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Institute of Diplomacy and International Studies (IDIS)

International Peace and Security: An Analysis of Responsibility to Protect in the Rwanda Genocide

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DECLARATION

I Belinda Akinyi Mapesa declare that this dissertation is my original work and has not been submitted for the award of a degree in any other university.

Signed Belinda Akinyi Mapesa

Date 8/11/2011

Mapesa Belinda Akinyi

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

Signed Mwagiri

Date 08 November 2011

Prof. Makumi Mwagiri

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DEDICATION

To my loving family and friends

ACKNOWLEDGEMENT

This is to acknowledge that this work is not completed by my effort alone but also with that of others. First and foremost I acknowledge that this work would not have been completed on time without the insightful guidance of my supervisor Prof. Makumi Mwangi. I also acknowledge the supportive assistance of the many participants who filled the questionnaires of this study. I extend my sincere gratitude to them.

ABSTRACT

This research project investigated the adequacy of the tools of maintain international peace and security. It also examined the major reasons that contributed to the failure of the UNAMIR in its mission in Rwanda. The study investigated the impact of the emerging concept of responsibility to protect.

The theoretical frameworks employed in this study are collective security theory, Ethnic conflict theory and the concept of Responsibility to Protect.

This study employed the use of questionnaire. The sample population targeted were individuals working in governmental and Non-Governmental organisations concerned with peace and security. The study also targeted second year masters students at the University of Nairobi pursuing International Studies. The questionnaires were sampled in simple random and cluster random methods to reach the respective target population. The data collected were analysed by use of percentages as well as mode and mean. The findings were presented in pie charts and tables.

The study established that the concept of Responsibility to protect will strengthen the ability of the UNSC in maintaining international peace and security.

List of Abbreviations

GA	General Assembly
HI	Humanitarian Intervention
ICC	International Criminal Court
ICISS	International Committee on Intervention and State Sovereignty
IHL	International Humanitarian Law
ILF	In Larger Freedom
INGOs	International Non-Governmental Organisation
LN	League of Nations
MRND	<i>Mouvement Révolutionnaire pour le Développement</i> Revolutionary Movement for Development (translation)
NGOs	Non-Governmental Organisation
P-5	Permanent Five
R2P or RtoP	Responsibility to Protect
RAF	Rwandan Armed Forces
RPF	Rwanda Patriotic Front
UN	United Nations
UNAMIR	United Nations Assistance Mission in Rwanda
UNOSOM	UN Operation in Somalia
UNSC	United Nations Security Council

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Chapter 1

Introduction of the Study

1.0 Introduction

International peace and security has been an object of desire for states since time in memorial. This desired was further fuelled by the numerous wars in Europe and consequently the two World Wars. As a consequence states have worked to organise themselves and create institutions which will help avert wars and conflicts therefore promote international peace and security. Due to their efforts two of the most prominent organisations were created namely the League of Nations (LN) and the United Nations (UN). Historical records indicate that the LN was rendered irrelevant since it failed to avert the Second World War. These two organisations are not rivals but rather a landmark representation of humanity's unquenched desire for peace. A view that Sweetser shares he asserts that the LN and the UN should not be viewed as competitors but as part of mankind's long quest for peace and freedom from war.¹ Presently the UN continues to maintain international peace and security however it does struggle in specific situations. The UN remains the chief organisation that is relied upon by states and people alike to maintain international peace and security this responsibility is nonetheless delegated to the United Nations Security Council (UNSC).

¹ Sweetser, Arthur *Perspective on the United Nations*; "World Affairs" vol.115 No.3 Pp 71-73 (1952).

The UNSC is perceived by many to be at the summit of the organisation's structure largely due to its enforcement abilities.² It is also the organ entrusted chiefly with the responsibility to maintain international peace and security.³ It is therefore given precedence to define and determining situations which jeopardise international peace and security. As such there is no agreed definition by scholars on the term however, international peace and security is generally conceived to mean safety from wars and conflicts in a global scale. This conception is also evident in the purpose and responsibilities of the United Nations. In practice international peace and security has been used extensively by the UNSC to manage interstate rather than intrastate conflicts. This means that in effect international peace and security is limited to peaceful relation and settlement of disputes between states in disputes. This is not surprising due to the nature of international politics that surrounded the establishment of the organisation. The world was slowly recuperating from the effects of World War II when the UN was established.

Maintaining international peace and security is an intricate responsibility, while the UNSC has rich experience in doing so, it is yet to ensure that all people in all corners of the world are sufficiently safe from wars and conflicts especially—internal conflicts.

² Bercovitch, Jacob and Richard Jackson, *Conflict Resolution in the Twenty-first Century: Principles, Methods and Approaches*; University of Michigan Press U.S.A, (2009)

³ United Nations, *Charter of the United Nations and Statute of the International Court of Justice*, United Nations Department of Public Information New York, (1994)

1.1 Statement of the Research Problem

The UN in general and the UNSC in particular have indeed gotten involved in international conflict resolution and therefore maintain international peace. This state of affairs has given the UNSC immense experience in providing political solutions to conflicts. The paradox is that despite its undisputed experience, the involvement of the UNSC in conflict resolution does not always translate to favourable outcomes. This means that there are situations whereby the UNSC will emerge successful at times and regrettably vice versa. This being the case, its involvement in disputes remains an unpredictable phenomenon. Fortunately, in almost seven decades of its existence the UNSC has proven to be mostly effective when dealing with interstate conflicts, on the contrary this is not so when it is faced with internal conflicts.⁴ This being the case the UNSC has struggled to deal effectively with internal conflicts with limited success.

One of the UNSC's conspicuous catastrophes in the organisation's memory was its inability to halt the Rwanda genocide in 1994 on time, despite the UNSC giving way for the creation and dispatching of a UN peacekeeping mission for Rwanda – UNAMIR. Unfortunately as recorded in history UNAMIR was overtaken by the genocide.⁵ And, the people of Rwanda were left at the mercy of the perpetrators of the genocide. Therefore this research study seeks to investigate the chief reasons that inhibited the ability of the UNSC to successfully halt the genocide in a timely manner as well as investigate the

⁴ Bercovitch, Jacob and Richard Jackson, *Conflict Resolution in the Twenty-first Century: Principles, Methods and Approaches*; University of Michigan Press U.S.A, (2009) op cit.

⁵ Bercovitch and Jackson, *Conflict Resolution in the Twenty-first Century: Principles, Methods and Approaches*; University of Michigan Press U.S.A, (2009) op.cit

main reasons that contributed to the inability of UNAMIR to fulfil its mandate in Rwanda.

1.2 Objectives of the Study

To investigate whether or not the provisions and principles of the UN charter which govern the maintenance of international peace and security are adequate or not.

To analyse the major factors that inhibited the UNSC's and UNAMIR's ability to stop the genocide in 1994.

To examine the impact of responsibility to protect (R2P) in maintaining international peace and security.

1.3 Literature Review

The UN is the solitary organisation responsible of maintaining international peace and security.⁶ As such only the UN has the authorisation to take any form of action to preserve world peace and security as provided for by the charter under chapters VI, VII and VIII.⁷ This means that only the organisation can revert to use coercive measures to maintain peace and security though as a last resort.⁸ This signifies the serious notion that the UN members states have tagged to the maintenance of global peace. Though the UN is tasked with this crucial role, it does so through one of its chief organs—UNSC. It is considered as the most powerful organ. Bercovitch and Jackson attribute this with the

⁶ Weiss et. al, *The United Nations and Changing World Politic*; Westview Press The United States of America, (2007)

⁷ Bercovitch and Jackson, *Conflict Resolution in the Twenty-first Century: Principles, Methods and Approaches*; University of Michigan Press U.S.A, (2009) op.cit

⁸ Weiss et. al, *The United Nations and Changing World Politics*; West view Press The United States of America(2007) op. cit

enforcement powers that it is adorned with.⁹ This is because it possesses the all important veto power. This feature has stirred one of the tensest debates in the UN in recent history.

One group perceives the veto power of the permanent five as a positive feature of the UN system of maintaining international peace and security because it keeps the major powers within the UN structure when they would otherwise forsake it.¹⁰ Weiss adds that the veto protects the UN from damaging conflicts with its most significant members hence helps avoid a major war of which is the very essence of the creation of the UN.¹¹ Goldstein strongly agrees with these statements and asserts that the provision of the veto helps the Council prevent conflicts among great power themselves.¹² On the contrary another group disagrees with this opinion. This group contends that the veto is an obsolete remnant of the post-war configuration of power and one of the main impediments to more effective decision-making procedures in conflict situations.¹³ Ferencz is of the same opinion and he strongly criticizes the permanent members for monopolizing power in the UN. He suggests an expansion of the council's permanent membership to reflect the current UN global membership today rather hold on to the

⁹ Bercovitch and Jackson , *Conflict Resolution in the Twenty-first Century: Principles, Methods and Approaches*; University of Michigan Press U.S.A (2009) op.cit

¹⁰ Bercovitch and Jackson , *Conflict Resolution in the Twenty-first Century: Principles, Methods and Approaches*; University of Michigan Press U.S.A (2009) op.cit

¹¹ Weiss et. al, *The United Nations and Changing World Politics*; West view Press The United States of America(2007) op. cit

¹² Goldstein, Joshua, *International Relations*, Dorling Kindersley Publishing Inc, New Delhi, (2005)

¹³ Bercovitch and Jackson . *Conflict Resolution in the Twenty-first Century: Principles, Methods and Approaches*; University of Michigan Press U.S.A (2009) op.cit

1945 relic.¹⁴ A view that Annan strongly supports as indicated in his *In Larger Freedom* (ILF) report where he advocates for reformation of the council's membership and representation as a whole to twenty-four members.¹⁵

The maintenance of international peace and security is firmly grounded on collective security.¹⁶ This implies that for the UNSC to successfully maintain international peace and security it must observe the basics of collective security. Weiss assert that collective security is grounded on three factors namely; consensus, commitment and organisation.¹⁷ In theory, the concept of collective security is clear and seems simple to follow. However, it is in implementing it in practice that differences and debates emerge. When faced with a dispute situation the members in the collective security system have to come to a consensus as to whether the situation in question has the potential to risk international peace and security if it continues unabated. For instance, in the situation of Rwanda in 1994 questions emerged whether or not the genocide threatened international peace and security when the conflict happened largely within Rwanda's boundaries.¹⁸ In addition numerous questions surrounded the turmoil in Rwanda as to whether it mounted to genocide or not. But until the important members in

¹⁴ Ferencz, B. Benjamin (1985). *A Common Sense Guide to World Peace*; Oceana Publications Inc London, (1985)

¹⁵ Annan, Kofi. *In Larger Freedom: Towards Development, Security and Human Rights for all, Report*, New York (2005)

¹⁶ Weiss et. al, *The United Nations and Changing World Politics*; West view Press The United States of America(2007) op. cit

¹⁷ Weiss et. al, *The United Nations and Changing World Politics*; West view Press The United States of America(2007) op.cit

¹⁸ Weiss et. al, *The United Nations and Changing World Politics*; West view Press The United States of America (2007) op.cit

the collective system answer these questions affirmatively, authorising a collective action will be of no use at all, therefore they must first agree.¹⁹ This is the very practice weaved within the framework of the UNSC. Weiss is of this opinion and states that members of a collective security arrangement, especially the most powerful ones such as the P-5 of the UNSC must agree that a threat or breach to the peace exists or at least stand aside.²⁰ But, if a P-5 member holds an opposing opinion, this will hamper efforts to maintain or restore international peace and security collectively.²¹ Nonetheless, once this obstacle is removed member states must agree on what course of action to take about the threat that is use of force, economic sanctions or a combination of both.²² Once they have come to an agreement they must be committed to that course of action and therefore be willing to bear the costs of action and even forego their national interests for a collective good.²³ Lastly, after meeting the first two conditions there must be organisation—agreed upon mechanisms, rules and procedure of conducting the action.²⁴ Regrettably in a large organisation like the UN, concerns of free-riding are likely to arise when implementing the agreed course of action. Bercovitch and Jackson echo these sentiments and affirm that

¹⁹ Weiss et. al. *The United Nations and Changing World Politics*; West view Press The United States of America (2007) op.cit

²⁰ Weiss et. al. *The United Nations and Changing World Politics*; West view Press The United States of America (2007) op.cit

²¹ Goldstein, Joshua, *International Relations*, Dorling Kindersley Publishing Inc, New Delhi, (2005) op.cit

²² Weiss et. al. *The United Nations and Changing World Politics*; West view Press The United States of America (2007) op.cit

²³ Weiss et. al. *The United Nations and Changing World Politics*; West view Press The United States of America (2007) op.cit

²⁴ Weiss et. al. *The United Nations and Changing World Politics*; West view Press The United States of America (2007) op.cit

in the context of international relations, it is sometimes rational for states to enjoy public goods such as international peace and security without contributing towards their costs. They testify that states take uncooperative measures so as not to be harmed by the defection or cheating of others.²⁵ This suggests that states are somewhat sceptic in an arrangement that involves many states. This is contrary to the all ready mentioned requirement of commitment which demand states in a collective security arrangement to commit themselves to the agreed course of action to the point of foregoing their national interests.²⁶ This suggests that ensuring every or majority of member states comply to the agreed course of action can be a challenging task and at times daunting depending on the number of members in the arrangement.

Maintaining international peace and security under the collective security rides on the assumption that all victims are equally important, hence the international community of states will respond in the same manner whenever there is a conflict situation in any region.²⁷ Unfortunately this is not always the case, Weiss states that historically most states have distinguished between states worth defending or otherwise.²⁸ The United States (U.S.) displayed a striking difference of involvement in resolving the gulf war in 1991 and the Rwanda genocide in 1994 where the U.S. was ready to avail approximately

²⁵ Bercovitch, Jacob and Richard, Jackson . *Conflict Resolution in the Twenty-first Century: Principles, Methods and Approaches*; University of Michigan Press U.S.A (2009) op.cit

²⁶ Weiss et. al, *The United Nations and Changing World Politics*; West view Press The United States of America (2007) op.cit

²⁷ Weiss et. al, *The United Nations and Changing World Politics*; West view Press The United States of America (2007) op.cit

²⁸ Weiss et. al, *The United Nations and Changing World Politics*; West view Press The United States of America (2007) op.cit

half a million military personnel to liberate oil-rich Kuwait, yet in 1994 it resisted and dithered efforts of taking action to end the genocide in Rwanda. Consequently, there was a strong decisive and forcible collective security action in the case of Kuwait, while indecisive and mostly non-forcible collective security efforts were tried as 800,000 people were slaughtered in 100 days in Rwanda.²⁹

The UNSC though is powerful is not insulated from the politics of the day. This was observed during the cold war period, thus, the council could not function as envisioned in 1945. In this period the Soviet Union and the U.S. used their veto power to frustrate each other's interests in different regions. Regrettably this also meant that the UN could not intervene effectively in these areas. Weiss testifies that in this period 279 vetoes were cast.³⁰ In light of this development the council was in a crisis. Therefore, the GA improvised a way round the veto deadlock thus the *Uniting for Peace* resolution was adopted.³¹ Through this resolution the GA could authorize a course of action to maintain international peace and security whenever the council was unable to do so. This is one of the key innovations that the organization has improvised in a spirited effort to continue pursuing its primary purpose despite experiencing unpredictable impediments in an increasingly complex international system.

²⁹ Weiss et. al, *The United Nations and Changing World Politics*; West view Press The United States of America (2007) op.cit

³⁰ Weiss et. al, *The United Nations and Changing World Politics*; West view Press The United States of America (2007) op.cit

³¹ Weiss et. al, *The United Nations and Changing World Politics*; West view Press The United States of America (2007) op.cit

Another unforeseen key innovation of the UN is the idea of peacekeeping as an additional tool to manage conflicts. Weiss rightfully observes that peacekeeping is not mentioned in the charter.³² Goldstein is in accord with this statement and asserts that Dag Hammarskjold Secretary-General in the 1960s joked that it was permitted under chapter six and a half in the charter.³³ Nonetheless, it has become a prominent feature in security and peace issues. This being the case there has been numerous peacekeeping missions across the world. Despite their prominence and popular use, Bercovitch and Jackson advise that they must not be substituted to other conflict resolution methods.³⁴ Weiss is in agreement with this statement and affirms that these operations cannot guarantee the pursuit of a political solution by using them exclusively.³⁵ The adaptable strength of the organization to the nature of the politics of the day has made it relevant in maintaining international peace and security and this is likely to continue as we shall soon learn in this study.

The UN charter enlists the methods that the UNSC can use to maintain international peace and security as indicated in chapters VI, VII and VIII.³⁶ Weiss emphasizes that the council usually acts under chapter VI and not VII when dealing with

³² Weiss et. al, *The United Nations and Changing World Politics*; West view Press The United States of America (2007) op.cit

³³ Goldstein, Joshua, *International Relations*, Dorling Kindersley Publishing Inc New Delhi (2005) op.cit

³⁴ Bercovitch and Jackson, *Conflict Resolution in the Twenty-first Century: Principles, Methods and Approaches*; University of Michigan Press USA (2009) op.cit

³⁵ Weiss et. al, *The United Nations and Changing World Politics*; West view Press The United States of America (2007) op.cit

³⁶ United Nations, *Charter of the United Nations and Statute of the International Court of Justice*, United Nations Department of Public Information New York, (1994) op.cit

peace and security matters.³⁷ He associates this phenomenon with the notion that the tact of persuasion under chapter VI should be given precedence over the coercive ones in chapter VII.³⁸ In addition Weiss testifies that the principle in article 2(4)—non use of force is not a dead letter he is adamant that it has guided the council to maintain international peace and security, since a state which contemplates to contravene this principle can be certain that its actions will be punished or rebuked, more so if it is not a *great power*.³⁹ Emphases are original. Therefore it serves as a caution for states and regulates their use of force consequently, limiting the prevalence or proliferation of the use of force.

Another great complexity facing the maintenance of international peace and security is the shift of the nature of conflicts from interstate to internal. These internal conflicts have been dubbed 'new wars'.⁴⁰ This state of affairs has brought the principle of non-interference in matters which are essentially under domestic jurisdiction of a state to sharp focus in global matters of peace and security. Thus opening debates on whether or not the UN and its member states can intervene in situations considered being part of domestic jurisdiction.⁴¹ Bercovitch and Jackson assert that internal conflicts can

³⁷ Weiss et. al, *The United Nations and Changing World Politics*; West view Press The United States of America(2007) op. cit

³⁸ Weiss et. al, *The United Nations and Changing World Politics*; West view Press The United States of America(2007) op.cit

³⁹ Weiss et. al, *The United Nations and Changing World Politics*; West view Press The United States of America(2007) op.cit

⁴⁰ Bercovitch ,Jacob and Richard, Jackson , *Conflict Resolution in the Twenty-first Century: Principles, Methods and Approaches*; University of Michigan Press U.S.A (2009) op.cit

⁴¹ Weiss et. al, *The United Nations and Changing World Politics*; West view Press The United States of America(2007) op. cit

jeopardize international peace and security.⁴² Yet, despite the on-going debates UNSC has authorized interventions to internal conflicts on humanitarian grounds. Nevertheless, its application has only raised more debate than consensus. Bercovitch and Jackson state that humanitarian intervention are highly contested, they wonder whether India intervention in Bangladesh or NATO intervention in Kosovo or France intervention in Rwanda among others should be viewed as genuine humanitarian interventions.⁴³ Evans and Sahnoun add that humanitarian intervention (HI) made a mess in Rwanda, Bosnia and Somalia in its early days. They deduce this was due to the absence of agreed rules and procedure on how and when HI should be exercised and under whose authority.⁴⁴ They lament UN action in Rwanda (if taken at all) was widely perceived as being too little too late, poorly resourced, poorly executed, misconceived, or all the above.⁴⁵ Evans is in agreement with these sentiments and asserts that there are still no agreed rules about HI that will help handle each novel situation as it rises.⁴⁶ Leading in the development of HI is former secretary-general Kofi Annan argues that the international community need to concur on legitimate and universal principles, within the structure of international law to protect civilians faced with the threat of gross and systematic human rights

⁴² Bercovitch, Jacob and Richard, Jackson, *Conflict Resolution in the Twenty-first Century: Principles, Methods and Approaches*; University of Michigan Press U.S.A (2009) op.cit

⁴³ Bercovitch, Jacob and Richard, Jackson, *Conflict Resolution in the Twenty-first Century: Principles, Methods and Approaches*; University of Michigan Press U.S.A (2009) op.cit

⁴⁴ Evans, Gareth and Sahnoun, Mohamed *The Responsibility to Protect*; "Foreign Affairs," vol. 81, No.6, Pp 99-110

⁴⁵ Evans, Gareth and Sahnoun, Mohamed *The Responsibility to Protect*; "Foreign Affairs," vol. 81, No.6, Pp 99-110 op.cit

