

**THE POWER POLITICS IN THE UNITED NATIONS SECURITY
COUNCIL AND HUMAN RIGHTS VIOLATIONS:
A CASE STUDY OF THE 1994 RWANDA GENOCIDE**

BY

APEDOH AMI AMETOWOYONA

B.A. SOCIAL SCIENCES

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**A RESEARCH DISSERTATION FOR THE DEGREE OF
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SUPERVISOR: DR. S. A. MWANAHEWA

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DECLARATION

I, Apedoh Ami Ametowoyona, do declare that the work presented in this study is entirely my original work, and has never been submitted to any institution of learning either in full or in part, for any academic award or publication. This dissertation is therefore submitted for the award of a degree of Master of Arts (Human Rights) of Makerere University

Sign

APEDOH AMI AMETOWOYONA

Date

APPROVAL

This is to certify that this dissertation entitled “The Power Politics in the United Nations Security Council and Human Rights Violations: A case study of the 1994 Rwanda Genocide” was carried out under my supervision, and approved as the candidate’s original work. It is now ready for submission to the School of Postgraduate Studies, Makerere University, for the award of the Degree of Masters of Arts in Human Rights.

Sign:.....

Dr S. A. MWANAHEWA
SUPERVISOR

Date:.....

DEDICATION

I dedicate this book first of all to the Mighty God, then to my beloved husband, Emmanuel Alamou, for his support and encouragement; to my dear daughter Sheyi Alamou, for understanding and moral support, as well as to my other biological and adopted children; and to my late Auntie, Janet Sassou; and finally to my brother, Claude Apedoh.

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ACRONYMS/ LIST OF ABBREVIATIONS

AVEGA	<i>‘Association des Veuves du Génocide’</i>
BBC	British Broadcasting Corporation
CAT	UN Convention against Torture
CRC	Convention on the Rights of the Child
ECOSOC	Economic and Social Council
GCRPCPTW	Geneva Convention Relative to Protection of Civilian Persons in Time of War
HIV/AIDS	Human Immune Virus/Acquired Immune Deficiency Syndrome
ICC	International Criminal Court
ICCPR	International Convention on Civil and Political Rights
ICEAFRD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic Social and Cultural Rights
ICJ	International Court of Justice
ICTR	International Criminal Tribunal for Rwanda
IDP	Internally Displaced Person
IGG	Inspector General of Government
JEEAR	Joint Evacuation of Emergency Assistance for Rwanda
LN	League of Nations
NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organization
OAU	Organization of African Unity
P5 Members	Security Council Permanent Members
ROE	Rule Of Engagement
RFI	Radio France International
RPF	Rwanda Patriotic Front
RTL	<i>‘Radio Télévision Libre des Mille Collines’</i>
SOMA	Status of Mission Agreement
STD	Sexually Transmitted Diseases
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNAMIR	United Nations Assistance Missions in Rwanda
UNOMUR	United Nations Observer Missions in Uganda and Rwanda

UNHCR	United Nation High Commission for Refugees
UNHQ	United Nations Headquarters
UNICEF	United Nations International Children’s Emergency Fund
UNO	United Nation Organization
UNSC	United Nations Security Council
USA	United States of America
WWI	World War One
WWII	Word War Two

ABSTRACT

The study was about power politics in the UNSC which entails the ability of P5 members to influence the voting system in the council through their veto powers in order to protect their national interest. This caused deadlock in the council that eventually affected decision making which often led to inaction or unsatisfactory action. This state of affairs could result in escalation of human rights and their negative effects in the affected areas.

The study analysed the causes of the inaction in the council and had found out that there were many other factors that could be as well responsible for this problem. Among them sovereignty, lack of political will, lack of resources, inability to determine the right means of intervention for the right conflict, lack of powerful regional forces and strong standby UN troops, failure of some countries to accept the intervening forces, bureaucracy in the United nation system and involvement of geopolitics were highlighted. However this study focused on the wrong use of veto power by the P5 members as the major obstacle to inaction in the UNSC.

The importance of the UNSC as far as the maintenance of international peace and security is concerned was looked at. It was identified that the UNSC was the body in charge of peace and security in the world. Procedures in the council including the way the veto powers are used by the P5 members were also examined. Realism theory was used to explain the phenomena.

The response of the UNSC towards the Rwanda crises that culminated into the 1994 Genocide was investigated. The international community and Security Council's preventive, peace enforcing and peace building roles towards the genocide were looked into

Human rights violations and their implications as a result of inaction or unsatisfactory action of the UNSC was carefully explored. Like in every war and genocide almost all human rights were most times violated. However this study focused on the right to life, the right not to be tortured and the right not to be discriminated against. This is because they are interrelated and most violated human rights in the 1994 Rwanda genocide.

Rise in poverty, dependency, sexually transmitted diseases including HIV/AIDS and its associated health problems were identified to be the implications of the genocide, in addition to trauma, anxiety, increase in street children, school drop up, refugees and Internally Displaced Persons (IDPs). All these factors lead in turn, to more wars and conflicts.

The main purpose of this study was to highlight the effects of inaction or non-satisfactory action of the UNSC on conflict areas applying human rights perspectives. The 1994 genocide was used as a case study. The study also tried to give strategies through which the UNSC could be made more effective.

