

Doctrine of State Sovereignty and United Nations' Veto Power as Mitigating Factors in the Prevention of Genocide. Case Study of the Genocides in Bosnia and Rwanda

Godwin E. Essoh (Ph.D)¹ & Ali S. Yusufu Bagaji (Ph.D)²

¹ Dept. of Peace and Development Studies, Salem University, Lokoja, Kogi State, Nigeria

Email: essohgodwin@gmail.com

² Dept. of Public Administration, Kogi State University, Anyigba, Kogi State, Nigeria.

Email: alibagaji@yahoo.com

Manuscript ID: RCMSS/IJPCS/14005

Abstract

There is a tendency by the international community to show indignation and revulsion when genocide is committed, followed by calls for sanctions against the perpetrators. In the last two decades, genocide was committed in Rwanda and Bosnia while the world looked on and not intervened out of respect for sovereignty. This article argues that the doctrine of state sovereignty has been stretched to a ridiculous level insofar as the crime of genocide is concerned. Moreover, the ability of the international community to prevent genocides is hampered by the power of veto of the permanent members of the United Nations Security Council. The article proposes that the international community should take seriously the need for humanitarian military intervention in situations of gross human rights violations that puts the lives of innocent citizens at stake. In addition, there should be a resolve to reform the veto power in the UN Security Council so that it is not exercised in the cases of genocide and other crimes against civilian populations.

Key Words: Genocide, UNAMIR, Bosnia, Rwanda, Sovereignty, Veto Power

Introduction

Genocide falls within the category of moral crimes that a government (meaning any ruling authority, including that of a guerrilla group, a quasi state, a terrorist organization, or an occupation authority) can commit against its citizens or those it controls. For this reason, genocide is as old as recorded human history. However, only in recent times has international law evolved to define and punish mass violence against civilians. These laws are now well-established and have provided the legal foundation for civilian protection against mass atrocities. In the aftermath of World War II and the Holocaust, the three categories of international law that were developed to criminalize atrocities against civilian populations are those relating to genocide, war crimes, and crimes against humanity.

Of the three categories of moral crimes, genocide is probably the most heinous because it borders on the extermination of a people, based on who they are. The holocaust is a case in point, but other genocides in history have been no less horrific. The barbarity and inhuman tendencies that attend to the perpetration of the crime of genocide explains the repugnance and repulsiveness the international community feels when genocide occurs. However, much of the handwringing, guilt and calls for the prosecution of the perpetrators obscure an important fact or consideration, which is that in recent history, genocide has occurred while the international community looked on and when the atrocities took on frightening dimensions, the world had looked the other way.



One of the reasons for the reluctance to intervene has been the undue respect for the sovereignty of the nations perpetrating genocide against its people. In some cases such as the Bosnian and Rwandan genocides, the atrocities even while they were happening were regarded merely as “domestic affairs or tribal wars”. The fact that thousands were being butchered and decimated could not move the major powers to intervene to forestall further loss of lives. It is a well-known fact in the social sciences and the criminal justice system that punishment in/by itself is not a good deterrence to future commission of crimes. The Nazi perpetrators of the holocaust were swiftly prosecuted and brought to justice during the Nuremberg trials of 1945. That did not prevent other genocides from taking place half a century later. In terms of the prosecution of perpetrators, the first conviction since the Nuremberg and the Tokyo Trials of 1945 happened more than fifty years later with the conviction of Radoslav Krstić, a former Serbian army commander. This was partly due to the politics of the cold war. The genocide convention went unused and therefore untested following its ratification in 1948. However, due to the heightened consciousness in the international community, and the events of the last two decades notably the Bosnian Crisis, the Rwandan civil war and the attendant atrocities, the International Criminal Court has been busy prosecuting perpetrators of genocide many of whose trials are yet to be concluded.

The major preoccupation of this article is that the doctrine of state sovereignty has been stretched to an illogical level, at least insofar as the crime of genocide is concerned. The article advocates for a strengthening of the UN resolution recommending international co-operation between States with a view to facilitating the speedy prevention and punishment of the crime of genocide. Specifically, the article proposes that the international community should take seriously the need for humanitarian military intervention in situations of gross human rights violations against civilian populations. In addition, there should a resolve to reform the veto power in the UN Security Council so that it is not exercised in the cases of genocide and other crimes against civilian populations.

The problem with this position is the UN Security Council and the politicking that the permanent members exhibit particularly on issues of strategic interest to them. During the Rwandan genocide, although no permanent member openly cast its veto against intervention, the delay and procrastination of action gave the genocide organizers time they needed to perfect their atrocities (Barash and Webel, 2009:294).

Organization and Methodology

The article is divided into five sections. The first section contains the introduction, methodology, definition of genocide, and the conceptual framework. The second part looks at the nature of genocide and its early warning signs; the doctrine of state sovereignty, and the role of the UN in promoting respect for state sovereignty. The third part of the article is the case studies-an examination of the Bosnian and the Rwandan genocides. Part four examines the role of the UN in genocide prevention, the concepts of human security and humanitarian intervention as well as the responsibility to protect. The last part of section four examines the prospects of reforming the UN Security Council. The article ends with summary and conclusions. The approach to this study was mainly content analysis. Secondary data were



sourced from studies on genocide, UN publications relating to the Rome Convention, NGO publications on the internet, Journal articles and others.