⁴⁶ Evans, Gareth *The Responsibility to Protect: When it's Right to Fight*; "Prospective Politics," pp 1-3 (2003)

violations.⁴⁷ He proposes that the Security Council intervene in internal conflicts by authorizing the creation of 'safe corridor' and 'safe areas' in conflict zones, imposing sanctions against wayward states or taking other measures should be seriously considered.⁴⁸

One group of states strongly agrees with his views and argues that in the face of massive human rights violations the responsibility of the international community to inhibit these violations is paramount. They maintain that the use of force should be considered only as a last course of action to legitimately protect human rights. They remain adamant that such action must however be authorized by the Security Council.⁴⁹ Ferencz is of the same opinion and asserts that genocide mistreatment of a nation's own citizens is a crime against humanity as depicted by the Nuremberg principles which are unanimously affirmed by the UN made it clear.⁵⁰ Ferencz brings in a new idea and asserts that action to halt such illegal acts would presumably be lawful-despite the general rule against non-interference in another nation's internal affairs.⁵¹ This means that the hallowed principle of non-interference though supported in the UN Charter and jealously guarded by sovereign member states can be legally overridden when acts such as

⁴⁷ United Nations, *Basic facts about the United Nations*; United Nations Publications New York (2000) op.cit

⁴⁸ United Nations, *Basic facts about the United Nations*; United Nations Publications New York (2000) op.cit

⁴⁹ United Nations, *Basic facts about the United Nations*; United Nations Publications New York (2000) op.cit

⁵⁰ Ferencz, B. Benjamin, *A Common Sense Guide to World Peace*; Oceana Publications Inc London (1985) op.cit

⁵¹ Ferencz, B. Benjamin, *A Common Sense Guide to World Peace*; London, Oceana Publications Inc London, (1985) op.cit

genocide are committed against a sovereign state's citizens.⁵² This concept took the centre stage in international peace and security matters in the wake of the Rwanda genocide and deliberate targeting of civilians in Kosovo and Srebrenica in the 90s.⁵³

A second group of states has taken a neutral stand, they argue that the concept of humanitarian intervention is not yet clear and call for broad dialogue as well as perceive it in a broader context.⁵⁴ They are backed by Ferencz who admits that humanitarian intervention is still a grey area in matters of peace and security.⁵⁵ Though this group agrees that some course of action should be taken to prevent gross human rights violation, but they differ on how that decision should be arrived at. This group firmly suggests that any decision be based on the consensus of member states.⁵⁶

A third group of states totally disagrees with the position taken by the previous groups. They make a case that HI has the potential to emasculate the Charter, eroding the sovereignty of states and threatening legitimate governments and the stability of the international system. They emphasize that all measures to protect human rights should be taken only with respect for the independence, sovereignty and territorial integrity of all

⁵² Ferencz, B. Benjamin, *A Common Sense Guide to World Peace*; London, Oceana Publications Inc London, (1985) op.cit

⁵³ Foreign Affairs and International Trade, *Responsibility to Protect*; "Foreign Affairs and International Trade" Pp 1-3 (2010) (Accessed 17/6/2011)

⁵⁴ United Nations, *Basic facts about the United Nations*; United Nations Publications New York (2000) op.cit

⁵⁵ Ferencz, B. Benjamin, *A Common Sense Guide to World Peace*; London, Oceana Publications Inc London, (1985) op.cit

⁵⁶ United Nations, *Basic facts about the United Nations*; United Nations Publications New York (2000) op.cit

countries, and the will of the government and people of the country concerned.⁵⁷ These strong positions taken by the different groups indicate how contentious humanitarian intervention in internal conflicts is and therefore should be tackled carefully in the spirit of the UN Charter. Nonetheless, HI has evolved to being responsibility to protect (R2P).⁵⁸ Evans and Sahnoun testify that change of terminology from “intervention” to “protection” escapes from the language of “humanitarian intervention”.⁵⁹ They affirm that though R2P expected to be practiced by all sovereign states to their citizens in the first instance, it must be picked up by the international community if that first-tier is not being exercised or is abdicated.⁶⁰ As such, series of governmental and nongovernmental initiatives have focused on reconciling traditional notions of state sovereignty with the moral imperative to act with force if necessary in the face of genocide and crimes against humanity such as those which occurred in Rwanda and Kosovo pressed for a need of a new conceptual understanding and practice to maintain international peace and security.⁶¹ Bercovitch and Jackson not only agree with this statement but also adds a new perspective and affirm that state sovereignty should no longer be viewed from the

⁵⁷ United Nations, *Basic facts about the United Nations*; United Nations Publications New York (2000) op.cit

⁵⁸ Foreign Affairs and International Trade, *Responsibility to Protect*; “Foreign Affairs and International Trade” Pp 1-3 (2010) (Accessed 17/6/2011) op.cit

⁵⁹ Evans, Gareth and Sahnoun, Mohamed *The Responsibility to Protect*; “Foreign Affairs,” vol. 81, No.6, Pp 99-110 op.cit

⁶⁰ Evans, Gareth and Sahnoun, Mohamed *The Responsibility to Protect*; “Foreign Affairs,” vol. 81, No.6, Pp 99-110 (2002)

⁶¹ Foreign Affairs and International Trade, *Responsibility to Protect*; “Foreign Affairs and International Trade” Pp 1-3 (2010) (Accessed 17/6/2011) op.cit

traditional understanding introduced by the treaty of Westphalia, but as a responsibility.⁶² Evans and Sahnoun share the same opinion and affirm that central to this conceptual approach is a shift in thinking about the essence of sovereignty from control to responsibility.⁶³ Having this in mind, Luck asserts that the 2005 World Summit was a historic breakthrough as world leaders unanimously affirmed the primary legal obligations of states to protect their populations-whether citizens or not from genocide, war crimes, ethnic cleansing and crimes against humanity.⁶⁴ He maintains that the world leaders flatly declared “we accept that responsibility and will act in accordance with it”.⁶⁵ This statement brought to force the new concept of R2P. Today state sovereignty is viewed in light of responsibility rather than control.

The genocide in Rwanda was a shocking experience for the world and more so to the UN. It remains one of the acknowledged failures by the UN.⁶⁶ However Hintjens states that the execution of the genocide can be attributed to ideological and military preparation preceding the genocide and the systematic use of conspiracy theories and

⁶² Bercovitch, Jacob and Jackson, *Conflict Resolution in the Twenty-first Century: Principles, Methods and Approaches*; University of Michigan Press U.S.A (2009) op.cit

⁶³ Evans, Gareth and Sahnoun, Mohamed *The Responsibility to Protect*; “Foreign Affairs,” vol. 81, No.6, Pp 99-110 op.cit

⁶⁴ Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, (2008)

⁶⁵ Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, p1, (2008) op.cit

⁶⁶ United Nations, *Basic facts about the United Nations*; United Nations Publications New York (2000) op.cit

myths to justify blatant plans for slaughter.⁶⁷ Heusch also agrees with this observation and asserts that the genocide was not an expression of spontaneous popular anger, it was meticulously planned.⁶⁸ The purpose of these theories and myths serve to mobilise and rally groups against the identified enemy group. Staub echoes these sentiments and states that to satisfy their need of identity and connection people often turn to groups, they thus elevate the group by physically or psychologically diminishing the other group. They scapegoat another group for life problems, which safeguards their identity and strengthens connection within the group.⁶⁹ This state of affairs consolidates group loyalty but accelerates hatred towards the purported enemy group. Staub further states that the group usually adopts an ideology of an ideal social arrangement that they are dedicated to create.⁷⁰ He adds that as the members of the group change when they engage in violence against the other group. They devalue members of the other group more, and excludes its members from the moral universe, thus all efforts are combined to injure the purported 'enemy' group.⁷¹ Such was the scenario of the Rwanda genocide that led to the targeting of primarily Tutsi and also moderate Hutus in 1994.

⁶⁷ Hintjens, M. Helen *Explaining the 1994 Genocide in Rwanda*; "Journal of Modern African Studies," vol. 37, No.2 Pp, 241-286 (1999)

⁶⁸ Heusch, Luc de *Rwanda: Responsibilities for a genocide* "Anthropology Today" vol.11, No.4 Pp 3-7 (1995)

⁶⁹ Staub, Ervin *Genocide and Mass Killing: Origins, Prevention, Healing and Reconciliation*; "Political Psychology" vol. 21, No.2 Pp 367-382 (2000)

⁷⁰ Staub, Ervin *Genocide and Mass Killing: Origins, Prevention, Healing and Reconciliation*; "Political Psychology" vol. 21, No.2 Pp 367-382 (2000) op.cit

⁷¹ Staub, Ervin *Genocide and Mass Killing: Origins, Prevention, Healing and Reconciliation*; "Political Psychology" vol. 21, No.2 Pp 367-382 (2000) op.cit

A compelling reason to carry out this research is the fact that there is limited literature written of the emerging concept of (R2P). Therefore this study will contribute to the development and understanding of R2P in theory and practice. Another reason to carry out this study is to shed light on the UN conflict resolution system of maintaining international peace and security. In addition, the case study of choice of this study is of importance for this research because it seeks to expose the underlying causes of internal conflicts which still exist in various countries and thus, pose a challenge on the maintenance of international peace and security.

1.4 Theoretical Framework

This research study will use three theories to meet the set objectives namely; responsibility to protect, collective security and ethnic conflict theories. The concept of R2P is crucial to this study because it explores new frontiers of dealing with internal conflicts and thus adds to the international communities' instruments of global conflict resolution. Therefore, it offers the international community an opportunity to better maintaining international peace and security. Collective security will help us analyse the old concept of maintaining international peace and security. Equally important is the ethnic conflict theory, which will assist to logically explain how ordinary citizens can take arms and turn against their neighbours and therefore help execute a crime like genocide.

R2P is based on three pillars first, the responsibility of the state to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity. Second, the commitment of the international community to assist states in meeting these obligations and third, the responsibility of the member states to respond in a timely and

decisive manner when a state is manifestly failing to provide such protection.⁷² Evans and Sahnoun further attest that R2P has three advantages first it is conceived from the point of view of those needing protection not those who want to intervene, second it implies that the primary responsibility lays with the state concerned, thus only if that state is unable or unwilling to fulfil its responsibility to protect or is itself the perpetrator then the international community of state take the responsibility to act in its place. Third, R2P is an umbrella concept embracing not just the “responsibility to react” but the “responsibility to prevent” and the “responsibility to rebuild” as well.⁷³

Similarly, as already mentioned, collective security is grounded on three factors namely consensus on the part of great powers on whether or not there is a threat to the peace and what course of action should be taken. In the UN system there must be a concurrent vote by the P-5 in the UNSC. Next, member states must be committed to this course of action and lastly member states must organise how this action will be implemented by laying down the rules and procedures of the exercise. Therefore, a collective security action contrary to this provision will not yield the anticipated outcome.

Last but not least, the ethnic conflict theory logically explains how ethnic conflict is constructed. The gist of this theory is that individuals rally themselves in to opposing groups. One group then elevates its identity at the expense of the other usually the purported ‘enemy’ group. This theory holds that there is a tendency to scapegoat the other group as well as demonization of the ‘enemy’ group and to construct an ideal

⁷²Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, (2008) op.cit

⁷³Evans. Gareth and Sahnoun, Mohamed *The Responsibility to Protect*; “Foreign Affairs,” vol. 81, No.6, Pp 99-110 (2002) op.cit

society that will exclude the 'enemy' group.⁷⁴ Thus, the desire to create the desired society becomes the justifying ground of unlimited violence against the identified 'enemy' group.

1.5 Hypothesis

Responsibility to protect will strengthen the maintenance of international peace and security by the UNSC.

1.6 Methodology

This study will employ the use of questionnaires as a tool to collect primary data. The sample population targeted for this research are individuals working in governmental and non-governmental organisations concerned with peace and security. Another target population for this study are second year masters students of the University of Nairobi pursuing International Studies.

The questionnaires will be sampled in simple random method to reach individuals working in governmental and NGOs while the research will employ cluster random method to reach the masters students. The questionnaires will consist of close and open ended questions. The questionnaire will be divided in three sections section A will comprise of questions pertaining to maintaining international peace and security. Section B questions will probe the UN's effort to halt the genocide. Lastly section C will comprise of questions on the concept of R2P.

⁷⁴ Staub, Ervin *Genocide and Mass Killing: Origins, Prevention, Healing and Reconciliation*; "Political Psychology" vol. 21, No.2 Pp 367-382 (2000) op.cit

Analysis of the primary data will be carried out in percentages. Mode and mean will also be employed in this study in an effort to establish the frequency of the questions which require ranking.

This study will also use a case study to meet its research objectives. The case study of choice in this research is the Rwanda genocide of 1994. This case study will assist in identifying and analyzing the underlying factors which hampered the effort of the United Nations Security Council to resolve the Rwanda genocide constructively as well as investigate why the UNAMIR was overtaken by the genocide. As such this study will also draw on document analysis method to have an in depth analysis of the factors influencing the global organization's ability to maintain intercontinental peace and security. Therefore, this research will use primary and secondary sources of information to meet its research objectives.

1.7 Chapter Outline

This research work is divided in to five main chapters, each chapter will comprise of an introduction. Chapter one gives the general introduction of the study stating the background of the study, statement of the research problem, the objectives of the study, hypothesis and methodology.

Chapter 2 of this study will examine the principal organ of the UN charged with the task of maintaining international peace and security. The main focus in this section is to critically analyse the provisions of the UN charter relating to the maintenance of world peace and security.

Chapter 3 on the other hand will introduce the only case study of this research. In this chapter, we shall trace the historical development of the genocide. We shall then

analyse the chief reasons that led to the failure of the UNSC and the UNAMIR in their attempt to end the genocide.

Chapter 4 will examine what the concept of R2P entails in detail and the impact it has in maintaining international peace and security. In addition this chapter will constitute of data analysis.

Lastly, chapter 5 of this research will conclude the study.

Chapter 2

United Nations Security Council and Maintenance of International Peace and Security

2.0 Introduction

This chapter will focus on the UN and will limit its attention on the Security Council the primary organ assigned the responsibility of maintaining international peace and security. Consequently, this chapter will address its membership, decision-making procedures, functions and powers. This chapter will also critically analyze the provisions of the UN charter and principles supporting the maintenance of international peace and security.

2.1 The United Nations

The United Nations is a global intergovernmental organisation. Hornbeck affirms that membership was open to original members and members by admission.¹ Today it boasts of having over 190 member states. This makes it a complex and yet unique organisation since it represents numerous members with diverse interests. Nevertheless it seeks to harmonise the actions of its numerous members to achieve common goods such as to better the lives of all people. It seeks to achieve this extremely broad objective through its various specialized agencies. Above all else the UN is primarily an international peace organization. Bennett shares these sentiments and affirms “Although the United Nations is a multifunctional organization, foremost among its functions is the

¹ Hornbeck, K. Stanley, *The United Nations Grows—Numerically: Does Bigger Mean Better?* “World Affairs” vol. 119, No. 1 pp 3-5 (1956)

maintenance of world peace".² Thus, as much as the UN strives to address the socio-economic issues which if not addressed can lead to conflicts and destabilise the peace, its paramount objective is to spare the world the trauma of experiencing another world war this is the inspiration of the UN as indicated in its preamble as "We the peoples of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to humankind..."³ This means that the task to avoid another war and hence preserve global peace is a responsibility of the member states through the UN and not that of the United Nations. Bercovitch and Jackson are in accord with this opinion and maintain that conflict resolution occurs *through* the UN and not *by* the UN.⁴ Hence the UN can only carry out its functions effectively when member states utilise the options that it presents to them and implement its decisions wholly.

2.1.1 Purposes of the United Nations

The purposes of the UN is clearly inscribed in the charter under article 1 as collaborated by Bercovitch and Jackson who summarise it as,

To maintain international peace and security, and to that end: to take effective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and

² Bennett, A. Leroy, *International Organizations: Principles and Issues*; Prentice-Hall International Inc New Jersey, p 103, (1995)

³ United Nations, *Charter of the United Nations and Statute of the International Court of Justice*; United Nations Department of Public Information New York, p 1, (1994) op.cit

⁴ Bercovitch, Jacob and Jackson, Richard, *Conflict Resolution in the Twenty-first Century: Principles, Methods, and Approaches*; University of Michigan Press U.S.A, (2009) op.cit

international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.⁵

The fact that member states willingly ratified the UN charter gives the UN the legitimate authority to oversee the peace. For this reason, they assert that no other organisation has been demonised *when it fails*, idealised *when it succeeds* and misrepresented as the UN when it comes to international conflict resolution.⁶ Emphases are original.

In its six decades of existence the UN has taken a central role in international affairs as a result it has acquired various identities. The UN can be described as a forum where states disseminate their views and bring their disputes.⁷ This implies that it is a place where states debate and discuss their worries in order to resolve them amicably without disturbing the peace. It is also a global apparatus for conflict resolution in international security affairs.⁸ Sweetser adds that the UN is political machinery which performs when guided and vice versa when unguided.⁹ Thus the UN and its member states operate in a symbiotic relationship.

2.1.2 Organs of the United Nations

⁵ Bercovitch, Jacob and Jackson, Richard, *Conflict Resolution in the Twenty-first Century: Principles, Methods, and Approaches*; University of Michigan Press U.S.A, p 60, (2009) op.cit

⁶ Bercovitch, Jacob and Jackson, Richard, *Conflict Resolution in the Twenty-first Century: Principles, Methods, and Approaches*; University of Michigan Press U.S.A, (2009) op.cit

⁷ Goldstein, Joshua, *International Relations*; Dorling Kindersley Publishing Inc, New Delhi, (2005) op.cit

⁸ Goldstein, Joshua, *International Relations*; Dorling Kindersley Publishing Inc, New Delhi, (2005) op.cit

⁹ Sweetser, Arthur *Perspective on the United Nations* "World Affairs," vol.115 No.3 Pp 71-73 (1952) op.cit

The main organs of the UN are depicted on chapter III Article 7 of the UN Charter as: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council and an International Court of Justice and a Secretariat.¹⁰ The Council is given incomparable freedom by the charter to ensure world peace and security prevails. Malone attests that due to this it has advanced to be the UN's most powerful forum.¹¹ The powers and freedom of the UNSC granted by the Charter propels it at the apex of the UN system enhancing it with power and status. It is for this reason that we shall focus our attention on the United Nations Security Council (UNSC).

2.2 United Nations Security Council

The UNSC is the organ which is primarily entrusted with the role of maintaining global peace and security, reason being it is made up of the victors of World War II and as such the most powerful states.

2.2.1 Membership of the Council

The Security Council consists of fifteen members as expressed under chapter V article 23 of which five members are permanent while the non-permanent members are ten in number. The permanent members are: France, Republic of China, the Russian Federation, the United States of America, and the United Kingdom of Great Britain and Northern Ireland¹². They are also dubbed the P-5.¹³ The permanency of the members in

¹⁰ United Nations, *Charter of the United Nations and Statute of the International Court of Justice*; United Nations Department of Public Information New York (1994) op.cit

¹¹ Malone, M. David, *Security Council*, in Weiss Thomas and Daws Sam (eds.). *The Oxford Handbook on the United Nations*; Oxford University Press New York, pp 117-135 (2007)

¹² United Nations, *Charter of the United Nations and Statute of the International Court of Justice*; United Nations Department of Public Information New York (1994) op.cit

the council was geared towards stabilizing the organ in its role. It was assumed that the P-5 members would each be interested in maintaining international peace and security, following a war which had endangered them all.¹⁴ On the other hand the non-permanent members are elected by the General Assembly for a rotating two-year term each member shall have one representative.¹⁵ This rule is so as to guard against the domination of one region in the council membership and also to give a chance to all regions to be represented in the prestigious organ. The membership of the Security Council was expanded from eleven to fifteen members in 1965.¹⁶ However the number and status of the P-5 remained unchanged. The presidency of the council is held in turns and for a period of a month by the members of the Security Council in the English alphabetical order¹⁷. The presidency of the council is attached to the member state concerned and not the person of the representative. Thus, in case of absence of the member holding office in a particular month, a member of that delegation shall preside.¹⁸ This arrangement ensures continuity in the functions and duties of the ever busy council.

