

A MORAL AND LEGAL DUTY IGNORED:
WHY THE INTERNATIONAL
COMMUNITY'S RESPONSE TO THE
RWANDAN GENOCIDE OF 1994 WAS
INAPPROPRIATE, INEFFECTIVE AND
UNACCEPTABLE

Brandelyn Morgan Carran[†]

PREFACE: A 20th Anniversary to the Rwandan Genocide
Remembered

It is 20 years almost to the day—that the horrific events which will be told and unfold throughout this article—occurred. One takes pause—and one reflects—on the atrocity, which still should rock the world more than recent earthquakes or seismological activity. There are memorials that remain as horrific sites of massacre within our churches, as if the devil himself decided to physically thrash in and quote scripture. But there—in what was once dark—shines through a light—of God, forgiveness—which gives us even greater pause; that God is there in the most unseemly of times, to save us.¹ And an indelible Catholic religion and faith—that does not forget—and does not ignore, but regrets and seeks to restore—faith, forgiveness, acknowledgement and awareness of

[†] The author holds a Bachelor of Arts degree (B.A.) in Communications from Florida Gulf Coast University, Fort Myers, Florida; and a Juris Doctor (J.D.) from Ave Maria School of Law, Naples, Florida. The author is grateful to her Professor Ligia De Jesus, who taught her International Human Rights Course in her 3L year of law school at Ave Maria School of law, for her encouragement, advice and insight in her exploration of this issue; a timeless representation in history—of a catastrophic, horrific event—that scarily mirrored a faction of something that was to never happen again, an abhorrent event which was to be avoided at all cost in the future of mankind—the Nazi Occupation and Jewish Holocaust—the very reason for our United Nations and the prosecution of war crimes.

¹ Stoyan Zaimov. *Rwandan Genocide 20th Anniversary: Survivor Talks Forgiving the Man who Murdered his Family*, CHRISTIAN POST, April 6, 2014, available at <http://m.christianpost.com/news/rwandan-genocide-20th-anniversary-survivor-talks-forgiving-the-man-who-murdered-his-family--117436/>.

a stark reality when brainwash and fear turned to evil destruction of its very own peers.² Our very own current Pope Francis—spoke on such facets recently—at St. Peter’s Square—and called on all of society to pray to Mother Mary, Our Lady of Kibeho—as our dear mother who tried to warn seers of the atrocities that sought to arrive there.³

INTRODUCTION

In this paper, I will address whether the international community—predominantly the UN (United Nations)—acted appropriately and effectively in dealing with the Rwandan Genocide of 1994. I will show why they did not. I will further show why they in fact had a legal and moral duty to do so, but failed to carry this duty out.

In order to look at this issue, I feel one must first look at the history of Rwanda, leading up to the genocide movement; the attempt at peace which was destroyed by the Hutus; proof that the world knew what was going on; how the world reacted; what the law says could have been, and should have been done about it; reactions and remedies instituted since the 3 month holocaust, including the establishment of the Rwandan International Criminal Court; and finally, what Catholic Social Teaching has to say about interceding into such an atrocity.

Genocide has been defined as “*a crime under international law, which seeks to destroy a national, ethnic, racial, or religious group.*”⁴

Genocide can be committed in various ways, which includes the destruction of an entire group of people: killing members of a group, causing them severe mental or bodily harm, intentionally imposing conditions that will bring about a group's physical destruction, forcing measures on a group to prevent births, and mandating the transfer of children from one group to another.⁵

² Cindy Wooden, *On 20th Anniversary of Rwandan Genocide: Pope Urges Reconciliation*, NAT’L CATHOLIC REP., April 7, 2014, available at <http://ncronline.org/news/global/20th-anniversary-rwandan-genocide-pope-urges-reconciliation>.

³ *Id.*

⁴ Convention on the Prevention and Punishment of the Crime of Genocide art. 2, Dec. 9, 1948, 78 U.N.T.S. 278, available at <http://www.hrweb.org/legal/genocide.html> (emphasis added).

⁵ *Id.*

The term “genocide” was first coined by a Polish scholar of International Law—named Raphael Lemkin; it was derived from the Greek word “*genos*” meaning “race” and the Latin term “*cide*” meaning “killing.” Lemkin first defined the word as “a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves.”⁶

In order to understand the massacre that occurred in Rwanda in 1994, I feel it is important to understand a basic history of Rwanda, and what led up to this horrific occurrence in 1994 that killed around 800,000 Rwandans;⁷ the tensions, the conflicts, the anger that built up over years and years, between two distinct groups of Rwandans that came to be known as the Hutus and the Tutsis.⁸

Tensions had been festering and festering needing only an opportune moment to blow. Tensions that were manifested on the part of extremist Hutus who planned to exterminate the Tutsis entirely, and who almost all but accomplished their goal, due to unhindered massacre; a lack of intervention on the rest of the world. Only the Tutsis’ own army who had sought exile—to Uganda—years before—would finally end the holocaust of Rwanda of 1994.⁹

I. FACTUAL AND HISTORICAL BACKGROUND

When Rwanda was first settled, the Rwandan people were labeled by how much cattle they owned.¹⁰ The people who owned the most cattle became labeled the Tutsis.¹¹ And the other group became the Hutus.

⁶ RAPHAEL LEMKIN, *AXIS RULE IN OCCUPIED EUROPE* 79 (Joseph Perkovich, 2nd ed. 2008).

⁷ PAUL RUSESABAGINA, *AN ORDINARY MAN, AN AUTOBIOGRAPHY* x—xi (Viking Adult, 2006)

⁸ Alison Des Forges, *LEAVE NONE TO TELL THE STORY: GENOCIDE IN RWANDA*. HUMAN RIGHTS WATCH, 1999, [hereinafter Des Forges] available at <http://www.hrw.org/legacy/1999/rwanda/>; *See generally* Human Rights Watch: <http://www.hrw.org/reports/1999/rwanda/Geno1-3-09.htm> (last visited Oct. 14, 2009) (for a history of Rwanda).

⁹ *The Fall of the Genocidal Regime*, GOVERNMENT OF THE REPUBLIC OF RWANDA (2013), <http://www.gov.rw/THE-FALL-OF-THE-GENOCIDAL-REGIME>.

¹⁰ Des Forges, *supra* note 9.

¹¹ ALAIN DESTEXHE, *RWANDA AND GENOCIDE IN THE TWENTIETH CENTURY* 36 (Washington Square: New York, NY 1995); FERGAL KEANE, *SEASON OF BLOOD: A RWANDAN JOURNEY* 12 (Viking 1995) (author was a BBC journalist traveling through Rwanda at the time of the 1994 Genocide movement); Des Forges, *supra* note 9.

When Europe colonized the area, and Rwanda was German-owned, the Hutus and Tutsis took on a racial role. The Germans thought the Tutsis looked more European—taller with lighter skin—and because of this, put them in roles of responsibility.¹² After WWI, Germany lost its colonies, and Rwanda became Belgium-owned. In 1933, the Belgians mandated that every Rwandan have an ID card which labeled them either as a Hutu, Tutsi, or TWA—which was a *very* small group of “hunter-gatherers” that lived in Rwanda.¹³

Notwithstanding the fact that the Tutsis only represented 10% of the population the Belgians gave them all the positions of leadership.¹⁴ This made the Hutus angry. One could say—for lack of a better word—they were jealous.

But then there was again - a switch in roles. When the Hutus (which again, was a majority of the Rwandan population) began a revolution, seeking freedom from Belgian rule, the Belgians allowed the Hutus to take charge of the new government.¹⁵ This, now, made the Tutsis angry. As you can imagine, hostility between the two groups that had begun long before—remained, and continued—and grew.¹⁶

For a long time, the Hutus remained in control; their President as of 1973, Habyarimana, ran a totalitarian government with all control in the hands of the Hutus; excluding the Tutsis completely.¹⁷ In 1990, a civil war broke out between the Hutus and Tutsis.¹⁸ And in 1993, one year before the genocide massacre, Hutu President Habyarimana, persuaded by the U.S., France and the African Union, signed a document entitled

¹² Destexhe *supra* note 12, at 38; PHILIP GOUREVITCH, WE WISH TO INFORM YOU THAT TOMORROW WE WILL BE KILLED WITH OUR FAMILIES 50, 55 (1998). (Discusses physical features of Hutus and Tutsis discusses measuring the length of Rwandans noses to determine whether they were Tutsis); Keane, *supra* note 12, at 12. (stresses the “tallness” and “aquiline facial features” being “synonymous” with what was considered “superiority” in pre-Colonial Rwanda).

¹³ James K. Gasana, *Natural Resource Scarcity and Violence in Rwanda*. (2002) [hereinafter Gasana], http://www.iisd.org/pdf/2002/envsec_conserving_4.pdf; Gourevitch, *supra* note 13, at 56-57; Keane, *supra* note 12, at 16-17.

¹⁴ Gasana *supra* note 14, at 207; Destexhe, *supra* note 11, at 40.

¹⁵ Gasana, *supra* note 14, at 208

¹⁶ Jennifer Rosenberg, *Rwanda Genocide: A Short History of the Rwanda Genocide*, THE NEW YORK TIMES, <http://history1900s.about.com/od/rwandangenocide/a/Rwanda-Genocide.htm>.

¹⁷ Gasana, *supra* note 14, at 208.

¹⁸ DEFENSE INTELLIGENCE AGENCY, DEPT. OF DEFENSE DEFENSE, J2-210-94, DEFENSE INTELLIGENCE REPORT, RWANDA: THE RWANDAN PATRIOTIC FRONT’S OFFENSIVE, (1994), <http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB53/rw050994.pdf>.

the Arusha Accords in order to again restore peace to the country.¹⁹ These Arusha Accords actually weakened the Hutus hold on the government, and allowed Tutsis to participate—once again—in their government. This—again - angered the Hutu extremists.²⁰

Habyarimana had been pushed to implement these “power sharing” Arusha Accords, which would make the Hutus share governmental power with the Tutsis, and end President Habyarimana’s 20 year one party rule over Rwanda.²¹ Hutu extremists angrily opposed the accords.²² They were signed nonetheless.²³ But on April 6, 1994, upon President Habyarimana’s return from Tanzania on an airplane—an air missile shot the plane down—while it flew over Rwanda’s capital city of Kigali.²⁴ All on board the plane were killed, which included President Habyarimana and the President of Burundi.²⁵

There is no proof as to who shot the plane down—but it is apparent from the events to come—that the Hutus would benefit the most from the apparent assassination.²⁶ Details forthcoming from released memos, between Romeo Dallaire and the UN, would reveal the Hutus’ plan to annihilate the Tutsis.²⁷ One theory is that if in fact Commander Romeo Dallaire broached the Hutu President with his suspicions of a Hutu “extremist” future attack, then the President who had recently signed the Arusha Accords may try to prevent it and stop them. Thus he would be considered—in the way—to Hutu extremists. The need to remove him before their planned slaughter would become imminent. For within 24 hours of the plane crash, Hutu extremists took over the Rwandan government, blamed the Tutsis for the assassination,

¹⁹ Gasana, *supra* note 14, at 209; Rosenberg, *supra* note 17.

²⁰ Rep. of Rwanda, *The Arusha Peace Agreement* (2013), <http://www.gov.rw/THE-ARUSHA-PEACE-AGREEMENT>; Rosenberg, *supra* note 17.

²¹ Human Rights Watch, *Genocide in Rwanda April—May 1994* (May 1, 1994), A604, <http://www.refworld.org/docid/3ae6a7d24.html>; Gourevitch, *supra* note 13, at 99.

²² Rosenberg, *supra* note 21.

²³ *Id.*

²⁴ Gasana, *supra* note 14, at 209.

²⁵ *Id.*

²⁶ Des Forges, *supra* note 9.

²⁷ William Ferrogiaro, *The US and the Genocide in Rwanda 1994: Evidence of Inaction*, NAT’L SECURITY ARCHIVE (Aug. 20, 2001), <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB53/index.html>.

and began their massive slaughter that would kill approximately 800,000 Tutsis in 3 months.²⁸

The killings began in Rwanda's capital city of Kigali.²⁹ "Hate radio" broadcasts helped to expedite their mission.³⁰ The *Interahamwe*, which means "those who strike as one," were an organization of anti-Tutsi youth who were commissioned by the Hutus.³¹ They began to set up roadblocks, checking the IDs of everyone; anyone listed as a Tutsi was killed.³² A majority of the killing—was not done by guns—no, bullets were expensive—and thus, a majority of the killing was done by machetes, clubs, and knives.³³ Brutal, brutal killing included the chopping up of bodies: a most inhumane method of killing.

Not only the Tutsis, but anyone in the government that was a Hutu "moderate"³⁴—was also killed, including the opposing Belgian Prime Minister of the country.³⁵ And when Belgian UN peacekeepers stepped in to protect the Prime Minister—they too were killed.³⁶ Anyone who was considered to oppose the genocide by the Hutus—was killed immediately—including the president of the constitutional court, priests,

²⁸ Jolyon Mitchell, *Remembering the Rwandan Genocide: Reconsidering the Role of Local and Global Media*, GLOBAL MEDIA JOURNAL, Vol. 6, Issue 11, Art. No. 4 (Fall 2007), <http://lass.purduecal.edu/cca/gmj/fa07/gmj-fa07-mitchell.htm>; Russell Smith, *The Impact of Hate Media in Rwanda*, BBC NEWS (December 3, 2003): <http://news.bbc.co.uk/2/hi/africa/3257748.stm>; Rusesabagina, *supra* note 8, at x—xi; Rosenberg, *supra* note 17; Keane, *supra* note 12, at 88. (After Habyarimana's plan was shot down, personal accounts and testimony of Tutsis—that they knew it was bad—and there were lists of Tutsis being created weeks ahead of time—and militia that had been training).

²⁹ Rosenberg, *supra* note 17.

³⁰ *Id.*

³¹ Fax from Maj. Gen. Romeo Dallaire, United Nations Assistance Mission for Rwanda, to Maj. Gen. Maurice Baril, United Nations Department of Peacekeeping Operations, Request for Protection for Informant (January 11, 1994), (archival materials available at National Security Archive) <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB53/rw011194.pdf>; Gourevitch, *supra* note 13, at 93. (discusses the process at which the extremist Hutu militia and Hutu youth militias were formed) [hereinafter Fax from Dallaire].

³² Human Rights Watch, *supra* note 18.

³³ Discussion Paper, Office of the Deputy Assistant Secretary of Defense for Middle East/Africa Region, Department of Defense (May 1, 1994). (Secret, reclassified as unclassified and on file with the National Security Agency archive), <http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB53/rw050194.pdf>; Rosenberg, *supra* note 17.

³⁴ Rusesabagina, *supra* note 8, at xii.

³⁵ Rosenberg, *supra* note 17.

