

**POST-CONFLICT RECONSTRUCTION IN RWANDA: CHALLENGES AND
OPPORTUNITIES**

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**A DISSERTATION SUBMITTED IN PARTIAL FULFILMENT OF THE DEGREE
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DECLARATION

This dissertation is my original work and has not been submitted for a degree to any other University.



Franklin Okuta Opuko



Date

This dissertation has been submitted for examination with my approval as a University Supervisor.



Dr. Ibrahim Farah



Date

DEDICATION

To my dear parents Maj. Paul O.N Okuta and Mrs. Praxidece M. Makokha

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First and foremost, I am thankful to God for His guidance and protection he bestowed on me. I am also deeply obliged to express my gratitude to my dear parents for their support and encouragement. Thank you and may God bless you.

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ABSTRACT

The purpose of this study is to provide insights into the challenges and opportunities of post-conflict reconstruction in Rwanda and suggest guideposts that may assist government officials, leaders and policy makers to adopt appropriate measures and tools as part of post-conflict reconstruction and development. The study also aims to contribute to the literature on post-conflict reconstruction. This study analyzes the challenges and opportunities of post-conflict reconstruction in Rwanda between 1995 to 2009. The study begins by a review of literature on post-conflict reconstruction. Thereafter the study provides an overview of the Rwandan conflict in order to portray its complexity in terms of multiple actors, issues and interests. The study also examines the challenges and opportunities surrounding the justice and reconciliation process in Rwanda. This is followed by an analysis of the role of the government and the international community in post-conflict reconstruction and development. The fourth section of this study gives a critical analysis of the emerging issues. The study outlines the importance of constructing an effective judicial system that will restore justice to the victims of genocide. It also outlines the need for coordination among different actors for effective post-conflict reconstruction. Finally, the paper concludes by considering the way forward for better engagement in post-conflict reconstruction and development.

LIST OF ABBREVIATIONS

BBTG	Broad Based Transitional Government
DRC	Democratic Republic of Congo
CDR	Coalition for the Defense of the Republic
FAR	Rwanda Armed Forces
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
JPMC	Joint Political Military Commission
MRND	National Republic Movement for Democracy
NGO	Non Governmental Organization
NRA	National Resistance Army
NTA	National Transitional Assembly
NURC	National Unity and Reconciliation Commission
OAU	Organization of African Unity
OTP	Office of the Prosecutor
PARMEHUTU	Party for the Promotion of Hutu
UN	United Nations
USAID	United States Agency for International Development
WIT	Women in Transition

TABLE OF CONTENTS

	Page
Declaration.....	i
Dedication.....	ii
Acknowledgement.....	iii
Abstract.....	iv
List of Abbreviations.....	v
CHAPTER ONE: INTRODUCTION TO THE STUDY	
1.0 Background to the Study.....	1
1.1 Statement of the Research Problem.....	4
1.2 Objectives of the Study.....	5
1.3 Justification of the Study.....	5
1.4 Literature Review.....	6
1.5 Theoretical Framework.....	17
1.6 Hypotheses.....	20
1.7 Methodology of the Study.....	20
1.8 Chapter Outline.....	21
CHAPTER TWO: OVERVIEW OF THE RWANDAN CONFLICT	
2.0 Introduction.....	22
2.1 Background to the Rwandan Conflict.....	22
2.1.1 Pre-Independent Rwanda.....	23
2.1.2 Independent Rwanda.....	24
2.2 Theoretical Explanation of the Rwandan Conflict.....	28

2.3 Actors in the Rwandan Conflict.....	29
2.4 The Role of the International Community in the Rwandan Conflict....	33
2.5 The Media and the Rwandan Conflict.....	36
2.6 The Rwandan Peace Processes.....	39
2.7 Conclusions.....	42

CHAPTER THREE: POST-CONFLICT RECONSTRUCTION IN RWANDA: CHALLENGES AND OPPORTUNITIES.

3.0. Introduction.....	43
3.1. Justice and Reconciliation in Rwanda.....	43
3.1.1. International Criminal Tribunal for Rwanda (ICTR)	53
3.1.2. Gacaca Courts as a tool for Justice and Reconciliation.....	55
3.2. The Role of the Government	61
3.3. The Role of the International Community in Post-Conflict.....	63
3.4 The Relationship between the Government and NGO's	67
3.5. Conclusions.....	69

CHAPTER FOUR: POST-CONFLICT RECONSTRUCTION IN RWANDA: A CRITICAL ANALYSIS

4.0 Introduction.....	70
4.1 Accessing Transitional Justice Mechanism in Rwanda.....	70
4.1.1 Gacaca.....	70
4.1.2 International Criminal Tribunal for Rwanda (ICTR).....	73
4.1.3. Reconciliation	76
4.2 Challenges of Building Effective Judicial System.....	81
4.3 Coordination among different agents of change.....	87

4.4 Conclusion.....94

CHAPTER FIVE: CONCLUSIONS

5.0 Introduction.....95

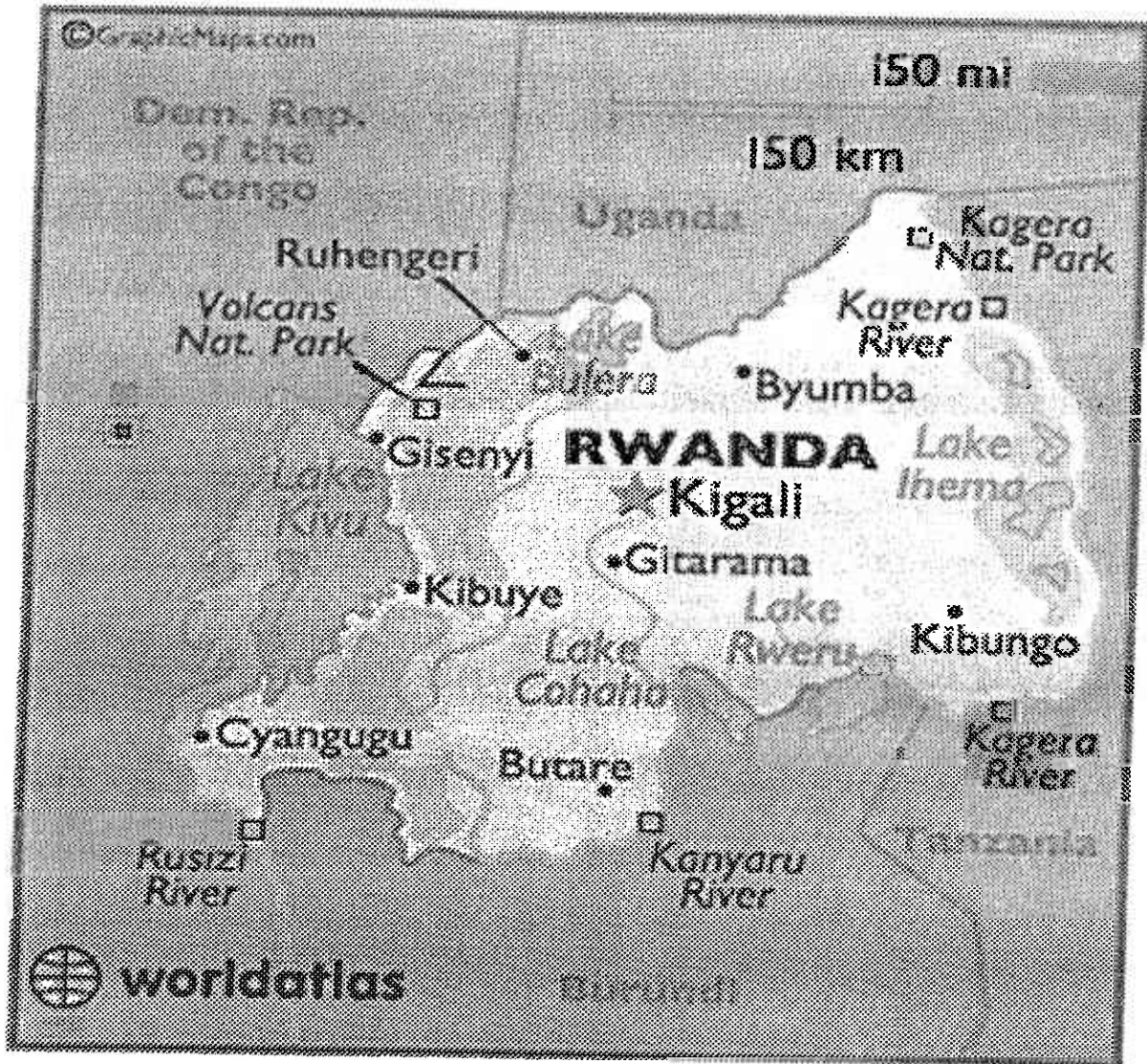
5.1 Study Findings.....95

5.2 Recommendations.....98

Bibliography.....103

Appendix 1.....106

COUNTRY MAP OF RWANDA



CHAPTER ONE: INTRODUCTION TO THE STUDY

1.0 Background to the Study

Rwanda is one of the smallest countries in Africa with just twenty six square kilometers in size. Situated immediately South of the Equator, it shares its borders with the Democratic Republic of Congo (DRC), Uganda, Tanzania and Burundi. It is a landlocked country with an economy that depends on costly and vulnerable transit trade to the Indian Ocean through Tanzania or Uganda and Kenya, or to the Atlantic through the Congo. Agriculture is the back bone of the country's economy with a vast majority of the population being peasant farmers.¹ Indeed agriculture has contributed immensely to the country's economy since independence.

The process of post-conflict reconstruction in Rwanda began following the historical developments during the colonial and post-colonial periods that led to the 1994 genocide. The colonial period in Rwanda was characterized by a clash between the Hutus, Tutsi and Twa, as a result of the privileges they got differently from the colonialist using the divide and rule strategy.² The Germans were the first to arrive in Rwanda at a crucial time in the transformation of the country's politics.³ Their presence was structurally significant since it inaugurated a colonial policy of indirect rule which left considerable leeway to the Rwandese monarchy and acted in direct continuation of the pre-colonial transformation towards more centralization annexation of the Hutu

¹ A. Rwigamba . *Justice and Reconciliation as Instruments of Political Stability in Post-Genocide Situations: A case Study of Rwanda*. Masters Thesis, University of Nairobi. 2001, p. 5.

² J. Musemakweli. *Was The Prevention of Violent Conflict in Rwanda Possible?* Nairobi, National Defense College Journal 3edn . 2003, p. 93.

³ G. Prunier . *The Rwandan Crisis 1959-1994. History of Genocide*. London. Hurst and Company Ltd. 1995. p. 25.

principalities and increase in Tutsi chiefly power.⁴ The Germans were later followed by the Belgian who also had interest in Rwanda.

The Belgian presence in Rwanda took effect from 1919, following a military conquest and made official by a League of Nations Mandate in 1919. Just like the Germans, they continued to deepen the German approach to European presence in Rwanda and by the end of their presence in Rwanda in 1959, there were forty-three chiefs out of forty-five were Tutsi as well as 549 sub chiefs out of 559. Thus, the Hutu peasants, who before had cleverly manipulated one level of chiefly authority against the other, now found themselves tightly controlled by one chief only, whose backing by the white administrators was much more efficient than loose support the traditional chiefs used to receive from the royal court.⁵ During most of the colonial period, the colonizers were convinced that the Tutsi were more intelligent, reliable and hardworking than the Hutus. For many scholars and indeed many of the Rwandese, the origin of ethnic conflict and racism in Rwanda lie in this ideology cum practice of the Belgian colonizers.⁶

Rwanda's post-colonial history was seen as relatively peaceful, but was very much linked to the exclusion of the Tutsi from power and to the strengthening of the military. Regime change occurred as members of the Hutu elite jostled for power. The coup of Major General Juvenal Habyarimana in 1973 strengthened the Hutu's position as it was accompanied by further purges of Tutsi's in key institutions. The full-scale war of 1990-1994 occurred as a result of the failure by the Rwandan state to recognize the legitimate right of return of its citizens in exile and to introduce measures of ethnic

⁴ G. Prunier . *The Rwandan Crisis 1959-1994. History of Genocide*. London, Hurst and Company Ltd. 1995, p. 25.

⁵ *Ibid.* p 27.

⁶ P. Uvin . *Prejudice, Crisis and Genocide in Rwanda. African Studies Review*, Vol. 40, No. 2. African Studies Association. 1997, p. 95.

equity. The Tutsi dominated Rwandan Patriotic Front was able to stop the genocide and capture the state, but continued to be threatened by the Hutu militias who carried out the genocide.⁷

In 1994, genocide took place in Rwanda and up to one million defenseless people were killed during a three month period. The victims were mostly Tutsi's, but there were tens of thousands of Hutus, who were either opponents of the regime or simply in the wrong place at the wrong time. The genocide was a culmination of a four year civil strife during which war related violence had killed thousands of Rwandese and turned majority of them into refugees.⁸ The genocide in Rwanda ended when the Rwandan Patriotic Front (R.P.F), led by the current President Paul Kagame, defeated forces loyal to the former Rwandan government and took control of the country's capital Kigali.⁹ A transitional government was formed in July 1994 and the Arusha Peace agreement that had been in place before the genocide, was adopted as a constitutional foundation through power sharing. After the genocide, Rwanda embarked on key reform measures that were aimed at rebuilding the society and the country following several years of protracted war. The government of national unity's priority was on domestic cohesion through good governance.¹⁰

⁷ P.Daley. *Challenges to Peace: Conflict Resolution in the Great Lakes Region of Africa*. Third World Quarterly, Vol.27, No.2. Taylor and Francis Ltd. 2006, p. 306.

⁸ P. Uvin Peter. *Reading the Rwaandan Genocide*. International Studies Review, Vol.3, No.3. Blackwell Publishing. 2001, p. 79.

⁹ C. Kayumba and J. Kimonyo . *Media Assistance to Post-Genocide Rwanda* in Jeroen De Zccuw and Krishina Kumar. *Promoting Democracy in Post-Conflict Societies*. New Delhi, Viva Books Ltd. 2008, p. 211.

¹⁰ P.Kalimba. *An Analysis of Structural Conflict and Conflict Management in the Great Lakes Region: A Case Study of Rwanda. 1990-2005*. M.A Thesis, University of Nairobi. 2007, p. 41.

1.1 Statement of the Research Problem

For societies emerging out of conflict, the collapse of institutions is often one of the most visible legacies and rebuilding these institutions, particularly those relating to justice, law and order, is key to stability in any post-conflict reconstruction and recovery process. Rwanda, like any other country that has undergone a period of conflict, has since the end of genocide been striving hard to rebuild back its social, political and economic institutions through various post-conflict reconstruction initiatives. The end of genocide and the subsequent developments in Rwanda thus ushered in a new dawn that witnessed the beginning of post-conflict reconstruction in a country that had been characterized by civil strife for nearly four decades.

Rwanda is now undergoing a serious transformation of shedding its post-colonial authoritarian legacy, culture of violence and anarchy and moving towards democracy. Undeniably, the country has seen rejuvenation and revival in recent years where it has risen from the ashes of crippling violence and despair and moved towards a peaceful course. Indeed, the country is now in a post-conflict stage, a stage that has its own particular characteristics that require greater analysis and understanding in order to meaningfully respond to the urgent needs of sustaining the peace and preventing future conflicts. It is out of this understanding that the study seeks to analyze the challenges and opportunities of post-conflict reconstruction in Rwanda. The study examines post-conflict reconstruction initiatives specifically those relating to justice, law and order that have been put in place in Rwanda by the government and other actors. The study is informed by the fact that despite putting in place post-conflict reconstruction initiatives in Rwanda, little attention and concern is being paid to the challenges and opportunities surrounding

those initiatives. The study therefore seeks to answer the following question; what are the challenges and opportunities of post-conflict reconstruction in Rwanda?

1.2 Objectives of the Study

The main objective of the study is to examine the challenges and opportunities of post-conflict reconstruction in Rwanda. Specific objectives include:

1.2.1. To provide an overview of the Rwandan conflict.

1.2.2. To evaluate the state of Justice and National Reconciliation in Rwanda.

1.2.3. To identify the specific roles of the Rwandan government and that of the international community in post-conflict reconstruction and development.

1.3 Justification of the Study

For societies emerging from conflict, guidelines on how to heal and rebuild back their society are always crucial for successful post-conflict reconstruction. Despite the existence of literature on post-conflict reconstruction, the analysis of the challenges and opportunities in this regard has not been adequate. Rwanda has taken steps to learn from its history and cultural heritage to emerge from the effects of the 1994 genocide to reconstruct the country and gear the society towards national development. It is against this background that the study seeks to analyze the state of post conflict reconstruction and development process in Rwanda with the aim of identifying the challenges and opportunities. This is mainly informed by the fact that, despite there being post-conflict initiatives, little effort is being paid to the challenges and opportunities surrounding those initiatives.

This study is justified on two main accounts: its policy relevance and its academic contribution. With regard to its policy relevance, the study intends to inform policy

makers about the challenges and opportunities surrounding post-conflict reconstruction of post-conflict societies. This is important given the fact that post-conflict reconstruction is a relatively new concept in the field of conflict management and analysis. The case of Rwanda thus gives as a clear picture since it characterizes a post-conflict society which nearly the whole of the continent has the potential of developing into. With regard to academic contribution, the study aims at adding knowledge to the emerging but yet to be explored field of post-conflict reconstruction. It is therefore hoped that the study findings will contribute to the literature on post-conflict reconstruction.

1.4 Literature Review

The literature review analyses the key subjects of conflict and post-conflict reconstruction as discussed by various scholars under the following themes: causes of the Rwandan conflict; efforts at peace settlement; post-conflict reconstruction and peace building.

1.4.1. Causes of the Rwanda Conflict

Grey discusses the causes of conflict as categorized into three clusters; the root or structural causes, proximate and trigger causes.¹¹ Structural causes of a conflict relate to issues of governance and the functioning of the state with regard to its relationship with the citizenry, legitimacy and ability to provide basic services and mode of governance. They manifest themselves in weak or overly strong autocratic governments, rampant inequities among the population, corruption, discrimination, extreme poverty and deprivation, human rights deficiencies and a weakened system of adjudication. These

¹¹ G.J Grey. *Beyond Peacekeeping: the challenges of post-conflict reconstruction and peacebuilding in Africa*. UN Chronicle. 2006, p. 1.

lead to disaffection among the population, which could eventually lead to uprisings, insurgencies and violent confrontation with the established authority.¹²

Proximate causes of a conflict are those factors that are symptomatic of the root causes of conflict or may lead to further escalation of the conflict.¹³ They only differ by degree from structural causes. When discrimination becomes legitimized in the promulgation of laws that target a particular ethnic group, religion or clan or if there is a precipitous decline in the standards of living, the conditions of conflict becomes heightened.¹⁴ Trigger causes of conflict are single acts, events or the anticipation thereof that set off violent conflict or its escalation.¹⁵ They are sudden traumas that spark off hostilities.¹⁶

In Rwanda, there were many elements in the relationship between the Hutus and Tutsis that constituted structural, proximate and trigger causes of conflict. The structural and proximate causes of conflict can be traced from the institutionalized structures of prejudice that characterized Rwanda's society before, during and after independence. Under the Belgian rule for instance, the Belgians created an administrative policy of indirect rule that relied upon the establishment of a political and administrative monopoly in the hands of the Tutsi aristocracy, at the expense of the Hutus. The Hutus, deprived of all power and materially exploited by both Belgians and the Tutsi elite, eventually began

¹² G.J Grey. *Beyond Peacekeeping: the challenges of post-conflict reconstruction and peacebuilding in Africa*. UN Chronicle. 2006, p. 1.

¹³ J. Banfield, et al. *Conflict-Sensitive Business Practice: Guidance for Extractive Industries*. March 2005, p. 4.

¹⁴ G.J Grey. *Beyond Peacekeeping: the challenges of post-conflict reconstruction and peacebuilding in Africa*. UN Chronicle. 2006, p. 1.

¹⁵ J. Banfield, et al. *Conflict-Sensitive Business Practice: Guidance for Extractive Industries*. March 2005, p. 4.

¹⁶ G.J. Grey. *Beyond Peacekeeping: the challenges of post-conflict reconstruction and peacebuilding in Africa*. UN Chronicle. 2006, p. 1

to hate all the Tutsi hence planting the seeds for genocide and thus constituting the structural cause of conflict in Rwanda.

Moreover, the same trend of hate continued even with the coming to power of a new Hutu regime following the violent struggle in 1959. In line with its new ideology of social revolution, which was based on the notion that Rwanda belonged to the Hutus, its original inhabitants, the new Hutu elite developed a policy of systematic discrimination against the Tutsi, especially in areas of political power i.e. the army, the government, the single party and vertical mobility i.e. education, foreign training and state jobs.¹⁷ The army, diplomatic service and parliament, with rare exceptions were always reserved for the Hutus. A quota system was also introduced that limited access to higher education and state jobs to a number of supposedly equal to the Tutsi proportion. The system of ethnic identity papers that was practiced by Belgians was kept intact by the post-colonial government and indeed continued to exist until the 1994 genocide, greatly facilitating its execution.¹⁸ The quota system and the ethnic identity papers, combined with the prejudicial ideology of the social revolution, served more to keep the ethnic division alive thus constituting both structural and proximate causes of the Rwandan conflict.