¹³ Weiss et. al, *The United Nations and Changing World Politics*; Westview Press The United States of America (2007) op.cit

¹⁴ Goodrich, M. Leland *The Un Security Council "International Organisation"* vol.12, No.3, Pp 273-287 (1958) op.cit

¹⁵ United Nations, *Charter of the United Nations and Statute of the International Court of Justice*; United Nations Department of Public Information New York (1994) op.cit

¹⁶ Kaufmann, Johan, *United Nations Decision Making*; Sijthoff and Noordhoff International Publishers the Netherlands (1980)

¹⁷ Blum, Z. Yehuda, *Eroding the United Nations Charter*; Martinus Nijhoff Publishers Dordrecht, (1993)

¹⁸ Blum, Z. Yehuda, *Eroding the United Nations Charter*; Martinus Nijhoff Publishers Dordrecht, (1993) op.cit

2.2.2 Powers and Function of the UNSC

Given the importance of the task of the Security Council of maintaining international peace and security as depicted in chapter V Article 24(1), it is allowed to employ any procedure that it deems necessary to remove a situation that can jeopardize international peace and security in addition it acts on behalf of member states to achieve this objective.¹⁹ Article 24 (2) articulates the powers granted to the Council to discharge its duties as laid down in chapters VI, VII, and VIII which articulates the pacific, coercive and collaborative methods. White observes that chapter VII is a very sharp instrument that enables the UN to wage war if need be in order to uphold world peace. Due to this privilege the council is at times reluctant to find threats of peace unless there is real and immediate threat to global peace.²⁰ Though the charter provides the Security Council with three openings to act, Kaufmann emphasises that the council may act mainly with regard to chapter VI and chapter VII.²¹ Even so, all these provisions equip the Security Council with avenues to restore global peace and security when it is at risk, the council has the prerogative to determine the course of action to be taken to preserve world peace. However, efforts to develop rules of procedure for the Council have been shut down. Chai testifies that great powers in have purposefully opposed the idea of

¹⁹ United Nations, *Charter of the United Nations and Statute of the International Court of Justice*; United Nations Department of Public Information New York (1994) op.cit

²⁰ White D. N. *Keeping the Peace: The United Nations and the Maintenance of International Peace and Security*, Manchester University Press Manchester (1993) op.cit

²¹ Kaufmann, Johan, *United Nations Decision Making*; Sijthoff and Noordhoff International Publishers the Netherlands (1980) op.cit

providing the council with detailed and comprehensive rules.²² Reason being they felt that these rules would impede the council's freedom of movement and action, or to stifle its imagination and deliberations in dealing with complex global problems.²³

2.2.3 Decision-making in the UNSC

The Security Council allows states to bring a dispute to its attention through a member states normally one of the disputants, or a Security Council member, the General Assembly, or the Secretary-General.²⁴ This directive is enacted so as to guide the council on whom to communicate with and seek clarification of a matter that is brought to its attention.

Once the dispute is adopted in the Security Council's agenda it then goes through a series of discussion on the legality, practicability, or the wisdom of the Security Council's involvement in the conflict.²⁵ The substantive issues are voted on and passed by a concurrent affirmative vote of nine from seven with a concurrent vote of the permanent five, as long as the parties involved in the dispute abstains from voting as provided for under article 27.²⁶ In addition he asserts that abstinence by one of the P-5 did not mean that an affirmative vote was deficient but it was construed as a form of

²² Chai, Feng, Yang, *Consultation and Consensus in the Security Council*; United Nations Institute for Training and Research, (1971)

²³ Chai, Feng, Yang, *Consultation and Consensus in the Security Council*; United Nations Institute for Training and Research, (1971) op.cit

²⁴ Bercovitch, Jacob and Jackson, Richard, *Conflict Resolution in the Twenty-first Century: Principles, Methods, and Approaches*; University of Michigan Press U.S.A, (2009) op.cit

²⁵ Bercovitch, Jacob and Jackson, Richard, *Conflict Resolution in the Twenty-first Century: Principles, Methods, and Approaches*; University of Michigan Press U.S.A, (2009) op.cit

²⁶ Kaufmann, Johan, *United Nations Decision Making*; Sijthoff and Noordhoff International Publishers the Netherlands (1980) op.cit

concurrence.²⁷ Nonetheless it should be noted that issues are not passed if a P-5 member votes against it. Goldstein backs this observation and avows “But a “no” by any P-5 member defeats the resolution—*veto power*”²⁸. Bentwich and Martin state the *ultima ratio* in any proceedings of the Council is the threat of force; and no effective, economic or military sanctions are conceivable without the concurrence of the Great powers.²⁹ This rule is essential as it enables the organisation to avoid a major conflict among the great powers. The veto plays its principal role when the UNSC is seeking for, or negotiating a decision. Hence it allows the UN to make a consultative decision on a collective action to be taken in order to manage conflict thereby validating its course of action.³⁰

A negative vote by a P-5 on a substantive resolution prevents a concrete council decision and action as well.³¹ Nevertheless, the veto is a necessary entity in the machinery of the UN because it is the glue that holds the entire organization together. White echoes these sentiments and states that the ‘big five’ powers decided to let it be known that unless the voting provision was accepted, there would be no organization, with this development the issue was no longer a matter of preserving great power

²⁷ Kaufmann, Johan, *United Nations Decision Making*; Sijthoff and Noordhoff International Publishers the Netherlands (1980) op.cit

²⁸ Goldstein, Joshua, *International Relations*; Dorling Kindersley Publishing Inc, New Delhi, p 291(2005) op.cit

²⁹ Bentwich, Norman and Andrew, Martin, *A Commentary on the United Nation*; Routledge and Kegan Paul Ltd London, (1949)

³⁰ Simma Bruno et. al (eds.), *The Charter of the United Nations a Commentary*; 2nd edition, vol. 1, Oxford University Press New York (2002)

³¹ Simma Bruno et. al (eds.), *The Charter of the United Nations a Commentary*; 2nd edition, vol. 1, Oxford University Press New York (2002) op.cit

unanimity but of preserving the organization.³² The veto also sponsors a symbiotic relation between great powers and the UN. The UN benefit great powers by giving them the veto to guarantee them control of their interests in relation to maintenance of global peace and security, while the great powers benefit the UN by registering their membership with the organization thereby, providing the UN with the possibility of guarantying the enforcement of its decisions and rest on their support in sustaining world peace. Regrettably, the manner in which the P-5 uses the veto is not in the control of the UN. The council also uses consultative and consensus decision-making methods to take action to preserve world peace. Chai states that decision-making by consensus is generally realised through consultative processes such as private, diplomatic negotiatory processes, use of these procedures have become a key feature of the council. He observes that consultations may not at all times be successful in producing consensus, but key consensus can hardly ever be achieved without consultation.³³ Thus, consultation and consensus are essential additions to the crucial decision-making procedures for action to preserve world peace.

2.3 Maintaining International Peace and Security under the UN Charter

The signing of the UN Charter in 1945 not only brought to life the much anticipated international peace organisation but also brought to force a new system envisioned in San Francisco a concept of the 1945 era after the second world war to

³²White D. N. *Keeping the Peace: The United Nations and the Maintenance of International Peace and Security*; Manchester University Press Manchester (1993) op.cit

³³ White D. N. *Keeping the Peace: The United Nations and the Maintenance of International Peace and Security*; Manchester University Press Manchester (1993) op.cit

maintain global peace and security. Drafters in San Francisco were determined to equip the UN with more features to accomplish its major purpose.³⁴ Having benefited from the experience of the LN, central to the drafters of the charter was the thought that for a world peace organisation to be successful, it must be based on an active cooperation of the major military powers—meaning the victors of World War II.³⁵ This plan enforced the system of collective security under the leadership of major military powers with unique status in the organisation.³⁶ This means that no collective action could be taken against a major military power also P-5 and hence help avert a possible major conflict between the P-5 states.³⁷ This notion is clearly enunciated in chapter V article 24 as

Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.³⁸

Therefore upholding global peace falls squarely on the fifteen members of the council in general and the P-5 in particular. Thus, the Charter system of maintaining international peace and security addressed two possible avenues that could jeopardise world peace. First, the threat of conflict among major powers and also among member states in their interactions as such the charter invested the P-5 with powers and provisions to ensure

³⁴ Goodrich, M. Leland *The Maintenance of International Peace and Security* "International Organisation" vol. 19, No. 3, Pp 429-443, (1965)

³⁵ Goodrich, M. Leland *The Maintenance of International Peace and Security* "International Organisation" vol. 19, No. 3, Pp 429-443, (1965) op.cit

³⁶ Goodrich, M. Leland *The Maintenance of International Peace and Security* "International Organisation" vol. 19, No. 3, Pp 429-443, (1965) op.cit

³⁷ Goodrich, M. Leland *The Maintenance of International Peace and Security* "International Organisation" vol. 19, No. 3, Pp 429-443, (1965) op.cit

³⁸ United Nations, *Charter of the United Nations and Statute of the International Court of Justice*; United Nations Department of Public Information New York, p 15-16 (1994)

global peace and security prevails. Interestingly, Goodrich observes that guarantees that the P-5 under article 2 paragraph 4 "... refrain in their international relations from the threat or use of force" were not to be found.³⁹ This means that despite their military might, these states were perceived to be rational enough not to be responsible of risking global peace and security. For this reason Goodrich laments that these states were trusted to respect their obligations under the charter willingly in other words 'in good faith'.⁴⁰ Contrary to this would insinuate that the vital interest of other member states would be threatened by the P-5. Thus, the P-5 would be in direct contravention of the UN Charter and the purposes that the new organisation presented. Thus, Goodrich asserts that the Charter system of peace and security rested upon a condition of balance between the major powers and upon their willingness to cooperate for common ends.⁴¹ Having witnessed the two World Wars and the knowledge of conflicts across Europe the drafters of the charter believed that conflict between major military powers or among other states posed an immediate danger to global peace and security. What was to happen forty-nine years to come in Rwanda and Kosovo in almost a successive fashion not only found the UNSC ill-prepared but also in a dilemma on how to handle these types of conflicts.

2.3.1 Tools of Maintaining International Peace and Security

³⁹ Goodrich, M. Leland *The Maintenance of International Peace and Security* "International Organisation" vol. 19, No. 3, Pp 429-443, (1965) op.cit

⁴⁰ Goodrich, M. Leland *The Maintenance of International Peace and Security* "International Organisation" vol. 19, No. 3, Pp 429-443, (1965) op.cit

⁴¹ Goodrich, M. Leland *The Maintenance of International Peace and Security* "International Organisation" vol. 19, No. 3, Pp 429-443, (1965) op.cit

The UN Charter is the chief document which adorns the UNSC with instruments and avenues to preserve global peace and security. These instruments are clearly articulated in great detail in chapters VI, VII, and VIII of the charter. They are bolstered by the provisions of principles of non-use of force and non-interference in matters of domestic jurisdiction also engraved on the charter.

2.3.2 The Pacific Settlement of Global Conflicts under the UN Charter

Chapter VI is the primary provision for the UNSC to evoke in order to preserve world peace. Chapter VI under article 33 paragraph 1 provides that

The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional arrangements, or other peaceful means of their own choice.⁴²

Hence article 33 gives parties to a dispute the freedom and obligation to resolve their disputes on their own by using any pacific method of their choice as stipulated above.

Paragraph 2 provides that the Security Council shall when it deems necessary, call upon the parties to settle their disputes by the pacific methods.⁴³ This provision gives the Security Council a leeway to legitimately be involved in resolving any dispute by use of peaceful methods. The security council has several options it can call on Bercovitch and Jackson assert that often its first action will be to call on the parties to observe a cease-fire, stand-down their armed forces, withdraw from disputed territories or accept an offer

⁴² United Nations, *Charter of the United Nations and Statute of the International Court of Justice*, United Nations Department of Public Information New York, p 19 (1994) op.cit

⁴³ United Nations, *Charter of the United Nations and Statute of the International Court of Justice*, United Nations Department of Public Information New York, p 19 (1994) op.cit

for mediation.⁴⁴ Under article 34 the Security Council is allowed to investigate any dispute which might lead to international conflict.⁴⁵ Bercovitch and Jackson assert that the council can achieve this by authorising and dispatching a fact-finding mission especially when the facts surrounding a dispute are not clear.⁴⁶ They maintain that clarifying facts in a dispute can help foster conciliation between parties in dispute therefore encourage dialogue and even reduce hostilities. They further assert that its role in mediation, the Security Council can formally appoint a mediator such as the secretary-general or a prominent personality or even convocation mediation—where all central actors in a dispute are brought together in a round-table discussion.⁴⁷ The pacific settlement of disputes is given prominence of all of UN's conflict resolution methods as it represents the aspirations of the global organisation. Goodrich is in agreement with this observation and asserts that a plan for pacific settlement is the very heart of any international organisation seeking to maintain world peace and *the UN is not an exception*.⁴⁸ Emphases are original. This can be inferred to mean peaceful settlement of disputes is the key to the maintenance of international peace and security as they tend to

⁴⁴ Bercovitch, Jacob and Jackson, Richard, *Conflict Resolution in the Twenty-first Century: Principles, Methods, and Approaches*; University of Michigan Press U.S.A, (2009) op.cit

⁴⁵United Nations, *Charter of the United Nations and Statute of the International Court of Justice*; United Nations Department of Public Information New York (1994) op.cit

⁴⁶Bercovitch, Jacob and Jackson, Richard, *Conflict Resolution in the Twenty-first Century: Principles, Methods, and Approaches*; University of Michigan Press U.S.A, (2009) op.cit

⁴⁷ Bercovitch, Jacob and Jackson, Richard, *Conflict Resolution in the Twenty-first Century: Principles, Methods, and Approaches*; University of Michigan Press U.S.A, (2009) op.cit

⁴⁸ Goodrich, M. Leland *Pacific Settlement of Disputes*; "The American Political Science Review" vol. 39, No.5, Pp 956-970 (1945)

break the cycle of violence and remove risks to the peace without endangering civilian lives and therefore spare them the horrors accompanied by conflicts.

The provision to maintain worldwide peace under chapter VI is meant to transition the world from use of force and aggression to popular use of peaceful methods to achieve the organisation's key objective. In my opinion, the use of pacific methods to maintain peace and security is the best way to ensure peace prevails. Though Goodrich supports this view and affirms that peace and security are most assured when states settle their differences by pacific methods.⁴⁹ However he also asserts that peace and security can be wholly assured when the necessity for resort to collective force does not exist.⁵⁰

On the contrary, it will be unwise on the part of the UNSC to give states in dispute a fields-day if their chosen pacific method is to yield the desired results. Hence, the possible use of collective force as a last resort can serve to motivate states in dispute to push for success by using one of the pacific methods. Therefore, member states need to endorse pacific settlement of disputes more often in so doing, they can make sure that the parties in a dispute commit themselves fully to their method of choice. Contrary to which members states should take stun action against a spoiler state directly or indirectly involved in the conflict. Member states of the UN have an obligation to uphold the requirements of the charter since they ratified it. Jones is in agreement with this opinion and asserts that for the purposes of maintaining international peace and security member states accepted two basic obligations: that to seek a peaceful settlement of disputes likely

⁴⁹Goodrich, M. Leland *Pacific Settlement of Disputes*; "The American Political Science Review" vol. 39, No.5, pp 956-970 (1945) op.cit

⁵⁰ Goodrich, M. Leland *Pacific Settlement of Disputes*; "The American Political Science Review" vol. 39, No.5, pp 956-970 (1945) op.cit

to risk the peace, and that to refrain in their international relations from the threat or use of force against the territorial integrity of any state. He adds that they therefore, delegated the UN with powers to rightfully deal with situations of this nature.⁵¹ Moreover it is in their utmost interest to respect its provisions and principles since it is better for a member state to be viewed as a friend to the peace rather than the contrary. Though the UNSC would prefer to remove conflicts which risk world peace pacifically under chapter VI provisions, unfortunately not all conflicts are resolved in this manner. At times parties in conflict may eschew pacific methods or a dispute may be resistant towards these methods. In such a scenario the charter gives the Security Council the prerogative to use coercive measures to uphold global peace under chapter VII.

2.3.3 Action with respect to acts of aggression and threats or breaches to the peace

Chapter VII gives the Security Council the privilege to determine if a situation meets the threshold of threats or breach to the peace or acts of aggression which may require a chapter VII action. Article 39 enunciates that the Security Council shall determine the existence of any threats or breaches to the peace or acts of aggression and shall make recommendation or decide what measures to be taken including coercive ones so as to maintain or restore global peace.⁵² It is for this reason that White affirms that chapter VII is a sharp feature of the charter.⁵³ This implies that it gives UN the necessary

⁵¹ Jones, J. Goronwy, *The United Nations and the Domestic Jurisdiction of States: Interpretations and Applications of the Non-Intervention Principle*; University of Wales Press Cardiff (1979)

⁵² United Nations, *Charter of the United Nations and Statute of the International Court of Justice*; United Nations Department of Public Information New York (1994) op.cit

⁵³ White D. N. *Keeping the Peace: The United Nations and the Maintenance of International Peace and Security*; Manchester University Press Manchester (1993) op.cit

teeth to maintain international peace and security. Global situations under chapter VII are particularly viewed with seriousness by the Security Council due to their potential to vex member states about their security. Therefore article 39 gives the Security Council the legal authority to evoke collective coercive action in response to such situations. Nonetheless, Goodrich asserts that before coercive measures are employed article 40 gives room for the security council to call upon parties in dispute to adopt provisional measures which may include; observation of a cease-fire, stand down their armed forces, withdrawal from disputed territories, initiate bilateral negotiations and also accept offer to mediate all this is an attempt to guard against the worsening of a situation.⁵⁴ However if the parties fail to comply with the provisional measures the security council is free to authorise collective coercive measures which range from economic sanctions to disrupting diplomatic relations and use of military action only as a last resort in a bid to sustain global peace.⁵⁵ In case the council authorises a military action it is to be duly assisted by the Military Staff Committee (MSC) which is comprised with chiefs of staff from the P-5 members. The MSC is thus tasked with advising and assisting the council with all its military requirements for the maintenance of peace.⁵⁶ This means that the troops provided by the member states at the disposal of the UNSC though they will be serving under the umbrella of the UN but they will be under the command of chiefs of the P-5. Goodrich asserts that it was expected that the P-5 will make the most contribution

⁵⁴ Goodrich, M. Leland *The Maintenance of International Peace and Security* "International Organisation" vol. 19, No. 3, Pp 429-443, (1965) op.cit

⁵⁵ United Nations, *Charter of the United Nations and Statute of the International Court of Justice*; United Nations Department of Public Information New York (1994) op.cit

⁵⁶ United Nations, *Charter of the United Nations and Statute of the International Court of Justice*; United Nations Department of Public Information New York (1994) op.cit

towards the UN forces.⁵⁷ This statement implies that the P-5 states were not willing to risk their citizens' lives to 'foreign' command. Collective action under the command of the major military powers is perceived to create a formidable force which can be trusted with the intricate task of upholding world peace and security.

Chapter VII bestows upon the UNSC the legal authority to use all necessary measures to maintain world peace. This indeed makes it a sharp feature of the UN system to uphold world peace.⁵⁸ This is because the implementation of a UN action based on chapter VII has the potential to ruin the economy and even the socio-political well-being of the targeted state. The irony is that assisting such a state to fully recover from the impact of such an intervention will require collective contribution by the same member states of which there is no guarantee that it will occur. This state of affairs can lead to diversion of lump sum amount of funds by the donor community to rebuild such a state whereas those funds could have been invested elsewhere. It is due to these possible intertwined outcomes that the UNSC is often reluctant to authorise a UN action based on this chapter.

Chapter VII has surrendered to the UNSC the authority to determine whether or not a breach or threat to the peace has occurred. This provision though meant to

⁵⁷ Goodrich, M. Leland *The Maintenance of International Peace and Security* "International Organisation" vol. 19, No. 3, pp 429-443, (1965) op.cit

⁵⁸ White D. N. *Keeping the Peace: The United Nations and the Maintenance of International Peace and Security*; Manchester University Press Manchester (1993)

encourage a united action of the P-5. Unfortunately the P-5 does not always agree on situations which may pose threats or breach to the peace. As a consequence, their disunity or inertia can hamper the ability of the UN to effectively restore or maintain world peace. Reason being this state of affairs can spark rivalry and competition among the P-5 and can trickle to their allied member states in the organisation. As a result authorizing a collective course of action can be a daunting and an incoherent task for the UNSC. To add to that, disunity or inertia among the P-5 can send negative signals to other member states since they will be unsure of the fate of the peace of the regions they represent in case a situation which they judge requires a strong UN action may arise in those regions. This condition of vulnerability is worsened by the ambiguity sustained in the charter, while acts of aggression remain clear, the charter does not explicitly define what is meant by the statements threats or breach to the peace but leaves it at the discretion of the UNSC to determine. As a consequence confusion and debates are bound to surround a course of action based on chapter VII unless the circumstances of a dispute are clear and uncontested and also in line with the principles of the UN as indicated in article 2 paragraph 4 that all member states shall in their international relations desist from the threat or use of force against the territorial integrity or political independence of any state.⁵⁹ Therefore action based on chapter VII of the charter has mainly been employed in interstate conflicts and scarcely employed in intrastate conflicts since the founding of the UN.

⁵⁹ United Nations, *Charter of the United Nations and Statute of the International Court of Justice*; United Nations Department of Public Information New York (1994) op.cit

2.3.4 Regional Arrangements

Other than the provisions in chapters VI and VII the charter extends the provisions of chapter VIII to the UNSC. Bercovitch and Jackson are in accord with this observation and affirm that other methods that the Security Council can manage disputes include referral to regional organisations.⁶⁰ Article 52 articulates that regional arrangements can also be engaged with such matters relating to upholding global peace and security as appropriate for regional action, as long as these arrangements and their activities are consistent with the purposes and principles of the UN.⁶¹ This means that regional arrangements are expected to promote and practice peaceful settlement of local disputes. However article 53 clearly states that regional organisations can also be involved by the UNSC *where appropriate* to maintain universal peace. Moreover it limits enforcement action under regional arrangements without the authorisation of the UNSC.⁶² Consequently, inconsistency in involving regional arrangements to resolve local disputes is bound to emerge in the battle to maintain global peace and security.