³⁶ Rosenberg, *supra* note 17.

leaders of the Liberal Party and Social Democratic Party, the Information Minister, and the negotiator of the Arusha Accords.³⁷

However, instead of Belgium rising up against this radical extremist group, in a country they had so-called control over, this havoc caused them to *remove* their troops from Rwanda.³⁸ And as the days proceeded, the violence and deaths got worse. Based on the fact that the government had record of every Tutsi and Hutu, because of the Belgian ID card requirement, they virtually had the names and addresses of *every* Tutsi living in Rwanda; they could go door to door slaughtering them.³⁹ Men, women, children—were killed. Some victims were given the option of purchasing a bullet so their death would be quicker.⁴⁰

These details are not for the faint of heart: many Tutsi women and girls were repeatedly raped, then killed, or raped, then kept as sex slaves for weeks.⁴¹ Such abhorring brutalities, as cutting off women's breasts, and shoving sharp objects up their private regions were done as well.⁴² An evil destruction—slaughter—massacre; not just war, no—not just combat or a fight between two groups; no, this was an intentional annihilation and killing off of an entire group of people; a denigrating, abusive, terror on the people; a torture—a deliberate, hateful destruction—on the entire Tutsi population.⁴³

Churches, hospitals, and schools were no longer refuges as they once would have represented; especially, churches now had become

³⁷ Human Rights Watch, *supra* note 18; Rosenberg, *supra* note 17.

³⁸ Des Forges, *supra* note 9; Rusesabagina, *supra* note 8, at xii-xiii.

³⁹ Des Forges *supra* note 9; Rusesabagina, *supra* note 8, at xiii; Keane, *supra* note 12, at 85-86. (account of disturbing details found in the "Office of the Bourgmestre of Rusomo, Sylvestre Gacumbitsi." Amongst them, ID cards of the Tutsis.)

⁴⁰ Rosenberg, *supra* note 17.

⁴¹ MAHMOOD MAMDANI. WHEN VICTIMS BECOME KILLERS: COLONIALISM, NATIVISM, AND THE GENOCIDE IN RWANDA (2002). (references burying people alive, cutting open wombs of pregnant women, roasting bodies).

⁴² See generally BINAIFER NOWROJEE, SHATTERED LIVES: SEXUAL VIOLENCE DURING THE RWANDAN GENOCIDE AND ITS AFTERMATH (1996); ANNE-MARIE DE BROUWER, SUPRANATIONAL CRIMINAL PROSECUTION OF SEXUAL VIOLENCE: THE ICC AND THE PRACTICE OF THE ICTY AND THE ICTR (Antwerp—Oxford: Intersentia 2005); ANNE-MARIE DE BROUWER, SANDRA KA HON CHU, & SAMER MUSCATI, THE MEN WHO KILLED ME: RWANDAN SURVIVORS OF SEXUAL VIOLENCE (Canada: Douglas & McIntyre Ltd. 2010); Rosenberg, *supra* note 17.

⁴³ Nowrojee, *supra* note 43; Rosenberg, *supra* note 17; Keane, *supra* note 12, at 29. (states the genocide was a "crime of mass complicity." They were "drowning in the blood of their fellow countrymen").

slaughter-houses.⁴⁴ One of the worst massacres during that three-month period occurred on two days, from April 15–16th, at the Nyarubuye Roman Catholic Church, located sixty miles east of the capital city Kigali.⁴⁵ The mayor of the town—a Hutu himself—encouraged Tutsis to seek refuge inside the church, telling them they would be safe. He then betrayed them to the Hutus. A *massive* slaughter began—with grenades and guns—but then soon changed to machetes and clubs. So many Tutsis—thousands of them—had gathered, and the Hutus were brutally killing them by hand with their machetes and clubs.⁴⁶ The Hutus actually had to work in shifts—for they actually grew tired of the killing by hand—of thousands of Tutsis.⁴⁷ It took two days straight to kill them all.⁴⁸

⁴⁴ *Never Again*, Blakely/Lloyd Photo Documentary, <http://fotoevidence.com/injust/193>; Mitchell, *supra* note 29; Human Rights Watch, *supra* note 18; Des Forges, *supra* note 9.

⁴⁵ The Prosecutor v. Michel Bagaraza, ICTR-05-86-AR11bis; (Int'l Crim. Tribunal for Rwanda), http://www.fichl.org/uploads/media/ICTR_Appeals_Chamber_Decision_in_the_Bagaragaza_case.pdf; Gourevitch, *supra* note 13, at 15; Keane, *supra* note 12, at 76-81. (discusses the horrors found in the church. A graveyard of the dead. The author states, "There is a white marble statue of Christ above the door with hands outstretched. Below it is a banner proclaiming the celebration of Easter, and below that there is the body of a man lying across the steps, his knees buckled underneath his body and his arms cast behind his head." Dead bodies greet them as they enter, "[t]here is a child who has been decapitated . . . There are other bodies between the pews and another pile of bones at the foot of the statue of the Virgin Mary . . . the remains of a small boy . . . he has been decapitated . . . blood now rust colored with the passing weeks, smeared on the walls . . . I do not know what else to say about the bodies because I have already seen too much." Many decapitations—and of children. Unbelievably evil. This site, along with many others, but this one—in particular—left an indelible impression on the author contributing to his nightmares. He states, "This was always going to be the hardest part, this remembrance of what lay ahead in the dusk on that night in early June. My dreams are the fruit of this journey down the dirt road to Nyarubuye. How do I write this, how do I do justice to what awaits at the end of this road? As simply as possible. This is not a subject for fine words." And he begins to describe the unutterable—now being uttered—massacre.)

⁴⁶ Rusesabagina, *supra* note 8, at xii–xiii (discussing the lethality of large Tutsi gatherings for refuge, specifically a place called Official Technical School wherein nearly 2,000 refugees had gathered believing the UN soldier who had been staying there—would help them. Instead the foreign nationals and Belgians were put in planes and air-flighted out to safety—leaving a mass number of Tutsis behind—begging to be shot rather than macheted, enabling the Hutus to massacre them more easily. As the author notes: the "killing and dismemberment started just minutes later."); Gourevitch, *supra* note 13, at 18-19, 24. (discusses the brutal methods and disgusting disregard for victims by the murders . . . mentions that "even the little terracotta votive statues in the sacristy had been methodically decapitated." Because as Sergeant Francis said, "They were associated with Tutsis.").

⁴⁷ Mamdani, *supra* note 38 (references how it was hard work to kill with a machete, requiring one to use their arms repeatedly—Hutus would get tired. This also implicated and suggests that it was more of an intimate affair—based on the method of killing).

⁴⁸ Rosenberg, *supra* note 17.

But this was only—one of the many—massacres. The worst are reported to have occurred between April 11 and the beginning of May.⁴⁹ And to further denigrate and belittle the Tutsi tribe—not even their dead were allowed to be buried. They forced Tutsis to leave their deceased loved ones where they were slaughtered—exposed to the elements—to be eaten by rats and dogs.⁵⁰

The biased media did not help the situation at all. A newspaper entitled *Kangura*, had been spewing hate against the Tutsis for years.⁵¹ Around December of 1990, they published “The Ten Commandments for the Hutu.”⁵² In essence, any Hutu that had anything to do with a Tutsi was a traitor. And later, Radio Television Libre des Mille Collines—known as RTLM—who had previously been spouting and spewing hate against the Tutsis, (but that had masked its hate by playing popular music and speaking like any other conversational radio broadcaster, in normal soothing tones);⁵³ once the president had been shot down—they took an active role in the slaughter,⁵⁴ and called for the Hutus to start cutting down “the tall trees”⁵⁵—which was code for Tutsis, because as I mentioned—they were taller than the Hutus.⁵⁶ They were the tall, slender trees for which the Hutus’ hate would blind them, and make them not see the forest for the trees.

The RTLM broadcasts had previously referred to the Tutsis as “cockroaches”⁵⁷—and now were proclaiming to “crush the cockroaches!”⁵⁸ RTLM went so far to name the Tutsi individuals, and

⁴⁹ *Id.*

⁵⁰ *Id.*; Gourevitch, *supra* note 13, at 31. (in a more than disturbing visual the text states, “They cut Achilles tendons and necks, but not completely, and then they left the victims to spend a long time crying until they died. Cats and dogs were there, just eating people.”)

⁵¹ Rosenberg, *supra* note 17.

⁵² Mitchell, *supra* note 29; Gourevitch, *supra* note 13, at 87.

⁵³ Mitchell, *supra* note 29.

⁵⁴ Human Rights Watch, *supra* note 18.

⁵⁵ Rusesabagina, *supra* note 8, at xv.

⁵⁶ Des Forges, *supra* note 9; Rosenberg, *supra* note 17.

⁵⁷ Darrell Li. *Echoes of violence: considerations on radio and genocide in Rwanda*, Journal of Genocide Research (2004), 6(1), March 9-27, 12 Available at: http://www.academia.edu/362149/Echoes_of_Violence_Considerations_on_Radio_and_Genocide_In_Rwanda; www.afonline.org/?p=23731; Mitchell, *supra* note 29; Rusesabagina, *supra* note 8, at xii.

⁵⁸ See generally RTLM Radio Broadcast Transcripts, http://migs.concordia.ca/links/RwandanRadioTranscripts_RTLM.htm (See April 14, 1994, in English; April 15, 1994, in English, Note that the term “inyenzi” means cockroach; and “inkotanyi” is a

addresses—of the Tutsis that should be killed; and once they were, they would announce their murder over the radio.⁵⁹ This was not war—this was slaughter; massacre; butchery; a blood bath; a holocaust—in essence.

A holocaust not so different from what the world had experienced and had to live with after Hitler's Nazi Germany sought to kill off every Jew, country by country. This was the intentional killing of an entire group and Jews were not able to stand up and fight for themselves, as the Tutsis were unable to stand up and fight for themselves.

And so—why on earth and in heaven—did the whole world simply stand by and watch? This wasn't cattle being slaughtered—these were human beings—dignified, innocent human beings; an event that the very UN Resolution⁶⁰ following World War II sought to prevent—pointedly—for which the “crimes against humanity” term was adopted at the Nuremberg Trials, and prosecutions of Nazi generals were carried out; the very reason for which the United Nations was established—and its charter—with *jus cogens* (preemptory norms) listed first; norms universally accepted by all - that a country cannot participate in under any circumstances; and one of those norms is the illicit act of genocide (as interpreted by case law).

Genocide was considered a violation of international law—across the board—from the moment of the UN's inception; a wrong that two countries could never contract or treaty to. And it would become such a strong point that a UN Resolution would be adopted on December 11, 1946—wherein genocide would be officially designated as a crime under international law and the need for a Convention to cover this prevention would be established.⁶¹ A UN Resolution that would become a Convention 2 years later—on December 9, 1948: *The Convention on the Prevention and Punishment of the Crime of Genocide*,⁶² which would enable a

condescending term used to refer to the Tutsis); Rosenberg, *supra* note 17; Gourevitch, *supra* note 13, at 32. (references inyenzi as cockroaches—what Tutsis became known as).

⁵⁹ Rusesabagina, *supra* note 8, at xv; Rosenberg, *supra* note 17; Keane, *supra* note 12, at i. (Quotes Radio Mille Collines, Rwanda, April 1994, as saying, “The grave is only half full. Who will help us fill it?”)

⁶⁰ G.A. Res. 96 (I), U.N. GAOR, 1st Sess., Supp No. 55 A/RES/96(I) (Dec. 11, 1946).

⁶¹ *Id.*

⁶² Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, 78 U.N.T.S. 278, available at <http://www.hrweb.org/legal/genocide.html>.

country that had ratified it - to step in to another country that was performing the genocide—and attempt to stop them.

I will discuss this Convention further later in my paper: the law enabling and compelling the international community to interject into such an atrocity of genocide, especially when they were well aware of it for some time. This Convention, which called for an active duty of the parties to it—parties which were aware of the genocide in Rwanda—but which instead, stood idly by.

But first let us review Rwanda's initial attempt at peace with the signing of the Arusha Accords, and then the extremist Hutus blatant disregard for such peace, which led to the genocide movement; how the world knew about the genocide taking place in Rwanda between those three months, along with the lead up to the genocide massacre, through the eyes of the UN Commander Romeo Dallaire; and documents from UN archives that prove the world knew. Knew, yet remained passive at the sidelines, standing passively by.

II. FIRST LAW DOCUMENT: A PEACE AGREEMENT—*THE ARUSHA ACCORDS*; AN ATTEMPT AT PEACE COMPLETELY STOMPED OUT BY THE HUTUS

The Arusha Accords were five protocols signed in Arusha, Tanzania on August 4, 1993 by the Hutu government of Rwanda and the rebel Tutsi army—the Rwandan Patriotic Front (RPF)—in a peaceful attempt to end a three-year Rwandan Civil War.⁶³ The mediation between the groups was organized by the United States, France and the Organization of African Unity. It began on July 12, 1992, and lasted until June 24, 1993.⁶⁴

The Arusha Accords established a Broad-Based Transitional Government (BBTG), including the RPF (which was primarily Tutsi), along with the five political parties that had composed a temporary government since April 1992 in anticipation of general elections.⁶⁵ The

⁶³Conference: NHSMUN Committee, *Historical Security Council: Arusha Accords (Rwanda)*, <http://imuna.org/node/1080/Ugg%20Boots>.

⁶⁴Conference: NHSMUN Committee, *supra* note 63.

⁶⁵*Id.*

Accords included other points that sought lasting peace - including the merging of government and rebel armies.⁶⁶

However, as you will see - great in theory and a disaster in practice.

The Hutus didn't want to agree and compromise. They wanted ultimate control. Hence, the genocide movement.⁶⁷

III. PROOF THAT THE WORLD KNEW: FROM A MAN ON THE GROUND, U.N. MAJOR GENERAL ROMEO DALLAIRE, AND DOCUMENTS FROM THE NATIONAL SECURITY ARCHIVE

A. *Romeo Dallaire*

What better witness to this extreme event than someone who was on the ground floor; someone placed there specifically, but with hands tied. Major General Romeo Dallaire—sent to Rwanda in 1993 to secure the peace keeping mission of UNAMIR [United Nations Assistance Mission for Rwanda] after the Arusha Accords had been signed, was left devastated as continued requests for help from the UN went unaided.⁶⁸ And a massacre of 800,000 Tutsis and moderate Hutus unfolded right before his eyes.⁶⁹

During his interview with *Frontline* entitled, “Ghosts of Rwanda,”⁷⁰ he discusses his book, “Shake Hands with the Devil,”⁷¹ and reveals quite an in-depth, visual explanation of what was really going on; what it was like to know something horrific was going to occur, when no one would listen.⁷² And those that listened said to step aside.

As I stated, Romeo Dallaire was assigned to the Rwandan peacekeeping operation—an operation entitled UNAMIR—under the

⁶⁶ *Id.*

⁶⁷ Rep. of Rwanda, *supra* note 21.

