner who was a former government official of the genocidal Rwandan government regime of 1994 who was in prison awaiting trial on charges of rape and genocide. This person was deemed to be one of the leaders and organisers of the genocide. Assurances of safety were sought and given by the prison governor. On my arrival at the entrance to the prison my immediate access was restricted by a length of rope that was lowered by the guard on duty on production of my official letter of authority to enter the prison. The interview with the prisoner lasted for two hours and fifteen minutes. Despite being within the grounds of an overcrowded prison with several hundred prisoners in identical pink uniforms milling around and no sign of prison guards in attendance, at no time was there any sense of danger. Moreover the atmosphere within the area visited by the researcher was one of cordiality between the prisoners, prison governor and prison guards when seen. This air of geniality was unexpected in an environment where the majority of those present have been convicted of crimes of extreme violence and multiple deaths. This interviewee was a French speaker and as such I was able to undertake the interview unhindered. The air of geniality quickly dissipated on leaving the prison and my state of fear and anxiety was such that I made a decision to leave Kigali on an early flight and returned to the United Kingdom with little data having been gathered.

Dangers abroad

"Some settings or aspects of social life are easier to research than others"
(Lofland & Lofland, 1984: 17)

The research process raised two types of danger namely 'ambient' and 'situational' (Lee, 1995:3). Ambient danger arises when there is exposure to otherwise avoidable dangers simply from having to be in a dangerous setting for the research to be undertaken. Situational danger arises when the researcher's presence or actions evoke hostility, aggression, or violence from those within the setting. Clearly this thesis is an investigation of a sensitive topic and Lee argues that research involving sensitive topics is a threatening exercise capable of trespassing 'into areas which are controversial or involve social conflict' (Lee, 1993: 4). Rwanda is ultimately a country recovering from violent conflict, civil war, and genocide and deep divisionism remains within the country. There are some inhabitants of Rwanda who demonstrate a deep hatred and paranoia of western academic researchers, journalists and human rights activists having experienced unrelenting attentions of a profoundly amateur and exploitative nature since the genocide and as such, risks inherent in fieldwork were not to be ignored. Potential hazards and dangers associated with the fieldwork in Rwanda were evenly distributed across a spectrum of 'unlikely to occur' to 'a significant possibility of being at risk from' (Lee, 1995:1). Some examples of these risks include being in the field in the event of a recurrence of civil war or resurgence of ethnic conflict; illness through parasitic/infectious diseases; emotional trauma; sunstroke; injury or death because of vehicular trauma or some other accidental injury due to an overwhelming neglect of health and safety precautions in the country.

One observable risk encountered during the first field trip to Rwanda in June 2005 was from an intoxicated, armed and lone police officer who had set up an unofficial roadblock on the western approach road into the city of Kigali. This roadblock was encountered whilst I was being driven back to the city of Kigali late one evening after carrying out the Bisesero interviews in the south-west of the country close to the border with the Democratic Republic of the Congo. The Rwandan driver of my vehicle had no option but to stop the vehicle. The area was unlit and uninhabited and the Rwandan police officer became increasingly agitated,

argumentative and aggressive towards the driver, the situation being even more alarming by my lack of understanding of the Kinyarwandan language being spoken. Recognised police procedures were flaunted, and I was threatened with arrest since I was not in possession of my passport, which is not in fact a legal requirement in Rwanda. The situation only reached a safe conclusion as I was able to summon local assistance by discreetly sending a text message via mobile telephone to a key government informant advising them of the threatening situation which had arisen whilst the driver distracted the rogue police officer outside the vehicle. The matter was resolved when assistance arrived within a short space of time and we were allowed to continue our journey back to my accommodation.

Despite the transparency of the aims of this thesis and assurances to all respondents that the project was not concerned with the current or historical politics of Rwanda, one of the situational dangers faced by the researcher during the second field trip to Rwanda was the current governments fear of exposure of a history of the genocide not in keeping with their own politically correct version of the history to the genocide (see Hirsch, 1995). Some Rwandan government officials displayed a tangible fear of exposure of historical and current abuses of human rights (Human Rights Watch, 2005: 150-155). Such exposure has previously resulted in academics, journalists and human rights workers being 'eliminated' (Reyntjens, 2004: 177) or 'expelled' from the country by the Rwandan government who 'has created a veneer of stability by suppressing dissent and limiting the exercise of civil and political rights' (Human Rights Watch, 2005: 150).

It is imperative that such risks and dangers are not allowed to dictate research agendas and deter researchers from investigating particular topics or working in particular regions when careful planning of strategies can negate the majority of dangers in the field. It is also important not to assume research in dangerous settings is impossible (Lofland & Lofland, 1984: 17). During the research design it was established that there are many useful methodological considerations on how to reduce risk to the social researcher in the field who may be in danger (Lee, 1995: 63), including caution, restraint and at all times political sensitivity (Green and Ward, 2004: 169). The element of danger involved in undertaking research in Rwanda was approached with foresight and planning with strategies being adopted to manage potential hazards both to the researcher and to those being studied.

Concerns about the health of the researcher rarely appear in the sociological literature although clearly undertaking research in a developing country exposes one to a greater number of hazards than working in Europe or North America for example (Devereux and Hoddinott, 1993: 14-15). In Rwanda, water and sanitation systems are not well developed with open sewers having to be negotiated whilst walking throughout the city and villages and as such, the risk of contracting infectious and parasitic diseases was quite real. I addressed health issues by ensuring that all necessary vaccinations and medication were arranged in advance of the field trips, purchasing good medical insurance including rapid evacuation if required, and taking my own emergency first aid kit which included syringes and sterile needles. On arrival in Rwanda, I immediately registered with the British embassy and noted the location of the local health facilities.

Apart from disease there was as substantial risk of injury when travelling in vehicles in urban or rural location as vehicles were without exception in extremely poor condition. The standard of driving was poor although vehicles in the urban areas did not tend to travel at excessive speeds. Howell states that vehicle accidents account for most of the serious injuries and deaths that field workers experience (Howell, 1990, cited in Lee, 1993:67). As a matter of necessity, I spent several days travelling in a poorly maintained vehicle, into remote mountainous areas of Rwanda on badly rutted roads with frequent unhindered drops into gorges and ravines. These particular hazards were negotiated by my personal selection of drivers who had demonstrated the most proficient driving skills whilst being driven within the city.

SOURCES OF EVIDENCE: DOCUMENTS

Many of the early sociologists such as Marx, Durkheim and Weber used documentary research in their studies and it has remained 'an important stand alone research tool as well as being an invaluable part of most schemes of triangulation' (Macdonald, 2001; 194). The most common distinction made by historians is that between sources; 'primary sources' consist only of evidence that was actually part of or produced by the event in question; 'secondary sources' consist of other evidence relating to and produced soon after the event; and 'tertiary sources' consist of material written at a later period to construct the event (Lichtman and French, 1978:18). Classification is not always neat and simple however, with some documentation fulfilling criteria of more than one of these classifications.

Sydney and Beatrice Webb, the founders of the London School of Economics, were of the opinion that 'the aim of the investigator must be to consult original sources as distinguished from writings based on such sources' (Webb and Webb, 1932:100), stating that there can be no substitute for actually handling the primary documents themselves 'or an exact verbatim copy' (Webb and Webb, 1932:107). The Webbs were of such a strong opinion of the necessity of dealing with primary documents that they concluded that should such documentation remain inaccessible, a thorough study of the subject would be rendered impossible. This is a point disputed by Scott who believes there are a number of problematic features in such a purist argument and a more adequate approach to documentary sources is the adoption of a flexible view of the value and merit of documents, giving due merit to secondary and tertiary sources before looking in depth at primary sources (1990: 12). It was such a flexible approach which was employed herein.

Access to documents

The ease with which access was negotiated to the interviewees of this thesis was not the finding with regards to accessing documentation. Hughes (1996) points out that 'gaining access to information while conducting criminological research is an ongoing process of negotiating and renegotiating' (cited in Walters, 2003: 103) as became apparent in efforts to obtain official documentary evidence from the NGO Oxfam UK and the British Foreign and Commonwealth Office (FCO).

Despite previous assurances of unproblematic admittance to the Oxfam documentary archive in Oxford, access was refused without satisfactory reason. It was only at the conclusion of a lengthy dogged pursuit by letter, email and telephone that the requested documentation was forthcoming and forwarded by the Oxfam archivist who it appeared was in this instance the gatekeeper; that is '[the] individual ... that [has] the power to grant or withhold access to people or situations for the purpose of research' (Burgess, 1984: 48). Such reluctance to permit access to relevant documentation can perhaps in part be explained by a former Oxfam worker who states:

"[w]ith a plethora of new organisations now in the lists, profile is all, and accentuating the positive becomes a 'must'. This is particularly important for those agencies that depend heavily on official funding, since governments want to support organisations that are doing highly visible

work. Even an agency like Oxfam, which draws most of its long-term funding from the British general public, is far from immune to such pressures” (McIntosh, 1997: 467).

Sharply contrasting the constraints placed on access to documentation by Oxfam UK was the response of the International Committee of the Red Cross (ICRC) when contacted at their headquarters in Geneva by electronic mail. Within a few days of presenting the research project to the ‘gatekeeper’ at the ICRC in Geneva and submitting a verbal request for access to applicable documentation, the gatekeeper unreservedly mailed all the documentation required free of charge.

Many of the most useful primary documents for the purposes of this thesis are defined as ‘public records’, being ‘records of, or held in, any department of Her Majesty’s Government in the United Kingdom’ (Public Records Act 1958 c. 51) and as such fall under closure regulations usually of thirty years’ duration and are only accessible prior to this time if they fall to be disclosed within the Freedom of Information Act 2000. Price (1997 cited in Walters, 2003: 104) has argued that ‘fieldwork that relies on the Freedom of Information Act remains fraught with difficulties’ due to the often lengthy periods involved in processing requests and ‘it is common that requested information is blacked-out on receipt’. An initial request to the Foreign and Commonwealth Office in London for release of documentation pertinent to this Thesis was declined. After further more specific applications, a rapport was established with a member of staff from the Africa Desk of the Foreign and Commonwealth Office, London. This contact proved sympathetic to the needs of the study and was most helpful in negotiating release of documents. Despite this however, a vast amount of documentary evidence of significance remain classified by the Foreign and Commonwealth Office disclosure being refused in terms of the Freedom of information Act. The reason provided for such refusal is that the release of such information has the potential to jeopardize relations between the United Kingdom, France, Rwanda and Uganda. The written response explaining this decision has been noted in full below.

“We consider that the release of some of the information you are requesting would be likely to prejudice relations between the United Kingdom and other States under Section 27 (1)(a) – International Relations – relations with another State. This exemption requires the balance of the public

interest test” (Letters in possession of author date 6 July 2006, 7 September 2007). “While we acknowledge there is a public interest in the release of information on this subject we consider that release of these documents would, or would be likely, to prejudice the United Kingdom’s relations with the Governments of Rwanda and Uganda. It is in the United Kingdom’s interest to maintain a constructive relationship with these 2 countries so that we can fulfil our development obligations in the region. The release of information in a further document could also harm our international relations with France; France is a key United Kingdom ally and we would not want to put at risk United Kingdom-France cooperation in a number of areas. We have concluded therefore that the public interest in maintaining good relations with Rwanda, Uganda and France outweighs the public interest in disclosing the information” (Letter in possession of author in response to request information relating to British foreign policy and the Rwandan genocide of 1994).

This may be a legitimate reason for denying access to the requested information or alternatively it may have been an ‘orchestrated technique’ to prevent the release of data, conduct which Simon describes as a form of ‘political deviance’ (2002:232). In addition to recently disclosed data, the Foreign and Commonwealth Office forwarded a considerable amount of United Nations documentation which had not been requested and was already freely accessible on the internet and of no additional benefit to the project. Such a response by the Foreign and Commonwealth Office was perceived as a means of reinforcing their helpful and cooperative attitude towards this thesis, without actually giving any documentation of value.

Subsequent more detailed Freedom of Information Act request also encountered difficulties. Initially the difficulties appeared to be of a disparate nature as the reticence of the Foreign and Commonwealth Office (being the government in possession of the necessary public records) was said to be due to resource implications. Each Freedom of Information Act request must entail no more than three and a half days work or £600 in costs, which proved to be detrimental to the requested documentation relevant to this thesis. After numerous phone calls and emails with representatives of the Foreign and Commonwealth Office, a compromise was reached on the quantity of documentation that was required. Nonetheless after a considerable

period of time, the Freedom of Information request concluded with the release once again of a very small amount of documentary material with the bulk of that requested continuing to remain exempt from release for the same reasons as previously outlined.

Fortunately not all primary documents relevant to this thesis were 'official records' subjected to classification. Archives containing official and unofficial data were tracked down which contained material of significant relevance to the project. These included the online Hansard archive⁵, the online United Nations documentary archive and Lexis Nexis⁶, all of which is in the public domain. Data collection for the project commenced in October 2005 and entailed a systematic and exhaustive search of the official online Hansard minutes. The minutes of proceedings in the Houses of Parliament, London from 1 January 1994 until the start of the summer recess on the 1 August 1994 were searched and all pertinent minutes and statements extracted and retained for later analysis. It is acknowledged that documents obtained from such databases must be used cautiously and should not be accepted as literal transcripts of events as many such documents have been deliberately edited before becoming publicly available in their final form.

Data collection continued with a further exhaustive and systematic search of the United Nations online archive, which established all Security Council Presidential letters and reports in addition to all official letters, reports and statements of the Secretary-General of the United Nations for the period relevant to this thesis. Such retrieval exercises required no prior arrangements and were carried out at the convenience of the researcher, which ensured a thorough review of both databases. The documents gathered in the course of this thesis are inevitably historical in nature and it must be recognised that history plays a major part in this research, as it is essential to trace back through the history of the tragedy and the history of the system which gave rise to such an event.

REFLECTING ON THE POLITICS OF SOCIAL RESEARCH: ETHICS AND RESPONSIBILITIES

Social science research is a 'deeply "political" process' (Bell and Mewby, 1977, cited in Hughes, 1996: 61) and it will by now be self-evident that whilst carrying out this thesis it was

⁵ The Official Report (Hansard) is the edited verbatim report of proceedings in both Houses of Parliament. Commons Hansard covers proceedings in the Commons Chamber, Westminster Hall and Standing Committees. Lords Hansard covers proceedings in the Lords Chamber and its Grand Committees.

⁶ LexisNexis is a popular searchable archive of content from newspapers, magazines, legal documents and other printed sources and is available to academics by subscription.

not possible to work in a socio-political vacuum. The project encountered direct limitations as a result of the politics of social research, an example being the limitations from gatekeepers who controlled access to documentary data and may want to protect themselves or their organisation from criticism or embarrassment as discussed earlier in this chapter. In addition, indirect limitations to social research can occur because of politicization of social research, an example being through control by funders; however such a difficulty was not encountered in this thesis which is supported by a private charitable organization namely the Carnegie Trust for the Universities of Scotland. This is a foundation established by Andrew Carnegie, the steel magnate, who also established the Carnegie Endowment for International Peace in 1910. The Carnegie Trust for the Universities of Scotland has an 'ambitious programme of philanthropy' and 'respect for the Scottish tradition of learning'. Such an agenda negates the likelihood of any of the potential pressures evident in government funded social research (Liebling, 1999: 153-156; Walters, 2003: 86-93), there being no potential for any of the research findings of this thesis being censored for political purposes and no limits were imposed on the dissemination of the findings.

Value judgements are a further concern of social research and "[w]hat social science should do, or refrain from doing, about value judgments is a disputed question in sociology" (Hart, 1938: 862). The standard reference on the significance of values on social research in the social sciences continues to be Weber's (1904) classic treatment of value-neutrality in which he rejected any suggestion that value-freedom was not possible, a position with which Hart agreed when he wrote 'exhortations and emotional pressures do not belong in scientific procedures' (1938: 863). In contemporary social science however, '[o]lder arguments about value neutrality and objectivity are no longer taken seriously...it is by now widely accepted that researchers cannot avoid making assumptions...about the world' (Hammersley, 2000: 3) with Stavenhagen (1993 cited in Hughes, 1996: 73) arguing that '[t]he social scientist...cannot remain true to the ethical principles of his science and at the same time refuse to take a stand on the wider ideological and ethical issues of the societal processes in which he is involved as a practitioner'. It is more than thirty years since Howard Becker (1967) 'recommend[ed] that sociological researches be undertaken from the standpoint of subordinates or underdogs' thereby empowering the oppressed by giving them a voice, a perspective which Gouldner found highly problematic. Gouldner did however acquiesce '[t]he essential point about the underdog is that he suffers, and that his suffering is naked and

visible. It is this that makes, and should make, a compelling demand upon us' (Gouldner, 1973: 34).

The meaning of the term 'bias' has been given rather little attention in the methodological literature despite being the topic of great controversy (Gomm, 2000: 151), but can be described as 'either the personal beliefs or the feelings of a researcher' (Bryman, 2001:22) with researchers commonly challenged about where their own sympathies lie in the conflict. Tombs and Whyte (2002: 230) argue that social scientists are 'by definition ...partisan' but bias can be 'at least mitigated where researchers recognise, describe, and are open about the perspectives from which their research commitments, questions, modes of analysis and dissemination originate'. It must be noted that the ultimate concern of this thesis is the pursuit of theoretical knowledge. This thesis does however advocate partisanship although there is no exclusive bias herein.

During the evolution of the research design, it was evident there was great potentiality for private value judgements and bias and that the challenges were many and complex and indeed the researcher encountered both anticipated and some not so anticipated private value judgements throughout. The situation in Rwanda remains highly conflictual and there continues to be great divisionism and hatred in addition to sensitivity to the genocide. In such circumstances, it would have been inappropriate, offensive and potentially dangerous to assert oneself to be either neutral or bias towards one category, group or individual. In such a location, visited in the aftermath of a comparatively recent genocide, it is not possible to meet with victims, survivors or perpetrators and be devoid of sentiment. Such bias and private value judgements were anticipated however previous work related experience of undertaking sensitive interviews and interviews with vulnerable witnesses furnished me with the necessary skills to prevent any personal valuations from distorting the interpretation of the data.

It was also envisioned that there was potentiality to have a negative bias towards some of the elite respondents from the United Kingdom in light of the accusations levelled at such actors as highlighted in the literature review. Instead however, these interviews produced emotional insight into the personal difficulties encountered by some of these respondents because of their official roles within either the United Nations or the British government during the tragedy in Rwanda in 1994. Unexpectedly, I found myself empathising with some of the elite

interviewees of the West. Although acknowledging empathy with the oppressed 'underdogs' of Africa, and the desire to conduct research on their behalf, as a social scientist I must agree with Gouldner's assertion that there was no apparent 'special virtue in those who are lacking in power or authority, just as I see no special virtue in those who possess power and authority. It seems to me that neither weakness nor powers as such are values that deserve to be prized' (Gouldner, 1973: 35).

Although identifying with the oppressed of Africa, this thesis aims not to empower but to contribute to the academic understanding of the political decisions reached by the bystander nations and institutions - '[r]esearching in an 'ethical manner' seems not about proclaiming good and evil, but about enabling the reader to hear the voices and appreciate the actions of as many of the different people involved as possible' (Wilson, 1993: 181). Without exception the most appropriate and 'profitable approach' in all interactions was to present oneself as being 'on side', providing the potential for rapport building and 'the opportunity of follow up meetings as required' (Wilson, 1989: 268). A number of writers have argued that 'deception of this kind is permissible, indeed laudable, in highly stratified, repressive, or unequal contexts' (Gilmore, cited in Lee, 1995: 23).

A further ethical consideration of this thesis was that of the main ethical principles of harm to participants, lack of informed consent, invasion of privacy and deception (Bryman, 2001: 475).

'Researchers are in receipt of privileged information...They have the power to distort, to make invisible, to overlook, to exaggerate and to draw conclusions, based not on factual data but on assumptions, hidden value judgements, and often downright misunderstandings. They have the potential to extend knowledge or to perpetuate ignorance' (Tuhiwai Smith, 2004: 176).

When considering questions of 'harm to subjects', this thesis bore in mind that the thesis was embedded in people's real lives both in Rwanda and the West and that potentially it was not only the subjects of research who could be harmed, but also those whom they were representing or typical of, or indeed people who were not part of the research in any sense at all. Writers often differ quite widely from each other over what is or is not ethically acceptable with some arguing that 'it is virtually impossible for research not to be

exploitative' (Eisner, 1991, cited in Noaks and Wincup, 2004: 49). Approval from University ethics committee was sought and granted and ethical procedures were followed throughout with the rights of the researched being protected at all times including their rights of confidentiality and anonymity of which they were assured.

IMMERSION AS PART OF THE RESEARCH PROCESS

Undertaking two fieldtrips to Rwanda in 2005 afforded the researcher the opportunity of a complete albeit short cultural immersion in Rwanda that assisted in gaining an understanding of Rwandan social and political life. In addition it offered a uniquely intimate and profound cultural experience and a heightened understanding of the impact of the international community responses to the genocide on the environment and the people of Rwanda.

The immersion process was ameliorated by living at the heart of Rwandan society as a member of a local family who were themselves survivors of genocide. Their home was located in a typically deprived area of the city of Kigali without electricity or running water, but was of a better standard than most of the surrounding dwellings, being of stone construction within a secured compound. The houses directly adjacent and in the surrounding area consisted of single room homes of mud and rusty corrugated iron construction with no services whatsoever and sewage running openly across roads. The inhabitants of these houses were suffering from extreme poverty and malnutrition and the children were often naked or dressed solely in a worn t-shirt and were generally shoeless. Access to this house in the Kicukiro area of Kigali was by a dusty pot-holed road, rutted with deep gouges because of heavy monsoon rains, making access to vehicular traffic almost impossible. This necessitated a daily walk from the relative safety and comfort of the compound of the residence, along the dusty roads in front of the broken down mud huts, causing feelings of discomfort at having such an abundance of valuable material possessions in comparison to such dire poverty.

Clearly in such a sensitive and emotional setting as a country in the aftermath of a genocide - an event which affected ninety nine percent of the population - one must demonstrate empathy and sensitivity, however such is the setting that one does not have to feign empathy towards the plight of the survivors and their setting, and I was able to genuinely project both personal and academic interest.

Whilst in Rwanda, I felt welcomed into the country by the majority, whilst simultaneously overawed and overwhelmed at the personal tragedies revealed by many. Emotional testimonies of survival were narrated at every opportunity, horror stories without comparison willingly related to me by many. Given the uniqueness of the fieldwork and the research questions being pursued, the researcher was unprepared for the enthusiasm of the ordinary powerless people of Rwanda towards her project. The majority of Rwandans were both enthusiastic at being given the opportunity to talk and were on the whole delighted at the visitation of a white woman from the West to whom they refer to as 'Musungu' (white woman). There was a recurring theme to their question as to why a 'Musungu' would wish to visit Rwanda with many continuing to perceive the country as inherently evil. Innumerable first hand accounts were related telling of rape, torture, humiliation and murder. There were testimonies of survival by hiding under piles of dead bodies, some for days on end; others witnessed pregnant women having babies gouged out by machetes; men having their penis cut off and the organ placed in the mouths of their children; many had had to succumb to drinking bloodied water from the marshes on a daily basis as a means of survival and the stories of atrocity continue. These are only a small sample of the horrors related, which became mentally challenging and an issue which had to be addressed after leaving the field. Field notes were generally written up as soon as possible after a meeting but not during the meeting for fear of causing offence to a person who was openly deeply traumatised but wanting to share their experiences.

Immersion permitted participation in various community activities, attendance at formal and informal meetings, visitations to places of work, visitations to rural farming cooperatives, observation of both rural and urban dwelling conditions, mortar damaged buildings, and human remains, many of which have been left in situ at genocide memorial sites throughout the country. Casual social interactions occurred with various residents of urban and rural dwellings, street children, college students, and government ministers, both formally at predetermined meetings and informally at social events. On occasion the researcher was invited and accepted to attend a family dinner at the home of a current Rwandan government Cabinet Member which undoubtedly facilitated access to informants within the country.

These interactions revealed hitherto unknown political instability within the country and ongoing divisionism that few western researchers have been privileged to share. Such unanticipated detail is of great significance in achieving an overall understanding of the

current climate within the country and in producing an accurate portrayal of the impact of the decisions of the West before and during the genocide of 1994 on the people of Rwanda today. These interactions took the form of general unstructured conversations and without exception the purpose of my visit to the country was detailed before any conversations were initiated.

During the initial visit to Rwanda, a permit was granted to attend a *Gaçaca Court*⁷ in a small shanty town called Busanza, north east of the capital of Kigali, the literal translation of *Gaçaca* being 'justice on the grass'. There was no vehicular access to the simple courtroom, which was reached by walking along a pot-holed red dirt road leading to a shantytown of red mud-brick and cow dung homes. The village appeared deserted then deep within this entanglement of dirt tracks, sorghum fields and banana trees east of Kigali appeared a *Gaçaca Court* consisting of thin wooden poles and branches covered by a tarpaulin, which faintly bore the emblem of the UNHCR in an enclosed stretch of grass.

Such was the novelty of the appearance of a Westerner, both in the village of Busanza, and more generally at a *Gaçaca*, that upon the arrival of the researcher shortly after the start of the days' hearings, the proceedings stopped and the entire population of the village, who are all required to attend such events, began to chatter in hushed whispers and stifled giggles, clearly mystified with the appearance of such a visitor. The village elder who has been given basic judicial training approached and introduced herself expressing great delight and honour at the arrival of a female Western researcher who was thereafter given a wooden bench to sit on rather than being permitted to sit on the bare ground along with the one hundred or so village inhabitants. At the end of the proceedings many of the children and a few of the adults of the village clamoured to touch the skin of a 'Musungu' as this was their first sighting of a white person.