Regional arrangements are essential in maintaining international peace and security because they have a better understanding of the regions' disputes and they are also proximate to them. Therefore, they can hasten action to sustain peace. Unfortunately this option is rarely used by the UNSC. Despite their worthwhile potential contribution in

⁶⁰ Bercovitch, Jacob and Jackson, Richard, *Conflict Resolution in the Twenty-first Century: Principles, Methods, and Approaches*; University of Michigan Press U.S.A., (2009) op.cit

⁶¹ United Nations, *Charter of the United Nations and Statute of the International Court of Justice*; United Nations Department of Public Information New York (1994) op.cit

⁶² United Nations, *Charter of the United Nations and Statute of the International Court of Justice*; United Nations Department of Public Information New York (1994) op.cit

maintaining peace, article 53 cautions the UNSC to employ them only where appropriate. This means that not all regional organisations have the capacity and the capability to effectively resolve local disputes. This is due to the difference in integration process and growth of these regional arrangements. This being the case there are limited instances whereby the UNSC has actively involved regional arrangements to restore situations which could endanger world peace and security. In my opinion, the provision to restrain an independent regional enforcement action tends to render regional organisations helpless or sluggish in dealing with disputes within their regions hence reducing them to mere bystanders or (if lucky) get involved when it is too late such is the case of the African Union as illustrated in the recent post-election conflict in Ivory Coast and the Rwanda genocide in 1994 which is this study's next chapter.

Chapter 3

Case Study of the 1994 Genocide in Rwanda

3.0. Introduction

This chapter will concentrate primarily on the Rwanda genocide. Here, the study will investigate the background of the genocide and analyse some of the major reasons which contributed to the failure of the UNSC and the UNAMIR to stop the genocide.

3.1. Rwanda Profile

Rwanda is a small East African country. Its economy is largely dependent on agriculture moreso coffee.¹ In pre-colonial period it formed a highly centralised kingdom with roots going back several centuries.² It is for this reason that Hintjens states that in the mid-1980s Rwanda gave an impression of extreme orderliness in terms of electricity supply, clean drinking water, clinics schools and good roads, she attests that it was the 'Switzerland of Africa'.³ Newbury states that Rwandans share a single distinctive culture, single language—*Kinyarwanda* and common religious traditions.⁴ The Rwandan population includes: Hutu (85%), Tutsi (14%) and Twa (1%) as well as narrower

¹ Newbury, David *Understanding Genocide*; "African Studies Review," vol.41 No.1, pp 73-97 (1998)

² Newbury, David *Understanding Genocide*; "African Studies Review," vol.41 No.1, pp 73-97 (1998) op.cit

³ Hintjens, M. Helen *Explaining the 1994 Genocide in Rwanda*; "Journal of Modern African Studies," vol. 37, No.2 pp, 241-286 (1999) op.cit

⁴ Newbury, David *Understanding Genocide*; "African Studies Review," vol.41 No.1, pp 73-97 (1998) op.cit

identities of religion, clan and lineage.⁵ Waal asserts that the physical differences among these groups were outrageously exaggerated he insists that it was impossible to tell whether a person was of either group from his or her height.⁶ Rwanda has open plains on the East and numerous graceful hills in the centre and picturesque mountains in the West endow Rwanda with captivating beauty.⁷ It has thus rightfully earned the nickname the land of a thousand hills. However, Newbury laments that on these graceful hills there occurred one of the horrors of our era—the killing of thousands of people.⁸

3.2. Historical Background of the Rwanda Genocide

The turmoil that occurred in Rwanda was no ordinary conflict. It threatened the very existence of the Rwandans. Verwimp states that in 1994 Rwanda witnessed a genocide that swiftly caused the death of 800,000 people.⁹ Though the genocide primarily targeted the Tutsis, it also targeted moderate Hutus, consequently Verwimp states that this conflict resulted to the loss of 10 percent of the general population and 75 percent of

⁵ Newbury, David *Understanding Genocide*; "African Studies Review," vol.41 No.1, pp 73-97 (1998) op.cit

⁶ Waal de Alex *Genocide in Rwanda*; "Anthropology Today" vol.10, No.3, pp 1-2 (1994)

⁷ Newbury, David *Understanding Genocide*; "African Studies Review," vol.41 No.1, pp 73-97 (1998) op.cit

⁸ Newbury, David *Understanding Genocide*; "African Studies Review," vol.41 No.1, pp 73-97 (1998) op.cit

⁹ Verwimp, Philip *Death and Survival during the 1994 Genocide in Rwanda*; "Population Studies" vol. 58, No.2, pp 233-245, (2004)

superior to the other ethnic groups. Hintjens affirms that historically the Batutsi aristocracy considered themselves, inherently superior to the Bahutu, and this notion extended to the poorest Batutsi.¹⁶ This state of affairs only served to fortify an already existing Tutsi domination.¹⁷ The down turn was that it resulted to competition and rivalry between the Tutsi and the Hutu. Unfortunately for the Tutsi this favouritism did not last long. Verwimp asserts that their demands for an independent Rwanda caused them to fall out of favour with the Belgian imperialists.¹⁸ Thus, the Belgians provided political and military assistance to the Hutu, thereby enabling new Hutu elite to emerge and consequently overturn the privileged position that the Tutsi elite enjoyed.¹⁹ This state of affairs led to the creation of *permahutu*—a party committed to the emancipation of the Hutu. The sudden change of Tutsi tides placed them at an unfamiliar position. Hintjens testifies that after independence the Tutsi became confined to a strictly limited sphere of influence, as the Hutu elites gradually took over the reins of power from the Tutsi monarchy and the Belgian trusteeship power.²⁰ To secure their new found privilege the new rulers consolidated their control of the country by removing *all* Tutsi from positions

¹⁶ Hintjens, M. Helen *Explaining the 1994 Genocide in Rwanda*; "Journal of Modern African Studies," vol. 37, No.2 Pp, 241-286, (1999) op.cit

¹⁷ Heusch, Luc de *Rwanda: Responsibilities for a genocide* "Anthropology Today" vol.11, No.4 pp 3-7 (1995) op.cit

¹⁸ Verwimp, Philip *Death and Survival during the 1994 Genocide in Rwanda*; "Population Studies" vol. 58, No.2, Pp 233-245, (2004) op.cit

¹⁹ Verwimp, Philip *Death and Survival during the 1994 Genocide in Rwanda*; "Population Studies" vol. 58, No.2, Pp 233-245, (2004) op.cit

²⁰ Hintjens, M. Helen *Explaining the 1994 Genocide in Rwanda*; "Journal of Modern African Studies,"vol. 37, No.2 pp, 241-286 (1999) op.cit

of power.²¹ Emphasis is original. This state of affairs ensured that the Hutus were firmly consolidated in power. This history is captured in greater detail by authors like G. Prunier, C. Newbury, F. Reyntjens, and J.P Chrétien.²²

Prior to the genocide, a civil war erupted in Rwanda. It was sparked when a group of Tutsi refugees calling themselves the Rwanda Patriotic Front—RPF attacked Rwanda from Uganda. A war ensued between the RPF and the Rwandan Armed Forces (RFA) where the population in the North were the main victims.²³ He also states that during this war in the period of 1990-93, a total of 2,000 Tutsi were killed in local massacres. He maintains that these massacres were not spontaneous outburst of violence but were organized by the national power elite.²⁴ On the contrary Hintjens affirms that during this war the official line was that killings were as a result of clashes between the RPF and the RFA.²⁵ Meanwhile, the Rwandan state took a decision to deliberately direct organized social and political energies towards the goal of Batutsi genocide and killing of Bahutu

²¹ Verwimp, Philip *Death and Survival during the 1994 Genocide in Rwanda*; "Population Studies" vol. 58, No.2, Pp 233-245, (2004) op.cit

²² Verwimp, Philip *Death and Survival during the 1994 Genocide in Rwanda*; "Population Studies" vol. 58, No.2 Pp 233-245, (2004) op.cit

²³ Verwimp, Philip *Death and Survival during the 1994 Genocide in Rwanda*; "Population Studies" vol. 58, No.2 Pp 233-245, (2004) op.cit

²⁴ Verwimp, Philip *Death and Survival during the 1994 Genocide in Rwanda*; "Population Studies" vol. 58, No.2 Pp 233-245, (2004) op.cit

²⁵ Hintjens, M. Helen *Explaining the 1994 Genocide in Rwanda*; "Journal of Modern African Studies," vol. 37, No.2 pp. 241-286 (1999) op.cit

political opponents.²⁶ This she maintains was ultimately realized by redirecting the populace's strong sense of social solidarity and cultural cohesion towards a common 'racial' enemy within the country—Batutsi.²⁷ Moreover, the economic hardship that Rwandans were experiencing piled pressure on the Habyarimana-government worsening the already desperate situation. Newbury states that by mid-1980s the economy faced serious difficulties and austerity measures were introduced by late 1980s the world coffee prices Rwanda's main export showed worrisome price fluctuation, in early 1990s Rwanda devalued its currency as part of stabilisation mandate by the International Monetary Fund, this only resulted to run away price increase of basic goods.²⁸ Consequently these measures did not serve to ease the situation but rather achieved the inverse. Newbury is in agreement with this observation and asserts that the IMF and World Bank economic reform measures worsened poverty and security situation in the country.²⁹ Then on 6 April 1994 a plane carrying President Habyarimana was shot down over Kigali and Rwanda deteriorated to genocide.³⁰ This event served as a signal for the

²⁶ Hintjens, M. Helen *Explaining the 1994 Genocide in Rwanda*; "Journal of Modern African Studies," vol. 37, No.2 pp, 241-286 (1999) op.cit

²⁷ Hintjens, M. Helen *Explaining the 1994 Genocide in Rwanda*; "Journal of Modern African Studies," vol. 37, No.2 pp, 241-286 (1999) op.cit

²⁸ Newbury, David *Understanding Genocide*; "African Studies Review," vol.41 No.1, pp 73-97 (1998) op.cit

²⁹ Newbury, Catharine *Background to Genocide: Rwanda*; "A Journal of Opinion" vol.23, No.2, Pp. 12-17, (1995)

³⁰ Verwimp, Philip *Death and Survival during the 1994 Genocide in Rwanda*; "Population Studies" vol. 58, No.2, pp 233-245, (2004) op.cit

genesis of the genocide. Lemarchand states that the extremists now had a moral justification for the genocide.³¹

3.2.1. The Genocide

Under the Geneva Convention on genocide the UN defines genocide as any act committed with the intent to destroy in whole or in part, a national, ethnical, racial or religious group such as killing members of the group, forcibly transferring children of the group to another ...³² The genocide was highly organized in to four distinctive levels the first being the little house which consisted of Habyarimana's closest entourage. Heusch accuses this grouping for its ambitions of getting rich.³³ Second was the rural organizers numbering from two to three hundred, third were the militias they composed of 30,000 members they were in charge of the killings the fourth, was the presidential guard made up of northerners exclusively.³⁴ This structure set the organizational stage for the genocide. This situation points to the fact that the genocide was indeed a rationalized project. Though the genocide was an open secret when it began, it took many Rwandans

³¹ Lemarchand, René *Rwanda: the Rationality of Genocide*; "A Journal of Opinion" vol.23, No.2, pp. 8-11, (1995)

³² United Nations *Convention on the Prevention and Punishment of the Crime of Genocide*, a resolution adopted by the United Nations General Assembly, New York, p 1 (1997) Accessed on 11/7/2011

³³ Heusch, Luc de *Rwanda: Responsibilities for a genocide* "Anthropology Today" vol.11, No.4 pp 3-7 (1995) op.cit

³⁴ Lemarchand, René *Rwanda: the Rationality of Genocide*; "A Journal of Opinion" vol.23, No.2, pp. 8-11, (1995) op.cit

and outsiders alike by surprise.³⁵ It is for this reason that Newbury laments that the entire process was disastrously successful.³⁶ Hintjens also bemoans that had the Rwandans believed that the genocide would occur many more Batutsi would be saved regrettably most of them did not and thus ended up losing their most valuable possessions—their lives.³⁷ Newbury affirms that the killings began in Kigali and was then directed throughout the country sporadically.³⁸ He testifies that those in power wanted to instill the populace with fear, hate and covetousness and direct these human sentiments against human targets.³⁹ Hintjens concurs and assert that the genocide was a last ditch attempt by an unpopular government to hold on to power.⁴⁰ Waal echoes these sentiments and testifies that the motive of the perpetrators of genocide was to continue to monopolize power and to seek an ultimate solution to the political opposition they were facing.⁴¹ This suggests that the Hutu-led government sought to preserve their newly earned positions at all cost. Waal asserts that by mobilizing the militia groups which were

³⁵ Hintjens, M. Helen *Explaining the 1994 Genocide in Rwanda*: "Journal of Modern African Studies," vol. 37, No.2 pp, 241-286 (1999) op.cit

³⁶ Newbury, David *Understanding Genocide*: "African Studies Review," vol.41 No.1, pp 73-97 (1998) op.cit

³⁷ Hintjens, M. Helen *Explaining the 1994 Genocide in Rwanda*: "Journal of Modern African Studies," vol. 37, No.2 pp, 241-286 (1999) op.cit

³⁸ Newbury, David *Understanding Genocide*: "African Studies Review" vol.41 No.1, pp 73-97 (1998) op.cit

³⁹ Newbury, David *Understanding Genocide*: "African Studies Review" vol.41 No.1, pp 73-97 (1998) op.cit

⁴⁰ Hintjens, M. Helen *Explaining the 1994 Genocide in Rwanda*: "Journal of Modern African Studies" vol. 37, No.2 pp, 241-286 (1999) op.cit

⁴¹ Waal de Alex *Genocide in Rwanda*: "Anthropology Today" vol.10, No.3, pp 1-2 (1994) op.cit

established since late 1991, use of radio broadcast and civil administration to encourage ordinary people to participate in killings were used to incite the population thus creating conflict discourses.⁴² This is why Newbury describes the genocide as a cold-blood murder.⁴³ Towards the build up to the genocide, Rwanda became highly militarized. Newbury echoes these sentiments and assert that the size of the army grew from 5,000 over 30,000 soldiers equally there was high influx of arms in to the country for arming the general population and the militias.⁴⁴ She adds that grenades were readily available in Rwanda's open air market for a few dollars.⁴⁵ Not surprising the genocide was executed chiefly by using small arms such as machetes, automatic rifles and hand grenades.⁴⁶ This state of affairs ensured that these light arms were in the hands of the perpetrators of genocide. Though the genocide transpired within Rwanda more countries were involved. Goose and Smyth shares these sentiments and attest that more than a dozen countries helped fuel the genocide by providing these weapons to the Rwandan government, most supplies being from South Africa, France and Egypt.⁴⁷ Thus Hintjens

⁴² Waal de Alex *Genocide in Rwanda*; "Anthropology Today" vol.10, No.3, pp.1-2 (1994) op.cit

⁴³ Newbury, David *Understanding Genocide*; "African Studies Review" vol.41 No.1, pp 73-97 (1998) op.cit

⁴⁴ Newbury, Catharine *Background to Genocide: Rwanda*; "A Journal of Opinion" vol.23, No.2, pp. 12-17, (1995) op.cit

⁴⁵ Newbury, Catharine *Background to Genocide: Rwanda*; "A Journal of Opinion" vol 23, No. 2 pp 12-17, (1995) op.cit

⁴⁶ Goose, D. Stephen and Smyth, Frank *Arming Genocide in Rwanda* "Foreign Affairs" vol. 73, No.5, Pp 86-96, (1994)

⁴⁷ Goose, D. Stephen and Smyth, Frank *Arming Genocide in Rwanda* "Foreign Affairs" vol. 73, No.5, Pp 86-96, (1994) op.cit

assert that the genocide took place under the tutelage of the Rwandan state and Rwandan citizens were the main actors in it.⁴⁸ Therefore small arms provided the means to execute the genocide. It is however under French Operation Turquoise that the genocide was halted. Clapham asserts that the French 'Operation Turquoise' was successful enough to secure some degree of control which eventually *stopped* the genocide.⁴⁹ Emphasis is original. He adamantly associates its success to its close ties with the Hutu government.⁵⁰ Lemarchand shares these sentiments and assert that Habyarimana's government benefited from massive military support from the French of which the RPF did not anticipate during their invasion.⁵¹ It is this close links to the Hutu-government that brings to question the real intention Operation Turquoise.

3.3. Analysis of the United Nations Security Council's Action to halt the Genocide

UNSC strongest intervention in Rwanda was under the authorization of a UN peacekeeping force dubbed United Nations Assistance Mission in Rwanda (UNAMIR). However it was unable to achieve its objectives which included implementing the Arusha Accords which attempt to broker a pacific solution to the civil war and also halt the

⁴⁸ Hintjens, M. Helen *Explaining the 1994 Genocide in Rwanda*; "Journal of Modern African Studies" vol. 37, No.2 pp, 241-286 (1999) op.cit

⁴⁹ Clapham, Christopher *The Perils of Peacemaking*; "Journal of Peace Research," vol.35, No.2 Pp, 193-210, (1998) op.cit

⁵⁰ Clapham, Christopher *The Perils of Peacemaking*; "Journal of Peace Research," vol.35, No.2 Pp, 193-210, (1998) op.cit

⁵¹ Lemarchand, René *Rwanda: the Rationality of Genocide*; "A Journal of Opinion" vol.23, No.2. pp. 8-11, (1995) op.cit

genocide. Unfortunately UNAMIR was overtaken by the genocide.⁵² At this juncture, the interest of this research is to establish the reasons that contributed to the continuation of the genocide unabated despite knowledge of its preparation by the international community.

3.3.1. Breakdown of the Accords

The Arusha negotiations that took place in Tanzania were geared towards brokering a political solution of the Rwanda conflict. Newbury asserts that these Accords constituted the blueprint of a power sharing government between the former single party MRND, internal opposition parties and the RPF and a transitional parliament as well as provided for a UN peacekeeping force, the Accords also gave a right to repatriation of refugees.⁵³ Though the negotiations resulted to the Arusha Accord, it was barely implemented by the warring parties. The Accords were to prepare a feasible government that could hold ground and therefore stir the Rwandans to the democratization process. However, Habyarimana had shown reluctance on his part to implement the Arusha Accords.⁵⁴ Particularly due to the advantageous position that RPF seemed to have gained from the Accords. Lemarchand echoes these sentiments and asserts that the Habyarimana

⁵² Bercovitch, Jacob and Jackson, Richard, *Conflict Resolution in the Twenty-first Century: Principles, Methods, and Approaches*; University of Michigan Press U.S.A, (2009) op.cit

⁵³ Newbury, Catharine *Background to Genocide: Rwanda*; "A Journal of Opinion" vol. 23, No.2, pp 12-17, (1995)

⁵⁴ Clapham, Christopher *The Perils of Peacemaking*; "Journal of Peace Research," vol.35, No.2 Pp. 193-210, (1998) op.cit

clique felt the RPF had to be destroyed as a political force, thus this meant the rejection of any political compromise with the RPF including ad hoc alliance even in the transition to multiparty democracy. Yet compromise was at the heart of the Accords signed on August 1993.⁵⁵ Regrettably there was no pressure from the international community to follow up on the implementation of the Accords. Clapham shares these sentiments and states that Arusha Accords could have been made to work if the international community had expeditiously implemented them particularly by a prompt dispatch of international peacekeeping force.⁵⁶ This implies that the international community repudiated the first opportunity to halt the genocide and the raging civil war. In addition, foreign observers and Rwandans alike were aware of the precariousness of the Accords and the longer the delay of the implementation of the transitional government the likely hood that the Accords would collapse and give way to the genocide.⁵⁷ Regrettably the constant delay to dispatch a peacekeeping force with a strong mandate broke the resilience of the Accords giving way to the genocide.