The trigger cause of the Rwandan conflict can be attributed to the shooting down of the plane carrying President Habyarimana and the Burundian President on 6th April 1994. Although the responsibility for the shooting has never been confirmed, it clearly served the purpose of the Hutu extremist in the CDR party and the Rwandan Armed Forces (FAR) and their associated militias, the Interahamwe, who used the shooting as an excuse to commence the genocide. Trigger cause could also be further attributed to

¹⁷ P. Uvin . *Prejudice, Crisis and Genocide in Rwanda*. *African Studies Review*, Vol. 40. No. 2. African Studies Association. 1997. p. 101.

¹⁸ Ibid.

failure by President Habyarimana to implement fully the proposal of the Arusha Peace Accord of 1993.

1.4.2. Efforts at Peace Settlement in Rwanda

The peace process in Rwanda began following the pressure from the international community notably the Belgium, the United States of America and the Organization of African Unity (OAU) which led to the negotiations between the government of Habyarimana and the Rwanda Patriotic Army (RPF).¹⁹ The events of early 1990's, notably the armed conflict and a looming economic crisis, also put pressure on Habyarimana's government to begin negotiations leading to the Arusha Accords which took thirteen months to conclude. The Arusha Accords that was concluded in August 1993 authorized the return of Tutsi refugees and sharing power with them in a transitional government prior to the elections.²⁰ Despite the signing of the Arusha Peace Accord, the killings still continued as a result of the failure by President Habyarimana to implement fully what had been agreed on in the Arusha Accords. The killings in Rwanda ended when the R.P.F, led by the current President Paul Kagame, defeated forces loyal to the former Rwandan government and took control of the country's capital Kigali.²¹ A transitional government was formed in July 1994 and the Arusha Peace agreement that had been in place before the genocide, was adopted as a constitutional foundation through power sharing.

¹⁹ L. Melvern. *A People Betrayed: The Role of the West in Rwanda Genocide*. NAEP. Cape Town, 2000.
²⁰ P. Uvin . *Prejudice, Crisis and Genocide in Rwanda*. *African Studies Review*, Vol. 40, No. 2. African Studies Association. 1997. pp. 52-53.

²¹ C. Kayumba and J. Kimonyo . *Media Assistance to Post-Genocide Rwanda* in Jeroen De Zeeuw and Krishina Kumar: *Promoting Democracy in Post-Conflict Societies*. New Delhi, Viva Books Ltd. 2008. p. 211.

The negotiations that took place in Arusha Tanzania in July 1992 were believed to be the only hope for a peaceful resolution of the civil war. Two days after the negotiations started on 10 July 1992 in Arusha, a cease-fire agreement was signed. At that stage, it brought to attention of the parties to the conflict that no meaningful peace negotiations could start unless a working cease-fire was in place. Besides outlining modalities for the cessation of hostilities, the cease-fire agreement also provided for a monitoring role to be played by the OAU, through the deployment of a Neutral Military Observer Group (NMOG). Military observers were provided by Senegal and Mali (Francophone) and Zimbabwe and Nigeria (Anglophone), with a mandate to monitor both the RPF and the government forces.

Military observers from neighboring countries were deliberately excluded, in order to avoid any undue influence arising from regionally vested interests. Furthermore, the parties had also agreed to the creation of a Joint Political Military Commission (JPMC) with the dual mandate of monitoring and implementing the cease-fire agreement and ultimately, the peace agreement. It is important to note that, as a result of the high level of trust and confidence that was built into the Arusha peace process, a working cease-fire prevailed throughout the thirteen-month negotiating phase, with only fifty monitors on the ground to undertake oversight under the auspices of the OAU.

The OAU played a prominent role in the efforts to reach a settlement between the Government and RPF. It was done through mediation in 1990-1992 and later an OAU observer force was sent to monitor the ceasefire. OAU was very active in the Arusha

peace talks in the 1993 .In 1994 when the situation became worse in Kigali, the UN force left the scene, while the OAU force was reluctant to leave.²²

The greatest success of the Arusha peace process is to be found in the manner in which it managed to restore trust and confidence among Rwandans of different ethnic groups, through addressing all the key areas that had contributed to the conflict situation in Rwanda over decades. This was largely made possible by adopting a negotiation strategy which encouraged the parties to negotiate issues directly and in their own language with a view to achieve clear and common understanding on every issue that was negotiated.

The negotiation process, which lasted for thirteen months, helped to remove fear, distrust and hatred. In turn, the process built confidence and trust in an evolutionary and incremental manner among the parties to the conflict. The successful implementation of the Arusha Peace Agreement, therefore, depended greatly on the sustainability of this trust, confidence and positive spirit, throughout the implementation phases. This could only have been achieved if the time schedules were adhered to, particularly those related to putting the transitional structures in place. These structures were critical in keeping the positive spirit alive, removing obstacles, and pushing the process forward. The UN, which was entrusted with the responsibility of creating the requisite environment for the establishment and operation of those structures through the deployment of adequate military and civilian observers, was to play a decisive role in the success of the implementation process.

²² K. Karegye. *The Role of Regional and Sub-Regional Organizations in Conflict Management in Africa*. Nairobi. National Defense College Journal, 3rd edn. Nairobi. 2003. p. 165.

Without attempting to apportion any blame, it was unfortunate that the bureaucratic procedures of the United Nations did not allow for the timely deployment of the requisite number of military observers. This had an extremely negative impact on the adherence to time schedules and delayed the establishment of the transitional structures. The combination of the above omissions availed much time and space for the forces supporting the status quo inside Rwanda to plan, train and arm the *Interahamwe* forces, without the existence of any neutral structure to monitor, control and prevent them. The extreme Hutu elements saw danger in peace and security in war and thus brought the Arusha spirit to a sad end, through the genocide in April 1994.

When the massacres started, the response of the international community to the collapse of the Arusha Peace Agreement was disappointing. This was limited to the provision of relief and emergency supplies to refugees and displaced persons. Even that minimal response was largely driven by the concerned and sympathetic attitudes and outcry expressed by public opinion, and not by the moral and political leadership of the so called pioneers and leaders of the new global order.

1.4.3. Post-Conflict Reconstruction and Peace Building

Jeong observes that several societies experience difficult phases of post-conflict reconstruction after the end of civil wars. He notes that these societies face various obstacles to building sustainable peace. He gives examples of societies such as El Salvador, Guatemala, Haiti, Cambodia and Mozambique as some of those societies that have experienced difficult phases of post-conflict reconstruction. He also argues that fragile political and economic conditions heighten the risk of a return to a conflict and shatter hopes for mutual prosperity. He goes on to argue that at practical level, the need

for reconstruction arises from the destruction of physical infrastructure controlled by each side in the process of achieving the short term goals of weakening enemy capacities.²³

Jeong further observes that peace building aims at constructing a reassuring political, economic and socio-psychological environment for people. Social and economic welfare as well as good governance reinforce peace and avoid the recurrence of hostilities. Various activities for post conflict peace building are organized to lay the foundation for social stability and harmony. Confidence building among formerly warring parties is thus critical to prevent the renewed fighting. This can be obtained in part through economic and social cooperation.²⁴

Mwagiru argues that an analysis of responses to conflicts should ideally entail an understanding of the post-conflict structures resulting from the responses to the conflicts. He notes that the post-conflict structures that result are inspired and influenced by the type of response to the conflict and that at the same time, certain responses such as peace agreements might generate a particular kind of post-conflict structure. He further notes that the relationship between the two can lead to useful insights and that some important threads can be picked from the analysis which include how the conflict is related to post-conflict structures such as restructuring of the state and its institutions, among them constitution building which might point to issues on governance and causes of the conflict.²⁵ Peace and conflict are not antonyms. There are also conflicts in peace time, and conflicts are neither good nor bad in themselves. Conflicts are a part of the social interaction between people. It arises when two individuals, groups or states strive towards

²³ H. Jeong. *Peace and Conflict Studies: An Introduction*. Ashgate Publishers. 2000, p. 194.

²⁴ Ibid.

²⁵ M. Mwagiru. *Conflict Management in Africa: Lessons Learnt and Future Strategies*. Working Papers on Conflict Management No.1, 2000. Friedrich Ebert Stiftung and Centre for Conflict Research. 2001. p. 5.

incompatible goals and to some extent define their relations with other on the basis of this incompatibility. The latter implies that they must be parties who must be aware of this incompatibility and be prepared to pursue the issue for the situation to be described as a conflict.²⁶

Akerlund describes peace-building after conflict as an “action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict”. Today, the concept of ‘peace-building’ is used to refer to the building of structures for peace in all phases of a conflict, not merely after a violent phase has been replaced by a fragile peace. Structures that contribute to strengthening and solidifying peace can be institutions that offer forms for peaceful conflict resolution or that prevent violence. But, they can also be norms. Peace is not only consolidated through formal institutions. Peace-building thus consists among other things, the construction of an institutional framework that supports the peace, as well as the building of a culture of non-violence.²⁷

One component of peace-building, which far too often ends up in the background, is a set of measures to remedy the structural causes of conflict i.e. indirect, underlying causes. This is not the same as the dispute or direct cause. In the Rwandan case, if the direct causes of the conflict, which degenerated into the genocide in 1994, were definite political conflicts with the exploitation for political power purposes, the ethnic factor, the structural cause was lack of land, an effect of population growth combined with

²⁶ A. Akerlund. *Transforming Conflicts and Building Peace: Experience and Ideas of Swedish Civil Society Organizations*. Sida Studies No.13. Edita Sverige A.B. 2005, p. 48.

²⁷ Ibid. p. 52.

environmental degradation. Peace-building therefore would include contribution that would tackle these types of underlying causes of armed conflict.²⁸

Akerlund further describes peace-building as comprising three components: creation of norms that contribute to reinforcing and consolidating peace in areas of crisis and conflict; development of an institutional framework with the same purpose, and the counteraction of structural causes of armed conflicts.²⁹ Post-conflict situations are always complex, and any intervention cannot take place using standard approaches and instruments. Stakes, as well as risks, are high, needs are immense, and capacities are limited. Speed is key to post-conflict situations, since peace dividends are essential for conflict-affected groups to regain hope and work toward consolidating stability.

Sustained peace and social stability are not a given in post-conflict situations. In many cases the political and social conditions remain fragile. Political disputes are not fully addressed, while warring factions are not always demilitarized. Authorities often lack the capacity, and sometimes the legitimacy, to revive the economy and address the most urgent needs. While the ultimate objective is poverty reduction and sustained economic development, peace and stability are prerequisites for any other goals and in the aftermath of a conflict their consolidation must be an objective in itself, rather than a positive by-product of other initiatives. This requires intervening across a broad range of activities i.e. political, military, economic and humanitarian.³⁰

Civil conflicts that cause or follow a collapse of the state present unique challenges. These situations are especially complex because both the economy and the

²⁸ A. Akerlund. *Transforming Conflicts and Building Peace: Experience and Ideas of Swedish Civil Society Organizations*. Sida Studies No.13. Edita Sverige A.B. 2005, p. 52.

²⁹ *Ibid.* p. 53.

³⁰ S. Michaelof, M. Kostner and X. Devictor. *Post-Conflict Recovery in Africa: An Agenda for the African Region*. African Region Working Paper Series No.30. April, 2002.

political system need to be revived. When conflicts have dragged on for years, the post-conflict situation is especially fragile, since most institutions are dysfunctional, and authorities, whether central or local, have at best a weak legitimacy. It is critical for Africa that these conflicts are resolved since they affect several large countries that otherwise might boost the continent's economy and they tend to spread across borders and take on a regional dimension. In these situations, three areas have proven essential for post-conflict stabilization, recovery, and development: rebuilding the state and its key institutions; jump-starting the economy, and addressing urgent needs and reconstructing communities. Although the specific challenges in each of these areas will differ by country, they have to be addressed simultaneously.³¹

Without a functioning state the risk of a relapse into civil conflict is great. Strengthening the legitimacy of national and local authorities through inclusiveness and transparency, rebuilding the technical capacity of key institutions, and making them capable of managing tensions in a nonviolent manner should always be a priority. But since capacities will not increase overnight, alternative providers including Non Governmental Organizations will be asked to deliver essential services, such as basic health care.³²

Rebuilding the state requires simultaneous action in a number of areas, which include: Reestablishing the state's control over the means of coercion throughout the territory to restore security. This implies both a thorough reform of the security sector which can be supported by bilateral donors and an urgent, although possibly phased, demobilization and reintegration program for former combatants. In this process,

³¹ S. Michaelof, M. Kostner and X. Devictor. *Post-Conflict Recovery in Africa: An Agenda for the African Region*. African Region Working Paper Series No.30. April, 2002.

³² Ibid.

transparency over military expenditures should be increased; there is also the need to reestablish the state's fiscal capacity by rebuilding the customs and tax systems without overburdening a fledgling private sector. The ability to taxation is key to obtaining the resources for revival i.e. paying civil servants and delivering basic public services.³³

Brief Assessment of the Literature

From the literature review, it is quite evident that a lot has been written on Rwandan conflict, more specifically on the causes and actors to the conflict, efforts at peace settlement and post-conflict reconstruction and peace-building in order to forestall future conflicts. However, there is need to address the challenges and opportunities that arise as a result of rebuilding a society that has been destroyed by war. In Rwanda, considerable literature exists on various post-conflict reconstruction initiatives. For example, the justice and reconciliation initiative has received greater mention in many publications. However, the gap that exists in terms of literature has been on the challenges and opportunities surrounding post-conflict reconstruction initiatives in Rwanda hence the need for this study.

1.5 Theoretical Framework

One of the most interesting debates in conflict theory has been the debate between the subjectivists and objectivists. This debate raises fundamental questions about conflict, and has been at the center of bruising theoretical battles.³⁴ To the subjectivists, conflict cannot exist unless an incompatibility of goals is subjectively experienced. In other words, people must realize that there is a conflict before they can term that it exists. On

³³ S. Michaelof, M. Kostner and X. Devictor. *Post-Conflict Recovery in Africa: An Agenda for the African Region*. African Region Working Paper Series No.30. April, 2002.

³⁴ M. Mwangi . *Conflict in Africa: Theory, Processes and Institutions of Management*. Nairobi, Center for Conflict Resolution. 2006, p. 15.

the other hand, the objectivists posit that it is possible for people to be in a state of conflict even though they do not immediately or readily experience it and since conflict is embedded in the social structure, it can exist independently of people's perception of it.³⁵

In terms of conflict management, the subjectivists and objectivists debate has far reaching implications. For the subjectivists, because parties to a conflict must experience it, conflict management must therefore centre on the efforts and inputs of the parties themselves. To the objectivists, since people may be in a conflict without realizing it, third parties can enter into the conflict and be instrumental in its management. Subjectivists approach to conflict is through negotiation and analysis while the objectivists approach to conflict is by taking action to change the structure.³⁶ The debate between the subjectivists and objectivists view of conflict, thus offers a clear distinction between conflict research which is subjectivist and peace research which is objectivist.

This study uses the peace research paradigm as the main theory in order to understand the subject under investigation and to develop the argument in this study. The main proponent of peace research paradigm is Johan Galtung who defined peace research as research into the conditions; past, present and future of realizing peace.³⁷ In other words, peace research is research that is directed towards the understanding of the conditions that may prevent international and intergroup violence, and conditions for furthering harmonious relations between nations and other groups of people. Thus peace research has two sides, one negative and one positive i.e. peace as absence of war, as non war; and peace as a working, interacting relationship based on mutual exchange for

³⁵ M. Mwangi . *Conflict in Africa: Theory, Processes and Institutions of Management*. Nairobi. Center for Conflict Resolution. 2006, p. 16.

³⁶ Ibid.

³⁷ J. Galtung: *Peace. Research. Education. Action. Essays in Peace Research*. Vol 1. Copenhagen. Christian Ejlertsen. 1975. pp. 132-133.

mutual benefit.³⁸ Peace research subscribes to the objective view of conflict which argues that it is possible for people to be in a state of conflict even though they do not immediately or readily experience it and since conflict is embedded in the social structure, it can exist independently of people's perception of it.³⁹

Peace research is the conflict management component of structural conflict as it sees conflict as being rooted in the structure and that peace can only be attained by dismantling the structures which give rise to conflict in society.⁴⁰ This, according to peace researchers can be done through conflict transformation by changing from negative peace to positive peace. Peace researchers look for causes of war and condition for achieving peace rather than studying military strategies to win the war. Peace researchers argue that critical evaluation of such realities as poverty and death leads to the development of policy proposals and strategies to prevent them. Active engagement of researchers with problems is thus an inevitable part of the peace research tradition.⁴¹

Jeong argues that, given that the peace research is influenced not only by the tradition of causal analysis but also by a normative orientation, the question of policy issues cannot be left out in theoretical analysis.⁴² Strengthening the elements that support peace is thus an important policy question. The value based inquiries can easily translate into policy goals of establishing equitable social and economic structures. Jeong further observes that peace research attempts to link the levels of analysis as well to integrate different problem areas. The level of analysis is important to understanding how peace

³⁸ J. Galtung: *Peace. Research. Education. Action. Essays in Peace Research*. Vol 1. Copenhagen, Christian Ejlertsen. 1975. p. 167.

³⁹ M. Mwangi. *Conflict in Africa: Theory, Processes and Institutions of Management*. Nairobi, Center for Conflict Resolution. 2006, p. 16.

⁴⁰ Ibid. p. 40.

⁴¹ H. Jeong. *Peace and Conflict Studies: An Introduction*. Ashgate Publishers. 2000, p. 46.

⁴² Ibid. p. 48

can be achieved in practice. The effects of peace activities can be studied at transnational, international, national and local levels.⁴³

The use of the peace research paradigm allows for the analysis of the structures that were responsible for the Rwandan conflict as the country strives to reconstruct itself. Because of its objective view of conflict, the peace research also allows for the identification of the challenges and opportunities of post-conflict reconstruction in Rwanda and, in doing, creates an environment for building strong institutions and post-conflict relationship among the parties to the conflict.

1.6 Hypotheses

1.6.1. Justice and reconciliation lead to political stability.

1.6.2. Closer coordination among stakeholders leads to effective post-conflict reconstruction and development

1.6.3. Security sector reform contributes to political stability.

1.7 Methodology of the Study

This study uses both primary and secondary data. The primary data was obtained through interviews and questionnaires. The interview process took the form of direct interview which involved the presentation of an oral stimulus in form of a question and a verbal response from the respondent. The questionnaires were administered to the respondents. It was structured with both close ended and open ended questions. The respondents were drawn from the Rwandan citizens working in Kenya, the Kenyan military personnel who have previously worked in Rwanda as military observers and scholars with keen interest in Rwanda. The study also relied on secondary data such as text books, journals and academic papers.

⁴³ H. Jeong. *Peace and Conflict Studies: An Introduction*. Ashgate Publishers. 2000, p. 48.

1.7.1 Scope and Limitations

The study on the challenges and opportunities of post-conflict reconstruction in Rwanda is very broad with few studies that have been conducted before on the subject, so it was a challenge accessing relevant information and literature. There was also the challenge of locating respondents for purposes of conducting interviews and administering the questionnaires. Despite these shortcomings, it is hoped that the information that has been obtained will provide important lessons and insights into areas for further research.

1.8 Chapter Outline

The structure of the study is divided into five chapters. Chapter one introduces the subject under investigation, the statement of the problem, objectives, justification, literature review, theoretical framework, hypotheses and the methodology of the study. Chapter two provides an overview of the Rwandan conflict. It highlights the internal and external issues, interests and actors to the conflict. Chapter three provides an analysis of post-conflict reconstruction in Rwanda with specific reference to the challenges and opportunities. Chapter four provides a critical analysis of the emerging and cross cutting issues. This is done by a cross-reference of the issues raised and themes discussed in the other chapters. Chapter five concludes with recommendations and suggestions for further studies.

CHAPTER TWO: OVERVIEW OF THE RWANDAN CONFLICT

2.0 Introduction

Chapter one gave an overview of the study in terms of the problem to be investigated, objectives of the study, justification, literature review, theoretical framework and methodology of the study. This chapter provides an overview of the Rwandan conflict. Its significance lies in the need to understand the factors that led to the Rwandan conflict. This is considered to be important in order to devise mechanism and strategies of dealing with future conflict. The chapter is organized under the following key subsections: background to the Rwandan conflict; the role of the international community in the Rwandan conflict; the media and the Rwandan conflict; actors in the Rwandan conflict; the Rwandan peace process.