Definition of Genocide

While a precise definition varies among genocide scholars, a legal definition is found in the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG). The convention defines genocide as “the deliberate and systematic destruction, in whole or in part, of an ethnic, racial, religious, or national group”. What constitutes enough of a ‘part’ to qualify as genocide has been subject to much debate by legal scholars. In other words, how many people have to die before genocide is deemed to have occurred? The “in whole or in part” seems to indicate that there is no lower limit to the number of people on which these acts may be committed (Rommel, 1998). It is genocide even if any of the acts committed are on one person with the intent described. Put another way, even if one person dies and it can be proven that the event fits into a general pattern designed to destroy the indelible group the person belongs to, then genocide may have occurred. It is worthy of note that with this definition, the onus is on the person that has cried “wolf” to prove that genocide has occurred.

Article 2 of the Genocide Convention 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”, such as: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life, calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; and forcibly transferring children of the group to another group.

Rommel (1998) has noted a number of issues about the UN Genocide Convention definition of genocide. Firstly, the perpetrator is not necessarily a state’s government or its military, but may be a terrorist, rebel or guerrilla organization, among others. Secondly, regardless of under what authority genocide is committed, it is formulated, planned, and conducted by individuals, and it is individuals that the ICC will prosecute for the crime of genocide. Unlike the International Court of Justice that only adjudicates disputes between states, the ICC as a criminal court will indict only individuals, issue international warrants for their arrest, try, and punish them. This is made explicit in Article 27 which states: “This Statute shall apply equally to all persons without distinction based on official capacity. In particular, official capacity as head of state or government, a member of a government or parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this statute, nor shall it, in and of itself, constitute a ground for reduction of sentence”.

The perpetrator’s intent (purpose, goal, aim) is also of critical importance. According to the Report of the Preparatory Commission for the International Criminal Court (PCICC), the ICC may infer such from “conduct that took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction”, including “the initial acts in an emerging pattern”. For example, before the Jewish Holocaust that shocked the conscience of the world, Hitler had on coming to power in 1933 initiated a series of discriminatory laws against the Jewish population of Germany. The first of these on 15th September, 1935 was the “The Reich Citizenship Law” which effectively stripped the Jewish population of their German citizenship and the right to vote. This was followed by the



“Law for the Protection of German Blood and German Honor” which prohibited marriages and relationships between Jews and other German nationals (www.thehistoryplace, 2012).

The UN Convention’s definition of genocide is limited to only national, ethnical, racial or religious groups – groups that one is born into. These may be called indelible groups (Rommel, 1998). In the case of a religious group, while one may choose to leave a religious group as an adult, it is rarely done and one may nonetheless remain identified with the religious group by virtue of physical characteristics, as for Jews. An early form of the genocide law included political groups but these were later excluded. The rationale often given for excluding political groups is that one joins or becomes a member of them as a matter of choice, and the nature and membership in such groups is not as clear as it is for indelible groups (Rommel, 1998).

In the definition of genocide, the term “as such” is important. It means that the defined groups are by intention explicitly targeted for destruction, and such destruction is not the unintended outcome, byproduct, or spillover of the intent to achieve some other goal, such as in defensive operations or attacks on military targets during a war or rebellion. Also critical is the word “destroy”. The acts that are carried out with this intent are carefully defined in the ICC’s Statute. They exclude attempts, for example, to eliminate an indelible group from a territory by *ethnic cleansing* (that which involves their forced or coerced removal), or the destruction of the culture of a group, as by forced education of their children in a different language and customs. While this may be so, it should be noted that genocide does involve aspects of ethnic cleansing even though the latter is not specifically recognized in the ICC’s statute as meriting the label of genocidal act. The Armenian genocide for instance, was carried out under the guise of deporting the general Armenian population from Turkey to Syria and Iraq by cattle truck and by foot. It is estimated that the number of people affected worldwide by ethnic cleansing across the twentieth century stands at between 60 to 120 million (Kershaw, 2005:109).

The “in whole or in part” means that there is no lower limit to the number of people on which these acts may be committed. It is genocide even if any of the acts committed are committed on one person with the intent described. This is the spirit of the convention on genocide. It is hypothetical in the sense that genocide is seldom publicized until when a large number of people might have been killed. The act makes clear that genocide may also involve the intent to destroy a group by means other than killing one or more of its members. The Genocide convention act defines “serious bodily or mental harm” to include acts such as torture, rape, sexual slavery, apartheid, or other inhuman or degrading treatment. “Conditions of life” may include “deliberate deprivation of resources indispensable for survival, such as food or medical services, or systematic expulsion from homes”. The term ‘forcibly’ is not restricted to physical force, but may include “threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power; or taking advantage of a coercive environment”.

Conceptual Framework

Political violence is a means that has been used by individuals and governments around the world to achieve political action. The reason for this is that some groups and individuals believe



that their political system may never respond to their political demands unless violence is used as a means for persuasion. Violence seen from this perspective is not only justified but also necessary in order to achieve political objectives. In the same vein, governments also believe in the use of violence to maintain order, suppress rebellion, intimidate opposition, and defend the country from external aggression of force. State-sponsored violence includes but is not limited to genocide. Therefore, genocide is a form of political violence. Besley and Persson (2010:2) argue that political violence is the bastion of weak polities, and tends to manifest as armed conflict in the form of repression or civil war.

