

The Battle Between Human Rights and Development in Post-Conflict Situations:
Assessed Through the Lens of the Rwandan Model

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Paul Olubayo

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Janet Walsh, Senior Fellow

Professor Fionnuala Ni Aolain

The principles of human rights and development share both a common vision and a common purpose; the desire “to secure, for every human being, freedom, well-being and dignity”.¹ These basic, underlying principles have been promoted and advocated in various differing forms throughout human history, with the United Nations Development Programme (UNDP) noting that concern for these two principles can be dated as far back as the French Declaration of the Rights of Man in 1789.² Further, throughout history we have seen endeavors to link these two agendas in a mutually beneficial relationship. It has been stated that one of the central achievements of the first World Conference on Human Rights in 1968, was its assertion that *‘the achievement of lasting progress in the implementation of human rights is dependent upon sound and effective national and international policies of economic and social development.’*³ The international community would take this a step further in 1977 when the United Nations Commission on Human Rights proclaimed the existence of a human right to development,^{4 5} which would later be adopted formally by the UN General Assembly in 1986.⁶

However, despite the longstanding relationship between the two concepts, the pair exist in parallel with one another and continue to undergo separate evolutions.⁷ As Siobhan McInerney-Lankford notes, *“the relationship between human rights and development today is arguably defined more by its distinctions and disconnects than by its point of convergence”*,⁸ this comes

¹ United Nations Development Programme, *“Human Development Report 2000: Human Rights and Human Development”*, (2000), <available at: <http://hdr.undp.org/en/content/human-development-report-2000>>.

² UNDP, *Human Rights Development Report 2000*, (n.1), 19.

³ The Proclamation of Teheran, para. 13, in *Final Act of the International Conference on Human Rights*, UN doc. A/CONF.32/41 (1968).

⁴ Commission on Human Rights Res. 4 (XXXIII) (1977).

⁵ P Alston, M Robinson, *“Human Rights and Development”*, (1st Edition Oxford University Press: 2005), 1.

⁶ United Nations General Assembly, “Declaration on the Right to Development”, Article 1 (1), 1986, <available at: <https://www.ohchr.org/en/professionalinterest/pages/righttodevelopment.aspx>>.

⁷ S McInerney-Lankford, (2009), *“Human Rights and Development: a Comment on Challenges and Opportunities from a Legal Perspective”*, *Journal of Human Rights Practice*, 1, 51-82, 51.

⁸ McInerney-Lankford, *“Human Rights and Development”*, (n.7), 51.

even in spite of the two principles' longstanding intertwined relationship and the existing potential for mutual reinforcement. Despite now being over a decade old, McInerney-Lankford's assertions still ring true, whether it be in scholarly discourse or assessment of real-world examples, the divide between the principles and the practice of international human rights and international development persists. Although the two principles naturally converge in the theoretical on a macro level; there exists a distant gap between the manner in which the two are practiced on the micro, enforcement, level. Furthermore, there still exist a number of environments where the two principles are required to not only cohabit but also work in unison. However, as this paper will seek to explore, the reality is that a tension exists between the two practices in circumstances and situations where both of these principles are promoted. A tension which results in one of these practices being promoted and celebrated above the other. One such area is in the remit of state building and more specifically nations rising and rebuilding in the aftermath of conflict.

Human rights principles and law typically take up a central role within states climbing out of a sustained and destructive period of conflict. In such circumstances there is a heightened need for the institutionalization of a solid human rights regime which protects civil liberties, promotes the rule of law and holds perpetrators accountable, thus preventing a crippling cycle of impunity. Thereby ensuring the state in question is giving credence to the responsibility to respect and recognize the dignity and freedom of all citizens within the nation.⁹ By the same token, nations undergoing this transition from conflict to peace have typically seen their entire way of life uprooted and destabilized due to the destructive nature of conflict. Therefore, such nations need also ensure they possess a strong development plan which puts the nation's future at the

⁹ Universal Declaration of Human Rights (UDHR), Preamble, 1948.

forefront; outlining steps to root out the systemic issues which initiated the conflict in the first place. In instituting such a plan, post-conflict states are able to better equip themselves against the ever-present possibility of spiraling back into a state of conflict, whilst all the while allowing the country and its people to grow and advance their livelihoods, both as individuals and as a collective. Ultimately, what is clear from this brief overview is that both human rights and development are of paramount importance within post-conflict spaces. Yet, what we have instead seen with growing frequency is the promotion of development and developmental policies and principles above human rights. Furthermore, what is truly troubling is the growing trend of development-based policies and ideals being utilized and weaponized as a justification to dwarf the importance of human rights within the very precarious space of post-conflict societies. This battle between the manner in which these two principles are put into effect has been evidenced in a few different country situations in recent history but has maybe been none more prevalent than within the nation of Rwanda which serves as the case study for this examination.

Post-genocide Rwanda represents a quite extraordinary case study. The nation's story since the culmination of the genocide in 1994 acts as both a shining light and a stark warning. As the Financial Times notes, out of the ashes of genocide, President Paul Kagame has overseen the creation of a thriving economy, clamped down on corruption and lifted thousands of people out of poverty.¹⁰ However, at the same time his regime has also been accused of suppressing political dissent, instituted and overseen a pervasive system of surveillance and has been linked to suspected assassinations.¹¹ So vast are the allegations against Kagame's Rwandan Patriotic

¹⁰ T Wilson, D Blood, "Rwanda: Where Even Poverty Data Must to Kagame's Line", The Financial Times, <Available at: <https://www.ft.com/content/683047ac-b857-11e9-96bd-8e884d3ea203>>.

¹¹ Freedom House, "Freedom in the World 2019: Rwanda", <Available at: <https://freedomhouse.org/report/freedom-world/2019/rwanda>>.

Front (RPF) regime, that in their 2019 Freedom in the World review, the NGO Freedom House labelled the nation ‘not free’ per their review metric, with a freedom score of 23 out of 100 on Freedom House’s scale. Despite this, Rwanda’s economic growth and national development has been so exceptional that some commentators are even beginning to question whether, what has been dubbed, ‘the Rwandan model’ could be utilized as a global framework for other transitioning nations, even in spite of the authoritarian nature of the government.¹² In assessing Rwanda’s post-genocide trajectory we find a number of examples where the need to respect human rights and the need for development and growth have been in direct conflict with one another, and in most instances, development has come out victorious.

This paper will seek to analyze how Rwanda has balanced its human rights obligations alongside its development obligations during the nation’s 25 year transition out of genocide. Moreover, in conducting this analysis, this paper will assess the action, and inaction, of the United Nations (UN), international donors and a ranged of other relevant actors within the international community in order to highlight how these actions have facilitated the pursuit of development being prioritized above the advancement of human rights. Thereby seeking to provide some clarity into the priorities of the international community as it pertains to transitioning nations. In order to assess these issues, I utilize a range of secondary sources from Non-Governmental Organizations (NGOs), The UN and other international bodies. Additionally, the work of Susan Thomson and specifically her book “*Rwanda: From Genocide to Precarious Peace*”¹³ will be heavily sourced throughout this paper. Ultimately, through outlining both Rwanda’s human rights and development initiatives since 1994, in conjunction with assessing the manner in which

¹² Andrew Friedman, (2012), ‘*Kagame’s Rwanda: Can an Authoritarian Development Model Be Squared with Democracy and Human Rights*’, 14 Oregon Review of International Law 253-277, 269.

¹³ S Thomson, “*Rwanda: From Genocide to Precarious Peace*”, (Yale University Press: 2018).

international institutions and individual states have engaged with the nation in the more than quarter century since the culmination of the genocide. This paper will assess the uneasy parallel relationship which has existed, and continues to exist, between human rights practices in comparison to development focused practices within post-conflict situations. The paper thereby seeks to assess how through continued financial funding and material support the international community has fed into this battle and thus enabled development to be promoted in the face of human rights being violated and impeded upon. Thus, allowing one of these staples of international governance to reign over the other.