2.1 Background to the Rwandan Conflict

Rwanda is one of the smallest countries in Africa with just over twenty six square kilometers in size. Situated immediately south of the Equator, it shares its borders with Democratic Republic of Congo (DRC), Uganda, Tanzania and Burundi. Rwanda's population is just over eight million in a country dominated by mountain ranges and highland plateaus of the great watershed between the Nile and the Congo River basins. It is a landlocked country with an economy that depends on a costly and vulnerable transit trade to the Indian Ocean through Tanzania or Uganda and Kenya, or to the Atlantic through the Congo. The distance from Kigali to the Indian Ocean is approximately one thousand five hundred kilometers and to the Atlantic coast some two thousand kilometers. Agriculture is the backbone of the country's economy with a vast majority of

the population being peasant farmers.⁴⁴ Administratively, Rwanda is divided into ten regions, each headed by a prefect appointed by the President of the Republic. The regions are divided into one hundred and forty three communes, governed by a bourgemestre (mayor) who are also appointed by the President.⁴⁵

2.1.1 Pre-Independent Rwanda

Rwanda's history is over two thousand years and was traditionally composed of one people sharing the same culture, language, religion, beliefs and socio-administrative institutions. Its three social groups of the Tutsi, Hutu and Twa already inhabited the present day Rwanda by about 1000A.D as one people. They shared the same culture and language i.e. Kinyarwanda, and recognized the authority of a King (Umwami) and his unifying supremacy through institutions such as the military (Ingabo z'u Rwanda), judiciary (Gacaca) and religion (Imana). The three social groups were integrative and unifying through eighteen common clans of Banyarwanda. The groups also defined the socio-economic order and allowed social mobility depending on the people's economic activity. The Hutu were agriculturalist, the Tutsi were pastoralists and therefore were more prosperous in the cattle economy, and the Twa were mainly artisans.⁴⁶

The Rwandan conflict can be traced to the colonial period when three ethnic groups i.e. Hutus, Tutsi and Twa clashed, as a result of the privileges they got differently from the colonialist using the divide and rule strategy.⁴⁷ The Germans were the first to arrive in Rwanda at a crucial time in the transformation of the country's politics. There

⁴⁴ A. Rwigamba. *Justice and Reconciliation as Instruments of Political Stability in Post-Genocide Situations: A case Study of Rwanda*. M.A Thesis, University of Nairobi. 2005, pp. 34-35.

⁴⁵ Ibid.

⁴⁶ Ibid. pp. 35-36.

⁴⁷ J. Musemakweli. *Was The Prevention of Violent Conflict in Rwanda Possible?* Nairobi. National Defense College Journal, 3edn. 2003, p. 93.

presence was structurally significant since it inaugurated a colonial policy of indirect rule which left considerable leeway to the Rwandese monarchy and acted in direct continuation of the pre-colonial transformation towards more centralization annexation of the Hutu principalities and increase in Tutsi chiefly power.⁴⁸

The Belgian presence in Rwanda took effect from 1919, following a military conquest and made official by a League of Nations Mandate in 1919. Just like the Germans, they continued to deepen the German approach to European presence in Rwanda and by the end of their presence in Rwanda in 1959, there were forty-three chiefs out of forty-five were Tutsi as well as 549 sub chiefs out of 559. Thus, the Hutu peasants, who before had cleverly manipulated one level of chiefly authority against the other, now found themselves tightly controlled by one chief only, whose backing by the white administrators was much more efficient than loose support the traditional chiefs used to receive from the royal court.⁴⁹ During most of the colonial period, the colonizers were convinced that the Tutsi were more intelligent, reliable and hardworking than the Hutus. For many scholars and indeed many of the Rwandese, the origin of ethnic conflict and racism in Rwanda lie in this ideology cum practice of the Belgian colonizers.⁵⁰

2.1.2 Independent Rwanda

The Rwandan politics were traditionally dominated by the Tutsi, a group that was made up of 17 percent of the population with virtually all the rest of the population being Hutus and less than one percent being the aboriginal Twa. All the three groups lived and intermingled throughout the country. However, during the transition to independence that

⁴⁸ G. Prunier. *The Rwandan Crisis 1959-1994. History of Genocide*. London, Hurst and Company Ltd. 1995, p. 25.

⁴⁹ Ibid. p. 27.

⁵⁰ P. Uvin. *Prejudice, Crisis and Genocide in Rwanda*. *African Studies Review*, Vol. 40, No. 2. African Studies Association. 1997, p. 95.

began in 1959, the Hutu seized control of the country in a violent struggle that spurred the exodus of about half the Tutsi population to neighboring states.⁵¹ In 1958, a Hutu political party, the PARMEHUTU (Parti du Movement de l'Emancipation Hutu) emerged and began to agitate for social change. This opened the road to the Hutu or 'peasant revolution' of 1959-61, during which Rwanda went through a violent transition from Tutsi monarchy to an independent Hutu Republic under President Kayibanda in 1962. The violence and ethnic killings of 1959-61, thus forced thousands of Tutsi into exile in neighboring countries.⁵² This prepared the ground for future ethnic violence and eventually the 1994 genocide.

In 1973, a coup d'etat overthrew Kayibanda as a result of the division among the Hutu themselves. The majority lived in the central and southern part of the country and supported the PARMEHUTU, which assumed power upon independence, while the minority lived in northwest which was historically a separate region.⁵³ Kayibanda was replaced by a northwestern Hutu officer, Major General Juvenal Habyarimana, who in 1973 led a coup that shifted political power to his region. Within two years of his rule, he declared all political parties other than his own (MRND) illegal. The northwestern Hutus thus came to dominate Rwanda's political, military and economic life, engendering resentment from other Hutus as well as from the Tutsi.⁵⁴

⁵¹ A.J. Kuperman . *Rwanda in Retrospect*. *Foreign Affairs Journal*, Vol. 79, No. 1. Council on Foreign Relations. 2000, p. 95.

⁵² J. Muscmakweli. *Was The Prevention of Violent Conflict in Rwanda Possible?* Nairobi .National Defense College Journal, 3edn. 2003, p. 94.

⁵³ A.J Kuperman. *Rwanda in Retrospect*. *Foreign Affairs Journal*, Vol. 79, No. 1. Council on Foreign Relations. 2000. p. 95.

⁵⁴ Ibid.

Throughout Habyarima's rule i.e. 1973-1994, a policy of discrimination was carried out by a series of quota systems for example by controlling access to education and administrative posts in addition to several killings that took place against the Tutsi. During Habyarimana's rule, physical abuse of the Tutsi was not only tolerated but also encouraged as a matter of policy and reinforced by rewarding and promoting the perpetrators of these crimes against humanity. As a result of these policies, the exiled Tutsi communities became more militant and the country became heavily militarized as Habyarimana built up his forces for any eventuality.

The attainment of independence by Rwanda created a profound new and ambiguous situation. The Rwandan political system was now inverted, with a small Hutu elite on top of the political power structures. Despite this new development, the previously powerful group i.e. the Tutsi, was still physically present in the country holding many of their previous assets. Throughout the post independence period, the Tutsi as a group was generally invisible in Rwanda. Although they intermarried with Hutus and lived together, the notion that the Tutsi were an alien group with an inherent potential for evil, never disappeared from state rhetoric. Thus when the state was faced with pressure for political change, it was not difficult for it to scapegoat the Tutsi and accuse them for trying to use multi-partism to gain power from the Hutu.⁵⁵

The two regimes that came in power following independence i.e. The Kiyibanda and Habyarimana Regime employed two separate ideologies to legitimize their continued stay on to power. The first ideology was that of social revolution which was tailored for domestic consumption. According to this ideology, Rwanda belonged to the Hutus, its

⁵⁵J.O. Musumba . *Role of Ethnic Prejudice in the Hutu-Tutsi Conflict in Rwanda/Burundi*. Nairobi.National Defense College Journal, 3rd edn. 2003. p. 124.

original inhabitants, who had been brutally subjugated for centuries by the foreign masters, the Tutsi. The notion that the government is the legitimate representative of the majority Hutu and the sole defense against the Tutsi's evil attempt to enslave the people again, constituted the powerful core of the legitimization of the clique's hold on to power.⁵⁶

The second ideology was the development ideology. It basically consisted of the argument that the state's sole aim was the pursuit of economic development for the underdeveloped Hutu masses. As a result, all the living forces in the country and all those abroad who were interested in promoting development were to work with the state to make that possible. This ideology legitimized the government's intrusive presence in all aspects of social life and diverted attention from the very real differences that existed between the different classes and social groups. In other words, it diverted attention from all things political replacing them with a discourse of ethnicity and collective progress.⁵⁷ According to Bereket Paulos, different identities, ethnic or otherwise, do not in themselves cause divisions or conflict. It is the behavior of unscrupulous leaders that transforms differences into division. Those who choose to manipulate such differences for their self-interest, even at the risk of creating major conflicts, are what Bereket refers to as "bad leaders". Regrettably, Rwanda's bad leaders chose the path of division and hate instead of national unity.⁵⁸

The events that took place in Rwanda were a demonstration of how different social groups can be transformed into an ethnic problem with a racist dimension. The

⁵⁶ P. Uvin. *Prejudice, Crisis and Genocide in Rwanda*. *African Studies Review*, Vol. 40, No. 2. African Studies Association. 1997, p. 98.

⁵⁷ *Ibid* . p. 99.

⁵⁸ P.F Bereket . *The Internal and External Dimensions of the Rwandan Ethnic Conflict, 1990-1998*. M.A Thesis. University of Nairobi. 2001, p. 84.

physical differences between the Tutsi and Hutu were greatly exaggerated and manipulated by some Rwandan politicians in order to give proof of the racial superiority of one group over the other. The physical differences between the Tutsi and Hutu turned to become political differences and gradually metamorphosed into racial ideologies. Bereket notes that the ruling clique that had administered Rwanda since independence demonstrated they needed ethnic cleavages in order to strengthen and justify their authority. However, it was the ethnic categorization registered as identity papers initiated by Belgian colonial masters that served as the main tool for the slaughter of the Tutsi and as Bereket argues, the Tutsi people were “guilty” on three charges i.e. they were a minority, they were a reminder of a feudal order, and they were considered as colonizers in their own country.⁵⁹

2.2 Theoretical Explanation of the Rwandan Conflict

Rwanda can be said to have experienced both non-violent and violent conflict. The best characterization of non-violent conflict is structural conflict that gives rise to structural violence which in turn leads to violent conflict. Mwagiru defines structural conflict as that conflict that is embedded in the structure of relationships and interactions, where the underlying structure of relationship is unjust, inequitable and breeds conditions of structural violence, where the weaker party suffers, even though not always visibly.⁶⁰ Mwagiru further asserts that, structural theory best explains the theoretical of structural conflict and structural violence. It explains the relationship by reference to the nature of the underlying structure. He further notes that the way out of structural violence, is to

⁵⁹P.F Bereket . *The Internal and External Dimensions of the Rwandan Ethnic Conflict, 1990-1998*.M.A Thesis., University of Nairobi. 2001, p. 84.

⁶⁰M. Mwagiru . *Conflict in Africa: Theory, Processes and Institutions of Management*. Nairobi, Center for Conflict Research. 2006, p. 15.

change the structure that is responsible for the conflict. This can be achieved through overthrowing the structure responsible for the conflict.⁶¹

In relating the above to the Rwandan case, one would argue that, the Belgian administration had put in place structures that created unjust and inequitable society as evidenced by the Belgians and Tutsi exploitation of the Hutu. Rwanda, under the Belgians and Tutsi, thus experienced non violent conflict until when the situation turned violent as evidenced by the Hutu or 'peasant revolution' of 1959-61, that saw Rwanda undergo through a violent transition from Tutsi monarchy to an independent Hutu Republic under President Kayibanda in 1962. Rwanda also experienced structural violence under the two Hutu regimes i.e. The Kayibanda and Habyarimana regimes. The two regimes both institutionalized the ideology of social revolution which saw widespread injustices and discrimination against the Tutsi. This trend continued until when the Tutsi began to challenge the existing structures that were responsible to their suffering under the hands of the Hutus. Indeed the structural violence in Rwanda, once again turned violent when in 1990, the Rwandan Patriotic Front (RPF) led by the Tutsi exiles began invading Rwanda from Uganda.⁶² This was later followed by the 1994 genocide.

2.3 Actors in the Rwandan Conflict

The significant events that led to the Rwandan genocide began in the 1990's , following the invasion of Rwanda by the Rwandan Patriotic Front(RPF) which was led by Tutsi exiles and their children trained in Uganda. Although these groups of Rwandese

⁶¹ M. Mwangi . *Conflict in Africa: Theory, Processes and Institutions of Management*. Nairobi, Center for Conflict Research. 2006, p. 15.

⁶²N. Riecher. *Protection Against Genocide: Mission Impossible?* Westport, Praeger Publishers Ltd. 2000, p. 52.

had been very active in the National Resistance Army (NRA) of Uganda, which led to victory of President Museveni in 1986, internal pressure against the Rwandese in Uganda led them to call for the “Right of Return” at a World Congress of Rwandese refugees in 1988.⁶³

Faced with the threat of invasion from the Rwandan Patriotic Front (RPF), the government of Rwanda was quick to get assistance from any quota. As a result, France, Belgium and Zaire sent troops to aid the government of Rwanda. The French viewed the R.P.F invasion as part of the worldwide “Anglo-Saxon” or Anglophone conspiracy against francophone. This is how Paris found itself backing an ailing dictatorship in a tiny distant country producing only bananas and a declining coffee crop without even asking for political reform as a price for its support.⁶⁴ This blind commitment was to have catastrophic consequence because, as the situation radicalized, the Rwandan government believed that no matter what it did, French support would always be forthcoming.

The United States and The United Kingdom were also linked to the Rwandan conflict as they played the leading role at the United Nations Security Council during the genocide. The United State’s government for example was forewarned of the impending genocide and was reluctant to intervene on the basis that they did not want to get involved in another African civil war following the defeat they underwent during their intervention in Somalia.⁶⁵ The United Nation responded by sending its peacekeepers, the United Nation Assistance Mission for Rwanda (UNAMIR). The response from the UN did little to stop the conflict in Rwanda, as for eight months the Rwandan leaders

⁶³ N. Ricmer. *Protection Against Genocide: Mission Impossible?* Westport, Praeger Publishers Ltd. 2000. p. 52.

⁶⁴ Ibid.

⁶⁵ L.S Nkuliye. *Rwandan Genocide: Who Let Down The Rwandans?* Nairobi, National Defense College Journal, 7th edn. 2007, p. 123.

obstructed and tried to modify the power sharing provisions of the Arusha Peace Accord.⁶⁶

In a nutshell Uvin contends that a number of factors did contribute to the mass participation of people in the genocide and they include: opportunism, the effects of past occurrence of violence, the absence of external constraints and the colonial legacy. Examining the first factor, Uvin notes that whenever violence seems to be a socially acceptable option, some people will join in to appropriate someone else's money, possessions or land. In Kigali, during the height of the genocide, massive looting of government offices, international aid agencies took place. More generally quite a few people have mentioned land grabbing as one of the reason for participation in the genocide and even as a cause of it.⁶⁷ The personal gain motive was apparent for militia members who were at the forefront at the radicalization and the killing.

However, as Uvin observes, the importance of opportunism and the desire for enrichment should not be overestimated. For opportunism to exist, there must be a process of violence into which opportunist can insert themselves and do their dirty work hence the conclusion by Uvin that opportunism played a role but was not the crucial dynamic in the genocide.⁶⁸

Another factor that seems relevant to explaining the mass participation of people in the genocide in Rwanda is the dynamics set in motion by past occurrences of violence and as Uvin notes, once a serious episode of violent conflict occurs, it leaves a persistent residue in people's memories and attitudes. For a long time afterwards, it can be invoked

⁶⁶ A.J Kuperman. *Rwanda in Retrospect*. *Foreign Affairs Journal*, Vol. 79, No. 1. Council on Foreign Relations. 2000, p. 96.

⁶⁷ P. Uvin. *Aiding Violence: The Development Enterprise in Rwanda*. Connecticut, Kumarian Press. 1998, pp. 218-219.

⁶⁸ *Ibid.* p. 219.

by leaders to justify their political action.⁶⁹ A third element that contributed to genocide in Rwanda was the absence of external constraints. Most governments committing mass violence according to Uvin are repeat offenders partly because they saw that their previous uses of violence were condoned by the international community. The massacres that took place in Rwanda were used by government officials to settle political score for which few people have been punished; the international community viewed them as an internal affair and the government was never likely to punish that which it had ordered.⁷⁰ In other words, what happened in Rwanda can be termed as internationalized form of impunity.

The fourth factor that contributed to mass participation of people in the genocide is attributed to the colonial legacy, although according to Uvin it cannot be said to have caused the genocide or even contributed to it directly. The difference between Hutus and Tutsis in all liken hood were not created by the colonizer, but indirect rule and the associated ideology of racial superiority have had a lasting consequences on the nature of social relations on the post colonial state. The nature of Rwanda's political system is also largely a continuation of colonial practice. The centralizing, omnipresent state with its administrative complexity, its top-down functioning and its control over the bulk of its distributional benefits in the country as well as the restrictions on the expression of political demands and the lack of democracy were a continuation of colonial practice.⁷¹

⁶⁹ P. Uvin. *Aiding Violence: The Development Enterprise in Rwanda*. Connecticut. Kumarian Press. 1998. pp. p. 220.

⁷⁰ Ibid. p. 221.

⁷¹ Ibid. p. 222.

2.4 The Role of the International Community in the Rwandan Conflict

Melvorn observes that Rwanda's violent divisions might have been easier to heal and its tragic history somewhat different had it not been for the involvement of outside interest. None had more dramatic effect than that of France, for without France, the dictatorship of Juvenal Habyarimana would never have lasted as long as it did. Two years after Habyarimana took power in 1975, a military co-operation and training agreement was signed with Paris and over the next fifteen years, France slowly replaced Belgium as the foremost foreign ally, offering financial and military guarantees which Belgium could not provide. So staunch an ally was France that Habyarimana believed that French support for his regime was unconditional, no matter what military or political tactic he used to remain in power.⁷²

The involvement of Uganda in Rwanda's conflict was premised on the account that the Rwandans were natural allies of Museveni. During the Obote regime, the Rwandan refugees had been persecuted, a reason enough for them to support Museveni. In 1982, when the refugee crisis occurred and Rwandese were trapped on the border between Uganda and Rwanda, many young Rwandese, rather than remain powerless and persecuted, joined the ranks of National Resistance Army (NRA). By the time Museveni took Kampala by force in January 1986, a quarter of the soldiers in the 14,000 strong NRA were Rwandese, upto 2-3,000 Tutsi fighters, the sons of exiles. Many of Museveni's top commanders and officers were Rwandese.⁷³

Following his victory in 1986, Museveni consolidated his power and army and the NRA began a military recruitment campaign in Western and Southern Uganda from the

⁷² L. Melvorn . *A People Betrayed: The Role of the West in Rwanda's Genocide*. Cape Town, NAEP. 2000. p. 24.

⁷³ Ibid. p. 27.

Banyarwanda and Buganda areas. This further increased the number of Rwandese in the ranks of the NRA as even more refugees took up the opportunity of military training. As a matter of fact thousands of Rwandese refugees signed up with the hope that what had occurred in Uganda could as well be repeated in Rwanda. Joining NRA was thus seen as a first step along the road to leading home. ⁷⁴

On October 1st 1990, Rwandan soldiers in the NRA who had now formed their own military wing the RPF, invaded Rwanda taking their weapons and supplies. Museveni immediately denied supporting the invasion and claimed that the soldiers had stolen their Uganda uniforms and equipment. International observers choose not to believe him as the soldiers in the RPF had almost unlimited access to NRA hardware and Museveni was thus accused of playing a double game of professing friendship with neighboring Rwanda while at the same time allowing the preparation of an invading army. The American based Human Rights Watch Arms Project was also told by a senior Ugandan officer that Uganda provided heavy weapons, including artillery and a steady stream of ammunition, food and logistics for the RPF and that the two armies shared intelligence. ⁷⁵

Nkuliye points out that the 1994 genocide in Rwanda, led to the death of approximately one million Rwandan Tutsis along with thousands of moderate Hutus. These events happened as the international community withdrew and watched. Rwanda's neighbors had the opportunity to do something to stop the genocide or at least save a few lives, but they too did nothing. The powerful countries of the world i.e. the United States of America and other European countries were informed of the evolution of the events

⁷⁴ L. Melvern . *A People Betrayed: The Role of the West in Rwanda's Genocide*. Cape Town, NAEP, 2000, pp. 27-28.

⁷⁵ Ibid. 28-29.

that led to the genocide but they decided to give it a blind eye. Nkuliye further notes that there were plenty of early warnings about the genocide in the making but they were systematically ignored. The 'politics of genocide' had been a planned and a conscious strategy applied from 1990 onwards. The worst that the international community did was to abandon the Tutsi victims in their hour of need. Despite all the early warning, the US, the United Kingdom (UK), France and the United Nations (UN) did not do what was required to prevent the genocide.⁷⁶

Just to show the international community's lack of commitment, while the genocide was in its highest pick, the United Nations Security Council ordered the United Nations Assistance Mission for Rwanda (UNAMIR) to withdraw, rather than send reinforcements to stop the genocide. On the other hand, the French and Belgian governments were busy evacuating their nationals, leaving the merciless Rwandan Military and *Interahamwe* to butcher the helpless Tutsi. As a matter of coming to terms with what happened in Rwanda, the U.S. Secretary of State Madeleine Albright, U.S. President Bill Clinton and UN Secretary General Kofi Annan, during their visits in late 1997 and early 1998, all admitted that the rest of the world had failed Rwanda. The Belgian Senate even went ahead and published a massive report at the end of 1997 detailing Belgian failings during the genocide.⁷⁷

2.5 The Media and the Rwandan Conflict

Before, during and after the 1994 Rwandan genocide, the Rwandan media played an instrumental role in inciting ethnic hatred and violence. Until the late 1980's, the Rwandan government monopolized the mass media and tolerated no dissent. President

⁷⁶L.S Nkuliye. *Rwandan Genocide: Who Let Down The Rwandans?* Nairobi, National Defense College Journal, 7th edn. 2007. p. 118.