Political violence has been defined as armed revolution, civil strife, terrorism, war and other such causes that can result in injury or loss of lives and property (Business Dictionary.com, 2012). As a concept, it has deeply engaged scholars in the social sciences for ages. Hannah Arendt's understanding of violence for instance, differs from the classic and currently accepted definition(s) of violence as any social, economic, moral and political violation of the basic human rights of the person (Riga, 1969). She also does not subscribe to the clausewitzan perspective that violence is the continuation of politics by other means, as it is so often understood in the study of international relations. On the contrary, Arendt believes that violence is never a political action; violence is not the continuation of politics but its destruction (Arendt, 1970). Violence is a manifestation of power or in the famous words of Mao Tse-Tung "political power grows out of the barrel of a gun. Arendt's view has found some similarity with others in the field such as John Galtung who provides distinctions between structural and behavioral violence. By behavioral violence, Galtung was referring to physical violence or violence as violation (Galtung, 1969). Arendt also believed that there can never be legitimate violence, even if used by the state (Arendt, 1970). Chomsky believes as Arendt does that violence by its nature cannot be legitimate (Chomsky, 1969). However, this is as far as the similarity goes because they soon part ways. Chomsky argues that violence can be legitimate and justifiable in some instances if the consequences of such action are to eliminate a still greater evil (Chomsky, 1967). One can assert as Arendt does that the resort to violence is illegitimate no matter the circumstance, even if the consequences are to eliminate a greater evil or that the consequences may never be such as to eliminate a greater evil. This is a moral judgment, one that Chomsky can never make (Chomsky, 1967). Arendt's position also contrasts sharply with Weber's famous definition of state and its use of force or violence: "a state is a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory ... the state is considered the sole source of the right to use violence (Weber, 1978). Weber's postulation is Hobbesian in nature since the Leviathan can hardly be expected to exercise control over all if denied the monopoly of the use of force. The state's monopoly of the legitimate use of violence is a dangerous thing because according to Keane (1996) "the dangerous concentration of the means of violence in state hands carries within it the seeds of planned cruelty on a large scale".

Indeed, historical records show that most of the mass killings of modern history have been committed by state organizations (Shaw, 2003:58). In the same vein, Wydra (2008) argues that states can use their monopoly of violence not only for protecting its citizens but also for the sake of terror and annihilation. "States are practitioners of slaughter par excellence" (Ibid). Keane (2004) supports this assertion when he argued that with "with the monopolist of the



means of violence (states) can turn life threatening weapons against their own subject population.”

There seems to be a general agreement on the illegitimacy of violence (Chomsky 1969, Arendt 1970). On the issue of violence being justified in particular circumstances or being used to ward – off a still greater evil such as in fighting a revolutionary war, or war of liberation, there is no near unanimity (Arendt, 1970). This seems to be a moral question better left for the individual to answer. However, the harshest indictment against state sponsored violence seems to come from the Lockean perspective. John Locke had argued that states derive their legitimacy from the people. Therefore, the duty of the state is to protect its citizens, not to use violence or force to annihilate its citizenry. The state that does this loses its legitimacy. It also loses its *raison d'être*, or its reason for being.

Nature of Genocide and its Early Warning Signs

The study of genocide have largely been undertaken in terms of the political system in which it takes place, the context within which it occurs, the motives of the perpetrators, and the nature of the victims.

(a) Political system

Historical evidence and empirical studies suggest that genocide is more likely to happen in totalitarian and authoritarian regimes than in democratic ones. Evidence abounds throughout history. Totalitarian regimes in which genocide occurred include Stalin's Soviet Union, Hitler's Germany, and Mao's Communist China. Authoritarian regimes that have committed genocide against its people also include fascist Chiang Kai-shek's China, Franco's Spain, Mustafa Kemal Ataturk's Turkey, Dictator Saddam Hussein's Iraq, and Idi Amin's Uganda. The probability of genocide occurring in democratic systems is greatly reduced due to their respect for civil liberties and political rights. Therefore, one of the warning signs for genocide is the existence of totalitarian regimes and authoritarian ones.

(b) Context

No matter the type of political system, the chances of genocide sharply increase when a country is involved in war, whether international or domestic. The holocaust is a good example. The murder of Jews wherever they were under German control did not become government policy until Germany was well into World War II. Similarly, World War I provided the Young Turks with the opportunity and excuse to purify Turkey of Armenians and Christians. Stalin used the cover of WW II to deport ethnic minorities from Russia, leading to the death of thousands. Therefore, war or a conflict situation is a warning sign that genocide could occur.

(c) Motives

The motives for genocide are complex and intertwined. Again, historical evidence show that a group that is perceived as a threat to the ruling power can be targeted for destruction. The Hutu majority in Rwanda in 1991 perceived the Tutsis as a threat to their continued hold on power. Another motive involves the destruction of those who are hated, despised, or



conversely envied or resented. The genocide of the Armenians in Turkey in 1915-18 took place not only because the Armenians enjoyed wealth and professional status far beyond their numbers, but also were hated as Christians in a Moslem society (Rummel, 1998). Genocide has also been undertaken in the pursuit of an ideological transformation of society. Such genocides have been undertaken by communist societies where those resisting or perceived to be enemies of state ideology were tagged “right-wingers,” “counterrevolutionaries,” “enemies of the state” and eliminated. A further motive is purification, or the attempt to eliminate from society perceived alien beliefs, cultures, practices, and ethnic groups. Examples are the systematic elimination by Mao-Tse Tung and Stalin of disbelievers in the communist ideology. The Serbians also practiced ethnic cleansing in Bosnia-Herzegovina in the 1990s. The motives almost always tend to have political undertones; whether it is elimination based on resistance to an ideology or for the purposes of purification. Politics here is conceived of in the Laswellian sense of who gets what, how and why? Our reasoning here is based on the fact that at the end of the day, the perpetrators stand to gain the upper hand over their victims.

(d) Nature of victims

The victims of genocide tend to be members of out-groups or peripheral groups. These are groups that are often hated, discriminated against, or marginalized based on their particular characteristics such as racial, ethnic, or religious backgrounds. These groups may have been envied and/or resented in the past and it only takes an event such as war or other conflict for the hate to manifest in a desire and actual killing of the members of the out-group in a bid to destroy the group as a whole.