The study was carried out in Kigali Rwanda and in Kampala among the survivors of the genocide, the eye and ear witnesses. It was a fact finding study of human rights implications of the genocide. In order to obtain information from the field, the researcher used both qualitative and quantitative methods. These included the use of questionnaires and in-depth interviews. Library research was also made. The population sample constituted 60 respondents from each case study.

The main conclusion was that national interests that generate political will were the driving impetus of humanitarian interventions. The main recommendations were that; a reform in the UNSC was necessary to replace the P5 members' veto power with democratic votes of all nation states and there should be an establishment of powerful standby UN troops for timely interventions in conflict zones or strengthening of regional military forces that could successfully keep peace in their own regions.

CHAPTER ONE

GENERAL INTRODUCTION

1.1 INTRODUCTION TO THE STUDY

The United Nations Security Council (UNSC) is the most powerful organ in the United Nations (UN). It has the power to make decisions which member states must carry out under the UN Charter and it has the primary responsibility of maintaining international peace and security (Aljazeera. Com, 2003: 1). “The Security Council is where power lies at the UN. Other UN organs may have a hand in preventing war, but playing the peacemaker is the Security Council’s *raison d’être*” (Anna, 2002: 1).

The study assumes that habitually, the UNSC members especially the P5 members use their votes and veto powers to stop undesirable resolution proposals and drafts. They also avoid putting some countries on the agenda for discussion if their diplomatic, economic and other interests are not at stake. This situation often paralyses the Council and consequently leads to its inability to act until situations in crises areas become worse and result into escalation of human rights violations.

The research looked into the phenomenon of non-intervention or unsatisfactory intervention by the UNSC in particular and the international community in general in crises areas within the UN states in order to ascertain its causes. The focus of this study centered on analyzing the interrelationship between the non-intervention or unsatisfactory intervention and escalation of human rights violations. This study zeroed in on the rights to life, torture, discrimination and their human rights implications.

Chapter One gives the background to the study, stating the overall background and framework that informs and upon which the study was based. The problem that forms the study, the scope and the objectives of the study are also stated in Chapter One along side the definition of the key terms of the study. This chapter tackles as well the hypotheses, the justification, the conceptual frame work and the significance of the study.

Chapter Two is a review of the related literature. It also highlights the relevant provisions in regional and international human rights instruments. The chapter gives the thematic review of the literature on the subject with some identified gaps that are subsequently filled. A summary of the most appropriate provisions in the regional and international human rights instruments are also made. These are accompanied by a brief critique.

Chapter Three gives an account of the methodology used in carrying out the research. The chapter shows that the study combined both qualitative and quantitative methods but with more reliance on the former. The Research Design, Area of Study, Study Population, Sampling Procedure and Sample Size as well as the Data Collection Methods are also stated. The chapter ends with a summary of the techniques used for data analysis.

Chapter Four concentrates on presenting the data from the field research that was carried out in the area of study. The chapter starts by seeking out the views of the respondents about the intervention of the international community in the 1994 Rwanda genocide. Emphasis is put on the causes of non-intervention or unsatisfactory intervention. This is because the general survey response shows that the UN's intervention was unsatisfactory. The response of the international community towards the 1994 genocide is looked into. In general, and in particular, the interventional role of the UNSC in the Rwanda conflict is analyzed.

Chapter Four also ascertains the obstacles that work against the effectiveness of the UNSC in their efforts to intervene in conflicts with more emphasis on the Rwanda genocide. The findings about the human rights that were reported to be violated and the escalation as a result of non-intervention or unsatisfactory intervention by the international community close this chapter.

Chapter Five is the interpretation and discussion of the findings. It is the analysis of field data, library sources that is literature review and documentary analyses, human rights instruments and the researcher's contributions. The mixture of these various aspects of the research underlines the uniqueness and the importance of this study.

The researcher attempts to make an in-depth discussion of the subject matter in Chapter Five.

Chapter Six handles the conclusive arguments arising out of the findings of the study. Some recommendations are thereafter propounded in the final arguments.

1.2 BACKGROUND TO THE STUDY

Political will has become a critical and necessary factor for successful humanitarian intervention in crises areas. Lack of intervention or unsatisfactory intervention could lead to the escalation of human rights. In case of the Rwanda genocide, it had been observed that, almost all the rights were violated. However emphasis is put on the violation of the right to life, the right not to be tortured and the right not to be discriminated against.

It is generally upheld in international human rights standards that every human being has inherent right to life, liberty and security of person. These are protected by law and no one should be arbitrarily deprived of life (article 3, UDHR, 1948 and article 6, ICCPR, 1966).

The Geneva Convention Relative to Protection of Civilians Persons in Time of War (GCRPCPTW) on its part upholds the rights to life of civilians and certain types of combatants. It states that violence to life and person and in particular murder of all kinds, mutilation, cruel treatment and torture, remain prohibited at all times and at any place in the conflict area, for persons taking no active part in the hostilities (article 3(1) (a), GCRPCPTW, 1949). The Rome Statute of International Criminal Court 1998 article 6 and 7 also protects the right to life where it amounts to crimes of genocide, war crimes and crimes against humanity.