The Importance of Human Rights and Development on the International Scale:

Alongside the maintenance of peace and security, the pursuit of human rights and the pursuit of international development – or social progress as it is labelled in the UN Charter – form the foundational basis upon which the UN framework has been built.¹⁴ Although weighted equally and introduced simultaneously on the international scale, these concurrent principles have undergone two very different trajectories which, to some extent, has seen human rights and development part ways, specifically when we review the context of how these ideals are applied in a practical sense. Theoretically, the two can never, and should never, be separated as we have seen a number of international declarations designed to marry the two together. The UN Commission on Human Rights in both 1977¹⁵ and 1979¹⁶, positively affirmed the right to development. Which in turn would set the stage for the UN General Assembly to officially

¹⁴ Charter of the United Nations, Article 1, <available at: <https://www.un.org/en/sections/un-charter/un-charter-full-text/>>.

¹⁵ United Nations Commission on Human Rights, “Resolution on the Question of the Violation of Human Rights in the Middle East”, E/CN.4/Res/1 (XXXIII), 1977. <available at: <https://unispal.un.org/DPA/DPR/unispal.nsf/0/5D829C7A4B9A850705256816005B3E75>>.

¹⁶ United Nations Commission on Human Rights, “Declaration on the Right to Development”, 1979, <available at: https://legal.un.org/avl/pdf/ha/drd/drd_ph_e.pdf>.

ordain the right to development as an “inalienable human right by virtue of which every human person...[is] entitled to participate in, contribute to and enjoy”¹⁷ in 1986. This would in turn be followed by the Vienna Declaration and Programme of Action¹⁸ which commented on the indivisibility of human rights; reaffirming the right to development as an “inalienable right and an integral part of fundamental human rights”.¹⁹ Additionally, the declaration goes on to assert that the human person is the central subject of development and that development may not be invoked to justify the abridgement of internationally recognized human rights.²⁰ All of which combines to ensure that these two principles have become so intrinsically linked that they could never truly exist independent of one another. As Phillip Alston notes, this linkage is an extremely welcome step as it reflects an acceptance of what had been the growing trend at the time, which had seen a shift toward the need for states and international actors to consider the deeper underlying economic foundations which gave rise to human rights violations, in any assessment of abuses.²¹

However, the truth remains that the practice of human rights and development continue to undergo two separate evolutions.²² Even within the shared sanctuary of the UN, the Office of the High Commissioner for Human Rights works to a very different mandate and agenda than that of the UNDP. Where the World Bank works to promote shared prosperity and increased growth,²³ the International Criminal Court seeks to end impunity and secure a future free of violence.²⁴

¹⁷ “Declaration on the Right to Development”, (n.6), Article 1 (1).

¹⁸ Vienna Declaration and Programme of Action, World Conference on Human Rights in Vienna, June 1993, <available at: <https://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>>.

¹⁹ Vienna Declaration, (n.18), Part 1, Article 10.

²⁰ (n.18), Part 1, Article 10, Para.3.

²¹ P Alston, (1979), “Human Rights and the New International Development Strategy”, Bulletin of Peace Proposals, Vol. 10, No. 3, 281-290, 282.

²² (n.7), 51.

²³ The World Bank, <available at: <https://www.worldbank.org/en/who-we-are>>.

²⁴ The International Criminal Court, <available at: <https://www.icc-cpi.int/about>>.

Even in spaces where the two are said to coexist and come together as one entity, an uneasy and unequal relationship exists. To this point, we can take the UNDP's Sustainable Development Goals (SDGs) as an example. The UN themselves have admitted that at the turn of the millennium when these SDGs were originally conceptualized and implemented (then as Millennium Development Goals), they were intended to serve as a proxy for certain economic and social rights, but in actuality they ignored important human rights linkages which existed.²⁵ Therefore, although many of the outlined goals, such as; quality education, gender equality and peace, justice and the pursuit of strong institutions,²⁶ have a home within codified human rights provisions, in this instance that human rights foundation was taken away and these principles became aspirational goals within the remit of development.

Likewise, it has long been accepted within some UN discourse, that one of the greatest dangers we face in constructing development policy *“lies in the tendency to give to the more material aspects of growth an overriding and disproportionate emphasis.”*²⁷ In stating this, the UN Committee on Programme Appraisals were expressing their fear that human rights, and human beings themselves, would be submerged and forced to take a back seat in the formulation of international and national policies, with the pursuit of positive development and growth taking centerstage.²⁸ This dynamic is also at play in more contemporary UN policies. In 2019, the UN would enter into partnership with the World Economic Forum in order to help finance and

²⁵ Office for the High Commissioner for Human Rights, *“Human Rights and the 2030 Agenda for Sustainable Development”*, <available at: <https://www.ohchr.org/EN/Issues/SDGS/Pages/The2030Agenda.aspx>>.

²⁶ United Nations Development Programme, Sustainable Development Goals, <available at: <https://www.undp.org/content/undp/en/home/sustainable-development-goals/>>.

²⁷ United Nations Department of Economic and Social Affairs, *“Report by the Committee on Programme Appraisals”*, E/3447/Rev.1, para. 90, 1960, <available at: <https://digitallibrary.un.org/record/793497?ln=en>>.

²⁸ UN Department of Economic and Social Affairs, *“Report by the Committee on Programme Appraisals”*, (n.27).

accelerate progress toward the achievement of the UN's Sustainable Development Goals.²⁹

Although the partnership is designed to specifically focus resources toward the pursuit for universal health coverage, gender equality and reducing educational inequalities, the agreement centers these issues within a development frame and at no point references how this partnership will also progress and assist in achieving human rights goals and standards.³⁰

Thus, as human rights discourse is typically void of the same overt material indicators of success such as Gross Domestic Product (GDP), monthly household income and national poverty rates, which the world of development is privy to, there exists an underlying concern that development may be weighted too highly when put against human rights.³¹ It is this dynamic and concern which this paper will seek to delve into and analyze in greater detail. Moreover, in the same 1960 report by the UN Committee on Programme Appraisals, the committee go on to express the fear that methods of development will be utilized, and weaponized, as a means to deny basic human rights.³² Which falls quite perfectly in line with the nation that shall serve as the case study for this critical exploration.

Putting Rwanda's Reconstruction in Context:

As Rwanda, and its development model specifically, will serve as the lens through which we analyze the role human rights and development each play in post-conflict settings, it is important to first depict the circumstances which have fueled, shaped and directed the past 25 years of Rwanda's history and development.

²⁹ "World Economic Forum and UN Sign Strategic Partnership Framework", WeForum, June 2019, <available at: <https://www.weforum.org/press/2019/06/world-economic-forum-and-un-sign-strategic-partnership-framework/>>.

³⁰ UN-World Economic Forum Partnership Framework, <available at: <https://weforum.ent.box.com/s/rdlgipawkjxi2vdaidw8npbtyach2qbt>>.

³¹ UN Department of Economic and Social Affairs, (n.27).

³² (n.27).

At the culmination of the 1994 genocide Rwanda was truly a decimated nation, to call the circumstances before the nation dire would be a gross understatement. Although an official death toll has never been confirmed; it is widely accepted that over the span of the 100-day genocide in excess of 800,000 ethnic Tutsi were killed, along with another 200,000 Hutu-moderates.³³ In a nation of just over seven million people at the time, approximately, one in eight Rwandans perished between April and July 1994.³⁴ The Rwandan genocide occupies a very unique place in the realms of human history. The ethnic genocide which took place stands as one of the most destructive examples of violence in the post-war era, as researcher Susan Thomson puts it, “Rwanda was home to the most efficient genocide of the twentieth century.”³⁵ The severity, weight and gravity of violence which occurred over those 100 days have formed the basis of much discussion and research in the quarter century since the conclusion of the genocide.

Aside from the sheer loss of life, the genocide created a plethora of other problems which would cripple Rwanda across numerous sectors. In Oscar Kimanuka’s “*Sub-Saharan Africa’s Development Challenges*”³⁶, he details the consequences which the civil war and subsequent genocide had bestowed upon Rwanda. He notes that, banks had been shut down, significant amounts of the nation’s money supply had been taken out of circulation and had to be redistributed to refugee camps, he also notes that the administrative capacity of the government had been completely obliterated.³⁷ Furthermore, Kimanuka references the former Governor of Rwanda’s Central Bank, Gerard Niyitegeka, who in May 1995 in an interview with Relief Web stated, that in July 1994 the fleeing interim government left with 24 billion Rwandan Francs, he

³³ “Rwanda Genocide: 100 Days of Slaughter”, <Available at <https://www.bbc.com/news/world-africa-26875506>>.