3.3.2. Lack of Concurrence in the UN Security Council

The inability of the UN to effectively intervene in Rwanda is largely attributed to the incompatible interests among the P-5. Forges points an accusing finger against the

⁵⁵ Lemarchand, René *Rwanda: the Rationality of Genocide*; "A Journal of Opinion" vol.23, No.2, pp. 8-11, (1995) op.cit

⁵⁶ Clapham, Christopher *The Perils of Peacemaking*; "Journal of Peace Research," vol.35, No.2 Pp. 193-210, (1998) op.cit

⁵⁷ Forges, Des Alison *Leave no one to tell the Story: Genocide in Rwanda*; "Human Rights Watch," Pp.1-595 (1999) op.cit

U.S. and asserts that it was more interested in saving money than lives and it also slowed down efforts to send relief forces. She also accuses France for continuing its support to a government engaged with genocide.⁵⁸ This state of affairs already meant that action by Security Council was ill-fated from the very beginning. This is because the two states which were disinterested in halting the genocide are veto power holders of which they could use to block or frustrate UN efforts of which they did to the moral disappointment of the UN and the stature it represents. The commission bemoans that the fact that the UNSC refused to take any necessary action to end the genocide marked failure of international will—of civic courage—at the highest level.⁵⁹ It is no wonder that Forges avows that all members of the security council brought discredit on the UN by allowing a representative of the genocidal government to carry on sitting in the security council, a *council supposedly committed to peace*.⁶⁰ Emphases are original. Newbury is in agreement with these statements and assert that during the genocide itself dominant powers actually constrained any effective UN response though some members in the security council notably Nigeria and Czech republic were in favour of rapid action others opposed it—France an ally of the Rwanda government and Rwanda itself.⁶¹ He adds

⁵⁸ Forges, Des Alison *Leave no one to tell the Story: Genocide in Rwanda*: "Human Rights Watch," pp 1-595 (1999) op.cit

⁵⁹ International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa pp-1-89 (2001)

⁶⁰ Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* : "Human Rights Watch" pp 1-595 (1999) op.cit

⁶¹ Newbury, David *Understanding Genocide*: "African Studies Review," vol.41 No.1, pp 73-97 (1998) op.cit

that the combination of big power neglect and the ideology of national sovereignty effectively nullified attempts by the Secretary-General to rally further action. Thus the Rwandan extremists were well protected, the road was clear.⁶² The frustration of Forges are justifiable however, the charter does not make any provisions on the eviction or suspension of a P-5 from the council. Moreover, the ideology of national sovereignty is still highly regarded that if the state in question was itself against international intervention especially militarily it basically blocks an effective intervention from an organization that relies on great powers to maintain the peace. In this case, these great powers were disinterested in maintaining international peace and security in this region. Bercovitch and Jackson attributes great powers' lackadaisical attitude to the fact that there were no direct interests and there were no direct threat to the stability of Africa especially in the post-cold War era.⁶³ Consequently, the genocide was catastrophically successful in Rwanda to the point it destabilized the entire Great Lakes region.⁶⁴ The aftermath is that many African peoples concluded that, the talk about universality of human rights is simply rhetoric meaning, some human lives end up mattering a great deal less to the international community than others.⁶⁵

⁶² Newbury, David *Understanding Genocide*; "African Studies Review," vol.41 No.1, pp 73-97 (1998) op.cit

⁶³ Bercovitch, Jacob and Richard, Jackson *Conflict Resolution in the Twenty-first Century: Principles, Methods, and Approaches*; University of Michigan Press U.S.A, (2009) op.cit

⁶⁴ International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa pp-1-89 (2001) op.cit

⁶⁵ International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa pp-1-89 (2001) op.cit

3.3.3. Inadequate Funds and Constrained Resources

The UN peacekeeping missions became a popular tool for the organization to resolve conflicts as such demand for peacekeeping escalated this state of affairs created shortage of funds for the organization. Forges testifies that the UN was faced by escalating peacekeeping cost.⁶⁶ This demand was created by the flare up of conflicts across the globe. Nonetheless, UN staff and some member states wanted not only success but also at a low cost.⁶⁷ This implies that the international community was in favour of some form of intervention to contain the violence. However this situation led to the abandonment of ideas which could have strengthened UN action. Forges state that the peacekeeping staff had proposed a small human rights division that might have traced growing hostility towards the Tutsi, but since *there was no money*, this idea was shelved.⁶⁸ Emphases are original. To add to that, the deafening voicing by U.S. and others of the then economic burden in peacekeeping resulted to the creation of a peace force that was only one third of that which was originally proposed and its mandate scaled down as well.⁶⁹

⁶⁶ Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* ; "Human Rights Watch" pp 1-595 (1999) op.cit

⁶⁷ Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* ; "Human Rights Watch" pp 1-595 (1999) op.cit

⁶⁸ Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* ; "Human Rights Watch" pp 1-595 (1999) op.cit

⁶⁹ Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* ; "Human Rights Watch" pp 1-595 (1999) op.cit

Unfortunately this financial situation camouflaged the intentions of the U.S. and its allies to appear as if they were interested in intervening in Rwanda but due to the financial situation that the organization was experiencing then the (P-5) and some member states were not willing to authorize and contribute to a strong peacekeeping mission to Rwanda. Consequently, the lobbying of the U.S. and other states discouraged any possibility of creating formidable UN peacekeeping force to Rwanda. It is for this reason that Evans and Sahnoun testify that the mission was poorly resourced.⁷⁰ For this reason, Bercovitch and Jackson attest that UNAMIR was overtaken by the genocide.⁷¹ This incident has remained one of the 'United Nations' most spectacular failures in its history.

3.3.4. Inadequate Exchange of Information and Secrecy between the Secretariat and the UNSC

In order to have a strong intervention, member states and moreso the Security Council members needed adequate information of the happenings on the ground. Forges notes that this was not happening; she strongly asserts the U.S. France and Belgium were well-informed of the grave situation on the ground.⁷² She attests that as early as January a

⁷⁰ Evans, Gareth and Sahnoun, Mohamed *The Responsibility to Protect*; "Foreign Affairs," vol. 81, No.6, pp 99-110 (2002) op.cit

⁷¹ Bercovitch, Jacob and Jackson, Richard, *Conflict Resolution in the Twenty-first Century: Principles, Methods, and Approaches*; University of Michigan Press U.S.A, (2009) op.cit

⁷² Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* ; "Human Rights Watch" pp 1-595 (1999) op.cit

U.S. Central Intelligence Agency analyst was well-informed that he predicted as many as half a million people will perish in case there is renewal of conflict.⁷³ However this information remained exclusively for U.S. ears. Forges asserts that other than the U.S. Belgium and France were equally well-informed of the preparation on the ground for the genocide.⁷⁴ In addition General Dallaire sent a warning telegram to his superior that massive slaughter was being prepared.⁷⁵ Despite these governments having this information it is peculiar that little action was taken to help save more lives. Dallaire's constant plea for a stronger mandate and more materials were silenced by the secretariat staff perhaps apprehensive to prevent displeasing major powers as the U.S. failed to convey to the council the gravity of warnings of crisis and the urgency of Dallaire's requests.⁷⁶ This state of affairs suggests that there was broken communication in two folds that is among the council members and between the council and the secretariat.

This situation created an atmosphere as a result some members were not well-informed and were misled to believe that the situation in Rwanda was not of serious gravity. Forges affirms that by late April the non permanent members of the council Spain, Czech Republic, Argentina and New Zealand sought information than what the

⁷³ Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* ; "Human Rights Watch" pp 1-595 (1999) op.cit

⁷⁴ Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* ; "Human Rights Watch" pp 1-595 (1999) op.cit

⁷⁵ Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* ; "Human Rights Watch" pp 1-595 (1999) op.cit

⁷⁶ Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* ; "Human Rights Watch" pp 1-595 (1999) op.cit

secretariat was offering and they were convinced that the slaughter was genocide and must be ended.⁷⁷ Forges laments that had these non-permanent members been fully informed of the real situation in Rwanda earlier such as January 11 they might have risen their voices in time to have called for *strong measures* to avert the genocide.⁷⁸ Emphases are original.

3.3.5. Misrepresentation of the Genocide in and out of the UNSC

One outstanding discovery of the Rwanda conflict is that many member states tactfully avoided using the term genocide despite having knowledge of the killings. Forges asserts that the U.S. Belgian and French policy makers knew that Tutsis were being slain for being Tutsis.⁷⁹ She maintains that Dallaire sent a telegram to New York with the same message, Journalists accounted of systematic widespread killings on an ethnic basis. She insists that given the pattern of killings, given the previous killings of the Tutsis, given the propaganda demanding their extermination on radio and broadcasts, informed observers must have seen that they were facing genocide.⁸⁰ Despite these facts pointing to the genocidal nature of the killings, this term was not used to describe the turmoil in Rwanda. At this juncture the point of interest is rather why member states

⁷⁷ Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* ; "Human Rights Watch" pp 1-595 (1999) op.cit

⁷⁸ Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* ; "Human Rights Watch" pp 1-595 (1999) op.cit

⁷⁹ Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* ; "Human Rights Watch" pp 1-595 (1999) op.cit

⁸⁰ Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* ; "Human Rights Watch" pp 1-595 (1999) op.cit

choose not to refer to the Rwanda situation as genocide. It is for this reason that Forges states 'they knew but did not say'.⁸¹ The commission is in accord with this observation and asserts that the UN Secretariat and some P-5 members *knew* that officials connected to the then government were planning genocide.⁸² Emphasis is original. Forges affirms that the U.S. could have been the sole government that cautioned its officials formally not to use the term genocide, but diplomats from other countries and UN staff avoided this word.⁸³ This state of affairs created a deceptive sense of easiness concerning the situation in Rwanda to appear as an ordinary conflict within the country. Thus, member states would steer away comfortably from the moral and legal obligations intertwined with genocidal killings thus, the turmoil in Rwanda was portrayed as ordinary ethnic killings.⁸⁴ This situation pointed to local tribal rivalry and distorted facts. Newbury is in agreement with this observation and asserts that in this period the media in the West portrayed Africans as barbaric and the violence as tribal.⁸⁵ Waal also shares this opinion and states that journalists depicted the current mass killings in Rwanda as the expression of old-age

⁸¹ Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* ; "Human Rights Watch" pp 1-595, p 21, (1999) op.cit

⁸² International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa pp-1-89 (2001) op.cit

⁸³ Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* ; "Human Rights Watch" pp 1-595, (1999) op.cit

⁸⁴ Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* ; "Human Rights Watch" pp 1-595, (1999) op.cit

⁸⁵ Newbury, David *Understanding Genocide: "African Studies Review."* vol.41 No.1, pp 73-97 (1998) op.cit

tribal animosity.⁸⁶ This state of affairs resulted to confusion and obscured the facts of what was really going on in the country. Consequently in the confusion and distortion of facts the efforts of the international community was thwarted. Waal laments that the fact that there has been no public protest from social anthropologists over the mass killings in Rwanda is not only a source of shame to the discipline but also a missed opportunity to avert the carnage.⁸⁷ As a result innocent civilians lost their lives needlessly.

3.3.6. UNAMIR's Manifold Shortcomings

As the Killers began their assaults, everyone in Rwanda—Rwandan and foreigner—looked to UNAMIR to see what it would do. The killers watched to see if it would threaten them; by and large, it did not. People at risk counted on them to protect them; for the vast majority of Rwandans, it did not do that either. Its success in protecting some Rwandans was commendable but also served to show how many more could have been rescued had the Security Council ordered that mission and provided the means to execute it.⁸⁸

When the UNSC finally acted to establish UNAMIR, its budget was approved however, the delay in funding and other administration problems resulted in the force not receiving essential equipments, supplies and commodities such as armored personnel carriers and ammunition.⁸⁹ It is for this reason that Weiss, Forges, Evans and Sahnoun all resoundingly assert that the UNAMIR peacekeeping mission was wanting from its

⁸⁶ Waal de Alex *Genocide in Rwanda*; "Anthropology Today" vol 10, No.3 pp 1-2 (1994) op.cit

⁸⁷ Waal de Alex *Genocide in Rwanda*; "Anthropology Today" vol. 10, No.3 pp 1-2 (1994) op.cit

⁸⁸ Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* ; "Human Rights Watch" pp 1-595, p 461 (1999) op.cit

⁸⁹ Forges, Des Alison *Leave no one to tell the Story : Genocide in Rwanda* ; "Human Rights Watch" pp 1-595, p 461 (1999) op.cit

conception to its implementation. Weiss describes it as weak and indecisive.⁹⁰ These sentiments are shared by Forges who affirms that the UN peacekeeping mission in Rwanda was weak and shaky.⁹¹ Evans and Sahnoun are no different they describe the mission as being too little too late, poorly resourced, poorly executed, misconceived, or all the above.⁹²

3.3.6.1 Stringent Orders

The stringent orders that Dallaire received from New York greatly limited his ability to fulfil his mandate in Rwanda. Forges asserts that Dallaire was ordered not to avoid risking the lives of the soldiers, this made his priority the safety of the soldiers as opposed to saving the lives of Rwandans faced with the threat of genocide.⁹³ As a result, his troops could not offer adequate protection to the Rwandans who came seeking protection at certain UN posts exposed to violence.⁹⁴ In so doing, UN peacekeepers digressed completely from their original mandate as provided for in the Accords.

3.3.6.2 Restricted Mandate

⁹⁰ Weiss et. al, *The United Nations and Changing World Politics*; Westview Press The United States of America (2007) op.cit

⁹¹ Forges, Des Alison *Leave no one to tell the Story: Genocide in Rwanda*; "Human Rights Watch," pp.1-595 (1999) op.cit

⁹² Evans, Gareth and Sahnoun, Mohamed *The Responsibility to Protect*; "Foreign Affairs," vol. 81, No.6, Pp 99-110 (2002) op.cit

⁹³ Forges, Des Alison *Leave no one to tell the Story: Genocide in Rwanda*; "Human Rights Watch," pp.1-595 (1999) op.cit

⁹⁴ Forges, Des Alison *Leave no one to tell the Story: Genocide in Rwanda*; "Human Rights Watch," pp.1-595 (1999) op.cit

The restricted mandate did not help ease UNAMIR's predicament in its mission. This state of affairs only served to weaken the Accords further. Forges acrimoniously asserts that where Accords requested for a force to "guarantee overall security" in Rwanda, the Security Council provided for a force to "contribute to" security in Kigali. Where the Accords provided that peacekeepers would track and recover armament distributed illegally to civilians, this provision was removed completely from the UNAMIR mandate since diplomats were grumbling with the difficulties caused on disarmament efforts in Somalia.⁹⁵ She attests that UNAMIR's mandate permitted the peacekeepers to use force in self-defence, to defend other UN lives or persons under their protection from direct attack, but this did not happen often.⁹⁶ Unfortunately for Dallaire and his forces this was not the official position, since the UN headquarters insisted on a narrow definition of what was permitted under the mandate⁹⁷. The rigorous orders and the narrow mandate that the UNAMIR operated on pointed to the fact that it was contrary to the provisions of the Arusha Accords and therefore misconceived.

3.3.6.3. Weak Execution of UNAMIR's Mandate

The manner in which the UNSC was handling the Rwanda genocide not only indicated the fact that the council members were largely disinterested in resolving the

⁹⁵ Forges, Des Alison *Leave no one to tell the Story: Genocide in Rwanda*; "Human Rights Watch," pp. 1-595 (1999) op.cit

⁹⁶ Forges, Des Alison *Leave no one to tell the Story: Genocide in Rwanda*; "Human Rights Watch," pp. 1-595 (1999) op.cit

⁹⁷ Forges, Des Alison *Leave no one to tell the Story: Genocide in Rwanda*; "Human Rights Watch," pp. 1-595 (1999) op.cit

conflict but also suggested that the council was undecided on how to resolve it. Forges testifies that despite the delay on dispatching UNAMIR peacekeepers, the security council debated on the complete withdrawal of the peacekeepers, a decision that would have abandoned some 30,000 unarmed civilians in the UN posts.⁹⁸ Even though the council was fully aware of the consequences of this course of action, the UNSC withdrew most of the UN troops and left only a few hundred peacekeepers to protect civilians directly under the UN flag.⁹⁹ This course of action needlessly condemned many Rwandans to death. Clapham echoes these sentiments and affirm that the precipitated withdrawal of UN forces, under orders from New York, unquestionably condemned to death many Rwandans who could have been saved.¹⁰⁰

In addition the fact that the UNSC endorsed a 'neutral' peacekeeping force pointed to the fact that the council did not want to endorse a decisive action which would have stopped the genocide. Clapham asserts that any peace-keeping force could have tilted the outcome *only* by intervening *decisively* on behalf of one side and against the other such as "Operation Turquoise" by the French.¹⁰¹ Emphases are original. This means that for the UNAMIR to have succeeded in ending the genocide it was to intervene on

⁹⁸ Forges, Des Alison Leave no one to tell the story: Genocide in Rwanda; "Human Rights Watch," pp. 1-595 (1999) op.cit

⁹⁹ Forges, Des Alison Leave no one to tell the story: Genocide in Rwanda; "Human Rights Watch," pp. 1-595 (1999) op.cit

¹⁰⁰ Clapham, Christopher *The Perils of Peacemaking*; "Journal of Peace Research," vol.35, No.2 pp. 193-210, (1998)

¹⁰¹ Clapham, Christopher *The Perils of Peacemaking*; "Journal of Peace Research," vol.35, No.2 pp. 193-210, (1998) op.cit

behalf of those who needed protection and not on behalf of the RPF or the genocidal-government. Instead, UNAMIR preferred to carry out its operations over the fence. As a result, it could not halt the genocide. It is for this reason that Clapham asserts that to remain 'neutral' as a UN force was destined to do, was to be condemned to impotence as eventually happened.¹⁰² Vetlesen describes this state of impotence as bystanders by assignment.¹⁰³ It is for this reason that Day and Freeman lament that neutrality has often cost lives rather than saved them, doing "no harm" has sometimes implied doing nothing at all.¹⁰⁴ Though sending UNAMIR peacekeepers on the platform of neutrality was commendable it did not yield the desired results, and therefore the genocide proceeded on as planned. This is why Evans acrimoniously affirms that the response to the 1994 genocide was pathetically inadequate.¹⁰⁵

3.3.7. The Shocking Somalia Experience in 1993

The demand for a strong UN-peacekeeping force in Rwanda was overshadowed by the unfortunate experience of member states particularly the U.S and its allies in Somalia when they attempted to carry out a humanitarian intervention in Somalia under—UNOSOM (UN Operation in Somalia). Newbury shares this opinion and asserts

¹⁰² Clapham, Christopher *The Perils of Peacemaking*; "Journal of Peace Research," vol.35, No.2 pp, 193-210, (1998) op.cit

¹⁰³ Vetlesen, Johan. *Armed Genocide: A case for the Responsibility of the Bystander*; "Journal for Peace Research" vol. 37, No.4, Pp 519-532 (2002)

¹⁰⁴ Day, Graham and Freeman, Christopher *Operationalizing the Responsibility to Protect—the Police-Keeping Approach*; "Global Governance," vol.11. No.2 pp 139-146 (2005) op.cit

¹⁰⁵ Evans, Gareth *The Responsibility to Protect: Rethinking Humanitarian Intervention*; "American Society of International Law," vol. 98. pp 78-89 (2004) op.cit

that Rwanda was depicted as Africa and Africa was Somalia.¹⁰⁶ As a result, the U.S and her allies were in the forefront to resist another attempt of humanitarian intervention in Africa. The UNOSOM operation was based on chapter VII, nonetheless the U.S and her allies did not succeed in their mandate.¹⁰⁷ Forges states that the UNSC was still shell shocked of the failure of its peacekeeping effort in Somalia when the request for a Rwandan force was presented.¹⁰⁸ Regrettably the operation did not go as planned and therefore a secure environment could not be established. Instead, there were increased attacks against UNOSOM peacekeepers which resulted to the deaths of 25 Pakistani soldiers and attempts to implement disarmament served only to increase tension and violence towards UNOSOM peacekeepers.¹⁰⁹ Despite their calamitous experience UNOSOM was boosted by U.S forces though not under the United Nations command.¹¹⁰ However this boost did not change their run of misfortune. Unfortunately the operation incurred serious casualty and mockery when 18 U.S. soldiers were killed and subjected to public acts of indignation which were internationally broadcasted. Following this

¹⁰⁶ Newbury, Catharine *Background to Genocide: Rwanda*; "A Journal of Opinion" vol.23, No.2, pp. 12-17, (1995) op.cit

¹⁰⁷ Department of Public Information *United Nations Operation in Somalia II*; United Nations New York, (1997) Accessed on 11/7/2011

¹⁰⁸ Forges, Des Alison *Leave no one to tell the Story: Genocide in Rwanda*; "Human Rights Watch," pp.1-595 (1999) op.cit

¹⁰⁹ Forges, Des Alison *Leave no one to tell the Story: Genocide in Rwanda*; "Human Rights Watch," pp.1-595 (1999) op.cit

¹¹⁰ Forges, Des Alison *Leave no one to tell the Story: Genocide in Rwanda*; "Human Rights Watch," pp.1-595 (1999) op.cit

harrowing event the U.S pulled out its troops from Somalia by March 1994.¹¹¹ This shocking loss marked the last of U.S. and its allies to carry out a humanitarian intervention operation in Africa. This state of affairs worked to the disadvantage of the Rwanda situation. Clapham echoes these sentiments and affirms

The Rwandan settlement was certainly affected by an unfortunate accident of timing, coming as it did shortly after the ignominious withdrawal of the U.S. and its allies from Somalia had gravely weakened western confidence in 'humanitarian intervention.'¹¹²

As a result, the Arusha Accords failed to preserve the cease-fire likewise an impoverished UNAMIR crumbled to its manifold challenges giving way to the genocide.