The right to life of some particular vulnerable groups such as children, refugees and racial minorities among others, is protected by some international treaties. For example, the Convention Relating to the Status of Refugees, 1951, article 33 prohibits the forced return of persons facing a threat to their lives in their home countries. The Convention on the Rights of the Child, CRC, 1989, article 6 and some other articles of the same instrument (such as articles 24, 25 and 27) recognize the importance of the

inherent right to life of children, and the right of survival through the provision of essential food, water and health care necessary for the life of children.

Articles 2 and 3 of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide prohibits the killing of the members of a national, ethnic, racial or religious group with intent to destroy the group in whole or in part. Article 2 further spells out the acts that amount to genocide. These include killing of members of a group of people, causing serious bodily or mental harm to them; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births and forcibly transferring children of the group to another. Article 3 on the other hand states that genocide and its related acts are considered punishable; namely genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit and complicity to commit the genocide.

The Universal Declaration of Human Rights article 5, Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the International Covenant on Civic and Political Rights article 7 points out a person's right not to be tortured or inhumanly treated. So does the Convention on the Rights of the Child article 37 also protect children against torture and other inhumane and degrading treatment.

The Convention against Torture (CAT, 1987) bans torture under all circumstances and establishes the UN Committee against Torture. The CAT requires States to make torture illegal and provide appropriate punishment for those who commit it. Each State is obliged to provide training to law enforcement and military on torture prevention.

A Press Conference by United Nations representatives on torture convention on the 23rd October 2006 reveals that, the optional protocol to the UN Convention against torture in June 2006 represented the most important new development in the global fight against torture. With the optional protocol, States had an obligation to create an independent national preventive mechanism. Stressing the needs that prevented torture from taking place, the European Committee for the Prevention of Torture was

mentioned to have provided positive experiences in that regard (Manfred Nowak, 2006: 1).

The World Conference on Human Rights, Vienna, 1993 on freedom from torture stresses that under human rights law and international humanitarian law, freedom from torture is a right which must be protected under all circumstances including national or international conflict. The conference urges all the States to put an immediate end to the practice of torture and eradicate this evil forever through full implementation of the Universal Declaration of Human Rights, as well as the relevant conventions and where necessary strengthening of the existing mechanisms. The conference also calls on all states to co-operate fully with the Special 'Rapporteur' on the question of torture in the fulfillment of his mandate.

Apart from the International Convention on the Elimination of All Forms of Racial Discrimination which entered into force in 1965 to battle against racial discrimination throughout the world, there are several other international instruments that have made pronouncements against the same thing.

The UN Charter itself is based on promotion of respect for human rights and fundamental freedoms for all without distinction as to race, language or religion. The UDHR also proclaimed: all human beings are equal before the law and are entitled to equal protection of the law against any discrimination and against any incitement to discrimination. The UDHR on its part warns that the rights and freedoms set forth therein is for everyone without distinction (UDHR, article 2). The Refugee Convention Relating to the Status of Refugee , 1954, article 3, CRC article 30 cannot be overlooked in this fight.

The World Conference on Human Rights, Vienna, 1993, stresses that all persons who perpetrate or authorize criminal acts associated with ethnic cleansing are individually responsible and accountable for human rights violations. The conference also calls on all states to take immediate measures, individually and collectively to combat the practice of ethnic cleansing and bring it quickly to an end. It also asked the international community to contribute generously to the Trust Fund for the Program Decade for Action to Combat Racism and Racial Discrimination.

From time immemorial, war and genocide have been the most horrible events that claim many lives and violate all other related human rights. For example a famous massacre took place in the second century BC in which Romans destroyed the whole city of Carthage. There were reports that in the ancient times, the entire Middle Eastern populations were wiped out by Genghis Khan and his Mongol army. Europe's expansion into the Americas, Asia and Africa resulted in a number of genocides. For example various Native American tribes such as the Pequots of New England in 1637 and various communities in Virginia throughout the seventeenth and eighteenth centuries were exterminated. Not forgetting the mass killing of the Armenians in 1915-16 in which many were tortured and killed, and the Nazi Holocaust of the 1930s in which some six millions Jews living in Nazi –occupied Europe were butchered by the Nazis (Darren, 2003: 304-306).

These kinds of violence do not only violate the right to life and its related human rights but also retard the progress of society. An example in hand is the economic recession that the world experienced after the World War II. In an attempt to find a solution to this social cancer, the great powers deemed it imperative to meet in Dumbarton Oaks Washington in 1944 following the trauma of the Second World War (WWII) to draft a charter for the world body. This document would be signed later in 1945 in San Francisco by fifty-one nation-States giving birth to the Organization of United Nations (OUN) to replace the failed League of Nations (LN).

The founding fathers of the OUN agreed to have a Security Council charged with the responsibility of international peace and security. Article 23 of the charter provides that the Security Council shall consist of 15 members of whom 5 should be permanent (P5) and the other 10 non-permanent. The Security Council is empowered to decide whether or not the UN should intervene in a particular situation (Darren, 2003: 80). The Council is expected to use negotiation, observation, sanction, peace keeping and peace enforcement to intervene in crises areas before situations degenerate into massive losses of lives and properties.

However each of the P5 members retains a veto power that often cripples the Council and prevents it from acting on time. As a result, the UNSC is frequently accused of

helping to escalate human rights violations in conflict areas. For its part, the international community did nothing to avoid the onslaught in Cambodia in the 1970s. Similarly, events in Rwanda and Burundi appeared to confirm the commitment to minimal intervention by the world political community either in protection of the victims or the punishment of the perpetrators (Darren, 2003: 309).