³⁴ Thomson, “Rwanda: From Genocide to Precarious Peace”, (n.13), 24.

³⁵ Thomson, (n.13), 4.

³⁶ O Kimanuka, “*Sub-Saharan Africa’s Development Challenges: A Case Study of Rwanda’s Post-Genocide Experience*”, (Palgrave Macmillan: 2009), 45.

³⁷ Kimanuka, “*Sub-Saharan Africa’s Development Challenges*”, (n.36), 45.

goes on to highlight that the amount looted represented twice the amount of currency in circulation at the time. The nation's already low GDP had more than halved, and the rate of inflation reached 40%.³⁸ The nation was in a state of ruin and the future was extremely bleak. Rwanda's redevelopment effort was hampered even further by the fact that their public sector and professional industries had both been absolutely decimated due to the severity of lives lost during the genocide. Less than one-third of the civil service and only 3 percent of professional staff had returned by the end of 1994, leaving the Government of National Unity in an extremely precarious position.³⁹ Furthermore, due to the tactics utilized by the genocidaires many judges, lawyers, and other judicial staff had been killed, thus leaving much of the country's critical infrastructure destroyed and wholly inadequate to handle the multitude of issues which needed to be addressed in the post-genocide period.⁴⁰

Even further, by August 1994, there were some two million Rwandan refugees living in neighboring countries and another million citizens were internally displaced within the country.⁴¹ The three million people who remained in the country, which in itself represented only 40% of the pre-genocide population, included 250,000 women who had been raped, nearly 100,000 orphaned children and an estimated 50,000 widows.⁴² Moreover, almost 70% of women who were raped during the genocide had contracted HIV⁴³, thus leaving the nation with a very serious and desperate medical crisis on the ground. When we consider all of the realities detailed above

³⁸ Kimanuka, (n.36), 45.

³⁹ Kimanuka, (n.36), 45.

⁴⁰ Human Rights Watch, "*Rwanda: Justice After Genocide – 20 Years on*", March (2014), <available at <https://www.hrw.org/news/2014/03/28/rwanda-justice-after-genocide-20-years#>>.

⁴¹ Thomson, (n.13), 30.

⁴² Survivors Fund (SURF) Statistics, <available at: <https://survivors-fund.org.uk/learn/statistics/>>.

⁴³ Amnesty International, "*Marked for Death: Rape Survivors Living with HIV in Rwanda*", (2004), <available at: <https://www.amnesty.org/download/Documents/92000/afr470072004en.pdf>>.

in unison, we see the extremely bleak picture and circumstances which faced the Government of National Unity in July 1994. Although the genocide had ended there still remained a tremendous amount of work to be done in order to prevent the nation facing even greater hardship than already apparent. The years to come would see the nation undertake a number of steps to help alleviate these dire circumstances and help to return the nation to a semblance of normalcy. Some of the more monumental steps taken by the Rwandan government would both address the need to not only ensure that vital human rights were appreciated and actively upheld within the nation, but that they also planned for the years to come and how they could move the country forward and away from any chance of regression into a failed state or a nation at war. The next few sections of this paper shall look to both detail and assess a number of these steps that were taken and critically examine how they progressed the nation's human rights agenda, or the nation's developmental aspirations. Further, these sections will also seek to determine the involvement, both overt and concealed, of significant actors of note within the wider international community to these various efforts conducted within Rwanda, whilst also evaluating what this involvement can tell us about the international communities' priorities in dealing with a nation transitioning out of conflict.

Post-Genocide Rwanda's & the Creation of a Human Rights Apparatus:

Rwanda's human rights record can be described as checkered at best. The nation has developed a very unique relationship with international human rights principles and doctrines, during its progression since 1994. As will be documented in this section, there are a great number of areas where the nation decidedly fails to uphold its civil and political human rights obligations as affirmed within the International Covenant on Civil and Political Rights.⁴⁴ However,

⁴⁴ International Covenant on Civil and Political Rights, 1966.

paradoxically, in a multitude of other categories, the nation is somewhat of a beacon and example for human rights advancement and progress. Thus, under Kagame's leadership, Rwanda's positive compliance with human rights has been complex. That being said, post-genocide Rwanda has, at least on its face, attempted to develop a concrete and coherent human rights apparatus within the nation. Since 1994, whether it be under the purview of Government of National Unity, Paul Kagame's RPF regime or more large scale efforts conducted by the international community, we have seen a number of initiatives and mechanisms instituted within Rwanda seeking to positively ensure and facilitate the nation's long-term commitment and compliance with human rights. In assessing how human rights has been factor in this specific post-conflict setting, this paper will examine the new national constitution of Rwanda, and the nation's pursuit for justice and criminal accountability as evidence to highlight how the nation has promoted human rights to the wider international community. This section will then culminate with a deeper exploration into how the nation has actually been actively repressing civil liberties and human rights whilst still receiving assistance from the wider international community, who have also continued to praise the nation for its growth and progress over this post-conflict period.

The Constitution of the Republic of Rwanda:

The most overarching example of Rwanda's focus on human rights nationally, was the development and ratification of their new constitution in 2003. In most instances where a nation seeks to successfully transition out of mass violence and conflict into a period of peace and development, this shift is typically accompanied with the formation of a new national constitution in order to signal a commitment to this transformation and codify a new way of

thinking and being for the nation. Whether it be South Africa post-apartheid in 1996,⁴⁵ Croatia following the break-up of the former Yugoslavia,⁴⁶ Japan in the aftermath of World War Two,⁴⁷ or even the United States all the way back in 1788 following the revolutionary war,⁴⁸ a clear sign of a nation's commitment to transition is the development and enactment of a new constitution, and Rwanda would prove no different.

The Constitution of the Republic of Rwanda was endorsed by referendum in May 2003 and became effective in June of the same year. The constitution holds number of special provisions and qualities, but it is specifically important due to its focus and emphasis upon national unity and its promotion of personal liberties and human rights.⁴⁹ Within the original 2003 iteration of the constitution, as well as the subsequent amended versions there are whole sections dedicated to outlining the specific human rights which the new Republic of Rwanda has guaranteed to its citizens. This includes provisions such as, the right to life⁵⁰, the right to physical and mental integrity⁵¹ and the right to a clean environment⁵². Additionally, the constitution also features provisions which relate specifically to the nation's commitment to prevent the reoccurrence of genocide or civil war in the future. This includes constitutional provisions which make illegal public references to the very ethnic identities which fueled the genocidal attacks in the first place,⁵³ and the criminalization of both ethnic divisionism and any future attempts to revise or

⁴⁵ The Constitution of the Republic of South Africa, 1996.

⁴⁶ The Constitution of Croatia, 1990.

⁴⁷ The Constitution of Japan, 1947.

⁴⁸ The Constitution of the United States of America, 1788.

⁴⁹ Rwanda: Constitution and Politics, The Commonwealth, <available at: <https://thecommonwealth.org/our-member-countries/rwanda/constitution-politics>>.

⁵⁰ The Constitution of the Republic of Rwanda, 2003, Title 2, Chapter 1, Article 12.

⁵¹ The Constitution of Rwanda, Title 2, Chapter 1, Article 15.

⁵² The Constitution of Rwanda, Title 2, Chapter 1, Article 49.