⁶⁸ *Frontline: Ghosts of Rwanda* (PBS television broadcast Apr. 1, 2004). [Transcript of interview with Romeo Dallaire, Lieutenant General of UNAMIR Peacekeeping Mission in Rwanda at <http://www.pbs.org/wgbh/pages/frontline/shows/ghosts/interviews/dallaire.html>.]

⁶⁹ Rusesabagina, *supra* note 8.

⁷⁰ *Frontline*, *supra* note 68.

⁷¹ ROMEO DALLAIRE, *SHAKE HANDS WITH THE DEVIL* 347 (2003).

⁷² *Id.*

UN Department of Peacekeeping Operations—the DPKO.⁷³ The three main figureheads of the department included: Kofi Annan—the U.N. under-secretary general for peacekeeping operations; Iqbal Riza—Kofi Annan’s chief of staff; and Maurice Baril—the military adviser. Dallaire called them the “triumvirate”—because they worked together—the three of them; they were considered the heart of the DPKO—synergistic.⁷⁴

To sort of timeline the events, as they can be best understood, on the 8th of August, Dallaire got a phone call saying the Arusha Accords had been signed. On the 17th of August—they went for 2 weeks on a “tactical mission” to Rwanda to determine how much the peacekeeping operation of the UN presence there would cost.⁷⁵

This peacekeeping mission had begun as a Chapter VI—Peacekeeping mission—whose mandate was no use of force except for self-defense; and only mediating and monitoring what either side told them.⁷⁶ Unfortunately, it remained a Chapter VI when what was to come was undoubtedly requiring a Chapter VII—the ability to use force.

Dallaire was optimistic at first—when he left after the first 2 weeks—optimistic that they could make this peace keeping mission work.⁷⁷ However, knowing what we know now, it is important to note what Dallaire said, of his first visit that August to Rwanda, “There was an operation being planned . . . I think it was eliminating that moderate political side. There was no doubt. The killing of others and the continued killing of the others could have been just as fortuitous because they had a structure in place, as it could have been deliberate.”⁷⁸

Dallaire—still wonders—why it took the RPF [Rwandan Patriotic Front]—the Tutsi’s own army whom had gone into exile in Uganda - so long to come back and stop it. He wonders this because no one else stopped it first. It took the Rwandan Tutsi’s own exiled army to halt the killing.⁷⁹

⁷³ Frontline, *supra* note 68.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ Frontline, *supra* note 68.

⁷⁹ *Id.*

Dallaire came back to New York after the two week August visit, to lobby different countries with representatives regarding the mission. No one was interested apart from the Belgiques and the French.⁸⁰

When Dallaire returned to Rwanda—he held a welcoming ceremony, raising the UN flag in the demilitarized zone [DMZ]. He felt their known presence was important.⁸¹ However, that night, massacres involving the killing of 40 people occurred just south of the DMZ.⁸² Later it would be determined that the Hutu extremists were trying to set up the RPF (Tutsi army), claiming *they* killed these people; lessening their credibility. And this would later be used in the Hutu extremists' propaganda broadcasted from the "hate radio" during the time of the genocide.⁸³

As of November, Dallaire was reporting that "this was not going to be a classic Chapter VI" as "[r]umors in regards to the extremists having signed under duress started to come out. [And] [t]he presence of the militias or, let's put it this way, the youth movements . . . were becom[ing] more vociferous and more brazen . . . The tone of what was happening was shifting from evident goodwill to an atmosphere that was less than stable, or less than solid. We were starting to get a whiff of the complexities that might be ahead . . ." ⁸⁴

Dallaire continued that by New Year's Eve a "sort of gloom came in."⁸⁵ He knew that they were not getting the support from the U.N. they needed. He was becoming aware of rumors but his hands were tied. Under a Chapter VI no covert operations could be conducted.⁸⁶ He could simply monitor, not gather intelligence information, which in this case, was not doing him any good. Sensing something was building required the ability to do more than simply monitor.

Finally, a confirmation of what Dallaire had been suspecting, on January 11th—an informant stepped up—belonging to one of the extremist parties. He told Dallaire that "he simply wasn't going to

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ Frontline, *supra* note 68.

⁸⁵ *Id.*

⁸⁶ *Id.*

continue to work in that atmosphere. That they were undermining the whole [peace] process and were ultimately planning the vilest of deeds: attacking not only Tutsis, but also the whole attitude or philosophy of reconciliation between the two different ethnic groups that had been going on for a while, and as such decapitate all the moderate Hutu leaders also.”⁸⁷

Dallaire covertly had meetings with the informant. He was able to “confirm that there were arms [caches].” Dallaire insisted that “the quality of the information and the correlation at that point within that very short time was way solid enough for me to take action.”⁸⁸ Hidden covert actions of the extremists were confirmed. Now Dallaire just needed permission to unveil these—and stop the deadly plans.

He sent a fax to General Maurice Baril, which is mentioned later as well in my paper, as proof that the UN knew what was going on.⁸⁹ But after most likely his “best night’s sleep,” as Dallaire termed it, feeling that the much-needed action would now be able to take place, instead he awoke to a reply fax from Kofi Annan that “essentially said cease and desist. Conduct no such operations. It’s out of your mandate.”⁹⁰

Dallaire was beyond upset and outraged. He admitted he couldn’t even fathom the term “genocide” at that time, but *knew* that large-scale killings could ensue, and ethnic cleansing like that of Yugoslavia; significant killings and massacres “that would destabilize the whole political process.”⁹¹ Even after multiple requests during the next month—the only operations he could conduct were at arm’s length. Only the “local gendarmerie” [military] could conduct what Dallaire felt he needed to do; and the problem with that - was that although there were some very good people, it had been infiltrated by the extremists.⁹²

Frustrated with the whole process, as Dallaire’s hands were essentially tied—he took leave in March to return to New York to clean some things up.⁹³ When he returned he was astonished to find that the

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ Frontline, *supra* note 68; Fax from Dallaire, *supra* note 32.

⁹⁰ Frontline, *supra* note 68.

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

President had shifted the peace process to include—the “overt, extremist, super-rightwing Coalition for the Defense of the Republic [CDI] party and the Muslim party”; the very CDI who had not signed the Arusha Accords and were not willing to tolerate a peaceful arrangement with the new government it was calling for.⁹⁴

But rather than recognize *their* willfulness, the government once again blamed the RPF—the Tutsi’s army. And the RPF was being put in an impossible position because they couldn’t accept the CDI’s position—a party who would not sign the peace agreements; a party who would not accept a share of the government’s power with the Tutsi’s; a party who would not reconcile to the peace agreement with the Tutsis.

But they flipped it; they flipped the facts. And they used it, later against the Tutsis. But who was listening? Even the international community may have been fooled. Fooled, or they turned a blind eye.

Why not, it still goes on today.

What came next was what Dallaire most feared: The genocide of 1994, which was a three-month slaughter of innocent human beings with no support from the international community.

B. Documents from the National Security Archive

1. The Genocide Fax, January 11, 1994

As I mentioned above, in a famous fax that came to be titled, the “Genocide fax,” from Major General Romeo Dallaire, Force Commander of UNAMIR, to Major General Maurice Baril, of the UN Department of Peacekeeping Operations, on January 11, 1994 (almost 3 months before the genocide) wherein Dallaire warned Baril of a plot that he knew of to assassinate Belgian UN Peacekeepers, Rwandan members of Parliament, and Tutsis. He knew there was a plan by the Hutus. He knew that secret lists of Tutsis to be killed existed, and he was seeking help and assistance.⁹⁵

Dallaire told New York that he intended to raid these secretly stored plans of the Hutus—but Kofi Annan, who was Secretary General,

⁹⁴ *Id.*

⁹⁵ Fax from Dallaire, *supra* note 32.

and the Department of Peacekeeping Operations, told Dallaire that this was outside UNAMIR's limited mandate.⁹⁶

Instead of the help and assistance Dallaire was looking for—they told Dallaire to inform the then President Habyarimana of these facts [remember this is little under 3 months prior to his assassination]—*even though* the genocide plans Dallaire spoke of - were those of government officials in Rwanda working right next to the President.

Interestingly—President Habyarimana was then shot down on April 6—which opened the door for the plans to be executed. And they were.

But instead of stepping in *at this point*—the Belgian government withdrew any men they had left from UNAMIR—and within two weeks—the UN Security Council voted to reduce UNAMIR; the very last hurdle to the Hutu's planned slaughter. The only hope the "sitting duck" Tutsi victims had. The UN voted to diminish these forces.⁹⁷

There was a plethora of communication regarding the genocide—to back-up that the U.S. was well aware not only of the conflict between the groups prior to the genocide movement, but also once it had begun. They were aware of the atrocity of the event—taking it from a previous civil war and attempt at peace—to clearly a complete takeover by extremist Hutus and a holocaust of Tutsis; a genocide movement.⁹⁸

2. Memorandum, April 6, 1994

A Memorandum from Prudence Bushnell, Principal Deputy Assistant Secretary of the Bureau of African Affairs, was delivered to Secretary of State Warren Christopher, regarding the death of the Rwandan president, Habyarimana, and the Burundian president, Ntaryamira, in a plane crash outside of Kigali on April 4. The Memo informed the Secretary of State that "widespread violence is likely upon the death of the President . . . the military intends to take over power and

⁹⁶ *Id.*

⁹⁷ Ferroggiaro, *supra* note 28.

⁹⁸ Fax from Dallaire, *supra* note 32. (Dallaire tries to explain the immediate and imminent threat approaching); Discussion Paper, *supra* note 34.

they are resistant to working with the current Prime Minister.”⁹⁹ Of course the Prime Minister would be killed very next day.

3. Memorandum, April 11, 1994

A Memorandum prepared by the Deputy Assistant Secretary of Defense for Middle East/ Africa; a document produced to brief Under Secretary of Defense Frank Wisner, the 3rd ranking official at the Pentagon, along with former Secretary of State Henry Kissinger, on April 11; only 5 days after the assassination of President Habyarimana, which gave an assessment of the event going on in Rwanda within these 5 days. The Pentagon Africa analysts claimed that “if the peace process fails, a massive bloodbath (hundreds of thousands of deaths) will ensue.”¹⁰⁰

4. Telegram, April 15, 1994

A telegram on April 15, 1994, that forwarded information from the Department of State to the US Mission to the UN in New York, telling US diplomats to withdraw all of UNAMIR personnel “as soon as possible;” and that the withdrawal did not require a UN security Council Resolution.¹⁰¹

This decision was then communicated to the Rwandan ambassador during a two day UN Security Council debate over what to do next with Rwanda—which encouraged him to report back to the “interim government” in Rwanda that such decision was made. The “interim government” then made their decision to take their genocide mission to the rest of the country.¹⁰²

⁹⁹ Memorandum from Prudence Bushnell, Principal Deputy Assistant Secretary, Bureau of African Affairs, to Secretary of State Warren Christopher (April 6, 1994) (Regarding Death of Rwandan and Burundian Presidents in Plane Crash Outside Kigali located at National Security Archives at <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB53/rw040694.pdf>).

¹⁰⁰ Memorandum from Deputy Assistant Secretary of Defense for Middle East/Africa, to Under Secretary of Defense for Policy (April 11, 1994). (Regarding Talking Points On Rwanda/Burundi. Located at National Security Archive at <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB53/rw041194.pdf>).

¹⁰¹ US Department of State cable number 099440 to US Mission to the United Nations, New York, *Talking Points for UNAMIR Withdrawal* (April 15, 1994) (Confidential, Freedom of Information Act release by Department of State, National Security Archive, George Washington University) available at <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB53/rw041594.pdf>).

¹⁰² *Id.*

5. Press Release, April 22, 1994

A statement by the White House issued in a Press Release from the Office of the Press Secretary on April 22, 1994, is evidence of about the furthest the US went towards aiding the Rwandan crisis; which was to call on Human Rights Watch to urge internal Rwandan military leaders to cease.¹⁰³ To reason with them. Of course this did nothing. There was nothing to reason with. There was no peace to “maintain.”

6. Memorandum, May 5, 1994

In a Memorandum from Frank Wisner, number 3rd ranking official at the Pentagon, replying to Sandy Berger, Deputy Assistant to National Security Adviser Tony Lake, that undertaking the initiative to counteract the “hate radio” in Rwanda (which ended up being a huge tool in the Hutu’s “extermination program”) would be ineffective and expensive.¹⁰⁴

. . . AND THE LIST GOES ON.

Nonetheless—aside from this knowledge - nothing was done.

IV. HOW THE WORLD REACTED

As killing in Rwanda intensified—and with information of the attack—the international community left.¹⁰⁵ Western countries that had brought in troops within the first week to evacuate their own citizens—did so, and then left.

Astoundingly, on April 21, 1994 - weeks after the massacre began—the United Nations Security Council, at the advice of the United States, which had no troops in Rwanda or Belgium, voted to withdraw all but a skeleton crew of UNAMIR; UNAMIR—the UN Mission created in

¹⁰³ Press Release, Office of the Press Secretary, The White House, *Statement by the Press Secretary* (April 22, 1994) (Non-classified, Freedom of Information Act release by the Department of State, National Security Archive, George Washington University) available at <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB53/rw042294.pdf>.

¹⁰⁴ Memorandum from Under Secretary of Defense for Policy to Deputy Assistant to the President for National Security, National Security Council, *Rwanda: Jamming Civilian Radio Broadcasts* (May 5, 1994) (Confidential, Freedom of Information Act release by the Office of the Secretary of Defense, National Security Archive, George Washington University) available at <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB53/rw050594.pdf>.

¹⁰⁵ Ferroggiaro, *supra* note 28.

October of 1993, almost 6 months prior—to help keep the peace between the governmental transitions that were occurring in Rwanda.¹⁰⁶ A mission based on the creation of the Arusha Accords to maintain peace during the transitional government; peace between the Rwandan Patriotic Front consisting of Tutsis and the already in existence Rwandan Army of Hutus. However, the UN Security Council voted on this—even as a representative of the genocidal scheme sat with them as a non-permanent member.¹⁰⁷

After media and reports began to broadcast on the situation, finally on May 16—over a month after the killings had begun—the UN was compelled to intervene with UNAMIR II, which was supposed to be a more tough and forceful group of 5,500 troops.¹⁰⁸

However—astoundingly again—things did not go as such. The full number of troops and material did not arrive in Rwanda until months after the genocide ended.¹⁰⁹

Finally—on June 15—France decided to get involved.¹¹⁰ Mind you, this is 2 months into the genocide. France had been a prior arms supplier to the deceased President Habyarimana's regime—and very likely considered they had better get involved at this point.¹¹¹ A vote on June 22—with the UN Security Council—gave its ok for France to intervene, and France set up a humanitarian zone in the southwest corner of Rwanda (near the Zaire border) which resulted in saving thousands of

¹⁰⁶ Ferroggiaro, *supra* note 28.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ See U.S. Department of State, cable number 127262, to US Mission to the United Nations, New York, *Rwanda: Security Council Discussions* (May 13, 1994) (Confidential, Freedom of Information Act release by the Department of State, National Security Archive, George Washington University) available at <http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB53/rw051394.pdf> (referencing reluctance to put troops in for CH VII “use of force” in Kigali, Rwanda).