Though faced with the problem of veto, the UNSC should be credited for continually making laudable resolutions here and there, for promoting international peace and security and human rights issues in the world.

The Right to Life is fundamental and forms the basis of all human rights. That is, all rights are related to it; once a person is killed, his or her rights to existence and all other rights are as well violated. As respect for other human rights can result into peace and protection of the right to life and development, violation of these rights on the other hand brings about anarchy, violation of the right to life and regression of society. Therefore, protection of the right to life in particular and human rights in general is such a delicate issue that can either break or make a society.

1.3 STATEMENT OF THE PROBLEM

As much as the UNSC was established for promoting international peace and security which implicitly includes promoting and protecting international human rights, this vision is still far to be described as a success story. This is because the decision making of the Council is often marred by the veto power of its P5 members which forms a major obstacle to the effectiveness of the Council.

Membership of the UN means that the member states have transferred some of their powers to the world body. It is thought that the UN will bring protection and help to the members when troubles come. “The UNSC is expected to act as a guardian over the UN nations” (Gordon, 2003: 16). Furthermore, the responsibility of maintenance of international peace and security was conferred to the UNSC by the UN Charter. All these tasks, the Council should perform by making resolutions that should protect human rights and bring peace in the world, and by intervening promptly in crisis areas as it deems it necessary in order to save life. Despite all these efforts by the UN and the international community, the prevention of war, genocide, the maintenance of

peace and security and protection of right to life in particular, and human rights in general in the world still remain a distant dream in a reality of nightmares.

There is a multitude of international human rights norms and standards that guarantee international peace and security. There is also a host of literature that criticize the effectiveness of the UNSC; in each of the cases of genocide and ethnic cleansing in the modern world, the reaction from the UN and the international community has been unsatisfactory. For example, in the case of the massacres in Rwanda and in the Balkan region in the 1990s, the UN failed to intervene. This provoked harsh but necessary questions about the UN's competence and more importantly, its potency as an international peacekeeping force (Darren, 2003: 309). However, a human rights approach to analyze the relationship between the inefficiency of the UNSC and its human rights implications has not received adequate attention. Thus the need arises to assess the performance of the Council with the challenges and obstacles it faces and the causes of its inefficacy in relation to its human rights effects.

1.4 SCOPE OF THE STUDY

The study covered the period from the time the Rwanda Patriotic Front (RPF) launched a major attack on Rwanda in 1990 up to the year 2007. The study looked into the 1994 Rwanda genocide.

Contextually the study tries to assess the connection between the voting system in the UNSC specifically the use of the P5 members' veto power and violation of right to life and its related human rights.

The veto power is the exclusive right given to the P5 members by the UN Charter to exercise a negative vote when necessary to stop an undesirable course of action. As a result, a disapproving vote by any of the permanent members is therefore sufficient to veto any resolution of the council. The problem occurs when the unpreventable human nature of self interest has to be satisfied to the detriment of human rights consideration.

The study focused on the veto power that often becomes a stumbling block for effectiveness of the Council. The study however recognizes the existence of some

other factors that as well work against the helpfulness of the UNSC. The study also delved into the extent to which the UNSC has been useful in times of conflict and in promoting human rights. In that respect the study establishes the relationship between the UNSC and human rights violations by singling out among other things, power politics in the Council more so the veto power of the P5 members as a cause to reckon with.

1.5 DEFINITION OF KEY TERMS

Diplomatic interest: A gain that a country gets or expects to get from another country by creating, developing or preserving friendly relationships between them.

Discrimination: It is the act of treating things or people differently based on their race, color, sex, age, language, ethnicity or religion among others. There can be positive or negative discrimination but the interest of this study is on negative discrimination.

Genocide: can simply be referred to as mass killing of people belonging to a particular race, nation, ethnic group or religion. The term was first used by Raphael Lemkin in his 1944 study on the occupation of Europe by the Axis States. Prior to the 1948 UN drafting, genocide has been specifically mentioned in the indictments laid against the Nazi leadership. The 1948 Genocide Convention defines it as the act of destroying in whole or in part, a national, ethnic, racial or religious group. Such acts are held to include: killing, seriously injuring or causing mental harm to members of such groups or inflicting upon them adverse living conditions such as preventing them from having children or forcibly transferring children from one group to another (Graham, 1998:196-197).

Hidden Veto: It is a threat by P5 members to use their veto power in case of disapproval with any draft resolution.

Human Rights: Moral and legal entitlements that accrue to human beings by virtue of being human. The concept of human rights has been a subject of philosophical debate for over two thousand years. From the concept of natural rights, to rights of man, we now have human rights. While the first two involved rigorous scholarly and

philosophical debate, the latter was prompted by the devastating horrific human losses during the two world wars more so the Second World War.

Intervention: It is a situation whereby an actor or a group of actors interferes in the internal affairs of the other. The term is normally used to refer to humanitarian intervention that means a coercive action by states involving the use of armed forces in another state without the concern of the latter for the purpose of preventing or putting to a halt gross and systematic violation of human rights. This action goes contrary to the Westphalia principle of sovereignty and non-intervention in the internal affairs of other states that was enshrined in the article 2.7 of the UN Charter. The UNSC is not limited however by this article if there is a massive violation of human rights.