⁷⁷ Ibid. p. 118.

Juvenal Habyarimana's regime controlled both print and electronic media. It owned and operated the only radio station in the country i.e. the National Radio Rwanda. It also owned a national television station mainly targeting the urban elite and the international community in addition to owning two news journals.⁷⁸ Nowhere in the world, was the radio used as insidiously as in Rwanda. The Hutu government utilized official and unofficial radio sources to incite and carry out the 1994 genocide. Before the war, Rwanda had only one radio station, the National Radio Rwanda. In 1991, some 29 percent of all households had a radio, but by the start of the genocide the number of radio sets was much higher. In some areas the government is said to have distributed radios free to local authorities before the genocide and they may have done so after the killings began as well.⁷⁹

Radio is the premier means of reaching the public with news and information in countries where most of the population is illiterate and television sets are rare. But much of the world is not part of an electronic global village when it comes to radio news. Because of its crucial role, many governments rigorously control radio news through government ownership of radio stations and regulations barring the broadcast of uncensored news by private stations. In these countries, false news is a staple part of the radio listener's diet. Rwanda, where hate radio flourished, was one of the states in which the government used radio to mould the opinions of its citizens.⁸⁰

⁷⁸C. Kayumba and J. Kimonyo . *Media Assistance to Post-Genocide Rwanda* in Jeroen De Zeeuw and Krishina Kumar: *Promoting Democracy in Post-Conflict Societies*. New Delhi, Viva Books Ltd. 2008. p. 212.

⁷⁹ L. Gachungi . *The Role of the Media in Management: A Case Study of Rwanda and Burundi 1990-2000*. M.A Thesis. University of Nairobi. 2002, p. 46.

⁸⁰ F. Chalk . *The Role of the Radio*, in H. Adelman and A. Suhrke(ed), *The Path of a Genocide: The Rwandan Crisis from Uganda to Zaire*. New Jersey, Transaction Publishers. 1999, p. 93.

The encouragement of ethnic hatred on the radio, together with the creation and arming of militias, was one of the clearest early warning signs of an imminent genocide in Rwanda. The dissemination of hate propaganda, which included spreading ethnic hatred and inciting ethnocide and genocide, began in earnest in 1990 with newspapers and magazine articles aimed at convincing Hutu intellectuals and other literate members of the population that their lives were menaced from inside and outside Rwanda by Tutsi infiltrators and Hutu supporters of democracy. The leading disseminator of this message was the bimonthly magazine *Kangura*, founded in 1990 by Hassan Ngeze, who, like President Juvenal Habyarimana, came from the northwestern prefecture of Gisenyi, a major centre of anti-Tutsi and Hutu power sentiment.⁸¹

One month before the triumphant signing of ceremony for the Arusha Accords, a new radio station called Radio Television Libre des Mille Collines (RTLNC) began broadcasting in Rwanda. The new radio station was quickly dismissed as a joke by diplomats in Kigali. The station was rowdy and used street language as it was designed to appeal to the unemployed, the delinquents and the gangs of thugs in the militia. It broadcasted mainly in Kinyarwanda and therefore revolutionized the Rwandan broadcasting industry. Using the F.M frequency, the radio station carried no factual reports but there were commentaries and lengthy interviews. Its style was in direct contrast to that of the only other station in Rwanda, the government owned Radio Rwanda, which favored a formal approach.⁸²

⁸¹ F. Chalk . *The Role of the Radio*, in H. Adelman and A. Sulrke(ed). *The Path of a Genocide: The Rwandan Crisis from Uganda to Zaire*. New Jersey, Transaction Publishers. 1999, pp. 94-95.

⁸² L. Melvern . *A People Betrayed: The Role of the West in Rwanda's Genocide*. Cape Town, NAEP. 2000, p. 70.

RTLMC began broadcasting at a time when transistor radios suddenly became cheap and available in Rwanda. In a largely illiterate population, the radio station soon had a very large audience who found it immensely entertaining. The radio station was financed by Hutu extremists and its shareholders included President Habyarimana together with all the members of the Akazu. The purpose of the new radio station was to prepare the people of Rwanda for genocide. It was used as a propaganda weapon whose campaign was to demonize the Tutsi and to circumvent key clauses in the Arusha Accords that barred both sides from incitement to violence and hate. The pro-Hutu message of RTLMC was anti-Arusha and anti-Tutsi. RTLMC would eventually broadcast the names of certain government opponents, individuals 'who deserved to die'. Its announcers told the people that all supporters of the Tutsi RPF were traitors, and that the Tutsi were lazy foreign invaders who refused to work the land.⁸³

The international media also played a contributory role to the Rwandan conflict. The problem of genocide was obscured in media coverage by a tendency to concentrate on ethnic identity as a cause of war. The conflict was presented as ignited by primitive causes beyond the influence or understanding of the West, fitting the "Heart of Darkness" portrayal of Africa. Eventually, a multinational evaluation of the genocide charged that since the Western media failed to report adequately, this 'possibly contributed to international indifference and inaction, and hence the crime itself'. Further, failure to report the complicity of prominent members of the international community notably

⁸³ L. Melvern . *A People Betrayed: The Role of the West in Rwanda's Genocide*. Cape Town, NAEP. 2000, p. 70. pp. 70-71.

France, Egypt, and South Africa in arming and assisting the Habyarimana regime, contributed to an inappropriate international response that exacerbated the crisis.⁸⁴

2.6 The Rwandan Peace Process

Efforts to resolve the Rwandan civil war began soon after the 1990 R.P.F's invasion. On 17th October 1990, under the mediation of Belgian and Tanzanian authorities, President Habyarimana and President Museveni agreed in Mwanza (Tanzania) on an Organization of African Unity (OAU) supervised regional summit on the refugee problem and to resume the dialogue that their countries had had since 1988. At this conference, Habyarimana and Museveni agreed on direct negotiation with the RPF. Consequently, the RPF was recognized as a negotiation partner. The regional conference, though not being effective in halting the conflict, could nevertheless be considered as having laid the foundation for the Arusha Peace Process.⁸⁵ Prunier observes that the announcement of the ceasefire signed in Arusha brought great satisfaction to the ordinary population but caused consternation among the supporters of the extremist Hutu state.

On 17th August, 1992, President Habyarimana, who had sensed displeasure of his supporters, gave a long speech on the radio as a way of trying to explain and justify the need for peace. In his speech, he declared that: "Our negotiating team in Arusha has been fully briefed so that the positions they adopt are no longer improvised. This is why I think that the Rwandan people can rest assured that all the precautions have been taken to

⁸⁴ L.S Nkuliye . *Rwandan Genocide: Who Let Down The Rwandans?* Nairobi, National Defense College Journal, 7th edn. 2007, p. 118.

⁸⁵ F.P Bereket . *The Internal and External Dimensions of the Rwandan Ethnic Conflict, 1990-1998.* M.A Thesis. I.D.I.S University of Nairobi. 2001, pp. 110-111.

ensure that individual actions do not lead our country into an adventure it would not like".⁸⁶

The Rwandan peace processes was a culmination of three important phases of Arusha i.e. pre-negotiation phase, formal negotiation phase and the implementation phase. A pre-negotiation phase started almost immediately after the outbreak of hostilities. While not formally conducted under the aegis of the Arusha process, the texts of agreement reached in this phase were incorporated into the final Arusha document. This phase involved the regional and international efforts which led to the establishment of the Arusha political negotiations. A formal negotiation phase started in June 1992 and continued, with interruptions until the signing of the Peace Accord on 4th August 1993. At the implementation phase, the parties to the Arusha Accord attempted to establish the transitional institutions called for in the agreement. This phase saw the deployment of United Nations Mission in Rwanda (UNAMIR) to help secure the transition process. This phase also encompassed the last ditch efforts taken in April and May of 1994 to salvage the accords following the resumption of civil war and the commencement of the genocide following the 6th April 1994 assassination of President Habyarimana.⁸⁷

The Arusha peace negotiations were characterized by a climate of tension and suspicion. Part of the problem according to Prunier, came from the fact that the Presidential faction felt that they were not represented in Arusha. Secondly, the Arusha peace process was discussing the future allocation of government portfolios directly with the RPF without referring to Kigali, and thirdly, that the principle of a chosen rather than

⁸⁶ G. Prunier. *The Rwandan Crisis: History of a Genocide*. Kampala, Fountain Publishers. 1995, pp. 160-161.

⁸⁷ B. Jones. *The Arusha Peace Process*, in H. Adelman and A. Suhrke (ed), *The Path of a Genocide: The Rwandan Crisis from Uganda to Zaire*. New Jersey, Transaction Publishers. 1999, p. 131.

an elected transitional assembly had been accepted, which was an intolerable surrender to RPF position.⁸⁸ After much mistrust and tension that characterized the negotiations, on 4th August 1993, the peace agreement was signed in Arusha at a solemn ceremony attended by President Juvenal Habyarimana of Rwanda, President Ali Hassan Mwinyi of Tanzania, President Yoweri Museveni of Uganda, President Melchior Ndadaye of Burundi and Prime Minister Faustin Birindwa of Zaire. The agreement carried precise provisions for the future Broad Based Transitional Government(BBTG), National Transitional Assembly(NTA), united armed forces and many other things. But despite all the detailed provisions, all the participants in the ceremony were aware of the extreme fragility of the document they were signing and celebrating.⁸⁹

The road to a peaceful Rwanda was not that smooth. Indeed, it took the pressure from the international community that negotiations began between the government of President Habyarimana and the RPF. This pressure specifically came from Belgium, the United States of America and the Organization of African Unity (OAU).⁹⁰ This together with internal discontent forced Habyarimana to make some concessions and to negotiate for a peace agreement that came to be known as the Arusha Accord, which provided for radical change. The triumphant signing ceremony came in August 1993 and the agreement was comprehensive and wide ranging, providing for political, military and constitutional reform. Rwanda was to have a broad based transitional government until a democratically elected government was installed. The presidency was to become largely ceremonial, with the president wielding less power than most constitutional holders. A

⁸⁸ G. Prunier. *The Rwandan Crisis: History of a Genocide*. Kampal, Fountain Publishers. 1995, pp. 160-161.

⁸⁹ *Ibid* .p. 191.

⁹¹ L. Melvern . *A People Betrayed: The Role of the West in Rwanda's Genocide*. Cape Town. NAEP. 2000. p. 52.

neutral international force was to be deployed to be followed by the withdrawal of French soldiers. The RPF and the Rwandan army would integrate; there would be disarmament and demobilization. The refugees would be allowed home and as a first step, a battalion of RPF soldiers would be stationed in Kigali. The transitional government was to hold power for no more than twenty two months until free elections were held and it was to contain representatives of three political parties.⁹¹

2.7 Conclusion

After the genocide, Rwanda embarked on key reform measures that were aimed at rebuilding the society and the country following several years of protracted war. The government of national unity's priority was on domestic cohesion through good governance.⁹² To ensure justice to the victims of the Rwanda genocide, the United Nations Security Council established A United Nations International Court and Tribunal for Rwanda based in Arusha, Tanzania to try high level suspects of the genocide. The local Rwandan courts were left to deal with rest of the cases. But they were soon overwhelmed forcing the government to adopt a traditional form of dispute resolution into grassroots apparatus otherwise known as the Gacaca courts.⁹³

⁹¹ L. Melvern . *A People Betrayed: The Role of the West in Rwanda's Genocide*. Cape Town, NAEP. 2000. pp. 52-53.

⁹² P. Kalimba . *An Analysis of Structural Conflict and Conflict Management in the Great Lakes Region: A Case Study of Rwanda. 1990-2005*. M.A Thesis, University of Nairobi. 2007, p. 41.

⁹³ Ibid.

CHAPTER THREE: POST-CONFLICT RECONSTRUCTION IN RWANDA: CHALLENGES AND OPPORTUNITIES

3.0 Introduction

Chapter two gave an overview of the Rwandan conflict whose significance lied in the need to understand the factors that led to the Rwandan conflict. It looked into the background to the Rwandan conflict; the role of the international community; the media and the Rwandan conflict; actors in the conflict; and the Rwandan peace processes. The chapter concluded by acknowledging the relative stability of Rwanda as well as the government effort in trying to ensure social justice for all and to prevent the occurrence of genocide. Chapter three will examine the challenges and opportunities of post-conflict reconstruction and development in Rwanda with specific emphasis on justice and reconciliation and the role of the government and the international community in post-conflict reconstruction and development in Rwanda.

3.1 Justice and Reconciliation in Rwanda

Following the end of the 1994 genocide, the wheel of justice in Rwanda took on a slow pace. Indeed it took time for neither the International Tribunal nor the national judicial system to begin their trials. This delay, for good reasons or for bad, led to frustrations and widespread criticism particularly in regard to the suffering in the prisons and also the fact that few of the big fish had been netted. At this point in time it was so convincing that until the judicial process begins, the psychological pass-key to forgiveness and reconciliation would not be available. Banishing the culture of impunity

could only begin when the first international and national trials were seen to dispense transparent justice.⁹⁴

The International Criminal Tribunal for Rwanda (ICTR) began its first trial in December 1996 and a national court in January 1997.⁹⁵ Even with the establishment of ICTR by the United Nations (UN), the judges had to be selected, money found for the tribunal, prisons built, accommodation found in Arusha, a set of procedures that could not be short circuited. Internally, the entire judicial system had to be rebuilt since majority of the judicial staff including the senior judges had fled the country or murdered. Public pressure for immediate justice for the genociders was intense, but with no judicial system in place, the agony of inevitable delay was overwhelming, both for the prisoners packed in prisons like sardines and for the survivors who clamored outside for justice and retribution.⁹⁶ Though long delayed, the beginning of the judicial process served as an assuaging factor, particularly for the victims of the genocide.

In reference to the critical issue of national reconciliation, divergent views were held on the best approach towards a solution. Some of the Rwanda's neighbours had the opinion of an immediate general amnesty, while within Rwanda itself; there was a deep schism on the issue which led to the resignation of the Prime Minister alongside other moderate Hutu cabinet stalwarts. This clearly showed how every institution, every diplomat and every individual had a different approach to the problem.⁹⁷ In Rwanda, reconciliation, justice and the return of refugees were issues that were closely interlinked. Transparent justice and fair play were essential for refugees to even begin

⁹⁴ UN DESA Discussion Paper. *Governance Strategies for Post Conflict Reconstruction, Sustainable Peace and Development*. 2007, pp. 27-28.

⁹⁵ K.M Shaharyar. *The Shallow Graves of Rwanda*. London. I.B Tauris. 2000. pp. 190-191.

⁹⁶ Ibid. pp. 206-207.

⁹⁷ Ibid. p. 159.

thinking of returning home to resume a vengeance free existence. In fact, neither internationally through the ICTR, nor internally in Rwanda, was the process of justice able to take off.

The ICTR seemed to take an age to establish itself in Arusha, while in Rwanda; the delay was so horrific that prisoners' limbs began to decay through gangrene. These conditions thus discouraged the return of refugees who naturally preferred to stay on in their camps. It was apparent therefore, that without justice, the refugees would not return and if the bulk of refugees stayed away, it was evident that reconciliation could not even begin to take root.⁹⁸

How a society deals with its past has a major determining influence on whether that society will achieve long-term peace and stability. Perhaps one of the critical question for such a society or state is whether or not to prosecute gross human rights abuses. The objective of policies to deal with past human rights abuses is often to prevent future human rights abuses and to repair the damage that has been caused. The need of victims and the society as a whole to heal from the wounds inflicted upon them by the former regime often has to be balanced against the political reality in which the new government may have political power, and in which it may have inherited a fragile state.

Therefore, a new state has to be founded on a commitment to human rights and a dedication to the rule of law. Quite often, however, the aim of achieving national reconciliation, building unity, reconstructing the institutions necessary for stable political and economic systems and obtaining the resources necessary to fund the transition are in conflict with dealing with the past. Criminal trials are one way in which the facts of the past abuses may be established. The establishment of a truth commission is another.

⁹⁸K.M Shaharyar. *The Shallow Graves of Rwanda*. London. I.B Tauris. 2000, pp. 205-206.

However, either strategy in isolation can have dire consequences. The critical issue that faced Rwanda was the criminal justice system. Around 120,000 people accused of participating in the genocide were in detention. Some of them were detained for up to seven years without trial in violation of international law. Very few trials did take place and the Rwanda's legal system did not seem to have the capacity to meet the need.⁹⁹

Establishing a sustainable peace in Rwanda is not simply a matter of re-building the physical infrastructure and economy, but also requires the recognition of the social and moral issues of the nation. Five years after the genocide, Rwanda still remained a deeply divided society. The division that existed was not only between the Hutu and Tutsi, but also between different groups within the society. For example, old conflicts persisted between moderate Hutu and extremist Hutu who still supported the genocidal ideology.¹⁰⁰ There was even tension between some genocide survivors who felt as if they were being asked to forget and forgive too quickly, and some Tutsi returnees who maintained that Rwanda should focus more on the future than the past. Owing to this development, it was important to recognize the multiple divisions that were present in the Rwandan society and not simply the matter to one of Hutu versus Tutsi.¹⁰¹

While most international organizations and Non Governmental Organizations (NGOs) list national reconciliation as one of their goals, and even the government has established the National Committee of Unity and Reconciliation, this terminology often falls flat with many Rwandans, particularly with genocide survivors. In Rwandan culture,

⁹⁹ J. Sarkin. *The Tension between Justice and Reconciliation in Rwanda: Politics, Human Rights, Due Process and the Role of the Gacaca Courts in Dealing with the Genocide*. United Kingdom. School of Oriental and African Studies. *Journal of African Law*, 45, 2. 2000, pp. 143-144.

¹⁰⁰ Interview with Ruboneka Yves Rwandan Citizen in Kenya, 25th August, 2010.

¹⁰¹ H.B. Hamilton. *Rwanda's Women: The Key Reconstruction*. Washington, D.C. Journal for Humanitarian Assistance. 2000. p. 12.

reconciliation has a specific meaning that is not necessarily the meaning implied by outsiders using the term. To most Rwandans, reconciliation is something that occurs between two individuals, a process by which the wronged individual physically takes the hand of the person who committed the wrong doing, and as an individual, forgives her or his action.

When speaking of reconciliation, international organizations and NGOs sometimes give the impression that they expect survivors of the genocide to directly forgive the individuals who murdered their families and loved ones, even if this is not their intended message. Genocide survivors speak of the need for justice before reconciliation, for prosecution of the crimes of genocide that took the lives of nearly a million people. They stress that forgiveness is only possible if the author of the crime is willing to admit that there was a crime, whereas many of the perpetrators of the genocide who are still at large deny the existence of genocide and their participation in it.¹⁰²

The post-genocide government considered the unity and reconciliation of the Rwandan people as *sine quo non* for lasting peace, security and development. After the Rwandan genocide, the government was faced with enormous challenges among which were the repatriation of refugees and their resettlement, integration of armed forces, restoring public trust in the legal system, breaking the culture of impunity and most importantly reconcile the Rwandan society while at the same time seek to bring to justice those responsible for the genocide.¹⁰³

Rwanda's politics was defined by ethnic polarization for along time dating from the colonial and post-colonial periods. This ethnic polarization coupled with

¹⁰² H.B. Hamilton. *Rwanda's Women: The Key Reconstruction*. Washington, D.C. Journal for Humanitarian Assistance. 2000, p. 12.

¹⁰³ Interview with Murenzi Ephraim, Rwanda High Commission, Nairobi, 28th June, 2010.

discrimination policy resulted in divided and rule as the governing principle. This eventually led to gross violations of human rights with impunity culminating in the 1994 genocide. Based on this background, it was therefore important that the government set up the National Unity and Reconciliation Commission (NURC). The commission was established by an Act of parliament as a forum for Rwandans to voice their views on reconciliation issues. The commission was further mandated to organize and oversee national public debates aimed at promoting national unity and reconciliation of Rwandan people, denounce any written or declared and materials seeking to discriminate the Rwandan people, prepare and coordinate Rwanda's programs of promoting unity and reconciliation, use all possible means that can sensitize Rwandans on unity and to lay on it a firm foundation.¹⁰⁴

The National Unity and Reconciliation Commission(NURC)was also mandated to educate Rwandans on their rights and assist in building a culture of tolerance and respect of other peoples rights, give views to institutions charged with drafting laws aimed at fostering unity and reconciliation, monitor closely whether government organs respect and observe policies of national unity and reconciliation practices and finally conceive and disseminate ideas and initiatives aimed at promoting peace among the Rwandan people and to encourage a culture of unity and reconciliation.¹⁰⁵

Since the time of the creation of the NURC, it has organized several meetings, conferences and workshops on the theme of unity and reconciliation. These culminated in two national summits where Rwandans from all levels of society, including representatives from Rwanda's diaspora community, were present. The NURC has also

¹⁰⁴ A. Rwigamba. *Justice and Reconciliation as Instruments of Political Stability in Post-Genocide Situations: A case Study of Rwanda*. M.A Thesis. University of Nairobi. 2005, pp. 80-81.