⁵³ The Constitution of Rwanda, Title 2, Chapter 1, Article 33.

trivialize the genocide.⁵⁴ Although, on its face a positive development and a welcome step in combatting fears of the international community of a regression back into genocide and the RPF's own fear and legitimate concern for future genocide denial.⁵⁵ The positive sentiment behind these measures listed in the constitution, have not been realized in their practical application. To the point where, the manner in which these provisions are being implemented may actually be criticized as overly pervasive. Thomson notes that the new laws implemented to uphold these constitutional provisions have been utilized to police discourse in both the public and home life of everyday Rwandans, and as such has had a detrimental effect on the right to free speech within the country.⁵⁶ As exemplified by the 2002 law against "divisionism" (then called "sectarism"), which reads:

*"the practice of sectarism is a crime committed by any oral or written expression or any act of division that could generate conflicts among the population or cause dispute."*⁵⁷

A crime which has since been read in the strictest possible sense, and utilized as a means for the RPF to curtail and impede on the freedoms of political opponents within Rwanda. As exemplified through the charges leveled against political opponent Diana Rwigara who had been arrested and charged with inciting insurrection (on charges which appeared to have been trumped up) on the basis of her critical takes against the government in September 2017, before the charges were later dropped.⁵⁸

⁵⁴ The Constitution of Rwanda, Title 2, Chapter I, Article 13.

⁵⁵ Thomson, (n.13), 163.

⁵⁶ Thomson, (n.13), 163.

⁵⁷ Human Rights Watch, "Law and Reality: Progress in Judicial Reform in Rwanda", (New York: Human Rights Watch, 2008), 34-43.

<available at: <https://www.hrw.org/reports/2008/rwanda0708/rwanda0708web.pdf>>

⁵⁸ Human Rights Watch, World Report: Rwanda 2019,

<available at: <https://www.hrw.org/world-report/2019/country-chapters/rwanda>>.

Ultimately, although Rwanda has been praised and celebrated for just how quickly they have been able to mobilize out of genocide, create, sign and ratify a new national constitution which provided essential and progressive human rights protections. When assessed under a more critical lens, there is room to question both the effect and purpose of some of these new provisions. On paper, these provisions represent extremely progressive, forward-thinking and positive steps in the advancement of human rights. However, in reality tensions exist around how these provisions impede upon the right to freedom of speech under both Rwandan law⁵⁹ and international law.⁶⁰ Consequently, this has created a tense dynamic where civil and political rights are being impeded in a manner adverse to the nations proposed human rights standards. Whilst, simultaneously the nation has continued to excel in its economic and social commitments which has seen the economy grow exponentially in the years since the genocide. As such, this has created a relationship where development, and progress in that sector, is being advanced, all the while civil and political human rights are seemingly being curtailed and repressed. Thus, ultimately, there is room to question both the veracity and sincerity behind many of these provisions. As evidence seems to suggest that instead of acting as positive, progressive vessels for the advancement of human rights ideals, these provisions are being implemented in a manner which suppresses civil liberties thereby supplementing authoritarian rule.

The Pursuit of Justice & Criminal Accountability:

Where a nation has been engulfed in mass violence and conflict, and has thus been besieged with gross violations of international human rights law, there exists a need for some semblance of justice and accountability when this violence has ceased. The scholarship around this issue of

⁵⁹ The Constitution of Rwanda, Title 2, Chapter I, Article 34.

⁶⁰ UDHR, (n.9), Preamble.

accountability is very clear⁶¹, and emphasizes the fundamental importance of war-torn nations seeking some level of accountability for past atrocities. As Professor Jane Stromseth notes, if this issue of accountability is not addressed in some manner the society in question runs the risk of developing new structures of law upon extremely shaky and precarious foundations.⁶² Although this can never take away the suffering which has been caused, establishing measures and mechanisms designed to pursue justice for atrocities goes a long way to helping victims come to terms with the past, and also signals to all citizens of the nation and the international community more broadly, that you as a nation are wholly committed to ensuring that such abuses do not reoccur.⁶³

Criminal accountability and human rights have grown to develop a synonymous relationship over time. The pursuit of criminal accountability has a direct linkage and correlation to a great number of central human rights principles and tenets. When criminal accountability is sought in a fair and just manner, it touches upon the right to an effective remedy,⁶⁴ the right to a fair trial⁶⁵ and in this specific context, seeking criminal accountability works as a retrospective remedy to infringement upon the right to life.⁶⁶ The need to pursue criminal accountability in post-conflict situations has been a central part of international discourse for a number of years. Aside from the obvious presence of the International Criminal Court to ensure the existence of a permanent authority to seek accountability in such instances, it has also long since been a principle of the UN to push for accountability as previously war-torn nations seek to transition into a more

⁶¹ J Stromseth, (2007), *"Pursuing Accountability for Atrocities After Conflict: What Impact on Building the Rule of Law?"*, Georgetown Journal of International Law, 251-322.

⁶² Stromseth, *"Pursuing Accountability for Atrocities After Conflict"* (n.61), 251.

⁶³ Stromseth, (n.61), 252.

⁶⁴ UDHR, (n.9), Article 8.

⁶⁵ (n.9), Article 10.

⁶⁶ (n.9), Article 3.

peaceful present and a prosperous future. In a 2004 United Nations Secretary-General (SG) report entitled: *“The Rule of Law & Transitional Justice in Conflict and Post-Conflict Societies”*, the SG acknowledged that some form of justice for violations was crucial for societies emerging from violent conflict, as dealing with the legacy of the past crimes was essential in seeking to build a more peaceful state in the future.⁶⁷ In the same report, the SG notes that in many instances, this need for justice may take the form of criminal trials, which provide a direct form of accountability for perpetrators, whilst simultaneously providing a measure of justice for victims.⁶⁸

The measures implemented by Rwanda, in conjunction with the international community more largely have been extensively studied in order to assess how viable these measures could be for other nations in future contexts. One of the reason the wider international community have found themselves marveling at Rwanda’s attempt to enforce human rights through criminal accountability post-genocide, is due to the internal juxtaposition the nation faced in attempting to balance the colossal number of potential perpetrators, with the distinct lack of judicial and legal capacity at the nation’s disposal. At a very early stage within the post-genocide redevelopment period, the RPF made very clear their intention to seek maximal persecutions for genocide in a bid to prevent the evolution of a crippling culture of impunity, similar to that which the RPF believed had been a contributing factor to the genocide.⁶⁹ Legal accountability for the Rwandan genocide would be sought on three levels: the local, the national and the International. For the purposes of this paper, we will focus our attention upon the international level of these three tiers

⁶⁷ United Nations Secretary General Report, *“The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies”*, (2004), <available at: <https://www.un.org/ruleoflaw/files/2004%20report.pdf>>.

⁶⁸ UNSG, *“The Rule of Law and Transitional Justice”*, (n.67), 13.

⁶⁹ Thomson, (n.13), 124.

and what this tell us regarding the international community and its commitment to enforcing human rights principles through the medium of criminal accountability. At the international level, the United Nations Security Council (UNSC), would work with, and on behalf of, Rwanda to institute the International Criminal Tribunal for Rwanda (ICTR), to “*prosecute persons responsible for genocide and other serious violations of international humanitarian law*”.⁷⁰ The creation of the ICTR reflects the international communities expression of some core human rights provisions such as; the right to effective remedy⁷¹ and the right to fair public hearing⁷², as previously referenced.

The history and the circumstances behind the ICTR, help us learn a lot in regard the international communities’ opinions toward criminal accountability as means to implementing human rights within post-conflict settings. Upon analyzing the functioning of the ICTR, it becomes clear that the international community and the actors within it were very supportive of the need to obtain criminal accountability and the human rights benefits which this action would cultivate, to the point where many nations put their money where their mouths were. In 1996, the ICTR’s second year of operation, it was estimated that over \$38 million was needed for the tribunal’s operations for the year. To help fund this the UN, through their own budget, would make available over \$11 million for the tribunals operations that year.⁷³ Moreover, through the UN’s voluntary contributions fund, another \$5 million would be donated by more than 15 nations to help contribute to the cost of operations; with the Netherlands alone contributing close to \$3 million.⁷⁴ Aside from just financial contributions, we also saw the international community

⁷⁰ The International Criminal Tribunal for Rwanda, <https://unictr.irmct.org/en/tribunal>

⁷¹ (n.9), Article 8.

⁷² (n.9), Article 10.

⁷³ United Nations General Assembly, “*Report of the Advisory Committee on Administrative and Budgetary Question*”, A/50/923, 1996, <available at: https://www.un.org/ga/search/view_doc.asp?symbol=A/50/923>.