Right to life: It is the entitlement that every human being has to stay alive. It is an inalienable right. It cannot be given by any other person or authority and neither is it supposed to be taken by anyone.

League of Nations: The intergovernmental organization formed after the First World War (WWI) which aimed at finding solutions to international disputes and conflicts through its peaceful resolutions. It was intended to be a global organization but it was handicapped by political and ideological realities. It finally collapsed in 1946.

Peace Building: This embraces rehabilitation actions as well as political, economic and developmental efforts to strengthen structures in a war torn country after a conflict. This is aimed at preventing a relapse into conflict thus helping to achieve durable peace.

Peace Enforcement: It is the deployment of peace keeping forces in a conflict area to restore peace and security. This enables as well, humanitarian relief and civilian personnel to operate in the country where there is conflict.

Power Politics: It is the ability to influence or change the behavior of others in a desired direction or the ability to resist such influence.

Preventive Role: It is the peaceful settlement of a dispute before it degenerates into conflict.

Torture: Any act by which severe pain or suffering is intentionally inflicted on a person whether physically or mentally for such purposes as to obtaining from the victim or a third person information or a confession. The victims are usually punished, coerced or intimidated for acts they have committed or are suspected to have committed or for any reason based on political reason or discrimination of any kind.

UN Peace Keeping: It is a third party role that the UN plays by sending troops to observe peace in a conflict area after a peace agreement is signed.

UN Resolutions: They are formal declarations that are made by the UN for particular situations in its attempt to resolve problems.

UN Veto: It is the right given by the UN Charter to the Security Council P5 members that enables them to issue negative votes in case they disagree with any resolution proposal in the council.

1.6 OBJECTIVES OF THE STUDY

1.6.1 General Objective

The overall objective was to highlight the human rights problems caused partly by inaction or non-satisfactory action of the UNSC as the body in charge of peace and security in the world, and give strategies through which this can be solved using the 1994 Rwanda genocide as a case study.

1.6.2 Specific Objective

- 1 To examine the causes of inaction or non-satisfactory action by the UNSC.
- 2 To assess the response of the UNSC towards the 1994 Rwanda Crises.
- 3 To analyze the effects of the inaction on human rights.
- 4 To investigate the challenges and constraints of the UNSC in the realization of its duties.
- 5 To identify ways through which timely action could be made possible by the Council

1.6.3 Hypotheses

1. Inaction by the UN Security Council had devastating consequences on human rights during and after the 1994 Rwanda genocide.
2. The international community's response to humanitarian crises during the 1994 Rwanda genocide was directed more by national interest than protection of life.

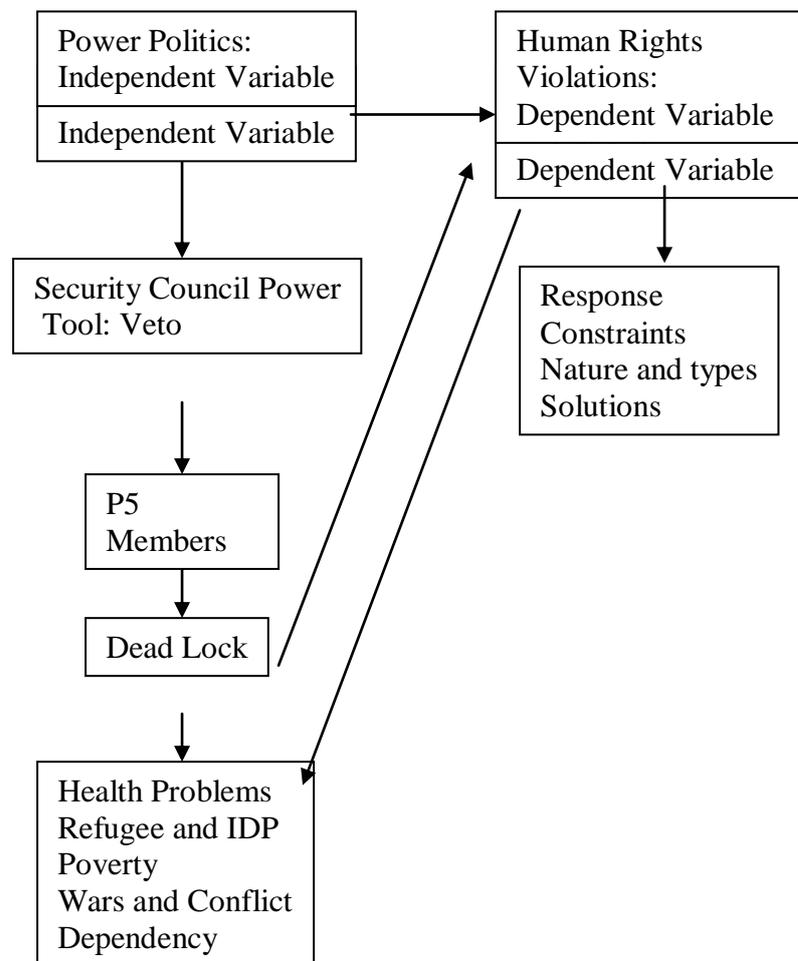
1.7 JUSTIFICATION FOR THE STUDY

The question of protection and promotion of human rights by the UNSC in the world remains more rhetorical than actual despite all the human rights laws and standards put in place. The researcher identified power politics in the Security Council among other factors to be the major cause of the inaction or non satisfactory action of the Council in the face of gross human rights violations.