State Sovereignty

Before examining the doctrine of state sovereignty, it necessary to first of all define the state so that the discussion that follows can be placed in proper perspective. Generally, a state can be defined as a sovereign political unit that may include other communities and that operates through a centralized government, which has the authority and power to decree and enforce laws, collect taxes, and act as a legally recognized representative of its citizens in exchange with other states, including the waging of war (Barash and Webel, 2009:150). Weber, (1919) had defined a state as “a human community that claims the monopoly of the legitimate use of physical force within a given territory ...). This definition views the state as the sole source of the right to use violence. Increasingly, the state has come to be identified with its monopoly on the use of “legitimate” physical violence or force within its territory without recourse to any higher power or authority. In other words, states reserve unto themselves the power of life or death over its citizens without having to answer to an outside authority. Herein lays the warrant for genocide and other atrocities a state may commit against its citizens. Authoritarian and totalitarian political ideologies tend to lift the state above the individual. As a result, in some communist countries, individuals are deemed less important than the state. And as we have seen in the preceding section, these types of regimes are known to have committed genocide against their people in the pursuit of ideological purity or transformation of society. Examples are communist China under Mao-Tse Tung and Stalin’s pogrom of the 1920s during which millions died in Russia.



State sovereignty has also been defined as “the state’s supreme authority over its citizens and subjects” (Barash and Webel, 2009). But more than this, the state is seen as independent from outside control and supervision. Under the doctrine of sovereignty, the state is the final arbiter in domestic issues, particularly those that affect its citizens. It has the power of life and death. There is no higher recourse. This state of affairs is true in peace time as well as in war (Barash and Webel 2009:151). The principle of state sovereignty was adopted at the Treaty of Westphalia in 1648 essentially to guard against the threat of external aggression by belligerents. Since then, states have committed heinous crimes including even genocide against its citizens, using the principle of sovereignty as a cover. States scrupulously respect each other’s sovereignty. In the 1970s for instance, the Khmer Rouge perpetrated genocide against its people in Cambodia while the international community looked the other way. The USSR and China stayed out of Cambodia because it was a regime with likeminded ideology even though it was committing heinous crimes against its people. The US could not intervene because the experiences of Vietnam were still fresh in its memory. There may be sanctions imposed by the international community for the most wanton disregard for human rights but what we are examining here are the prerogative power of the state over its citizens as contained in the doctrine of sovereignty. For instance, in 2006, Sudan rejected a UN resolution calling for a UN Peacekeeping force in the Darfur saying such intervention would compromise its sovereignty. The League of Nations organized after WW I ostensibly to “... promote international co-operation and achieve international peace and security,” worked to encourage peaceful co-relations between states but was careful not to encroach on states’ sovereignty. States were largely left unaccountable for human rights violations within their own countries (Butters, 2007). State sovereignty is not sacrosanct as its supporters would have us believe. There are limitations or violations such as an outright invasion of a country’s territory by a belligerent neighbor, or the stationing of foreign troops within a country’s borders based on bilateral agreement. By and large, these limitations are not widespread so that at the end of the day, the doctrine of state sovereignty remains a powerful force in international relations.

The UN and the Doctrine of State Sovereignty

The United Nations Organization as the successor to the League of Nations has important provisions that guarantee and protect the sovereignty of its member nations. Article 2 of the UN Charter for instance, provides for sovereign equality of all its members. Article 2 (7) of the Charter declares that the UN as a body shall not intervene in the domestic affairs of its members (Hoffman and Graham, (2006:32). The only exception to the above provisions is in the case of peacekeeping and even then, the UN Security Council has to vote unanimously to authorize such action.

The UN therefore, exists to project the interests of its member countries in maintaining world peace. To that end, the UN can only do what its members wants it to do per time. It respects state sovereignty and does not offer an alternative to it. The decisions of the UN cannot be above the national interests of its member states. Insofar as the prevention of genocide and other inhuman crimes against innocent citizens, the UN cannot act against the national interests of its member states. However, given the worldwide condemnation and indignation that usually



attend the commission of acts of genocide, it is expected that the UN Charter relating to state membership and respect for state sovereignty should be amended to provide for a swift intervention of the international community under the aegis of the United Nations at the first indication that genocide is about to or is being committed against a people.

In an effort to combat future genocides, the UN General Assembly passed a resolution on 12th-Dec-1946 which adopted among other things a recommendation that international co-operation be organized between States with a view to facilitating the speedy prevention and punishment of the crime of genocide. However, this has not been done and the obvious reason is that it might infringe on state sovereignty. Meanwhile, cases of genocide like the Bosnian and Rwandan genocides have been committed under the very noses of the UN Peacekeeping forces and these were helpless in preventing the atrocities because they felt their mandates did not cover those cases. The US refused to intervene in Rwanda because it was anxious to avoid another peacekeeping disaster (Butters, 2007). In Bosnia and Kosovo, Russia and China became unwilling to support military intervention even after series of negotiations had failed to stem the tide of the killings. In the Darfur region of the Sudan, available evidence show that genocide may have been committed there, but again, Russia and China are reluctant to support the other members of the Security Council to recognize the atrocities as genocide because doing so would compel the UN Security Council to intervene. The culprit here is the veto power that each member of the council possesses whereby using it or even the threat to use it, would discourage other members from pursuing a particular course of action. The council has to vote unanimously to authorize UN intervention in a conflict situation.