Such social interactions afforded the opportunity of perceiving reality from a viewpoint closer to the 'inside' of the case study rather than external to it, a perspective found to be invaluable

⁷ *Gaçaca* courts are a new form of community justice that is used in Rwanda in the wake of the Rwandan Genocide., the *gaçaca* do not have jurisdiction over war crimes nor ordinary crimes. The *Gaçaca* court system has evolved as a new solution, influenced by the traditional, communal law enforcement techniques. The system, put in place in March 2001, involves both victims and witnesses in an interactive court proceeding against alleged criminals. The judges are untrained citizens, elected by their peers. The procedure is expected to promote community healing by making the punishment of perpetrators faster, as well as less expensive to the state.

in laying foundations for 'an accurate portrayal of a case study phenomenon' (Yin, 2003: 94). Such a cultural immersion in Rwanda, afforded a new and undoubtedly greater dimension of the impact of the decisions of the bystander nations before and during the genocide of 1994. This included relevant behaviours and environmental conditions that were clearly available for observation permitting a far greater understanding of the context and phenomenon being studied. Such a degree of cultural knowledge of Rwandan society was essential to the quality of this thesis, providing me with a greater sensitivity to the complexity of Rwandan history, culture and politics.

Data Analysis

'CAQDAS (Computer Assisted Qualitative Data Analysis Software) has ceased to be a novelty and has become a palpable presence' in qualitative studies (Fielding and Lee, 1998: 1) and during the initial planning stages of this thesis a decision was reached that the tools provided by the computer software package known as NVIVO 7 were suited to manage, access and analyse the qualitative data gathered. The developers of the software package indicated that it would allow a perspective to be kept on all data, without losing in any form, its richness or the closeness to data that is critical for qualitative research.

A significant part of the data analysis process is coding (Noaks and Wincup, 2004: 131). Using the NVIVO 7 software, an initial list of codes was created prior to the reading of data, the codes being derived from the reading of literature and the preliminary research questions. The initial list of codes used were as follows:

- Knowledge
- Opinions
- Responses
- Explanations
- Role

Coding in itself however does not constitute analysis and the project was convinced by Coffey and Atkinson's (1996: 27) argument that 'the important analytic work lies in establishing and thinking about linkages, not in the mundane process of coding'. It was anticipated that analysing the data from a theoretical framework of international law would build an explanation about the case.

Documentary evidence gathered for the purposes of this thesis provided a significant quantity of data in conjunction with the other strategies of data collection and from a purely personal perspective, there was an element of dissatisfaction with CAQDAS as there was a distinct lack of closeness to the voluminous data. A decision was reached after the first year of this thesis to complete the analysis of the evidence gathered by traditional manual means. A specific analytical approach was adopted in the analysis of the text conveyed in the writing of the documentary material, the favoured approach being critical analysis which is an approach that makes a much more obvious and explicit use of theoretical concepts and ideas than some other approaches.

Critical analysis in social science involves a scrutiny of the assumptions that underpin the content of the documentation paying heed to what other possible aspects have potentially been obscured or omitted. In undertaking such an analytical strategy, attention was also given to the institutions and social structures within which said documents were produced (Jupp, 1996:298/299). It was vital for the thesis that specific analytical techniques were undertaken in addition to the general analytical strategy of relying on theoretical propositions thereby developing internal and external validity. It must be acknowledged herein that the interviews and testimonies of the victims and survivors of Bisesero cannot be entirely verified, but likewise neither can the elite interviews. The data becomes powerful when triangulated with documentary evidence gathered and historical data. The analysis of the data gathered for this thesis required a continual process of validation, meticulously oscillating between documents and interview transcripts. This ensured that the analysis was of the highest quality, and that the thesis is not susceptible to unacknowledged alternative interpretations.

CHAPTER THREE: READING THE HISTORIES OF GENOCIDE

"History...is meaningful only by indicating some transcendent purpose beyond the actual facts" (Löwith, 1949: 5)

In order to understand the genocide in Rwanda and its aftermath, it is essential to place the violence within a much broader context and few would dispute that history is pivotal to any understanding of the Rwandan genocide. Numerous authors embark on their analysis of events in Rwanda from the point of genocide and then proceed to write in a reverse chronological order making gross assumptions that those events in Rwanda, from the late nineteenth century and throughout the twentieth century, were destined to culminate in genocide. Such assumptions are erroneous. In truth, Rwanda has enjoyed a long and complex history and the development of ethnic identities and ethnic conflict is only one of many issues that are evident in the country's rich historiography (Longman, 2004).

Contrary to the Victorian racist laden image conveyed by the media and British politicians (see chapters 4 and 7 herein), there is nothing in the historical record to suggest that the violence in Rwanda of the 1990s can be attributed to tribal meltdown rooted in 'deep-seated antagonisms' or 'long-standing atavistic hatreds'. Nor is there any evidence in support of the 'spontaneous action from below' thesis. From this perspective, the killings are largely reducible to a collective outburst of blind fury set off by the shooting down of President Juvenal Habyarimana's plane on April 6 1994. Both views mask the political manipulation by internal and external powers that lies behind the systematic massacres of innocent civilians. Such political manipulation will be clearly evidenced throughout this thesis.

The object of this chapter is to explore pre-colonial, colonial and independent Rwandan society in an effort to establish a truth regarding ancient relationships between Hutu and Tutsi and the impact of the socially constructed racist categories of its European colonisers. As such the chapter will articulate the coloniser's racialisation of 'Ruanda', and discuss the impact of racialisation on political developments leading up to 1990 establishing whether the Rwandan genocide should be viewed within the logic of colonialism.

However, it is important to firstly acquire some insight into the historical relationship between colonialism and genocide in general, before placing a focus on the relationship

between colonialism and genocide in Africa in particular, through the lens of racialisation which is as pertinent in contemporary times as that of the Victorian era.

COLONIALISM AND GENOCIDE

'Wherever the European has trod, death seems to pursue the aboriginal'

(Charles Darwin, cited in Merivale, 1861: 541)

Indigenous peoples the world over have suffered various forms of extermination ever since they were 'discovered' by Europeans (see Chalk and Jonassohn, 1990: 204-222 for a case study of the Tasmanians). It was the missionaries, traders and hunters who formed the advance guard of white influence in tropical Africa. Not until the last quarter of the nineteenth century, and the dawn of industrialisation, did the great European Powers begin to stake out effective claims to the interior of the continent in what would become known as the 'Scramble for Africa' (see, 1992).

'Underlying much of Europe's excitement was the hope that Africa would be a source of raw materials to feed the Industrial Revolution, just as the search for raw materials – slaves – for the colonial plantation economy had driven most of Europe's earlier dealings with Africa' (Hochschild, 2002: 27).

Indeed, the nineteenth century saw the spreading of European colonialism all over the globe in what Crosby (1986: 5) describes as 'a Caucasian tsunami' with the British Empire stretching from Canada and the Caribbean to India and New Zealand, in addition to a proportion of the African continent. In much contemporary writing on colonization, there is a tendency to equate colonization with genocide (see Scheper-Hughes, 2004), but a review of the wider literature suggests that the representation of the destruction of tribal societies as a result of European expansion is a subject of intense controversy. Charles Darwin believed in a strong correlation between genocide and 'the colonial world' (Barta, 2005: 117) and indeed some of Darwin's first diary entries note his observations of 'European colonists doing their best to make the indigenous people extinct' (ibid). Contradictory to Darwin are the conclusions drawn by Mann (2005: 70) who argues that 'virtually all European colonies were conquered violently, but only some went on to murderous cleansing afterwards'. A reading of the available scholarship would tend to suggest that despite the existence of examples of

deliberate policies to eliminate a culture in the history of colonization, it can by no means be described as a universal feature (Kuper, 1981/2002: 45 - 51; Thomas, 1994; Mann, 2005: 70 – 110). Arguments asserting a dearth of genocidal conflict throughout the history of colonisation are analogous to Davis's (2001) assertion that the British Empire displayed a wilful disregard for the fate of the colonized at the hands of their harmful free-trade policy as opposed to promoting genocide in a colonial context. We must take care not to minimize the substantial loss of life in indigenous communities; however it is arguable that '[a]lmost all killings came accidentally or from callousness that might not care but did not actually intend to kill' (Mann, 2005: 109). Such was the case in sixteenth century Mexico when colonists inadvertently introduced disease (Gellately and Kiernan, 2003: 22) reducing a population of over 5 million in the year 1492 (Stannard, 1992: 266-268) to only 500,000 in 1892 (Sale, 1990: 349) with survivor figures deteriorating even further to 250,000 for the year 1900 (Stannard, 1992: 146).

There is no ambiguity that the introduction of disease that so devastated the indigenous community of Mexico was inadvertent, however this has not always been the case. There is substantial and credible evidence that British forces deliberately turned to biological warfare by way of blankets pre-infected with the small pox virus in their efforts to exterminate the indigenous Indian communities in western Pennsylvania (Gellately and Kiernan, 2003: 22-23). In fact, Stannard has identified disease as the primary cause of the American Indians' great population decline, though to his dismay historians have generally concluded that such deaths were inadvertent and an 'unintended consequence' of human migration and progress (Stannard, 1992: xii). Stannard argues against such an analysis, stating that while 'microbial pestilence and purposeful genocide' operated independently at times, disease and genocide were usually interdependent forces. He does accept, however, 'that European diseases, once introduced...often raced ahead of their foreign carriers and spread disastrously into native population centers long before the European explorers and settlers themselves arrived' (Stannard, 1992: 268).

BRITISH FOREIGN POLICY AND GENOCIDE

*The British as perpetrators of genocide: 'Kill and scalp all, little and big
... Nits make lice'*

Throughout the 17th and 18th centuries, the colonies that became the United States saw massive brutality and deliberate exterminations for which British forces must accept responsibility (Gellately and Kiernan, 2003: 22). Levene suggests that their conduct is describable as genocide (2005b: 51). It was a British army officer who, in 1763, urged a field officer in Philadelphia to introduce smallpox amongst the tribes of disaffected American Indians, suggesting the use of infected hospital blankets to inoculate the intended victims, 'as well as to try Every other method that can serve to extirpate this Execrable Race (sic)'. The orders of one army officer to his troops was to 'Kill and scalp all, little and big ... Nits make lice' (Stannard 1992: 129). Military hospital records confirm that infected blankets and handkerchiefs were removed and further documents reveal 'the eruption of epidemic smallpox' among Delaware and Shawnee Indians in the vicinity, at about the time the blankets were distributed (Fenn, 2000: 1554-58).

In the late eighteenth and early nineteenth centuries the two most notable repeat-perpetrators of genocide were Britain and the United States. Such instances of genocide would appear to relate closely to regions on their domestic or colonial frontiers where state consolidation remained incomplete, or where expansion continued to be contested by native people (Levene, 2005a:162). The 'complete eradication of the autochthonous element [the native Tasmanians] in the seventy years after the first white settlement on the south Australian island, in 1803, has been repeatedly taken as a unique example of a British organised genocide' (Levene, 2005b: 37). Whilst some comparative genocide scholars view the Tasmanian case as one of unmitigated genocide (see Kuper, 1981; Fein, 1993), the majority of Australian experts are considerably more circumspect in their analysis (see Ryan, 1996:3 ; Moses, 2000: 103).

The Irish Famine of 1846-51 killed a million people in peacetime, and led to the enforced migration of a further one million people from another British colony.

'What happened in Ireland in the early 1650s ... is recognisably akin to the 'dirty' counter-insurgency wars of the twentieth century where an imperial or colonial power, or its proxies, seeks to win a struggle against an alternative political programme by treating not just the insurgents but their whole supporting population as equally guilty and thereby equally expendable' (Levene, 2005b:55).

It is generally accepted that the British government provided minimal assistance to the starving Irish, and none at all after October 1847. Indeed, 1849 witnesses the British Prime Minister Russell refuse Ireland the 100,000 pounds minimum considered necessary to prevent further possible starvation (O'Grada, 1999: 77, 83). Some commentators argue that such conduct is perceivable as a British 'policy of extermination of the Irish' (Gellately and Kiernan, 2003:25); however, Kuper disputes that a genocide took place in Ireland at the hands of the British government (1981/2002: 69).

BRITAIN IN AFRICA

'By the later 1870s...Africa had become far more economically interesting to the industrial powers than it had been a generation earlier. This increased interest was due less to any increase in the actual volume of trade than to the supposed economic potential, in a period of depression, of an Africa which now consisted not merely of 'coasts' but of a possibly controllable and exploitable interior. Without this development of economically motivated interest, the full-blooded scramble of the 1880s and 1890s is indeed hardly conceivable' (Oliver et al, 1985: 105).

Until the 19th century, Britain and the other European powers limited their imperial aspirations in Africa to the occasional coastal outpost from where they could wield their economic and military efficacy. The hub of British activity on the West African coast during this period was the lucrative slave trade. Between 1562 and 1807, when the slave trade was abolished, British ships carried up to three million people from Africa into slavery in the Americas. In total, European ships took more than 11 million people into slavery from the West African coast, and European traders grew rich on the profits while the population of Africa's west coast was ravaged (see Thomas, 1999 for an overview of Britain and the slave trade in Africa).

In the 1850s, the French colony of Senegal began expanding, until it virtually engulfed the British colony of the Gambia. The British were suspicious of the French, suspecting that they were in fact attempting to appropriate British territory rather than trying to develop a trade route as was their stated aim. In the 1870s and 1880s, it appeared to the British that the French were challenging their interests all around the African coast from Sierra Leone to the Congo (Aldrich, 1996: 36-38). The motives of British imperialist activities in Africa from

1869 to 1912 were strategic and defensive. As its free trade and influential relationship with Africa was threatened by the French, Britain began to turn trade agreements into stronger and more formal protectorates and even colonies. 'It cannot be disputed that Britain acquired new territory at an extraordinary rate after 1882' (Pugh, 1999: 130) with Britain gaining Nigeria, Somaliland and Bechuanaland at the Berlin Conference of 1884. It has been widely believed that British expansion in Africa was essentially for economic purposes and certainly some leading British government imperialists did think in terms of the economy. Lord Rosebery, British Foreign Secretary, argued in 1886 that Britain was 'pegging out claims for the future' in Africa (Lord Rosebery, cited in Pugh 1999: 132) so as to 'secure the valuable mineral resources (gold and diamond mines)' (ibid). However, Britain's battles over territory were often fought with the objective of preventing French or German control in Africa rather than of promoting British economic interests (see Betts, 1966; Coupland, 1967; Collins, 1971).

On the stretch of coast between the Gold Coast and the British settlement of Lagos, the French in 1883 revived an old protectorate over Porto Novo (Aldrich, 1996: 40). Oliver et al suggest this was probably a deliberate French attempt to prevent Britain's having uninterrupted control over a sphere of influence from Lagos to the Gold Coast. However, it was also the case that the French were concerned to secure, if possible, a Trade Route from the Bight of Benin to the Upper Niger which by-passed the existing British influence in the Niger delta. Whatever the French plans, the British felt threatened (Oliver et al, 1985: 223-327). Britain was also interested in the commercial potential of mineral-rich territories like the Transvaal, where gold was discovered in the mid-1880s, and in preventing other European powers, particularly Germany and France, from muscling into areas they considered within their 'sphere of influence'.

COLONIALISM AND GENOCIDE IN AFRICA

'The missionary says that we are the children of God like our white brothers ... but just look at us. Dogs, slaves, worse than baboons on the rocks ... that is how you treat us.' A Herero to a German settler (Pakenham, 1992: 602)

The Herero were probably the first ethnic group subjected to genocide in the twentieth century. The slaughter of the Herero by the German rulers of South West Africa (now the Independent Republic of Namibia) from 1904 onwards was amongst the most destructive of the reprisals of colonizers against colonized in punishment for rebellion (Pakenham, 1992:

602 – 615; Bridgman and Worley, 2004: 15-52; Sarkin, 2009). Lau (1989: 4-5, 8) raised many provocative questions about the Herero tragedy and argues that the Herero were not victims of genocide, rather victims of ‘a successful psychological warfare, never followed in deed’ (Lau, 1989: 5). However this was vigorously and effectively contradicted by Dederig (1993). The current consensus of genocide scholars is that the Herero *were* subjected to an officially sanctioned colonial genocide policy (see Drechsler, 1980; Bridgman and Worley, 2004; Gewald, 2004; Hull, 2005) although politicians remain reluctant to classify this tragedy as such whenever possible (Schaller, 2005: 532). In 2001, using the procedures of the Alien Torts Claim Act of 1789 in a US federal court, the Herero became the first ethnic group to seek reparations from Germany and certain named companies, for war crimes committed overseas, including colonial policies that fit the definition of genocide (Gewald, 2004: 60 ; Cooper, 2007: 113 – 120; Sarkin, 2009)⁸.

It has been argued that Joseph Conrad’s *Heart of Darkness* is the most enduring and powerful literary indictment of imperialism in Africa (Watt, 1979:161), where colonialism stands accused of torture, cruelty and encouraging cannibalism in King Leopold’s Congo Free State (Morel, 1905: 437-410)⁹. In the meantime, Hochschild’s book *King Leopold’s Ghost* (1999) has significantly influenced contemporary public discussion of European atrocities committed in the Congo. He maintains that although the ‘killing in the Congo was of genocidal proportion’ it cannot be considered a ‘real’ genocide, since King Leopold’s aim was not the extermination of all the Congolese or of any particular tribes in the Congo (Hochschild, 1999: 2, 25). This is contrary to the view of Lemkin¹⁰ who, in his unpublished material, dictated that ‘the imposition of Belgian colonial rule in the Congo and the forced labour of the indigenous population that went with it, was an unambiguous genocide’ (Schaller, 2005: 535). Clearly Lemkin believed that Leopold did attempt to exterminate particular tribes in the Congo. It should however be noted that although Lemkin was very much against the violent suppression of the Herero by the Germans and the monstrous exploitation of the Congo by the Belgians, the founder of the genocide convention was in fact

8 At the time of writing the German government continues to refuse to compensate the Herero. See Cooper (2007) and Sarkin (2009) for detailed analysis of the legal arguments by the Hereros against Germany within the context of current understandings of international law.

9 Taussig argues that ‘[c]annibalism acquired great ideological potency for the colonists from the beginning of the European conquest of the New World and used to justify many policies including enslavement’ (1984/2002: 180). “It is more or less the rule of thumb that the more Western settlement a colony experienced, the greater was the violence unleashed against the native population” (Mamdani, 2001: 10)

10 Raphael Lemkin was a Polish Jewish specialist in international law and was the founding figure of the United Nations Genocide Convention.

'an enthusiastic advocate of colonialism' and somewhat surprisingly, had himself an extremely racist perception of Africans, whom he described as 'either weak-willed and helpless victims' or as 'bloodthirsty cannibals' (Schaller, 2005: 536). Many of the unpublished works of Raphael Lemkin deal with the atrocities committed by European colonialists (Schaller, 2005: 531) and indeed colonialism is central to Lemkin's concept of genocide. McDonnell and Moses (2005: 501) have detailed how 'the intellectual breakthrough that led to the concept of genocide' was as a direct result of Lemkin's interest in colonial genocides rather than the common belief that it was in response to the Holocaust. They argue that the colonial foundation to the coining of the term genocide has been 'studiously ignored in the literature' and it is only now an emergent theme in studies of imperial history (McDonnell & Moses, 2005: 502).

Therefore, it is of relevance to this thesis to review Rwandan colonial history in an effort to determine whether the legacy of colonialism in the country was in some way responsible for the events that culminated in genocide in 1994 and the recurring post-genocide violence in the Great Lakes region of Africa.

DECONSTRUCTING THE RACIALISATION OF SOCIAL CATEGORIES, COLONISATION AND GENOCIDE IN RWANDA

"We need to interpret interpretations more than to interpret things"

(Montaigne 1533 - 1592, cited in Derrida 1967/2005: 351)

Violently contradictory mythical versions of pre-colonial histories of Rwanda have been developed over the years by Tutsi and Hutu participants alike and '[b]oth allude to distant dark deeds reeking of blood and turn truth into an open-ended concept' (Prunier, 1997: 357). The first King of Rwanda, Gihanga, was the son of a deity known as the Root of Man with early historians placing his rule around the tenth century. Contemporary historians doubt however that he or his celebrated descendents ever existed (Kinzer, 2008: 22). The term 'Banyaruanda/Banyarwanda' refers to the one tribal people found in Ruanda¹¹ all of whom are speakers of the Rwandan language of Kinyarwanda albeit the Banyaruanda were divided

¹¹ This land was referred to by the Europeans as Ruanda -Urundi, with Rwanda and Burundi being the traditional African names. Ruanda and Urundi are not a duality, though they have often been considered as one. The term 'Ruanda-Urundi' refers merely to the geographical region of the two countries. Ruanda and Urundi have been used herein to describe events that occurred when they were the terms being used by Europeans at that time.

into three social groups, namely the Twa (0.5 per cent), Hutu (87 per cent), and Tutsi (12.5 per cent). Although unsubstantiated, the popular thesis holds that in Rwanda's pre-colonial past these three groupings arrived during different historical periods. The Twa were allegedly the first to arrive followed by the Hutu agriculturalists¹², and lastly the Tutsi pastoralists¹³, who arrived in successive waves from about the fifteenth century onwards (Sirven *et al*, 1975: 56-7). Up until 1860, historians knew very little about how the terms 'Twa', 'Hutu' and 'Tutsi' were used in social discourse. It was simply unclear whether these terms denoted social or physical classifications for instance (Pottier, 2002: 13), and there was little agreement on how to describe those differentiated by the terms 'Twa', 'Hutu' and 'Tutsi', with the terms races, castes, ethnicities, tribes or simply groups being utilised interchangeably.

The situation is much clearer from 1860 onwards and substantive research reveals that mid-eighteenth century King Rwabugiri of the Tutsi royal court in Rwanda either began or reinforced a process of ethnic polarisation of Hutu and Tutsi in the country (Webster *et al*, 1992: 817) leading to the oppression of the peasant classes but most particularly the Hutu peasantry (Vidal, 1974: 58 – 64). Rwabugiri introduced a number of practices, most notably *ubuhake* cattle client-ship and a labour pre-station called *uburetwa*, practices which came to denote the loss of local political autonomy (Newbury 1988: 82). Put simplistically, *Ubuhake* was an unequal client-ship contract entered into by two men, namely a patron and a client. A Tutsi patron would give his Hutu client a cow which would hopefully reproduce and future calves would be shared between the patron and client. Prunier (1998:14) suggests that the clients in such obligations 'would never get anywhere at all with this deal'. *Uburetwa*, the despised corvé labour service through which populations regained access to the lands they had lost to Rwabugiri, was central to these practices and restricted to the Hutu. Tutsi commoners, while also heavily exploited by the ruling central court and its aristocracy (Newbury 1978:21, 1988:12; Vidal 1969: 399; Chrétien, 1985:150), enjoyed freedom from *uburetwa* (Newbury, 1988: 140). The labour due under *uburetwa* was set at one day out of five (Lemarchand, 1970: 122). In contrast, the labour service for Tutsi consisted merely of seasonal maintenance work to the grounds of the aristocracy's enclosures (Newbury, 1988: 140).

12 The branch of farming concerned with the cultivation of soil for the production of crops.

13 The branch of farming concerned with animal husbandry and in this instance particularly raising of cattle.

The literature of early European explorations into central Africa suggests that the first European to visit the Ruanda area was the British explorer John Hanning Speke in 1858 who was 'racially-obsessed...and buil[t] a variety of hazardous hypotheses on their [the Tutsi's] 'possible', 'probable', or, as they soon became, 'indubitable' origins' (Prunier, 1995: 6/7). Racist hypotheses on the origins of the social categories of Hutu, Tutsi and Twa thereafter flourished and were shared by other nineteenth century explorers. This is of the utmost significance to our discussion on the synthesis of colonialism and genocide because such dubious hypotheses 'conditioned deeply and durably the views and attitudes of the Europeans regarding the Rwandese social groups they were dealing with...it actually governed the decisions made by the German, and even more so later by the Belgian colonial authorities...it had a massive impact on the natives themselves...inflating the Tutsi cultural ego inordinately and crushing Hutu feelings until they coalesced into an aggressively resentful inferiority complex ' (Prunier, 1995: 9).

During a 1898-1899 traverse through Ruanda, a young Cambridge student observed the 'obvious hatred in which they (the Hutu) hold their over-lords (the Tutsi), [but] there seems to be no friction' (Grogan, 1902: 130). Grogan also noted the 'far-famed unity and power of the Ruanda people' and the 'the pervading air of prosperity...a striking indication of the possibilities of native races left to work out their own destiny' (1902: 121). Although noting distinct physical differences between the social categories of Hutu and 'their absolute antithesis' in the Tutsi (1902: 129), Grogan found that they shared other traits, describing all social categories collectively as 'the terrible people of Ruanda, whose reputation has spread far and wide' (1902: 126). Grogan boldly maintains that 'of all the liars in Africa, I believe the people of Ruanda are by far the most thorough' (1902:142). In 1876, Stanley was informed by an Arab on a visit to Karagwe in Tanzania, that the people of Ruanda were 'a great people, but covetous, malignant, treacherous, and utterly untrustworthy' (1878: 455).