¹¹⁰ Ferroggiaro, *supra* note 28.

¹¹¹ *The Armed Struggle*, Government of the Republic of Rwanda (2013) available at <http://www.gov.rw/THE-ARMED-STRUGGLE>; Gerard Prunier, *The Rwanda Crisis: History of a Genocide* 287 (Columbia University Press) (1995) (discussing General Romeo Dallaire's suspicions of France based on knowledge of their secret deliveries of weapons to the Hutu army. The author quotes him as saying, “the initiative launched by the French and which they describe as a humanitarian task,” he regards with a severe lack of “enthusiasm.” Citing AFP News Agency, June 19, 1994, he quotes Dallaire in this footnote saying, “If they land here to deliver their damn weapons to the government, I’ll have their planes shot down” from an interview with a UN civil servant in Geneva, July 29, 1994).

Tutsis, but also aided genocide conspirators who had been allies of the French—a safe exit—out.¹¹²

That being said, France's Southwest post wouldn't end the genocide. Fighting from the sidelines of the arena was not sufficient. It took the Tutsi's own army—the Rwandan Patriotic Front (as has been referred to throughout this paper as the RPF) for which a majority had been exiled in Uganda from prior conflict, to reenter the country and take over—to enter the arena and win the battle for the Tutsis. First in the capital city of Kigali on July 4, and then 2 weeks later, around July 18th they were finally able to announce a new government, consisting of members that had originally been meant to share power with the Hutus based on the Arusha Accords.¹¹³

So once again, other than France at the end (and for reasons which are up for debate) why didn't the world step in? I will now review the relevant international law that would have allowed us to; allowed the world to; and truly called for the world to—something—more than maintain peace; and oversee a peace which because of Hutu hatred - simply didn't exist.

V. LAW: THE GENOCIDE RESOLUTION AND CONVENTION

Based on the horrific exterminations of Jews by Hitler in WWII, the United Nations passed a resolution in 1946 which became the *Convention on the Prevention and Punishment of the Crime of Genocide* on Dec. 9, 1948. It declared genocide a crime under international law and provided for punishment of such.¹¹⁴

It was originally proposed by, and partially formulated by Raphael Lemkin, Polish international law scholar who I mentioned

¹¹² Ferroggiaro, *supra* note 28.

¹¹³ *Id.*; Prunier, *supra* note 112, at 288 (the text cites of what was termed Operation Turquoise, "Of course, there was a problem which had not been much discussed: the French intended to carry out a humanitarian operation in a country at war while avoiding any armed confrontation"). [I have something slightly different]—RdH: *Id.*; Prunier, *supra* note 112, at 288 (citing what was termed Operation Turquoise, "Of course, there was a problem which had not been much discussed: the French intended to carry out a humanitarian operation in a country at war while avoiding any armed confrontation.").

¹¹⁴ Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, 78 U.N.T.S. 278, available at <http://www.hrweb.org/legal/genocide.html>.

previously had coined the term “genocide.”¹¹⁵ He determinedly lobbied nations for its adoption, and sought recognition of the term at the Nuremberg Trials.¹¹⁶ Genocide was defined as the intent of a person or persons to destroy a national, ethnic, racial, or religious group.¹¹⁷ Therefore, casualties of war that result in being groups of particular people are not necessarily victims of genocide, but if the intent is not simply to go to war, but rather to destroy an entire group based on their nationality, ethnicity, race, or religion, it meets the definition. The convention requires signatory nations to enact laws to punish those found guilty of genocide, and allows any signatory state to ask the United Nations to help prevent and suppress acts of genocide.¹¹⁸

As of 2012, 142 states have ratified or acceded to the treaty.¹¹⁹ Most notably—members of the UN Security Council—China ratified it in 1983, France ratified it in 1950, Russia ratified it in 1954, the U.S. ratified it in 1988, and the United Kingdom acceded to it in 1970.¹²⁰ The treaty closed for signature on January 12, 1951; all these countries listed had signed and thus were able later to ratify. The United Kingdom had not yet signed, and thus was only able to accede to it in 1970.¹²¹

A. Leading up to the Convention: United Nations General Assembly Resolution, 1946

The UN met on December 11, 1946 and adopted a resolution stating that genocide was a crime, and stating, “Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings; such denial of the right of existence shocks the conscience of mankind, results in great losses to

¹¹⁵ Lemkin, *supra* note 3.

¹¹⁶ NORMAN M. NAIMARK, *STALIN’S GENOCIDES 17* (Princeton, Princeton University Press 2010) available at <http://athemita.files.wordpress.com/2012/04/stalins-genocides.pdf>.

¹¹⁷ Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, 78 U.N.T.S. 278, available at <http://www.hrweb.org/legal/genocide.html>.

¹¹⁸ *Id.*

¹¹⁹ *Prevention and Punishment of Genocide*, CRIMINAL JUSTICE DEGREE ONLINE, <http://www.criminaljusticedegree.net/resources/prevention-and-punishment-of-genocide/>.

¹²⁰ *Prevention and Punishment of Genocide*, UNITED NATIONS TREATY COLLECTION, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-1&chapter=4&lang=en.

¹²¹ *Nonparties to Genocide Convention (by ICC status)*, PREVENT GENOCIDE INTERNATIONAL, <http://www.preventgenocide.org/law/gencon/nonparties-byICCstatus.htm>.

humanity in the form of cultural and other contributions represented by these human groups, and is contrary to moral law and to the spirit and aims of the United Nations.”¹²²

It was further determined, “[m]any instances of such crimes of genocide have occurred when racial, religious, political, and other groups have been destroyed, entirely or in part . . . [and] the punishment of the crime of genocide is of international concern.”¹²³

The General Assembly—then—“Affirm[ed] that genocide is a crime under international law which the civilized world condemns, and for the commission of which principals and accomplices—whether private individuals, public officials or statesmen, and whether the crime is committed on religious, racial, political or any other grounds—are punishable . . .”¹²⁴

Finally, the General Assembly requested that the Economic and Social Council draw up a “draft convention on the crime of genocide to be submitted to the next regular session of the General Assembly.”¹²⁵

Not long after, only 2 years later, derived from this UN Resolution 96(I), *The Convention on the Prevention and Punishment of the Crime of Genocide* came into force.¹²⁶

The Convention on the Prevention and Punishment of the Crime of Genocide was adopted by Resolution 260 (III) A of the United Nations General Assembly on 9 December 1948.¹²⁷ Under Article 1, “The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.”¹²⁸ Article 2 further defines genocide as

any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b)

¹²² G.A. Res. 96 (I), U.N. GAOR, 1st Sess., Supp No. 55 A/RES/96(I) (Dec. 11, 1946).

¹²³ G.A. Res. 96 (I), U.N. GAOR, *supra* note 1221.

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, 78 U.N.T.S. 278, available at <http://www.hrweb.org/legal/genocide.html>.

¹²⁷ *Id.*

¹²⁸ *Id.* at art. 1.

Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.¹²⁹

Article 3 then mandates the following acts punishable: “(a) Genocide; (b) Conspiracy to commit genocide; (c) Direct and public incitement to commit genocide; (d) Attempt to commit genocide; (e) Complicity in genocide.”¹³⁰ Article 4 calls for these “Persons committing genocide or any of the other acts enumerated in Article 3 [to be] be punished, whether they are constitutionally responsible rulers, public officials or private individuals.”¹³¹ And notably, Article 6, calls for “Persons charged with genocide or any of the other acts enumerated in Article 3 [to be] be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.”¹³² Rwanda now has a Criminal Tribunal, which I will discuss below.

Last of the pertinent Genocide Convention articles to this paper, and of extreme importance, is Article 8, which gives authority for “Any Contracting Party [to] call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in Article 3.”¹³³ There are 19 articles in total, but these I have addressed are the most pertinent in speaking to this issue.

All of this synergistic convention activity—this document—article by article—yielded, formed, created - to produce an entire document with a purpose to compel nations that have signed on to it—to step in and stop an atrocity like Rwanda. And yet, it appears a smear of dust

¹²⁹ Convention on the Prevention and Punishment of the Crime of Genocide, *supra* note 128 at art. 2.

¹³⁰ *Id.* at art. 3.

¹³¹ *Id.* at art. 4.

¹³² *Id.* at art. 6.

¹³³ *Id.* at art. 8.

must have covered the document's etched print, for no one saw and no one listened, and no one certainly - felt it etched on their hearts.¹³⁴

"Those who have eyes to see."¹³⁵ In this instance, the world - who chose to look the other way - would be held responsible and have to sleep with the fact - that under their allowed authority—hundreds of thousands of innocent humans would die.

VI. THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Based on an un-negotiated reality that this was a wrong—that should have been righted; a wrong that now must be accounted for, and individuals held accountable for - the United Nations Security Council assembled to set up the International Criminal Tribunal for Rwanda (ICTR) in 1995, in Arusha, Tanzania.¹³⁶ The court was set up to face, deal with, and attempt to remediate this unaided atrocity of the Rwandan genocide of 1994—that was allowed to occur and unfold and manifest into an evil disease, before their very eyes. A disease for which they could have had the cure. Or even a prophylactic form of medicine. Something, had the doctors stepped in with their antidotes—they would have been able to halt, to stop. But which instead—went unaided, and quite ignored through the lens of their microscope. They saw the illness. But they let it fester in the petrie dish. And fester and kill everything around it—it did.

The ICTR was the second only of its kind, after the International Criminal Tribunal for Former Yugoslavia—the ICTY—was set up in 1993 in the Hague, in the Netherlands, for atrocities of a similar kind.¹³⁷ These

¹³⁴ Natural Law Reference: CCC, *Part Three Life in Christ, The Natural Moral Law*, 1954-1960; citing St. Augustine and St. Thomas Aquinas (God's law is written on the hearts of man; it is not learned; it is innate).

¹³⁵ See generally Mark 8:18 (Those who have eyes to see, and ears to hear). See also Ezekiel 12:2; Jeremiah 5:21; Proverbs 20:12; Acts 28:25-27 (speaking to the heart understanding as well, as an important ingredient and key focal point in the synergy of eyes seeing and ears hearing and hearts understanding.).

¹³⁶ *Rwandan Genocide*, WORLD WITHOUT GENOCIDE AT WILLIAM MITCHELL COLLEGE OF LAW, <http://worldwithoutgenocide.org/genocides-and-conflicts/rwandan-genocide> [hereinafter WORLD WITHOUT GENOCIDE].

¹³⁷ Lilian A. Barria and Steven D. Roper, *How Effective are International Criminal Tribunals? An Analysis of the ICTY and the ICTR*, *The International Journal of Human Rights*, Vol. 9, No. 3, September 2005, Eastern Illinois University, at 349-68, available at <http://www.library.eiu.edu/ersvdocs/3800.pdf>.

are the first courts of their type since the World War II Nuremberg Trials were conducted to prosecute Nazi war generals for their contribution to the extermination of the Jews.¹³⁸

The Rwandan court was set up to prosecute those involved in the genocide. How is it working? Not very rapidly, as the crimes of genocide are found difficult to prosecute, and the genocide trials had to wait for the perpetrators to return to the country. Many Hutus—around 2 million—fled the country following the Rwandan Patriotic Front takeover, to avoid Tutsi revenge.¹³⁹ But based on bad conditions in nearby countries in the Democratic Republic of Congo (based on the Congo War in 1996) which the Hutu presence actually contributed to - many Hutu refugees returned to Rwanda in 1997.¹⁴⁰

A. ICTR Controversy

That being said, the ICTR has been the subject of much criticism and controversy based on various factors: it sits outside the country so Rwandans feel it is not as personal to the location of the crime and its victims; it is slow to action, taking too long to bring the intended justice; has proscribed too light of sentences on its offenders, and is costly to carry out the whole process.¹⁴¹

Head of the army at the time of the genocide, Augustin Bizimungu, was just handed over in 2002 (a mere 8 years after the genocide) and only sentenced to 30 years.¹⁴² Bagosora, lead man in the extremist movement had his sentence mitigated from life to 35 years.¹⁴³ Many suspects are on the run. And in terms of prosecuting, you need lots of lawyers, evidence and witnesses to prosecute, which can be time-consuming and costly. Additionally, the court's location has been a subject of controversy because it is in Tanzania, not Rwanda, and Rwandans feel that local witnesses' presence, a more speedy process, and

¹³⁸ *Id.*

¹³⁹ WORLD WITHOUT GENOCIDE, *supra* note 133.

¹⁴⁰ *Id.*

¹⁴¹ Will Ross, East Africa correspondent, *Rwanda Genocide: Did Bizimungu Trial Take Too Long?*, BBC, May 17, 2011, available at <http://www.bbc.co.uk/news/world-africa-13434232>.

¹⁴² *Id.*

¹⁴³ *Id.*

more just sentences would be better served and carried out by Rwandan criminals in their own home country. Bagosora has even now, recently, been moved to Mali, where he will finish out his sentence.¹⁴⁴ Even further from Rwanda. This is a point of contention with local Rwandans because they feel that he should be imprisoned in the country where he committed his atrocities; Mali not being as personally vested in his sentencing and punishment.¹⁴⁵ Interestingly, Rwanda has “expressed readiness” to take in criminals from the genocide, but even one has yet to be transferred to their home country; the locus in quo—the site of the destruction.¹⁴⁶ Minister of Justice, Tharcisse Karugarama stated, “We signed a convention with the ICTR to have convicts transferred to Rwanda but so far not a single one has been brought here. If these convicts are sent here, we would strictly keep in the provisions of the laws and agreements.”¹⁴⁷ Additionally, the ICTR’s mandate did not include compensation for the victims that are left from the Rwandan genocide, and Rwanda’s Justice Minister said that he regrets this.¹⁴⁸

On the upside however, is the statement the Tribunal makes to all. These wrongs will not be left unpunished. And that is *very important*, says Rwanda’s Justice Minister Tharcisse Karugarama.¹⁴⁹

As of Spring 2012, the Court has completed 35 trials and convicted 29 people of war crimes, acts of genocide, rape, and the creation of “hate media.”¹⁵⁰ The ICTR has become the first international court in history to hand down a conviction for genocide.¹⁵¹ Unfortunately, by analogy to the almost 1,000,000 slain, it seems not quite the justice that should be had. The court is said to be closed by 2014, in hopes that justice will be achieved by then.¹⁵² Of course, that depends on the measure of scale you’re using; no sentence can bring back a mother, a father, a baby,

¹⁴⁴ Edwin Musoni, *Rwanda: Bagosora, Three Others to Serve Sentences in Mali*, ALL AFRICA, July 5, 2012, available at <http://allafrica.com/stories/201207050097.html>.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ Musoni, *Rwanda: Bagosora*, *supra* note 144.