When there is need for the Council to act and do so on time in conflict areas, it either intervenes too late or not at all. This situation often worsens human rights violations in the affected areas. Therefore there is the need to look into the abusive use of the veto power by the P5 members that is mostly caused by national interest defense. This implies that the country to be put on agenda for discussion, the resolution to be passed and other business of the council are often affected by national interests of the P5 Members. "Rwanda was on nobody's radar as a place of strategic interest" (Dallaire, 2003: 89).

Even though many researchers have tackled in one way or the other the problem of veto in the Security Council, their approaches to the hindrance have been largely devoid of its human rights effects. Hence the researcher deems it necessary to look at the phenomenon of the inaction or non satisfactory action from human rights perspectives.

1.8 CONCEPTUAL FRAMEWORK



From the above framework, power politics in the UNSC is the independent variable. It is taken to be an avenue through which the Security Council members specifically the P5 members protect their national interests. Veto power through which power politics is practiced in the Security Council may bring about dead lock that may result into inaction or non-satisfactory action of the Council. This situation may partly contribute to escalation of human rights violations in crises areas.

Human rights violations being the dependent variable in this framework, is broken down to entail the response of the council towards crises, the constraints or obstacles to the performance of the Security Council. Consideration is also given to study the nature and types of human violations and possible suggestions are made to promote

prompt and timely intervention in crises area. The overall implications of the human rights violations are: increase in health problems, refugee and IDP populations, poverty, war as well as conflicts and dependency.

1.9 SIGNIFICANCE OF THE STUDY

This study would be needed for boosting human rights protection and promotion in the United Nations in the post WWII era where these issues are identified to be the necessary conditions for peace and development. The study will also help the regional organizations to be more organized and to develop better and effective conflict resolution mechanisms and strengthen their peace keeping troops for fast and timely interventions in conflicts within their regions.

Many regional troops are weak and helpless some are even non existent. For instance when the United States argued during the 1994 Rwanda genocide that African security problems should be solved by African troops, a number of African States were willing to contribute troops but none of them had the logistical capacity to deploy and sustain their forces without help (Dallaire, 2003:374-375).

CHAPTER TWO

REVIEW OF LITERATURE

2.1 INTRODUCTION

There is a considerable amount of literature related to the subject under study in one way or the other. Nevertheless most of the authors have not considered the human rights implications. In addition, the literature available is marred with a wide range of gaps that are spacious and subjective in nature. This chapter highlights the main arguments in the available literature after which a critique is made. This literature review is done thematically in accordance with the specific objectives of the study.

The chapter is divided into two sections: the first looks at some issues on selected available literature in form of publications, unpublished papers and writing of different types. The second part highlights some relevant provisions in regional and international human rights instruments.

2.2 SELECTED ACADEMIC LITERATURE

2.2.1 Genesis of the UN Security Council and its Veto Power

Gordon (2003) states that the seven weeks of deliberation between the United States (US), Britain, Soviet Union and China at Dumbarton Oaks in the US culminated into the emergence of a draft of the UN Charter that was qualified to be “ the actual facts of Real Politicks” (Gordon, 2003:164). In other words, the draft was nothing less than principles of power politics devoid of human rights considerations.

Gordon argues that the intention of the delegates was to create an international organization that they could dominate through their permanent membership and veto power. He further asserts that this is a mean for the super powers to defend their own security, protect their interests and enjoy the fruits of their victory of the WWII.

Gordon makes a commendable exposition of the intention behind the establishment of the UN Security Council Permanent Members and their veto power. However, the literature seems to have a preconceived idea about the fact that the whole effort to

establish the Security Council and its veto has nothing good for the rest of UN member States other than the interest of the founding members. This is not absolutely true. The Security Council continually makes resolutions that promote peace and security and protect human rights in the world. For example between 1990 and 1999 the Security Council passed 638 resolutions; an average of 64 per year (Price and Zacher, 2004: 178). Besides, the veto was written in the charter in view of exigencies of power among the world super powers (Shaw N. M., 1997: 826). This was with the ultimate intention of preventing another world war.

Shaw (1997) observes that the powers of the UNSC were established on the basis of power politics in 1945. He further points out that the powerful nature of the council's veto which was enshrined in the article 27 of the UN Charter constitutes "a formidable barrier". Shaw explains that the veto was written into the charter in view of the exigencies of power (Shaw, 1997: 826).

Shaw's observation of the Security Council and its veto centers on its power; how it obtains its veto power, how the veto protects its members from being intimidated by others that are more powerful. He highlights that the veto constitutes a big obstacle to the council's progress. The loophole in Shaw's argument is that he did not bring out the effects of the veto.

The veto is to accord equal authority to all the super powers so that they should not resort to use of force as a mean of expressing their power as was the case in the First and Second World Wars. On the other hand, the blockade that the veto causes in the Security Council could result in late action or inaction of the Council in time of conflict which in turn may lead to escalation of human rights violations.