¹⁰⁵ Ibid. pp. 80-81.

been involved in workshops targeted at those segments of the population undergoing a 'civic re-education' or 'solidarity' camp.¹⁰⁶ Despite the NURC's ambitious mandate, it also faces several challenges.

Since its inception, there have been some divergences and reluctance regarding the mission of the commission. To some people, the commission was to limit itself to unity arguing that it was too early to talk about reconciliation. For others, it sounded more appropriate to talk of "unity and cohabitation" because reconciliation for them seemed impossible. There were others who suggested that justice was only to be applied and then reconciliation would automatically come later. All these views raised a fundamental question; who was to reconcile with who? Was it about reconciling the Hutu with the Tutsi, the killer with the victim or the new leaders with the opposition?¹⁰⁷

Under normal circumstances, reconciliation is supposed to take place between the oppressor and the oppressed through mediation. In any case, prior to reconciliation and restoration of mutual friendly relationship, one who has caused harm to the other should admit and regret wrong doing, apologize to them and if need be given compensation. In the context of Rwanda none of these prerequisite have been met fully because in most cases the killers do not admit their acts, do not regret them and do not apologize them. This constitutes one of the major challenges facing the NURC.

The other key challenge facing the NURC is the inadequate funding compared to the accomplishments expected of the commission. Survivors of the genocide speak of injustices, arguing that justice has not been done to the perpetrators of the genocide and

¹⁰⁶ E. Zorbas. *Reconciliation in Post-Genocide Rwanda*. African Law Institute. African Journal of Legal Studies. 2004, p. 38.

¹⁰⁷ A. Rwigamba . *Justice and Reconciliation as Instruments of Political Stability in Post-Genocide Situations: A case Study of Rwanda*. M.A Thesis. University of Nairobi. 2005, pp. 80-81.

fear that this could promote impunity again as in the past.¹⁰⁸ Perpetrators on the other hand question their prolonged incarceration without trial. Despite these challenges, the commission still boasts of a few achievements. People are getting increasingly aware of the need for co-existence due to civic education programs. This in turn has led to formation of unity clubs particularly in institutions of higher learning. A large number of prisoners are also confessing their crimes as a result of a nationwide sensitization campaigns. Notable institutions such as the National Human Rights Commission and the Auditor General's office have been established to fight for social and economic justice and also help in building trust among the population and developing a culture of transparency in public institutions without discrimination.¹⁰⁹ Whatever its shortcomings, the NURC attests to the prominence the government attaches to unity and reconciliation.

The process of justice and reconciliation in Rwanda has also been greatly affected by poor levels of education. With a significant percentage of the population still illiterate, the channels through which information can be disseminated are severely limited. Majority of the people therefore cannot contribute to the debate and discussion on national issues especially those relating to justice and reconciliation.¹¹⁰ Even more serious is the impact that a low standard of education has on limiting the potential post-conflict reconstruction and development.

The other challenge that continue to affect the process of justice and reconciliation in Rwanda, is that there are still elements within the Rwandan diaspora who would still wish to subvert the current government. There is also the problem of the

¹⁰⁸ Interview with Nsengimana Juvenal, USIU, 24th June, 2010.

¹⁰⁹ A. Rwigamba . *Justice and Reconciliation as Instruments of Political Stability in Post-Genocide Situations: A case Study of Rwanda*. M.A Thesis. University of Nairobi, 2005, pp. 90-91.

¹¹⁰ Interview with Uwimana Donatien, Good News Mission Kenya, 25th June, 2010.

Rwandan refugees majority of whom have not returned to participate in the process of justice and reconciliation.¹¹¹ The security implications of a mistrustful and divided society are therefore serious and the Rwandan government was surely right to make the promotion of social coherence through the process of justice and reconciliation a high priority.

The quest for justice in Rwanda took place along two axes; reconstruction of the justice system in order to allow for judgement of the perpetrators of the genocide, and the establishment of the International Criminal Tribunal for Rwanda in order to demonstrate the international community's revulsion at these crimes. After the genocide, the new government made justice one of the cornerstones of its policy. It argued that unless the culture of impunity was once and for all ended in Rwanda, the vicious cycle of violence could never end. Although some donors were interested in a South African truth and reconciliation model, the government firmly rejected this, arguing that only when the guilty had been punished, would it be possible for the victims, as well as the non-guilty, to create a joint future together. Most donors came to subscribe to this view and subsequently decided to employ significant resources to reconstruct Rwanda's justice system.¹¹²

The first genocide trial began in late 1996. By the end of 1997, 304 judgements were pronounced in 94 trials; 28 judgements were on appeal. In 1998, at least 864 judgements were passed. In 1999, justice continued at a slightly faster rhythm. All in all, by mid 2000 roughly 3000 genocide suspects had been judged. This was considered as a major accomplishment, especially considering the colossal nature of the task.

¹¹¹ Interview with Nsengimana Juvenal, USIU, 24th June, 2010.

¹¹² P. Uvin. *Difficult Choices in the New Post-Conflict Agenda: The International Community in Rwanda after the Genocide*. Tylor and Francis Ltd. Third World Quarterly, Vol. 22, No. 2. 2001, p. 181.

Nevertheless, major challenges remained for the justice system, especially if it was to contribute to peace and reconciliation. For one thing, although the justice system had gathered speed, little more than 20 per cent of the detainees had been judged. At that rate, it would have taken more than a century to finish all the dossiers. More people continued to die in prison every year than those that were judged. Most observers agreed that the justice system was not able to work dramatically much faster than it was expected. Thus thousands of innocent people were imprisoned under awful conditions while thousand of guilty persons remained free in Rwanda and abroad.¹¹³

The challenges that faced the justice system in Rwanda left the donors with a very difficult choice; if the justice system was to continue working under western standards of documentation and procedure, it would never have been able to judge all those implicated in the genocide. In other words, if no principle of formal justice was to be compromised, reconciliation and even substantive justice, for that matter would never have been achieved. In addition, notwithstanding, the investment and monitoring the quality of justice was lacking. Many judges competence still left much to desire. There were also many instances of corruption, judges salary were extremely low and bribing occurred regularly. Most worrisome in this respect was that many of those trained never entered the justice sector, but took on jobs in the private sector, where salaries were better and personal risks lower. Finally, the ethnic composition of the judicial system was overwhelmingly Tutsi. Despite these challenges, there was some improvement in the quality of justice according to most observers. Since 1998, the proportion of detainees

¹¹³ P. Uvin. *Difficult Choices in the New Post-Conflict Agenda: The International Community in Rwanda after the Genocide*. Tylor and Francis Ltd. Third World Quarterly, Vol. 22, No. 2. 2001, pp. 182-183.

had fallen significantly suggesting that the objectivity of the justice system had been improving.¹¹⁴

3.1.1 International Criminal Tribunal for Rwanda (ICTR)

The United Nations Security Council Resolution 995 established the International Criminal Tribunal for Rwanda (ICTR) in November 1994 to adjudicate the crimes of genocide, war crimes and crimes against humanity that had been committed by leaders of the genocide. The Tribunal is located in Arusha, Tanzania. Although it occupied its premises in Arusha in November 1995, and issued its first indictment in December of that year, the ICTR did not begin its first trial until January 1997.¹¹⁵ The Tribunal consists of three departments, all located in Arusha, Tanzania. First, is the Office of the Prosecutor (OTP), responsible for conducting investigations. The second is the Registrar, responsible for conducting investigations. The third department is made up of Trial Judges who preside over all cases brought before the court.¹¹⁶

Both theoretically and structurally modeled after the International Criminal Tribunal for the Former Yugoslavia (ICTY), the two bodies share a chief prosecutor and a court of appeal. The tribunal's central mandate is to prosecute persons responsible for the genocide and other serious violations of international humanitarian law committed in the territory of Rwanda between 1st January 1994 and 31st December 1994. Moreover, the UN Security Council stated that the establishment of the ICTR was specifically intended

¹¹⁴ P. Uvin. *Difficult Choices in the New Post-Conflict Agenda: The International Community in Rwanda after the Genocide*. Tylor and Francis Ltd. Third World Quarterly, Vol. 22, No. 2. 2001. pp. 182-183.

¹¹⁵ A. Rigby. *Justice and Reconciliation: After the Violence*. Lynner Rienner Publishers, Boulder. 2001. p. 178.

¹¹⁶ W. Lambourne. "Justice and Reconciliation: Post-Conflict Peacebuilding in Cambodia and Rwanda." in Mohammed Abu-Nimer (Ed.) *Reconciliation, Justice and Coexistence: Theory and Practice*. Lexington Books: New York. 2001, p. 325.

to help overcome the culture of impunity, contributing to the process of national reconciliation and to the restoration and maintenance of peace.¹¹⁷

As of May 1995, the tribunal was facing problems of logistics and funding. While the UN Security Council allocated an initial \$40 million to the establishment of the ICTR, a severe shortage of resources was cited as the cause of the tribunal's inability to function efficiently and progress appropriately in its early days.¹¹⁸ Faced with lack of adequate accountability mechanism within and across departments, the tribunal was fraught with corruption. Abuse of provisions by staff, including private use of ICTR vehicles and planes, as well as the misappropriation of funds for personal use was commonplace. Such problems were especially common in the department of Registrar which became a self propelling bureaucracy that had little or nothing to do with justice.¹¹⁹

One key obstacle to the Tribunal's work is the ICTR's location in Arusha, Tanzania. The Tribunal's lengthy and treacherous traveling distance from many Rwanda communities has presented innumerable logistical problems for the Office of the Prosecutor (OTP); investigators must travel extensively for each inquiry, spending valuable time and resources in transit. This became a point of frustration, limiting the department's capacity to function efficiently. In addition, this distance has left Rwandans extremely limited in their ability to observe and participate in the trials. Except for occasions when transportation has been provided by the ICTR, or non-governmental

¹¹⁷ W. Lambourne. "Justice and Reconciliation: Post-Conflict Peace building in Cambodia and Rwanda," in Mohammed Abu-Nimer(Ed.) *Reconciliation, Justice and Coexistence: Theory and Practice*. Lexington Books: New York. 2001, p. 325.

¹¹⁸ P.J. Magnarella. *Justice in Africa: Rwanda's Genocide, Its Courts and the UN Criminal Tribunal*. Ashgate Publishers Ltd: Aldershot. 2000, p. 43.

¹¹⁹ C. Off. *The Lion, the Fox and the Eagle: The Story of Generals and Justice in Yugoslavia and Rwanda*. Random House, Canada. 2000, p. 315.

organizations, Rwandans have remained otherwise detached from the ICTR's proceedings.

Another key challenge that has been a significant obstacle in conducting ICTR trials is the unwillingness of witnesses to testify for fear of persecution. Threats of retaliation against trial witnesses by Hutu rebels have been widespread.¹²⁰ For many witnesses, such threats are a sufficient deterrent from testifying at the Tribunal, which has a poor track record in providing adequate protection for its witnesses. The ICTR can ill afford the minimal support among genocide survivors that has resulted from these incidents. Since the Hutu Power leaders stole or destroyed most of the relevant paper evidence of their role in the genocide when they fled in 1994, the often reluctant survivors are the ICTR's primary source of evidence.¹²¹ Over time, the ICTR has improved protective measures for witnesses, however, fear and distrust still runs high among potential witnesses and remains an obstacle for the Tribunal.

3.1.2 Gacaca Courts as the tool for Justice and Reconciliation in Rwanda

Gacaca are traditional councils and tribunals made up of elders whose role is to resolve conflict and administrate justice. In other words, Gacaca literally means 'a resting and relaxing green lawn in the Rwandan homestead' where family members or neighbours met to exchange views on issues directly affecting them. Since it was communal and participatory, Gacaca derived its impetus from *ubumwe bw'Abanyarwanda* (the unity of Rwandans), in as much as it complemented the same unity by being the cement that strengthened social relations in the name of justice. Gacaca like most traditional African justice system, is collectivist, where the individual has no

¹²⁰ Interview with Nsengimana Juvenal, USIU, 24th June, 2010.

¹²¹ C. Off. *The Lion, the Fox and the Eagle: The Story of Generals and Justice in Yugoslavia and Rwanda*. Random House, Canada. 2000, p. 316.

rights or duties other than within his or her group. The individual and the group are mutually complementary. This collectivist aspect was as an indispensable medium in which individuals lived out their relations with each other and with the wider society. Gacaca therefore molded and defined the performance parameters expected of each individual in the Rwandan society.¹²²

Following the state collapse that left about one million Rwandans dead and about 130,000 in prison as genocide suspects, the international community responded with a call for accountability and an end to impunity. This gesture by the international community resulted into creation of ICTR in Arusha, Tanzania. This tribunal, faced with institutional shortcomings, was insufficient and inappropriate to meeting out justice to such a large number of suspects. If this was to be done, then it would have taken decades, if not centuries, to go through all individual cases. This new twist of events, led to the enactment of the Rwandan Organic Law No. 08/96 in 1996 to facilitate the prosecution of such a huge number of suspects. It applied both the Gacaca and national courts by categorizing criminal responsibility through four levels indicating the seriousness of the crime. The first level or category comprises of the planners and ideologues of the genocide, who were prosecuted in the national courts, with the rest being prosecuted in the Gacaca.¹²³

Despite the passing of the 1996 law on the prosecution of crimes of genocide, it was estimated that the formal judicial system in Rwanda would require more than a century to judge the hundred thousand plus prisoners in custody. As early as 1998, the idea to revive the traditional, grass-roots courts, *gacaca*, was raised. A recurring theme

¹²² F.K Rusagara. *Gacaca: Conflict Management Strategy in Post-Genocide Rwanda*. Nairobi. National Defense College Journal, 6ed. 2006, p. 97.

¹²³ Ibid. p.98.

was alleviating the strain on the legal and penal systems but also, importantly, a desire to involve the population in solving Rwandese problems and pride in Rwandese traditions, as embodied in *gacaca*. There was also a noticeable hostility towards white people's or Western justice.¹²⁴

The *Gacaca* courts in Rwanda were thus resorted to as an indigenous form of restorative justice. The principles and process of these courts was to mitigate the imperfections of the ICTR and the national courts and sought to punish and reintegrate the genocide suspects. Its restorative foundations required that suspects be tried and judged by neighbours in their community. The reason for resorting to *Gacaca* as a tool for justice and reconciliation was because it was locally driven, people-centered and people-owned, evoking the pre-colonial *Ubumwe bw'Abanyarwanda* (the unity of Rwandans).¹²⁵

As it has been observed, *gacaca* is a people driven authority in their search for truth, justice and reconciliation, making the process a Rwanda people driven renaissance in the aftermath of the genocide. Of importance to the whole process, is the six step approach in the *gacaca*'s overall strategy. These steps constitute; the coming out with truth among the stakeholders; the administration of justice; dispelling any perceptions of impunity; the collective ownership of the tragedy; reconciliation through the concept of intra-community conflict mediation; and social economic and political development both at the individual and national level.

In the first step, there are some truths, foremost of which is the truth about the unity of the Rwandan nation. It is this truth that has all along eluded Rwandan since the coming of the colonialist and it has been about the Rwanda identity and how Rwandans

¹²⁴ E. Zorbas; *Reconciliation in Post-Genocide Rwanda*. African Law Institute. African Journal of Legal Studies. 2004, p. 36.

¹²⁵ Ibid. pp. 98-99.

historically related to each other. It includes the truth about their social relations and the alleged 'historical wounds' that continue to impact on the current social discourse. It is also the truth about the non-genetic social categorization of Rwandans into different races. There is also the truth about colonial reconstruction of the Rwandan society that forced Rwandans into their own self-denial as one people, their heritage and historical social institutions. It is the distortions of truth that formed the bedrock of the colonial racist ideology that informed the Rwandan genocide and unless the complexities of the truth are understood, reconciliation may not be possible.¹²⁶

The second aspect of the truth is the reality of the genocide, which is about the actors i.e. the victims, the perpetrators and bystanders and their respective roles. It is about who died and his or her profile, so that in the process, honour and dignity can be restored to the victims who have otherwise been represented as mere statistics. With the genocide encompassing different actors, namely the perpetrators, the victims and bystanders, it is in the admission of truth of what happened and the role played by each that the reality of the genocide may begin to unravel. This has been the primary task of the Gacaca process, as it is the admission and owning up of the acts perpetrated that any perceived animosities may begin to heal no matter what cost may be to the person coming out with the truth.

By focusing on the healing of victims and perpetrators, *gacaca* courts in Rwanda represent a model of restorative justice. *Gacaca* is thus based on the realization that psychological restoration and healing can only occur through providing the space for

¹²⁶ F.K Rusagara. *Gacaca: Conflict Management Strategy in Post-Genocide Rwanda*. Nairobi. National Defense College Journal, 6ed. 2006, p. 99.

survivors to feel heard and for every detail of the traumatic event to be re-experienced in a safe environment.¹²⁷

Gacaca courts are confronted with serious crimes of murder and other atrocities, committed during the genocide, issues which are beyond the scope of pre-colonial *gacacas*. The number and nature of cases are quite overwhelming for the *gacacas* which were traditionally meant to resolve minor, uncomplicated, local level disputes and were aimed not at establishing criminal guilt, but at community reconciliation. Thus, while often touted as endogenous in orientation, contemporary *gacaca* proceedings have become markedly different from their traditional form.¹²⁸

Although *gacaca* was conceived as a traditional institution for communal justice, it has been modernized, formalized and extended, through the state, to operate in the realms of retributive or criminal justice. Although it has maintained the traditional outdoor setting, essentially, the *gacaca* system operates like a court and still employs the prosecution based approach to justice.¹²⁹

The overarching goal of *gacaca* is to promote reconciliation and healing by providing a platform for victims to express themselves, encouraging acknowledgements and apologies from the perpetrators, and facilitating the coming together of both victims and perpetrators every week. While it's a potential source of truth on how the genocide was implemented, its provisions for confessions and guilt pleas represent one of *gacaca*'s most cited shortcomings. Indeed under these provisions, if someone confesses before

¹²⁷ T. Karbo and M. Mutisi. *Psychological Aspects of Post-Conflict Reconstruction: Transforming Mindsets: The Case of the Gacaca in Rwanda*. Paper presented at the Ad hoc Expert Meeting on Lessons Learned in Post-Conflict State Capacity: Reconstructing Governance and Public Administration Capacities in Post-Conflict Societies. Accra, Ghana, October 2-4, 2008, pp. 9-10.

¹²⁸ Ibid. p. 17.

¹²⁹ Ibid.

being denounced, he or she is liable for a substantial decrease in the length of the sentence. However, confessions are only acceptable if they include: all information about the crime; and apology, and crucially, the incrimination of one's co-conspirators. This system of confessions creates rife conditions for vendetta-settling.¹³⁰

The *gacaca* process, while upholding culture in dealing with Rwanda's past, has been inundated by the problem of truth. In the *gacaca*, like any other setting for genocide trials, testimony is the primary form of evidence. There is little physical or forensic evidence. The reliance on eyewitnesses can be challenging because some witnesses may be guided by self interests or fear. There is no guarantee that all eyewitness accounts and confessions are true accounts of the genocide. The notion of truth is further adulterated by the fact that *gacaca* encourages confessions, especially if they incriminate one's co-conspirators. This confession-centered approach creates rife conditions for vendetta-setting and vengeance. Thus, sometimes the *gacaca* are used to settle private scores or even sometimes for affairs unrelated to the genocide.¹³¹

Other challenges that continue to face the *gacaca* include concerns about the violation of principles of due process; witness intimidation especially in rural Rwanda where perpetrators presumably far outnumber witnesses, and judges' competence and impartiality. Despite these challenges, *gacaca* presently represents the most suitable and only workable solution for bringing those responsible for atrocities to trial promptly, and ending the legacy of impunity. Moreover, prisoners who were consulted on *gacaca* were

¹³⁰ E. Zorbas. *Reconciliation in Post-Genocide Rwanda*. African Law Institute. African Journal of Legal Studies. 2004, pp. 36-37.

¹³¹ T. Karbo and M. Mutisi. *Psychological Aspects of Post-Conflict Reconstruction: Transforming Mindsets: The Case of the Gacaca in Rwanda*. Paper presented at the Ad hoc Expert Meeting on Lessons Learned in Post-Conflict State Capacity: Reconstructing Governance and Public Administration Capacities in Post-Conflict Societies. Accra, Ghana, October 2-4. 2008, pp. 19-20.

favourable to a system that would help speed up their hearings. Genocide survivors, though some remain apprehensive, want to see perpetrators punished, even if their prison sentence is dramatically reduced.¹³²

The *gacaca* has been a mixed success, although it is definitely cited as a community owned process of transitional justice. Most Rwandans owned the *gacaca* process from the beginning as they did participate in the election of the judges. One key achievement of the *gacaca* is that it provided space for the truth to be told about the genocide. *Gacaca* processes are paving the way for healing, reconciliation and forgiveness.¹³³

3.2 The Role of the Government

The end of genocide in Rwanda was followed by a post-crisis period. Although the government was formed, the challenge of rebuilding and restoring State authority coupled with post-conflict reconstruction and development were enormous. The country was economically ravaged and socially divided after four years of civil strife that was later followed by the 1994 genocide. Huge refugee flows of millions of people and the insurgency that occurred in the northwest only increased the difficult task of post-conflict reconstruction and development.