¹⁴⁹ *Id.*

¹⁵⁰ WORLD WITHOUT GENOCIDE, *supra* note 133.

¹⁵¹ *Id.*

¹⁵² *Outreach Programme on the Rwanda Genocide and the United Nations*, UNITED NATIONS, available at <http://www.un.org/en/preventgenocide/rwanda/about/bgjustice.shtml>.

a brother, a sister, a friend, a neighbor. An almost entire Tutsi population. Only, as Immaculee Ilibagiza has impressed upon the world, forgiveness of heart, peace with God, and faith, can bring redemption and calm to one's soul in light of such evil and torment.¹⁵³

B. The Other Court—Gacaca

Other courts that administer justice in Rwanda—besides the International Tribunal of Rwanda—are local courts called “Gacacas.”¹⁵⁴ Gacaca means “justice in the grass,” and consists of local courts held in “open-air assemblies” by the community.¹⁵⁵ They have existed for a very long time in the country. Since the Rwandan genocide, they have been used, along with the ICTR, to prosecute those responsible for the genocide, in what many Rwandans consider a “speedier” route to justice than the ICTR.¹⁵⁶

As I will address in more detail below, under the sad realities of Rwanda's catholic community during the genocide, Catholic clergy that were found guilty have been tried in these local courts. One example, Sister Theopister Mukakibibi, a Catholic nun, was sentenced to 30 years in prison by a Gacaca court on November 10, 2006.¹⁵⁷ A Rwandan newspaper reported that she was in denial of all charges because she claimed “her conscience did not condemn her.”¹⁵⁸ “So there is no need to seek forgiveness,” she said.¹⁵⁹ But the court found that along with denying Tutsis care and food, she threw them out of a hospital she worked at, to be slaughtered.¹⁶⁰ The court found that the nun did not even spare pregnant women and had even been responsible for dumping

¹⁵³ IMMACULEE ILIBAGIZA, *LEFT TO TELL: DISCOVERING GOD AMIDST THE RWANDAN HOLOCAUST* (Carlsbad, Hay House 2006).

¹⁵⁴ Stephanie Nieuwoudt, *Rwanda: Church Role in Genocide Under Scrutiny: Were Catholic Priests and Nuns Complicit in Mass Killings, or Simply Helpless Bystanders?* INSTITUTE FOR WAR & PEACE REPORTING, Dec 1, 2006, available at <http://iwpr.net/report-news/rwanda-church-role-genocide-under-scrutiny>.

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

a baby in a toilet.¹⁶¹ Further to that, she actually held meetings with militiamen and had an army officer as her “escort” during the killings.¹⁶²

For *all of this*, the local court gave her 30 years, which seems a mild sentence—and seems the status quo sentence for the most malicious of killers—even when weighed against the harms and horrors she, and they, must have contributed to—the plethora of murders of innocent lives she helped the extremists achieve.¹⁶³

C. Immaculee—Survivor, Witness, and Strong Catholic from Beginning to End

To mention a personal testimony of a renowned survivor of the Rwanda genocide - Immaculee Ilibagiza, a miraculous survivor of the Rwandan genocide told her personal story of survival and forgiveness in a TV interview given by Simon on 60 minutes.¹⁶⁴ She spoke of her neighbor, Alex, a man whom her family had been friends with their entire lives, but a murderer almost over-night.¹⁶⁵ He was sentenced to only 11 years in prison after admitting to, and being convicted of, killing 6 people.¹⁶⁶ He admitted to using machetes and clubs to chop up and beat the Rwandans to death.¹⁶⁷ He admitted he had nothing personal against the folks, two of whom were Immaculee’s second cousins, but that he was told he would be given a piece of land and a banana plantation for the killings.¹⁶⁸ Of course he never received such thing. He admitted that had he found Immaculee, he would have killed her. He said, “Because of the way I was, I would have attacked her, definitely.”¹⁶⁹ He was *that*, for lack of a better word, brainwashed. He was *that* overcome and infiltrated by the evil exhaust that filled the air; the smoke of ignorance,

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *60 Minutes* (CBS television broadcast Jul. 1, 2007), available at <http://www.cbsnews.com/video/watch/?id=3004020n> (“Surviving Genocide” television interview with Immaculee Ilibagiza given by CBS News reporter Bob Simon).

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

propaganda, hate. He was convinced and he killed people brutally. And he was given 11 years in prison.¹⁷⁰ An international oversight; a continuation of watered-down justice, in my opinion. You could say many of the young men—Hutus—were brainwashed. And perhaps they were. God is the judge. But similarly, those who chose to follow Hitler and not stand against him—brainwashed? Or weakness. And those in the Nazi concentration camp—one person that gave away their last piece of bread and another who stole another’s last piece of bread; both in the same camp on the same side of the fence, so to speak. Perhaps minutely different circumstances, but mainly—the big picture—would find them in the same situation.

Viktor Frankl—concentration camp survivor—in his book, *Man’s Search for Meaning*¹⁷¹—a must read [along with Immaculee Ilibagiza’s *Left to Tell* et al.] argues that it is man’s will—that conducts how he acts.¹⁷² Put two men in the same situation—one may do something quite the opposite than the other. And although the word “choice” has gotten a bad buzz-word reputation for a conservative like myself in these days of arguing a stance of Pro-Life, rather than Pro-Choice, I would like to use it here in the positive and affirmative. Man has a choice. He can choose to do good and choose to do bad. And I would agree with Mr. Frankl on this point. It is simply a matter of who *will* make *what* decisions; the right decisions—in the situation, and under the given circumstances.

So, now—after looking at proof that nations knew—and civil law that compelled action—and then at the establishment of a court set up to right the obviously unjust reality of an ignored crime with prosecutions of genocide contributors - we ask, what does Church law have to say? More specifically, what does the Catholic Church have to say about it?

First, let us address how the local Rwandan Catholic Church handled the crisis—and then let us go to how it *should have* been handled—by looking at the teaching of the Catholic Church (Catholic Social Teaching) and statements made by the hierarchy of the church—

¹⁷⁰ *Id.*

¹⁷¹ VIKTOR FRANKL, *MAN’S SEARCH FOR MEANING* (Boston, Beacon Press 2006) (detailing a psychologist who studied amidst the horror, and would give himself lectures outside as if he was teaching what he was learning, to keep himself sane, and found that two people—could act very differently under a certain situation—and thus, it was his will.).

¹⁷² *Id.*

Bishops and Pope's pleas of intervention; pleas that something like this never occurs again.

VII. THE ROMAN CATHOLIC CHURCH

A. Prophetic Apparitions in Kibeho

Even though prophetic apparitions by the Blessed Virgin Mary appeared in Kibeho, Rwanda 14 years prior—in which Mother Mary warned seers and showed them visions of a horrific and terrifying, forthcoming event that was to occur in the near future—wherein the seers saw images of rivers of blood, people killing one another, dead and decapitated bodies lying on the ground, unburied - Rwanda did not heed the warnings.¹⁷³ In Father Gabriel Maindron's book, *Kibeho*, the first one of its kind, he described the visionaries "sometimes cried, their teeth chattered, they trembled. They collapsed several times with the full weight of their bodies during the apparitions, which lasted nearly eight hours without interruption. The crowd of about 20,000 present on that day was given an impression of fear - indeed, panic and sadness."¹⁷⁴

Our Catholic survivor and witness to the faith, Immaculée Ilibagiza, who we've spoken of previously, wrote another book, along with *Left to Tell*, entitled, *Our Lady of Kibeho*.¹⁷⁵ There would be a total of eight seers, but she writes of a particular seer, Alphonsine Mumureke, who tried singing to Mother Mary, in an uplifting tone, 'We Come Here to Thank You, Faithful Mother,' but who was cut off after only three words. Mother Mary told her, 'I am too sad to hear my children sing.'¹⁷⁶ When Alphonsine attempted to sing the song again, Mother Mary stopped her again, and after some time of mournful silence, the Blessed

¹⁷³ Michael Brown, *Precise Prophecy of African Genocide May be Most Accurate in History of Apparitions*, SPIRIT DAILY, <http://www.spiritdaily.net/kibehoprediction.htm> (Website is hosted by best-selling author Michael Brown).

¹⁷⁴ *Id.* (including information excerpted from FR. GABRIEL's book, KIBEHO.).

¹⁷⁵ Brown, *supra* note 173 (including information excerpted from IMMACULEE's book, OUR LADY OF KIBEHO).

¹⁷⁶ *Id.*

Mother began to cry.¹⁷⁷ Alphonsine asked Mother Mary why she was crying, and with no verbal response, she began to weep more.¹⁷⁸

It gives me pause. And makes me reconsider something I have heard rung in my own heart. No words in the world can sum up a tear. And *many*, many tears flowed from Mother Mary's eyes that day. When words cannot describe, tears do.¹⁷⁹

Ilibagiza writes of Alphonsine's gut-wrenching scream and words of terror, "I see a river of blood! What does that mean? No, please! Why did you show me so much blood? Show me a clear stream of water, not this river of blood!"¹⁸⁰ The seer was witness to so many horrific visions that she repeatedly pled to Mother Mary, "Stop, stop, please stop! Why are those people killing each other? Why do they chop each other?"¹⁸¹

Alphonsine gushed tears at the sight, a Niagara Fall of terrorized vision, as Immaculee writes she was shown,

a growing pile of severed human heads, which were still gushing blood. The grotesque sight worsened still as Our Lady expanded Alphonsine's vision until she beheld a panoramic view of a vast valley piled high with the remains of a million rotting, headless corpses, and not a single soul left to bury the dead.¹⁸²

Eerily—the site of the seers' sight of the visions—a school in Kibeho—would become a massacre sight during the Rwandan genocide where some of those same seers, would be murdered.¹⁸³

B. Sad Realities of the Local Catholic Church's Role in Rwanda During the Genocide

Sounds eerily reflective—down to the detail—of what was to come; like Mother Mary was putting up a mirrored reflection of a time—that no one chose to stop; and a warning that no one chose to heed. Not

¹⁷⁷ *Id.*

¹⁷⁸ Brown, *supra* note 173.

¹⁷⁹ I say: tears [not a picture] are worth a thousand words.

¹⁸⁰ Brown, *supra* note 174 (including material excerpted from IMMACULEE's book, *Our Lady of Kibeho*).

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ *Id.*

all, but too many of a good portion of Catholic nuns and priests—of this very same faith—turned a blind eye, or even actively participated in the evil destruction of their fellow man. Why on earth or in heaven, would they be complicit? Perhaps a build-up of brain-wash on their part as well. Different theories—suggest based on their education they were taught to believe that the Tutsi truly were bad. Whatever the case, you can't imagine a true Christian, a true Catholic, if practicing the faith—to ever consider any fellow man as deserving of this. And still, it happened.

1. Theories and Studies as to Why the Complicity

Initially, the Belgians had put Tutsis in power in government structures and educated them at Catholic schools in Belgium.¹⁸⁴ But that changed in the Fifties, when the Belgians and the Catholic Church made a shift to give more power to the majority Hutus.¹⁸⁵

Timothy Longman in his book, *Christianity and Genocide in Rwanda*, argues that churches—including Catholic - had partaken in “ethnic politics” when they shouldn't have; favoring the Tutsis first, and then switching gears to the Hutus in 1959.¹⁸⁶ Apparently this sent a message of church teaching approval that ethnic discrimination was consistent with the church. He further argues that Church leaders in Rwanda had close ties with the political leaders, and so after the genocide movement began—they tried to convince Rwanda to support this “interim government” or what I would term - take-over, the very same government that was supporting and carrying out the genocide.¹⁸⁷

2. Disturbing Personal Accounts of Complicity

¹⁸⁴ Nieuwoudt, *supra* note 155.

¹⁸⁵ *Id.*

¹⁸⁶ TIMOTHY LONGMAN, *CHRISTIANITY AND GENOCIDE IN RWANDA* (New York, Cambridge University Press 2010).

¹⁸⁷ *Id.* (In this case I would have to agree—that mixing with the politics—with such intent—was a bad idea. However, to mix with politics in order to stop such a thing—could have been wise—and worked to their advantage. Much like current times—when the government oversteps the line of the church—when they cause the two separate circles to overlap—then I say the church has a right to also overstep into the politics—but for the good of society, for protecting God's law. This certainly was a sickly twisted ideology if it is true that some Catholic religious carried it.).

Sadly, based on the contributions of some Catholic priests and nuns in the genocide, and catholic parishes actually being designated places of massacre, many Rwandans have turned away from the Catholic faith.

As mentioned above briefly - when discussing sentences of the local Gacaca court of Rwanda, Sister Theopister Mukakibibi, the Catholic nun who worked in a hospital and contributed to murders of Tutsis, and was sentenced to 30 years in prison on November 10, 2006 - to re-impress here - was not only accused of "dumping a baby in a latrine," and not being sorry, but was accused of denying food, medicine, and medical care to Tutsi patients at the University Central Hospital in the Butare district of southern Rwanda.¹⁸⁸ Not only did she deny them, but she forced them back out onto the streets with the knowledge that the Hutu extremists were out there waiting to kill them.¹⁸⁹

Another example of a Catholic contributor is Athanase Seromba, a Rwandan priest who was sentenced to jail for life after the ICTR extended his sentence for ordering militiamen to burn and bulldoze a church with 1,500 people inside.¹⁹⁰ He was convicted for "his role in the destruction of the church in Nyange Parish, and the consequent death of approximately 1,500 Tutsi refugees sheltering inside."¹⁹¹ He actually led the militia in attacking the people and pouring fuel through the roof of the church, while police threw grenades inside. After failing to kill everybody inside the church, Seromba ordered it to be demolished.¹⁹²

"Bone museums" sit quietly, but speak volumes, as they are a shocking reality of the many clergymen who were involved in the genocide. Some of the clergy who have been accused of aiding the killers have been indicted by the ICTR and some by the Gacacas, and others in national courts in Belgium.¹⁹³ Both accused Roman Catholic priests and nuns have been tried in these courts.

¹⁸⁸ Nieuwoudt, *supra* note 155.

¹⁸⁹ *Id.*

¹⁹⁰ *Priest Jailed for Life in Rwandan Genocide Case*, ASSOCIATED PRESS, Mar 13, 2008, available at <http://www.nbcnews.com/id/23611286/#.UyzSBFymChM>.

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ Nieuwoudt, *supra* note 155.