The Bosnian Genocide

Three factors or events helped to set the stage for the Bosnian crisis which later degenerated into the genocide. The first of these was the death of Marshall Tito, the communist president of the former Yugoslavia in 1980. He was succeeded by Slobodan Milosevic the Serbian leader who preached Serb nationalism at home and abroad particularly in the other republics where there were large Serb communities. As a consequence, when Alija Izetbegovic, the leader of Bosnia's multi-ethnic government, called for independence for Bosnia, Bosnia's Serbs, were not happy because they saw themselves and the land they lived on as part of Milosevic's 'Greater Serbia'. They proceeded to apportion three quarters of the country as their own and began the process of ethnic cleansing or the forced removal of other ethnic nationalities from Bosnia and massacring some of them in the process. Milosevic died in mysterious circumstances in 2006 while standing trial at The Hague for his role in the Bosnian crises. The second event that contributed to the Yugoslavian crisis unarguably had to be the collapse of communism in the former Soviet Union in 1989. For all its repression and centralized planning, communism was able to forge and hold together the diverse ethnic nationalities that made up the former Yugoslavia. When communism collapsed, the bond that held the ethnic nationalities also disintegrated. Things fell apart because the center could not hold (Yeats, 1919). The third factor was the rise of ethnic nationalism in Yugoslavia due to the collapse of communism and the attendant civil unrest and bloodshed that followed.

The Bosnian Serb army (under Ratko Mladic) committed much of the atrocities. Mladic is presently standing trial at the International Criminal Court at The Hague for his part in the atrocities. Much has been written about the Bosnian Crisis that it will not serve any useful



purpose to recount it here. Suffice to say that the UN played a very deplorable role in managing and containing the conflict. The UN refused to intervene, apart from providing some troop convoys for humanitarian aid. Later its peace-keeping force, UNProFor, undertook to protect 6 'safe areas', mainly Muslim areas including Sarajevo (the Bosnian capital) and Srebrenica. It could not do so successfully. Each so-called safe area, except Sarajevo, fell to the Serbs and was 'ethnically cleansed'. This was the euphemism coined by the Bosnian Serbs and accepted by the USA and other members of the UN Security Council to avoid any reference to 'genocide', which would by international law demand their intervention.

The events that took place at Srebrenica in the summer of 1995, underscores UN duplicity in the Bosnian crisis. Srebrenica which had been declared a UN safe area in 1992 had become a Bosnian enclave in the care of the French and Dutch governments. In July 1995 Serb troops and paramilitaries led by Ratko Mladic descended on Srebrenica and began shelling it. The contingent of Dutch soldiers who made up the UN military presence safeguarding the town was helpless. They could not do much as they were poorly equipped and without reinforcements. Earlier, more than twenty of the UN peacekeepers had been taken prisoner by the Bosnian Serbs army and for that reason, the UN contingent was wary of taking any action that might put the hostages in harm's way. However, it is on record that the Dutch commander did repeatedly ask the French (their military colleagues in this operation) to provide immediate deterrent air strikes; but his requests were repeatedly stalled. (The story goes that one request was rejected because it was on the wrong fax form. Peace Pledge Union, 1995). Thousands of Muslims made for the Dutch compound - some killed by shells as they fled.

The Serbian troops captured Srebrenica and commenced the deportation of the Bosnian population that had sheltered inside the city. The refugees inside the UN Peacekeepers' compound were removed under the assurances of safe passage by the Serbian forces. Young boys and men were separated from the women. The women were taken to concentration camps where they were systematically raped by Serbian troops. The men were summarily executed, together with young boys of 13 years old and above. By the time the capture of Srebrenica was completed, up to 7,500 men, and boys over 13 years old, had been killed. Up to 3,000, many of them in the act of trying to escape, were shot or decapitated in the fields. 1,500 were locked in a warehouse and sprayed with machine gun fire and grenades (Peace Pledge Union, 1995). Others died in their thousands on farms, football fields, and school playgrounds. The whole action was carried out with military efficiency. Thousands of the bodies were buried in mass graves.

Of the *dramatis personae* of the Bosnian crisis, Slobodan Milosevic died in 2006 while standing trial for genocide at The Hague. His death is still being investigated. Both Radovan Karadzic and Ratko Mladic have been charged with genocide, war crimes, and crimes against humanity and are currently standing trial at The Hague. Radoslav Krstić, a commander working for Mladic, was arrested by NATO troops in December 1998 and charged with genocide for his part in the atrocities at Srebrenica. 'This is a case about the triumph of evil, professional soldiers who organized, planned and willingly participated in the genocide, or stood silent in the face of it', said the prosecution at the Hague (where the International War Crimes Tribunal for former Yugoslavia is held - ICTY). In August 2001 Krstić became the first person to be convicted of genocide at the ICTY and was sentenced to 46 years imprisonment.



The Rwandan Genocide

The genocide in Rwanda in 1994 shows what can happen when a group so tenaciously clung to power and was determined to exclude others at all costs. Actually, the seeds of discord had been sown much earlier when Belgium colonized Rwanda toward the end of the nineteenth century. The colonial policy of “divide and rule” as practiced by the Belgians favored the Tutsis more than the more numerous Hutus in power positions and other favors. The Hutus, feeling oppressed, launched a rebellion in 1956 against the power wielding Tutsis. By 1959 they effectively seized power and began to strip Tutsi communities of their lands. Many Tutsis retreated to exile in neighbouring countries, where they formed the Front Patriotique Rwandais, the Rwandan Patriotic Front (RPF), and trained their soldiers. In 1990, the Rwandan Patriotic Front (RPF) attacked and captured certain parts of Rwanda in a civil war that lasted almost a decade. A ceasefire was achieved in 1993, followed by UN-backed efforts to negotiate a new multi-party constitution; but Hutu leaders and extremists fiercely opposed any Tutsi involvement in government. On April 6 1994 the plane carrying both Rwanda and Burundi’s president was shot down, suspected to be the work of Tutsi extremists. This served as the excuse Hutus needed to plan a ‘Final Solution’ against their perceived enemies. The Tutsis were accused of killing the president, and Hutu civilians were told, by radio and word of mouth, that it was their duty to wipe the Tutsis out.