Reconstruction in the context of Rwanda signified clear options for country to simultaneously and cumulatively strengthen the momentum towards peace, stability and development. Thus Rwanda chose to: assure it's internal and external security; guarantee responsible governance and everyone's participation; assure repairable, reconcilable

¹³² T. Karbo and M. Mutisi. *Psychological Aspects of Post-Conflict Reconstruction: Transforming Mindsets: The Case of the Gacaca in Rwanda*. Paper presented at the Ad hoc Expert Meeting on Lessons Learned in Post-Conflict State Capacity: Reconstructing Governance and Public Administration Capacities in Post-Conflict Societies. Accra, Ghana, October 2-4. 2008, pp. 19-20.

¹³³ Ibid. p. 35.

justice, promote human rights and fight impunity; rely on humanitarian aid for social and economic development; mobilize all type of resources; and lastly, strengthen socio-economic power and policies regarding women.¹³⁴ On this basis, Rwanda formulated a clear reconstruction policy on the recuperation of human capital to bring all Rwandans together to rebuild the country. This was a tremendous gamble following a genocide that shredded the entire social fabric.

In the quest for justice and reconciliation, the Rwandan government supported the functioning of the three legal instruments i.e. the ICTR, the national courts and the traditional *gacaca* courts. The three legal instruments worked together complementarily.¹³⁵ The creation of Gacaca indicated the Rwanda Government's desire to speed up dispute resolution process. Thus, the State law Nr: 40/ 2000 of 26th January 2001 creating "Gacaca Jurisdiction" and the prosecution of genocide crimes against humanity committed between 1st October 1990 and 31st December 1994 was adopted by the Rwandan General Assembly. This momentum was supported by a national reconciliation policy based on determining the actual facts, taking responsibility and instituting national pardons. Along with this, the government established education programs regarding responsible citizenship and the promotion of human rights.¹³⁶

Women's participation in the country's reconstruction was strongly supported by the government. They were present at every level of development activities: picking up trash, maintaining gardens and public buildings, security, business management etc. To appreciate the crucial role of women in development, 49 per cent of the Rwandan

¹³⁴ K. Nadjaldongar. *Lessons Learned from the Post-Conflict Reconstruction in Rwanda*. Paper Presented at Regional Workshop on Post-Conflict and Development, Abidjan, Cote d'Ivoire, 3rd -5th June 2008, p. 3.

¹³⁵ Interview with Murenzi Ephraim, Rwanda High Commission, Nairobi, 28th June, 2010.

¹³⁶ K. Nadjaldongar. *Lessons Learned from the Post-Conflict Reconstruction in Rwanda*, Paper Presented at Regional Workshop on Post-Conflict and Development, Abidjan, Cote d'Ivoire, 3rd -5th June 2008, p. 4.

Parliament are women deputies and there is a large proportion of women senators and ministers. This makes Rwanda the country with the largest female political participation in the world.¹³⁷

3.3 The Role of the International Community

The international community has been engaged in post-conflict reconstruction and development in Rwanda, for better or for worse, from the days after the end of the genocide. At a conference held in Geneva, aimed at reviving Rwanda's economy and infrastructure, the international community pledged a vast funding campaign. For a small country like Rwanda, the international pledging of US \$ 1.2 billion was overwhelming, but with the passage of time, it became apparent that none of these funds could be made available immediately to the Rwandan government which desperately needed liquid, upfront cash to revive its infrastructure.¹³⁸

The pledged funding was intended to filter down gradually through government agencies, Non Governmental Organizations (NGOs) and international organizations. Eventually, the contrast sharpened between the immediate up-front relief available in the refugee camps and the slow conditional trickle-down of aid promised to Rwanda. This feeling of frustration by the Rwandan government and its people towards the international community and the United Nations was bred from a lack of overall focus and coordination in the funneling of humanitarian and economic aid towards Rwanda. Each specialized agency, each country and almost each NGO followed its own charter and special priorities in channeling of funds and relief. As this was happening, the need

¹³⁷K. Nadjaldongar. *Lessons Learned from the Post-Conflict Reconstruction in Rwanda*. Paper Presented at Regional Workshop on Post-Conflict and Development, Abidjan, Cote d'Ivoire, 3rd -5th June 2008. p.5.

¹³⁸ K.M Shaharyar. *The Shallow Graves of Rwanda*. London. I.B Tauris. 2000, pp. 204-205

of the hour was a balanced outlay of humanitarian aid to refugees on one hand and to the survivors on the other.¹³⁹

Since 1994 donors have differed radically in their assessment of basic matters such as the dynamics of the Rwandan conflict, the nature and intentions of the government, the weight of the past in explaining the present or the nature of ethnic, social and economic trends in society. As a result, even if donors have had the same broad aims, they are unable to agree on priorities and policies.¹⁴⁰ Nevertheless, there have been few countries in history where external actors have spent so much money and energy on matters of justice and Rwanda is a case in point.

The almost total destruction of the Rwandan justice system, the enormity of the crime being judged and the massive popular participation in it, created giant legal and social challenges that some observers claimed no country in the world had ever encountered. The human resources required for justice needed to be redeveloped. The number of judges had fallen from 600 before the genocide to 237 by the end of 1994; prosecutors from 74 to 14; criminal investigators and legal staff from 576 to 193. The physical infrastructure i.e. court buildings, documentation centers etc was almost totally destroyed.¹⁴¹

The donor community invested heavily in the promotion of justice in post-genocide Rwanda. In total, donors funded more than 100 justice related projects costing more \$ 100 million. Donors organized the training of lawyers, judges, investigators and police; provided salary supplement to judges and prosecutors as well as vehicles and the

¹³⁹ K.M Shaharyar. *The Shallow Graves of Rwanda*. London. I.B Tauris. 2000. pp. 204-205

¹⁴⁰ P. Uvin. *Difficult Choices in the New Post-Conflict Agenda: The International Community in Rwanda after the Genocide*. Tylor and Francis Ltd. Third World Quarterly, Vol. 22, No. 2. 2001, p. 178.

¹⁴¹ Ibid. p. 181.

required fuel maintenance; and advised on reform of administrative and court procedures, constructed buildings, libraries, prisons and living facilities. Major progress was made in many of the above areas. Hundred of judges, prosecutors and criminal investigators were trained albeit faster and less in depth than under normal circumstances. Similarly, many buildings were upgraded and equipped. NGO's assisted with confessions and with defense; bilateral and multilateral experts helped in drafting of new laws and organizations. ¹⁴²

Another major area of donor involvement was the improvement of the detention conditions of the prisoners suspected of genocide. Immediately after the new government came to power, local authorities and military men had arrested tens of thousands of people, often on flimsy evidence. Arrests of those charged reached 80,000 by mid 1996, and then jumped to 120,000 by the end of 1997 and as much as 140,000 one year later. These people, of whom the chief prosecutor himself had estimated to be 20 per cent were falsely accused, were detained in appalling prison conditions awaiting trial. The international community did assist in providing food and health care and in upgrading the conditions of the prisons; a few new prisons were even built. ¹⁴³

Reconstruction efforts supported by funding agencies seek to create conditions of sustained peace in post-conflict societies. In deadly civil conflicts, in which organized violence stigmatizes members of the affected society, the struggle against insecurity in all its manifestations during the reconstruction phase is thus an essential condition for peace. Since intra-state conflicts are often the result of structural problems, their resolution calls for the identification of corrective measures that are capable of influencing the sources of

¹⁴² P. Uvin, *Difficult Choices in the New Post-Conflict Agenda: The International Community in Rwanda after the Genocide*. Tylor and Francis Ltd. Third World Quarterly, Vol. 22, No. 2. 2001, p. 182.

¹⁴³ Ibid.

insecurity. Basically the interventions should not only seek to rebuild social infrastructures and rehabilitate the state, but also support reforms that will resolve political, ethnic and socio-economic tensions. It is for this reason that promoting human security in post-conflict societies means taking specific actions that support a safe environment, social harmony, equal status and equitable access to resources and to the decision making process.

A look at the projects undertaken in Rwanda during the reconstruction period reveals that there were two types of initiatives aimed at supporting women's effort to react to the upheavals caused by conflict and genocide. The two initiatives were; the formation of solidarity groups and production associations; and the establishment of advocacy groups and women's collectives. Since 1995, women have joined together in associations averaging 15-20 members, either spontaneously or at the behest of the government, charitable organizations and NGO's, to cultivate collective fields or to carry out income generating activities with the main aim of ensuring the economic survival of their members.¹⁴⁴ Indeed NGOs and donors have recognized the potential benefits of these groups in reconstruction and development, and have assisted these groups and helped to form new ones.

One such development effort is the Women in Transition (WIT) Program, which was established as a partnership between the Rwandan Government's Ministry of Family, Gender and Social Affairs and United States Agency for International Development (USAID) in 1996 in response to the sharp increase in women heads of households. During its first two years, the program identified genuine women's associations and

¹⁴⁴ M. Gervais. *Human Security and Reconstruction Efforts in Rwanda: Impact on the lives of Women*. Taylor and Francis Ltd. Development in Practice, Vol. 13, No. 5. 2003, p. 544

provided assistance in the form of shelter development, agricultural inputs, livestock and microcredit. Another major development project targeting women was the United Nations High Commissioner for Refugees Rwandan Women's Initiative which worked with numerous women's associations as its implementing partners.¹⁴⁵

3.4 The Relationship between the Government and NGOs in Rwanda

Following the end of genocide, hundreds of NGOs came to Rwanda to deliver humanitarian assistance and also to be part of the post-conflict reconstruction and development of the country. Despite many shortcomings, these organizations did provide invaluable assistance in delivering and maintaining essential services, caring for refugees and internally displaced persons and reaching out to vulnerable groups in the countryside. By December 1995, there were roughly 150 NGOs operating in Rwanda before the government expelled and restricted the activity of 56, leaving about 100 NGOs active in the country. Despite the tension that existed between the government and NGOs, most interestingly, they became more visible and serious over time. During the acute crisis, NGOs enjoyed unprecedented freedom and access. They formulated their own strategies and activities on the basis of their perceptions of the needs of beneficiaries and their capacities and mandates. The fragile government was hardly in a position to exercise control.¹⁴⁶

When the government of Rwanda began consolidating its position, it started asserting its authority over NGOs, insisting that they work within the framework of its policies, priorities and procedures. It later became a requirement for NGOs to register

¹⁴⁵ H.B. Hamilton. *Rwanda's Women: The Key Reconstruction*. Washington, D.C. Journal for Humanitarian Assistance. 2000, p. 9.

¹⁴⁶ U.S.A.I.D. *Rebuilding Postwar Rwanda. The Role of the International Community*. Center for Development and Evaluation. A.I.D. Evaluation Special Study Report No. 76. 1996, p. 54.

with the Ministry of Rehabilitation and formulate their programs in consultation with the concerned ministries. While most NGOs submitted applications for registration and working within the established guidelines by the government, others opted to resist the new requirements and as a result affecting the process of post-conflict reconstruction and development in Rwanda. At the heart of the problem was the fact the vast of the resources was in the command of NGO community. The situation was further aggravated by two additional factors. First, many NGOs had drawn experienced staff from the government by offering higher salaries and fringe benefits, thus undermining institutional capabilities of line ministries. Second, because senior staff of NGOs generally came from Europe and North America, a relatively large expatriate community emerged in Kigali and its affluent lifestyle aroused understandable envy among local elites.¹⁴⁷

In the aftermath of the 1994 Rwanda war and genocide, aid programs were concentrated on reconciliation activities, rehabilitation of the legal system and economic and social recovery. Over and above, the funding from international financial institutions and bilateral organizations was mainly offered by the United Nations agencies and by foreign NGOs that sought to involve beneficiary populations directly. These interventions sought to counter the consequences of war and genocide by providing help to displaced people, food aid, reconstruction of infrastructure, services for genocide orphans, institutional support to local NGO's and reconciliation projects. Although about 96 per cent of the State's investment budget was financed by external aid, a significant characteristic of this aid has been the importance of NGO assistance after the genocide. This contribution represented 7-10 per cent of all the aid received by Rwanda between

¹⁴⁷ U.S.A.I.D. *Rebuilding Postwar Rwanda. The Role of the International Community*. Center for Development and Evaluation. A.I.D. Evaluation Special Study Report No. 76. 1996. pp. 54-55.

1995 and 2000. In post-reconstruction Rwanda, NGO's mobilized an important means to initiate changes in local communities in terms of resource management for reconciliation and governance.¹⁴⁸

3.5 Conclusion

Among the lessons learnt is that, the Rwandan experience demonstrates the detrimental impact of inconsistency and poor coordination between local, national and international mechanisms, pointing to the importance of consistency and effective coordination and communication among them. Further, it points to the need for the development of clearer, more directed and realistic goals for international tribunals like the ICTR. In addition, it demonstrates the value of including and employing local/traditional conceptions of justice in an overall strategy for transitional justice.

Rwanda's path to recovery also illustrates the need for cooperation between the government, non-governmental organization and the international community in post-conflict reconstruction and development. Lastly, Rwanda's experience provides a valuable case study for exploring the challenges and opportunities of post-conflict reconstruction. It illustrates well the utility and potential for an effective relationship between the government and the international community in responding to post-conflict reconstruction needs.

¹⁴⁸ M. Gervais. *Human Security and Reconstruction Efforts in Rwanda: Impact on the lives of Women*. Taylor and Francis Ltd. Development in Practice, Vol. 13, No. 5. 2003. pp. 543-544.

CHAPTER FOUR: POST-CONFLICT RECONSTRUCTION IN RWANDA: A CRITICAL ANALYSIS

4.0 Introduction

Chapter three provided an analysis of post-conflict reconstruction in Rwanda with specific reference to the challenges and opportunities. Among the key issues discussed in chapter three were: justice and reconciliation and the role of the government and the international community in post-conflict reconstruction and development in Rwanda. It concluded by emphasizing the need for cooperation between the government, non-governmental organization and the international community in post-conflict reconstruction and development. Chapter four offers a critical analysis, an evaluation of the other chapters and at the same time provide a synthesis of the study. This was done by a cross-reference of the issues raised and themes discussed in the other chapters. This chapter is organized around the following key parts; transitional justice mechanisms in Rwanda, the challenges of building effective judicial system and the issues of coordination among different agents of change in Rwanda's post-conflict environment.

4.1 Transitional Justice Mechanisms in Rwanda

4.1.1 *Gacaca*

After the 1994 genocide, the Rwandan government passed a series of laws to revive and remodel the *gacaca* courts. The government of post-conflict Rwanda enacted the Organic Law in 1991 and *Gacaca* Law in 2001 t in order to give the *gacaca* courts the mandate of dealing with cases of the genocide. The official launch for *gacaca* operation was conducted in June 2002. Since then, *gacaca* courts have been singled out as a pathway to transitional justice and reconciliation in Rwanda.¹⁴⁹

¹⁴⁹ Karbo T and Mutisi M. *Psychological Aspects of Post-Conflict Reconstruction: Transforming Mindsets: The Case of the Gacaca in Rwanda*. Paper presented at the Ad hoc Expert Meeting on Lessons

Conflict destroys the social and psychological capital. Psychological approaches to reconstruction like the *gacaca* are appropriate in communities where there is a history of mistrust and animosity, among various identity groups. Reconstruction at the psychological level is necessary especially given the realization that the state has limited ability to reach to its citizenry's emotional, cognitive and behavioral process.¹⁵⁰

Gacaca courts are an epitome of Rwandan society's capacity to settle its problems through a self conceived local system of justice and conflict resolution, based on Rwandan traditions and customs. As a cultural practice and as a psychological process, *gacaca* should be commended for setting out to achieve difficult goals for post-conflict environments. *Gacaca* seeks to simultaneously achieve Rwanda's conflicting objectives of truth, justice and reconciliation. The system gives a chance to talk about the genocide, and by so doing offers a visible form of justice in which community members have a voice and opportunity in solving their country's problems.

As a grassroots and trauma healing effort, the *gacaca* courts are envisaged to help rebuild the communities that have been decimated by the genocide. *Gacaca* makes vital contributions to the achievement of justice in the wake of one of the most horrendous mass killings of the 20th century. *Gacaca* is a truly sui generic approach to transitional justice, accountability for atrocities and reconciliation. Indeed the psycho-sociological role of the *gacaca*, especially its ritualistic format and religious discourse, arguably facilitate reconciliation and healing.¹⁵¹ Although it is a collective ritual, being carried out

Learned in Post-Conflict State Capacity:Reconstructing Governance and Public Administration Capacities in Post-Conflict Societies. Accra, Ghana, October 2-4, 2008, p. 9.

¹⁵⁰ Ibid.

¹⁵¹ P.Kanyangara, B. Rim et. *Collective Rituals, Emotional Climate and Intergroup Perception:Participation in "Gacaca" Tribunals and Assimilation of the Rwandan Genocide.* Journal of Social Issues, Vol.63, Issue 2. June 2007, pp. 387-403:17.

at the sociopolitical realm, the *gacaca* in Rwanda has the potential to significantly address emotional concerns of the Rwandan community in the aftermath of the 1994 genocide.

Moreover, the *gacaca* process plays the role of preventing the transgenerational transmission of trauma in Rwanda. Indeed, if painful memories about past atrocities are not adequately dealt with by one generation, they will contaminate future generations in cycles of violence and counter violence.¹⁵² Thus, by publicly addressing issues of genocidal trauma and facilitating the closure of this painful episode, *gacaca* courts contribute towards efforts to prevent the relapse into vengeful violence by future generations of Rwanda.

The *gacaca* system is supported by the Rwandese people. The system further uses a consensus based approach, requiring participants to agree on the verdict. The study findings indicate that most Rwandans prefer *gacaca* justice relative to the national courts and the international tribunal as mechanism for transitional justice. From its conception to implementation in post-genocide Rwanda, *gacaca* has encouraged people in Rwandan communities to work together as voters, witnesses, tribunal personnel and jurors. This has created a common experience in which everyone works together toward a common goal, thereby replacing the divisive experience of the genocide with the cohesive experience of securing justice.

Furthermore, the participatory aspect of the *gacaca* promotes democracy and rule of law values by shifting power from the central government to the people and dealing with impunity. During *gacaca* proceedings, everyone has a right to contribute to the local

¹⁵² V. Vamik. *Traumatized Societies and Psychological care: expanding the concept of preventive medicine. Mind and Human Interaction*. 11(3). 2000, pp. 177-194.

proceedings. Thus, *gacaca* is a system of participatory justice, a restructured version of the traditional communitarian system where disputes are settled through community involvement. This decentralization of power and enhanced participation of grassroots people in social change processes is essential for reconciliation and long term stability in Rwanda.¹⁵³

The *gacaca* process in Rwanda respects the spirit of justice in a locally appropriate form which the formal justice system may not be able to achieve. It reflects the unison of hybrid approaches to peace and reconciliation by integrating culture and modern approaches in peace building and trauma healing. Thus, the blending of restorative justice principles with the Western legal model has created a uniquely Rwandan model of post-conflict reconstruction.

A major advantage of the *gacaca* process is that it is Rwandan in origin, which makes it community based. If citizens feel that a specific institution is foreign, it loses legitimacy and people's trust. The practice of *gacaca* thus demonstrates the unique role of culture in building reconciliation institutions. Proponents of the *gacaca* envisage that the institution could transform Rwandan society in several ways, including increasing prospect for democratization.

4.1.2. International Criminal Tribunal for Rwanda (ICTR)

Rwanda's apprehension about the International Criminal Tribunal for Rwanda (ICTR), its mandate and proceedings was clear even before its creation. During the 1994 negotiations concerning the terms for establishing the ICTR, Rwanda, under Paul

¹⁵³ Karbo T and Mutisi M. *Psychological Aspects of Post-Conflict Reconstruction: Transforming Mindsets: The Case of the Gacaca in Rwanda*. Paper presented at the Ad hoc Expert Meeting on Lessons Learned in Post-Conflict State Capacity: Reconstructing Governance and Public Administration Capacities in Post-Conflict Societies. Accra, Ghana, October 2-4, 2008, pp. 14-15.