The United Nations University (UNU) (1995) asserts that the UNO is a child of the League of Nations when we look back from the time of the San Francisco Conference. The UNU (1995) further affirms that the UN Charter in one way or the other gained from the League's failure as in procedure for deployment of military forces by Security Council in response to aggression. The UNU (1995) adds that despite the elements of the old concert notion of rule by the powerful in the superpower negotiations outside the UN in the Security Council that still remain, the

universal membership of states has now been achieved. This is because all states despite their disparities in size have one vote in the UN body and all the states have a right to sit at the conference tables of humankind (UNU, 1995: 8).

It may be true that every nation of the UN has one vote in the General Assembly and the UN has learned in one way or the other from the League's mistakes in deployment of military forces in response to hostilities. However the literature is silent on the fact that though every nation has one vote in the General Assembly its resolutions are just mere recommendations and are not binding on members. Besides, UNU (1995) over credited the procedure of the military deployment by the UN Security Council.

The General Assembly's resolutions being recommendatory as stipulated in article 18 of the UN Charter, means they may not be taken into consideration by the Security Council and other member states. In other words they could be rejected or vetoed by the Security Council. This study suggests that the General Assembly should be made a true parliamentary wing of the UN with its votes binding on member states. This is because it is more democratic and more representative; therefore the votes of the majority of the member states should be taken as the true views of the States.

This study raises the fact that though the UN has the opportunity to learn from the league's failure in the area of deployment of military forces in response to aggression, the UN is still far from being effective in that field. This is because its efforts are most of the times thwarted by lack of the UN nation States' political will that has its root in national interests. This research advises the establishment of powerful standby troops that could be deployed on time when the need arises. Besides, capable regional military forces that could be used to keep peace in their own regions in time of aggression should be encouraged.

Price and Zacher (2004) stress; a unique feature of the deliberations to formulate the charter of the UN was that they occur during a major war. And that while the major powers that were winning the war had an overriding impact on the deliberations, the remaining members of the international community did not formally enter into the deliberations until they were invited to attend the San Francisco Conference in 1945. At that conference all the participants recognized that the great military powers have

to have a major role in the central UN security institutions. This they said was to prevent and reverse aggressive wars that depend on military strength and resolve of the great powers.

Price and Zacher (2004) argue that the founding states realized the decisions of the Council would not be effective if they were opposed by one or several great powers. This could lead to serious discrediting of the organization and consequently its lack of relevance to the control of international conflicts. Besides there is a concern that if the organization took substantive action against particular great powers, they could distance themselves from the UN and may actually leave it. In addition the general membership would not want to be directed to contribute troops to a UN force that would be opposed by one or more great powers. This would entail large casualties and could actually provoke another world war.

Price and Zacher (2004) in pointing out the benefits of the establishment of the UNSC and the veto power that it detains, consider only preventing inter-state wars which could lead to another world war. But this study argues that as much as the veto power could prevent inter-state wars it could on the other hand lead to escalation of intra state wars which could lead to regional wars then to world war. For example, the Congo war which took its root in the Rwanda genocide brought dispute between Rwanda, Congo and Uganda.

Meisler (1995) avers that the Dumbarton Oaks Conference was limited in number but not in power, that is, only four countries: the United States of America (USA), the Soviet Union, Britain and China were its participants. At Francisco however, fifty governments almost anti-axis belligerents met to ratify grudgingly a UN Charter that the four big had imposed (Meisler, 1995:2).

The UN was mainly an American idea which proposed “four policemen” to order the post war world and that their strength and unity would give the organization its vitality. After the deliberation in Washington Oaks with other powers, the Americans proposed once again five permanent members with veto and a few rotary delegates to make up the Security Council with the authority to maintain international peace and security. The council could use any means necessary including military force to

thwart aggression. All the delegates at the conference agreed that a veto was essential but they differed on how extensive that veto would be and this issue was not totally resolved till the end of their meetings (Meisler, 1995:13).

On the 25 April 1945 a conference of all nations was opened in San Francisco with the agenda to write the UN Charter and most importantly to discuss the issue of the Big Five's veto. At the end of the day, a consensus was reached among the Big Five with the establishment of the veto power over any discussion. This agreement did not go well with the smaller nations but they ended up reluctantly accepting and signing the charter.

Meisler's argument stresses the fact that the majority of the UN nation states did not take part in the deliberative conference that led to the establishment of UNSC and its veto power. Meisler is however silent on the implication of this issue and the failure of the super powers to set a criteria for themselves on the use of the veto.

This study reasons that issues of human rights should attract special attention by the Security Council members and they should be exempted from the consequences of the negative use of the veto power in the council.

Darren (2003) argues that the United Nations is far from ideal as it is founded by the most powerful nations. This renders it largely reliant upon those countries. The power held by the Security Council is a matter of serious concern with regard to the UN structure (Darren, 2003: 82).

The five leading nations victorious in the WWII have considerable power. Anyone of the P5 members can veto a decision made by the other members of the council therefore rendering it null and void. The Security Council is also empowered to determine whether or not the UN should intervene in a particular situation.

Darren's argument suggests that the power held by the UNSC does not augur well for the structure of the UN. However Darren could have as well considered the human rights effect of this status quo. This research will throw more light on the use of veto and the hidden veto in the Security Council and show their human rights implications.

Washington's constant threat of vetoes on Security Council actions critical of Israel is a notorious example of the abuse of the use of the veto power. Though the Arab group has obtained monthly Security Council meetings on the situation in Israel and the Occupied Territories, the US prevents any substantive role of the Council on the matter. The constant threat has been strengthened by the actual use of the veto on draft resolutions judged either "unfair" or "unconstructive" by Washington.