Up to a million people died before the RPF (some of whose personnel are Hutu) was able to take control of the situation. Unlike the Armenians genocide of 1915-17, and the Jewish Holocaust of 1941-5, the Rwanda genocide took place under the full glare of the media. On April 7, 1994, which is regarded as the first day of the pogrom, the Rwandan Armed Forces (FAR) and Hutu militia (the interahamwe) set up roadblocks and went from house to house killing Tutsis and moderate Hutu politicians. This genocide was carried out almost entirely by hand, often using machetes and clubs. Most of the U.N. peacekeeping forces (UNAMIR-- United Nations Assistance Mission in Rwanda) stood by while the slaughter went on. They could not intervene as doing so would have violated their “monitoring” mandate. Ten Belgian soldiers with UNAMIR, who were assigned to guard the moderate Hutu Prime Minister, were tricked into giving up their weapons, after which they were tortured and murdered. As a result, Belgium withdrew from UNAMIR. The U.N. Security Council also voted unanimously to withdraw most of the UNAMIR troops from Rwanda. The force was reduced from 2,500 to 270. On April 30, The U.N. Security Council passed a resolution condemning the killing, but omits the word “genocide” so that it would not be legally obliged to act to “prevent and punish” the perpetrators.

The men who’d been trained to massacre were members of civilian death squads, the Interahamwe (‘those who fight together’). Transport and fuel supplies were generously provided for the Interahamwe to do its work. Where the killers encountered opposition, the Army backed them up with manpower and weapons. The State and society provided Hutu Power’s supporting organization; politicians, officials, intellectuals and professional soldiers deliberately incited (and where necessary bribed) the killers to do their work. Local officials assisted in rounding up victims and making suitable places available for their slaughter. Tutsi men, women, children and babies were killed in thousands in schools. They were also killed in churches with the approval and collusion of some clergy. The victims, in their last moments alive also became



painfully aware that their cold-blooded killers were people they knew - neighbours, colleagues, former friends, sometimes even relatives through marriage.

The definition of 'genocide' and the selfish and narrow interests of the five permanent members (P5) of the UN Security Council did not help matters in Rwanda. There'd been at least 10 warning signals to the UN of the imminence of 'Hutu power' action, including an anxious telegram from the UNAMIR (United Nations Assistance Mission in Rwanda) commander to the then UN Secretary- General (Boutros Boutros Ghali) three months before the event. The UN Security Council met in secret after the start of the violence where Britain urged that UNAMIR should pull out. Britain later blocked an American proposal to send in a fact-finding mission when the death toll had reached six figures (Blatter, 2010, Peace Pledge Union, 2012). Council members resisted admitting 'that the mass murder being pursued in front of the global media was in fact genocide' because doing so would have necessitated adopting measures which no-one wanted to take. (The USA had actually banned its officials from using the term. Finally, in June, Secretary of State Warren Christopher grumpily conceded 'If there's any particular magic in calling it genocide, I've no hesitancy in saying that'.) Once it was inescapably clear that genocide was indeed going on, it was too late.

The USA, asked to send 50 armoured personnel carriers to help UNAMIR save what and whom it could before its departure, marked time and then sent the APCs to Uganda. Asked to use its hi-tech skills to get the génocidaire radio off the air, America replied, 'the traditional US commitment to free speech cannot be reconciled with such a measure', on this occasion. France, a backer of most French-speaking African governments, had been backing the genocidal government. In 1994, in the months after the Rwandan genocide, Canadian Major General Romeo Dallaire averred: "I came to the United Nations from commanding a mechanized brigade group of 5,000 soldiers. If I had had that brigade group in Rwanda, there would be hundreds of thousands of lives spared today" (Feil, 1997). The International Criminal Tribunal for Rwanda (ICTR) was set up in Arusha, Tanzania to prosecute perpetrators of the genocide. At this tribunal the former Prime Minister of Rwanda confessed to genocide and conspiracy to commit it, and by 2001 a few more people had been tried and convicted (no death sentences can be given). In Rwanda itself local courts have tried several thousand cases and have handed down about 400 death sentences.

The UN and the prevention of Genocide

The atrocities of WW II prompted the UN General Assembly to pass a resolution on 12th December, 1946 to combat future genocides. The Assembly defined the term genocide as a denial of the right of existence of entire human groups by the destruction of the group in part or whole, based on racial, religious, political, and other considerations. In particular, and perhaps of major importance for our purposes here is the fact that the UN General Assembly also adopted among other resolutions the recommendation that international co-operation be organized between States with a view to facilitating the speedy prevention and punishment of the crime of genocide.

In April 2004, ten years after the Rwandan Genocide, the United Nations publicly acknowledged failure for not having done more to prevent or stop the genocide. It accepted



responsibility for the lives that were lost not only in Rwanda, but by extension in Bosnia. It expressed concern about the humanitarian crisis unfolding in the Darfur (UN Press Release AFR/89307/04/2004). The UN launched an Action Plan that should serve as an early warning signal for the prevention of genocide. The Action Plan include the prevention of armed conflict which usually provide the context for genocide, protection of civilians in armed conflict including a mandate for UN peacekeepers to protect civilians, ending impunity through judicial prosecution in national and international courts. Other parts of the action plan include collation of information and early warning through a UN Special Advisor for Genocide Prevention so that recommendations could be made to the UN Security Council on actions to prevent or halt genocide; swift and decisive action on a continuum of steps, including military action. At the end of the day, final action to prevent or stop genocide still rests with the UN Security Council and until the council is reformed, the selfish and myopic manner with which the permanent members pursue their various interests will make the laudable objectives of the Action Plan inoperable.