The writings of early European visitors show a remarkable consensus about the individual demeanour of Hutu and Tutsi as well as about their conduct towards one another. Of the Tutsi of Rwanda, Frederick wrote that 'one received the impression of being in the presence of an entirely different class of men, who had nothing further in common with the "niggers" than their dark complexion' (Frederick, 1910:54), whilst Meyer noted that 'lying [by Tutsi] is not only customary with strangers but a permanent and deeply rooted defect...the Tutsi consider themselves as the top of creation from the standpoint of intelligence and political genius'

(Meyer, 1916:15). By contrast, Meyer observed the Hutu to be singularly servile, boisterous and cowardly people, whose sense of dignity and self-esteem had been dulled almost to extinction by centuries of bondage to their Tutsi masters. Of the Hutu in Burundi, Meyer wrote: 'Due to four centuries of terroristic rule, they have become slaves in thinking and acting, though not so slave-like in character as the Banyarwanda under their Hamitic despots [Tutsi overlords]' (Meyer, 1916: 15).

There is little by way of explanation for reaching such conclusions, however this racial characterisation does appear to reflect empirical observations of the political dominance of a group known as 'Tutsi'. Beyond this empiricism, those sweeping generalisations were most likely made on the basis of anecdotal interaction with very small numbers of locals and those people they did meet would have probably been Tutsi aristocracy. A further hindrance to any rigorous analysis of the populations encountered by the colonisers was the language barrier, with Phillips recording that 'in this era, no English-Kinyarwanda interpreter, black or white' was in existence (1923: 234).

REDUCTIONIST VERSIONS OF RWANDAN PRE-COLONIAL HISTORY

Commentators with sympathies towards the current Rwandan Tutsi dominated regime are dogmatic in their portrayal of a pre-colonial Rwandan history where people lived side by side harmoniously (examples are Mamdani 2001; Gourevitch 2000, Powers 2002, Keane 1996, Melvern 2000). The organisation Africa Rights, with evident sympathies towards the current Rwandan regime, state that the Banyarwanda of nineteenth century Ruanda, had a well developed and fairly sophisticated political system that was essentially based around its monarchy and a fundamental distinction in status between those who were traditionally pastoralists or agriculturalists (Africa Rights, 1995b). In an attempt to establish that the introduction of the static categories of Hutu and Tutsi and the divisionism of same was the sole doing of the colonisers, post-genocide, mythical pre-colonial versions of history have suggested that nineteenth century Banyarwanda had fluidity of categories and one could readily change their identity from that of a Hutu to a Tutsi merely, for example, by the acquisition of more head of cattle. Such unsubstantiated versions of history proclaim erroneously that rigid classifications and communal conflict was non-existent between the harmonious ethnic relations of the Banyarwanda until the arrival of the European colonizers (Kinzer, 2008: 23). These reductionist versions also dismiss the biological evidence of

'average genotype and phenotype differences affecting blood groups, sickle cells, and lactose digestion' between Hutu and Tutsi (Mann, 2005: 432). Keane's simplistic, reductionist and politically correct version of pre-colonial history dismisses the body of meritorious post-independence scholarship available, producing instead a mythical historical account that is easily digested by the reader who is unfamiliar with the complex history of the Great Lakes region of Africa. Keane states:

"What separated Tutsi and Hutu in the past was primarily a matter of occupation and wealth. Thus the Tutsi clan owned large herds of cattle, while their Hutu subjects farmed the land and the Twa subsisted on what they could gather in field and forest. As time progressed many Hutus bought cattle and were assimilated into the Tutsi aristocracy. Some Tutsi became poor and lost their privileged positions" (Keane, 1996: 12)

Such oversimplifications by academics and journalistic alike and the consistency with which they ignore or misrepresent post-independence scholarship on Rwanda is staggering. Keane, as is the case with many other contemporary commentators, obscures both the complex and fundamental developments that emerged in the country in the second half of the nineteenth century, developments which as previously noted, saw the loss of Hutu peasantry land rights as a result of unjust intervention by the conquering Tutsi royal court who also exerted oppressive control over labour. Such distortion of pre-colonial history negates any responsibility of the mid nineteenth century Tutsi aristocracy in the ensuing divisionism between the countries social groups, placing all responsibility on the shoulders of the colonisers.

Ruanda had a foundation for racialisation prior to the arrival of the colonisers at the end of the nineteenth century; however, it is important to acknowledge the critical changes to such racialisation which occurred in Rwanda during the colonial period.

RACIALISED POLITICAL DEVELOPMENT IN RWANDA BY EUROPEANS – THE HAMITIC MYTH

An officer of the British army, John Hanning Speke (1862), was the architect of the 'Hamitic Myth'. When Speke arrived in what was then the Kingdom of Ruanda he decided that the Tutsi, being of lighter skin and more European in appearance than the Hutu that they ruled,

must be a superior race and not native to Rwanda. Speke concluded they must be descendents of the biblical figure Ham, one of the sons of Noah. Such Hamitic concepts have since been widely discredited and as such are now referred to as the 'Hamitic Myth' (see Sanders, 1969; Evans, 1966 and Biddis, 1966 for detailed discussion), but it was this Hamitic concept that was used as a justification for European colonial policy in Africa in the nineteenth and twentieth century as well as the slave trade in earlier times.

Colonization began later in Ruanda than in many other African countries, likely as a result of its isolation. No-one in Ruanda knew of the dawn of industrialisation in the West that heralded the great European Powers staking of effective claims to the interior of the African continent. In this 'scramble for Africa', Germany had, at the Berlin Conference of 1884-85,¹⁴ gained the rights to Ruanda-Urundi although it was 1894 before Count von Goetzen made the first German expedition through Ruanda and encountered a cordial welcome from the Tutsi Mwami, the supreme ruler of the land who, as previously noted, held an overwhelming concentration of power. Such a warm welcome was to the disappointment of the German army who were armed for battle (Lemarchand, 1970: 48). Mwami, the King of Ruanda, was informed that Germany now controlled East Africa, including Ruanda (Barnett, 2002: 50) and history indicates that the Mwami was willing to recognise the German protectorate. Lemarchand asserts that such willingness of the court to co-operate with the Germans was due to perceptiveness of the ruling Tutsi in realising the potential reciprocal benefits of recognising the German protectorate and 'the terms of the quid pro quo made it possible for the crown to expand its hegemony far beyond the limits of its original jurisdiction' (Lemarchand, 1970:57). Newbury (1988) has carried out a detailed academic analysis of the intertwining roots of Rwanda's history and has convincingly explained how often, without the acquiescence of colonial officials, Tutsi leaders took advantage of European weaponry and administrative structures to intensify the power they previously developed in their late 19th-century state formation. As Tutsi power intensified, their control over resources increased and their access to Western education, colonial positions and other desirable statuses became monopolized, further excluding the ever-more subordinated Hutu.

¹⁴ From November 1884 – February 1885, European countries met in Berlin, Germany to divide Africa among themselves and to colonize the continent. The Berlin Conference coincided with Germany's sudden emergence as an imperial power.

Germany ruled the one administrative territory of Ruanda-Urundi until 1916 when it lost World War I and was forced to forfeit its colonial possessions shortly thereafter. At the resulting Paris Peace Conference of 1919, organised to negotiate dispersal of German colonial possessions, the British fully intended to take all of German East Africa including Ruanda-Urundi. Indeed 'the British claimed and got the lion's share' (Pakenham, 1992, 671). However the Milner-Orts agreement of May 30, 1919, dictated that Belgium be granted Ruanda-Urundi, despite it being Milner's desire for these fertile high lands to be acquired by Britain (Louis, 2006: 221). Orts placated the British by advising them that Ruanda-Urundi were 'not worth the anger of England' (Louis, 1963: 256). Britain did however manage to acquire something of Ruanda, namely the Kigezi District of north-western Ruanda, which despite being ethnologically as well as geographically part of the native pre-colonial Kingdom of Ruanda, became absorbed by the British government as part of their Ugandan protectorate and is to this day part of the south-western corner of Uganda. The British mandate oversaw the destruction of immemorial and natural boundaries, with those Banyaruanda of south Kigezi district being pulled politically in a different direction from their neighbours (Philipps, 1923: 250). Philipps stated that 'it is, in my opinion, a pity that distant political considerations should have caused their severance...dismemberment of compact native kingdoms between different European governments is usually a source of friction and annoyance to both parties, and seldom in the interests of the natives themselves' (ibid). It is the field of geology rather than history which acknowledges that the Kingdom of Ruanda was sub-divided into Belgian Ruanda and British Ruanda (see for example Wayland, 1921: 346). One should also make reference to Davidson (1992) who has published a detailed study concluding that Africa's political problems stem from the late nineteenth-century partition that drew state boundaries cutting across 'natural' ethnic communities, thereby making it difficult to create 'nation-states' in Africa.

When assigned Ruanda-Urundi, Belgium was already ruling the neighbouring Congo and ruthlessly exploiting its vast natural wealth. Belgium ruled the Congo directly, however Ruanda-Urundi was assigned as a 'trust territory' which dictated that its rule was subject to supervision from the League of Nations and its successor, the United Nations (Hochschild, 1999). Neither institution provided much input, however, and as such the Belgians were at liberty to govern their new acquisition largely as they wished.

BELGIAN REFORM OF THE COLONIAL STATE OF RWANDA

Belgian colonisers arriving in Rwanda post World War I viewed the country through a European lens, concluding that its monarchy was a close replica of European feudalism. Additionally the Tutsi were perceived to have Caucasian features and thus were interpreted by the colonisers as a naturally superior people to the less-evolved Hutus, and this conferred on them ideological, political, and economic status. It is not possible to establish whether Speke had an influence on such Belgian racism. Being exemplary colonial administrators, the Belgians undertook an exhaustive census in 1933 using physical characteristics to determine who was a Hutu and who was a Tutsi (Des Forges, 1999). On the basis of this system of classification the entire population were issued with an identity card that fixed once and for all their societal position of Hutu, Tutsi, or Twa (Des Forge, 1999). This 'scientific' classification and its political institutionalization had a profound effect on Rwandan culture and produced an indelible 'reality' of Tutsi superiority and Hutu inferiority.

Archival documentary literature evidences how Europeans in general discussed Tutsi and Hutu in very explicit racial language¹⁵. Under Belgian rule, Tutsi were automatically elevated to positions of power and automatically sent to missionary schools, the primary source of literacy. Indeed, when a colonial school system was put in place, it was the Tutsi who were sent primarily for education to the neglect of the Hutus. In 1957, Hutu intellectuals called on the Hutu to rise up against the political monopoly of the Tutsi in what became known as the Hutu Manifesto, the central idea being that Rwanda was a Hutu country and should be ruled by Hutu.

INDEPENDENCE IN RWANDA

When decolonization came to Rwanda in 1959, it arrived in the form of a violent Hutu revolt, aided by the outgoing resident Belgian colonisers who turned against the ruling Tutsi whom they had supported since colonisation. The ruling King of this period was a resolute opponent to the Belgian efforts of transition to independence and rumours continue that he was poisoned by Belgian officials when invited to a lunch in Burundi to discuss their differences (Kinzer, 2008: 31).

15 The Tutsi were identified as being taller, they were lighter skinned, they had narrow noses, more elegance, more intelligence, more finesse, longer fingers and so forth. By contrast Hutu were shorter and stockier, darker skinned flatter noses and stubbier fingers amongst some of the other stereotypes.

Hutu militancy was encouraged and as a result of a violent Hutu revolution, about ten thousand Tutsi were driven out of the country to exile in Uganda (Newbury, 1988: chpts 9, 10). Lemarchand argues that 'from the moment the residency decided to throw its weight on the side of the Hutu, as happened in late 1959, the die had been cast; short of a miracle, the period of Tutsi rule was bound to come to an end' (1970: 485). To formalise this radical change in power structure in Rwanda, the Belgians, against the wishes of the United Nations Trusteeship Council, called for local elections in the June of 1960 in which the main Tutsi political party refused to participate. The Belgians dismissed protestations and went ahead with the election that saw the Parmehutu (Parti du mouvement de l'émancipation des Bahutu), a political party identifying exclusively with Hutus, easily winning the first elections in 1960 and 1961 and, with them, control of Rwanda's political process. In September 1961, some 80 percent of Rwandans voted to end the monarchy, thus confirming the proclamation of a republic the previous January 1961 by the Parmehutu-led government. These events became known as the "Hutu Revolution" (Des Forge, 1999). Formal independence was granted on 1 July 1962 with the radical Hutu Grégoire Kayibanda becoming Rwanda's first president. The Hutu Revolution caused great angst amongst the Tutsi elites in Burundi who determined not to cede power when independence came (see Lemarchand, 1995: 76-105 for detail of post independence Burundi ethnic violence). The outgoing Belgian colonisers had fewer resources than the French or British and no valuable minerals to protect in Rwanda; when pressured, they just abandoned the country with little thought for postcolonial institutions (Mann, 2005: 433).

Around this period a process of 'dual' historical development began to emerge, namely the visible history unfolding within Rwanda, and the less visible history unfolding outwith its borders, the key protagonists of the latter being the Tutsi Diaspora in exile in Uganda.

THE VISIBLE POST-INDEPENDENCE RWANDAN HISTORY

There were two major political trends that dominated post-independence Rwanda. Firstly, the principles of the Hutu Revolution of 1959 as previously noted, guided official policy, which meant that Hutus dominated the government and military, often to the exclusion of Tutsis.¹⁶ 'For the first time in the history of the Rwandan state, the violence demarcated Hutu from

¹⁶ In his major political analysis of the revolution Lemarchand (1970) compared 1959 Rwanda to 1789 France, and the revolutionaries to French Jacobins

Tutsi' (Mamdani, 2001: 105). An incredibly accurate and prophetic United Nations report of 1961 stated "[t]he developments of these last eighteen months have brought about the racial dictatorship of one party...An oppressive system has been replaced by another one...It is quite possible that someday we will witness violent reactions against the Tutsi" (UN Trusteeship Council, cited in Prunier, 1995: 39). Rwanda's first president, Grégoire Kayibanda, ruled from 1962 to 1973, and was more than willing to use ethnic terror and sow divisionism in order to maintain rule. Under Kayibanda there was a series of anti-Tutsi massacres in the early 1960s and 1973 with ethnic violence becoming a central feature of Rwanda's politics (Prunier, 1995: 54-61). Despite maintaining strong limits on Tutsi advancement through a system of regional and ethnic quotas, Rwanda's second president Juvénal Habyarimana, who ruled from 1973 to 1994, was more moderate than his predecessor¹⁷ and some would argue that he diminished anti-Tutsi discrimination (Braeckman, 1994: 82).

Secondly, regionalism shaped significant political conflict *among* Hutus. Kayibanda came from Gitarama prefecture in the south-central region of the country. His rule largely benefitted Hutus from his home region. Habyarimana, by contrast, came from Gisenyi prefecture, and his rule largely benefitted northerners, in particular those from the northwest. By 1990, north-westerner Hutus held a near-total monopoly on key posts in the government, in the army, and in state-run companies known as 'parastatals' (Reyntjens, 1994: 33-34).

The political situation in Burundi also shaped Rwandan politics, with repression by Tutsi in Burundi radicalizing Hutu in Rwanda. During the 1960s and 1970s, both countries became locked into severe ethnic discrimination, backed by policed repression and punctuated by bursts of pressured emigration (Hintjens, 1999: 279). There is however little evidence of physical violence against the Tutsi between 1979 and 1990.

It must be acknowledged that France's relationship with Rwanda dates back to the period immediately following independence, when Charles De Gaulle signed a cooperation agreement with the Kayibanda regime, an agreement that was maintained throughout the presidency of Habyarimana. This relationship and the subsequent role of France in the genocide of 1994 are discussed in some detail in chapter 6.

¹⁷ On July 5 1973, the army commander, Juvenal Habyarimana seized power in Rwanda in a bloodless coup. He ordered many officials of the old regime killed, some after long periods of torture, but superstition prevented him sending his predecessor to the same fate. Instead he chose to surround Kayibanda's home with soldiers and starve him and his wife to death in captivity.

THE LESS VISIBLE POST-INDEPENDENCE RWANDAN HISTORY

During the thirty year period following Rwanda's independence, the scattered Tutsi Diaspora led to the emergence of communities of 'Rwandans abroad' which caused division between the Tutsi remaining in Rwanda who accepted the restrictions imposed on them by the Hutu regime, and those Tutsi in exile who were angered by their loss of status in their home country (interviews in Rwanda, 2005). The politically motivated murders of 1959 had started the flow of refugees and discrimination and violence perpetuated the flow. Those fleeing included many ex-soldiers who 'formed the core of Tutsi imperial revisionism planning to invade Rwanda' (Mann, 2005: 428). Their initial efforts of invasion failed miserably and led to successive waves of retaliatory violence against Tutsi in Rwanda, and by the late 1970s almost half a million Tutsi had fled the country with over eighty thousand seeking refuge in Uganda where they suffered systematic discrimination under the repressive regime of president Obote (Otunnu, 2000: 3-24), faring only slightly better under Idi Amin (Kinzer, 2008: 33-38). Following Amin's expulsion, Obote returned to power in December 1980 in what was widely recognised as a fraudulent ballot. One of Obote's defeated opponents in the election, Yoweri Museveni, soon began to prepare for a continuation of the struggle for power in Uganda but this time by arms. In 1981 Museveni launched his National Resistance Army (NRA) and among his small band of dissidents were two Rwandan exiles, one of whom was the current President of Rwanda, Paul Kagame, who had become a follower of Museveni in the late 1970s, joining the small resistance organization which was formed in 1978 in Tanzania to help overthrow Idi Amin. Kagame became a specialist in intelligence matters, rising to head of military intelligence in Museveni's army following Milton Obote's overthrow in 1986 by Museveni's popular NRA. By the time Kampala was captured on 26 January 1986, Museveni had a force of fourteen thousand fighters, five hundred of whom were Rwandan. However there continued to be deep seated resentment towards the Tutsi refugees in Uganda. An interview of a member of the clergy by Otunnu (2000: 32) illustrates the root cause of the ill feeling:

"These Rwandese use the most unacceptable counter-insurgency strategies; they herd women, children and old-people into houses and set the houses on fire; they rape women in the presence of their male relatives, and at times, they force the male relatives to sleep with those women after they [the soldiers] have exhausted their sexual desire...These

people are determined to spread slim [HIV] to Acholi. I also witnessed them mutilate unarmed people including school children”

With the armed struggle over in Uganda, Museveni sent Kagame and other officers of the NRA overseas as part of a nation building programme and to build on their military skills (Waugh, 2004: 19-26). Kagame was aware that guerrilla movements rarely succeed without at least tacit support from a friendly regime in a nearby country and as such he reasoned that having helped Museveni take power in Uganda, Museveni would in turn support his own proactive movement dedicated to overturning the regime in Kigali and establishing a very different type of government in the homeland of the Tutsi refugees.

The Rwandan Alliance for National Unity (RANU) formed in 1980 Uganda, was an explicitly militant formation whose ambition was the right of Rwandan refugees to return home. After Museveni’s successful bush war ended in 1986, RANU turned to Tito Rutemara, an academic RANU member held in high esteem, and charged him with developing a new and more military strategy for their cause (Waugh, 2004: 37-8).

“Throughout the 1960s and 1970s, there was this vague thought that we wanted to return to our homeland, but there was no strategy. There were no leaders...Fighting to go back was going to be the only way. There would be no negotiating with the dictatorship. We decided we would have to fight the dictatorship” (interview Rutemara, Rwanda 2005).

In June of 1987, Tito Rutemara opened a clandestine school in Uganda teaching theoretical strategies to his ‘cadres’; in December 1987, RANU adopted what they viewed as a more appropriate name, the Rwanda Patriotic Front (RPF), with constitutional declarations akin to those of the NRA and with ‘chapters’ being organised across Africa, Europe and North America (interview Rutemara, 2005). The RPF was led by Paul Kagame who in his capacity as Uganda’s head of military intelligence from November 1989 until June 1990 had received training in military tactics and intelligence methods at the U.S. Army’s Fort Leavenworth Command and General Staff College in Kansas (Crawford, 1995; Snow 2008). Kagame’s presence at the US military Staff College earned him the title “America’s Man in the Great Lakes” (Prunier, 1998b: 130fn). According to a Ugandan newspaper article of 1994, Museveni also sent Kagame to Britain, North Korea and Canada for same (Ottunu, 2000: 33).

CONCLUSION

There are various ways in which cultures can construct ideologies of racialisation, and such ideologies can be, and are, attached to any number of characteristics that serve to socially transform a collection of individuals within a culture into a group – gender, nationality, age, sexual preference, social and economic class, religion and much else, including race. Attributing fixed ‘differences’ to particular groups is clearly a tool of power in which certain people are defined as ‘other’ and usually as inferior. Interestingly, the converse is true of Rwanda where it was the minority Tutsi who were constructed by the European colonisers as ‘other’ or ‘alien’ albeit superior to the majority/inferior Hutu, identifying the Tutsi as having originated from the northern hemisphere and being both distinct and superior to the ‘Negroid’ populations of Sub-Saharan Africa.

An analysis of the body of literature relevant to the racialisation of social categories throughout Rwandan history indicates that pre-colonial wars in Ruanda were either against foreign tribes or were internal affairs between lineages fighting for power. Of significance is that a credible and substantive body of literature exists which establishes that Banyaruanda relationships were by no means harmonious. This literature contradicts the position adopted and promoted by the current Rwandan regime who encourage academic and journalistic ‘sympathetic outsiders’ to embrace and spread an idyllic, harmonising, perspective on pre-colonial society and history. Such deeds discount three decades of rigorous post-independence scholarship on Rwanda and lend authenticity and legitimisation to a history with ideological underpinnings to the outside world.

Pre-colonial Rwanda witnessed discriminatory practices by the ruling Tutsi monarchy against the differing social categories that were the Banyaruanda, although racialisation of social categories in Rwanda was undoubtedly accentuated upon the arrival of the Europeans who failed to acknowledge that ‘roots can be very tangled things’, (Memmi, 1991: 31) with mixed Hutu and Tutsi or Hutu and Twa backgrounds and intermarriages being ignored. The racial distinctions created by the European colonisers for the purpose of the old colonial policy ‘*divide et impera*’ thereafter exacerbated and racialised existing inequalities. What had been oppressive conditions in pre-colonial Rwanda became more cohesive as a result of colonisation.

The supposedly foreign Hamitic origins of the Tutsi, once used to defend their inherent right to rule, were used to justify plans by the majority Hutu group to drive the minority Tutsi group out of Rwanda. As such it is imperative that the Rwanda genocide be viewed within the logic of colonialism and racialism of the colonised. Racialism in the context of colonisation is a frequently recurring theme in documented instances of genocide and mass violence. There were elements of racism in the genocide of the Herero in which the norm was for white settlers to refer to black Africans as “baboons” and to treat them accordingly (Bridgman and Worley, 2004: 20). By utilising racialisation as a lens to understand the pre-colonial and colonial experiences of the Banyaruanda¹⁸, this chapter has illuminated the specificities of racism encountered, revealing insights into when and how race became a salient signifier of difference in Rwanda. This necessarily included the development of what is known as ‘the Hamitic myth’ and evidenced how the hegemonic power of racist dogma, perpetrated for political reasons and in the interests of European imperialist designs, profoundly affected the colonial history of Rwanda.

Europeans did not invent the categories of Hutu and Tutsi. Neither would it be acceptable to infer that this was a peaceful, harmonious culture pre colonisation. Exposure of the Banyaruanda to protracted European racialisation did, however, have a long-term and cumulative effect resulting in repeated violence and as such played a significant role in what is now referred to as the Rwandan genocide of 1994 which is detailed in the following chapter. Any valid analysis of the genocide of 1994 and its aftermath should be viewed within the logic of colonialism and indeed neo-colonialism as shall be portrayed at a later stage.

¹⁸ The term ‘Banyaruanda’ refers to the one tribal people found in Ruanda

CHAPTER FOUR: THE SPECTRE OF GENOCIDE IN RWANDA AND ITS AFTERMATH

'In these politics of presence and absence, the perfect genocide becomes the iconically successful crime when no one can recognise it as such, and, unrecognised, it disappears. One looks, but cannot see – perhaps one is unguided, for one sees but does not look upon a scene that has relevance, one writes but does not mention; such, as has been stressed throughout this book, is the experience of the modernist discipline termed criminology' (Morrison, 2006: 249)

As previously indicated, prior to 1994, the country of Rwanda had received little Western academic or journalistic interest. The new notoriety bestowed on Rwanda is a direct result of extensive press coverage of the genocide and its brutalities, and more especially the 1994 television coverage of millions of refugees fleeing across its borders to escape the massacres (see Fair and Parks, 2001). This has ensured that to many, Rwanda is synonymous with conflict, extreme violence, and humanitarian disaster. But the extent to which academics, journalists, commentators and members of the public are aware of the continuing and current extreme violence perpetrated by the current Rwandan government, both within Rwanda's borders and the borders of Eastern DRC, is questionable. Instead, portrayals of Kagame and his regime are in general heavily sanitised, whereby Kagame is hailed as "one of the most successful revolutionary leaders in the last century" (Kinzer, 2008).

This chapter provides a brief overview of developments in Rwanda over the previous two decades, highlighting both the formal and informal changes within the country from late 1990 onwards in response to the ongoing civil war; the massacres of a significant proportion of Rwanda's population by instruments of the Hutu government and the Hutu militia known as *Interahamwe*; and human rights abuses and massacres committed by the invading Tutsi rebel force, the RPF, throughout the 1990s, culminating in 1994 in genocide. Thereafter, four distinct sections outline a descriptive account of:

- the genocide in Rwanda of 1994;
- portrayals of responsibility for genocide;

- the judicial and international community's responses to the genocide during same period;
- crimes of the RPF.

Finally, this chapter provides an overview of the post-genocide Rwandan government propagated as a result of the judicial and bystander responses to the genocide, and a brief yet critical discussion of its involvement in conflict in the Democratic Republic of the Congo throughout the past fifteen years. Such a critical exploration fails to support the Kagamian version of development as noted in the introduction to this thesis, and instead culminates in well documented and evidenced ongoing atrocities being committed by the Kagamian regime, in addition to embedded poverty and inequality within the country.