Rukundo was the Catholic chaplain in the Rwandan Armed Forces.¹⁹⁴ The ICTR prosecution found that Rukundo was openly extremist and showed his hatred of Tutsis in "words and action."¹⁹⁵ He "was fully conscious of his authority, and abused it by promoting hatred, death and mass victimization."¹⁹⁶

The reasoning for such hatred? You may ask yourself again, regardless of party affiliation, God's law supersedes—and so why on earth would the Catholic Church of Rwanda contribute to a massacre of innocent human beings? For certainly God would never condone such activity—as He is believed to exist - under the Roman Catholic faith. Even here in this country, if one's party begins to preach and mandate things against God, then it is time to switch one's party. As Abraham Lincoln so famously and eloquently stated, "Sir, my concern is not whether God is on our side; my greatest concern is to be on God's side, for God is always right."¹⁹⁷

But as I noted in a previous footnote, unfortunately, the political sphere played an increment role in brainwashing and building up hatred between the Hutu and Tutsi tribes, with these individuals too - Catholic or not. The political sphere had a direct effect on the religious sphere. Unfortunately if one was to look at a diagram, it appears the two circles crossed—or overlapped—but for wrong reasons, rather than for the good. And one *must be mindful*, as well, as we pose many theories—that seem on their face, to be earthly (but entirely naught so) because one must not forget, there is the VITAL spiritual theory (I speak of spiritual warfare in which we must put on the armor of God); a spiritual theory that unfortunately (based on its evil attempting to take over good)—weaves in the backdrop of it all—the theory that there is evil infiltration in almost anything, and *especially* the Catholic Church. (We have seen attempts in recent allegations of pedophilia, etc.). (We know Good always wins out over evil) but evil would like to take it down and

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ Gerald Boerner, On This Day in History . . . July 10th: Lincoln's 1858 Senatorial Speech, PROF. BOERNER'S EXPLORATIONS THOUGHTS AND ESSAYS THAT EXPLORE THE WORLD OF TECHNOLOGY, COMPUTERS, PHOTOGRAPHY, HISTORY AND FAMILY, <http://www.boerner.net/jboerner/?p=13382> (including quote excerpted from Abraham Lincoln Series of Debates in 1858 for Senate).

consume it; get its hands on it; fool it; deceive it; mislead it; and drag it down so far that it does not recognize itself anymore; certainly questions itself, and why it even exists at all. We know from scripture, the devil is the master of deception, and inciting hate—is one of his primary tools in the evil toolbox—to build his dark empire. Unfortunately, I can say, most unfortunately, we have even witnessed and seen this here in this country as well. But, “those with eyes to see, and ears to hear.” Have seen and heard. That is. Alert, aware and listening, with eyes wide open. If only Mother Mary’s apparitions had incited such an upright knowledge and heeding.

And if General Romeo Dallaire called these extremists with such hate “the devil” then surely it also sought to manipulate God’s strongest alliance—the Catholic Church, and its members.

C. And Yet: Good in the Face of Evil

However, in spite of such abhorring evil, we also witness and see—the good; that there was good, in spite of evil. And that much like in Hitler’s time—we see it brings out the best and worst in people. As I said, Viktor Frankl witnessed while at the concentration he was in during WWII—the will of the person—is certainly there in any situation. He witnessed one person steal someone’s bread, and another give their last piece away.¹⁹⁸

Similarly, here, there was good and bad in the face of evil as well. Most importantly—there was good. And they certainly deserve and must be mentioned—some like a war veteran—some whom have passed on—for their extreme efforts at fighting for the good.

Fr. Lennsen says he and other clergy at the Nyerambo church in Kigali sheltered a group of Tutsis and Hutus for more than a week before the *Interahamwe* eventually struck.

They chased out the people in the church and started killing them outside," he said. "We tried to intervene, holding on to those who were being killed. I don't know how I survived. There was a gun in my back. I don't

¹⁹⁸ FRANKL, *supra* note 172.

remember any feelings of fear. Uppermost was to try and be of service to the frightened Tutsis.¹⁹⁹

About 50 people were slaughtered at Father Lennsen's church.²⁰⁰ The wounded people left behind were cared for by the clergy.²⁰¹ There was a two-month old baby who had been shot by the militia and was dying.²⁰² A Tutsi woman came during the night, looking for her baby—and she recognized the dying child.²⁰³ She put him to her breast, and the child recovered. “It was a miracle,” Lennsen said.²⁰⁴

Timothy Longman, in his same book, *Christianity and Genocide in Rwanda*, wherein, as I stated in a previous passage, that he recognized unfortunate Rwandan Catholic Church affiliation with the genocide—at the same time—stresses and makes sure to mention (as I am glad and feel compelled to as well) that there were certainly the good religious clergy and religious that stood against and came to the forefront—at the risk of their own lives.²⁰⁵ They indeed need to be recognized and in the eyes of God. For—as much as media would like to act like all is bad and has turned away from God—it certainly has not. And accounts—tell us that.

He explains that during the period leading up to the genocide, beginning in 1990—there was a major division in the church—moderates who were considered to promote “democratic change” and professed human rights (this would be the good side), and then the conservatives who “allied with the Habyarimana regime.” (This would be the bad side).²⁰⁶ I am sorry but I must say that I find it ironic that this side was called “conservative.” Nothing about the acts they proscribed too—was conservative—in the least.

¹⁹⁹ Nieuwoudt, *supra* note 151.

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ *Id.*; Prunier, *supra* note 112, at 250 (including Tutsi priests and priests who spoke out on human rights were killed. Some did question—why no one spoke out—why, namely bishops, did not speak out—in which they claim this may have helped stopped the genocide from ever happening. Text includes a quoted passage of two priests to a French Journalist which begins, “Why did not the bishops react?...”).

²⁰⁵ LONGMAN, *supra* note 183, at 189.

²⁰⁶ *Id.* at 322.

At any rate - many clergy were Tutsi and supported the “reform”—which in this case—was a good thing, and the good side. Most moderate Hutus did too. New human rights groups that came to be during the couple of years prior to the genocide, were provided by and supported by many Catholic Churches.²⁰⁷ But unfortunately, and for this reason—these were some of the first targets of the genocide. Those who stood against them—in the face of religion.

Longman recounts,

Some of the early targets included progressive elements in the churches. One of the first places the death squads hit on April 7 was the Centre Christus, a Jesuit retreat center which had a mission of seeking ethnic reconciliation and helping the poor and vulnerable. Around 7 a.m., a group of six soldiers arrived at the center and rounded up those present. They divided the Rwandans from the European priests and nun, and in a separate room they shot all seventeen Rwandans, a mixed group of Hutu and Tutsi . . .²⁰⁸

But in the face of evil, good sought to stand—and win out—against all fear and horror. As reported in the Human Rights Watch document, *Leave None to Tell the Story* (as has been cited as an integral reference throughout this paper), Mgr. Thaddée Ntihinyurwa from Cyangugu, risked his own life—continuing to speak out against the genocide from the pulpit and even tried to rescue three religious brothers from an attack, albeit unsuccessful, and Sr. Felicitas Niyitegeka of the Auxiliaires de l’Apostolat in Gisenyi was executed in retaliation by a militia man, after smuggling Tutsis across the border into Zaire.²⁰⁹

And at the St Paul Pastoral Centre in Kigali, Fr. Célestin Hakizimana provided refuge to almost 2,000 people, most of whom survived.²¹⁰ He states that the priest intercepted every try by the military

²⁰⁷ *Id.*

²⁰⁸ LONGMAN, *supra* note 183, at 189.

²⁰⁹ Des Forges, *supra* note 9.

²¹⁰ Anne Kubai, *Walking a Tightrope: Christians and Muslims in Post-Genocide Rwanda*; ISLAM AND CHRISTIAN-MUSLIM RELATIONS, Volume 18, Issue 2, (April 2007).

to abduct or murder these refugees he was providing safety to.²¹¹ He would try his hardest to persuade and bribe them at every chance he could—to ward off the machetes and slaughter that frequently awaited these individuals.²¹²

Miracles of human spirit and strength to stand strong in the face of evil, even in the sight and midst of such horror. Horrific casualties—and yet—the strength to still help the fellow man. To give him the last piece of your bread—rather than stealing another man’s piece to keep yourself going. This is the true Catholic spirit and will we all aspire to be like.

We also witness the Pastor Murinzi who sheltered 7 women for 3 months in the bathroom of his house, (which is why Immaculee is still with us to tell her story) as the now famous, and previously mentioned, Immaculee Ilibagiza tells us in retreats on forgiveness and Catholicism; and as she tells the world in her book, *Left to Tell*. Her faith is stronger than ever.²¹³ Even after her entire family minus one brother was killed. By people she knew, whom she thought were her friends.²¹⁴ Even as she had been terrorized by a frightful change in human nature—which seemed to have appeared overnight—through her faith in God, even *this* she was able to accept while keeping her head above despairing waters. Faith the size of a mustard seed—indeed often referenced as only needing the smallest bit of faith—as small as a mustard seed—in Matthew 17:19-20;²¹⁵ but I add in, that these are *strong*—I assume even in the most minutest of quantity or size—small—but I say, *extremely potent* if anyone knows mustard seeds at all—strong enough to move a mountain. To move one’s heart and soul to handle a most excruciatingly painful crisis as this was.

So it cannot be said that *all* Rwandans have lost their faith. In fact, quite in juxtaposition, we see in some, that faith has grown even *stronger*.

One may question; one may say why—but true Faith knows that God has the master plan.

²¹¹ *Id.*

²¹² *Id.*

²¹³ ILIBAGIZA, *supra* note 154.

²¹⁴ *Id.*

²¹⁵ *Matthew* 17:19-20.

What one *can learn* from such a situation is that one must not surrender to earthly pressure, and be wise and prudent to not be deceived by the evils of the earth. And to hang on to one's faith, no matter the earthly cost.

Now let us look at the Catholic Church's Social Teaching on the issue.

D. Catholic Social Teaching in Relation to the Rwandan Genocide

1. The Catechism of the Catholic Church and the "Just War" Theory

The Catechism of the Catholic Church ²¹⁶and the "Just War"²¹⁷ theory discussed below reviews the church's stance on war when it is just, when it is purposeful and necessary; when one can most likely achieve what they have set out to do; as explained by Colin B. Donovan, STL. Mr. Donovan is Vice President for Theology at EWTN.²¹⁸ He is a layman, with a Licentiate in Sacred Theology, and a specialization in moral theology, from the Pontifical University of St. Thomas Aquinas (Angelicum) in Rome, where he wrote on the *Donation of the Spouses in Marriage*.²¹⁹ He earned the BTh from the Seminary of Christ the King in Mission, British Columbia, Canada and the BA in Biological Science from Northwestern University, Evanston, Illinois. Prior to joining EWTN in 1995, he taught Theology at Aquinas College in Nashville.²²⁰

The pertinent paragraphs of the Catholic Catechism to this subject, involve those contained between: 2302—2317.²²¹ In paragraphs 2303—2317, the Catechism of the Catholic Church firmly addresses what it considers a just defense for a nation against an aggressor nation.²²² The "Just War Doctrine" as it has come to be called, was first proscribed by St.

²¹⁶ Catholic Church, *Catechism of the Catholic Church*. 2nd ed. Vatican: Libreria Editrice; Vaticana (2000), available at http://www.vatican.va/archive/ENG0015/_INDEX.HTM.

²¹⁷ *Id.* (pertinent paragraphs, 2302-2317, addressing "Just War").

²¹⁸ EWTN's Catholic Experts, *Colin B. Donovan, STL.*, <http://www.ewtn.com/faith/QA/expertslist.htm> (biographies of EWTN's Catholic contributors).

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ Colin B. Donovan, *What is Just War?*, EWTN.COM, http://www.ewtn.com/expert/answers/just_war.htm.

²²² *Id.*

Augustine of Hippo (who lived from the years 354—430 AD).²²³ Doctors of the church, notably St. Thomas Aquinas, along with the official teaching of the Catholic Church, have formally accepted it. And adapted it to modern warfare scenarios.²²⁴

a. Paragraphs 2302-3 speak to Righteous versus Unrighteous Anger

Colin B. Donovan explains, “Consider the just anger of the Lord to the presence in the Temple of the money-changers and the action He took (John 2:13-17).²²⁵ Provoked by this offense against His Father, Jesus formed whips and drove them from the Temple.²²⁶ Righteous anger, and the acts which flow from it, intend the correction of vice (both for the good of the individual sinner and the common good), the restoring of the order of justice disturbed by sin, and the restraint of further evil.”²²⁷

“As St. Thomas Aquinas notes, vice may be by defect, as well as excess. So, the presence of evil *should* provoke a righteous anger, which if absent constitutes a sinful insensibility.”²²⁸

b. Paragraphs 2307—17 speak to cases of Just War

i. Paragraph 2308:

2308: “*All citizens and all governments are obliged to work for the avoidance of war.*”

As explained by Dr. Donovan,

Despite this admonition of the Church, it sometimes becomes necessary to use force to obtain the end of justice. This is the right, and the duty, of those who have responsibilities for others, such as civil leaders and police forces. While individuals may renounce all violence those

²²³ *Id.*

²²⁴ Donovan, *What is Just War?*, *supra* note 221.

²²⁵ *Id.* (referencing John 2:13-17).

²²⁶ *Id.*

²²⁷ *Id.* see also *Matthew* 21:12-13 (for Biblical reference to Jesus driving out money changers in the temple).

²²⁸ *Id.*

who must preserve justice may not do so, though it should be the last resort, 'once all peace efforts have failed.'²²⁹

He explains that under the Catechism the use of force to obtain justice must comply with three conditions to be morally good.

First, the act must be good in itself. "The use of force to obtain justice is morally licit in itself."²³⁰ Second, the act must be performed with a good intention; "to correct vice, to restore justice or to restrain evil, and not to inflict evil for its own sake."²³¹ Third, it must be appropriate in the given circumstances. "An act which may otherwise be good and well-motivated can be sinful by reason of imprudent judgment and execution."²³²

Having met such conditions, the "Just War Doctrine" allows for situations when use of force is licit, moral and even necessary. The Catechism describes it in the following criteria listed below:

ii. Paragraph 2309:

1. the damage inflicted by the aggressor on the nation or community of nations must be lasting, grave, and certain;
2. all other means of putting an end to it must have been shown to be impractical or ineffective;
3. there must be serious prospects of success;
4. the use of arms must not produce evils and disorders graver than the evil to be eliminated. The power of modern means of destruction weighs very heavily in evaluating this condition.²³³

To determine whether these conditions are met belongs to "the prudential judgment of those who have responsibility for the common good."²³⁴ The Church sees its role as "enunciating clearly the principles, in forming the consciences of men and in insisting on the moral exercise of just war."²³⁵

²²⁹ Donovan, *What is Just War?*, *supra* note 221. (quoting Cf. Vatican II, *Gaudium et spes* 79, 4).

²³⁰ *Id.*

²³¹ *Id.*

²³² *Id.*

²³³ *Id.* (quoting CCC 2309).

²³⁴ Donovan, *What is Just War?*, *supra* note 221.