Kagame's post-genocide transitional Government of National Unity, occupied one of the rotating Security Council seats. The Rwandan delegation opposed the creation of the ICTR citing that overall; they felt the Tribunal would be ineffective and useless, since it would not meet the expectations of the Rwandan people and at most, it would be used to appease the conscience of the international community.¹⁵⁴

Rwandan representatives objected to a number of key provisions; the Tribunal's temporal jurisdiction which they felt should have extended further back than January 1st, 1994, its location in Arusha rather in Rwanda's capital, Kigali, and the fact that it had no mandate to impose the death penalty in contrast to the Rwandan national courts, which have a mandate to impose capital punishment.¹⁵⁵ Having none of its concerns addressed, Rwanda voted against the Security Council's resolution to establish the Tribunal.¹⁵⁶

While the ICTR has been lauded globally for its contribution to furthering the course of justice in Rwanda, its impact on the restoration of relationships between or reconciliation among the people of Rwanda has been anything but remarkable. Employing predominantly Western legal procedures, ICTR has displayed little concern with or understanding of the complexities of Rwandan society; the Tribunal incorporates Western forms of punishment, many of which are foreign to and thus have little meaningful impact on traditional African societies.¹⁵⁷

The decision to establish ICTR headquarters and courthouse in a country other than Rwanda seemed sensible in light of the extreme physical and structural devastation

¹⁵⁴ P.C. Maina. *The International Criminal Tribunal for Rwanda: Bringing the killers to Book*. International Review of the Red Cross. No. 321. 31st December. 1997, pp. 695-704.

¹⁵⁵ P.J. Magnarella. *Justice in Africa: Rwanda's Genocide, Its Courts, and the UN Criminal Tribunal*. Aldershort, Ashgate Publishing Ltd. 2000, p. 42.

¹⁵⁶ S. Chesterman. "No Justice Without Peace? International Criminal Law and the Decision to Prosecute." in Simon Chesterman(Ed.), *Civilians in War*. London, Lynne Rienner Publishers. 2001, p.149.

¹⁵⁷ H. Zehr. "Restorative Justice" in Lue Reyckler and Thanic Paffenhliz(Eds.), *Peacebuilding: A Filled Guide*. London, Lynne Rienner Publishers, 2001, p. 333.

in the country, including the capital, Kigali. The cost of choosing neighboring Arusha as its location, however, was high and paid for in large part by its relationship with the Rwandan people. In light of the logistical and financial hurdles in traveling between Rwanda and the Tribunal, the involvement of genocide survivors and average Rwandans beyond official witnesses, has been relatively nonexistent. Magnifying this chasm is the fact that for those who do participate, all proceedings and formal documentation at the ICTR are conducted in English and French often to the exclusion of *Kinyarwanda*, the native tongue of most Rwandans.

In its established role of trying and convicting those responsible for inciting and orchestrating the genocide, the ICTR has an important function in the process of achieving justice after the genocide. However, while retributive justice remains the benchmark of criminal justice systems a cross the world, the success of the ICTR should not be simply measured according to its ability to deliver retribution, but also by the degree to which it fulfills its mandate of contributing to the reconciliation process in Rwanda; its success in this regard is notably poor.¹⁵⁸ Holding a few high profile trials are likely to satisfy a desire for justice and allow more expeditions and lenient mechanisms to deal with the rank and file. But, Rwanda's example demonstrates that the value of such trials can be severely undermined by those most affected by the crime, and inconsistency with a culture's accepted concepts of justice, however difficult this is to define.¹⁵⁹

¹⁵⁸ H. Zehr. "Restorative Justice" in Lue Reyhler and Thanic Paffenhliz(Eds.), *Peacebuilding: A Field Guide*. London, Lynne Rienner Publishers, 2001, p. 333.

¹⁵⁹ W. Lambourne. "Justice and Reconciliation: Post Conflict Peacebuilding in Cambodia and Rwanda." In Mohammed Abu-Nimer(Ed) *Reconstruction, Justice and Coexistence: Theory and Practice*. New York, Lexington Books. 2001, pp. 311-333.

ICTR's ability to engage actively with the Rwandan people and to contribute to their healing and reconciliation has been so limited by the oversight and poor choices of international actors. The fact that many Rwandans consider ICTR to be a waste of time and money, expresses an unmistakable lack of real or even sentimental connection between the Rwandans and the work of the ICTR.¹⁶⁰ It is therefore ironical that the Tribunal was created in a form not approved by the people it was intended to help.

4.1.3 Reconciliation

Dealing with the past injustices is a crucial test for a new democratic order. Facing the tension between justice and peace, the transitional process entails tremendous challenges. Countries in such a situation have to resolve similar problems: should they punish human rights violations committed under the old order? Is an amnesty permissible and necessary in the interest of peace, reconciliation and unity? Does a society need an official account and acknowledgement of the wrongs of the past? Must the public sector be purged of supporters of the old regime? How can the victims of human rights violations be assisted in some way and have their dignity restored? Knowing about the abuses of the past and acknowledging them seems to be the crucial issue in a transitional process. Ignoring history leads to collective amnesia, which is not only unhealthy for the body politic, but is essentially an illusion, an unresolved past will inevitably return to haunt the citizens.

The establishment of a full official account of the past is increasingly seen as an important element of a successful transition to democracy. New democracies have various options in dealing with these issues. They make their choices according to the

¹⁶⁰ W. Lambourne. "Justice and Reconciliation: Post Conflict Peacebuilding in Cambodia and Rwanda." In Mohammed Abu-Nimer(Ed) *Reconstruction, Justice and Coexistence: Theory and Practice*. New York, Lexington Books. 2001, p. 326.

contexts of their transitions, taking into account the seriousness of crimes committed and the resources available to deal with these issues. The choice that Rwanda made to deal with the past is justice i.e. prosecuting those accused of involvement in the genocide is the focal point of government policy. The government believes that there is very little reasons not pursue this option, as it perceives few constraints on this course of action.¹⁶¹

Usually the path chosen to deal with the past takes into account three goals; truth, justice and reconciliation. Truth is knowing about and officially acknowledging past human rights abuse. This official acknowledgement can open a dialogue in the state between individuals and the various groups in the society. Facilitating an open and honest dialogue can effect a catharsis and prevents collective amnesia which is not only unhealthy for the body politic, but also essentially an illusion i.e. an unresolved past inevitably returns to haunt a society in transition. Justice is a critical aspect of ensuring respect for human rights and the rule of law i.e. it is necessary to prevent future violations. Justice deters similar acts in the future and promotes peace and human rights while consolidating the new government as one bound by the rule of law and therefore distinctly different to the regime of the past.¹⁶²

The problem facing justice and reconciliation in Rwanda is the instability and the ongoing strife in the region. It could be argued that with violence in Burundi and Congo, the time was not ripe to undertake justice and reconciliation exercises. However, if one followed this line of thinking it may be that the time was never ripe, or when it was, much more damage had been done so that the task was even more difficult. Broadly

¹⁶¹ J Sarkin . *The Tension between Justice and Reconciliation in Rwanda: Politics, Human Rights, Due Process and The Role of the Gacaca Courts in Dealing with the Genocide*. School of Oriental and African Studies. *Journal of African Law*, 45,2. 2001, p. 146.

¹⁶² *Ibid.* pp. 146-147.

speaking, there are three types of transition i.e. overthrow, reform and compromise. Being overthrown is the fate of a regime that has refused to reform; opposition forces become stronger and finally topple the old order. This is what happened in Rwanda, when as a result of genocide and the build up of opposition forces, the Rwandan Patriotic Front (RPF) in neighboring countries invaded and toppled the government. In contrast, when reform is undertaken, the old government plays a critical role in the shift to democracy because; at least initially the opposition is weak. In countries where change is the result of compromise, the existing regime and opposition forces are equally matched and cannot make the transition to democracy without each other.¹⁶³

The nature of the transition plays a major role in determining how human rights violations of the past will be dealt with. The strength of the old regime in the new order is critical in determining the ability of the new government to deal with perpetrators of human rights violations committed during the previous regime. Various countries have established processes outside of the criminal justice system for this purpose, one being the establishment of a truth and reconciliation commission. A truth and reconciliation commission creates a record of human rights abuses that is as complete as possible, including the nature and extent of the crimes and a full record of the names and fate of the victims. A truth and reconciliation commission can be set up in a variety of ways, but most importantly and in order to provide the best chance for success, the commissions mandate and powers should be tailored to suit both the country's current situation as well as its history.¹⁶⁴

¹⁶³ J Sarkin . *The Necessity and Challenge of Establishing a Truth and Reconciliation Commission in Rwanda*. John Hopkins University Press, Human Rights Quarterly, Vol. 21, No. 3. 1999. pp. 769-770.

¹⁶⁴ *Ibid* . p. 770.

Long standing conflicts cannot be resolved without overcoming hatred. Rwanda which has experienced ethnic cleansing and racial discrimination has had to face the task of rebuilding normal communal relations as part of its post-conflict reconstruction programme. However, past psychological wounds make continued relationship difficult. During violent conflict, kinship, territorial, cultural and economic ties are broken and therefore it is important to break the cycle of violence through reconciliation. Reconciliation means coming to terms with one's old adversaries and creating a new partnership. The psychological influence of violent attack and loss of loved ones by warfare and genocide have a lasting impact on individuals and groups. Conscious and unconscious anxiety about safety and survival results from lost control over forces threatening their lives. The psychological effects of traumatic loss, which endures for years, are reflected in the victim's loss of a sense of confidence in the future as well as the capacity to trust others. Victims perceive that they are vulnerable to new attack.

Therapeutic psychological intervention can provide healing to the victims of genocide. Appropriate subjective feelings and ways of thinking are also needed to bring about and sustain reconciliation. Each side can be invited to talk about themselves by a neutral third party who does not have a vested interest in the particular outcome of the process. The healing process starts with a personalized description of the traumatic events by victims or their representatives. The acknowledgement of the tragedy and injustice of losses by the aggressors is accompanied by a formal apology and request for forgiveness. As the healing process goes on with a dialogue process, psychological sensitivity is provided by establishing an atmosphere of safety and respect for all parties. Change in

the relationship from threats to mutual understanding and respect should be the basis of reconciliation.¹⁶⁵

Empowerment through overcoming fear can help victims transform oppressive social relations by themselves. Victims feel safe in an environment which allows them to confront their losses without fear of losing control emotionally. Sincere and complete acknowledgement and apologies by offenders will lead a victimized group to trust the good faith of the aggressors in future violation. Such a process is very important in the interactive part of reconciliation.

Reconciliation contributes to the restoration of humanity of both sides by establishing just relationship and because reconciliation is a mutual process, acknowledge of guilt and forgiveness are essential to the integrity of the relationship. Re-establishing the political and social relationship of the two sides is made possible by a transaction between contribution and forgiveness. Reconciliation is not always possible and desired if offenders refuse to accept responsibilities for their wrong doing. The possibility of reconciliation can be assessed in terms of the signs of mutual interest. Reconciliation is not a substitute for justice, and it has to be accompanied by the acknowledgement of guilt and repair. As seen by the activities of Truth Commissions set up in South Africa and Guatemala, search for justice and confronting past crimes is needed for reconciliation.¹⁶⁶

Rwanda's key challenge to national unity and reconciliation is to combat the prevalence of the genocide ideology in the country and the region. A number of measures have been taken since 1994 to eradicate genocide and other divisive ideologies and to promote unity and reconciliation among Rwandans. A National Unity and Reconciliation

¹⁶⁵ H. Jeong. *Peace and Conflict Studies: An Introduction*. Ashgate Publishers. 2000, p. 192.

¹⁶⁶ *Ibid.* pp. 192-193.

Commission (NURC) was set up in 1999 to reinforce the institutional framework and put in place mechanisms for building a culture of peace and reconciliation. The commission's focus, is to combat the ideology of genocide and other discriminatory and divisive tendencies, in addition to consolidating human rights and national unity.¹⁶⁷

With the experience of the reconciliation process in Rwanda, one would thus conclude that there is no magic formula for reconciliation. Each reconciliation process needs to be designed according to the specific context i.e. the country, the conflict the country has been through, the culture and traditions it has that can strengthen reconciliation. Hearing the survivors and the community is essential in all initiatives for development and reconciliation.¹⁶⁸

4.2 The Challenges of Building Effective Judicial System

Constructing a viable judicial system and ensuring protection of human rights in present day Rwanda are critical for several reasons. Refugees in neighboring countries are reluctant to return unless they are assured of justice and security at home. Additionally, conviction and punishment by legally constituted courts of those who were involved in the genocide are likely to alleviate the desire to exact revenge on suspects and begin to address a culture of impunity. Moreover, the United Nations (UN), as well as member states, has an obligation under the Genocide Convention to take action for the prevention and suppression of acts of genocide. Above all, an effective judicial system that guarantees basic human rights is a prerequisite to political stability and evolution of a

¹⁶⁷ Rwanda Country Report. *Capacity Development and Building A Capable State*. Kigali, August. 2007, p. 17-18.

¹⁶⁸ K. Brouneus . *Reconciliation and Development*. Berlin, Friedrich-Ebert-Stiftung. 2007, p. 14.

democratic ethos in Rwanda.¹⁶⁹ Thus, if Rwanda is to establish a legal system that ensures the rights of all citizens, it must construct a justice system that substantially improves on what existed previously in the country.

One key thing to note about the administration of justice is that it involves delicate issues of sovereignty. Owing to this fact, assistance to the judicial system in Rwanda will continue to be difficult and sensitive. The government at some point did show unwillingness to use foreign jurists as judges or even as legal advisors, apparently claiming in the first instance a constitutional bar on foreign judges. The October 1995 suspension, at government's request, of a United Nation plan to send 50 foreign jurists as legal advisors, rather than as judges and investigators, further diminished the latitude for international action. It was also an additional sign of government mistrust of the international community and unwillingness to relinquish any part of its sovereignty. Despite these shortcomings, positive developments began to be registered as witnessed by the swearing-in of the new Supreme Court in October 17th 1995. This was a positive step towards restarting the judicial process in Rwanda and which was also a prerequisite for establishing lower courts. The presidentially hosted conference on genocide, impunity and accountability was another step in the right direction. It remained for the government of Rwanda to demonstrate political willingness to progress beyond the two developments.¹⁷⁰

To show its commitment to the development of a fair judicial system in Rwanda, the international community must continue to support the parallel judicial processes if the horrors of Rwandan's prison population are to be alleviated and innocent people assured

¹⁶⁹ U.S.A.I.D.; *Rebuilding Postwar Rwanda. The Role of the International Community* Center for Development and Evaluation. A.I.D. Evaluation Special Study Report No. 76. 1996, p.11.

¹⁷⁰ *Ibid.* p. 22.

of fair, transparent justice. It must also put much pressure on countries to apprehend known criminals against whom formal charges have been made. In fact the unwillingness of the inability to apprehend persons accused of genocide by countries in which they have sought refuge has been one of the glaring anomalies of the international community's conduct and a possible flouting of international legal commitment. Countries that have signed the International Conventions on Genocide and on Humanitarian Law are legally bound to take action against persons accused of humanitarian crimes. The Rwandan government had shown commitment by officially circulating a list of 443 persons wanted for such crimes and additional direction of the Security Council in its Resolution no. 987, there was scarcely any response from the countries of asylum. Seemingly, no one wanted to make a distinction between genocide and civil war.¹⁷¹

Transforming judicial institutions in order to build a sustainable capacity for handling justice and accountability in the post-conflict society is crucial. In most cases, the infrastructure has been destroyed and the staff, including the academic elite, is missing. Rebuilding the judicial infrastructure and supporting education for capacity building is an important area for development with direct links to reconciliation; if the administration of justice is just, then a large step toward reconciliation would have been taken. Preparing a country to legally engage with war crimes, or to take over cases from an international tribunal as is currently being discussed with regard to the International Criminal Tribunal for Rwanda (ICTR) and Rwanda's national judicial capacity, is an area where development assistance can have a significant impact.¹⁷²

¹⁷¹ K.M Shaharyar; *The Shallow Graves of Rwanda*. London. I.B Tauris. 2000, pp. 190-191.

¹⁷² K. Brouneus . *Reconciliation and Development*. Berlin, Friedrich-Ebert-Stiftung. 2007, p.9.

Justice and reconciliation dimension is concerned with ensuring accountable judicial systems, promoting reconciliation and nation building and ensuring human rights. Programs include justice sector reform and establishing the rule of law; promoting national dialogue and reconciliation processes such as truth and reconciliation commissions and monitoring human rights. One emerging issue with the case of Rwanda was the need to make definitions of human rights, justice and reconciliation accessible to all through the use of local languages and include these concepts in school curricula. A system which accommodates both restorative and retributive justice is recommended for Rwanda, which focuses on African values and includes African traditional mechanism for conflict prevention, management and resolution.¹⁷³

In situations where more than one justice system is established to deal with crimes relating to genocide, as is the case with Rwanda, each justice systems potential to advance national reconciliation and develop a sense of justice among the population is increased if various systems are communicating, cooperating and maintaining a level of consistency among them. In Rwanda, this has been clear in regard to issues such as sentencing, detention and witness protection. These are significant factors for ICTR in its relationship with the Rwandan people.¹⁷⁴

In its own right, the ICTR remains a viable mechanism of retributive justice, for prosecuting the organizers and leaders of the genocide. However, any attempt the ICTR has made to contribute to the reconciliation process in Rwanda has been undermined by its failure to involve Rwandans, its disregard for their safety, and its inconsistency with

¹⁷³ NEPAD. *African Post-Conflict Reconstruction Policy Framework*. June. 2005, p. 12.

¹⁷⁴ W. Lambourne. "Justice and Reconciliation: Post-Conflict Peacebuilding in Cambodia and Rwanda", in Mohammed Abu-Nimer(Ed.) *Reconciliation, Justice and Coexistence: Theory and Practice*. New York, Lexington Books. 2001, p. 330.

the national justice system, and with the Rwandan conceptions of justice and fairness. Improvements are being made at the Tribunal to include and protect Rwandans more actively and effectively. The results of such effort will hopefully mark a necessary change in the tribunal's relationship with the Rwandan government and the Rwandan people.

Although ensuring justice in the post-genocide Rwanda is a prerequisite for a stable state, it at the same time a great challenge. In addition to the weaknesses of the pre-1994 judicial systems, war and genocide compounded the situation by destroying both the human and physical capacity. Among the key challenges that Rwandan judiciary has had to face in pre-genocide period include; a large backlog of cases, building the skills and knowledge of a young judiciary, dealing with issues that arose out of a combination of civil and common law systems and inadequate budgetary.¹⁷⁵ Following these challenges, the government embarked on a comprehensive reform of the judiciary in order to address the problems of unstructured and inefficient system.

The reform in the judiciary in Rwanda, started by fulfilling the constitution provision for an independent and autonomous judiciary, headed by the Superior Council of the Judiciary. The structure of the courts and the trial proceedings have also been reformed, replacing the previously uncoordinated system of four Supreme Courts with one. The reform also included streamlining of the recruitment process, supported by large scale training and qualifications upgrading programs. It included motivational factors such as improved incentive packages and better remuneration structure for judges and prosecutors. Other capacity development initiatives in the judicial sector included a

¹⁷⁵ Rwanda Country Report. *Capacity Development and Building A Capable State*. Kigali. August. 2007. p. 16.

massive program of rehabilitating infrastructure and providing the necessary equipment for a more efficient and effective justice system.¹⁷⁶

The traditional community based justice system, *Gacaca*, has played a key role in rendering justice in the aftermath of genocide and the social dislocation caused by its effects. It has accelerated the trial of genocide cases, provided invaluable information that will be useful in formulating strategies for eliminating genocide and related ideologies. Most importantly, however, is that it has contributed enormously to the healing process and the promotion of unity and reconciliation, as perpetrators confess their crimes and ask for pardon both to the victims and to the nation as a whole.

In order to construct an appropriate judicial system, it is important that the mechanisms or processes employed are sensitive to the unique culture of each society as well as its own concepts of justice and law. In the search for justice and reconciliation in post-conflict situations, each affected country's judicial traditions should be considered and whenever possible, incorporated into judicial responses on a local or national level, and perhaps to some degree on an international level.¹⁷⁷ Similarly, conciliatory initiatives that develop within affected communities and from an understanding of a population's own experience and conception of apology, forgiveness and reconciliation are crucial to the process of reconstruction. When the local population has a sense of ownership in such a process, its restorative value is increased substantially.

¹⁷⁶ Rwanda Country Report. *Capacity Development and Building A Capable State*. Kigali, August. 2007. p. 16.

¹⁷⁷ M. Zuercher. "Working at Reconciliation in Southern African". *Canadian Mennonite*. Vol.5(13) July 2nd. 2001, p. 20.

4.3 Coordination among different agents of change

In post-conflict context, a number of international and national organizations can be acting simultaneously within a sector with limited coordination. In any reconstruction program, it is important to have a workable coordination system in place to avoid duplication of effort and inconsistent applications of policy that lead to different treatment regimes. The use of different sets of policy and procedures caused confusion during project implementation, an unplanned overlaps in donor activities led to a reduction in the overall program scope in Rwanda.