THE FORMAL AND INFORMAL CHANGES BETWEEN 1990 - EARLY 1994

'[T]he grooming of the RPF by Britain and America'

The events of several years immediately before the genocide, namely from 1990 until early 1994, are complex yet critical to our understanding of the genocide. To fathom the meaning of this period one must have a clear insight into the pre-1990 period as outlined in chapter 3 herein. This includes firstly the formation of the Rwandan Patriotic Front (RPF), 'a small but highly effective military and political movement capable of engaging with the Rwandan Government Forces (FAR)' ¹⁹ (Dallaire, 2003: 47), and secondly the awareness that two major political trends dominated post-independence Rwanda. The first of these trends was that the principles of the Hutu Revolution of 1959 guided official policy. The second of these trends was that not only was their conflict between Tutsi and Hutu of the country, there was also significant political conflict occurring *among* Hutus in a north – south divide. The Hutu of the north were far more extreme in their political views than the more moderate Hutu of the South.

In the early 1990s, these axes of Rwandan political history collided when in October 1990, Tutsi exiles under the banner of the Rwandan Patriotic Front (RPF), invaded Rwanda from

¹⁹The Rwandan Armed Forces (FAR, Forces Armées Rwandaises) was the national army of Rwanda until July 1994, when the Hutu-dominated government collapsed in the aftermath of the Rwandan genocide and the invasion by Paul Kagame's RPF

southern Uganda. Despite official denials, 'these moves seemed to have the tacit blessing of Uganda's President Yoweri Museveni' (Peterson, 2001: 280-1) who viewed the RPF favourably in light of their extensive help in the early 1980s when Museveni was himself battling to win Uganda's own civil war as previously discussed in chapter 3. Kuperman argues however that although Museveni supported the RPF's aims he wanted them pursued peacefully, worrying that Uganda may lose foreign aid if it appeared to sponsor 'a foreign invasion' (2004: 68).

Chossudovsky (2006) has indicated that the development of the RPF and its objectives was, in addition to President Museveni, supported throughout by the United States and Britain, who were 'grooming' the RPF (Crawford, 1995). By 1988, it had become an open secret in Uganda and Rwanda that Tutsi members of the Ugandan army were considering an invasion of Rwanda (Kuperman, 2004: 68) and from 1989 onward America supported the RPF attacks upon Rwanda. Indeed, Destexhe has evidenced that military training for the guerrilla RPF in Uganda was provided by British forces at a base in Jinja, Uganda (1995:46).

By August 1990 the RPF had begun preparing a full scale invasion of Rwanda with the full knowledge and approval of British intelligence (Crawford, 1995). In the meantime, Habyarimana had taken several significant political steps in an effort to avert the RPF invasion, including the facilitation of the repatriation of the Tutsi refugees from Uganda as demanded by the RPF with the initial phase scheduled for November 1990. As such, Uganda-Rwanda negotiations on the rights of refugees to claim Rwandan nationality had reached 'an advanced stage' (Mandami: 2001: 159) when the RPF attacked in October 1990. It was only three days prior to the attack that Habyarimana had announced within the UN General Assembly in New York, key concessions to refugees (*ibid*); however, the RPF chose not to allow the validity of Habyarimana's initiatives to be tested. It is ironic that the incursion should happen during a rare period of internal reform as opposed to repression in Rwanda, during a period when President Habyarimana was making every effort to appease the rebel force.

Many African analysts believe that the order for the October 1990 RPF invasion could not have been given without the knowledge, approval, and active assistance of the Pentagon's Central Intelligence Agency (CIA) and Britain's Secret Intelligence Service (SIS) commonly referred to as MI-6, both agencies being heavily engaged in Uganda as previously noted

(Madsen, 1999). Such assertions are, according to Chossudovsky, corroborated by written submissions to the International Criminal tribunal for Rwanda (ICTR). Marwitz (1994) has highlighted that:

“From 1989 onward America supported joint RPF - Ugandan attacks upon Rwanda. Telegrams to the state department cited foreign military observers documenting Ugandan support for RPF attacks. There were at least 56 'situation reports' in state department files in 1991. Between 1989 and 1992 US aid to Uganda was \$183 million, double the amount to Rwanda. As American and British relations with Uganda and the RPF strengthened, so hostilities between Uganda and Rwanda escalated”
(Snow, 2008)

This RPF incursion into Rwanda on 1 October 1990 was the trigger for three years of American and British supported civil conflict between the Hutu-dominated government of Rwanda and the Tutsi-dominated guerrilla rebels of the RPF, refugees resident in Uganda, that culminated in the genocide of 1994 (Crawford, 1995; Dallaire, 2003: 48).

Pressure for political change in Rwanda

If the first major change in the last decade of the twentieth century in Rwanda was a violent civil war, the second major change was political. Like most other African states, Rwanda was a single-party state for almost the entire post-colonial period. However the end of the cold war changed the political status quo on the continent. With the fall of communism in Europe, some Western donor countries and many African elites no longer accepted single-party dictatorships, and Rwanda was no exception. In 1991, under pressure from France, which was then Rwanda's principal international backer, President Habyarimana formally ended the exclusive rule of his party, the Mouvement Révolutionnaire National Pour le Développement (MRND). Immediately thereafter, a vigorous, largely Hutu opposition quickly arose to challenge the president and his party. The Hutu opposition was strongest in the southern, south-western and south - central regions. The largest opposition party was the Mouvement Démocratique Républicain (MDR) (Lemarchand, 1970; Bertrand, 2000; Prunier, 2002: 121-126).

One cannot fully understand the manoeuvring of the Habyarimana regime against both its internal challengers and the omnipresent threat from the RPF without also fully understanding firstly the role of France in its military and ideological support of the Francophone government of Rwanda, and secondly, the French view towards Francophone Africa in general. A detailed discussion of the role of France in Africa in general and Rwanda in particular can be found in chapter 6 herein. For the purposes of the current chapter it will suffice to say that a prolonged civil war between the RPF and the Government of Rwanda commenced as a direct result of the RPF invasion of October 1990 and it is arguable that the civil war was sustained for such a lengthy period of time due primarily to the fact that both sides received substantial western assistance.

Arusha Peace Accords of 1993

“The period following an agreement on ending internal conflict can often be even bloodier and more dangerous than the period before the agreement. The Arusha Peace Accords, which ostensibly ended the ongoing conflict in Rwanda between an exiled Tutsi guerrilla group (the Rwandese Patriotic Front) and the Hutu government of President Juvenal Habyarimana, are a tragic example of a negotiated agreement failing miserably in its implementation ” (Stettenheim: 2000: 213)

As previously alluded to, the power of the Rwandan ruling elite led by President Habyarimana was being challenged by both the Tutsi led RPF guerrillas and the government’s Hutu political opponents; as a direct result the ruling elite’s singular grip on power began to disintegrate. The ruling elite, known as ‘*akazu*’²⁰, had profited under Habyarimana and most had little intention of relinquishing their power without a fight. The campaign of the Rwandan ruling elite included; the explicit linkage of the Tutsi-dominated RPF guerrilla army resident in Uganda, to the resident Tutsi population living in Rwanda (Prunier, 2002: 138); significant expansion of the Rwandan army forces and launching of a civilian defence programme that incorporated civilians into war ²¹; and development and

²⁰ *Akazu* translates as a ‘small house’ of senior military and civilian officials, closely affiliated to the powerful clan of Agathe Habyarimana, the President’s wife

²¹ From 1990 – 1994, the Rwandan Armed Forces more than quadrupled, from 7000 to 31000 men, and purchased weaponry. See Defence Intelligence Agency report written May 9 1994. The report is now declassified and available as “Document 11” at <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB53/rw050994.pdf> .

training of a youth militia in 1992 and 1993. Indeed by early 1994, there appear to have been at least several thousand militias in different parts of Rwanda (Des Forges, 1999: 101) belonging to one of two organisations associated with political parties. These militia were known as the *Interahamwe*²² and the *Impuzamugambi*²³. The hardliners also developed lists of RPF supporters and leading Hutu opponents in Kigali that some scholars have labelled “death lists” as during the first days of the April 1994 massacres, hardliners systematically assassinated leading Hutu opposition figures and RPF supporters. These developments clearly indicate that the hardliners pursued irregular tactics to keep power and were prepared to use lethal violence against civilians if need be (Prunier, 1995: 222n22; Gasana, 2002: 243). Hardliners formed the private RTLM radio station in mid-1993 ensuring that highly inflammatory content was broadcast. Repeated articles in the *Kangura*²⁴ stressed that Hutus and Tutsis were different “races”, and made nativist Hutu claims against “Hamitic” Tutsi, thereby presenting the armed conflict as a race war (Chrétien, 1995: 95-99, 110-111).

As Hutu hardliners developed irregular and radical tactics, so too, RPF leaders clandestinely prepared for combat ‘using their international connections to procure the material they needed’ (Waugh, 2004: 61). Recruitment processes also escalated and the RPF, which had numbered only 4000 men when it had made its first incursion into Rwanda in October 1990, had an estimated strength of 20,000 by the end of 1992. ‘Despite the outward show of diplomacy and commitment to peace negotiations [by the RPF], the internal reality was one of preparations for war’ (ibid).

In April 1992, under domestic and international pressure, President Habyarimana formed a coalition government with the political opposition, who in turn began peace negotiations with the unenthusiastic RPF rebels. Civil war continued in Rwanda until, after numerous rounds of negotiations, the two sides reached a power sharing agreement which was signed on 4 August 1993. Since the peace talks had been held in Arusha, Tanzania, the agreement became known

22 The name *Interahamwe* can be translated as “Those who work together”. It was an extensive Hutu paramilitary organization, supported by the Hutu government both before and during the genocide, and its members were responsible for many deaths during the 1994 genocide.

23 The name *Impuzamugambi* means “Those who have the same goal” or “Those who have a single goal”. It was a small Hutu militia organization formed in 1992 and its members were responsible for many deaths during the 1994 genocide.

24 *Kangura* was a Rwandan magazine published in both Kinyarwanda and French language which published hate propaganda in the build up to the genocide of 1994. The magazine was launched in 1990 in response to the Rwandan Patriotic Front (RPF) sponsored *Kanguka* magazine and the October invasion of Rwanda by the rebel RPF.

as the Arusha Accords²⁵. According to McQueen, the Arusha Peace Agreement was arguably 'a significant victory for the RPF' (2005: 99) and laid the groundwork for a 'virtual political revolution in Rwanda' (Adelman and Surke, 1996:25). Politically, the agreement called for a broad-based transitional government (BBTG) with a specified exact composition and this formation was to be followed by multiparty elections (McQueen, 2005:99-100).

Under the terms of the Arusha peace agreement, the RPF were permitted to station a number of their diplomats, including Tito Rutemara, at the CND parliament building in Kigali and the RPF was permitted to protect these diplomats with a battalion of 600 RPF soldiers (Interview Rutemara, 2005). According to several reports, the rebel leadership continually breached the peace agreement by stealthily shipping hardware and other military supplies to troops within the CND building. The RPF also maintained a network of cells around the country (Des Forges, 1999: 180-181) and, according to at least one former RPF officer, who has since broken ranks, the RPF leadership sought to destabilize the Habyarimana regime through political assassinations, killing of civilians (Ruzibiza, 2005), and the laying of landmines (Dallaire, 2003: 156). Gribbins (2005) provides a detailed analysis of the RPF's skills concluding that the RPF domination of the bargaining table in fact accelerated the forces of Hutu extremism.

There was one other key component of the Arusha Accords. They called for a ceasefire and featured a major role for the United Nations in implementing the Accords with the deployment of an international peacekeeping force to monitor the ceasefire and to secure Rwanda during its period of transition (For a full account of the Arusha Peace Process from the outset of civil war in 1990 until the RPF victory in July 1994, refer to Jones, 2000: 131-156).

Establishment of UNAMIR

Both signatories to the Arusha accords consented to the establishment of the neutral international peacekeeping force in Rwanda being under the responsibility and command of the United Nations. Despite their reluctance the Security Council acquiesced to provide a

²⁵ The Arusha Accords consisted of a Peace Agreement, the N'Sele Cease-Fire Agreement and two protocols plus earlier completed protocols governing the rule of law, power-sharing and the repatriation of refugees. See *Letter from the Permanent Representative of the United Republic of Tanzania to the United Nations addressed to the Secretary-General, transmitting the Peace Agreement signed at Arusha on 4 August 1993, the N'Sele Cease-Fire Agreement and related Protocols of Agreement*, UN Doc A/48/824-S/26915.

peacekeeping mission in Rwanda to monitor the proper implementation of the Arusha Agreement. McQueen argues that the Security Council's reluctance to manage the peace process with any degree of commitment or determination foreshadowed its later response to the genocide (2005: 101). One Security Council member explains such reluctance as being largely due to the Council's 'collective misunderstanding of the Arusha peace negotiation process', having only becoming engaged in the process after the signing of the Accords (INTERVIEW EL/12).

"When the Arusha talks concluded in August 1993 with a recommendation for a UN peacekeeping operation, there was anxiety in some parts of the Council that the peace process had effectively boxed in the United Nations and predetermined a key issue, which was not the prerogative of the negotiators. The parties had drafted provisions in the peace agreement with implications for UN action. These were predicated on the Council saying yes to the adoption of a resolution for a peacekeeping operation. This situation caused a sense of irritation with Rwanda on the part of some Council members, including the British member, which may well have played a part in conditioning subsequent responses in 1994" (ibid)

The mandate ultimately agreed upon by the Security Council in Resolution 872 of 5 October 1993 was considerably reduced in scope from that suggested as being appropriate by the Accords. Resolution 872 established a United Nations Chapter VI²⁶ peacekeeping mission to Rwanda that was referred to as the United Nations Assistance Mission to Rwanda (UNAMIR) with an initial six month mandate, subject to review and renewal in April 1994²⁷. The main objective of UNAMIR was to assist in the monitoring of the peace process and maintenance of security without proactive use of force in Rwanda during the period of transition. The UN mission was also required to monitor a weapons-secure area to be established by the Rwandese parties in and around the city and the observance of the

26 The fundamental difference between a Chapter VI and a Chapter VII mandate is the peacekeeping force's ability to use force. Under a Chapter VI mandate peacekeepers can only use force in self-defence, while under a Chapter VII they can be proactive in the use of force and indeed make peace if the situation warrants it. A Chapter VII involves more risk to the peacekeeping contingents because the likelihood of combat, and hence casualties, are higher; therefore the UN prefers Chapter VI mandates and its variations over Chapter VII mandates. Furthermore, Chapter VI mandates require the consent of all disputing factions, while Chapter VII mandates do not.

27 A U.N. observation force established in June 1993 to monitor the border between Rwanda and Uganda (UNOMUR) was folded into UNAMIR, although it remained an autonomous body that kept its original mandate.

ceasefire agreement. The agreement of 2538 troops to UNAMIR was actually below the numbers considered to be an absolute minimum by the French Canadian Force Commander, General Romeo Dallaire (Interview, 2005).

When interviewed in London in 2005, Dallaire stated that he was frustrated in his efforts from the outset as mobility provision for UNAMIR was seriously lacking. This was a result of the UN having no self-owned logistical reserves on which to depend and the majority of troop contributing nations failing to provide the requested materials (Interview, 2005). According to one member of the United Nations Security Council, 'UNAMIR was given a more robust mandate than was normal, but the force structure given to the UNAMIR Force Commander – in particular the equipment and readiness levels of the force – bore no relationship to what was really needed' (INTERVIEW EL/12).

It is accepted that there were clear indicators throughout the 1990s, and soon after the deployment of UNAMIR in Rwanda, that all was not well within the country. In 1992, the Belgian Ambassador warned his government that Hutu Power advocates were 'planning the extermination of the Tutsi of Rwanda' and in April 1993, the U.N. Special Rapporteur on Summary, Arbitrary, and Extrajudicial Executions said massacres of Tutsis already constituted genocide (Stanton, 2005: 271-273). During the first months of 1994, UNAMIR expressed concern over the deteriorating security situation whilst the French Ambassador in Kampala was, in the months prior to the genocide, 'sounding some really deathly warnings... It was he who spoke first of the use of the term "cockroach" on Radio Mille Les Collines' (INTERVIEW EL/2).

Burundi shares the same ethnic makeup as Rwanda; however, in Burundi, it was the Tutsis that controlled the state after independence (Lemarchand, 1970). As part of Africa's wave of democratization Burundi ended one-party rule and in June 1993 voters elected its first Hutu president. However a few months later, Ndadaye was assassinated by Tutsi military leaders causing reverberations in Rwandan political circles. A campaign of intense Tutsi led repression followed the assassination that resulted in the death of approximately 50,000 Hutu and Tutsi in Burundi and led to about 900,000 Hutu refugees fleeing into Rwanda (World Bank, 1994, 12-13). The Hutu ruling elite in Rwanda, often referred to as the 'hardliners', seized on these events to corroborate their claims that the Tutsis of Rwanda would never share power and sought only domination of Hutus (Prunier, 2002: 198-295), causing panic

within the majority of the Hutu population of Rwanda (Gasana, 2002: 226). It was the ruling elite and domestic Hutu opposition's responses to such repugnant threats of Tutsi military challenges that would have huge consequences for Rwanda in 1994 (Hintjens, 1999: 259).

Planning a genocide?

Throughout the early 1990s, there was growing evidence of the importation of arms into the country and reports that weapons were being distributed to civilians (see McNulty, 2000). Indeed intelligence regarding the location of arms caches within the country was made available to the UN Secretariat at least as early as 11 January 1994, when General Dallaire sent a version of the now infamous 'genocide fax' to New York. That a fax was sent on the 11 January 1994 by Dallaire is undisputed, however what is questionable is the actual content of the fax and whether this communication raised concerns for the safety of the Belgian contingent of UNAMIR and/or alluded to the planned genocide of the Tutsi of Rwanda as is now alleged. The prosecution at the International Criminal Tribunal for Rwanda (ICTR) attempted to prove that genocide of the Tutsi was planned ahead of April 1994 by Hutu extremists; however, there is a distinct lack of documentary evidence of any Rwandan government plan to commit genocide. There are no orders, minutes of meetings, notes, cables, faxes, etc., and as such the key piece of evidence for the prosecution was the production of a copy of said 'genocide fax', the single document upon which claims of a planned genocide depended. This fax, produced in the ICTR, was allegedly sent by General Dallaire, stationed in Kigali, to General Baril of the Department of Peacekeeping Operations (DPKO) in New York on the night of 10-11 January 1994, and alludes to the claims of a UN informant in Rwanda who advised the Force Commander of UNAMIR that the ruling government party planned to exterminate Tutsis; was training civilians for that purpose; and that there was a plan to kill Belgian soldiers to provoke the withdrawal of UN forces. However this document did not make its first public appearance until 28 November 1995 when it was placed in the UN files in New York and subsequently 'leaked' to a journalist in Belgium and the London Observer (Philpot: 2004). A UNAMIR commission created in early November 1995 had been tasked to analyse all UNAMIR cables, faxes and reports in an effort to collate all information that was suggestive of a pre-planned genocide of Tutsi. In their report dated 20th November 1995, no such evidence was found and there was no trace of the 'genocide fax'.

The copy of the 'genocide fax', dated 11 January 1994 and produced by the prosecution as an exhibit in the ICTR Military II trial in October 2005, was proven by the defence counsel to have been altered and did not correspond with the copy of the 'genocide fax' held in the United Nations archives in New York. The archived 'genocide fax' document, placed in the UN files on 28 November 1995, has typed on its face, "This cable was not found in DPKO files. The present copy was placed in the files on November 28th, 1995." It is signed by Lamin J. Sise, a UN official. The document contains other handwritten notes made on it after its receipt that day. The copy fax produced by the prosecution of the ICTR had the name and fax number of the sender, Sise's note and other notes removed. It was ultimately disallowed and instead 'entered into the record the copy of the fax contained in the DPKO files bearing the name of the British Army source' (Black, 2005).

This 'British Army Source' refers to the person who sent the fax to New York in November 1995, namely a Colonel R. M. Connaughton of the British Army, based at Camberley, Surrey, England, the home of the British Military Academy, Sandhurst as well as several other British Army establishments. His name and fax number appear at the top of the UN archived document. There was however no cover letter forwarded with the fax explaining who sent it, why it was sent, nor is there anything indicating why this document was accepted by the UN in New York and placed in the DPKO files. Other commentators have noted further discrepancies in the archives of the ICTR (Barouski, 2008), whilst the testimonies of UNAMIR Force Commander General Dallaire have been contradictory on occasion and highlight, by his own admission, his many breaches of United Nations protocol, communicating directly with the DPKO rather than through his superior namely Jacques Roger Booh-Booh (Black, 2005).

Although the exact content of the fax that was forwarded from the Force Commander of UNAMIR cannot be confirmed, responses to it from the UN DPKO suggest that it was still an indicator that UNAMIR was not on a mission in the auspicious setting that the Council had assumed. Interviews with former ambassadors of the UN Security Council confirm that this significant contribution to the knowledge of escalating violence within Rwanda was never revealed to the Security Council although it is suspected that the information would have been shared privately with the French and US ambassadors (INTERVIEW EL/02; INTERVIEW EL/12; INTERVIEW EL/14). The roving ambassador with responsibility for Rwanda before and during the genocide confirmed that, despite meeting personally with

Dallaire in March 1994, he was not made aware of the fax of 11 January 1994, or of security risks to Belgian peacekeepers. With regards to the 'genocide fax', Sir Edward Clay states 'It's one of these things that with the benefit of hindsight should have been given more attention but it wasn't' (INTERVIEW EL/02). However, with the benefit of hindsight, it is now quite evident that the genocide fax is a fabrication. It is out with the scope of this thesis to explore in greater detail communication failures within the United Nations or the rationale and responsibility for the fabrication of evidence as detailed above.

The United Nations archives do confirm that the UNAMIR Force Commander repeatedly sent cables to the DPKO requesting urgent dispatch of all the equipment originally authorized by the Security Council resolution 872. He also asked for an additional infantry company, which the DPKO tried to acquire from Canada in vain. The Belgian foreign minister, Willy Claes, reportedly also asked the UN prior to April 1994, to give UNAMIR a more flexible mandate to permit an active search for weapons (Barnett, 2002: 89). The Special representative of the UN Secretary General, Booh-Booh, in a facsimile message of February 2 1994, wrote that he was

'receiving more and more credible and confirmed information that the armed militias of the parties are stockpiling and may possibly be preparing to distribute arms to their supporters...Each day of delay in authorizing deterrent arms recovery operation...[will] create a significant danger to the safety and security of UN military and civilian personnel and the population at large' (Barnett, 2002: 91)

Intelligence reports received by one British diplomat clearly indicated that in New York, Secretary-General Boutros Boutros-Ghali repeatedly underlined that the success of the peace keeping mission in Rwanda was wholly dependent on the cooperation of the Rwandese parties and their willingness to implement the Arusha Agreement (INTERVIEW EL/02). The continued mantra of officials in Washington and London, when advised of escalating security concerns within Rwanda, was to encourage establishment of the transitional government (Barnett, 2002: 89).

Renewal of UNAMIR mandate April 1994

However, evidence that the political process had stalled and was being undermined by President Habyarimana and his ruling Hutu elite caused concern in the Security Council when the members discussed the renewal of UNAMIR's mandate in January, and again in the first week of April 1994. The decision to authorize a continued UN presence was disputed and 'several of the larger financial contributors, with the notable exception of France, seemed determined to shut down UNAMIR unless the peace process was put back on track quickly' (INTERVIEW EL/12). Supporters of the peacekeeping force, on the other hand, emphasized that the one basic premise for the operation, namely the cease fire, was holding and ultimately Resolution 909 was adopted by the Security Council on 5 April 1994 detailing an extension of the mandate of the UN Assistance Mission for Rwanda and implementation of the Arusha Peace Agreement. Resolution 909 stated that UNAMIR would be removed from Rwanda in six weeks unless the transitional government was created; however, this has to be interpreted with due consideration to other ongoing global circumstances during February and March of 1994, namely the renewed conflict in Bosnia with mortar shells targeting the Sarajevo market (Smith, 1994); in Somalia, U.S. forces were departing (Richburg, 1994); and indeed the North Korean nuclear issue was causing Asiatic concern (Tyler, 1994).

'It is one of those cruel ironies that Rwanda was a member of the Council at this time and hence its Ambassador was well aware of the reluctance of the USA to support the continuation of UNAMIR. Even a cursory glance at Resolution 909 would have done nothing to make the extremists think that the UN was prepared to intervene forcibly against them' (Wheeler, 2000: 217).

It is therefore arguable that, between 1990 and early 1994, having endured three years of murderous civil war and violent multiparty politics, Rwanda was in a deep, protean and escalating crisis. A nominal coalition government existed, with the opposition holding key posts, but in reality there was a major political impasse (Gasana, 2002: 240, 250). A peace agreement was in place, but both government forces and the RPF were rearming and preparing for war (Gasana, 2002: 243-44).

A DESCRIPTIVE ACCOUNT OF GENOCIDE

The Catalyst

It was a complex, and disputed sequence of events that provided the catalyst for the genocide, beginning with the 1990 incursion into northern Rwanda by the Tutsi guerrilla RPF army, continuing throughout the Arusha Accords conference in Tanzania (June 1992 – August 1993) and ending with the shooting down of President Juvenal Habyarimana's plane on 6 April 1994 when a surface-to-air missile struck one of the wings of the aircraft before a second missile hit its tail. The plane erupted into flames in mid-air before crashing into the garden of the presidential palace, exploding on impact, killing all on board (Dallaire, 2003: 221-224). The plane carried three French crew and nine passengers including the President of Burundi thus bringing to three the number of Hutu Presidents killed within a six month period.