¹¹¹ Forges, Des Alison *Leave no one to tell the Story: Genocide in Rwanda*; "Human Rights Watch," pp.1-595 (1999) op.cit

¹¹² Clapham, Christopher *The peril of Peacemaking*; "Journal of Peace Research" vol.35, No.2 pp 193-210, p 206, (1998) op.cit

Chapter 4

The Concept of Responsibility to Protect

4.0 Introduction

This chapter will concentrate on the budding concept of responsibility to protect. In this chapter this study will examine in detail what R2P entails and analyse the impact it has in maintaining international peace and security. This chapter will also comprise of data analysis.

4.1 Origin of Responsibility to Protect

The concept of R2P is not necessarily an entirely new concept. However in light of 'new' conflicts and the inability of the UN Charter system to deal with these 'new' conflicts constructively as demonstrated in the previous chapter pressed for a change in tactic so as to deal with these 'new' conflicts. The commission assert that this state of affairs drew the attention of the international community due to the critical gap on one hand, the need and distress being felt in the real world and on the other hand the codified instruments and modalities for managing world order.¹ The fact that millions of people still face the threat of civil wars, insurgences, state collapse and repression as well as the controversies that rose when international intervention takes place or not, has created a need for new approach—R2P.² As a budding concept, R2P is not yet fully developed and clearly understood let alone implemented. Nonetheless, R2P originated from the internal

¹ International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa Pp-1-89 (2001) op.cit

² International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa Pp-1-89 (2001) op.cit

conflicts in Rwanda and Kosovo Srebrenica and elsewhere where civilians were deliberately targeted.³ Evans and Sahnoun agree that controversies have emerged from external military intervention for humanitarian protection when it happens like in Kosovo and when it failed to happen like in Rwanda.⁴ Since these crimes occurred and the endless debates on HI ensured there have been series of government and nongovernmental initiatives to reconcile traditional notions of state sovereignty and crimes against humanity.⁵ Evans adds that it took the international community the entire decade to re-learn that war can be a progressive cause⁶. The R2P has been articulated in five main documents namely; the High Level Panel's report on Threats, Challenges and Change, the Secretary-General's report In Larger Freedom, the Outcome Document of World Summit 2005, UNSC Resolution 1674 and Secretary-General's report on Implementing the Responsibility to Protect unfortunately, none of these documents are sources of international law hence they are not necessarily binding.⁷ These documents therefore serve as indicators of the achievements of R2P in theory however its

³ Foreign Affairs and International Trade *Responsibility to Protect*; "Foreign Affairs and International Trade" Pp 1-3 (2010) (Accessed 17/6/2011) op.cit

⁴ Luck, C. Edward *The United Nations and the Responsibility to Protect*; "Policy Analysis Brief" pp 1-12, (2008) op.cit

⁵ Foreign Affairs and International Trade *Responsibility to Protect*; "Foreign Affairs and International Trade" Pp 1-3 (2010) (Accessed 17/6/2011) op.cit

⁶ Evans, Gareth *The Responsibility to Protect: When it's Right to Fight*; "Progressive Politics" pp 1-3 (2003) op.cit

⁷ United Nations *Concept Note on Responsibility to Protect Populations from Genocide, War crimes, Ethnic Cleansing and Crimes against Humanity*; Office of the President of the General Assembly, pp 1-4 (2010)

achievements in practice are yet to be clearly established. Luck testifies that though a lot has been gained a lot more still needs to be done by individual states, governmental and nongovernmental organisations as well as the United Nations community.⁸ This implies that implementation and promotion of R2P is not only the task of the UN and enthusiastic proR2P academicians but that of the entire community of states and other NGOs and INGOs, hence R2P is to be developed in two levels which are the state and global levels.

The 2005 World Summit was the event that propelled R2P in academic and international centre stage. Luck states that in this event the assembled heads of state agreed, as indicated by the Outcome Document on paragraphs 138 and 139 that R2P rests on three pillars:

The responsibility of the state to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity, and from their incitement. The commitment of the international community to assist states in meeting these obligations; and the responsibility of the member states to respond in a timely and decisive manner when a state is manifestly failing to provide such protection.⁹

Thus the world leaders utterly declared that “We accept that responsibility and will act in accordance with it.”¹⁰ Therefore, this high level summit was a breakthrough because states had officially embraced R2P. Out of this summit R2P no longer exist only in theory but it had also made strides in gaining states’ recognition and a promise to implement it

⁸ Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, (2008) op.cit

⁹ Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, p 1(2008) op.cit

¹⁰ Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, p 1(2008) op.cit

within and outside their boundaries. In light of the gains made, Luck asserts that presently, the UN member states are unified in their support for the goals for R2P but less so on how to achieve them.¹¹ This situation is not surprising considering the sensitivity of R2P and the consequences that governments face when they infringe or abandon their task to protect their citizens.

4.2 Rationale of Responsibility to Protect

The R2P criss-crosses between humanitarian intervention and human rights it is therefore related to the named concepts but is distinct from them. Luck states that in terms of tools R2P is much broader than the former while in terms of range R2P is much narrower than the latter.¹² In other words R2P can base its action on non-coercive, collaborative and coercive measures contrary to humanitarian intervention. While in scope it is uniquely specific to the four agreed crimes unlike human security which encompasses a range of issues threatening the security of an individual. Luck underscores that R2P embraces tools which are predominantly non-coercive including prevention, protection, capacity-building and rebuilding.¹³ Humanitarian intervention lacked the second pillar which provides for international assistance in helping a state meet its core protection responsibility. Thus it places relatively minimal emphasis on military or

¹¹ Luck, C. Edward *The United Nations and the Responsibility to Protect*: "Policy Analysis Brief" pp 1-12, p 1(2008) op.cit

¹² Luck, C. Edward *The United Nations and the Responsibility to Protect*: "Policy Analysis Brief" pp 1-12, (2008) op.cit

¹³ Luck, C. Edward *The United Nations and the Responsibility to Protect*: "Policy Analysis Brief" pp 1-12, (2008) op.cit

coercive response.¹⁴ Thus, R2P gives due priority to non-coercive measures to enable a state to meet its primary responsibility—to protect its population whether citizens or not from the already defined crimes.

The commission assert that any new approach to intervention on human protection grounds needs to meet four basic objectives:

To establish clear rules and procedures and a criteria for determining when, how and whether to intervene,

To establish when legitimate military intervention is necessary, and when it is carried out, there must be established code of conduct.

Lastly to help eliminate, where possible, the causes of conflict while enhancing the prospects for durable and sustainable peace.¹⁵

Since R2P places the primary responsibility to the state concerned, it also conceives sovereignty in a new perspective from sovereignty as control to sovereignty as a responsibility in both internal and external duties.¹⁶

When responding to the crimes agreed upon in the 2005 summit, paragraphs 138 and 139 of the Outcome Document makes it abundantly clear, that the response can involve a broad spectrum of UN tools which include pacific settlements, coercive

¹⁴Luck, C. Edward *The United Nations and the Responsibility to Protect*; "Policy Analysis Brief" pp 1-12, (2008) op.cit

¹⁵ International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa pp-1-89 (2001) op.cit

¹⁶ International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa pp-1-89 (2001) op.cit

measures which include both military and economic, and collaboration with regional and sub-regional arrangements.¹⁷ The UN Secretary-General Ban Ki-Moon insists that the key lies in an *early and flexible response* tailored on a *case by case basis* of each situation.¹⁸ Emphases are original. The commission articulates that R2P embraces three specific responsibility elements. Responsibility to prevent which seeks to address the root and direct causes of internal conflicts that endanger a population. Second, responsibility to react aims to respond to situations of compelling human need with appropriate measures not excluding coercive ones. Third, responsibility to rebuild moreso after a military intervention seeks to provide full assistance for recovery, reconciliation and reconstruction.¹⁹ It is for these reasons that Luck testifies that R2P has a continuum of categorized policy apparatus across this spectrum.²⁰ Therefore, R2P offers different methods to better the situation at every stage of the conflict cycle that is pre-conflict, conflict and post-conflict stages. Thought RtoP seeks to ensure that action is taken to avert or halt conflict from continuing unabated central to its rationale is the element of prevention by use of less intrusive and coercive measures.²¹

¹⁷ Luck, C. Edward *The United Nations and the Responsibility to Protect*; "Policy Analysis Brief" pp 1-12, (2008) op.cit

¹⁸ Luck, C. Edward *The United Nations and the Responsibility to Protect*; "Policy Analysis Brief" pp 1-12, (2008) op.cit

¹⁹ International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa pp-1-89 (2001) op.cit

²⁰ Luck, C. Edward *The United Nations and the Responsibility to Protect*; "Policy Analysis Brief" pp 1-12, (2008) op.cit

²¹ International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa pp-1-89 (2001) op.cit

The commission acknowledges that a situation may warrant a military intervention however under R2P the commission is rather cautionary to endorse this course of action hurriedly. As such it attempts to control and regulate its use. In this light the commission remains insistent that military intervention should meet a set threshold which is; if there is large scale loss of life and acts of terror with genocidal intent which is a product of deliberate state action or inability of the state to act are grounds for a just course of military action.²² In addition the commission assert that military intervention must have the right intention, be considered as a last resort and it should be proportional to the situation on the ground in scale, duration and intensity. In other words, the force should be minimal to achieve the human protection objective.²³ The commission remains adamant that military intervention must have a reasonable chance of success in halting the suffering, meaning, the consequences of action should be better than those of inaction.²⁴ The commission is very cautious in endorsing military intervention due to the possibility that such an action may aggravate the suffering of the very people it is meant to rescue.

On the other hand the commission is non-hesitant for reasons already discussed in this study to endorse the UNSC as the organ with the legitimacy to authorise such an action. Evans testifies that in authorising military intervention the UN and in particular

²² International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa pp-1-89 (2001) op.cit

²³ International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa pp-1-89 (2001) op.cit

²⁴ International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa pp-1-89 (2001) op.cit

the UNSC is the body with the right authority.²⁵ The commission is resolute that the UNSC's authorisation should be sought in *all cases* prior to military intervention, therefore, the UNSC *should deal promptly with any request for authority* to intervene where there are allegation of large scale loss of life or ethnic cleansing. In this matter the commission maintains that the council should verify the facts on the ground that might support such an intervention.²⁶ Emphases are original. The commission suggests that the P-5 should agree not to apply their veto, where their vital interests are not involved, so as not to obstruct passage of resolutions authorising military intervention for human protection purposes which otherwise has majority support.²⁷

This is to ensure that the request for military intervention to protect human lives passes basing on the gravity of the matter. The commission asserts that where the council fails to deal with the matter in a reasonable time other alternatives put forward are the GA under the Uniting for Peace procedure and action under chapter VIII though subject to authorisation of the council.²⁸

The commission strongly warns the UNSC if *it fails to discharge its responsibility to protect in conscience-shocking situations crying out for action, concerned states may not rule out other means* to meet the gravity and urgency of that

²⁵ Evans, Gareth *The Responsibility to Protect: When it's Right to Fight*: "Progressive Politics," (2003) op.cit

²⁶ International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa pp-1-89 (2001) op.cit

²⁷ International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa pp-1-89 (2001) op.cit

²⁸ International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa pp-1-89 (2001) op.cit

situation—and that *the stature and credibility of the UN may suffer thereby*.²⁹ Emphases are original.

Though this stern warning is rightly and unequivocally directed to the UNSC, it should be extended to the GA as well since it also shares the stature and credibility of the UN with the UNSC. Lastly, the commission proposes some operational principles to be considered for military intervention as follows; clear objectives and unambiguous mandate at all times as well as resources to match it, acceptance of limitations in applying force because the aim is not to defeat the state in question, the rules of engagement fit the operational concept are precise, reflect the principle of proportionality and in total adherence with the IHL, fourth, accept that force protection cannot become the chief objective and the possible maximum involvement of humanitarian organisations.³⁰ It is for these reasons that Day and Freeman describe R2P as:

An attempt at establishing a moral guideline for international action in the face of humanitarian emergency. It predicts legitimate intervention on the welfare of populations subjected to persecution rather than on calculations of national interest and security; it is multilateral in vision and advocates the UN's role in authorizing intervention and in guiding the path of peace; it warns of the use of force as an option of last resort while endorsing the pragmatic merits of coalitions of the willing and regional arrangements.³¹

²⁹ International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa pp-1-89, p xiii (2001) op.cit

³⁰ International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa pp-1-89, (2001) op.cit

³¹ Day, Graham and Freeman, Christopher *Operationalizing the Responsibility to Protect—the Police-Keeping Approach*; "Global Governance," vol.11. No.2 Pp 139-146 (2005) op.cit

Due to the realisation of the merits that R2P extends to the international community in the face of complex humanitarian challenges, Day and Freeman acknowledge that R2P is a feasible guideline that now more than ever, requires our support.³²

4.3 Impact of Responsibility to Protect in Maintaining International Peace and Security

R2P is a relatively new way of thinking in the management of international conflict. It has been in force for the last seven years. Despite its young life span, R2P is already exerting its impact in international conflict management and creating new rules for global governance.

4.3.1 Establishment of Rules and Procedure to Act on Internal Conflicts

The fact that the Rwanda genocide was marred by confusion and lack of clear rules and established guidelines on how to halt the genocide has prompted ICISS to abundantly underscore the importance of establishing clear guidelines and rules to govern military intervention for the purposes of protection on human lives. When UNAMIR was deployed to Rwanda its rules of engagement were not firmly established and what was agreed on was barely sufficient for the force thus General Dallaire and his bosses in New York were in constant argument as to what extent the force should go in order to fulfil its mandate. Forges assert that Dallaire strongly stated that there may be ethically and politically motivated criminal attacks during this mandate which will morally and legally

³² Day, Graham and Freeman, Christopher *Operationalizing the Responsibility to Protect—the Police-Keeping Approach*; “Global Governance,” vol.11. No.2 Pp 139-146 (2005) op.cit

demand UNAMIR to use *all necessary means* to halt them.³³ Emphases are original. However for reasons already stated he was constantly forbidden to use them by his bosses due to the fear that taking a strong action may result to another Somalia not to mention that UNAMIR's mission was based on chapter VI. As if this was not enough the UNSC and the Secretariat were against Dallaire using "all necessary means" to ameliorate situations of emergency when they arise. This observation is shared by Forges who states that the numerous requests by Dallaire for a stronger and decisive action and a broader interpretation of UNAMIR's mandate were not considered neither by the UNSC nor the Secretariat staff.³⁴ This circumstance placed both Dallaire and his bosses in an intervention dilemma. Thus on one hand the operation guidelines were already determined while on the other it seems as if there was no agreement on the rules for the Rwanda operation. Evans and Gareth testify to this observation and state "There were no agreed rules for handling cases such as Somalia, Bosnia, Rwanda and Kosovo at the start of the 1990s, and there remain none today."³⁵ This being the chaotic experience of the UN and its member states in intervention for the purposes of protecting human lives, the commission underscored not only the importance but also the dire need for the international community of states and the UN to establish rules and procedure for such interventions in the future. It is for this reason that the ICISS commission put forward

³³ Forges, Des Alison *Leave no one to tell the Story: Genocide in Rwanda*: "Human Rights Watch," pp.1-595 (1999) op.cit

³⁴ Forges, Des Alison *Leave no one to tell the Story: Genocide in Rwanda*: "Human Rights Watch," pp.1-595 (1999) op.cit

³⁵ Evans, Gareth and Sahnoun, Mohamed *The Responsibility to Protect*; "Foreign Affairs," vol. 81, No.6, pp 99-110, p 99 (2002) op.cit

strong guidelines to direct the actions of the UN and the international community of states to form a pattern to intervene in civil conflicts. In spite of this achievement the former Secretary-General Kofi Annan insists that interventions on humanitarian grounds should remain consistent for the people of the world to have confidence in them³⁶. Nonetheless, Day and Freeman testify that R2P represents the most sophisticated attempt at establishing a moral guideline for international action in the face of humanitarian emergency.³⁷ Enthusiasts of R2P acknowledge that intervention on humanitarian grounds can involve a broad spectrum of UN tools which include pacific settlements, coercive measures which include both military and economic, and collaboration with regional and sub-regional arrangements.³⁸ Reasons being internal conflicts require a holistic approach to resolve them rather than a one-sided solution and, R2P presents conflict resolution with this opportunity. Slotin shares these sentiments and attests that RtoP is a more comprehensive and multifaceted mechanism for averting egregious crimes than humanitarian intervention.³⁹

4.3.2 Change of Sovereignty in Theory and Practice

One of the key impacts of R2P is the change of the concept and practice of sovereignty. Evans and Sahnoun testify that at the heart of this conceptual approach is a

³⁶ United Nations, *Basic facts about the United Nations*; United Nations Publications New York (2000) op.cit

³⁷ Day, Graham and Freeman, Christopher *Operationalizing the Responsibility to Protect—the Police-Keeping Approach*; “Global Governance,” vol.11. No.2 pp 139-146 (2005) op.cit

³⁸ Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, (2008) op.cit

³⁹ Slotin, Jenna et. al, *Responsibility to Protect (RtoP) and Genocide Prevention in Africa*; International Peace Institute New York, Pp 1-22 (2009)

shift in thinking about the essence of sovereignty—from control to responsibility and from sovereign impunity to that of national and international accountability.⁴⁰ This shift in policy places the primary responsibility of ensuring security of the population within its territory on the shoulders of individual states and holding them accountable to their nationals and the international community. By doing so they exercise their sovereignty and contribute locally and internationally in the maintenance of international peace and security, failure of which can attract the intervention of foreign powers or concerned states. Weiss is in accord with this statement and asserts that this course of action can be invoked by other states (whether injured or not) for breach of an obligation owed to the international community as a whole.⁴¹ Weiss maintains that this category of obligations is likely to grow especially in human rights and genocidal crimes.⁴² In spite of this, no military action can be taken against a wayward state without the authorisation of the UNSC. Though there is remaining residue of the Westphalian state system, the advent of R2P shades off some of these privileges. Today no state holds the ultimate power to do what it pleases to its nationals.⁴³ Annan echoes these sentiments and affirms that *sovereignty* of states must no longer be utilized as a shield for gross violations of human

⁴⁰ Evans, Gareth and Sahnoun, Mohamed *The Responsibility to Protect*; "Foreign Affairs," vol. 81, No.6, pp 99-110 (2002) op.cit

⁴¹ Weiss, Brown, Edith *Invoking State Responsibility in the Twenty-First Century*; "The American Journal on International Law" vol. 96, No. 4, pp 798-816 (2002)

⁴² Weiss, Brown, Edith *Invoking State Responsibility in the Twenty-First Century*; "The American Journal on International Law" vol. 96, No. 4, pp 798-816 (2002) op.cit

⁴³ Evans, Gareth and Sahnoun, Mohamed *The Responsibility to Protect*; "Foreign Affairs," vol. 81, No.6, Pp 99-110,(2002) op.cit

rights.⁴⁴ Thus, presently, sovereignty is perceived as responsibility and not authoritarian control.