Human Security and Humanitarian Intervention

The concern for human rights protection underlies much of the international norms and conventions on genocide, war crimes, and crimes against humanity. This is based on the fact that these categories of crimes at the barest minimum reflect gross violations of human rights. The growing concern about human rights violations in conflict situations also brings into focus the calls for emphasis on “Human Security” (Cortright, 2008:288). For far too long, nation-states have been obsessed with the narrow realist conception of national security and as Lloyd Axworthy (2004), the former foreign minister of Canada asked: “security for whom” and “security from what threats, and by what means?” Axworthy and others with similar views advocate for a greater focus on the defense of individuals and communities. They demand for the concept of national security to be sufficiently enlarged to include not only the preservation of the territorial integrity of a state against external aggression, but also human security from civil conflicts, economic deprivations, and preventable diseases.

On the issue of humanitarian intervention, Cortright (2008:288) asks two pertinent questions: What happens when nonmilitary preventive measures fail to stop the outbreak of mass murder? Is there a moral right and political obligation under such circumstances to intervene militarily to protect the innocent? In May 1999, NATO forces commenced the bombardment of Serbian positions to force its withdrawal from Kosovo. This was after the Belgrade government refused the reconciliatory demands by the U. S. and its allies. China and Russia had also threatened to use the veto against any authorization of the use of military force against the Belgrade government. NATO’s action stirred controversy and debates. On one side were those who felt that NATO did the right thing by acting promptly to protect the Kosovo people. On the other side were those who implicitly agreed with the principle of humanitarian intervention to protect the innocent, but had problems with the legitimacy and legality of NATO’s action and request for proper legal and moral guidelines should such intervention becomes necessary in future (Ibid).

NATO’s military action lacked authorization from the UN Security Council. The majority of the Security Council members were favorably disposed to the authorization of military action, but Russia threatened to veto. In the aftermath of the Kosovo crises, an



Independent International Commission was established to assess the moral and legal implication of the NATO action. The commission released its report in October 2000 and affirmed that NATO's action was legitimate and morally justified. The commission observed however, that the NATO action was illegal because it was conducted outside of the UN Security Council approval. The Kosovo Commission established three threshold principles to guide future use of force to protect the innocent. Firstly, intervention should occur in situations of widespread civilian suffering, occasioned by gross human right violations and breakdown in law and order. Secondly, the basic aim of intervention should be limited to the protection of civilians; and thirdly, the military action should have a reasonable chance of success in terms of ending the human suffering.

The Responsibility to Protect

The Kosovo report created the environment for the creation of the International Commission on Intervention and State Sovereignty, also known as the Responsibility to Protect (R2P) commission which released its report in December 2001. The commission indicted the international community for its failure to protect innocent lives not only in Bosnia, but also in Kosovo, Rwanda, Somalia, and Darfur. The R2P report noted that the principle of sovereignty does not give states unlimited rights to do whatever they wish with their people. Rather, sovereignty comes with a dual responsibility: externally to respect the territorial integrity of other states, and internally to respect the basic rights and human dignity of its people. The report asserted that "In international human rights covenants, in UN practice, and in state practice itself, sovereignty is now understood as embracing this dual responsibility" (International Commission, 2001, 8, 1.35). Like the Kosovo commission report, R2P report provided that state sovereignty should be bridged only in the most exceptional and extraordinary circumstances such as the following:

- a) Cases of violence which shocks the conscience or pose a clear and imminent danger to international security;
- b) When serious and deathly harm is occurring or is about to occur and the state in question is unable or unwilling to end the harm, or is itself the perpetrator.

The "just cause threshold" is defined by the report as actual or imminent harm that involves large-scale loss of life caused by deliberate state action or neglect; and large-scale ethnic cleansing accompanied with killings, forced deportation, acts of terror or rape (Ibid) . The R2P report however reposed the power to authorize military action on the UN Security Council. This is one of the traditional functions of the Council, one it has not been able to perform effectively due to internal politicking and the narrow and selfish interests of its members. The failure of the Security Council to rise to the occasion has been noted in Bosnia, Kosovo, Rwanda, and currently, the Darfur. Until the Security Council is reformed, the desire of the international community to prevent genocide and other crimes and in particular the ability of the Security Council to act decisively in matters of international peace and security will continue to be curtailed.



Reforming the UN Security Council

Efforts to reform the voting system in the Security Council has a long history starting from 1950 when then US Secretary of State, Dean Acheson, developed a proposal designed to neutralize the Soviet Union's veto power in relation to the Korean War. In what became known as the 'Uniting for Peace' procedure, Acheson proposed the idea of turning to the UN General Assembly to respond to aggression and threats to international peace and security when the Council was prevented from fulfilling its obligations because of the threat of a veto. In the 1960s, attempts to reform the council degenerated into efforts to enlarge the council membership rather the reforming of the voting system. Even now, Cortright (2008: 294) argues that the composition of the council be sufficiently enlarged to more accurately represent the world community, and to enhance its credibility and authority to act on controversial matters such as humanitarian intervention. Cortright suggests that major countries in Africa, Asia and Latin America be brought in to enlarge the composition of the council. Perhaps the most compelling proposition so far is The Responsibility not to veto campaign, which proposes that the five permanent members of the UN Security Council (P5) should agree not to use their veto power to block action in response to genocide and mass atrocities which would otherwise pass by a majority. The concept is not a new one having been discussed in many international forums for almost a decade as part of the Responsibility to protect (R2P) report. The logic behind this proposal is that, if the permanent members refrain from using their veto powers or even the threat to do so in matters of genocide and atrocities against civilian populations, it would be easy for the UN Secretariat or other agencies so designated to mobilize action for humanitarian intervention. The proposal by the African Union (AU) that for a veto to become effective, it must be exercised by two permanent members of the Security Council would not help matters because two permanent members can collude to obstruct intervention in a humanitarian crisis just like Britain and the United States did in the case of Rwanda.