As we have established, prior to the assassination of 6 April 1994, Rwanda was a country poised on a knife-edge, staggering from one near catastrophe to another whilst chaos reigned. Habyarimana was under escalating explicit pressure from increasingly impatient neighbouring countries' leaders and international sponsors to implement transfer of power to the Broad-Based Transitional Government (BBTG). 'Foreign pressure became intense' (Prunier, 2002: 209). The 'final talking-to' was to given to Habyarimana by leaders from Uganda, Kenya, Burundi, the UN and other international brokers of the peace process at a meeting arranged by Tanzania's President, set for April 6 in Dar Es Salaam. Under extreme pressure, Habyarimana at last agreed at the meeting of 6 April to move to implementation of the previously agreed power-sharing arrangement. It was on his return flight and on approach to the landing runway of Kigali airport that his French Mystère Falcon jet, a gift from President Mitterrand of France, was shot down (Prunier, 2002: 211-12).

There is no disagreement amongst scholars and commentators that the assassination of President Habyarimana was the critical turning point in the sequence of events which lead to the unrestrained mass killings of Rwandese, and exodus of refugees from Rwanda. However, to this day, no official investigation has been launched into the attack on the plane or the death of its occupants and as such no individual, group or organisation has been convicted of responsibility. Immediately after the death of Habyarimana , there was widespread speculation by outside Anglophone analysts of an '*akazu*' sponsored plot (Gourevitch, 1998: 113), 'to prevent the BBTG being installed' by him (Gaillard and Barrada, 1994: 12-19;

Eltringham, 2004:111). Contradictory to such claims, the Hutu hardliners²⁸ used radio stations to incite Hutu citizens to avenge the death of the Rwandese President, claiming that 'the Belgians or the RPF had definitely shot down the plane' (Chalk, 2000: 101). The day following the assassination of Habyarimana, ten Belgian UN peacekeepers were murdered by Rwandan soldiers who, as a result of hate propaganda, believed them to have been involved in the shooting down of the aircraft (Chalk, 2000: 102).

Until recent times, the consensus of Anglophone literature held that the Hutu hardliners of Rwanda pursued genocide to keep power and that the genocide had specific, powerful architects who were members of the *akazu*. Scholars and human rights activists emphasized, in the first few years following the atrocity, that these hardliners planned the genocide for some considerable time before it happened (Prunier, 1995: 169; Des Forge, 1999: 5) with Pottier referring to 'a masterplan for the extermination of Habyarimana's political opponents and all Tutsi ... a plan already in existence in 1993' (2002: 31). Indeed Melvern produced an entire book attesting to the pre-planned genocide and a *Conspiracy to Murder* by Rwandan ruling elite (2004). In contradiction to such claims was the post-genocide Francophone literature that negated the responsibility of the Hutu ruling elite in either the assassination of Habyarimana or pre-planning of genocide in Rwanda. Péan alleges the existence of a "counter-genocide", (2005) and both he and Ruzibiza²⁹ point to the heavy responsibility of President Paul Kagame in creating the conditions that led to the ghastly carnage (2005). Shortly after the plane was downed, French military officers in Kigali met General Dallaire, who as commander of the UN mission in Rwanda was responsible for airport security, and offered to investigate the assassination. France was particularly concerned by the event since the plane belonged to France and French nationals had been killed. Moreover, French investigators were available nearby. However, whilst giving testimony as a prosecution witness at the ICTR, General Dallaire confirmed that he had refused the French offer as he

28 Herein, hardliners refer to those exhibiting the doctrine, policy and posturing of a government or political body as being absolutist or authoritarian. The Hutu hardliner movement in Rwanda was/is extremist, militant, and uncompromising. As such the term Hutu hardliner is interchangeable with Hutu extremism, Hutu Power and Hutu Ruling Elite

29 a former officer and defector from Kagame's Rwanda Patriotic Front (RPF), member of the crack unit known as the Network Commando and assigned to the French Department of Military Intelligence (DMI)

had already discussed the issue with the Americans who were prepared to dispatch an investigating team from their bases in Germany³⁰.

On April 8, 1994, the Security Council demanded an impartial international inquiry into the assassination. On April 12, the Belgian Cabinet also demanded the International Civil Aviation Organization conduct an investigation into the assassination. A document distributed by the Uganda Democratic Coalition³¹ to foreign embassies and journalists some six days after the assassination of Habyarimana accused the Pentagon of being 'conspirators with dictator Museveni and RPF leaders in the assassination plot' (UDC, 12 April 1994, cited in Prunier, 1995: 216). On June 25, the Security Council mandated the Secretary General to conduct an inquiry into the assassination. In November 1994, the Security Council created the International Criminal Tribunal for Rwanda with the mandate to investigate acts of genocide or other serious violations of international human rights law committed on Rwandan territory during the year 1994. In September 1995, Zaire demanded that an inquiry be held into the assassination. In October 1995, Kenyan President Arap Moi demanded an inquiry.

Alternate versions, rumour and speculation have thrived throughout the 15 year period since the President's death. Despite two Presidents having been assassinated, to this day, no official international inquiry has been conducted into the killings. This litany of resolutions prompted Belgian Professor Filip Reyntjens to conclude in 1995 that "in fact, nobody seems to really want to know" who assassinated the two Presidents. Reyntjens maintained that all the evidence available tended to incriminate the RPF (Reyntjens, 1995: 46-7).

In the shadow of the plane crash – the response of the Hutu extremists

During the night of April 6/7 1994, in the immediate aftermath of the plane crash, roadblocks were thrown up both in and around Kigali by both the Rwandan army and members of the *interahamwe* militia. Targeted killings of opposition leaders began. Most notable among the first of those who died trying to escape was the prime minister, Agathe Uwilingiyimana, an MDR moderate (Dallaire, 2003: 245). Indeed it was while endeavouring to escort her to

30 Testimony of Roméo Dallaire in Jean-Paul Akayesu's trial at the ICTR in Arusha Case No. ICTR-96-4-T

31 A US-based Ugandan exile group

safety that ten Belgian paratroopers were captured, disarmed and later butchered by Rwandan government forces, an action which led a few days later to the withdrawal of the entire Belgian contingent from UNAMIR (Dallaire, 2003: 236 – 257). An interview (2005) with Agnes Ntamabyariro, a former pre-genocide Rwandan government Justice Minister revealed that later same night, with the president and his advisors dead and a dearth of government ministers remaining in the country, an assortment of Hutu extremist leaders including the interviewee, gathered together to form an “interim government” in which she played an instrumental role. Chief architect of the process of putting together the new administration that night was Colonel Théoneste Bagosora, a leading member of the *Akazu*.

In the immediate aftermath of the plane crash, the RPF remained somewhat detached, albeit monitoring the situation closely and maintaining communications with UNAMIR staff (Dallaire, 2003: 234). Tito Rutemara, an RPF diplomat stationed in the CND building, Kigali with the 600 RPF troops, did however deliver an unambiguous threat to UNAMIR: ‘if the killing does not stop, our troops will be forced to attack’ (Interview, 2005). Kagame contacted Dallaire from Mulindi on the morning of the 7 April saying that his people inside the capital were at risk and steps must be taken to protect them. He later sent a message to Dallaire stating ‘I have just learned many homes of our supporters are surrounded by RGF soldiers. The intention’s certainly clear. Informing you that our forces have to react to protect ours. I’m very serious and want to info you before [*sic*]’ (Dallaire, 2003: 245). Moderate politicians and members of the general public continued throughout the day to be removed from their houses and killed whilst others were being attacked on the streets and at the roadblocks.

Later in the afternoon of 7 April Kagame messaged Dallaire for a third time, this time with a straightforward ultimatum indicating that the killings throughout the city had to cease immediately or he would order his troops to intervene. More specifically, Kagame indicated that should the situation not be secured by last light 7 April, the RPF would launch an attack. It was at this time unlikely that UNAMIR had the ability to bring the situation under control (Dallaire, 2003: 247). The commander of the 2700-strong UNAMIR force called for urgent reinforcements for his troops and an immediate change of mandate from the existing passive “peacekeeping” chapter VI role to one that would empower UNAMIR to enforce peace and intervene to save lives. His request was refused (Interview Dallaire, 2005). Shortly thereafter,

Kagame launched 'a well-planned offensive' (Waugh, 2004: 67), violating UN-monitored ceasefire lines 'in a bid to restore order' (Peterson, 2001: 254).

Europeans evacuate Rwanda: Operation Amaryllis

On the 9 April, and having only given the UNAMIR Force Commander 40 minutes prior notice, French troops landed at Kigali Airport with the explicit intention of evacuating French nationals from the country (Interview Dallaire, 2005). Problematic to the French evacuation are the allegations that upon landing, weapons destined for Hutu extremists and militia were unloaded from the plane in Kigali before French nationals and members of the family of the deceased Habyarimana could alight. Such actions by the French are explored in detail in chapter 6 herein. The evacuation was conducted effectively and rapidly with the last French troops leaving on 14 April. The Belgians started a similar operation out of Nairobi on 10 April whilst the US sent about 300 troops to neighbouring Burundi for the same purpose but did not enter Rwanda. Instead US civilians were escorted to the border by UNAMIR and were airlifted from there.

By 10 April 1994, the fourth day of massacres, Dallaire was able to conclude that what he was witnessing was no longer just a politically motivated massacre but 'a massive campaign of crimes against humanity, against anybody carrying a Tutsi identity card' (Power, 2002: 350). The resumption of the 'civil war' commenced in the early hours of the 13 April 1994, one week after the assassination of Habyarimana and the day before the departure of the French troops evacuating their nationals. Ultimately, over the course of a few hours, 2400 Tutsi exile rebels had infiltrated the city of Kigali and joined the 600 RPF soldiers stationed within the Parliament building as part of the peace agreement (Peterson, 2001: 261). A further critical factor was the decision by the Belgian government, formally announced on 14 April, to withdraw its battalion from UNAMIR. The Belgian contingent was by far the best equipped and best trained unit seconded to UNAMIR. The withdrawal began on 19 April and was completed the following day (Wheeler, 2002: 219).

Reaction to continuing pleas from UNAMIR

For two weeks after 6 April, the Security Council held almost daily consultations on the Rwanda crisis. During the first week there was little consistency in the discussions compounded by the fact that the advice that was coming from the Secretary-General's

Special Representative in Kigali, Jacques Roger Booh-Booh, was that the ongoing violence in Rwanda was due to the resumption of the civil war. Keating felt that 'this was transparently not the case...and so there was a disconnect between the political advice that was coming from the SRSG and the realities of the situation' (INTERVIEW EL/12).

The message that UNAMIR had to be strengthened if it were to have any impact on the ground was communicated to the Security Council on numerous occasions. On 19 April, during the final drafting of the Secretary-General's report to the Security Council the DPKO representative argued that the UNAMIR force was unable to function, and there was no prospect of a cease fire in Rwanda. At no time was there any attempt to deconstruct the violence into its two distinct parts, firstly the fighting between the RPF and the forces of the interim government, and secondly the massacres being carried out by individuals or lightly armed militias against unarmed civilians (Wheeler, 2002: 220).

As such the Secretary-General presented the option of a sharp withdrawal from Rwanda as a strong recommendation to the Security Council, albeit not negating provision of massive reinforcement for UNAMIR as an option (Barnett, 2002: 117). In his report to the Security Council of 20 April 1994, the Secretary-General underlined that the UNAMIR personnel 'cannot be left at risk indefinitely when there is no possibility for their performing the tasks for which they were dispatched'. Thus on 21 April 1994, in the midst of unabated genocide, the Security Council agreed Resolution 912 reducing UNAMIR to 270 troops. In the Council, isolated voices appealed for troops, but their words were drowned out by those advocating withdrawal. Barnett asserts that in reaching such a decision 'the United States used its considerable power in the Security Council to help muzzle the call for intervention and later obstructed those who wanted to intervene' (2002: 2). The decision to withdraw the main bulk of the peacekeeping force was met with criticism from several quarters, including the Organization of African Unity (OAU), which denounced the withdrawal as 'a sign of indifference or lack of sufficient concern' for Africans (Leitenberg, 1994). The Secretary-General's reasons were many, including the simple fact of a lack of availability of troops for intervention. However, this is disputed by a former President of the United Nations Security Council who stated when interviewed that 'resources could have been made available for an operation reinforcing UNAMIR in May 1994, but resources were not the problem. The problem was a lack of political will' (INTERVIEW EL/12). A political officer within the United Nations during this period of time has suggested that the Secretariat sanitised much of

the communications arriving at the UN from Dallaire, 'because it did not want to encourage an intervention' (Barnett, 2002: 118). One can only assume that there may have been alternative reasons for such deviance.

On 29 April, the Secretary General appealed to the Security Council to take more forceful action to stop the continuing massacres in Rwanda. This initiative marked a shift of focus and direction in the Secretary-General's attitude towards the Rwandan crisis with the Secretary-General informing the Security Council 'that the Force Commander of the United Nations Assistance Mission for Rwanda has reported a further deterioration of the situation in Kigali and other parts of Rwanda...UNAMIR reports strong evidence of preparations for further massacres of civilians in the city and there are several large concentrations of civilians who fear for their lives but enjoy little effective protection'.

Having updated the Security Council on the seriousness of the situation in Rwanda, the Secretary-General continued:

"I urge the Security Council to re-examine the decisions which it took in resolution 912 and to consider again what action, including forceful action, it could take, or could authorize Member States to take, in order to restore law and order and end the massacres. In making this recommendation, I am of course aware that such action would require a commitment of human and material resources on a scale, which Member States have so far proved reluctant to contemplate. But I am convinced that the scale of human suffering in Rwanda and its implications for the stability of neighbouring countries leaves the Security Council with no alternative but to examine this possibility" (ibid).

Authorising the expansion of UNAMIR

With no western state willing to commit troops to an expanded UNAMIR, the UN's only alternative was to create a strengthened force comprising of African contingents with Western financial and logistical support. Resolution 918 was duly adopted as of the 17 May 1994, which saw the Security Council adjust the mandate for UNAMIR and increased its strength to 5500 troops. Following most of the recommendations of the Secretary-General, UNAMIR II would support and provide safe conditions for displaced persons and other

groups in Rwanda and would help with the provision of assistance by humanitarian organizations. UNAMIR II would also monitor border crossing points and, authorized under chapter VI of the UN Charter, the operation's rules of engagement did not include enforcement action, but permitted a proactive role to protect civilians. The Security Council solved this apparent inconsistency by introducing an expanded definition of 'self-defence' in Resolution 918: the force could be "required to take action in self-defence against those who threatened protected sites and populations and the means of delivery and distribution of humanitarian relief" (ibid). Until this time, similar protection mandates in UN operations – notably the 'no fly zone' and 'safe havens' in Bosnia, and the humanitarian zone in Northern Iraq – had been based on chapter VII.

The US had reservations about the proposal which they interpreted as establishing a large peace enforcement mission to restore order and pacify the population of Rwanda. As such the US called for a small force restricted to merely monitoring the borders. The US finally agreed to the Secretary-General's concept but insisted on phased deployment, with only the first phase being implemented without a functioning cease-fire. It was such US conditionality which governed the entire process of establishing the expanded operation and significantly delayed the process. The American insistence of phased deployment was criticized by several Security Council members, as well as by Boutros-Ghali and General Dallaire (INTERVIEW EL/10; INTERVIEW EL/12).

DPKO officials spent the following months in endless negotiations trying to provide logistics and equipment from Western countries. The combination of excessive lists of demands from the African troop contributing countries and lack of response from western countries made the deployment of UNAMIR II a slow and difficult task (Adelman and Suhrke, 1996). At a Press Conference in New York, 25 May 1994, the Secretary General intimated that 'more than 200,000 people have been killed and the international community is still discussing what ought to be done. I have tried. I was in contact with different Heads of State, and I begged them to send troops' (UN Document SG/SM/5292).

In his report, released some six days later the UN Secretary General reported that:

"The magnitude of the human calamity that has engulfed Rwanda might be unimaginable but for its having transpired. On the basis of the evidence that has emerged, there can be little doubt that it constitutes genocide, since

there have been large-scale killings of communities and families belonging to a particular ethnic group” .

Some two weeks after the authorisation of phase 1 of resolution 918, namely to strengthen UNAMIR to 800 troops, no troops had arrived in Rwanda. The Government of Ghana were prepared to dispatch the required troops immediately; however, the Secretary General noted in his report of 31 May 1994:

“they can be deployed only when essential equipment, especially armoured personnel carriers, is provided and moved to Rwanda. Without equipment, the troops would be unprotected, immobile and ineffective...It is estimated that phase 1 will not be operational for another four to six weeks depending on how soon the resources required are made available by Member States and delivered on the ground” .

Despite the African State of Ghana being prepared to provide troops, the Secretary-General makes it clear that there is a desperate need for equipment so as to allow the troops to be deployed and phase 1 to be implemented, a deployment which would hopefully put an end to the genocidal massacres still ongoing in Rwanda. The Secretary-General was desperate for equipment, air support and APC's but the difficulties in his requests can be seen as his report continues:

“it is unacceptable that, almost two months since this violence exploded, killings still continue...The delay in reaction by the international community to the genocide in Rwanda has demonstrated graphically its extreme inadequacy to respond urgently with prompt and decisive action to humanitarian crises entwined with armed conflict. Having quickly reduced UNAMIR to a minimal presence on the ground, since its original mandate did not allow it to take action when the carnage started, the international community appears paralysed in reacting almost two months later even to the revised mandate established by the Security Council.” (ibid).

In a letter from the Secretary-General to the President of the Security Council dated 19 June 1994, the Secretary-General reports on continuing difficulties he is continuing to encounter in obtaining medical and other support units. 'It should be noted that none of those

Governments possessing the capacity to provide fully trained and equipped military units have offered so far to do so... Meanwhile the situation in Rwanda has continued to deteriorate and the killing of innocent civilians has not stopped’.

As the genocidal killings continued throughout Rwanda in 1994, it was Paris who put forward a resolution to the UN offering to undertake a humanitarian intervention in Rwanda. This resolution was adopted and as a result Operation Turquoise was launched within a few hours. This UN supported intervention is subject to rigorous analysis in chapter 6 herein.

Fighting between the RPF and government forces in Kigali continued until 4 July 1994 when RPF forces took control of the northern part of the city bringing most of the fighting in the city to a halt. After having taken military control over most of the country, the RPF decided to end the war on 18 July 1994 by declaring unilaterally a cease-fire and established a ‘Government of National Unity’ the following day³².

In the immediate aftermath of the genocide countless studies, reports and commissions have examined the UN’s response, attempting to piece together what happened and ultimately to determine who to blame for the abandonment of the people of Rwanda. On the whole, responsibility was placed firmly on the shoulders of the US government (see Powers, 2002 for example). A subsequent wave of investigations revealed, however, a much more complex story, shifting responsibility towards the permanent members of the Security Council, clearly inclusive of the United States, and the Secretariat (see for example Adelman and Suhrke, 1996). Des Forges (1999: 625-628) and Melvern (2000: 153-154) also sharply illustrate the way in which the Council concentrated on the civil war as opposed to the genocide. The Council was solely concerned with the question of how UNAMIR could assist in obtaining a cease-fire, but rarely touched upon the fate of Rwandans or how UNAMIR could respond to the crimes against humanity being perpetrated (INTERVIEW EL/08; INTERVIEW EL/12; INTERVIEW EL/14). The cease-fire talks had, without exception, ended in stale-mate.

Although Paris and Washington enjoyed good diplomatic relations, the civil war in Rwanda that culminated in genocide was, according to Chossudovsky (2006), an undeclared war between France and America.

³² For a detailed discussion on the negotiations that took place within Rwanda to secure another cease-fire after the outbreak of the genocide and civil war and the role of the UN in same, refer to Castonguay, 2000: 271-280

INFLUENTIAL PORTRAYALS OF THE ATROCITY

Decision-making processes: 'Somalia is absolutely central'

It is widely acknowledged in literature, and established through interviews undertaken for this thesis, that the decision-making process throughout the period of the genocide in Rwanda was complicated by the 'Mogadishu Factor' which had given negative connotations to both the terms 'humanitarian intervention' and 'peace enforcement'. The 'Mogadishu Factor' refers to the early 1990s when the United Nations Security Council voted to confront a situation in Somalia in which civil order had totally collapsed and warring clans had seized control of the country³³. On 5 June 1993, twenty-three Pakistani peacekeepers were ambushed and killed in the capital of Mogadishu by members of a Somali militia which initiated the United States to launch a unilateral intervention. On 3 October 1993, eighteen US Army Rangers from this operation were also killed in Mogadishu while attempting to apprehend Somali militia leaders. Television footage of a Ranger's body being dragged through the streets of Mogadishu prompted a public outcry in the United States that soon led to the withdrawal of all US forces from Somalia and the subsequent collapse of the UN-led and US-led operations. Ironically, the US troops had remained under US command and control at all times with the United Nations simply providing a legal basis for their presence in Somalia and legitimizing their actions (Wheeler, 2002: 178 – 200).

Interviewees indicate that the United States 'Somalia experience', some six months prior to the commencement of genocide in Rwanda, substantially diminished political will in the United States and elsewhere to engage in military interventions for purely humanitarian purposes. 'There was a lack of political will to take another risk in Africa' (INTERVIEW EL/12). It did however constitute an important precedent for the international rules on the use of force; for the first time, the UN Security Council had deemed a human rights crisis a threat to the peace and used its Chapter VII powers to authorise military intervention for the sole purpose of preventing further suffering. This precedent is discussed in some detail in the following chapter.

³³ See Scott Petersen, 2001 for a clear detailed account of the history to the civil strife in Somalia.

Several ambassadors to the UN believe that one simply cannot begin to understand how Rwanda happened without considering the events that occurred in Somalia in October 1993. One stated:

“Somalia is absolutely central to all this, the experience of Somalia, the intervention that took place there with the support of everybody in the world, and all the Africans, the big military force deployed in Somalia, the collapse following the killing of the Americans, the withdrawal of the mission which came only a few months before Rwanda in which the UN peacekeepers slunk away with their tail between their legs and Somalia was virtually left to its own devices basically, insoluble.”

He continued:

“it doesn’t justify what happened nor indeed was the parallel as close as many people at the time thought it was – I do not believe for one second that had there been a massive intervention in Rwanda it would have got into as much trouble as the one in Somalia – I do not think that it would. But if you are asking why was it that Governments couldn’t bring themselves to respond positively to the Secretary General when he went to them after the killing started and when the first two battalions – the Bangladeshis and the Belgians – had departed and said I need more troops, they all found reasons why they couldn’t provide them.” (INTERVIEW EL/08).

According to Power, ‘most in the Pentagon greeted the news of the Belgians’ death as proof that the UN mission in Rwanda had gone from being a ‘Somalia waiting to happen’ to a Somalia that was happening’ (Power, 2002: 332).

Media portrayal: ancient tribal feuds

It was some time after the start of the genocide before the interplay of the tragedy’s multiple causes became clear to media workers, with some notable exceptions granted. Lindsey Hilsum was one of very few journalists in the country as the violence erupted and described how ‘the streets were piling high with bodies. There was killing, chaos, an orgy of Rwandan blood that had erupted like a grenade blast inside an overripe melon’ (cited in Peterson, 2001: 253).

Despite Hilsum's best efforts, surveys have shown the reporting on the killings in Rwanda was generally portrayed as ancient tribal feuds with few exceptions. Indeed, Pottier has highlighted how '[t]he thin line between information and disinformation blurs in times of conflict and war, all the more so when fighting restricts access to regions and their people' (Pottier, 2002:53) as was the case in Rwanda. This is corroborated in that the major analytical themes of the new consensus are far removed from the ancient tribal hatred model. Rather than seeing the violence as chaotic frenzy, as state failure, or as an explosion of atavistic animosities, scholars and human rights activists alike stress that the violence was modern, systematic, and intentional. What happened in Rwanda was not tribalism run amok; it was genocide (Melson, 2003: 325-38). When the genocide was accelerating, the Western press virtually ceased to report on Rwanda (Hilsum, 1995; Johansson, 1995; Livingston and Eachus, 1995). The lack of coverage cannot be blamed simply on the relative disinterest in Rwanda. The real danger, the genuine confusion on the ground, the restricted mobility of reporters, and the inability to fly out photos or videos were major handicaps. In addition, American employees had ordered their reporters out for reasons of safety, and possibly also because of cost (Adelman and Suhrke, 1996: 46). However, as one critic remarked, 'the massacre in Rwanda was not sudden at all, but the culmination of years of trouble, which the press for the most part did not cover' (MacGuire, 1994 cited in Livingston and Eachus, 2000: 215). Nor did they understand, leaving them vulnerable to powerful manipulation.

The civil war and genocide that had blighted Rwanda had caused many of its population to be internally displaced and enormous crowds to flee to surrounding borders. With the RPF's takeover mid-July 1994, and with the encouragement of extremist radio, Rwandans implicated in the genocide, their relatives, and those who feared the arrival of the RPF, all fled to neighbouring countries. On 13 July, a stretch of road less than 60km long in the north of Rwanda had over one million refugees walking along it. On 18 July 1994, more than a million people had crossed the border into Zaïre in less than a week (Prunier, 2002: 298-99). Large numbers of Rwandans, most especially Tutsi survivors of the genocide, had lost all they possessed including their houses. It must be acknowledged also however that members of the former rebel RPF and the increasingly massive influx of Tutsi returnees coming partly from Uganda but more frequently Burundi, were also responsible on occasion for the misappropriation of the dwelling houses of survivors of genocide (R/06/2005). Those returning to the country were met with gruesome sights. 'Bodies lay everywhere'

(R/02/2005) 'People were dying on the roadsides and no-one stopped to help' (R/03/2005). For those who fled Rwanda, the refugee camps in Goma and Tanzania were 'living versions of hell' (R/06/2005). It were these scenes that attracted full scale media enthusiasm and as a result, most news attention to Rwanda came in July and August 1994 and was wholly devoted to Goma in Zaire, where 1.2 million, mostly Hutu refugees, were ravaged by dehydration, cholera, and dysentery. Compared to the inherent dangers of Rwanda for the previous few months, Goma provided an easy-to-film spectacle of 'the dead-in-waiting' (Livingston and Eachus, 2000: 223).