When states accepted the proposals of the Outcome Document, they welcomed changes that will shift and/or reinforce the set principles of maintaining international peace and security. On one hand R2P does reduce the power of state sovereignty if a state does not protect its populace willingly or unwillingly from the crimes identified in R2P, then it automatically welcomes foreign powers to carry out its task within its territory moreover, such a state cannot reject such an action from taking place. This kind of action was unthinkable in the recent past however, this is not so anymore. On the other hand R2P reinforces state sovereignty as it gives a state the first chance to be the master of its destiny and protect its sovereignty by ensuring there are structures, policies and mechanisms that are aligned to the R2P. In other words, R2P has brought about a new dimension of sovereignty in theory and practice—sovereignty with a human face. In this new type sovereignty what matters is not only state sovereignty but the protection of individuals against the threat to life, livelihood, or dignity that come from within or without.⁴⁵ This means that sovereignty under the R2P is twofold responsibility to a state's national and to other states. Evans and Sahnoun are in accord with this opinion and assert that nowadays it is commonly acknowledged that sovereignty implies dual responsibility: internally, to respect the dignity and basic rights of all the people within the state and

⁴⁴ Evans, Gareth *The Responsibility to Protect: Rethinking Humanitarian Intervention*; "American Society of International Law," vol. 98. pp 78-89 (2004) op.cit

⁴⁵ Evans, Gareth and Sahnoun, Mohamed *The Responsibility to Protect*; "Foreign Affairs," vol. 81, No.6, pp 99-110 (2002) op.cit

externally, to respect the sovereignty of other states.⁴⁶ They insist that in international Human Rights covenants, in UN practice and in state practice itself, sovereignty is now recognized as embracing this dual responsibility.⁴⁷

4.3.3. Shift on the Principle of Non-interference in Matters within Domestic

Jurisdiction

Closely related to state sovereignty is the principle of non-interference which is clearly enshrined in the UN charter under article 2 paragraphs 7. Nevertheless, internal conflicts obscured the line between non-interference and the maintenance of international peace and security. In my opinion this principle served more as an obstacle than a blurry ideology. Reason being interfering in an internal matter raises the question of the legality of such an action—moreso if it is a military action. It would be a paradox if the very organisation which is supposed to honour its Charter goes directly against it. This state of affairs would push states and the UN in a dilemma which would simply worsen the maintenance of world peace and security in an already unstable and unpredictable international environment. R2P does support non-interference in the domestic jurisdiction of a sovereign state but with conditions. If a state perpetuates crimes identified in R2P then, it risks enjoying the provisions of this principle hence it may be forced to surrender its sovereignty to foreign powers. Consequently, R2P removes the obstacle, confusion and incessant debates when it comes to the four crimes. This means that R2P has clearly

⁴⁶ Evans, Gareth and Sahnoun, Mohamed *The Responsibility to Protect*; "Foreign Affairs," vol. 81, No.6, pp 99-110 (2002) op.cit

⁴⁷ Evans, Gareth and Sahnoun, Mohamed *The Responsibility to Protect*; "Foreign Affairs," vol. 81, No.6, pp 99-110 (2002) op.cit

contributed to the strengthening of maintaining international peace and security. R2P demands that when genocide, ethnic cleaning, war crimes and crimes against humanity occurs or suspected to occur, then, a timely and decisive action needs to be taken to halt or avert the occurrence of these crimes, whether or not their continuance will present an immediate threat to the maintenance of international peace and security. This observation is shared by the commission which testifies that, the emerging practice today, is that *intervention for human protection purposes* including military intervention in extreme cases, is supportable when *major harm to civilians* is going on and the state in question is unable or unwilling to end the harm or is itself a perpetrator.⁴⁸ Emphases are original. This development is contrary to the previous established rules and procedures whereby the UNSC could interfere in domestic matters only if it judges that the continuation of that situation will create an *immediate* threat to international peace and security. This shift of policy and practice is therefore welcomed as it strengthens the UNSC to maintain international peace and security as such the UN is able to live up to its general purposes as inscribed in the charter's preamble "we the people of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind..."⁴⁹

4.3.4 Effects on the UNSC

The UNSC remains the organ which benefits the most from the R2P. The UNSC is identified by the commission as the organ with the *right authority* particularly to

⁴⁸ International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa pp-1-89 (2001) op.cit

⁴⁹ United Nations, *Charter of the United Nations and Statute of the International Court of Justice*, United Nations Department of Public Information New York, p1 (1994) op.cit

authorise military intervention for the purposes of human protection.⁵⁰ I strongly support this endorsement due to the open fact that it is the organ that is legally charged by the charter to maintain international peace and security on behalf of member states. This endorsement reflects on the global interest of UN members to uphold peace and security in an acceptable and unquestionable manner compared to the endorsement of a group of state(s) or a military organisation which would illicit raging and divisive debates on the legality of such a group's action. Evans and Sahnoun backs this opinion and states that nations regard collective intervention blessed by the UN as legitimate whereas unilateral intervention is seen as illegitimate because it is self-interested.⁵¹ By identifying the UNSC the developers of R2P wanted to place the leadership mantel in the hands of the UNSC. In so doing, they place the UNSC at the heart of the implementation of R2P. In addition if international consensus is to be reached on military intervention, then the council will clearly have to be the nucleus of that consensus.⁵² Thus, R2P has simply deepened the intricate task of the UNSC to maintain international peace and security to include dealing with internal conflicts within individual state's domestic jurisdiction if such conflicts perpetuate the identified crimes in RtoP. This shift in policy serves to strengthen the role of the UNSC in maintain international peace and security. Evans and Sahnoun attest to this observation that the task is to make the council work better than it

⁵⁰ International Commission on Intervention and State Sovereignty *Report on The Responsibility to Protect* International Development Research Center Ottawa pp-1-89 (2001) op.cit

⁵¹ Evans, Gareth and Sahnoun, Mohamed *The Responsibility to Protect*; "Foreign Affairs," vol. 81, No.6, pp 99-110 (2002) op.cit

⁵² Evans, Gareth and Sahnoun, Mohamed *The Responsibility to Protect*; "Foreign Affairs," vol. 81, No.6, pp 99-110 (2002) op.cit

has.⁵³ This is due to the fact that the UNSC is empowered to act speedily in order to prevent or halt genocidal and ethnic cleansing crimes. Failure to do so will indeed taint the stature and credibility of the UN. As such the UNSC is strategically endorsed to be on the forefront to guarantee that the UN is able to prevent or act in a timely and decisive manner to avert these crimes. Evans and Sahnoun acknowledge that the most compelling task now is to work to ensure that when the call for action goes out to the community of states, *it will be answered*.⁵⁴ Emphases are original. With the deepening of the UNSC task, there is limited occasion whereby the UNSC has used its new found privilege.

4.4. Criticism of the Concept of Responsibility to Protect

As a new emerging doctrine RtoP has attracted criticism from sceptics. One of the most outstanding criticisms of the doctrine is that it is narrow. This critic is drawn from the first pillar of RtoP which lists the four crimes which heads of states have agreed to protect their populations from they include; genocide, war crimes, ethnic cleansing and crimes against humanity.⁵⁵ Sceptics believe that this scope should be broadened to make it applicable to a broad spectrum of calamities than the agreed crimes and violations. They propose that natural disasters such as cyclones, earthquakes, famine among others should also be included in the doctrine of RtoP.⁵⁶ On the contrary he asserts that the

⁵³ Evans, Gareth and Sahnoun, Mohamed *The Responsibility to Protect*; "Foreign Affairs," vol. 81, No.6, pp 99-110 (2002) op.cit

⁵⁴ Evans, Gareth and Sahnoun, Mohamed *The Responsibility to Protect*; "Foreign Affairs," vol. 81, No.6, pp 99-110 (2002) op.cit

⁵⁵ Luck, C. Edward *The United Nations and the Responsibility to Protect*; "Policy Analysis Brief" pp 1-12, (2008) op.cit

⁵⁶ Luck, C. Edward *The United Nations and the Responsibility to Protect*; "Policy Analysis Brief" pp 1-12, (2008) op.cit

Secretary-General Ban Ki-Moon has resisted appeals to broaden the scope of the doctrine beyond the already agreed four crimes and violations due to strong political, legal and pragmatic reasons.⁵⁷ He affirms that politically many member states are concerned of possible efforts to stretch RtoP in to aspects touching on national policy.⁵⁸ He cautions if the scope is not kept narrow, they (member states) warn, then the doctrine could become a rationale for interfering in essentially domestic affairs and for the strong to infringe on the sovereignty and territorial integrity of the feeble.⁵⁹ As a result the (the weak) states are robbed of the opportunity to protect their populations in the first place. These efforts are also resisted because it would be impossible to operationalize or institutionalise it.⁶⁰ If this happens, the international community would remain at a loss as to how, when and with whose authority to intervene in crimes identified in RtoP. This state of affairs will not be of assistance to the international community yet, RtoP seeks to clarify and develop a way forward to tackle, resolve and prevent crimes and violations identified in RtoP. For this reason, Luck warns “expanding this doctrine to more than what is already agreed upon would make it become one more case of the UN stretching a relatively discrete and

⁵⁷ Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, (2008) op.cit

⁵⁸ Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, (2008) op.cit

⁵⁹ Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, (2008) op.cit

⁶⁰ Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, (2008) op.cit

well-defined concept until it loses its shape, clarity and meaning.”⁶¹ It is for these reasons that Secretary-General Ban Ki-Moon has placed great emphasis on the operationalization of RtoP based on what has already been agreed on.⁶²

Another criticism about R2P is the determination to intervene in conflict situations on a case by case basis. Critics of R2P state that this is a pretext not to act in certain cases which equally need intervention.⁶³ I agree with this observation because this criteria will lead to discriminatory intervention on different situations which otherwise deserve similar action so long as the intervention is for the purposes of human protection. Furthermore this strategy will not help the UNSC to establish the consistency that the UN needs so as to win the confidence of the peoples of the world and establish a recognisable pattern of human protection intervention. Kofi Annan shares these sentiments and asserts that for intervention to end human suffering it should be *consistent* for the people of the world to trust it.⁶⁴ Emphasis is original. In my opinion I believe it is in the interest of the UNSC to ensure from the very beginning that intervention for the purposes of human protection whether coercive or not should be consistent so as to cultivate confidence in the UN’s efforts to operationalize RtoP and maintain international peace and security from a new perspective for all people. Already there is discrepancy in the application of

⁶¹ Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, p 5 (2008) op.cit

⁶² Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, p 5 (2008) op.cit

⁶³ Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, p 5 (2008) op.cit

⁶⁴ United Nations, *Basic facts about the United Nations*; United Nations Publications New York (2000) op.cit

R2P since its adoption by the governments of the world. Luck affirms that the UN applied a R2P perspective in its efforts to address the post-election violence in Kenya in early 2008, but not to the continuing large scale violence in Darfur.⁶⁵ Kofi Annan testifies

I saw the crisis in the R2P prism with a Kenya government unable to contain the situation or protect its people. I knew that if the international community did not intervene, things would go hopelessly wrong. The problem is when we say “intervention” people think military, when in fact that’s a last resort. Kenya is a successful example of R2P at work.⁶⁶

Luck attributes the striking difference in handling these similar but unique conflict situations to the fact that the fighting in Darfur broke out three years before the 2005 world summit adopted RtoP hence it would be an inappropriate case to apply the RtoP.⁶⁷ Even so sceptics find this explanation unsatisfactory and question the utility of the doctrine if it is only applied in ‘easier’ cases, thus casting doubt on the effectiveness of the principles of R2P.⁶⁸ This state of affairs also brings to question whether or not RtoP will only be applied in conflicts which began in 2005 onwards and leave older conflicts to continue unabated. Nonetheless, despite these criticisms, Luck upholds that “the value of any new doctrine or concept will be determined in practice rather than theory.”⁶⁹

⁶⁵ Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, (2008) op.cit

⁶⁶ Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, p 1 (2008) op.cit

⁶⁷ Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, (2008) op.cit

⁶⁸ Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, (2008) op.cit

⁶⁹ Luck, C. Edward *The United Nations and the Responsibility to Protect*; “Policy Analysis Brief” pp 1-12, p 6 (2008) op.cit

Therefore since the ICSS has developed a strong theory of RtoP it is up to the international community through the UNSC to ensure that the doctrine is practiced as intended to the later.

RtoP is criticised for having taken a state-centric approach to deal with the crimes identified in it. Regrettably, international actors unconsciously or deliberately buttress authoritarian states because they fail to understand the complexities of state weakness in Africa or because backing such governments served their interest.⁷⁰ This situation has stirred up concern that a state-centric RtoP risks to further reinforce this trend.⁷¹ In line with this view, RtoP is criticised for giving less importance to the will of the people and their role in holding the state accountable.⁷² RtoP places enormous emphasis on the primary task of the state to protect its population but forgets to recognise that the citizens of these states are the people who give states the legitimacy to rule them. Through their *will power* they (the citizens) can persuade, implore and even force their states to fully support RtoP locally and externally. Nonetheless, despite these criticisms in my opinion R2P is a doctrine which is worthy of unconditional support of individual governments and the international community at large. This is because it seeks to bring governments to accountability as well as to end and limit the occurrence of abuse of power by governments which can result to injuries and/or violations of their populations' well-

⁷⁰ Slotin, Jenna et. al, *Responsibility to Protect (RtoP) and Genocide Prevention in Africa*, International Peace Institute New York, pp 1-22 (2009) op.cit

⁷¹ Slotin, Jenna et. al, *Responsibility to Protect (RtoP) and Genocide Prevention in Africa*, International Peace Institute New York, pp 1-22 (2009) op.cit

⁷² Slotin, Jenna et. al, *Responsibility to Protect (RtoP) and Genocide Prevention in Africa*, International Peace Institute New York, pp 1-22, p 5 (2009) op.cit

being. Slotin is in agreement with this opinion and states "RtoP aims to limit states' abuse of power by preventing and/or responding to the most egregious acts they could commit."⁷³

4.5. Challenges Facing Application of Responsibility to Protect

As an emerging doctrine, RtoP is faced with challenges that can jeopardise its operationalization and consequently its implementation. One of the tests facing R2P is the task of distributing and sharing of information concerning a conflict situation. Though this task is not adequately emphasised by the ICSS it remains essential because, the information collected will determine the course of action to be taken by member states. The UNSC is empowered to verify the facts on a conflict situation, and establish if it is manifesting to the four crimes identified in the R2P. Conversely, the ICSS neither advised nor cautioned the UNSC members to voluntarily share facts gathered from fact finding missions. Therefore the issue of misinformation and information secrecy is yet to be given due attention. It is very important for members in the council both permanent and non-permanent not to assume that information and facts with the P-5 and even the secretariat will be shared freely and entirely—even though this is what should happen. however this is not a guarantee. Thus, all member states in the council should take the initiative to verify the facts of a conflict situation brought to their attention for themselves instead of waiting to be informed. If members of the UNSC take this initiative they can be sure that they will all be equally informed if not better on the real situation on the

⁷³ Slotin, Jenna et. al, *Responsibility to Protect (RtoP) and Genocide Prevention in Africa*; International Peace Institute New York, pp 1-22, p 5 (2009) op.cit

ground. They can thereby rest knowing they have taken the right course of action on a particular situation informed by the facts collected by their missions in that area.

The nature of African states also poses a challenge on RtoP.⁷⁴ She states that in many countries in the continent, the state has never extended its authority across its entire territory, nor has it delivered services consistently and equitably to its entire population.⁷⁵ This situation leaves many people in these states vulnerable to egregious crimes. Consequently, this can limit the states' ability to extend its services fully to its population. She laments that the notion of sovereignty as responsibility is yet to be actualised in most African states. This is attributed to the variation of legitimacy of African states in strength and breadth.⁷⁶ This state of affairs presents a paradox in implementing RtoP in African states. This is because sovereignty is characterised as state sovereignty, unfortunately most states in Africa do not have a responsible sovereign.⁷⁷ Yet, a state that practices good governance is crucial to protect populations from mass violence. Pillars one and two of RtoP assume that states want to be helped. While this may be the true it is not always so. For instance The Sierra Leone government accepted support from an external peacekeeping force since it did not have the capacity to protect

⁷⁴ Slotin, Jenna et. al, *Responsibility to Protect (RtoP) and Genocide Prevention in Africa*; International Peace Institute New York, pp 1-22, p 5 (2009) op.cit

⁷⁵ Slotin, Jenna et. al, *Responsibility to Protect (RtoP) and Genocide Prevention in Africa*; International Peace Institute New York, pp 1-22, p 5 (2009) op.cit

⁷⁶ Slotin, Jenna et. al, *Responsibility to Protect (RtoP) and Genocide Prevention in Africa*; International Peace Institute New York, pp 1-22, p 5 (2009) op.cit

⁷⁷ Slotin, Jenna et. al, *Responsibility to Protect (RtoP) and Genocide Prevention in Africa*; International Peace Institute New York, pp 1-22, p 5 (2009) op.cit

the population from the RUF (Revolutionary United Front) carnage.⁷⁸ Regrettably in many other cases the government has been either unwilling to protect, or actively persecuting its population.⁷⁹ She acknowledges that these changing circumstances are influenced by the interests and political prerogatives of the key players this state of affairs may create difficulties in applying RtoP.⁸⁰

Another challenge of RtoP is the manner of which interaction between states and the UN is governed. The primary interlocutor of the UN in any state is through the government of its member states.⁸¹ However this entity is not sufficient on its own. Stolin states the UN's various entities have begun a self-critical analysis of how to better attune their support to local realities, engage more openly with local non-state actors, and ensure that the state is supported where possible.⁸² Unfortunately developing strategies to calibrate their support to other entities remains the greatest challenge the UN is faced with. Stolin affirms that the UN lacks the basic frameworks it needs to engage in complex, fragile environments. Consequently, agencies on the ground in situations at risk

⁷⁸ Slotin, Jenna et. al, *Responsibility to Protect (RtoP) and Genocide Prevention in Africa*; International Peace Institute New York, pp 1-22, p 5 (2009) op.cit

⁷⁹ Slotin, Jenna et. al, *Responsibility to Protect (RtoP) and Genocide Prevention in Africa*; International Peace Institute New York, pp 1-22, p 5 (2009) op.cit

⁸⁰ Slotin, Jenna et. al, *Responsibility to Protect (RtoP) and Genocide Prevention in Africa*; International Peace Institute New York, pp 1-22, p 5 (2009) op.cit

⁸¹ Slotin, Jenna et. al, *Responsibility to Protect (RtoP) and Genocide Prevention in Africa*; International Peace Institute New York, pp 1-22, p 6 (2009) op.cit

⁸² Slotin, Jenna et. al, *Responsibility to Protect (RtoP) and Genocide Prevention in Africa*; International Peace Institute New York, pp 1-22, p 6 (2009) op.cit

of mass atrocities find themselves in opposition with the government where it may be culpable.⁸³

4.6. Data Analysis on the study

This study investigated the extent of which the provisions of the UN charter chapters VI, VII, VIII have contributed to the maintenance of international peace and security. Where 70% of the participants felt it has done so moderately. Another 17% feel it has done so minimally while 13% felt it have done so sufficiently (see appendix II).

80% (24) of the participants felt the Rwanda genocide posed an immediate threat to international peace and security among their reasons is the genocide caused regional instability due to the massive influx of refugees in to neighbouring countries and the magnitude of the conflict was overwhelming and violated the victims' human rights. 17% (5) were unsure, they reasoned that international community was undecided on how to resolve the problem, while 3% (1) felt otherwise the reasons sighted is that the conflict transpired within the borders of Rwanda (see appendix III).

Responses on the degree of commitment of the UNSC to halt the genocide, 50% of the respondents felt it was not committed while 43% felt it was fairly committed, and 7% felt it was highly committed (view appendix IV).

On the question whether a timely and decisive intervention could have averted the genocide 73% (22) of participants thought a decisive, timely and speedy intervention and

⁸³ Slotin, Jenna et. al, *Responsibility to Protect (RtoP) and Genocide Prevention in Africa*; International Peace Institute New York, pp 1-22, p 6 (2009) op.cit

a stronger mandate for UNAMIR would have averted the genocide, while 27% (8) were unsure if these measures would have averted the turmoil as demonstrated below.

Response options	Yes	No	May be
Percentage	80%	-	20%

61% of the participants thought that RtoP will strengthen the ability of the UNSC to maintain international peace and security than it has. 30% of the participants were uncertain whether it will strengthen the council's ability. Their reasons being, it is too early to test the emerging concept, while 9% thought that it will not strengthen the council's ability to maintain international peace and security. (view appendix V). Note that out of a total of 30 participants only 23 were familiar with the concept of RtoP.

Lastly, 78% of respondents believe R2P will help avert future internal conflicts, whereas 13% does not believe this will be possible. 9% were unsure whether R2P will help avert internal conflicts in the future (see appendix VI).

4.7. Conclusion of the Thesis

This research study was guided by three objectives as outlined in chapter 1. The first objective sought to investigate whether or not the provisions and principles of the UN charter which govern the maintenance of international peace and security are adequate or not. This objective was adequately dealt with in chapter 2. In this section the study demonstrated that the maintenance of international peace and security relies heavily on what the P-5 agree on. In addition the provision of the UN charter to restore peace and security was inherently developed to deal with inter-state conflicts rather than intra-state

ones. This being the case, over the years the UNSC has proved to be more effective in resolving inter-state conflict rather than intra-state threats to international peace and security. This is indicated by the data collected where 70% of participants felt the UNSC has maintained peace and security moderately (see appendix II). These observations indicate that the set provisions of the UN charter are not strong enough to maintain global peace and security. More provisions need to be developed to strengthen the ability of the UNSC to carry out its intricate task of preserving world peace and security.

The second objective of this study was adequately dealt with in chapter 3 which concentrated on the case study. The participants in this study rated highly the reasons discovered for the failure of the UNSC and the UNAMIR to halt the genocide. These reasons were rated by the participants between the ratios of 1-3 (see appendix I).

This study dealt with the third and last objective of this study in chapter 4 which concentrated on examining the concept and impact of RtoP in maintaining world peace and security. This study reveals that the Rwanda genocide and other internal conflicts elsewhere led to the development of the concept of RtoP. The genocide exposed the impotence of the UN in dealing with internal conflicts which led to the loss of approximately 800,000 people as the UNAMIR remained passive and consequently overwhelmed by the momentum of the genocide. This experience helped reveal the gap that impedes the UN from dealing with the 'new' conflicts effectively. This led the international community to consolidate efforts to build a bridge to help the UN overcome the gap in its conflict resolution mechanisms. Consequently, the concept of RtoP was developed. The concept of RtoP rests firmly on three pillars which state that it is the responsibility of states to protect their population from the four agreed crimes. And the

international community commit to assist states meet this objective and lastly, member states respond in a timely and decisive manner when these crimes manifest. Though RtoP is a budding concept since its inception it has brought about some unprecedented changes, one of the outstanding impacts of RtoP is the shift in meaning and practice of state sovereignty from control to responsibility and from sovereign impunity to that of national and international accountability.