²³⁵ *Id.*

Mr. Donovan continues, that the Church clearly has a strong respect for those persons who have dedicated their lives to the defense of their nation when they state, "If they carry out their duty honorably, they truly contribute to the common good of the nation and the maintenance of peace."²³⁶

Actions which one must not perform include: "attacks against, and mistreatment of, non-combatants, wounded soldiers, and prisoners; genocide, whether of a people, nation or ethnic minorities; indiscriminate destruction of whole cities or vast areas with their inhabitants."²³⁷

And in saying so, performing them is illicit, and thus as strongly stated, must also be guarded against. "Given the modern means of warfare, especially nuclear, biological and chemical, these crimes against humanity must be especially guarded against."²³⁸

iii. Paragraph 2317:

Of course the Church recognizes that underlying causes need to be addressed before simply resorting to war. Paragraph 2317 states: "Injustice, excessive economic or social inequalities, envy, distrust, and pride raging among men and nations constantly threaten peace and cause wars. Everything done to overcome these disorders contributes to building up peace and avoiding war."²³⁹

The United States Conference of Catholic Bishops has even expressly recognized that there was a moral duty to act on the atrocity of the Rwandan Genocide. Let's read what they had to say.

E. Statements by U.S. Catholic Bishops and Pope John Paul II

In a letter dated April 7, 2004, by Most Reverend John H. Ricard, SSJ, Chairman of the Committee on International Policy of the United States Conference of Catholic Bishops, he addressed the Rwandan genocide of 1994, on its 10th anniversary.²⁴⁰ He acknowledged that the

²³⁶ *Id.* (quoting Cf. Gaudium et spes 79, 5).

²³⁷ *Id.*

²³⁸ *Id.*

²³⁹ Donovan, *What is Just War?*, *supra* note 221. (quoting CCC 2317).

²⁴⁰ John H. Ricard, *10th Anniversary of the Genocide in Rwanda The Challenge of Reconciliation and Peace* (April 7, 2004), <http://old.usccb.org/sdwp/international/annivst3.shtml>.

“international community stood by and watched with horror,” as a “blow was struck at the heart and soul of humanity.”²⁴¹ Acknowledging that the Rwandans have the “daunting” task of rebuilding a society where justice and peace reign, he also acknowledged something much more poignant:

We, too, have a daunting task. We must come to terms with the fact that our nation, and other nations, *failed in our moral and legal obligation to act to stop the genocide in Rwanda*. ‘Never again!’ cannot be just a slogan; it must be a statement of our resolve to do all that we can to prevent and stop genocidal conflicts. If ‘Never Again!’ is a statement of resolve, memory of Rwanda, Bosnia, Cambodia, and other recent cases must stir us to act today in places like the Darfur region of Sudan, where threats of ethnic cleansing exist . . . ²⁴²

Yet, it does exist.

And in a letter from Archbishop Theodore E. McCarrick, of Newark, and Chairman of the International Policy Committee for the U.S. Conference of Catholic Bishops, which was directed to the U.S. Department of State on the Congo, Honorable Susan Rice, on October 28, 1997, he addressed the atrocities that were occurring in the Great Lakes Region of Central Africa (the Democratic Republic of the Congo), while revisiting the horror of Rwanda. He stated:

In 1994 as violence raged in Rwanda, the former chair of the U.S. bishops’ International Policy Committee, Bishop Daniel P. Reilly asked, and we ask today, ‘. . . how many more must die before the United States and the rest of the world are willing to act?’ *Despite many significant efforts, the international community has thus far failed in its obligation to help prevent the spread of deadly violence throughout the region . . .* We urge the U.S. government to assist the governments of the region, particularly Rwanda and the

²⁴¹ *Id.*

²⁴² *Id.* (emphasis added).

DRC, in breaking the cycle of impunity by encouraging dialogue and negotiation as well as finding and prosecuting those responsible for these egregious violations of human rights . . . In 1994 when it became clear to many that genocide was occurring in Rwanda, the international community did nothing as close to one million ethnic Tutsis were brutally massacred over a 100-day period . . . The inadequate measures enacted thus far have served only to weaken the international community's credibility in the Great Lakes.²⁴³

And lastly, but certainly not least, in an address to people gathered in St. Peter's Square in 2004, Pope John Paul II stated:

"Ten years have passed since, on 7 April, 1994, in Rwanda, serious confrontations broke out between Hutus and Tutsis, which culminated in genocide, in which hundreds of thousands of people were brutally killed . . . Let us pray to the Lord that such a tragedy will not be repeated ever again . . ." He pleaded for peace to be taken to the region.²⁴⁴

F. Application of Catholic Church Teaching

And so, in recognizing the Catholic Catechism, the Just War position, and the United States Catholic Bishops' and Pope's position, and in recognizing that indeed there had been an exhaustion of peaceful remedies with the extremist Hutus, we must also recognize what is staring us straight in the face: that we did nothing. And that we had a legal and moral duty to do something. That in the case of Rwanda, when the peace had been breached in such an obtuse and horrific fashion as the extremist Hutus did—complete disregard for the Arusha Accords; the UNAMIR peacekeeping mission; the country's attempt at a peaceful

²⁴³ Letter from Theodore E. McCarrick, Archbishop of Newark and Chairman of the International Policy Committee, to Susan Rice, Assistant Secretary of State Bureau of African Affairs (Oct. 28, 1997), available at <http://www.usccb.org/issues-and-action/human-life-and-dignity/global-issues/africa/democratic-republic-of-the-congo/mccarrick-letter-to-state-department-congo-cfm> (emphasis added).

²⁴⁴ CathNews; a service of church resources (March 30, 2004), <http://cathnews.acu.edu.au/403/172.php> (excerpted from source: *No More Genocides Like Rwanda's*, John Paul II Insists (Zenit 28/3/04); Rep of Rwanda, supra note 17).

transition - then it should have been deemed licit and morally necessary to intervene into the Hutu's brutality on the Tutsi's to again restore peace to the population. To stop the evil that would not listen to reason.

If it is armed force intervention from other countries that would stop such evil—then I would argue under the Church's Catechism and these arguments, that such would be viewed as absolutely just; an intervention with good intention, to save helpless, innocent people; that the damage being done in Rwanda was grave and certain; that the attempted negotiations like those in the Arusha Accords, and then pleas from UN officials to the internal Hutu government to stop and maintain peace had failed severely; that had the powerful Western countries joined together there would have been immediate prospect of success; and that the well-intentioned use of arms as a last resort could in no way would produce more evil than the intent of the extreme Hutu savages with machetes that were waging on an entire Tutsi population, simply out of hate.

G. Does Spiritual Warfare Allow for Negotiations with the Devil?

Mr. Donovan notes,

The Church has no illusions that true justice and peace can be attained before the Coming of the Lord. It is the duty of men of good will to work towards it, nonetheless. In the words of the spiritual dictum, we should work as if everything depended upon our efforts, and pray as if everything depended upon God.²⁴⁵

But, I suggest, sometimes that means the courage to tread, where even Angels may fear to go—for the safety of our fellow man. Indeed, the Arch Angels—always envisioned with a sword—know when a battle is imminent and necessary, in the face of evil, to stand for good.²⁴⁶ And the

²⁴⁵ Donovan, *supra* note 222, at 46.

²⁴⁶ There are a plethora of pictures, paintings and statues depicting the angels, but notably—Guido Reni's painting, from 1636, of St. Michael the Archangel with his sword, crushing the devil, is in Santa Maria della Concezione, Rome, but is *also* reproduced in mosaic at the St. Michael Altar in St. Peter's Basilica, in the Vatican; *see also* The Victory of St. Michael the Archangel [once again shown with sword crushing the devil] by famous painter Raphael, of the 16th century; Painting by Francesco Botticini, done in 1470, of Archangel Michael carrying his sword, alongside Archangels

image of the devil with his pitchfork is not so far removed from a machete—or other weapons being used for evil purposes—like a gas chamber—to destroy an entire population of people. As spiritual warfare dictates, no negotiation with the devil; so to it follows, that physical warfare must dictate the same.

Even Commander Romeo Dallaire—questions whether or not he should have “shook hands with the devil” that fateful day in Rwanda. Dallaire said he was all set to negotiate, to meet with the *Interahamwe*, “I’ll meet with them and we’ll talk face to face and then we’ll sort this out, hopefully.”²⁴⁷

He continues, upon arrival to the Diplomat Hotel that had been bombed out in part, now being used as the extremist headquarters in Kigali,

[T]here were these three guys, three Rwandans, one tall, one medium and one smaller who stood up when I entered. Bagosora, member of the extremist party, introduced them and as I was looking at them and shaking their hands I noticed some blood spots still on them. And all of a sudden they disappeared from being human. All of a sudden something happened that turned them into non-human things . . . ²⁴⁸

He continues,

But everything that was coming out was not words of a human negotiating or discussing, it was evil blurting out their positions and their arguments. I didn’t see humans anymore; I was totally overcome by the evil. These three

Raphael and Gabriel, as they accompany Tobias; Icon of Michael the Archangel by Jaime Huguet in 1456; statues of St Michael the Archangel in his battle clothes—shield and sword—ready to combat: St Michael’s Fountain, on Boulevard Saint-Michel, Paris; At Castel Sant’Angelo, Rome, 1753; University of Bonn, Germany; Hamburg, Germany. Biblical Scripture passage to accompany the depiction: Revelation 12:7-9: “Now war arose in heaven, Michael and his angels fighting against the dragon. And the dragon and his angels fought back, but he was defeated and there was no longer any place for them in heaven. And the great dragon was thrown down, that ancient serpent, who is called the devil and Satan, the deceiver of the whole world—he was thrown down to the earth, and his angels were thrown down with him.”

²⁴⁷ Frontline, *supra* note 68.

²⁴⁸ *Id.*

guys just brought it into reality, brought evil into reality and by my religious background; the only way I could qualify that was being the devil. That son of a . . . had come on earth, in that paradise, and literally taken over. And these three guys were the right hand people of Lucifer himself, Bagosora. And I couldn't shake that . . .²⁴⁹

He proceeds,

My instinctive reaction had me starting to pull my pistol, because I was facing evil. I wasn't facing humans I was facing something that had to be destroyed. . . . It even became a very difficult ethical problem. Do I actually negotiate with the devil to save people? Or do I wipe it out, shoot the bastards right there? I haven't answered that question yet. What if I'd killed them? Objectively their structure was such that if I'd wiped out these three guys the structure would have sustained itself and then I would have put the whole lot of us in guaranteed danger of being wiped out. But for a long time I felt that I wouldn't have been killing humans, I would have been actually destroying the devil.²⁵⁰

But he hadn't. And on his way back that fateful day to headquarters, feeling sick, having negotiated with them and allowing them to ""take pride" in their "disgusting work," he felt ashamed.²⁵¹ He said, "I felt that I had shaken hands with the devil."²⁵²

VIII. COMPARISONS TO OTHER COUNTRIES: SIMILAR AND DISTINGUISHED; AND WHEN PEACE OPERATIONS ARE IRRELEVANT AND FUTILE

Unfortunately evil exists in the world, and what to do about it isn't always an easy answer. There are different opinions on war and when to get involved; or when it is simply someone else's problem. But I

²⁴⁹ Frontline, *supra* note 68.

²⁵⁰ *Id.*

²⁵¹ Dallaire, *supra* note 72.

²⁵² *Id.*

would argue morally, to those that much is given, much is expected; and argue lawfully that we had the necessary tools in place to do something about this tragedy, if only the world had listened. But those who do not choose to see, I'm afraid never will. There are different theories as to why the world did not step in; not wanting to spend the money, personal interests, a failed attempt in Somalia—personally for the U.S.—a bad taste left in the mouth after Black Hawk Down.²⁵³

However, when attempts at peace have been exhausted in such a region as built up in tension as Rwanda (Romeo Dallaire's set-up of peace-keeping operation, UNAMIR, along with the presidential signing of the Arusha Accords),²⁵⁴ logically, legally and morally one would argue that something more must be done; the peace accords and the UNAMIR operation—serving as a proof in and of itself that the world knew there was a pot brewing in which required assistance and intervention was needed. A pot brewing that if not put on simmer may quite boil over the top and blow. Which we know—it did. And when aggressive parties intentionally stomp out these peaceful attempts and begin to stomp out their own people methodically and intentionally—quite diabolically—in order to literally wipe their entire group out - simply because of their “label”—this becomes a genocide movement. To quote the law, when such an aggressive atrocity that “shocks the conscience of mankind . . . result[ing] in great losses to humanity in the form of cultural and other contributions” of one particular group—here, the Tutsis—that is “contrary to moral law and to the spirit and aims of the United Nations” as the UN Resolution 96 states, it needs to be stopped; and “international organization [needs to] be organized between States with a view to facilitating the speedy prevention and punishment of the crime of genocide.”²⁵⁵

This was not civil war, as is being defined in Syria currently, but rather complete extreme rebel take-over (after assassination of their own Hutu President), to wipe an entire label of people off the map. Extermination—like we saw in the Nazi Occupation. In this case Hutu

²⁵³ See MARK BOWDEN, *BLACK HAWK DOWN: A STORY OF MODERN WAR* (Atl. Monthly Press, 1999) (Accounts the 1993 tragedy—when U.S. troops dropped by helicopter in Mogadishu, Somalia—were brutally murdered).

²⁵⁴ Gasana, *supra* note 14, at 209; Rosenberg, *supra* note 17.

²⁵⁵ G.A. Res. 96 (I), U.N. GAOR, 1st Sess., Supp No. 55 A/RES/96(I) (Dec. 11, 1946).

extremists wanted every Tutsi gone; and every moderate Hutu gone as well. In the Nazi Occupation, Hitler wanted every Jew gone. Every single one; not to mention other groups that seemed distasteful to him, like gypsies. Every member of a particular group - Gone.

At the point of the Rwandan genocide movement in 1994—after President Habyarimana was shot down²⁵⁶—it wasn't simply two sides fighting each other equally—a civil war—as had been going on prior, and hence the international involvement in the political push for the signing of the Arusha Peace Accords.²⁵⁷ No, the civil war bad enough, and why certain U.N. countries pressed the president to sign the Peace Accords²⁵⁸ and restore balance to a very turbulent atmosphere. But *this*—rather—had become a full-out take-over by one side—the Hutus, who were fully armed—against a very helpless and unarmed side—the Tutsis—to annihilate, destroy and wipe every member of the Tutsi population from the face of the Earth. With no bending president left, the rabid gorillas and their weapons roared straight through the streets.

Whether one should step in during a civil war—is quite a topic for another discussion. In such case—one cannot be sure—who is the avenger and who is the avenged; who is the oppressor and who is the oppressed (other than the innocent civilians). Obviously—if you have two bad sides (as is being speculated in the current tragedy in Syria) the rules are different. For a bad ruler, and perhaps worse (very, very likely just as bad, if not worse) rebels (as we've seen in previous riots in countries like Egypt, Libya, the Congo, Cuba,²⁵⁹ and the list goes on; and

²⁵⁶ Gasana, *supra* note 14, at 209.

²⁵⁷ *Id.*; Rosenberg *supra* note 17.