⁷⁴ “*Report of the Advisory Committee on Administrative and Budgetary Question*”, (n.73).

provide more practical support and infrastructure to the tribunals efforts, with actors providing everything from investigators and administrative staff, to laptops and printers.⁷⁵ We would see this support continue throughout the tribunal's tenure also, in 2004 the European Commission provided over 1.5 million Euros to fund projects of the ICTR which would ensure that witnesses and victims received adequate psychological assistance, specifically those who had been subjected to rape and other forms of sexual violence.⁷⁶ Even as the ICTR entered its final years of operation in 2014 and 2015, we still saw significant financial support being provided by the international community; with the UN General Assembly providing over \$94 million for the tribunals operations over its final months in operation.⁷⁷

Ultimately, by understanding the workings and funding of the ICTR in this manner, it is reasonable for us to surmise that the international community placed significance importance on the need to ensure criminal convictions for the genocide. As has been noted, the international community has always regarded criminal accountability as a critical aspect of post-conflict state building, and this has been viewed as a necessary step when attempting to develop a culture of lasting peace.⁷⁸ Furthermore, as emphasized prior, holding perpetrators of human rights violations accountable for their crimes, goes a long way to enforcing and upholding critical human rights standards such as the right to remedy⁷⁹ and the right to life.⁸⁰ Thus, the international communities acceptance of the ICTR, coupled with their willingness to continually provide for the Tribunals financial needs goes to suggest that the need to enforce human rights

⁷⁵(n.73).

⁷⁶ International Criminal Tribunal for Rwanda, *"The European Commission to Fund Tribunal Projects"*, Press Release, <available at: <https://unictr.irmct.org/en/news/european-commission-fund-tribunal-projects>>.

⁷⁷ United Nations General Assembly, *"Financing of the International Residual Mechanism for Criminal Tribunals"*, A/70/600, para.2 <Available at: https://www.un.org/ga/search/view_doc.asp?symbol=A/70/600>.

⁷⁸ (n.67).

⁷⁹ (n.9), Article 8.

⁸⁰ (n.9), Article 3.

through this means was favored and championed. Now, it does bear mentioning that some of the motivation behind taking up this financial burden can be attributed to the onset guilt and culpability which many of the larger global institutions and nation states felt due to their damaging inaction during the genocide. As a result, we cannot truly be certain that we would see the same level of commitment for criminal accountability measures, specifically in a financial sense, in future circumstances. However, when we consider that the establishment of the ICTR came within the context of the international community also establishing the International Criminal Tribunal for the former Yugoslavia in 1993,⁸¹ drafting and adopting the Rome Statute in 1998⁸², which would result in the creation of the ICC in 2002, alongside also establishing both the Special Court for Sierra Leone⁸³ and the Khmer Rouge Tribunal.⁸⁴ What we see through all of this is the central importance the international community places in ensuring perpetrators are held accountable for their crimes. Thus, more broadly, this pursuit for justice highlights how human rights does hold a central position within the hearts and minds of the international community when dealing with nations' transitioning out of a war-torn and conflict riddled past.

Human Rights in Post-Genocide Rwanda:

As explored in earlier sections, Rwanda has displayed an uneasy relationship with the principles and practical enforcement of international human rights law and standards. Post-genocide Rwanda possess a number of exceptional qualities and achievements for which it should be applauded. Furthermore, in a number of areas I would argue that Rwanda be utilized as a benchmark for future transitioning nations and the world's more powerful state actors alike.

⁸¹ The International Criminal Tribunal for the former Yugoslavia, 1993.

⁸² The Rome Statute of the International Criminal Court, 1998.

⁸³ The Residual Special Court for Sierra Leone, 2002.

⁸⁴ Extraordinary Chambers in the Courts of Cambodia, 1997.

Upon a simple gaze at Rwanda's parliament, this view is supported further. One of the clearest examples of Rwanda's progress is their parliament which boasts a female majority of 61%, representing the world's highest proportion of women in the legislature. This same parliament has made remarkable strides to pass laws on gender-based violence, inheritance, discrimination, and rape, whilst also facilitating a near-universal healthcare system which covers almost 90% of the nation.⁸⁵ However, in spite of this, the issue which befalls the international community and our conceptualization of human rights' importance in post-conflict settings, is the fact that these monumental advancements have occurred alongside Kagame's persistent human rights abuses.

During his tenure as President Kagame is alleged to have overseen the arrest of political opponents who have sought to run against him in national elections, on charges of terrorism and threatening national security, which are alleged to have been exaggerated for political purposes.⁸⁶ The RPF regime is alleged to have coopted the aforementioned laws against genocide denial and trivialism, implemented through the national constitution, in a coercive bid to restrict free speech by imposing strict limits on how people can speak on the wide range of abuses which fell upon Rwanda in 1994.⁸⁷ Furthermore, even the Parliament is said to lack independence and acts merely as an endorser of presidential initiatives.⁸⁸ Moreover, there has also been vast documentation of restrictions and controls being placed upon the freedom of press, with many journalists being subjected to censorship and criminal charges. The Government is said to have begun curtailing religious freedom which had historically been

⁸⁵ N Edwards, (2019), "*Alongside Real Progress, Kagame's Human Rights Abuses Persist*", Council on Foreign Relations, <available at: <https://www.cfr.org/blog/alongside-real-progress-kagames-human-rights-abuses-persist>>.

⁸⁶ J Gettleman, J Kron, (2010), "*Presidential Candidate Arrested in Rwanda*", The New York Times, <available at: <https://www.nytimes.com/2010/04/22/world/africa/22rwanda.html>>.

⁸⁷ Human Rights Watch, (2019), "*Rwanda: 25 Years on, Solidarity with Victims*", <Available at: <https://www.hrw.org/news/2019/04/04/rwanda-25-years-solidarity-victims#>>.

⁸⁸ Freedom House 2019 World Report, (n.11).

respected, with more than 8,000 Pentecostal churches and dozens of mosques being shut down. Social media and other personal communications are heavily monitored, and the government has sought to infiltrate domestic NGOs thereby inhibiting their independence, thus leading to serious questions surrounding the credibility of domestic civil society.⁸⁹ To this point, civil society within Rwanda is no longer viewed as an independent entity expected to hold government and its institutions accountable, rather Rwandan civil society is now perceived as little more than an offshoot of the government's development apparatus.⁹⁰ To this point, Johnston Busingye, Secretary General in the Rwandan Ministry of Justice stated "*when civil society sees itself as different to government...then it is a problem*".⁹¹ Yet, despite these overt examples of human rights violations, the nation continues to be celebrated and hailed as a success story, mainly due to the nation's remarkable development being heralded over its human rights record.^{92 93}

The practice and need to enforce accepted international human rights standards plays, and should always play, an integral role within post-conflict societies. In a Rwanda specific context, this was done through the creation and institution of a new national constitution which championed and expressly guaranteed human rights provisions to all citizens. In addition to, the use of the ICTR, in order to police the genocide, hold perpetrators accountable, provide victims with some semblance of remedy and ensure that impunity was not given free reign within the nation. From the Rwanda example, it can be surmised that international community has a propensity to

⁸⁹ (n.11).

⁹⁰ (n.13), 134.

⁹¹ (n.13), 134.

⁹² C Amour-Levar, (2018), "*Rwanda, A Success Story of Women Empowerment*", The Huffington Post, <available at: https://www.huffpost.com/entry/rwanda-a-success-story-of-women-empowerment_b_5a4f1d87e4b0ee59d41c09ad>.