Romancing the RPF: re-writing history

As the Tutsi 'victors' who brought an end to the 100 days of savage killing in the country, the RPF were romanticised by the media and Pottier has detailed how 'certain journalists acted as scribes for the RPF's rewriting-of-history project...[an] activity focused mainly on pre-colonial history' (Pottier, 2002: 64). Journalists' ignorance of Rwandan society and pre-colonial history also stretched to an ignorance of the quality of scholarly research since the end of colonisation, and many journalists were open to the partisan historical interpretations of the RPF. Pottier has described how 'Keane, in *Season of Blood*, fitted a lens of moral sympathy with the RPF cause, and uncritically embraced the world-view of those who had come to represent the victims of genocide' (2002: 64). Mamdani, an African scholar, shows an element of partisanship in arguing that '[t]he genocide gave birth to Tutsi power in Rwanda' (Mamdani, 2001: 18). Gowing has recognized that 'journalists...were in bed with the RPF' (cited in Reyntjens, 2004: 199) whilst Pottier argues that some journalists and sympathetic academics have behaved in a partisan manner, taking on the role of 'sympathetic outsiders' (2002: 47). Ideological representations of Rwandan history have been aided by Gourevitch who 'toes the RPF-functional line' (*ibid*: 57) and Melvern's work which 'bore the stamp of political correctness RPF-style' (*ibid*: 75). Such 'sympathetic outsiders' generally had no prior knowledge of the Great Lakes region and were/are easily seduced, flattered and manipulated by the regime. The newly formed RPF Rwandan government, encouraged their academic and journalistic 'sympathetic outsiders' to embrace and spread 'the Front's idyllic, harmonising perspective on pre-colonial society and history' (Pottier, 2002: 130) thereby discounting three decades of post-independence scholarship on Rwanda (*ibid*: 113/130) and

lending authenticity and legitimisation of a history with ideological underpinnings to the outside world.

EXTERNAL AND INTERNAL RESPONSIBILITY FOR GENOCIDE

Rumour and Speculation gives way to a judicial statement

There were variants of speculation, which moved beyond Hutu extremist or RPF Tutsi army responsibility for the assassination of the President. The Belgian journalist Braeckman wrote that the President's plane had been shot down by two French soldiers acting on the instructions of the French government (1994: 188-97) but failed to provide any motivation for the assassination or credible data. Braeckman developed theories that reinforced her own analysis that Rwanda was "liberated" between 1990 and 1994 by the Rwandan Patriotic Front, although Braeckman has since changed her pro-RPF stance (Philpot, 2005). The Rwandese ambassador in Kinshasa, Eitienne Sengegera, argued that the plane had been shot down by UNAMIR soldiers providing dubious and unsubstantiated supporting evidence (Broadcast on SWB, *Voix du Zaire*, 20 April 1994).

Until the end of the 1990s, the majority of Anglophone academic and journalistic articles did argue that the plane was brought down by the extremist Hutus of Rwanda (HRW & FIDR, 1999: 183; Eltringham, 2000:111; Melvern, 2000, 2004, 2008; Berkeley, 2001: 259; Krosiak 2007; Peterson, 2001). Anglophone academics have, at the risk of being labelled a 'genocide negationist' or 'genocide revisionist' by the current Rwandan regime, begun to challenge the official genocide discourse. Speculation has in some quarters shifted course with Anglophone academics beginning to share some of the thoughts previously held by Francophone literature in relation to RPF responsibility for both the assassination of Habyarimana and the ensuing massacres. Arguments began to surface in Anglophone literature suggesting that, commencing with the first incursion from Uganda by the RPF in 1990 which triggered civil war in Rwanda, the U.S. has maintained a hidden agenda in an effort to establish an American sphere of influence in an area historically dominated by France and Belgium. Chossudovsky (2000) claims that Kagame³⁴, who led the incursion of the RPF into Rwanda, was supported militarily and ideologically by the US and Britain. Snow argues that it was the

³⁴ It is an undisputed fact that Major General Kagame previously headed Ugandan Armed Forces military intelligence; he had also been trained at the US Army Command and Staff College in Kansas with a focus on war fighting and military strategy. Kagame returned from Kansas to lead the RPA, shortly after the 1990 invasion.

1990 invasion by the Tutsi guerrilla army that ultimately determined the fate of millions of innocent people in Central Africa (2008).

“[I]t was an undeclared war between France and America... Washington’s objective was to displace France, discredit the French government and install an Anglo-American protectorate in Rwanda under Major General Paul Kagame...the 1994 Rwandan ‘genocide’ served strictly strategic and geopolitical objectives. The ethnic massacres were a stumbling blow to France’s credibility which enabled the US to establish a neo-colonial foothold in Central Africa.” (Chossudovsky, 2000)

In November 2006, a French Court led by Judge Bruguière obtained arrest warrants for nine senior officials in the Rwandan government whom he claimed had been accomplices in the attack on the jet and directly accused Kagame of deliberately bringing disaster to his own people in an ultimately successful bid for power. The allegation was that Kagame caused the plane to be ambushed knowing that the death of President Habyarimana would instigate massacres and genocide would follow, gambling that in the ensuing conflict his forces would gain total military and political victory. In February 2008, a Spanish court delivered international arrest warrants against forty of the top military officials in the Rwandan regime. The Spanish arrest warrants charge the RPF officials with war crimes, crimes against humanity, and genocide in Rwanda and the Democratic Republic of Congo. In September 2008, a decision was reached by the Spanish National Court to issue international arrest warrants against 40 ‘architects of the terrorism in Rwanda and Congo’, who are all members of the former Rwandan Patriotic Army. The indictment reads:

“1990 and 1994, the RPA waged a systematic, pre-planned, secretive but highly organized terrorist war aimed at eliminating the largest number of Rwandan people possible—bodies were hacked to pieces and incinerated en masse. From 1994, once the RPA violently seized power, a terror regime was created, and developed, and a criminal structure parallel to the state was set up to pursue pre-determined kidnappings; torturing and raping of women and young girls; terrorist attacks (both directly and by simulating that the same had been perpetrated by the enemy); illegal detention of thousands of civilians; selective murdering; systematic elimination of

*corpses either by mass incineration or by throwing them into lakes and rivers; indiscriminate attacks against civilians based on pre-determined ethnic categories for the elimination of the predominant ethnic group; and also to carry out acts of war in Rwanda and Congo.”*³⁵

Lemarchand argues ‘that there never was the slightest doubt in the minds of politically conscious Hutu that the RPF was directly implicated’ (2004: 402) in the assassination of the two Hutu Presidents, a consensus agreed by Straus (personal conversation, Toronto, Canada, 2007), and Dallaire, (interview, 2005). Dallaire however has limited credibility as he has admitted under oath to being party to substantial and significant lies during his role as Force Commander of UNAMIR. There are still those few sympathetic outsiders who maintain an RPF styled politically-correct version of events such as Melvern (2008).

Black, a lead defence counsel of the ICTR ‘points fingers at the UN, the US, Canada and Belgium as the culprits in helping the RPF carry out the alleged assassinations’ in Rwanda 1994 (UPI, 2008). His allegations extend to Louise Arbour, the Chief Prosecutor of the ICTR who it is alleged conspired with some countries to cover up investigations into allegations against the RPF (Philpot, 2005). Credible evidence indicates that ICTR investigators learned in 1997 from various sources in Rwanda, that the RPF were responsible for the assassination of Habyarimana with the offer of documentary evidence being available if required. This information was relayed to the Chief prosecutor Arbour who directed that no further action be taken (Hourigan, 2006) and the ICTR continued to focus its attention on allegations of crimes committed by Hutu extremists. Arbour was replaced by Carla Del Ponte as Chief Prosecutor of the ICTR; however, in 2003, Del Ponte announced publicly her intention to pursue prosecution of the members of the Kagame regime for war crimes and crimes against humanity. Del Ponte was shortly thereafter replaced at the ICTR against her wishes. Del Ponte’s long-term press-aide states that she was removed from her position by the US and the United Kingdom governments owing to a long standing political arrangement between the Kagame regime which provided them with impunity for past and ongoing crimes in Central Africa (Hartmann, 2008). Erlinder indicates that the ‘Rwanda genocide cover-up has been going on for a least a decade’ (2008). UN documents at the Military I trial of the ICTR

³⁵ Ref Decision of the National Pre-Trial Examining Court No.4 (Juzgado Central de Instrucción nº 4) of the Audiencia Nacional (Spanish National Court) issuing international arrest warrants, “Sumario 3/2008—D,” Order of Indictment, Madrid, February 6, 2008.

suggest that 'US sponsored human rights reports by investigator Robert Gersony had documented massive military-style executions of civilians by Kagame's troops, during and after the final 90 days of the four year Rwanda war' from 1990- 1994 (Erlinder, 2008). Being a Head of State, the only forum for the prosecution of Kagame is the ICTR; however, the US has stopped all funding to the ICTR and its mandate is due to expire within the next twelve months as at time of writing.

A judicial statement: Rejecting the theory of conspiracy to commit genocide

On 18 December 2008, a three judge panel in the Military I case at the ICTR:

"completely rejected the Prosecution theory of long-term planning and conspiracy to commit genocide by members of the former Rwandan military leadership. All four defendants were found 'not guilty' of all counts charging conspiracy to commit genocide, based on the Chambers ruling that their actions prior to April 6, 1994 were based on war-time conditions, not planning to kill civilians or to carry out a genocide against Tutsi Rwandans " (ICTR Press Office, 2008)

Three of the four defendants in the Military I trial were, however, convicted of crimes of genocide (ibid). Of note is that the ICTR defence in the Military I trial was based on erstwhile suppressed contemporaneous UN and declassified US documents, that evidenced the RPF as the war-time aggressor responsible for massive chaos within Rwanda throughout 1994, violence that was initiated by their four-year war of invasion from Uganda by General Paul Kagame's RPF army, which seized power in the country in July 1994 (Erlinder, 2009).

The judgments have caused one academic to ask:

'if there was no conspiracy and no planning to kill ethnic civilians, can the tragedy that engulfed Rwanda properly be called "a genocide" at all? Or, was it closer to a case of civilians being caught up in war-time violence, like the Eastern Front in WWII, rather than the planned behind-the-lines killings in Nazi death camps? The ICTR judgment found the former' (Erlinder, 2008).

There are to date no absolute certainties about who killed President Habyarimana, and the exact purpose of his assassination, although those acquitted of conspiracy to commit genocide at the Military I ICTR trials were accused directly by the prosecution of the missile attack during their trial. However, in the concluding judgements of said trial, the ICTR specifically referred to evidence presented to the Chamber that ‘civilian killings in Rwanda were triggered by the assassination of the Rwandan President, which was part of the final assault to seize power by the RPF army of Paul Kagame in 1994’ (ICTR, 2008). This finding supports evidence, described as very detailed and very credible, established by Hourigan, which ‘corroborated some other information ... learnt from Alison Des Forge the week before’³⁶. Interviews undertaken for this thesis with prisoners convicted of genocide established their unified belief that the genocide committed by the Hutu of Rwanda was a spontaneous expression of popular anger upon the death of their president rather than the meticulously planned and brilliantly administered conspiracy we had been led to believe by the Anglophone journalists such as Keane (1996), Gourevitch (2000), and Melvern (2000) who maintain an RPF-friendly stance.

The judgments of the ICTR led the President of Human Rights Watch to write an open letter to the Justice Hassan B. Jallow, the current ICTR Prosecutor, calling for the ICTR to fulfil its mandate by holding Kagame, and his RPF regime, accountable for crimes committed in 1994 in Rwanda (HRW, 2008).

Was the genocide preventable or stoppable? - a hypothetical intervention

Kuperman states that ‘there is a growing consensus among American policymakers that humanitarian military intervention should be launched to stop genocide when such violence comes to light, especially where intervention can save lives at low cost’ (2001:100). But could lives have been saved in Rwanda? Barnett argues that ‘what sets the Rwandan genocide apart from all other genocide is that the international community could have intervened at relatively low cost before the effects were fully realized (Barnett, 2002: 1). Kuperman agrees that intervention could have saved lives but argues that ‘a realistic U.S. military intervention launched as soon as President Clinton could have determined that genocide was being

³⁶ This information is contained in a copy of a sworn affidavit of Michael Hourigan, investigator in Rwandan of ICTR, in possession of author.

attempted in Rwanda would not have averted the genocide' (2001: 109). Irrespective of political will for the use of force, Straus argues that a 'swift and decisive' international intervention would have prevented mass murder by 'short-circuit[ing] some of the dynamics driving the violence' saving hundreds of thousands of lives (2006: 241). Further, in an independent report commissioned by the Organization of African Unity, a conclusion was reached that the permanent members of the Security Council could have prevented the genocide from taking place, adding 'this was the most easily preventable genocide imaginable' (OAU report, 2000). Other commentators have also insisted that with a modest increase in troops and capabilities, which had been requested in the first week of the genocide, UNAMIR could have prevented most of the killings (Dallaire, 2004: 514; Stanton, 2004:224). Indeed Des Forges has argued that diplomatic intervention alone would have been sufficient to have prevented the genocide, since Rwanda was heavily dependent on foreign financial support and any Rwandan government committing genocide would have reacted to a threat to halt aid (Des Forges, 1999; 24-26, 641). This begs the question why there was no such intervention. Contrary to academic consensus, the British ambassador to the United Nations Security Council, Sir David Hannay, is 'convinced that there was nothing the UN could have done to prevent the genocide in Rwanda' (Interview, 2006). The President of the Security Council of April 1994 indicates that 'Rwandans [interim government] were totally aware of the dynamics within the Council...and so it would have been extremely difficult for the Council to have collectively managed a prevention operation. However an intervention could have significantly interrupted the progress and mitigated the death toll... but in fact for two months the US was not willing to agree to deploy additional troops by which time it was too late' (INTERVIEW EL/12). On 21 July, US President Clinton promised a vigorous US approach to the refugee problem with a \$76m budget and a large number of transport planes from bases in Germany.

CRIMES OF THE RPF: PAST AND PRESENT

A double genocide?

From the outset of their formation in 1985, the RPF have been responsible for grave human rights violations, including crimes against humanity in both Rwanda and in Zaire/Democratic Republic of the Congo. Reports indicate that tens of thousands of civilians, possibly more than 100,000, were massacred by the RPF after the resumption of the civil war between April

and September 1994 (For detailed discussion, refer to Africa Watch 1992; Reyntjens, 2004: 178-197; Des Forges, 1999; The report of the International Panel of Eminent Persons (IPEP), 2000; Prunier, 2002: chapter 10).

Evidence of wide-spread, systematic killings by the RPF was collected in 1994 by a UNHCR team headed by Robert Gersony who estimated that the RPF had killed thousands of persons a month, concluding that 'during the months from April to August the RPF had killed between 25,000 and 45,000 persons' (Des Forges, 1999: 726). In its desire to have good relations with the RPF, the UN then embargoed the report it had commissioned, creating substantial doubt about its very existence. The report, accusing the RPF of systematic abductions and killings, 'caused such a stir inside the UN that Secretary-General Boutros Boutros-Ghali told the UNHCR not to discuss them further' (Peterson, 1994). When Prunier later met some of Gersony's collaborators they confirmed the existence of the report and not only stood by its results but said that, since their research only covered a portion of the country, their estimates were probably on the low side. They also indicated that Robert Gersony himself had started from a position of sympathy towards the RPF and was ultimately shocked at his own findings (Prunier, 2002: 360, 10n). 'Such rumours of summary executions by the RPF began to spread, starting to give credibility to a notion ... of the double genocide' (Prunier, 2002: 297).

Formerly suppressed documents also reveal that the US Secretary of State knew of Kagame's mass crimes no later than September 17 1994. UN documents confirm that the UN knew about mass civilian killings by Kagame's forces by May 17 1994 at the latest (Erlinder 2008). According to a Refugees International Situation Report of May 17, 1994, at the height of RPA war crimes in Rwanda, the UNHCR 'Ngara' Protection report documented atrocities committed by the RPA at the Tanzanian border—cold-blooded massacres of men, women and children, burned alive in huts, countless war crimes that the RPF attributed to the 'organized Hutu genocide'. Refugees informed a UNHCR field officer, that 'the RPF did not care whether [their] victims were Hutu or Tutsi' (Prutalis, 1994). Other documents from August, September and October 1994 describe a conscious attempt by UN and US government officials to "cover-up" reports of RPF killings, including memos to Secretary of State Warren Christopher (Erlinder, 2008).

Reyntjens provides evidence to show that from early 1995, Hutu elites became the victims of harassment, imprisonment and even physical elimination with provincial governors, local mayors, head teachers, clerics and judges being killed in increasing numbers with the culpability of the state national army (RPA) being well documented (Reyntjens, 2004: 180; Amnesty International, 1997a). However, for a long time it was not considered politically correct to acknowledge the reality of widespread 'disappearances', assassinations and massacres by the RPF regime post genocide (Reyntjens, 2004: 197). '[A]ny hint that the RPF might be guilty of massive human rights violations is immediately countered...with an indignant reminder of the genocide' (Prunier, 1997: 362).

In Stalinist Russia, Cohen noted that 'the past has to conform to the present to establish a version of history (a master narrative) to legitimate current policy' (Cohen, 2001: 243). In contemporary Rwanda, individuals from the West have been continually subjected to an RPF government 'master narrative' which has resulted in their selective amnesia of historical and ongoing RPF/ Tutsi-led human rights violations. By portraying such a mythological history of Rwanda, the post-genocide government of Rwanda has successfully created an over-simplified dichotomy of victim and perpetrator, the category of 'victim' necessarily including the Tutsi RPF guerrilla force. In the context of Jewish survivors of the Nazi Holocaust, Finkelstein has noted that such 'specious victimhood [permits] considerable dividends...in particular immunity to criticism, however justified' (2000: 3).

The genocide has become the pivotal expression of this over-simplified version of history that is used to obfuscate the extent of the RPF atrocities throughout the past two decades and to coalesce their governmental rule following their 'victory' in 1994. This was readily apparent in RPF correspondence which identified that 'the RPF were aware that the ignominy of the UN's failure would serve both to justify their victory and to legitimize any subsequent actions taken to legitimize their rule' (Cameron, 2003: 4). Even before the end of the genocide in July 1994, this realisation allowed the RPF to increasingly 'convert its moral superiority into [an] analytic monopoly' (Pottier, 2002 : 177). Such moral superiority has facilitated a situation in Rwanda whereby the full extent of massacres of potential political opposition by the RPF before, during or after the genocide, has either wittingly or unwittingly been ignored by the international donor community. RPF moral superiority manifests itself in the annual genocide commemorations in Rwanda during which the Rwandan regime repeatedly promotes international guilt - negating any role that the Tutsi monarchy may have

played in the racialisation of social categories within pre-colonial Rwanda - in an attempt to make the international community more receptive to their skewed version of history. A strong feeling persists in the international community that 'some latitude needed to be given to a regime facing the colossal task of reconstructing the country in human and material terms' (Reyntjens, 2004: 179), a regime who employed Israeli special forces post-genocide to supply military training and strategic advice post-genocide.

A significant aspect of the discourse of the current RPF regime is their claim regarding the social construction of identity which leads to both outsiders and insiders readily resorting to 'the Hutu' or 'the Tutsi' and reinforces that the former are 'perpetrators' of genocide or, in the case of those who died in 1994, 'victims of politicicide'; the latter are 'survivors' or 'victims of genocide' (Pottier, 2002: 130). In addition, the continued emphasis on the genocide through said annual commemoration ceremonies and displays of corpses, restates the unspoken 'eternal culpability' of the Hutu within Rwanda (Brauman et al, 2000: 155). Visitors are not however enlightened to the circumstances of the Rwandan refugee crisis which passed practically unreported for thirty years or indeed how the Rwandan genocide of 1994 was directly related to the 1972 genocide of Hutu in Burundi and to Hutu fears of becoming victims of a repeat genocide in 1993 (Lemarchand, 1994: 29-39). These images do not inform viewers to the responsibility of the IMF/World Bank in exacerbating the genocide, or the manner in which the coffee crash of 1989 caused massive despair among poverty-stricken farmers, nor that by early 1994 agricultural production was in severe crisis and food production had declined once again, a significant factor in the unfolding tragedy (Hintjens, 1999).

The first bloody war in the Democratic Republic of the Congo (DRC)

The post-genocide seizure of power in Rwanda by the Tutsi-led Rwandan Patriotic Front led to the exodus of millions of mainly Hutu refugees into North and South Kivu provinces of the Congo as the army of the RPF spread across Rwanda. Most of them regrouped in camps near the towns of Goma (North Kivu) and Bukavu and Uvira (South Kivu), controlled by an estimated 30,000 fighters from the overthrown Hutu regime and its armed forces including the Interahamwe militia who regrouped their dispersed forces in the hope of a renewed attack on the new Rwandan regime. The presence of up to a million Hutu refugees across the Great Lakes region of Central Africa posed serious and immediate security threats for the new

Tutsi-led government of Rwanda as militants, and the former Hutu leadership themselves in exile within the camps, tried to prevent IDPs from returning home to Rwanda, and used the camps as bases for raids (Pottier 2002: 130-150).

On being advised of the Tutsi RPF conquest of Rwanda, President Mobutu was fearful for Zaire's territorial durability. Madsen argues that Mobutu's fears were legitimate as Kagame 'had designs on neighbouring countries. He not only saw a need to impose a Tutsi-led regime on Rwanda but also to seize ancient Tutsi lands in neighbouring Zaire and to ensure the "Tutsification" of Burundi' (1999: 161). Mobutu took steps to allow easy access for thousands of Hutu refugees from Rwanda to escape to eastern Zaire where, on December 24 1994, some set up a government-in-exile ("The spillover effect" *Jane's Intelligence Review*, 1 January 1997, 10).

According to Madsen, as Mobutu's previous American benefactors were simultaneously plotting his downfall, Kagame and Uganda's President Yoweri Museveni, along with American military and intelligence advisers, were planning a Tutsi-led invasion of Zaire. The American military forces continued to actively train the RPA which led to the launch of an operation in October 1996.

It was thus that the bloodiest war since the Second World War unfolded in July 1996 when the Rwandan government authorised an invasion of neighbouring Zaire-Congo, where the Rwandan civil war continued extra-territorially. 'Although security concerns were initially the driving force for war, the economic exploitation of Rwanda's rich and vast but weak neighbour eventually became the main, though never acknowledged reason' (Reyntjens, 2004: 204). This rebel movement proved surprisingly successful and in mid-1997 succeeded in pushing to the outskirts of the capital.

Both Human Rights Watch and Amnesty International have documented gross human rights abuses as a result of the Rwandan presence in the then Zaire, both against Rwandan Hutu refugees and Congolese civilians (HRW, 1997; Amnesty International, 1997b). After seven months of warfare, Dictator Mobutu Sese Seko had been driven out of Congo and replaced by Laurent-Désiré Kabila, who proclaimed himself President of Democratic Republic of Congo (DRC) as Zaire was now to be known. Substantial and credible evidence now exists indicating the very real involvement of Rwanda in the deposition of President Mobutu of Zaire to allow the swearing in of Kabila (Walsh, 2004: 127), a front man for the Rwandans

(Turner, 2007: 1). Kabila formed a regime in which Rwandans and Kinyarwanda-speaking Congolese held a number of key posts. In August 1997, a UN team launched an investigation into the disappearance of those Hutu refugees who had fled westwards into the interior of the Congo rather than returning to Rwanda when the camps were emptied. 'A preliminary report identified forty massacre sites. The following April, the investigators withdrew, unable to finish their work' (Turner, 2007: 5).

The official stance of the Rwandan army remained one of non-participation (Waugh, 2004: 125).

'Inter-African war for the natural resources of the Congo'- 'partition and pillage'

On 2 August 1998 the DRC was again invaded by Rwanda and Uganda, under the guise on this occasion of simply supporting Congolese political factions in a war against the dictatorial regime of Kabila. It is of note that a few weeks prior to this invasion In 1998, Rwandan president Pasteur Bizimungu 'unfolded a map that showed pre-colonial Rwanda's boundaries' whilst presenting at a conference in Kigali. 'In particular, large portions of Congo's North Kivu province were shown as former Rwandan territory' (Turner, 2007: 62). As such one may assume that this second major offensive against its larger neighbour was for the purpose of revis[ing] the boundary inherited from colonial rule' and indeed Nzongola has argued that this second Congo war was a war of 'partition and pillage' (cited in Turner, 2007: 24). There were other dimensions, of course, but partition of territory and pillage of resources was central (Turner, 2007: 24). During both the 1996 and 1998 wars, vast quantities of Congo's wealth flowed across its borders, into Rwanda, Uganda and other countries. Reports also evidence that Rwanda was from 1998 onwards actively involved in handling Angola's "blood diamonds" on route to Antwerp (Prunier, 2009: 244). One of the key questions to be asked is whether the international community was aware of the amount of illegal resource exploitation being undertaken by Rwanda in the Congo; however, this is outwith the scope of this thesis.