²⁵⁸ Gasana, *supra* note 14, at 209; Rosenberg, *supra* note 17.

²⁵⁹ United Nations High Commissioner for Refugees (UNHCR), *available at* <http://www.refworld.org/publisher/HRW.html> (this database contains annual reports from 1996 to 2013, and selected country reports from 1992 to 2013); Egypt: Amnesty International, *Egypt's draft protest law paves the way for fresh bloodshed*, (18 Oct. 2013), MDE 12/061/2013, *available at* <http://www.refworld.org/docid/526626504.html>; Libya: UNHCR, *Protection considerations with regard to people fleeing from Libya—UNHCR's recommendations (as at 29 March 2011) Update No. 1*, (29 Mar. 2011), *available at* <http://www.refworld.org/docid/4d959bf62.html>; Amnesty International, *Barred from Their Homes—The Continued Displacement and Persecution of Tawarghas and Other Communities in Libya*, (23 Oct. 2013), MDE 19/011/2013, *available at* <http://www.refworld.org/docid/526e57a64.html>; Congo: UN News Service, *DR Congo: UN mission on 'high alert' following clashes between Government, armed groups*, (25 Oct. 2013), *available at* <http://www.refworld.org/docid/52722bcd4.html>; UN News Service, *Security Council 'strongly condemns' rebel attacks against UN mission in DR Congo*, (28 Oct. 2013),

specifically in the Middle East—where rebel, extremist Muslims, such as the Muslim Brotherhood²⁶⁰ and Al Qaeda,²⁶¹ and the list goes on, most unfortunately)—then who do you help? But you must take down both sides—put them out of business—help the innocent civilians, and set up a democracy—which unfortunately has been tried and not very successful in Africa. At this juncture, as I write this law review - this is what we know, and things are still developing, and information unclear in the Syrian region, but I would not be surprised if the situation too in Syria, begins to mimic its predecessors.

But as I mentioned we cannot simply take down an alleged evil ruler to let evil rebels roam and run rampant. And as we have seen in Egypt, Libya, the Congo, even back to Cuba with Castro²⁶²—taking down a dictator and replacing him with another radical dictator or radical group—is not the solution. A group of just as bad, or worse, violently

available at <http://www.refworld.org/docid/52722a0d4.html>; Cuba: Amnesty International, *Cuba: Activists receive death threats in Cuba*, (15 Oct. 2013), AMR 25/009/2013, available at <http://www.refworld.org/docid/5260f1f24.html>; Reporters Without Borders, *World Report—Cuba*, (Oct. 2013), available at <http://www.refworld.org/docid/4d59464528.html>; Human Rights Watch, *Cuba: Halt Repression in Advance of Pope's Visit*, (23 Mar. 2012), available at <http://www.refworld.org/docid/4f716c922.html>; Amnesty International, *Cuban authorities round up activists and block communications as Pope ends visit*, (28 Mar. 2012), available at <http://www.refworld.org/docid/4f7870702.html>; Specifically referencing Fidel Castro, *Fidel Castro*, Encyclopedia Britannica, available at <http://www.britannica.com/EBchecked/topic/98822/Fidel-Castro> (see for history of communist regime, dictatorship and suppression).
 - UNHCR, available at <http://www.refworld.org/publisher/HRW.html>;
 For reference to Muslim Brotherhood, in Egypt: Radio Free Europe/Radio Liberty, *More than 50 killed in Egypt clashes*, (7 Oct. 2013), available at <http://www.refworld.org/docid/52610462b.html>; Radio Free Europe/Radio Liberty, *Egyptian government warns Muslim Brotherhood against violence*, (5 Oct. 2013), available at <http://www.refworld.org/docid/52610457b.html>; in Syria: <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=country&coi=SYR&skip=0&querysi=muslim+brotherhood&searchin=title&sort=date> (seven articles discussing history of Muslim Brotherhood in Syria); in Libya: Immigration and Refugee Board of Canada, *Libya: The Muslim Brotherhood, including its mandate, structure, status and links to terrorist activities or human rights violations (January 1998—April 2004)*, (6 May 2004), LBY42502.E, available at <http://www.refworld.org/docid/41501c2e7.html> (also gives history of the movement).

²⁶⁰ UNHCR, available at <http://www.refworld.org/publisher/HRW.html>; For reference to Al Qaeda in Egypt: Radio Free Europe/Radio Liberty, *Egypt: U.S. designates Al-Qaeda affiliate as terrorist*, (7 Oct. 2013), available at <http://www.refworld.org/docid/5261047111.html>; Radio Free Europe/Radio Liberty, *Al-Qaeda leader urges Islamists to rule Egypt by Shari'a*, (3 Aug. 2013), available at <http://www.refworld.org/docid/520894fbd.html>; in Libya: Jamestown Foundation, *Hot Issue—Could Benghazi Embassy Deaths Be a Harbinger of Al-Qaeda's "Fourth Generation Warfare"?*, (24 Sept. 2012), available at <http://www.refworld.org/docid/506c13232.html>.

²⁶² UNHCR, *supra* note 256, 257, and 258.

takes over. What we have seen in the past is that the rebels take anyone in their way—including their leader - down first—the leader who is, albeit perhaps not a Saint by any means, but willing to bend to political pressure—the UN and other nations. Rebels that don't want to bend—break these people so they cannot, to get them quite out of the way. And then *they* take over. And no one at a negotiating table can reach them.

History has shown leaders to bend to other country's pressures for peace; but rebels not to. They continue to fight for an unGodly cause, at any cost. These are the individuals—you simply cannot reason with. If they choose to rule and annihilate at any cost—then you have quite a different situation.

In such situations where there is clearly no longer any attempt at, or peace, to maintain, more must be done. A Chapter VII mandate must be given in such situations, because unfortunately in such areas of concern—African regions, in addition to Rwanda, where rebels take-over and begin to annihilate, we have seen Ch. VI “peace-keeping missions” to be a *severely* failed attempt. Just a year ago, Rwanda's neighbor—the Congo [or Democratic Republic of the Congo] was published in a *New York Times* article, because they were facing a *deadly* rebel take-over of *helpless, innocent civilians*.²⁶³ The rebels were storming the streets, seizing the capital, gutting the Congolese army, and letting loose some “1,200 killers, rapists, rogue soldiers and other criminals.” These were severely dangerous rebels—now raiding the streets of GOMA.²⁶⁴

There were mob riots blowing up all over the country.²⁶⁵ Mob rioting in the streets—burning down government buildings, insisting on the overthrow of their weak and greatly detested president, Joseph Kabila. Is this the definition of Democracy? It certainly isn't the definition of a Republic.²⁶⁶ Once again a severe example of extreme hate—conducting an entirely dangerous and one-sided rebel take over. When you read that bodies of soldiers belonging to the Congo's government “litter[ed] the roads around Goma, someone's father or son rotting in the

²⁶³ Jeffrey Gettleman, *Congo Slips Into Chaos Again as Rebels Gain*, N.Y. TIMES, Nov. 25, 2012, available at <http://www.nytimes.com/2012/11/26/world/africa/as-rebels-gain-congo-again-slips-into-chaos.html?pagewanted=1&r=0&h>.

²⁶⁴ *Id.*

²⁶⁵ *Id.*

²⁶⁶ *Id.*

bush, eye sockets and mouth sizzling with flies, [and] [v]illagers trudge past, looking away; [villagers] [f]or [whom], misery [has become] a familiar face;"²⁶⁷ no one can say that history does not repeat itself.

Similarly, around the same time in Libya we had great conflict and rising up of terror and rebel activity on our US Embassy; and a US Ambassador was raped, dragged through the streets, and killed.²⁶⁸ And this even involved our own men, and still the current Vice President, in an Election Debate claimed that they "we weren't told they wanted more security there." We now find out from numerous Intelligence reports [released, much like those of the Rwandan National Security Archive] that confirmed requests were made for increased security a month prior to the attack.²⁶⁹ Overhead Drones telecasted the activity.²⁷⁰ But such requests and visions were ignored. Once again, statements that we "didn't know," we know, simply aren't true.

Interestingly, it appears to be a repeat—here as well - the same answers to the same questions, ending in, "We didn't know." After the Rwandan Genocide, when President Clinton made a trip to Rwanda in 1998, he claimed, "Oh, I didn't know. We didn't realize."²⁷¹ You cannot deny a strong parallel with what is going on today. We didn't know? Or we didn't care.

The million dollar question was posed within the *New York Times* article that cited to The Congo's debacle.²⁷² A picture shows a young boy wounded and bandaged lying in what appears to be a dilapidated

²⁶⁷ Id.

²⁶⁸ See Robert Tilford, U.S. Ambassador savagely murdered and dragged through the streets in Benghazi, WICHITA MILITARY AFFAIRS EXAMINER.COM (Sept. 12, 2012), <http://www.examiner.com/article/u-s-ambassador-savagely-murdered-and-dragged-through-the-streets-benghazi>.

²⁶⁹ See Dean Garrison, The Butcher of Benghazi . . . Leaked Libyan Intelligence Documents Implicate Morsi (June 27, 2013), <http://dclothesline.com/2013/06/27/the-butcher-of-benghazi-leaked-libyan-intelligence-documents-implicate-morsi/> (article also references a Libyan security document that was leaked).

²⁷⁰ See Doug Hagmann, The hidden real truth about Benghazi (Canada Free Press, Oct. 28, 2012) (Douglas Hagmann [is] founder & director of the Northeast Intelligence Network, and a multi-state licensed private investigative agency. Doug began using his investigative skills and training to fight terrorism and increase public awareness through his website).

²⁷¹ Dallaire, *supra* note 72, at 13.

²⁷² Gettleman, *supra* note 264 at 58.

hospital bed; and the ever-reigning question hangs in the backdrop of his hospital room:

[O]ne pressing question is, why — after *all the billions of dollars spent on peacekeepers*, the recent legislation passed on Capitol Hill to cut the link between the illicit mineral trade and insurrection, and all the aid money and diplomatic capital — is this vast nation in the heart of Africa descending to where it was more than 10 years ago when foreign armies and marauding rebels carved it into fiefs?²⁷³

Why, we say? Indeed, a scary, very close reality to what their dear neighbor Rwanda was forced to undergo not so long ago prior. Peace, they say. I say, let's do more. More *must* be done. *In these cases*, more must be done.

IX. CONCLUSION

Rwanda—with one side—the Hutu extremists - completely and entirely massacring the innocent Tutsis—and the moderate Hutus - with no defense for themselves until the very end—that is the subject of this discussion, and that is a warranted interception by other nations to step in and help the helpless. Much like taking down Hitler was a necessary mission. Jews were not fighting back at Hitler—Hitler was massacring the Jews; Hitler was gassing, and brutally destroying the Jews. He had his Nazi soldiers—and he had them annihilating. If any red lines can be drawn, it is on the Hitler exterminators of history.

The Tutsis stood, tall, but alone, and one by one, were cut down. And to restore power to the Tutsis was a peaceful and good option—as we see today—with Kagame - the Commander of their RPF army in charge of the country. And he maintains a peace.

My argument is that clearly we should have done something to stop 800,000 Tutsis from being massacred. We see, clearly by the facts of the Rwandan genocide that the world knew, that they attempted a peaceful remedy, but that tragically failed into a devastating tragedy.

²⁷³ Gettleman, *supra* note 264 at 58.

Warnings were ignored by the UN's top man in the Rwandan peacekeeping mission, Romeo Dallaire. And as embellished on in the previous section, this attack by the Hutus was genocide, not a civil war, which makes it an international crime, on its face; a non-derogable norm for which there is no room for compromise. It was a purposefully planned extermination of every Tutsi that existed within the walls of the country. And they just about accomplished it. And as I said, *opinions* can sway as to whether one or another country should step in to someone else's "problem" or "business," but based on Civil International Law, and I argue as well, based on Moral and Church Law, *this* atrocity should not have been ignored.

My recommendation is that should something like this come to the UN's attention again, it will not be treated with such indifferent disdain. What reason have we for instituting the United Nations, with its Charter, and General Assembly, and Security Council; with its resolutions and conventions, if not to enact them and use them for their correct purpose? What of the strong statement the UN tried to impress after the Nazi holocaust, that something like this would never be able to happen again? Exterminations of entire groups of people—helpless innocent human beings - simply because of what they were labeled. And because one side has the weapons to do so, and the other side has no defense. What of the responsibility of those that much is given, much is expected? A powerful league of nations that has the ability to fight evil—has a responsibility to do so—when it is staring them in the face. By Law and By Morals. I believe there was a responsibility here.

A famous quote reiterated: "The only thing necessary for the triumph of evil is for good men to do nothing."²⁷⁴

You can't just maintain peace where there is hate, peace where there *is no peace* to maintain. There is hate to wipe out first. There is evil that needs to be put back where it came from. Christ did not say, let's make peace with these demons. He drove them out.²⁷⁵ He condemned the

²⁷⁴ Attributed to Edmund Burke, Irish Philosopher and Statesman.

²⁷⁵ See generally *Luke 4:33-36; Luke 10:17; Luke 4:35; Luke 10:17-19; Matthew 10:7-8; Mark 16:15-20; Mark 1:27; Mark 16:16-18 Mark 3:11; Acts 16:18; Ephesians 6:10-18; Revelation 12:7-9* (multiple references in the Bible to Jesus, His apostles, and Angels in Heaven driving out demons).

evil to slither like the snake it was.²⁷⁶ And I'm not saying, but it is certainly written in Scripture that God parted the seas and closed them back up on the people who had done wrong. And saved those whom hadn't.²⁷⁷ He closed the seas up. And there were people in there. He wasn't messing around.

So I say, more than Cat Steven's "peace train" needs to come rolling through these countries; when peace has been tried and isn't true; when an entire rebel army is chopping up thousands of people in the streets; when heads of nations—like the President—has been killed, or seized, and cannot control his own nation from massacre. Not to use an old cliché, but sometimes there is no peace to maintain until things are nipped in the bud. To step-up certainly for self-defense has always been justified. And certainly to come to the aid of another's defense who is helpless, should as well. I say, Chapter VII, use of force, to put certain of these countries back in line.

History undoubtedly repeats itself. That is part of the reason we study it. And eerily, for one reason or another, extreme rebel takeover—seems to keep repeating itself—unhindered.

As a final insight, with regard to genocide and the very reason the term "crimes against humanity" was established, the very reason the UN was established, the world would be wise to re-reflect on the Nazi holocaust; the horror, the evil of such a "wipe out" of millions of innocent people, simply because they were Jewish. Simply because of a methodical madman's ability to do so. I can't stress enough, that if one is not careful, history repeats itself. As the old Chinese philosopher, Confucius, who lived from 551 BC - 479 BC, so insightfully stated "Study the past, if you would divine the future."

²⁷⁶ Revelation 20:2-5.

²⁷⁷ Exodus 14: 21-31 (crossing the Red Sea).