Coordination entails developing strategies, determining objectives, planning, sharing information, the division of roles and responsibilities and mobilizing resources. Coordination is concerned with synchronizing the mandates, roles and activities of the various stakeholders and actors in the post-reconstruction system and achieves this through joint efforts aimed at prioritization, sequencing and harmonization of programs to meet common objectives.¹⁷⁸

Coordination, management and resource mobilization are cross-cutting functions that are critical for the successful implementation of all the dimensions and coherence of the post-conflict reconstruction programs. All these dimensions are interlinked and interdependent. No single dimension can achieve the goal of post-conflict reconstruction which involves addressing the consequences and causes of the conflict and laying the foundation for social justice and sustainable peace on its own. The success of each individual program is a factor of the contribution that a program makes to the achievement of the overall post-conflict reconstruction objective. It is only when the

¹⁷⁸ NEPAD. *African Post-Conflict Reconstruction Policy Framework*. June, 2005, p. 12.

combined and sustained effort proves successful in the long term that the investment made in each individual program can be said to have been worthwhile.¹⁷⁹

In cases where post-conflict reconstruction is driven by international intervention, it is crucial to recognize that both instrumental and intrinsic arguments highlight the need to involve local communities and NGOs. Previous studies have shown that activities that succeed in bringing widespread reconstruction to war-torn societies are often community based. This is because local level institutions often survive dramatic conflict better than peak level institutions, and thus tend to have more capacity to deliver in the initial stages of a post-conflict period.¹⁸⁰

While acknowledging that interventions in post-conflict societies is a special case, most donors in Rwanda seemed to have been more comfortable with planning and undertaking reconstruction projects based on traditional conventional models of development rather than undertaking a radical approach that responded to peculiar exigencies of the moment.¹⁸¹ It was therefore not surprising that most donors' organizational cultures and mandates, particularly multilateral agencies seemed to have far more effect on the strategic and operational decisions than concrete situations on the ground.

The most immediate issue to address in any post-conflict reconstruction is the survival needs of the returning refugees and the local population. In the intermediate term, along with economic development, a new institutional framework has to replace a

¹⁷⁹ NEPAD. *African Post-Conflict Reconstruction Policy Framework*. June, 2005, p. 12.

¹⁸⁰ P.B. Anand. *Getting Infrastructure Priorities Right in Post-Conflict Reconstruction*. United Nations University. Research Paper No. 2005/42. 2005, p.11.

¹⁸¹ African Capacity Building Foundation. *Reconstruction and Capacity Building in Post-Conflict Countries in Africa: A Summary of Lessons of Experience from Mozambique, Rwanda, Sierra Leone & Uganda*. Occasional Paper No.3. 2004, p. 14.

shaken or broken political structure. In the long term, reinforcing the norms of non-violence and respect for human rights will nurture a peace culture manifested in tolerance and solidarity through inter-cultural understanding. Local capacity has to be quickly restored to initiate the return to a normal community life. Many logistical issues are involved especially in the resettlement process. Institutional procedures need to be set up to handle multiple claims to land and other assets which are a continuing source of tension. Resources such as reconstruction funds would be better managed by special committees which are acceptable to all the parties. In many situations, a third party plays an important role in initiating the reconstruction process.¹⁸²

Post-conflict reconstruction measures must give special attention to the individuals and groups who suffered from the consequences of violent conflict since the consolidation of peace goes along with broad improvement in the living standards of the affected people. To this end therefore, social structure can be rehabilitated by revitalizing indigenous economic activities. Reconstruction has to address the issues of high levels of poverty, landlessness and unemployment. Local communities play an important role in post-conflict reconstruction and development. Grassroots development efforts can be supported by resource conservation and management. Human needs oriented development for education, family planning, health, sanitation, water and food production has to be the core of social and economic development programs. National level coordination can be made to support reconciliation and development projects.¹⁸³

There is existing evidence that points to the linkage between empowerment and development effectiveness both at the society-wide level and at the grassroots level. This

¹⁸² H. Jeong: *Peace and Conflict Studies: An Introduction*. Ashgate Publishers. 2000, pp. 194.

¹⁸³ *Ibid.* pp. 196-197.

evidence is supported by the argument that: when citizens are engaged, exercise their voice and demand accountability, government performance improves. Further, informed citizen participation can also facilitate in building a strong consensus to support difficult and politically sensitive reforms needed to undertake post-conflict reconstruction and development. By definition, participation is a process by which individuals, organizations and communities assume responsibility for their own welfare and that of their community and develop capacity in order to contribute to their own and their community's development.¹⁸⁴

The study on Rwanda, has demonstrated how institutionally weakened post-conflict government and society failed to rise to the occasion and effectively participate in matters pertaining to the choice, selection, design and implementation of relief and reconstruction interventions. Under the pretext of weak recipient government, donors tended to impose politically visible projects, often with negligible immediate or long-term impact on the war victims and also created dozens of project management units parallel to existing government structures. The Rwandan government constantly expressed its dismay at the lack of aid being channeled directly through its institutions. Instead of promoting and strengthening the newly created aid coordination instrument, donors were regularly and imprudently bypassing it. To this end therefore, it is important to remember that, ultimately, the best test of the effectiveness of international cooperation ultimately centers on the extent to which donors successfully promote increased self-reliance in partner countries.

¹⁸⁴ African Capacity Building Foundation. *Reconstruction and Capacity Building in Post-Conflict Countries in Africa: A Summary of Lessons of Experience from Mozambique, Rwanda, Sierra Leone & Uganda*. Occasional Paper No.3. 2004, pp. 16-17.

One of the most critical issue that came out in as far as post-conflict reconstruction and development in Rwanda is concerned, was the standoff between the donor community and the Rwandan government in relation to the disbursement of funds. In order to address this issue, both sides need to draw nearer and as a first stem, rationalize figures. The Rwandan government needs to appreciate that the amount pledged for reconstruction programs is generous by any standards. To this end therefore, the government should ensure that viable projects are prepared and pledged aid is converted into disbursement and mobilization within the country. Donor countries, on their part, need to appreciate that Rwanda has the right to set its own priorities with regard to the projects on which aid is to be spent.¹⁸⁵

Newly formed interim, transitional or elected post-conflict governments are often overwhelmed when confronted with the task of taking the lead in coordinating the external actors involved in post-conflict reconstruction and development. Aid coordination, reporting and evaluation systems associated with absorbing aid generate considerable human resource and administrative costs for the recipient country. In Rwanda, absorbing post-conflict assistance implied re-directing scarce high end human resources to managing the relations with donors, the resources that would have otherwise been available to provide services to the people of Rwanda. Foreign assistance is critically important for countries such as Rwanda, but it should be recognized that it does have unintended consequences, including absorbing high end human and administrative resources that could otherwise been directed to serving the local community.¹⁸⁶

¹⁸⁵ K.M Shaharyar. *The Shallow Graves of Rwanda*. London, I.B Tauris. 2000, pp. 191-192.

¹⁸⁶ NEPAD. *African Post-Conflict Reconstruction Policy Framework*. June. 2005, p. 22.

Drawing from the conclusion of chapter three, we find that effective and efficient coordination or lack of it makes a huge difference in post-conflict reconstruction development. Due to the massive, urgent needs of immediate post-conflict situations together with the presence of many donors eager to provide support, and each with its own agenda, there is an imperative for effective and efficient donor coordination. Whereas it is true that fragile states lack the requisite capacity even of articulating their pressing needs, this should not provide an excuse for bypassing existing government structures and creating separate exogenous project coordination units.¹⁸⁷ The case study of Rwanda has clearly demonstrated that where donor coordination and joint approach were instituted, post-conflict reconstruction and development interventions had impressive results. The study also shows that in the absence of effective donor coordination the opposite is true.

The costs associated with post-conflict reconstruction assistance can be reduced through improved coordination and enhanced resource managing systems and processes aimed at streamlining the interface between the internal actors and external actor and limiting on the government bureaucracy. The Rome declaration on Aid Harmonization goes some way to address this dilemma in the development paradigm. It specifies four main principles of harmonization: recipient countries coordinate development assistance, donors align their aid with recipient countries' priorities and systems, donors streamline aid delivery and donors adopt policies, procedures and incentives that foster harmonization.¹⁸⁸

¹⁸⁷ African Capacity Building Foundation. *Reconstruction and Capacity Building in Post-Conflict Countries in Africa: A Summary of Lessons of Experience from Mozambique, Rwanda, Sierra Leone & Uganda*. Occasional Paper No.3. 2004, p. 17.

¹⁸⁸ NEPAD. *African Post-Conflict Reconstruction Policy Framework*. June, 2005, p. 22.

Drawing from the experience of the Rwandan conflict, it is clear that the international community failed to comprehend the consequences of the genocide. The systematic attempt by some Hutu to exterminate the Tutsi transformed the social, political and economic landscape of Rwanda. Above all, it undermined the social trust that binds people together. The international community thus largely failed to incorporate the implications of genocide in the design and implementation of assistance programs in Rwanda, treating the crisis like any other civil war. The cultural insensitivity of the international community did at times devalue the tragic social and human dimensions of the genocide as it was perceived by the Rwandans. Most lamentable was the rush to promoter reconciliation over the understandable resistance of those who suffered immensely.

To prevent a further destabilization of post-conflict societies, rapid responses and a quick transition from planning and implementation are needed. However, the international presence often overwhelms vulnerable countries emerging from conflict with imposed priorities or inadequate responses. Hence, it is important to ensure that first phase support measures are also a product of joint consultation and are as flexible and un-bureaucratic as possible. One big challenge for the international community is always the initial dilemma to cooperate with government institutions that are not fully democratically legitimized and at the same time help them strengthen and transform and become accountable and legitimate.¹⁸⁹

¹⁸⁹ UN DESA Discussion Paper. *Governance Strategies for Post Conflict Reconstruction, Sustainable Peace and Development*. November, 2007, p. 21.

4.4 Conclusion

Based on the study findings, Rwanda has made remarkable progress as far as constructing the judicial system and national reconciliation is concerned. National unity, reconciliation and eliminating the ideology of genocide are some of the key priorities of the government. Entrenching the culture of democracy and the rule of law in a population that has been scared for decades of misrule has been addressed by a number of governance and administrative reforms. The challenges that continue to affect Rwanda are that of mobilizing adequate resources to achieve targets that have been set. Others include; inadequate financial resources, poor infrastructure and weak human resources base. The government can address these challenges by changing the mindset of the people and develop a result oriented management culture and reduce dependency syndrome.

CHAPTER FIVE: CONCLUSIONS

5.0 Introduction

Chapter four provided a critical analysis of the emerging and cross cutting issues. The key issues discussed in chapter four include: transitional justice mechanisms in Rwanda, the challenges of building effective judicial system and the issues of coordination among different agents of change in Rwanda's post-conflict environment. Chapter five provides us with the recapitulation of issues discussed in previous chapters. Its salience lies in being able to examine the extent to which the tasks set out in the objectives of the study have been met and it undertakes the same with respect to the hypotheses. In addition, the chapter provides the conclusions of the study and the resultant research based recommendations. The chapter is therefore organized around the following parts; part one recapitulates on the three objectives of the study and examines the hypotheses; part two outlines the recommendations; part three concludes with the summary of the study.

5.1 Study Findings

The main objective of this study was to examine the challenges and opportunities of post conflict reconstruction in Rwanda. Specific objectives included; to provide an overview of the Rwandan conflict; to evaluate the state of Justice and National Reconciliation in Rwanda and to identify the specific roles of the Rwandan government and that of the international community in post-conflict reconstruction and development.

Based on the study findings, there was consensus that justice is not only about law and punishment; justice must repair, reconcile and eliminate the inequalities within the society. It also emerged that justice is not just about criminal and individual, but it is also

social and dynamic. It is because of these that there remain moral justice issues that must be addressed if all Rwandans, Hutu and Tutsi alike, are to receive the intended message of Rwanda war crime trials. One is the real possibility that lesser war criminals, most likely tried through the Rwandan judicial system, will receive harsher sentences than their leaders, who will mostly be tried in the in the international tribunal.¹⁹⁰

Justice and reconciliation are two inseparable paradigms in post conflict reconstruction. While justice is necessary, it is not always a sufficient condition for reconciliation. Individuals can be helped to reconcile by the process of justice and the acknowledgement of truth. The study found out that the healing process requires a great deal of time and patience. Given the difficulty of discussing the horror of the massacres, much less responsibility or atonement for acts of violence, community healing programs have not been very successful thus far. Informal efforts at reconciliation, within the context of other programs have been more effective than direct, more western approaches.¹⁹¹

The study findings also revealed that lack of in depth knowledge of the historical, political, social and economic context of the conflict of Rwanda, undermined in many important ways, the effectiveness of international interventions. Although, the promotion of reconciliation and peace building in Rwanda was an often stated aim of most donor programs, there was an obvious lack of technical know-how to implement and evaluate such activities in a post-conflict environment.

The study has also shown that social inequalities especially ethnic and class based, share in fuelling conflict. It also emerged from the study that, conflict is inherent in all

¹⁹⁰ USAID Evaluation Special Study No. 76. *Rebuilding Postwar Rwanda. The Role of the International Community*. 1996, p. 21

¹⁹¹ Interview with Nsengimana Juvenal, USIU, 24th June, 2010.

societies. Differences in interests and opinions between groups and countries are natural, but how such differences are expressed and managed determines if conflicts will manifest themselves in primarily political i.e. non-violent or violent ways. When groups within a society pursue their objectives in accordance with the laws and established norms of that society, conflict tends to be predominantly political. In other cases, however, groups turn to violence to pursue their interests, and the use of violence outweighs the use of political means.¹⁹²

In concluding this analysis, the hypotheses this study sought to prove have been vindicated. The first hypotheses sought to show that justice and reconciliation lead to political stability. The second stipulated that government and donor support lead to effective post-conflict reconstruction and development. The last hypotheses sought to show that security sector reform leads to political stability. Looking at the first hypothesis, the study concludes that justice and reconciliation processes in Rwanda have been effective as a result of setting up of the International Criminal Tribunal for Rwanda (ICTR), the gacaca courts and the National Unity and Reconciliation Commission (NURC). This in turn has led to the stability of the society.

As far as the second hypotheses is concerned, the study concludes that continued government and donor support is critical to sustainable post-conflict recovery. In Rwanda the government and donor support focused on programs of unity and reconciliation together with effective monitoring of those programs. Government and donor support can

¹⁹²African Capacity Building Foundation. *Reconstruction and Capacity Building in Post-Conflict Countries in Africa: A Summary of Lessons of Experience from Mozambique, Rwanda, Sierra Leone & Uganda*. Occasional Paper No.3. 2004. p. 2.

play a particularly valuable role in creating national capacity for the implementation of post-conflict reconstruction strategies and programs.

Among the lessons gleaned, the Rwandan experience demonstrates the detrimental impact of inconsistency and poor communication between local, national and international mechanisms, pointing to the importance of consistency and effective communication among them. Further, it points to the need for the development of clearer, more directed and realistic goals for international tribunals like the Internal Criminal Tribunal for Rwanda (ICTR). As well, it demonstrates the value of including and employing local/ traditional conceptions of justice in and inclusion of local conceptions of justice in an overall strategy for judicial responses. Rwanda's experience also illustrates the need for cooperation between the government, non-governmental organizations and judicial actors in post-conflict reconstruction and development, and the value of partnership between these actors in initiatives like the Rwandan Solidarity Camps.

5.2 Recommendations

There are three main reasons why post-conflict reconstruction is relevant to development discourse. First, is that conflict is an important challenge to development in a world where conflicts predominantly exist in developing countries. Second, the poor are often the main victims of conflicts and as a result conflicts exacerbate inequality and retard progress towards achieving development goals. Third, conflicts influence aid priorities and thus have a crowding-out effect. However, post-conflict reconstruction also

provides an opportunity to generate a double dividend of peace as well as strengthening governance institutions leading to stable and sustainable recovery.¹⁹³

Rwanda underwent a major institutional reconstruction process after the civil war and genocide of 1994. The country was devastated by wide scale conflict, no infrastructure was intact and there were no available supplies. The ruined economy was non-operational and many societal structures had collapsed. The judicial infrastructure was seriously damaged, and yet it was the judicial institutions which were required to deal with the consequences of the genocide. It was against this background that the special attention was given to the need to resolve the judicial/ legal issues caused by the genocide.¹⁹⁴

A decisive factor in the success and effectiveness of post-conflict reconstruction is the prior experience of a country and a society in democratic processes. Where governance measures can rely on such traditions and previous experiences, the transition from violence to a peaceful and democratic political culture is greatly facilitated. Social inclusion, political participation and social cohesion are crucial to post-conflict reconstruction and development. The Rwandan case demonstrates the need to effect reconciliation between the minority Tutsi and majority Hutu, such that the Hutu's are content with their lot and contribution they make in government, while at the same time the interests and well being of the Tutsi's are safeguarded to their satisfaction.

Another key recommendation for Rwanda, is the need to come up with policies to reduce social and economic inequalities. An equally profound challenge to reconciliation

¹⁹³ P.B Anand. *Getting Infrastructure Priorities Right in Post-Conflict Reconstruction*. United Nations University. Research Paper No. 2005/42. 2005, p. 1.

¹⁹⁴ UN DESA Discussion Paper. *Governance Strategies for Post Conflict Reconstruction, Sustainable Peace and Development*. 2007, pp. 27-28.

and reconstruction is for post-conflict Rwanda to be supported in designing and implementing policies and programs that seek to address the root causes of the conflict. Thus, the development context in Rwanda needs to be responsive to processes of transitional justice, trauma healing and reconciliation.

It is also imperative for the Rwandan government and other actors to promote a broad based and inclusive economic development in Rwanda because peace without development is not durable. In fact, calls for justice and reconciliation may not be meaningful for ordinary citizens in the absence of economic opportunity. While Rwanda's reconciliation process is unfolding, social tensions still exist. Efforts to restore trust and reconstruct the social fabric need to be expanded to prevent any deterioration in political or social outcomes.

Since the study has shown that social inequalities give rise to conflict, there is need to invest in post-conflict capacity-building programs which seek to empower the poor through adequate participation in the choice and design of the programs as well as targeting them for specific training opportunities that are likely to lead to the creation of enduring physical and human assets.

Enabling societies to dialogue with itself and to encourage dialogue between governments and the civil society needs to be amongst the key goals of post-conflict reconstruction in order to find solutions that consolidate peace in the long run. Support to the establishment of civil society umbrella bodies helps to create a structure through which civil society organizations can collectively engage in lobbying, advocacy and monitoring programs that help enhance the development of pro-poor development policies.

Any post-conflict initiative must be implemented with the participation of the affected populations. This is to ensure correct understanding of their actual needs, including society transformation after conflict, local participation and ownership as well as responsibility for sustaining achieved results. Intervention must be conflict sensitive and de-ethnicized, especially if ethnic tension was at the root of conflict as it was the case with Rwanda. Interventions must actually go beyond simply doing no harm, but must proactively address the root causes of conflict and diminish tension and destructive competition among interest groups.

In order to expedite the operations for the International Criminal Tribunal for Rwanda (ICTR), the international community should push countries in which suspected Rwanda war criminals have taken asylum to cooperate fully with the investigations of the prosecutor. This should include transparent policies on extradition and clear acceptance of the right of the prosecutor to indict.

The situation in Rwanda today can be said to be relatively stable as the government of the day is trying as much as possible to ensure social justice for all and to prevent the occurrence of genocide. However, we cannot overrule the occurrence of another conflict in Rwanda as conflict is endemic in society.¹⁹⁵ What can be done therefore is to come up with a conflict early warning and response mechanism that can give warnings and signs of an impending conflict.¹⁹⁶ The study on the challenges and opportunities of post conflict reconstruction in Rwanda is not exhaustive. Further areas of post conflict reconstruction such as infrastructural development need to be explored.

¹⁹⁵ Mwagiru M. *Conflict in Africa: Theory, Processes and Institution of Management*. Nairobi. Center for Conflict Research. 2006, p. 1.

¹⁹⁶ Mwagiru M. *Peace and Conflict Management in Kenya*. Catholic Justice and Peace Commission and MISSIO Austria. 2003, p. 104.

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Interviews

Interview with Murenzi Ephraim, Rwanda High Commission, Nairobi, 28th June 2010.

Interview with Nsengimana Juvenal, USIU, 24th June, 2010.

Interview with Uwimana Donatien, Good News Mission Kenya, 25th June 2010.

Interview with Ruboneka Yves , Rwandan Student in Kenya, 25th June 2010.

Appendix 1

SURVEY QUESTIONNAIRE

Dear Sir/ Madam,

I am Franklin Okuta Opuko, a student pursuing a Master of Arts Degree in International Studies at the University of Nairobi. As part of my course requirements, I am undertaking a survey research on **Post-Conflict Reconstruction in Rwanda: Challenges and Opportunities, 1995-2009.**

Please do assist me by filling this questionnaire.

NB: The information obtained from this questionnaire is purely for academic purposes.

Organization: -----

Name of Respondent: -----

Designation of Respondent: -----

1. Justice and reconciliation is one of the key pillars of post-conflict reconstruction. In your view do you think it has been effective in Rwanda? Give reasons for your answer.

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2. In your opinion, has justice and reconciliation led to the stability of Rwanda?

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3. What are the challenges and opportunities surrounding justice and reconciliation process in Rwanda?

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4. Comment on the role of the government and the international community in post-conflict reconstruction and development in Rwanda. What are there strengths and weaknesses?

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5. In your view, have the government and the donor support led to effective post-conflict reconstruction in Rwanda? Give reason for your answer.....

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6. Comment on the security sector reform in Rwanda. What are its challenges?.....

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7. Has the security sector reform led to the political stability of Rwanda?

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8. What is the public perception about post-conflict reconstruction and development in Rwanda?

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