⁹³ G Nyiringabo Ruhumuliza, (2019), "*Kagame's Rwanda is Still Africa's Most Inspiring Success Story*", Al-Jazeera, <available at: <https://www.aljazeera.com/indepth/opinion/kagame-rwanda-africa-inspiring-success-story-191021095141166.html>>.

support human rights enforcement, through the means of criminal accountability. As noted above, it has long been a belief within UN discourse, that accountability for human rights violations and mass conflict is a necessity in state building within post-conflict societies,⁹⁴ and when this takes the form of full-scale endeavors aimed at ensuring perpetrators are held to account, whilst also promoting central human rights principles, it is likely that such a model will always be championed and favored by the key players on the international stage. Additionally, we also learn the importance which is placed upon the detailing of a comprehensive human rights focus and agenda for the nation's future, typically in the form of a new national constitution. In creating such a forward thinking, progressive and human rights centric constitution Rwanda garnered universal praise, which would manifest itself as universal support, and were thus able to get many major players within the international community to aid in the nation's mission to create positive human rights change within the nation. As Thomson notes, Rwanda's rhetoric of democracy, unity and peace had buoyed up support within the international community⁹⁵ and would thus, lay the foundations for two decades of logistical, material and financial support being provided to the nation. Ultimately, from the Rwanda model, it can be suggested that the international community places a great deal of importance upon nation's showcasing their intention to commit themselves to international human rights standards. Constitutions by their very nature can be considered social contracts between a state and its citizens. However, in post-conflict situations, they can also be seen as a contract between a state and the international community whose support they are hoping to ascertain, and Rwanda's constitution certainly succeeded in this mission.

⁹⁴ (n.67), 13.

⁹⁵ (n.13), 131.

On the other hand, although the Rwanda model would suggest the international community places importance on nation's displaying their intention to commit to human rights standards, the Rwanda example would also suggest that little more than this mere intention is required. For better, and for worse, Rwanda has been under the global microscope since 1994, and as evidenced prior with the documentation of the international communities contributions to the ICTR,⁹⁶ the international community and its array of actors have had, and continue to have a strong vested interest in Rwanda and its dealings. In spite of this many nations, specifically, those who have historically championed the protection and enforcement of human rights and civil liberties, have turned a blind eye to the widening array of disconcerting reports arising out of the nation. Simultaneously many of these nations have continued to open their cheque books and provide fundamental resources to Rwanda's more developmentally focused initiatives. Which leads us to question whether development is championed above human rights. Although, as has been suggested, human rights has been promoted and supported within Rwanda, this has not been focused upon anywhere near the level to which Rwanda's development has. Furthermore, despite the growing concerns regarding Rwanda's human rights record, the international community has never ceased in funneling resources into Rwanda, and in most cases, this has been justified by pointing to the nation's remarkable progress in regard their development-based endeavors. Thus, within the next portion of this paper, I shall outline the key features of Rwanda's post-conflict development model, and ultimately assess how the international community has supported these measures and placed an exponential level of importance on many of these schemes. To the point where they have been willing to overlook the negative human rights reports spawning out of the nation, in order to support and continually

⁹⁶ (n.73).

progress more developmentally focused initiatives within the nation. Thereby fueling a deeper analysis into what this dichotomy teaches us about the relationship between human rights and development in post-conflict settings.

Rwanda's Development-Focused Model:

The need to progressively improve the standard of living which exists in a nation is the purview and responsibility of all states, regardless their position or stature on the international stage.

Whether infant mortality rate is high or low, whether GDP is in the top third globally or the bottom third and whether the majority of the country live below or above the poverty line; all nations have a responsibility under law to seek progression and provide the highest quality of life possible to all of its citizens.⁹⁷ This responsibility is typically heightened within post-conflict settings. Although, it is true human rights law provides states with the right to derogate from their obligations during times of public emergency,⁹⁸ the scholarship surrounding post-conflict development suggests that states should place a strong emphasis upon this obligation.⁹⁹ As the peace achieved in post-conflict situations is typically unstable¹⁰⁰, there exists an atypical need for growth and economic development, in order to address the direct effects of the conflict and to help prevent the nation from backsliding into violence. Further, when we consider the extreme fragility which characterizes such circumstances, it has become an accepted norm of the international development community to make available as much resources as possible to assist

⁹⁷ International Covenant on Economic, Social and Cultural Rights, 1966, Article 2(1):

"Each State Party to the present Covenant undertakes to take steps... with a view to achieving progressively the full realization of the rights recognized in the present Covenant".

⁹⁸ ICCPR, (n.44), Article 4(1).

⁹⁹ T McCarthy, (2011), *"The Importance of Development in Societies Emerging from Conflict"*, E-International Relations, <available at: <https://www.e-ir.info/2011/08/29/the-importance-of-development-in-societies-emerging-from-conflict/>>.

¹⁰⁰ McCarthy, *"The Importance of Development in Societies Emerging from Conflict"*, (n.99).

said nation's growth.¹⁰¹ The issue at hand in the context of Rwanda, is that the nation's focus upon its development has, to a certain extent, been utilized as a justification for its infringement upon human rights. Consequently, it is my assertion that this has led to a dynamic within Rwanda, that has placed the need to progress the nation's development initiatives, above the need to positively enforce and progress its human rights obligations. Furthermore, as the international community has continued to fund and support the nation in its development schemes, this has enabled the nation to continue to repress civil liberties, in favor of development-based policy and progress.

One characteristic of Rwanda's development model which stands as a true shining light, was the systematic, comprehensive and detailed plan which they outlined to the world through their "Vision 2020" proposal.¹⁰² Released at the turn of the millennium, Vision 2020 was not only a thoughtful look into the future, it was also a recognition of the governmental failings which the nation had endured throughout the previous century. Vision 2020 aimed to transform the nation and modernize the economy whilst keeping at its core the Rwandan people.¹⁰³ The document features many progressive and extremely idealistic goals, aimed at strengthening the Rwandan people and the nation's status on the world stage, examples of such goals included the RPF's intention to make Rwanda a middle income country by 2020 with a median household income of US\$1,240 and a life expectancy of fifty-five years (up from US\$290 and forty-nine years in 2000).¹⁰⁴ To provide a short summary, Vision 2020 was developed in order to focus the nation's

¹⁰¹ P Collier, A Hoeffler, (2004), "Aid, Policy and Growth in Post-Conflict Societies", *European Economic Review*, 48, 1125-1145, 1141, <available at: <https://reader.elsevier.com/reader/sd/pii/S001429210300151X?token=44CC6782FBF17A5DFCA1009AE256AD50886C60D46AA31E150C0848BDBACFABAD6070BAFE08C122562D5C440443AF21A8>>.

¹⁰² Republic of Rwanda, Ministry of Finance and Economic Planning, "Rwanda Vision 2020".

¹⁰³ (n.13), 146.

¹⁰⁴ (n.13), 146.

growth upon six pivotal pillars: (1) good governance, (2) human resource development and a knowledge based economy, (3) a private sector led economy, (4) infrastructure development, (5) productive and market oriented agriculture, (6) regional & international economic integration. Moreover, Vision 2020 also outlines that running through these six pillars, will be three key areas of emphasis for the nation; the promotion of gender equality, the protection of environment and sustainable natural resource management, and a heightened emphasis on science, technology, engineering and mathematics (STEM).¹⁰⁵

Ultimately, although Vision 2020 was a Rwanda centered policy focus, it was also a helpful signal to the international community of Rwanda's intention to join them at the forefront of international politics and diplomacy. Furthermore, Vision 2020 would also act as Rwanda's business proposal to international donors and the international community as a whole, and as we look back, it was clearly successful in this function. Kagame and the RPF's rhetorical commitment to national unity and economic development, accentuated through Vision 2020, had garnered glowing praise from international and regional leaders who perceived Kagame as a new kind of African leader and Rwanda as a new African nation.¹⁰⁶ With all this going in favor of Rwanda, the donors would, very quickly, come running. The United Kingdom would become one of the first nations to enter into long-term engagement with post-genocide Rwanda in 1999 when the Department for International Development signed a memorandum of understanding (MOU)¹⁰⁷ with the nation to help Rwanda meet its international development targets.¹⁰⁸ The MOU created a partnership between the two nations which would see the UK provide financial

¹⁰⁵ Republic of Rwanda, "Rwanda Vision 2020", (n.102), 4.0, Table 3.

¹⁰⁶ (n.13), 141.

¹⁰⁷ (n.36), 40.