Summary and Conclusion

The crime of genocide debases the human race. It's man's inhumanity to man at its most cruel form. The genocide convention had laid dormant for almost fifty years due largely to the politics of the cold war. Since it began to be put to use in the 1990s, it has recorded successes in the prosecution of perpetrators and in the handing down of punishments. Much of these successes are due to the activities of the International Criminal Court (ICC), and the ad hoc tribunals established for particular cases. However, undue concern about state sovereignty and the veto power in the UN Security Council (and even the threat to use the veto) has made genocide prevention less than effective. The major preoccupation of this article has been that there should be a paradigmatic shift from emphasis on prosecution to prevention. Bringing perpetrators to book is admirable but it cannot bring back tens of thousands of life that had been destroyed. National security should be broadened to include human security. The Responsibility to Protect (R2P) implies a dual responsibility: respect for the sovereignty of nation-states, and respect of the dignity and basic rights of a country's citizens. When the internal responsibility is lacking, the principle of nonintervention should yield to the responsibility to protect (Cortright 2008: 294).

The intervention of NATO in the Kosovo crisis shows that humanitarian intervention is possible when the international community can muster the will to undertake it. NATO's



intervention however, had raised serious issues of legitimacy and legality, which the Responsibility to Protect (R2P) commission has addressed by establishing “just thresholds” for humanitarian intervention. The commission however reposes the power and right to authorize intervention on the UN Security Council. It is well known and it has been noted in the preceding sections of this article that the Security Council has played ignominious roles in genocide crisis. We have witnessed this happened in Bosnia and Rwanda. There are many proposals for reforming the Security Council but perhaps the most compelling is the Responsibility Not to Veto campaign, which advocates that the five permanent members of the UN Security Council (P5) should agree not to use their veto power to block action in response to genocide and mass atrocities which would otherwise pass by a majority. The effectiveness of the international community to prevent future genocides from occurring might well depend on this and other such efforts

References

- Arendt, H. (1959). *The Human Condition*, Chicago: Univ. of Chicago Press.
- Arendt, H. (1969). *On Violence*, NY: Harcourt, Brace and World, Inc.
- Axworthy, L. (2004). *Navigating a New World: Canada's Global Future*, Toronto: Vintage Canada.
- Bassey, C. and Oshita, O. (eds.) (2007). *Conflict Resolution, Identity Crisis and Development in Africa*, Lagos: Malthouse Press Limited
- Best, S. G. (2006). *Introduction to Peace and Conflict Studies in West Africa*, Ibadan: Spectrum Books Limited.
- Blatter, A. (2010). “The Responsibility Not to Veto: A way forward” Washington DC: Citizens for Global Solutions.
- Butters, M. J. (2007). “Genocide Prevention through Changing the United Nations’ Security Council Power of Veto,” Unpublished M. A. Thesis, Univ. of Waikato, New Zealand.
- Cortright, D. (2008). *Peace: A History of Movements and Ideas*, New York: Cambridge Univ. Press
- Feil, S. R. (1997). “Could 5,000 Peacekeepers Have Saved 5, 00,000 Rwandans? Early Intervention Reconsidered,” ISD Report, Washington D. C: Georgetown University, School of Foreign Service, Institute for the Study of Diplomacy, III, No. 2, April.
- Galtung, J. (1969). “Violence, Peace, and Peace Research”, *Journal of Peace Research*, 6. <http://www.chomsky.com>
- Hoffman, J. and Paul Graham (2006). *Introduction to Political Theory*, Harlow, UK: Pearson Longman Publishers.
- Keane, J. (2004). *Violence and Democracy*, Cambridge: Cambridge University Press.
- Keane, J. (1996). *Reflections on Violence*, London: Verso Publishers.
- Kershaw, Ian (2005). “War and Political Violence in Twentieth-Century Europe”, *Contemporary European History*, 14, 1, pp. 107-123.
- Miall et al (1999). *Contemporary Conflict Resolution*, Cambridge: Polity Press.
- Rommel, R. J. (1988) Genocide: Meaning and Definition.
- Riga, P. J. (1969). “Violence: A Christian Perspective” *Philosophy East and West*, IS (April) p. 145.
- Shaw, M. (2003). *War and Genocide*, London: Polity Press.



- Von Clausewitz, C. (1950). *On War*, Trans: O. J. Matthijs Jolles, Washington DC: Infantry Journal Press.
- Wydra, H. (2008). "The Recurrence of violence," *Sociology Compass* 2, No. 1.
- Weber, M. (1919). "Politics as a vocation" in *From Max Weber: Essays in Sociology*, eds. H. H. Gerth and C. Wright Mills, London: Routledge.
- Yeats, W. B. (1919). *The Second Coming* in Harmon, William, ed. *The Classic Hundred Poems*, New York: Columbia Univ. Press, 1998