On the whole, the international media and NGO's unquestioningly accepted and promoted RPF propaganda regarding its presence in the DRC. This misinformation described the war which erupted on 2 August 1998 in the Congo as a civil war to which Rwanda was simply providing support to Congolese rebels so as to ensure security on its own borders. This was a

myth; there was no war in the Congo prior to the invasion by Rwanda and Uganda on 2 August 1998 (Nzongola-Ntalaja, 2008: 228). The true purpose of the Rwanda/Uganda invasion was owing to Kagame's frustration and disappointment in Kabila, Mobutu's successor. It was Kagame's intention to seize power in Kinshasa and install a regime that would be more manageable from the standpoint of Rwandan and Ugandan interests than Kabila's. The war, however, dragged on for four years and millions of Congolese died (Turner, 2007: 1). Meredith details how post-1998, '[t]he Rwandan army based in Congo...retaliated with coercion, torture and massacres' (2005: 542). Allegations of recruiting child soldiers have also been levelled at the Rwandan army (Final Report of the Group of Experts on the Democratic Republic of Congo, UN, S/2008/773, December 2008). Laurent Kabila was assassinated in 2001 (Walsh, 2004: 128-133) and was replaced by his son Joseph who was more amenable to manipulation by Rwanda's President Kagame. On being appointed, Joseph Kabila made assurances to liberalize the economy and indeed some financial publications immediately reported that the political changes in the Congo 'have breathed life' many of the mining and mineral fields corporations with shares 'sparkling to life' within two days of the elder Kabila's assassination.³⁷

The war in which at least eight sovereign states and a multitude of irregular forces took part in the Great Lakes region between 1998 and 2002 is best described as 'inter-African war for the natural resources of the Congo' (Nzongola-Ntalaja, 2005). It has also been widely characterised as 'Africa's First World War'. This suggests that the violence was the work of Africans; however an abundant literature argues that Rwanda and Uganda were pawns of the great powers from outside the continent (Turner, 2007: 8). Friends of the Congo (2009) argue

³⁷ A few years ago, America Mineral Fields Inc. (AMF) flirted with a gold project in the United States. But when Mr. Read, a British investment banker formerly with Merrill Lynch, took over management early in 1999, he focused the company on Africa, even moving the headquarters from Dallas to London so he could operate in a time zone more conducive to doing business in Africa. He also extracted AMF from the far-flung exploration projects – from Russia to Brazil – with which the company had been built by Mr. Boule, a former president of Diamond Fields Resources Inc., the company that discovered Voisey's Bay. Mr. Read also moved to get cash into the AMF treasury, doing a \$22-million private placement last year with Union Miniere of Belgium, giving that company an ultimate interest in AMF of 19.9%. AMF has two projects in southeastern Congo. The Kolwezi project consists of two tailings dams with a 113 tonne resource containing copper and cobalt. 'Because it is tailings, the geological risk is zero,' Mr. Read said. 'And there is no mining risk – it has already been milled.' The project has been stalled for lack of a presidential decree that would transfer the title from the current owner, Gecamines (the state mining company), to a new operating company. That operating company, which has financing for a feasibility study, will be controlled by a 50/50 joint venture between AMF and Anglo American Corp.

that Rwanda and Uganda's aggression against the Congo [has been] backed primarily by the United States and British governments and corporate interests since 1996. At stake in these military operations in the Congo were the extensive mining resources of Eastern and Southern Zaire, including strategic reserves of cobalt which is of crucial importance for the US defence industry. United Nations Security Council reports released in 2001, 2002, 2003 and the most recent being 12 December 2008, evidence that the US and Britain backed the Rwandan and Ugandan incursions into the Congo since 1996 for the purposes of the unlawful removal of valuable raw materials in the Congo. See, 2001 UN Security Council Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo, (S/2001/1146); 2002 UN Security Council Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo (S/2002/1146, October 12, 2002); 2003 UN Security Council Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo (s/2003/1146, October 20, 2003); Musavuli, 2009.

For many years, Rwanda denied any involvement in Congo's civil war until the evidence became overwhelming:

'The scramble for Congo's riches reached a climax in May and June 2000 when Rwanda and Uganda on three occasions fought for control of Kisangani and its lucrative diamond trade. The fighting, so far from their borders, blew apart the pretence both had tried to maintain that their presence in eastern Congo was necessary to protect themselves from rebels based there. Rwanda, once seen by the international community as a victim, now looked more like a predator' (Meredith, 2005: 543).

Musavuli (2009) alleges that the invasions into the DRC has witnessed the current Rwandan elites and well connected Ugandans in the north becoming wealthy on the resources of the Congo at the expense of at least 6 million African lives.

Present-day Rwanda: 'heroic defender' or 'ruthless dictator'?

In July 1994, the RPF established a "Government of National Unity" together with seven other political parties, a government that had the genuine appearance of a government of

national unity led by the new president, Pasteur Bizimungu, an RPF Hutu. But to the objective observer, it became obvious very soon after their appropriation of the government in 1994 that the RPF had no intentions of sharing real power (Prunier, 2002: 367). The initial post-genocide government of the RPF led by Bizimunga and laterally by Kagame instead became 'skilful masters of public relations and the art of disinformation' (Waugh, 2004: 131). From April 1994 to December 1995, Rwanda officially received US\$2 billion of emergency assistance. The cumulative aid for the period of 1995-2000 amounted to US\$2.67 billion, an average of US\$ 534 million per year.

In April 2000, having formed the Forum of Political Parties, Major General Paul Kagame, who led the RPF during its four years of civil war, was sworn in as the fifth President of Rwanda. The Forum of Political Parties had important political powers that led the majority of non-RPF politicians to denounce the institution as an instrument of the RPF's political domination. In the decade and half since his shift from rebel leader to president of Rwanda, Kagame has been both 'canonized and vilified' by the outside world (Hammer, 2008). To some, he represents a model African leader; a heroic figure who stopped the genocide and brought Rwanda back from the brink of oblivion and achieved a degree of ethnic reconciliation and economic self-sufficiency that few could have imagined possible in the genocide's aftermath. To his many opponents, he is perceived as a ruthless dictator who tolerates no dissent, oppressing the country's Hutu majority, and apparently condoning ongoing violations of human rights both within and out with its borders. Depictions of contemporary reality continue to be led by political visions and ideas rather than empirical evidence as is corroborated by descriptions of President Kagame as 'a wonderful leader who has sorted Rwanda out' by a former British cabinet member (INTERVIEW EL/22).

The United Kingdom is one of President Kagame's staunchest allies and at time of writing, provides the highest donor contribution to the country annually in addition to British military support (HRW, 2009a).

Despite claims that the Government of National Unity in Rwanda seeks to achieve reconciliation, many Rwandans believe it has not shown a serious commitment to healing the wounds that persist between either individual Rwandans or the groups that they comprise. Aside from violent abuses of human rights, there are recorded statistics that should inhibit the enthusiasm of those Western powers allegedly in awe with the "Kagamian vision" of

development in Rwanda. According to the latest report of UNDP (2007), 62% of the rural population is living in poverty with less than \$ 0.44 U.S. per day, while this proportion was only 50.3% in 1990. The report also mentions that in 2000 the portion of 20% of the richest Rwandans held 51.4% of gross domestic product (GDP) while the portion of 20% of the poorest Rwandans remained with only 5.4% of GDP thereby placing Rwanda among the 15% of the world's most unequal countries in the world. If we compare this situation to the one before the commencement of civil war in 1990, these proportions were respectively 48.3% and 7.6%. The UNDP report also noted that if the inequality had remained at 1990 levels and 1985, with the current growth rate of 5.8%, the income of the 20% poorest Rwandans would have more than doubled. The consequence of this situation in the day-to-day living of Rwandans is devastating. Nearly one third of the Rwandan population suffers from lack of food and in some regions, this proportion has reached 40%. Similarly, the life expectancy of a Rwandan, forty-four years, is among the twenty lowest in the world (United Nations Development Programme 2007).

Rwandan is highly dependent on external assistance. Several donor countries have withdrawn assistance to the country in protestation at the instigation and involvement of President Kagame in the ongoing civil wars and gross violations of human rights in the Democratic Republic of the Congo.

Kagame's most persistent critic, Alison des Forges, the chief Rwandan specialist at Human Rights Watch, recently described contemporary Rwanda as a country where journalists face 'intimidation, harassment and violence', and human rights advocates are 'forced to flee the country for fear of being persecuted or arbitrarily arrested' (Des Forges, cited in Hammer, 2008). Indeed Des Forge herself was refused entry into Rwanda repeatedly in November and December 2008 (Agence France Presse, 2008; Kwibuka, 2008), despite a written request for such restrictions to be removed being submitted to the NY Times by the President of Human Rights Watch (HRW, 2008a).

Some academics have stated that 'Rwanda is experiencing not democracy and reconciliation, but dictatorship and exclusion' (Reyntjens, 2004: 177). The Rwandan media has also been subject to significant state interference, with Kagame being described as 'a predator of press freedom' (Julliard, 2001). Most journalists who have attempted to express themselves freely have been killed or maimed, have 'disappeared', or are in exile or jail. Kagame's regime has

continually used accusations of divisionism³⁸ and sectarianism to silence critics, including those in the media (CPJ, 2007). Such forceful security measures formulated to contain expression, to limit political party activity, and to cast doubt on the authenticity of the resident Hutu population, risks 'creating resentment and a turn toward violent modes of political protest, which in turn could sow insecurity' (Straus, 2007). Post-genocide Rwanda's international military actions as well as the governments' negation of political space within Rwanda have been justified in the cause of preventing another outbreak of genocide. This is analogous to RPF rhetoric expressing 'the prevention of future violence as the principle aim of preserving genocide sites' and displaying corpses (Cook, 2000: 304).

Recognition that the control of opinion is the foundation of government, from the most despotic to the freest, dates back to at least David Hume (Chomsky, 2003: 7), a recognition not lost on the RPF when forming the first post-genocide government within days of the end of the genocide in July 1994. The RPF were acutely aware of the international community's ignorance of the history of Rwanda and its tendency to bestow great significance on genocide. Accordingly the RPF shrewdly created and sustained an overly simplified 'politically correct' view of the genocide and Rwandan history for the consumption of the international community, one that debarbs any consideration of RPF responsibility for the genocide (Cameron: 2003) and reinforces how the UN and the West 'failed them' both before and during the genocide. This achievement has been controlled by developing the means of preserving and shaping a particular remembrance of the genocide which has stimulated partisan moral sympathies from outsiders. Initially these steps were characterised by leaving undisturbed the remains of those killed at the myriad of massacre sites throughout the country. However 1997 saw the development of more permanent memorials which entailed both the exhumation and display of skeletal remains in addition to memorial sites where bodies are buried in coffins. The RPF's desire to exploit the moral sympathies of the West reached such extremes that, without consultation with or the consent of local communities, bodies were routinely exhumed from their mass graves solely for the purpose of being left on

³⁸ Divisionism is defined as being in opposition to or even simply expressing disagreement with governmental policies (Reyntjens, 2004: 184).

open display for the consumption of visitors³⁹. Such remains have been cleaned and chemically treated in an effort to avert the process of decay.

CONCLUSION

This chapter has provided a brief insight into developments in Rwanda over the past two decades and highlights the role that structures and relationships within the international 'community' play in creating widespread political and economic violence in such situations.

Apparent is that the role of bystander nations during the period of the Rwandan genocide and the post genocide conflict in the DRC/Zaire needs to be carefully analysed and understood in terms of colonial/neo-colonial interests.

Evidence has also been presented herein indicative that judicial responses must also be understood in terms of colonial/neo-colonial interests.

Had the US "impunity policy" not been in place, Kagame might well have spent the last decade awaiting trial at the ICTR, rather than getting rich from the resources of the Congo, and the blood of millions of Africans. (Erlinder, 2008)

³⁹ It must be acknowledged that visitors to such memorials are not bereaved families, who generally find such public exposure of the victims' remains too painful to endure. Indeed at one memorial site visited by the author of this thesis, access was permitted to a secure shed containing hundreds of skulls neatly displayed. A male Rwandan whose wife has been killed in the genocide and whose remains were displayed within arrived and tried to enter the room. His way was barred and his entry refused. A heated discussion ensued in Kinyarwanda and the gentleman was forced to leave. The author was advised that at this particular site, the only persons permitted to enter were Rwandan government officials and 'Musungu' which refers to white visitors.

CHAPTER FIVE

“...complicity assumes great importance for protecting individuals, peoples and weaker States” (Quigley, 1986: 130)

INTRODUCTION

The previous two chapters of this thesis have provided a clear background to genocide and colonialism in Africa, with a particular focus on Rwanda throughout the twentieth century and an understanding of the social conditions that produced the genocidal events of 1994. This chapter initially draws upon existent literature of ‘the bystander’, before proceeding to a socio-historical discussion of the development and implementation of international criminal law as both a body of proscriptive law and social control. By doing so, this chapter builds a concept of what shall be termed herein as the ‘external institutional bystander’ thereby furthering development of criminology of complicity in violations of international criminal law.

Chambliss’ 1989 American Society of Criminology Presidential address on state-organized crime demonstrated how states can be crucial in the organization and support of activities that violate their own laws and international laws and in so doing, fulfil their own broader political and economic objectives (see Chambliss 1989, 1995). The exploration of international criminal law and complicity within this chapter provides a lens for understanding the scope of complicity liability of states as responsible actors in an age when certain states have substantially greater resources than others, and when powerful states seek to influence events abroad.

By way of affording the reader a greater understanding of the decisions reached by such external institutional bystanders to genocide, this chapter also critiques the existent and growing body of literature detailing the intense debates surrounding international humanitarian intervention in instances of imminent and ongoing genocides.

Criminology and the bystander

The actions and motivations of perpetrators, victims and bystanders has long been the focus of Holocaust and genocide studies, with the greatest emphasis being on the perpetrators of

genocide and the least studied being the bystander group (Ehrenreich and Cole, 2005: 216-217). In criminological scholarship, the role of bystanders and the degree to which the bystander can be held accountable for their actions and inactions, has been under-analysed (Krosiak, 2003: 160) and as such, in the criminological arena, there is no detailed definition of the term bystander or understanding of the role of bystanders to violations of international criminal law. Arguably, in criminological terms, the concept of the bystander has received the least academic attention of the concepts Cohen (2001:14) refers to as the 'atrocities triangle'⁴⁰ a matter which shall be addressed within this chapter. Central to this thesis is, as previously detailed, the actions and inactions of the global ruling elites and states, who form organized groups with enforceable and non-enforceable legal obligations to society as a whole, and who are physically distanced from the loci of atrocity and/or genocide as opposed to the individual bystander. The next section briefly explores dominant understandings of the 'individual bystander' before exploring how the bystander has been located institutionally.

The complex world of the individual bystander

Historically academics have described, and continue to describe 'bystanders' as individuals sited at the very location of an 'event' or 'atrocity', (see Hilberg, 1992; Beres, 1989; Ehrenreich and Cole, 2005) as opposed to non-individuals such as whole groups, corporations, states, organisations or communities, sited external to the locus being researched. Indeed Cohen argues that the term 'bystander' has acquired the pejorative meaning of 'passivity and indifference' (2001: 140).

Definitions and delimitations of the 'bystander' label are complex with the term being utilised historically in a number of contradictory ways typically, and in the opinion of this author erroneously implying absolute non-participation. On occasion the label of bystander has been applied to 'non-rescuers... [who] had done nothing out of the ordinary during the war [WWII] either to help other people or resist the Nazis' (Oliner and Oliner, 1988: 4). Endorsing such a conclusion is Hilberg, who argues that the bystanders of World War II were those who 'looked away, asked no questions, and refrained from talk in public' (1992; 195),

⁴⁰ Victims, perpetrators and bystanders are the agents that take up equilateral positions on what Stanley Cohen has named the 'atrocities triangle'. Such a triangle can be understood as having victims in the first corner, to whom things are done; in the second, perpetrators, who do these things; and in the third, bystanders/ observers, who see and know what is happening'. Of significance is that these roles are not fixed, but, on the contrary, they are often exchanged and rotate among the participants of the 'atrocities triangle'.

antipodal to the actions of Adolf Eichmann during World War II⁴¹. Indeed Hannah Arendt (1994) has highlighted the historical abuse of the term in Eichmann's plea to being a bystander during his trial in 1961.

Meanwhile other commentators have adhered an element of responsibility within their definition of the bystander, viewing them as 'passive spectators who are responsible at most for not coming to the aid of those in danger' (Todorov, 1996: 231). Although Todorov's definition does not define the limits of the label, it certainly infers that bystanders have a responsibility towards the victims of genocide, albeit a moral obligation. Valier's (2005: 2) writing on the bystander once again deals solely with the predicament of individuals and ordinary members of the public who through no fault of their own, find themselves bystanders 'present at the scene of a perilous crime'.

What is common to all these philosophical understandings is that due to prevalent usage, the bystander is without exception portrayed as a non-participant spectator. Problematic to such a universally accepted definition of the bystander is that it fails to recognise the bystander whose mere presence 'at the scene of a perilous crime' (ibid) becomes a form of participation giving potentiality for the bystander to mutate into a perpetrator. Arguably problematic is also the fact that such philosophical definitions dictate that a bystander must necessarily be present at the actual locus of the crime. It must be acknowledged herein that there is a need for a broader term to evolve to incorporate an enhanced understanding of the bystander. This point of contention will be explored later in this thesis.

The complex world of the institutional bystander

In sharp contrast to the individualistic scholarship of philosophers as aforementioned, Stohl alludes to an interest in bystanders as 'international system of states' (1987: 151) but disappointingly provides no further clarification of whom he includes in his 'system' or what their responsibilities may include as external actors in genocide. Stohl's study includes a brief exploration of the role of external actors in genocide, defining bystanders as 'observers outside the threatened area' (1987: 151) thereby negating the requirement for a bystander to

⁴¹ Adolf Eichmann is generally acknowledged to be 'the architect of the Holocaust'. He was a Nazi and a member of the German SS. Due to his exceptional organizational talents and ideological reliability he was tasked with facilitating and managing the logistics of mass deportation of Jews to both ghettos, concentration camps and extermination camps in Nazi occupied Eastern Europe.

be necessarily present at the actual locus of an event. Similarly, Krosiak (2003: 161) discusses the bystander not as an individual but 'as an organized group...who find themselves *outside* a genocidal society (author's own emphasis), however Krosiak accepts the 'pejorative meaning' of the bystander as discussed by Cohen (2001: 140), namely the passivity and indifference of the bystander. This is a surprising stance from Krosiak, since the focus of her chapter is an examination of 'the French Government as a collective external bystander in the case of the genocide in Rwanda' (2003: 161). Chapter 6 of this thesis will evidence that the French were neither passive nor indifferent in their position as 'an organized group' external to the Rwandan genocide.

As the latter half of the twentieth century has shown, the international community and whole governments are frequently bystanders to genocidal events (Alvarez, 2001: 26; Cohen, 2001:17) and the inaction of said institutional bystanders is 'absolutely vital to those who carry out crimes against humanity' (Beres, 1998: 37) and genocide. Yet with the exception of Stohl (1987), Cohen (2001) and Krosiak (2003), there is a dearth of literature that explores the concept of a bystander as institutional actors with recognized legal duties and obligations in relation to ongoing international crimes.

This thesis asserts that any proposed definition of the bystander which fails to incorporate both the individual bystander present at the locus of any ongoing crime or atrocity as well as the institutional bystander to an international crime or atrocity is seriously flawed. Furthermore, such a definition must also acknowledge that the bystander is not merely morally obligated to act. In the case of genocide, institutional bystanders as previously defined, who are external to the loci of atrocity, are under strict legal and political obligations to act so as to prevent or halt the atrocity as detailed later in this chapter. Should the institutional bystander fail to fulfil such obligations, there is a potential for said bystander to also be deemed as a perpetrator, thereby obfuscating the apparent clarity of what Cohen has described as 'atrocity triangles' (2001: 14) and the assertions of those who define bystanders as entirely separate entities to either victims or perpetrators (Ehrenreich and Cole, 2005: 214 ; Barnett, 1999:11; Hilberg: 1992). Cohen's development of the 'atrocity triangle', which views the bystander, perpetrator and victim as occupying three quite separate points on a triangle, opens up a paradox in the formal separation of roles. Cohen utilises Bosnia as an example to infer that external international actors who protect genocidal regimes 'are definable as bystander states' (Cohen, 2001:18). This suggests that although legally culpable,

they are definable as a bystander as opposed to a perpetrator which is something of a contradiction and rather confusing.

To sum up this short discussion, one must conclude that the bulk of academic literature delineating the role of 'bystanders' is inadequate for the purposes of this thesis, primarily because it fails to provide any profitable understanding of the 'institutional bystander' to genocide. The corpus of such academic scholarship also erroneously implies the label to singularly signify absolute non-participation and passivity of an individual at the locus of a crime or event. It is arguable that a definition of the bystander which imposes an obligation on passivity and fails to acknowledge both the individual bystander present at the locus of an ongoing crime (conventional or otherwise), right through to the non-individual 'institutional bystanders' to international crimes, displays an utter lack of precision. Complex interrelationships do exist between bystanders and perpetrators in times of genocide and yet there is a complete absence of literature which takes into account the full spectrum of differing levels of involvement and complicity in acts of genocide, or the institutional and powerful status of such actors.

Power as a prerequisite of the institutional bystander

Crumley and Marquardt (1987, cited in Ehrenreich and Cole, 200: 218) argue that power can be viewed as a group's ability to attain a desired goal, with or without the consent of those affected. It is this argument that informs Ehrenreich and Cole's Perpetrator-Victim-Bystander model which stipulates that 'bystanders do not have sufficient power, authority, legitimacy or control' (2005: 218) to undertake any action other than to show support for the perpetrators of genocide or to avoid the perpetrators of genocide. However it is the characteristics of power, authority, legitimacy and control which generally underpin the decision making processes of governments, states, corporations, and organizations, all of which are included in the concept of the institutional bystander. By insisting on the powerlessness of the bystander, Ehrenreich and Cole have negated any potential for developing their model to include the institutional bystander. The institutional bystanders of note to this thesis do possess power, authority, legitimacy and control, and are part of an institutional decision making process with privileged access to knowledge of global conflict and clear indicators of imminent or ongoing genocide from such sources as diplomatic intelligence reports, military intelligence reports, human rights agencies, international media broadcasts and publications etc. In

addition, they have the legitimacy to lead, are in a position to influence a majority of the international community and are in control of the regulation of resources necessary to intervene to either prevent or halt the genocidal process. As such, this thesis asserts that Ehrenreich and Cole's arguments regarding the limited power of bystanders is seriously flawed (2005:218). Indeed this chapter argues that every contemporary state, corporation, organisation etc, cognizant of a specific ongoing instance of genocide, regardless of where in the world, are 'institutional bystanders' and include bystander nations⁴²; bystander corporations; bystander communities and transnational institutional bystanders, an example being the United Nations Security Council.

Power is of the utmost importance to this thesis, since power is a pre-requisite of any institutional bystander in achieving their desired goal, irrespective of the impact of that goal on those affected by the atrocity. It is such power, held by the institutional bystander, that allows it to have an impact on the genocidal process by either (a) supporting the perpetrator group; (b) defeating the perpetrator group or sufficiently reducing its power, authority, legitimacy and control to bring the genocidal process to an end; or (c) using its power to permit their elite collectivity to take no action, which in itself has an impact on the genocide. Such passivity and inaction by an institutional bystander is especially important in the early stages of knowledge when warning signs can be clearly detected. Should such bystanders refuse to take early preventative steps then, in the words of Cohen, 'perpetrator governments can go safely ahead, relying on their allies, patrons and donors to hold back' (2001: 162). As such, one can conclude that if the bystander state does not utilise its power to intervene, the perpetrator state becomes empowered. There is therefore a correlation of power between bystander and perpetrator states.

The next section explores the way that international law constructs the responsibility of the bystander generally, before exploring this legal construction in relation to genocide.....

42 The term 'bystander nations' was originally used to describe the lack of response by Allied governments to early knowledge about the unfolding destruction of European Jews. Breitman's (1998) *Official Secrets: What the Nazis Planned, What the British and Americans Knew* outlines in some detail the reluctance of the Allied governments to believe allegations of genocide and their refusal to adopt policies such as bombing of concentration camps.

“ ‘Law’, in common parlance, means a rule which (unlike a rule of ethics) is actually capable of enforcement through institutions created for that purpose. But ‘law’ in the phrase ‘international law’ does not automatically have this quality: it has no police force or bailiffs, and its courts lack the capacity to punish for contempt or for disobedience to their orders” (Robertson, 2002: 85)

Although international law as a framework of social control has existed for centuries, it is only in the past few decades that it has evolved into an established legal framework for the control of individual and institutional state actions. The powerful institutions of the major European powers, Czarist Russia, and the United States were responsible for the development of The Hague and Geneva Conventions⁴³, asserting the absolute sovereignty of nation states over their subjects, and strengthening the claims of heads of state to legal immunity for acts in office (ICRC, 2005). Lauchterpacht (1975) has observed that ‘the orthodox positivist doctrine has been explicit in the affirmation that only states are subjects of international law’ (cited in Shaw, 2003: 177), however maintenance of this position has been less clear in practice. International criminal law is the law that governs international crime; it is the international community of nations who dictate which crimes fall within its remit in view of the latest developments in law, morality, and the climate towards criminal justice at the relevant time. International criminal law is designed both to proscribe certain categories of conduct and to make those persons who engage in such conduct criminally liable. Such international rules ‘consequently either authorize states, or impose upon them the obligation, to prosecute and punish such criminal conducts’ such as crimes against humanity and genocide (Cassese, 2008: 3). The meaning of the phrase ‘international criminal law’ depends on its use, but there is a wealth of definitions, not all of which are consistent. One commentator on the uses of ‘international criminal law’, Schwarzenberger (1950: 263), described six different meanings that have been attributed to it, all of which related to

⁴³ The Hague Conventions are international treaties negotiated at the First and Second Peace Conferences at The Hague, Netherlands, in 1899 and 1907 respectively. The Geneva Conventions consist of four treaties formulated in Geneva, Switzerland, that set the standards for international law for humanitarian concerns. These four treaties are the basis for humanitarian law across the world. The Hague Conventions along with the Geneva Conventions were among the first formal statements of the laws of war and war crimes in the nascent body of secular international law.

international law, criminal law, and their interrelationship, but none of which referred to any existing body of international law which directly created offences that could be committed by individuals. Schwarzenberger believed that no such law existed at the time (1947: 349). Most legal scholars currently agree however that a recognizable body of *international criminal law* does exist (Cryer, et al, 2007: 2). The precise parameters of this body of law are however often unclear, perhaps due to the rapid and complex developments of our global society. In its widest context, the source of international criminal law is derived from the general principles of international law recognized by civilized nations and therefore found in the customary law accepted by states, the general criminal law recognized by nations, and the treaties which govern particular conduct. The US Military Tribunal at Nuremberg defined an international crime as 'such act universally recognized as criminal, which is considered a grave matter of international concern and for some valid reason cannot be left within the exclusive jurisdiction of the State that would have control over it under ordinary circumstances' (cited in Kittichaisaree, 2001: 3).