¹⁰⁸ Department of International Development, Rwanda and the United Kingdom, <available at: <https://www.gov.uk/world/rwanda/news>>.

support to assist Rwanda in meeting the internationally agreed Millennium Development Goals including, but not limited to, the eradication of extreme poverty and hunger, reduction of child mortality and environmental sustainability.¹⁰⁹ Moreover, these goal would also fit perfectly in line with the areas of emphasis Rwanda had identified within Vision 2020.¹¹⁰ The MOU between the two nations has persisted even to today with the United Kingdom committing 54 million Great British Pounds to Rwanda for the 2019-2020 period.¹¹¹ The partnership has been a positive step which has yielded great results. Rwanda has been able to make substantial strides in its Vision 2020 agenda; UK aid has helped Rwanda lift almost 2 million people out of poverty since 2005 and has assisted the nation greatly in increasing the enrollment and standards of primary education.¹¹² The United Kingdom were not the only nation to have engaged with Rwanda and invested in its development. In the direct aftermath of Vision 2020, USAID took the step of increasing their funding to Rwanda and between 2000 and 2003 they would provide an average of \$34.7 million annually.¹¹³ With US funding to Rwanda rising from \$48 million in 2004 to over \$128 million in 2016, the nation has been able to launch several crucial initiatives including their Emergency AIDS Relief Plan, the President's Malaria Initiative and the nation's Global Climate Change Initiative,¹¹⁴ all of which stands as a testament to the remarkable good which has been drawn out of Rwanda's development apparatus.

¹⁰⁹ Department for International Development, Rwanda: Country Assistance Plan, 2004, <available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/7F97D006135931C4C1256EEB0034779D-dfid-rwa-27feb.pdf>>.

¹¹⁰ "Rwanda Vision 2020", (n.102), 4.0, Table 3.

¹¹¹ Department for International Development, DFID Rwanda Profile, 2018,<available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/729951/DFID-Rwanda-Profile-July-2018.pdf>.

¹¹² DFID Rwanda Profile (n.111).

¹¹³ United States Agency for International Development, USAID/Rwanda, <available at: <https://www.usaid.gov/history-usaidrwanda>>.

¹¹⁴ USAID/Rwanda, (n.113).

Placing Development Above Human Rights:

However, parallel to these great achievements, the human rights abuses and violations addressed in the previous section have existed, grown and persisted within the same time span. Yet, what has also persisted is the international communities financial support of Rwanda's development. Although we have seen actors such as the European Parliament take steps to condemn these abuses, as was done specifically in the case of the alleged arbitrary arrest of President Kagame's political opponent Victoire Ingabire in 2016,¹¹⁵ which the European Parliament condemned for its politically motivated nature and absence of standards in regard the delivery of a fair trial.¹¹⁶ For the most part, the international community has overlooked the negative human rights reports arising out of Rwanda and have met much of these claims with a collective ambivalence. Furthermore, Rwanda's donor community not only failed to initially provide any oversight of the early signs and signals of the RPF's repressive style of governance;¹¹⁷ in entering into partnership and agreement with the Rwandan government, the donor community failed to show an appreciation nor an understanding of Rwanda's longstanding culture as an excessively centralized state and the manner in which this would be replicated under RPF rule.¹¹⁸ Further, what may be even more egregious is the manner in which these same large, influential donors have been complicit and turned a blind eye to the repressive and authoritarian tendencies of the RPF regime as they have continued to grow and become significantly more documented.¹¹⁹ Instead of acting as watcher and protector of human rights within the nation,

¹¹⁵ European Parliament Resolution on Rwanda, Notably the Case of Victoire Ingabire (2016/2910(RSP)), <available at: https://www.europarl.europa.eu/doceo/document/B-8-2016-1073_EN.html>.

¹¹⁶ European Parliament Resolution on Rwanda, (n.115), at p.1.

¹¹⁷ (n.13), 132.

¹¹⁸ (n.13), 132.

¹¹⁹ United States Department of State, 2019 Country Reports on Human Rights Practices: Rwanda, Section 1: Respect for the Integrity of the Person, March 2020, <available at: <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/rwanda/>>.

these large financial donors, led by the US, have continually turned a blind eye to the domestic human rights abuses and the repressive culture which has permeated the nation and become a staple of Rwandan culture.¹²⁰ This dynamic would come to the forefront in the buildup and subsequent result of the 2003 national election, which saw Paul Kagame win with over 95% of the popular vote. However, the resounding victory had already been considered a foregone conclusion, as the RPF had spent the better part of the ten preceding years consolidating national power by silencing journalists and either eliminating or coopting civil society, to the point that by election day the Rwandan people truly only had one option.¹²¹ Some donors had expressed their disappointment at the outcome, however as they still viewed Rwanda as a special case, their moral and financial support never ceased.¹²² What's more, when Kagame won another seven-year term following the again controversial 2017 national election – despite initially stating he would not run for a third term – there was again only muted commentary from the international community. Bar the U.S. State Department, who would only go as far as releasing a statement citing “irregularities observed during voting” and the European Union who would also release a statement supporting the peaceful elections, but imploring for a more inclusive and transparent process in the future; the wider international community remained rather silent on this process, and there was no movement in regard any action to combat the repressive nature of these elections.¹²³ Rather, what we saw was a confirmation of the repressive tendencies of the RPF regime which, under the watchful eye of the international community had been allowed to spread and seep into almost every orifice and aspect of public life within the nation. Moreover, these

¹²⁰ (n.13), 147.

¹²¹ (n.13), 161.

¹²² (n.13), 161.

¹²³ Human Rights Watch, “*Rwanda: Politically Closed Elections*”, 2017, <available at: <https://www.hrw.org/news/2017/08/18/rwanda-politically-closed-elections>>.

same nations would again fall largely silent when it came to Rwanda's foreign policy exploits, specifically the nation's foray into military action in neighboring Congo in the early 2000s.¹²⁴ Although this action was denounced by many nations, only two (The Netherlands in 2003, and Great Britain in 2004), would take action by suspending their aid on account of this military action.¹²⁵ All of this coupled together highlights a concerning trend of ambivalence on behalf of international actors regarding Rwanda's human rights record during its post-genocide phase. However conversely, these same actors continue to fund the nation's development efforts. It is true that in some isolated circumstances, as documented above, these actors have taken to voice their concern, or condemn, the actions of the Rwandan government. However, this not only seems to have fallen on deaf ears, but I would also argue that the formal condemnations have in no way been commensurate to the severity of the alleged violations lodged against the Rwandan government. I would also contend that this collective ambivalence is due to the vested financial interests which the international community has in Rwanda's development programs.

Realism: A Justification for Inaction?

Although the international community can be criticized for continuing to fund and support Rwanda and its development in spite of the nation's tumultuous past and uneasy relationship with human rights, to understand this stance better we can look to, and engage, realist political theory in order to gain greater understanding as to why this has been the case.

Realist theory views the international community and international governance as an anarchic and combustible instrument which, at times, allows for cooperation but is always defined by the uneasy relationship existing between states that's threatens to undo the international system.

¹²⁴ (n.13), 147.

¹²⁵ (n.13), 147.

Classical realist theory sees states as the primary and most important actors within state building, and thus asserts that all decisions need be made for the betterment of the individual state.¹²⁶

However, neorealist theory suggests that the international system of governance need set standards and compel states to adhere to them, or risk being isolated from the international scene and losing your independence as a state.¹²⁷ Despite this, individual states do not always successfully emulate these practices in a timely, uniform or adequate fashion. Instead states regularly interpret these standards in line with their own views to better support their individual agendas.¹²⁸ As such, this reality lends itself to greater innovation on behalf of nation states as they promote their own agenda above the international norm and standard.