This research study has also dealt adequately with the statement of the research problem by highlighting the Rwanda genocide in chapter 3 as an example to reveal the challenges that the UN faces when dealing with internal conflicts which can also jeopardise global peace and security. This study unveiled seven (7) reasons which contributed to the inability of the UNSC and UNAMIR to halt the genocide in 1994. In addition, this study claimed that the concept of RtoP will strengthen the ability of the UNSC to maintain global peace and security. This hypothesis was tested in the field, the outcome demonstrated that 61% of the participants thought that R2P will strengthen the ability of the UNSC to preserve peace and security than it has (see appendix VI).

This research employed the use of three theoretical frameworks namely; the concept of R2P, collective security and ethnic conflict theory. These theoretical frameworks have enhanced the analysis of this study by focusing on the factors that create ethnic conflicts as well as highlight the complexities that the global organisation face in its attempt to preserve world peace and security.

Chapter 5

5.0 Conclusion of the Study

Chapter 5 is the conclusion of this study. In this section this research will reflect on the past, present and future theme of this study.

This study sought to investigate the experiences that the UN as an organisation has gone through since its creation in 1945. The UN has successfully protected succeeding generations from the scourge of war. However it has struggled to prevent and/or resolve the proxy wars in different parts of the world. This being the case the organisation has conceived a mixed-record in maintaining international peace and security. Despite this, the organisation still fairs well in resolving inter-state conflicts. however since the 90s the nature of conflicts have shifted and are now more intra-state in nature a shift that the founders of the UN did not foresee. Unfortunately, despite its undisputed experience in international conflict resolution the organisation has struggled to deal effectively with these 'new' challenges in its intricate task of maintaining peace and security. The internal conflicts that broke out in the 90s paradoxically exposed the inexperience of the global organisation to deal effectively with internal conflicts which threaten world peace and security. This state of affairs stirred concerns over the ability of the UN to oversee global peace and security as well as the strategy to be used to resolve internal conflicts following the harsh and at times shocking experiences that the UN has faced in the past in an effort to restore peace and security. As a result, efforts have been put in place to develop strategies that will strengthen the organisation's ability to preserve global peace and security by setting up an international commission. This commission developed the concept of RtoP.

In 2005 the world governments pledged to implement the provisions of the outcome document nationally and internationally. Thus, the concept of R2P is a separate new addition to the already set provisions of the UN charter tools of conflict resolution as outlined in chapters VI, VII and VIII. RtoP has developed an elaborate strategy that gives the UNSC a chance to intervene more effectively in intra-state conflicts across the globe in an effort to curb wars, conflicts and curtail human suffering as demanded by the RtoP. The UNSC is the sole global organ that has been unequivocally endorsed by the international commission with the authority to lead a military intervention in cases where internal conflicts attract strong intervening action. Though RtoP is widely accepted it is still a budding concept which is yet to be seriously tested in diverse conflict situations. Conversely, the mediation efforts to resolve the post-election violence in Kenya in the year 2008 was viewed in the perspective of RtoP was applied and yielded the anticipated results. As much as it is a budding concept, RtoP has garnered international support globally from international institutions and governments alike. In addition 61% of participants in this research study thought that R2P will boost the ability of the UN to maintain international peace and security better than it has.

Currently the concept of RtoP is criticised for limiting its course of action to the four agreed crimes and 'ignoring' situations which may require the same kind of effort to restore peace and security in a different context of turmoil such as natural disasters. RtoP has also been criticised for dealing with 'easier' conflicts while turning its back on protracted conflicts which have existed prior to 2005. This suggests that the concept is not strong enough to help resolve protracted internal conflicts. Moreover R2P is criticised for

favouring action on a case-by-case basis. This stance is viewed by its critics as a pretext not to act in some conflict situations.

The future of the RtoP lies on the willingness of member states and the international community to implement fully the provisions and demands of R2P as elaborated by the international commission whenever an opportunity presents itself. In addition, member states and the international community should aim to cooperate with each other to strengthen this budding concept and give it credibility for its pragmatism. The UNSC should bear in mind that the key for galvanising international support for R2P is to ensure consistency when intervening in conflict situations when implementing RtoP. This will set a pattern that people and member states can look up to in the future. This situation will assure the victims that help is always available while indicate to the perpetrators of such crimes that the era of impunity is over.

The future research areas of this study include international peace and security: An analysis of responsibility to protect, case study of Libya or Somalia conflict. Another possible research area of this study is Responsibility to Rebuild: An analysis of the Rwanda Reconciliation process.

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7.0 Appendices

Appendix I

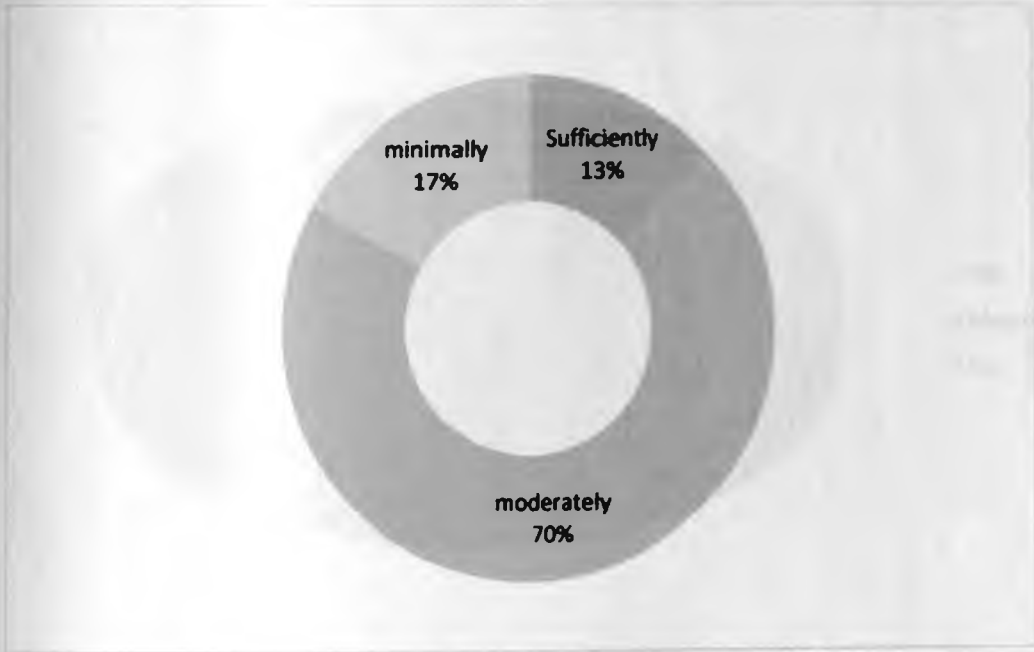
Table (i)

Ranking of Reasons that hampered the efforts of the UNSC and UNAMIR to halt the genocide in order of importance

No.	Ranking No.	Reasons
1	5	Lack of concurrence in the UNSC
2	4	-UNAMIR's Manifold shortcomings
	4	-Inadequate funds and constrained resources
3	3	-Breakdown of the Arusha Accords
	3	-Inadequate exchange of information and secrecy between the Secretariat and the UNSC
	3	-Misrepresentation of the genocide in and out of the Council
	3	-*The shocking Somalia experience of the U.S. and her allies in 1993
<p>*Equal number of participants (7) gave this reason different ranking numbers that is 4 and 2.</p>		

Appendix II

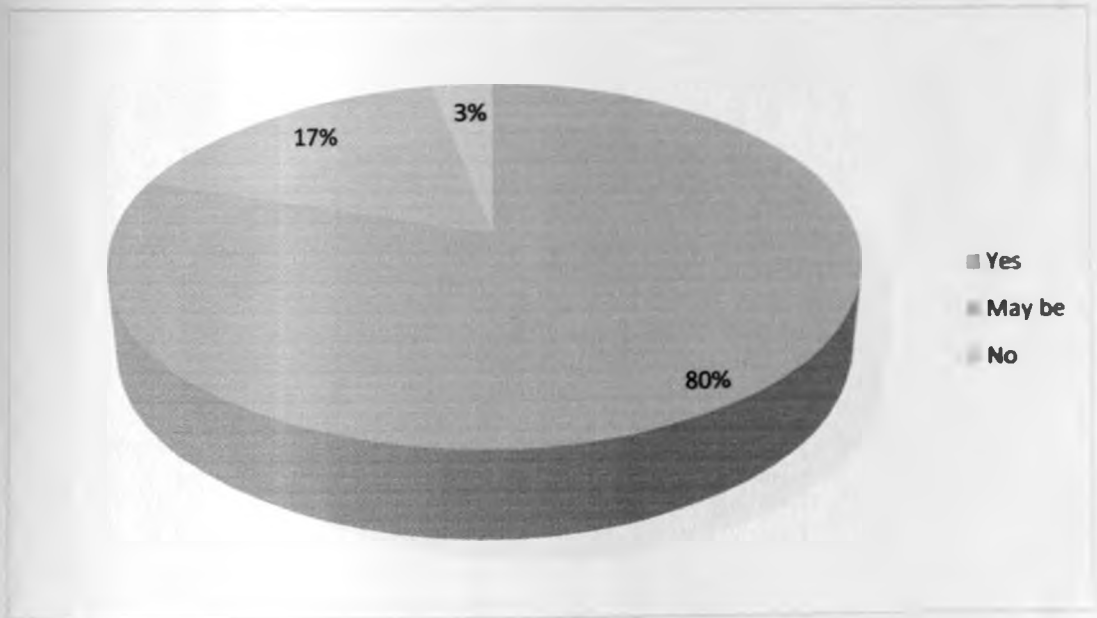
Analysis of the provisions of the UN Charter to maintain international peace and security



Majority of the respondents 70% (21) thought that the provisions of the UN Charter have helped maintain international peace and security moderately. While 17% (5) felt it has done so minimally. Only 13% (4) of the participants thought that these provisions have done so sufficiently

Appendix III

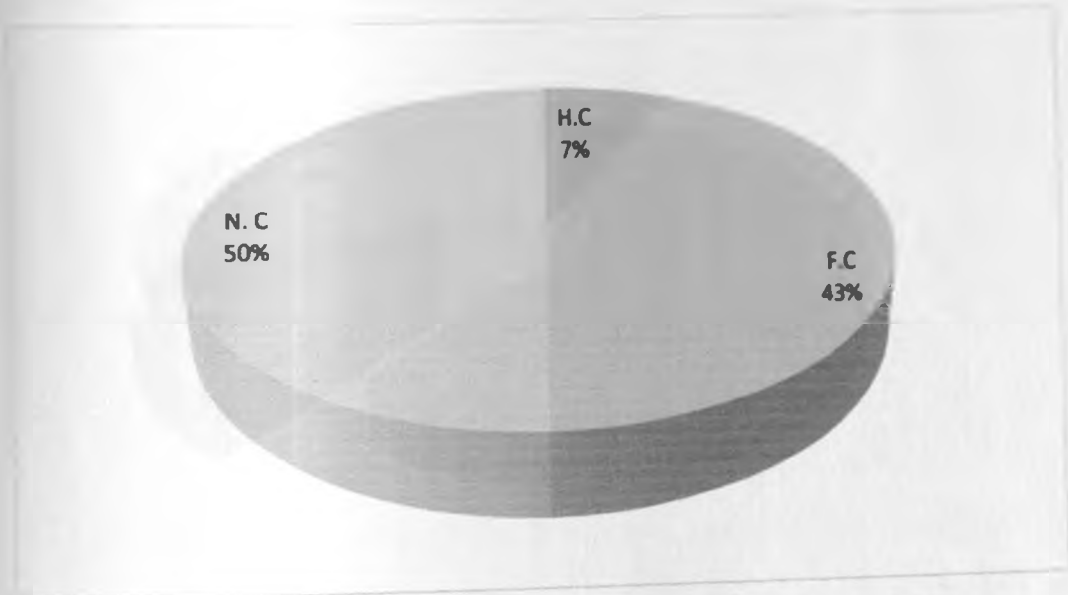
Analysis of the question whether the Rwanda genocide pose an immediate threat to international peace and security



The vast majority 80% (24) of the participants responded affirmatively their reasons included the massive influx of refugees in to neighbouring countries and the fact that it violated the victims' human rights. 17% (5) were unsure. Their reason being the international community was undecided on how to resolve the problem. 3% (1) thought otherwise, reason being the conflict transpired within the borders of Rwanda.

Appendix IV

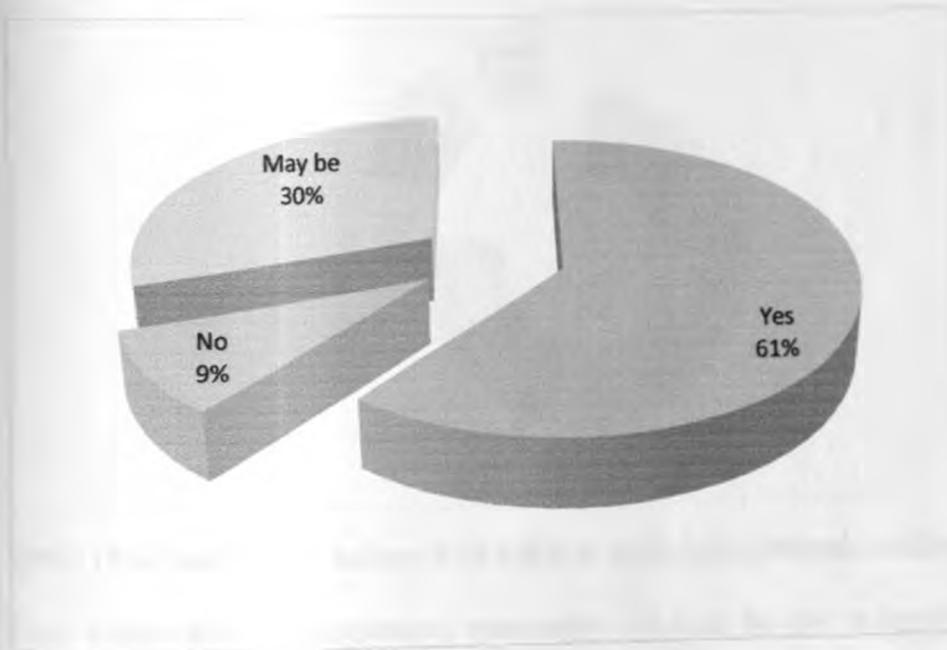
Analysis of the degree of commitment of the UNSC to halt the genocide



Many of the respondents 50% (15) thought that the UNSC was not committed (N.C) to halt the genocide. While 43% (13) felt it was fairly committed (F.C) only a mere 7% (2) felt it was highly committed (H.C) to stop it.

Appendix V

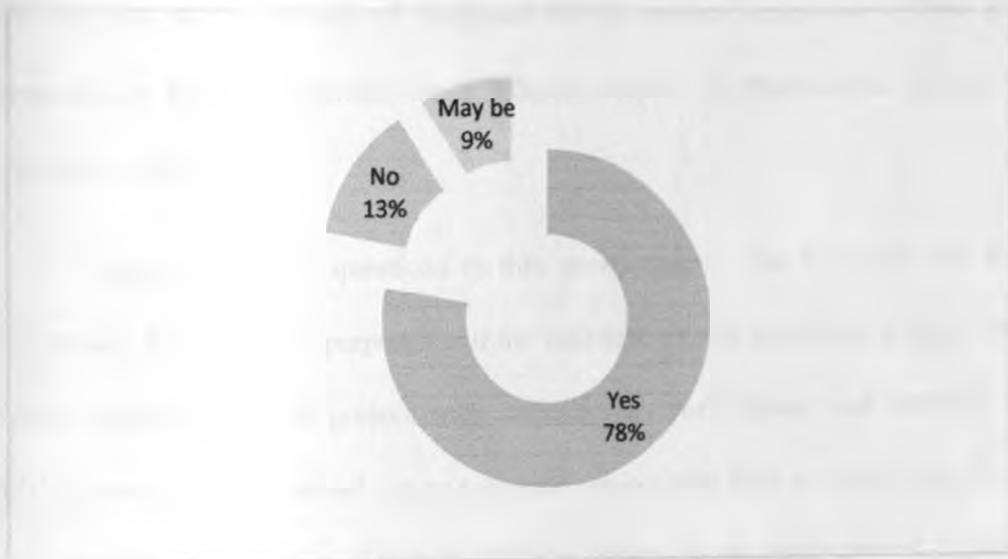
Analysis on whether the concept of RtoP will strengthen the ability of the UNSC to maintain international peace and security



61% (14) of the participants thought that RtoP will strengthen the ability of the UNSC to maintain international peace and security than it has. 30% (7) of the participants were uncertain whether it will strengthen the council's ability. Only 9% (2) of the participants thought it will not strengthen the council's ability.

Appendix VI

Responses on whether R2P will help avert future internal conflicts



78% (18) of respondents believe R2P will help avert future internal conflicts, they reason They reason that the international community will now be able to legally intervene in such conflicts to avert massive suffering, they also believe if member states abide by its requirements as well as cooperate with each other in its implementation. It will offer a rapid and timely intervention and serves as a check and balance of state behaviour. Moreover, the respondents felt involving regional and sub-regional organisations will strengthen its impact. On the contrary 13% (3) does not believe this will be possible. They believe that RtoP can be used to interfere in domestic matters of small states. 9% (2) were unsure whether R2P will help avert internal conflicts in the future. They believe it is too early to evaluate the concept in real life situations.

Dear respondent

My name is Belinda Mapesa I am researching on international peace and security: An analysis of the concept of Responsibility to protect, case study of the Rwanda genocide in partial fulfilment for a Masters degree in International Studies at the University of Nairobi.

Please answer all questions in this questionnaire. The responses will be used exclusively for academic purposes and the information will enrich the body of research linking responsibility to protect with maintaining world peace and security. It will facilitate any research carried out on the same subject area with a view of contributing to the growth and application of responsibility to protect so as to improve the maintenance of international peace and security for all. Your collaboration will be highly appreciated and strict confidentiality will be guaranteed.

Please respond by filling in all the blank spaces and by ticking relevant boxes next to each statement. Kindly follow further instructions given in each section and write your responses clearly.

Section A: Information on Maintaining International Peace and Security

1.) Do you think the UN Security Council can adequately maintain international peace and security?

Yes

No

I don't know

If yes or no give reason _____

2.) To what extent do you think the provisions of the UN charter chapters VI (peaceful settlement), VII (action on acts of aggression) and VIII (regional arrangements) have contributed to maintaining international peace and security?

Sufficiently

moderately

minimally

not at all

3.) In your opinion do you think the principles of non-interference and non use of force is essential for the maintenance of world peace and security?

Yes

No

Why _____

4.) Do you think the Rwanda genocide was a threat to the maintenance of international peace and security?

Yes

No

may be

Why _____

Section B: Information on the UN's attempt to intervention in the Rwanda genocide.

1.) In your opinion do you think the Rwanda genocide was a threat to the maintenance of international peace and security?

Yes No May be

Why _____

2.) In your opinion how committed was the UN Security Council to halt the genocide?

Highly committed fairly committed Not committed

3.) To what extent do you agree or disagree with the following statements describing the UNAMIR mission.

	Strongly agree	agree	Strongly disagree	disagree
An action too little too late				
Poorly resourced				
Poorly executed				
Misconceived				
All the above				

4.) The United Nations Assistance Mission in Rwanda (UNAMIR) was meant to halt the genocide unfortunately it did not achieve its mission. The list below comprise of the reasons as to why it failed. Please rate them according to importance from 1-5 with 1 being least important while 5 the highest.

- a.) Breakdown of the Arusha Accords
- b.) Lack of concurrence in the UN Security Council
- c.) Inadequate funds and constrained resources
- d.) Inadequate exchange of information and secrecy between the secretariat and the UN Security Council

e.) Misrepresentation of the genocide in Rwanda in and out of the UN Security Council

f.) UNAMIR's manifold shortcomings

g.) The shocking Somalia experience

5.) Do you think a decisive, timely, speedy intervention and a stronger mandate by the UN forces would have averted the genocide?

Yes

No

May be

6.) Do you think the principle of non interference might have contributed to the worsening of the Rwanda genocide?

Yes

No

May be

Give reason _____

Section C: Information on the Concept of Responsibility to Protect (R2P)

1.) Have you heard of the concept R2P?

Yes

No

If yes proceed to the next questions

The concept of R2P is founded on three principles: i) The responsibility of a state to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity. ii) The commitment of the international community to assist states in meet these obligations. iii) Responsibility of states to respond in a timely and decisive manner when these atrocities manifest in a state.

2.) To what extent do you agree or disagree with the following statements

statements	I strongly agree	I agree	I strongly disagree	I disagree
The principles of R2P				
The principles of R2P imply that if a state fails to protect its population from these crimes, it risks its sovereignty.				

The UN Security Council remain the organ to authorise action if these crimes manifest in a state and no other organ				
---	--	--	--	--

3.) Do you think states will respond in a timely and decisive manner when these atrocities manifest in a state?

Yes

No

May be

Give reason _____

4.) Do you think R2P will strengthen the ability of the UN Security Council to maintain international peace and security?

Yes

No

May be

5.) In your opinion do you believe R2P will help avert future internal conflicts?

Thank you for your participation