Crimes of the State

Crimes of the state are arguably the most serious of all crimes. To quote Rummel (1997), 'in raw numerical terms, the source of the killing in this century tells the story: Governments have been directly responsible for the deaths of roughly 120 million people, while war (both international and civil) accounts for 35 million deaths (cited in Horowitz 2002: 30). Yet international jurisprudence relating to the concept of state criminality is relatively sparse. In the pre World War I era, international law failed to confront the Turkish *Ittihad* government's destruction of some one million Armenians. Neither did it address the acts of the German High Command who commissioned the building of the Berlin-Baghdad railway and were witnesses to the Ottoman Empires genocidal policy towards the Armenians. Indeed the German state and German corporations were themselves complicit in their use of Armenian forced labour (Dadrian, 2007) but were not confronted as a criminal state. In respect of the Armenian tragedy, 'the law proved to be incapable of prosecuting genocide without drawing more "conventional" aspects of colonialism, national development, and international trade into the dock as crimes as well' (Simpson, 1995: 282).

The concept of state responsibility for international crimes emerged in its current incarnation in the shadow of World War I when human rights law was developed as a cluster of legal

norms focused principally on protecting the individual against crimes committed by the State. These legal norms imposed obligations upon States to ensure rights to individuals and because these obligations are contracted on an international level, they are capable of breaching the impenetrable wall of State sovereignty. Such a concept of State responsibility for international crimes was however relegated into the background after World War II, the horrors of which provoked a significant expansion and codification of international criminal law through the development of individual criminal responsibility under international law (Jorgensen, 2000; Kramer and Michalowski, 2005). Recent developments however have seen yet another legislative shift towards the recognition of state responsibility with the concept of states being responsible for breaches of international criminal law being formally adopted in Part I of the United Nations International Law Commission's Draft Articles on State Responsibility⁴⁴ for intentionally wrongful acts (Crawford, 2002), received by the United Nations General Assembly in 2001 (International Law Commission, 2001). Crawford et al argue that this is one of the most important topics that the Commission has undertaken (2001: 89). Of significance is the distinction drawn in article 19 of the ILC Draft Articles 1976 between international crimes and international delicts within the context of internationally unlawful acts. It provides that 'an internationally wrongful act resulting from the breach by a state of an international obligation so essential for the protection of fundamental interests of the international community that its breach was recognised as a crime by that community as a whole, constitutes an international crime' (Kittichaisaree, 2001: 7). All other internationally wrongful acts were termed international delicts (ibid ; also see Mohr, year, for discussion).

Article 37 of the ILC Articles provides that a state responsible for a wrongful act is obliged to give satisfaction for the injury thereby caused in so far as it cannot be made good by restitution or compensation (ILC commentary 2001: 263). 'Satisfaction may consist of an acknowledgement of the breach, an expression of regret, a formal apology or another appropriate modality' (Shaw, 2003: 720). Examples of such international crimes ensconced by said articles were, amongst others, aggression, the establishment or maintenance by force of colonial domination and genocide (Shaw, 2003: 720).

44 In 1947 the UN established the International Law Commission (ILC) as a subsidiary organ of the General Assembly which became functional in 1949. The ILC is composed of thirty four members 'who shall be persons of recognized competence in international law'. Members represent the principal legal systems of the world and sit as individuals rather as representatives of their own governments. According to Article I of its Statute, the ILC 'shall have for its object the promotion of the progressive development of international law and its codification'

The ILC Articles are quite explicit in stipulating that wrongful acts of persons in ostensible authority may be attributed also to the states they serve. Under Article 8, acts committed by individuals 'shall be considered an act of State under international law, if the person or group of persons is in fact acting on the instructions of, or under the direction or control of that state, in carrying out the conduct' (International Law Commission, 2001). Article 9 adds that 'the conduct of a person or group of persons shall be considered an act of state under international law if the person or group of persons is in fact exercising elements of governmental authority in the absence or default of the official authorities, and in circumstances such as to call for the exercise of those elements of authority' (ibid). The International Law Commission's Draft Articles on State Responsibility (2001) thus make quite clear that the acts of empowered individuals can be directly attributable to the state that empowered them. According to Quigley, '[o]ne area of increasing sophistication is complicity in the law of State responsibility' (Quigley, 1986: 77). Complicity liability arises where a State facilitates the commission by another State of an internationally wrongful act (Ushakov, 1983: 51). The principles of international law as formulated by the ILC have dictated that complicity in the commission of a crime against peace, a war crime, or a crime against humanity, is a crime under international law (1957: 374-8). Therefore a concept of State complicity has been developed in international jurisprudence to enable the prosecution of those who knowingly assist, aid, abet, procure or counsel genocide but who never actually wielded machine guns or machetes.

However, the question as to whether states can be criminally responsible continues to be highly controversial (see Jorgensen 2000). Some have argued that the concept is of no legal value and cannot be justified in principle, not least because of the problem of exacting penal sanctions from states (Brownlie, 1963: 150-4).

This thesis argues however that the concept of state responsibility, in respect of human rights and criminological concerns, can be merged in a meaningful way through a literal use of the concept of state crime being applied to activities which are unambiguously in breach of international law.

Central to any discussion of international law applying to state crime is the International Convention on the Prevention and Punishment of the Crime of Genocide⁴⁵ (hereinafter Genocide Convention), adopted by the United Nations on December 9, 1948, and entering into force on January 12, 1951. The Genocide Convention is an international treaty which draws on elements of international criminal law, international humanitarian law, and international human rights law (Schabas, 2000: x). As the international Court of Justice noted in its 1951 advisory opinion, ‘the principles underlying the Convention are principles which are recognized by civilized nations as binding on States, even without any conventional obligation’⁴⁶. The International Court of Justice *has therefore recognized* the Convention’s proscription against the crime of genocide as a part of customary international law and a *jus cogens* norm⁴⁷. It is worth noting that the Genocide Convention’s definition of genocide has been echoed in subsequent legal mechanisms without significant amendment, including the statute creating the International Criminal Tribunal for the Former Yugoslavia (ICTY), the statute creating the International Criminal Tribunal for Rwanda (ICTR) and the Rome Statute for the creation of the International Criminal Court (Jorgensen, 2000). In his analysis of the Genocide Convention, Robertson explains that:

“[a]t its highest, namely when the State takes the life pursuant to a policy of genocide, this right is so forcefully protected by international law ... that it justifies armed intervention by other states whether pursuant to Chapter VII or by way of a unilateral humanitarian mission, and the International Court of Justice may order ‘provisional measures’ against a government under the Genocide Convention” (2002:102).

The jurisdiction of the Genocide Convention also extends, in Article III, to include conspiracy to commit genocide, and complicity in genocide as crimes under international law. The Statutes of both the ICTY and the ICTR contain two notable provisions on

45 Convention on the Prevention and Punishment of Genocide, Dec. 9, 1948, 78 U.N.T.s.277, reprinted in 45 American Journal of International Law, 7 (1951)

46 Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide (Advisory Opinion), [1951] I.C.J. REPORTS 16, at 21, quoted in Legality of the Treat or Use of Nuclear Weapons (Advisory Opinion, [1996] I.C.J. REPORTS 226, 31. See also Report of the Secretary-General pursuant to 2 of the Security Council Resolution 808 (1993), U.N. Doc. S/25704, 45.

47 Prosecutor v. Goran Jelsic, Case No. IT-95-10-T, ICTY T. Ch. I, 14 Dec. 1999, para. 60.

responsibility for genocide: 'complicity' in genocide and 'aiding and abetting genocide'. The prosecutor of the ICTY argues that 'any assistance, even as little as being involved in the operation of one of the camps [militia training camps]' constitutes sufficient participation to meet the terms of complicity. (Schabas, 2000: 294). It must be acknowledged that negligence is incompatible with the specific intent requirement of genocide⁴⁸. As the ICTR observed in the Akayesu case, an individual cannot be guilty as a participant in genocide 'where he did not act knowingly, and even where he should have had such knowledge' (Schabas, 2000: 227). Schabas describes complicity in genocide as those who 'aid, abet, counsel and procure or otherwise participate in criminal offences' (2000: 285) and has interpreted the proceedings of the ICTR in the Case v Akayesu as 'aiding means giving assistance to someone', while 'abetting involves facilitating the commission of an act by being sympathetic thereto' (Schabas, 2000: 292-93).

Direct responsibility of a state – complicity in genocide

Within the Genocide Convention, there is an affirmation that States may not fail to act in the face of mass atrocities directed at the destruction of a particular group. But no state has been held accountable in terms of the Genocide Convention for such a contravention despite the weight of evidence available for example of the knowing abandonment of prisoners in the Nazi death camps, by the Allied troops of World War II (see Hilberg, 1992; Breitman, 1998). As previously noted, the ICTR has successfully secured several convictions on charges of complicity in genocide⁴⁹ however those convictions have been convictions of individuals. Fitzmaurice argues that this could be due to the 'considerable difficulty in expressing [the] idea in the text of the Convention of the direct responsibility of a state for genocide or for any of the other acts enumerated in article III, which includes complicity in genocide' (cited in Jorgensen, 2000: 277).

The subject of direct responsibility of states for genocide, in addition to their responsibility for the failure to prevent or punish acts of genocide, was debated during the conceptualisation phase of the Genocide Convention when the United Kingdom proposed an amendment to Article V. The amendment stated that '[c]riminal responsibility for any act of genocide as

⁴⁸ Negligence should not be confused with omission as an individual may intentionally omit to perform an act with the specific intent to destroy the group.

⁴⁹ Refer to www.ictor.org for details of all judgements

specified in Articles II and IV shall extend not only to all private persons or associations, but also to States, governments, or organs or authorities of the State or government, by whom such acts are committed' (Jorgensen, 2000: 36). The proposed amendment was however rejected and the ambiguous wording of article IX continues to be the subject of much close examination and debate (Schabas, 2000; Jorgensen, 2000). Interestingly the International Court of Justice's interpretation of article IX of the Genocide Convention does not exclude any form of state responsibility. Nor was the responsibility of a state for acts of its organs excluded by Article IV of the Convention, which contemplates the commission of an act of genocide by 'rulers' or 'public officials' (Jorgensen, 2000: 269).

One can conclude therefore that rules for states are often codified in international law, as is the case with the Genocide Convention, however the role of norms should not be underestimated in providing guidelines for the action of states when confronted with atrocity. All international treaties are established under the rubric of the UN ostensibly to achieve 'peace', and therefore the UN's mission is always constructed as a humanitarian one

'We the peoples of the United Nations.....'

As a result of the international legal obligations written into the United Nations system, boundaries have been set on how governments may treat their citizens. The international legal obligations that protect individuals against the power of the state can be found principally in the United Nations 1945 Charter, the 1948 Universal Declaration of Human Rights, the 1948 Genocide Convention, and the two International Covenants on human rights drawn up in 1966. Cumulatively, these established the definition and enforcement of state crime, and important limits on the exercise of sovereign prerogatives (see Donnelly 1999). The genesis of such obligations saw, for the first time in the history of modern international society, the domestic conduct of governments exposed to scrutiny by other governments, human rights non-governmental organizations (NGOs) and international organizations. However the new human rights regime was severely limited by the weaknesses of its enforcement mechanisms not least because the preamble of the UN Charter (1945) can be clearly interpreted as being fundamentally non-interventionist in its approach. Taken as a whole the Charter essentially limits the rights of states to use force internationally and nowhere does the Charter address directly the question of humanitarian intervention whether under UN auspices or by states acting independently. The right to use force on the part of individual states is clearly

restricted except for reasons of self-defence (UN Charter, 1948). It was widely accepted during the cold war that the use of force to save victims of gross human rights abuses was in fact a violation of the Charter.

The purposes of the United Nations as per Chapter I(1) of the 1945 UN Charter is to maintain international peace and security and '[i]n order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility' for same (Chapter V(24) UN Charter, 1945)⁵⁰. The Security Council is empowered under the Chapter VII provisions of the Charter to 'determine the existence of any threat to the peace, breach of the peace, or act of aggression' and to take military and nonmilitary action to 'restore international peace and security (ibid)⁵¹. The United Nations, after approval by the Security Council, traditionally sends peacekeepers to regions where armed conflict has recently ceased or paused, to enforce the terms of peace agreements and to discourage combatants from resuming hostilities. Since the UN does not maintain its own military, peacekeeping forces are voluntarily provided by member states of the UN⁵². Post-cold war peacekeeping has become increasingly complex as 'the UN's active role in responding to Iraq's invasion of Kuwait increased world leaders' enthusiasm for employing UN peacekeepers in still more missions' (Mingst and Karns, 2007: 97).

International Peace, Security and Humanism

Lawyers date the origins of the doctrine of humanitarian intervention to the seventeenth century Dutch International lawyer Hugo Grotius, a humanist who considered that the rights of the sovereign could be limited by principles of humanity. Grotius argued that 'if a tyrant ... practices atrocities towards his subjects, which no just man can approve, the right of human

50 The powers of the Security Council are as outlined in chapter V of the Charter of the United Nations (1945) and include the establishment of peacekeeping operations, peace building/nation-building activities, international sanctions regimes and the authorization of military action, achieved by proposal of appropriate resolutions.

51 In accordance with the purposes and principles enshrined in the Charter of the United Nations, the Department of Peacekeeping Operations (DPKO) is dedicated to assisting the Member states and the Secretary-General in their efforts to maintain international peace and security. 'The Department's (DPKO) mission is to plan, prepare, manage and direct UN peacekeeping operations, so that they can effectively fulfil their mandates under the overall authority of the Security Council and General Assembly, and under the command vested in the Secretary-General' (United Nations, 2008)

52 Peacekeeping forces are commonly referred to as 'blue helmets' or 'blue berets' because of their distinctive pale blue headwear.

social connexion is not cut off in such a case ... It would not follow that others may not take up arms for them' (Grotius, Whewell trans. 1853, cited in Abiew, 1999: 35). Tuck (2001) is of the belief that humanism as portrayed in the writings of Grotius, played a substantial and far greater role in seventeenth and eighteenth century thoughts in respect of international society and warfare than that which we see in the current era. And yet sovereignty was still a vital concept of the Westphalia system (Beres, 1989: 336).

As previously noted, the United Nations Security Council authorization and the right of self-defence are written exceptions to the prohibition on the use of force and are expressly set out in the UN Charter (1945). It may be suggested however that two further unwritten humanistic exceptions have developed in recent decades, namely a right to intervene militarily to promote or restore democracy, and a right to intervene to prevent serious human rights abuses or violations of international humanitarian law such as genocide, mass expulsion or systematic rape. Tuck accuses such acts of humanism as being responsible for the dilution of the principles of state sovereignty, and argues that such recourse is indefensible 'on a close reading of the actual rules of the United Nations' (2001: 234). It has therefore to be suggested that far from being outdated, the ideas of Grotius have perhaps never been so relevant as in our current era which has witnessed operations like Desert Storm (1991), the invasion of Iraq (2003), or every day scenes on the Gaza Strip and the West Bank.

Humanitarian Intervention under scrutiny

"There is at least a tension, if not an outright contradiction, between the rules of world order laid down in the Charter and the rights articulated in the Universal Declaration....The Charter bans force violating state sovereignty; the Universal Declaration guarantees the rights of individuals against oppressive states.... The issue of humanitarian intervention arises from this tension" (Chomsky, 1999: 73).

The circumstances which allow the use of force under the rubric of humanitarian intervention in international society have come under considerable scrutiny. Many academic discussions focus on the question of whether there is a legal right of humanitarian intervention⁵³. While some academics perceive the principle of contemporary humanitarian interventions as an

⁵³ For a full discussion on the relationship between humanitarian intervention and international law, see Tesón (1997); Gray (2000); Independent International Commission on Kosovo (2000); Chesterman (2001).

emerging norm predicated on the foundation and realization of human rights, others feel that its inconsistent use would suggest otherwise (Zolo, 2002). Pivotal to this debate is the alleged tension between humanism and neo-humanitarianism⁵⁴ 'distinguished by the explicit manipulation of humanitarianism for political or military gain on the ground in a conflict or as a substitute for political and military action' (Mills, 2005: 162). In his celebrated April 1999 Chicago speech, ex-Prime Minister Blair outlined his 'doctrine of the international community' which has since become known in common parlance as the 'Blair doctrine', in which he justified wars over Kosovo, Afghanistan and Iraq by reference to humanitarian motives rather than military interests (1999). Scholars and policy makers are struggling to balance these two seemingly conflicting sets of norms in international society.

Central to these conflicting sets of norms lies a paradox. For its first forty-five years, the United Nations was firmly associated with the principle of non-intervention in the internal affairs of sovereign states, a fact that helped to explain the support that the UN received from governments of post-colonial states. Then, in the post-cold war era, the UN became associated with a pattern of interventionism, often on at least partly humanitarian grounds. From being an institution for the non-use of force, the United Nations has become an instrument for the use of force (see Mingst and Karn, 2000, 2007). As Noam Chomsky points out, this conflict is embodied in the two main pillars of international law and international order, the UN Charter and the Universal Declaration of Human Rights (1999: 73).

The evolving practices of humanitarian Intervention in the 1990s

Provocation of heated debate over humanitarian intervention is not least due to the fact that, in the last decade of the twentieth century, it is estimated that globally 35 million people faced humanitarian crises. In this 'revolutionary decade for humanitarian action...the Security Council authorized more than a dozen Chapter VII operations in response to conscience-shocking human catastrophes' in territories ranging from northern Iraq to East Timor (ICISS, 2001b: 220). Such a response from the Security Council signalled a notable sea change as, during the Cold War, not one resolution mentioned humanitarian intervention (Weiss, 2004:

⁵⁴ The circumstances and nature of humanitarianism have changed in recent years. The traditional ideals of neutrality, impartiality, and independence have become myth. Rather than being at the margins of conflict, neo-humanitarianism is now embedded within contemporary conflict. States use humanitarian norms and actors for their own ends, frequently as a response to international pressure to intervene in conflicts. Such actions, as well as those on the part of international humanitarian organizations and other non-state actors, have altered the terrain of humanitarian action.

38). Gowan argues that this sea change has now become the official principle of the European Union and 'the mobilizing doctrine of Western military intervention around the world from the Middle East to the Balkans, from sub-Saharan Africa to the Caribbean' (2001: 150). It was the NATO bombing of Yugoslavia in support of ethnic Albanian Kosovars in the spring of 1999 which brought to the fore the Western claim of universal positive obligation for the protection of global human rights (Zolo, 2002: 84). Claims of the unlawfulness of such an intervention being launched on the basis of positive obligation for the universal protection of human rights were countered by the former United Nations Secretary-General Kofi Annan who proclaimed in September 1999:

'if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica – to gross and systematic violations of human rights that affect every precept of our common humanity?' (Annan, 2000: 48).

Humanitarian Intervention and the prevention of genocide

Most states in the international community have accepted, through their ratification of the 1948 genocide convention, an obligation 'to prevent and to punish' such acts. Therefore, genocide has been placed beyond the protection of the domestic jurisdiction clause of the UN Charter article 2(7) and must be viewed as an international crime. Kuperman is solidly of the opinion that there is overwhelming political support for a positive obligation of states to intervene to prevent genocide (2000: 1). Most states in the international community have accepted, through their ratification of the 1948 genocide convention, an obligation 'to prevent and to punish' such acts. The authors of the Convention created an obligation to repress genocide and legal analysis affirms that intervention in respect of genocide may include military action, however in terms of the Genocide Convention this is viewed as a right rather than as an obligation (Schabas, 2000: 498).

During the 1990s, the United Nations Security Council determined that a number of domestic humanitarian and human rights crises, including genocide, constituted 'threats to international peace and security'. In doing so, the Security Council went beyond the traditional concept of threats, though not in a manner that violated the UN Charter (1948). This determination by the United Nations reinforced the need for the international community to prevent and punish genocide and provided States with Chapter VII powers to impose mandatory sanctions or

authorize the use of military force against a genocidal regime. Military action by States for the purposes of preventing genocide was now an obligation as opposed to a right. Schabas is of the opinion that the permanent members of the Security Council who were extremely reluctant to use the word 'genocide' in a resolution concerning the Rwandan crisis, acted as such for fear that it 'would impose an obligation to act to prevent the crime' (2000: 495). International law offers little support though for states acting individually in response to acts of genocide with article VIII of the Genocide Convention stating that only multilateral responses are legitimate (UNGC 1948).

One may therefore argue that a neo-humanitarian norm supporting humanitarian intervention in instances of genocide has developed in international society over the course of the decade, a norm which empowers States with legislative provisions that positively obligates them to prevent humanitarian crisis. In essence, this norm asserts that, when all other diplomatic actions have failed, states have the responsibility to employ military force against another state in order to protect civilians in danger. The report of the International Commission on Intervention and State Sovereignty (ICISS) concludes: 'Sovereign states have a responsibility to protect their own citizens from avoidable catastrophe...but when they are unwilling or unable to do so, that responsibility must be borne by the broader community of states' (ICISS, 2001a). It is therefore arguable that the failure of States to fulfil their positive obligation to prevent genocide and thereby protect 'threats to international peace and security' is a breach of international law.

CONCLUSION

Having explored the body of literature of the 'bystander' it is evident that common usage has dictated the bystander to be a non-participant spectator at the locus of an atrocity or crime, a definition which fails to encompass the institutional bystanders of this thesis. As such, one must argue the need for the development of an enhanced understanding of the bystander in terms of violations of international criminal law to include the powerful attributes of the institutional bystander whose spatiality to the location of the event is inconsequential in terms of culpability.

Correlations between degrees of power and degrees of complicity in said violations will be discussed in later chapters when exploring specific cases of complicity in genocide and violations of international criminal law. As previously highlighted, '...complicity assumes

great importance for protecting individuals, peoples and weaker States (Quigley, 1986: 130). This thesis agrees that a recognizable body of international criminal law does exist and despite international jurisprudence relating to the concept of state criminality being relatively sparse, it is an actuality in tandem with the concept of state responsibility.

This chapter has highlighted the legal standing in relation to complicity in genocide and other violations of international criminal law and as such has provided the reader with a lens for understanding the scope of liability of states and other institutional bystanders as responsible actors albeit not the primary perpetrators or co-authors of genocide. Institutional bystanders to genocide are in sum liable to charges of complicity in genocide if:

- 1) they fail to undertake their positive obligations; such as the prevention and suppression of acts of genocide or any of the other acts enumerated in Article III, where a clearly missed moment of opportunity to act has been identified and where reliable intelligence clearly warned of imminent and serious humanitarian risks. This necessarily requires determination of the consequences for the perpetrators of genocide resulting from non-compliance of institutional bystanders with such treaty obligations.
- 2) their actions are shown to have assisted, aided or abetted the perpetrators of genocide in some form. Article III makes punishable four forms of participation in the crime (conspiracy, direct and public incitement, attempt and complicity). This necessarily requires determination of the consequences for the perpetrators of genocide resulting from the complicity of institutional bystanders. It must be proven that the institutional bystander had knowledge of the genocidal intent of the principal perpetrators albeit they did not necessarily share that intent. An example are the WWII actions of the commercial suppliers of poisonous gas who knew of the intent of the purchasers to use the gas for the purpose of destroying a national, ethnic, racial or religious group, even if the suppliers themselves did not share that intent.

Those are the two key points of law relating to 'bystander' complicity (as opposed to direct involvement) in genocide which are of significance to this thesis and potentially may have been committed by institutional bystanders to the Rwandan genocide of 1994. In addition, this thesis will critically explore and speculate as to why institutional bystanders failed to undertake their positive obligations in terms of the Genocide Convention in 1948.

The following two chapters are analytical chapters discussing the data gathered for this thesis as outlined herein. The first of the two chapters, chapter 6, is a detailed study of the role of France in Rwanda before and during the genocide, whilst chapter 7 is a detailed study of the role of the United Kingdom in Rwanda during the same period. The objective of both of these chapters is to ascertain if either government, both of whom are contracting parties to the genocide Convention, were complicit in the genocide of 1994, either by crimes of omission or commission. Such an analysis of these external institutional bystanders to the genocide will hopefully enhance our current understandings of the motivations behind the role of these nations in addition to further developing the concept of bystander institutional complicity in genocide and that of state crime.

These two chapters will allow for reflection on those legal concepts and will aid in the development of our understanding of the capacity of international law to fully capture the nature of complicity of institutional bystanders in genocide.