To my perception this dynamic is acutely at play within the battle which exists between human rights and development within Rwanda. In this context the international community have created a moral standard of norms which states are expected to abide by, regardless of standing or stature. Through UN mechanisms, the international bill of human rights, SDG's and approved practices of international development, these norms have become entrenched and represent core principles of international policy and state building. However, as the implementation of these standards is left almost completely at the purview of the individual states themselves, the manner in which these rights are exercised, protected and enforced fluctuates on a state-by-state basis. Thus, when we link this to the aforementioned realist theory, we see that although the international community has developed standards for states to abide by, as realist theory indicates, states themselves are the primary actors on the international scene. As primary actors,

¹²⁶ J Donnelly, *"The Ethics of Realism"*, in Christian Reus-Smit, Duncan Snidal, *The Oxford Handbook of International Relations*, (Oxford University Press: 2008), 150

¹²⁷ J Taliaferro, (2006), *"State Building for Future Wars: Neoclassical Realism and The Resource-Extractive State"*, *Security Studies*, 15:3, 464-495.

¹²⁸ Taliaferro, *"State Building for Future Wars"*, (n.127).

it is the goal of states to ensure their own security, whilst also maximizing their own power.¹²⁹

Further, as states are able to dictate how they maximize this power, it is somewhat inevitable that in a world where multiple interests (such as; human rights, development and security) are being pursued at once, some interests will be prioritized over others, as they better assist states in the consolidation of power and influence.

Therefore, there exists an argument that the international community recognizes that certain measures, which may be detrimental to the international fight for human rights, are by some token necessary in order to ensure the long-term security and integrity of Rwanda as a nation and the Central African region, in which it is housed. The stability which has been achieved within Rwanda since 1994 cannot be underestimated, especially in the face of the wholly perilous position which the nation was in at the end of the genocide. Thus, if it is suggested that the international community has allowed Rwanda to exercise a greater level of freedom in the discharge of its human rights obligations in order to ensure the nation's internal security, this decision can, to a certain extent be understood. However, I believe it is important to note that there does exist a strong distinction between allowing greater freedom in the need to discharge human rights and the active intrusion and violation of human rights, which has existed in post-genocide Rwanda. Although, the international communities rationale and decision in handling Rwanda with a heightened degree of care and caution can, to an extent, be reasonably understood and appreciated. This cannot reasonably be utilized or accepted as a rationale for the international community continuing to support and fund Rwanda in the face of reports alleging gross misconduct and mass human rights violations throughout the state, under the RPF regime.

¹²⁹ Donnelly, *"The Ethics of Realism"*, (n.126), 150

Conclusion:

This paper has featured an exploration into a number of topics and themes relating to the exercise of human rights and development within post-conflict settings. Through this paper, I have sought to outline the role that each of these principles play within post-conflict situations. By detailing the practices instituted by the Rwandan Government since 1994, this paper has been able to highlight some of the ways in which the principles of human rights and international development are put into practice within post-conflict state building. However, ultimately this paper has been focused upon addressing two central lines of inquiry. Firstly, I sought to assess the uneasy relationship which exists between the manner in which human rights and international development are practiced within the remit of post-conflict societies. Secondly, this paper has sought to assess how the action, and inaction, of the international community throughout Rwanda's post-conflict rehabilitation has facilitated and enabled the pursuit of development being given greater importance than the need to protect and enforce international human rights standards.

As referenced at the outset, human rights and international develop share a common vision, as both principles seek *"to secure, for every human being, freedom, well-being and dignity."*¹³⁰ As such, it is conceptually difficult to separate the two. In most instances, policies designed to advance a nation's development efforts will naturally have a positive effect upon the nation's human rights efforts. Nations able to reduce their infant mortality rates and raise their average

¹³⁰ UNDP, *"Human Development Report 2000"* (n.1).

life expectancy are simultaneously doing great work to protect the right to life.¹³¹ Where nations are able to deliver universal primary education, they are positively acting upon their obligations under Article 28(1)(a) of the Convention on the Rights of the Child, to make education compulsory and free to all children.¹³² Thus, as the two are so closely intertwined it is difficult to assess how one has been prioritized above the other. Within the specific confines of this paper where I have sought to assess how the international community has facilitated development being placed above human rights, that difficulty still persists as evidence shows the international community as being supportive of both.

As documented prior, the international community has routinely sought to assist Rwanda's post-genocide human rights initiatives. The international community was proactive in birthing the ICTR thereby allowing Rwanda to enforce and protect the right to life¹³³, the right to remedy¹³⁴ and the victims right to receive compensation¹³⁵ and restitution.¹³⁶ Moreover, the international community would not stop there, as documented, throughout the courts tenure numerous states would provide both the human capital and financial capital to help facilitate the day-to-day functioning of the tribunal. Additionally, the international community have taken it upon themselves to partner with and invest in Rwanda's development and future. Partnerships with the United Kingdom and the United States have bred great success and helped progress a number of key initiatives and stimulated national growth. Whilst the World Bank's continued investment

¹³¹ (n.9), Article 3.

¹³² Convention on the Rights of the Child, Article 28(1)(a), 1989, <available at: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>>.

¹³³ (n.9), Article 3.

¹³⁴ (n.9), Article 8.

¹³⁵ United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Article 12, 1985. <available at: https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.29_declaration%20victims%20crime%20and%20abuse%20of%20power.pdf>.

¹³⁶ Declaration of Principles of Justice for Victims, (n.135), Article 13.

into the nation, has seen them commit in excess of \$4 billion since 1994, and a record \$545 million in 2018 alone in support of the national bid to continue vast structural reforms in healthcare, education and agriculture,¹³⁷ directly in line with Rwanda's Vision 2020 proposals. Ultimately, on both the human rights and the development front the international community have been keen, active and strong allies in Rwanda's growth and advancement.

However, alongside these positive actions, we have seen damaging inaction on behalf of these same international actors. Inaction which has allowed the freedom and civil liberties of Rwanda's to be curtailed and subdued in favor of a centralized and authoritarian model of governance. Except for a few isolated instances¹³⁸, the international community has remained relatively silent, at least in the public forum, to the day-to-day abuses of power and violations of human rights arising out of Rwanda. Furthermore, as aid assistance and funding to Rwanda, has not been linked to the protection and advancement of human rights, there have been only a few minute examples of the international community withholding their funding¹³⁹ on account of the negative human rights reports spawning out of the nation. Simultaneously, these same nations boast of the great development work their funding is doing within the nation. While this has been both a noble and magnanimous effort, it is my contention that the continued funding of Rwanda's development, coupled with the relative silence, and ambivalence towards the nation's growing list of civil and political human rights abuses,¹⁴⁰ has created and enabled a dynamic which has seen the need for development be placed above the need to enforce human rights standards. The international community has placed a greater importance on increasing financial

¹³⁷ Wilson, Blood, *"Rwanda: Where Even Poverty Data Must to Kagame's Line"*, (n.10).

¹³⁸ Human Rights Watch, *"Rwanda: Politically Closed Elections"*, (n.123).

¹³⁹ (n.13), p.147.

¹⁴⁰ (n.11).

growth and seeing consistent progress along key development indicators than they have on the need to see increased recognition, enforcement and protection of human rights. Even as reputable institutions such as the Financial Times have provided comprehensive data analysis to highlight the misrepresentation of Rwanda's progress, this has had little to no substantial effect on donors' willingness to pull funding or at very minimum seek to hold the nation accountable for these misrepresentations.¹⁴¹

Ultimately, it is my contention that within the Rwandan context, the international community has taken the view that the need for long-lasting and sustainable peace in a nation previously ravaged by war, conflict and genocide is the most pivotal consideration imaginable. From the examples laid out throughout this paper, it would appear that the international community have assessed the situation through a realist lens; thereby concluding that if everlasting peace is contingent upon certain violations being overlooked and overshadowed in favor of shining a light on the growth and progress of the nation, then so be it. However, doing this does, to an extent, diminish the critical importance of international human rights standards within post-conflict situations. Further, this also leads to a host of critical questions pertaining to human rights; where does this dynamic of development being placed above human rights leave the Rwandan people? Will there ever come a point where the peace established is stable enough for the international community to strengthen the manner in which they hold Rwanda accountable? Is this a dynamic which the international community will utilize in their dealings with nations arising out of conflict in the future? Unfortunately, these are questions which this paper does not have the resources to answer at this time. However, this does leave room for a very interesting exploration in the future,

¹⁴¹ (n.10).

especially if the human rights conditions within Rwanda worsen, whilst the nations growth continues through the funding and support of the international community.

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