The Security Council failed to act during the Rwandan genocide in 1994 due to the hidden vetoes of France and the US. The Security Council never discusses crises that a P5 member considers to be within its own exclusive sphere of interest. Chechnya, Tibet, Northern Ireland, Sudan, Uganda and Colombia figure among the forgotten conflicts that the Council ignores. The Security Council never debated the Algerian war or the partitioning of India because of the hidden vetoes of France and the UK (Nehory, C., 2004: 1-3).

The consequences of these actions are that international crises generally aggravate which in turn worsen the international human rights violations with their implications such as an increase in international refugee population and dependency problems among others.

2.2.2 Decision-Making in the UN Security Council and Policies of its Members

The report of the International Commission on Intervention and State Sovereignty (ICISS) (2001) states that: many regard the capricious use of veto or threat of its use as a principal obstacle to effective international action in cases where quick and decisive action is needed to stop or avert a significant humanitarian crisis. The report's particular concern is that the possibility that needed action will be held hostage to unrelated concern of one or more of the permanent members (RICISS, 2001: 65).

The report is very straight forward about the unscrupulous use of veto in the Security Council, but its human rights effect which is the concern of this study is not tackled. This research will elaborate on the way the veto is used to block action in the Council and its human rights implications.

The hidden veto sometimes weakens many resolutions by removing language disapproved by P5 members. For example France presented a draft in January 2004 on the protection of children in armed conflict. The UK and Russia strenuously oppose the inclusion of Northern Ireland and Chechnya as “armed conflicts” especially because the conflicts would be subject to monitoring under the terms of the resolution. London and Moscow signaled their hidden vetoes by refusing to support the text. As a result, the phrasing of resolution adopted on this issue has to be weakened to become “situations of concern” instead of “armed conflict”.

Paris and Washington not only blocked UN action during the 1994 Rwanda genocide, but also used their hidden veto to weaken the definition of the crisis under international law (Nahory, C., 2004: 2).

The consequences of the wrong use of vetoes can be far reaching. Once the wording or the definition of the issue that needed urgent or more serious attention is weakened, the consideration that it will attract also greatly diminishes leading to inaction or non-satisfactory action which may lead to escalation of human rights violations including the right to life and its associated human rights.

Amnesty International Publications (1998) asserts that the US plays a double standard in International Human Rights Protection. The report explains that, the US holds a privileged position: being one of the P5 members of the organization with veto power, for that matter having the power to block decisions, and yet it is slow to agree to international human rights standards. The publication maintains that the US has not yet ratified several important human rights treaties.

Abuse of the international law by the US has taken many forms in recent decades the report stresses. An example among others is in 1979, when the US filed a suit against Iran before the International Court of Justice (ICJ) for taking US diplomats hostage in Tehran. But four years later, the US refused to recognize the jurisdiction of the ICJ when Nicaragua denounced the US-sponsored military and paramilitary activity against the Sandinista government which led to serious human rights abuses. The US consequently used its veto to prevent the UNSC taking action to implement the ICJ’s 1986 ruling on the Nicaraguan case (AI Publications, 1998:124).

The US reaction within intergovernmental organization like UN to human rights violation has been selective and partial. The US is notorious for not willing to take appropriate action when human rights abuse is committed by US allies or when action would run counter to the US' political or economic interest. The US' actions seem to suggest that International law and intergovernmental organizations are instruments for advancing its own interests, willingly taken up when they serve to legitimize or implement its foreign policy but discarded and even condemned when seen as an obstacle or irrelevant to its interest (AI Publications, 1998: 128).

The 1998 Amnesty International report brings out clearly the US's neglect for international human rights laws when they clash with its interests. But it left out how this could affect the victims. This research will consider more of US' concern for its national interest and its human rights implication on the victims.

The US went to war in Iraq in 2003 against the wish of many UNSC members and the UN as a whole. Closer investigations would reveal that the 2003 war in Iraq was not crucial and that it might have been driven by national interest. The result was the perishing of many lives including innocent civilians and the suffering of a multitude of people over the years, without forgetting the host of refugees and IDPs that left their places of abode and became jobless and are living a precarious, life elsewhere.

Baehr (2001) in discussing Foreign Policy and Human Rights argues that less will be said about human rights if the offending government happens to be a major power. Baehr is of the view that human rights policy should not be given priority in all situations. Besides, he argues, sometimes conflict may occur between human rights and other foreign policies but proper weighing should be done. An example of security consideration over human rights was the US and UK's silence over Turkey's human rights violations because it was a staunch NATO ally.

In analyzing human rights and economic considerations, Baehr explains that concrete steps by the government in reaction to human rights violations are required apart from verbal policy. In addition, other government policies especially promotion of foreign trade will be negatively affected when choices of human rights have to be made.

Baehr believes that at times security and economic interests prevail over human rights considerations which may be true, but the loophole in Baehr assertion is that he did not consider the precarious nature of this state of affairs as far as rights of the disadvantaged are concerned. This research takes up some examples of some states which took into account national interest at the expense of human rights and it analyses the implication on the sufferers.

Burma remains one of the most repressive countries in Asia. Human rights groups have long urged the Security Council to take up Burma as a critical international problem. When the United States had announced that it would support the move, the United Kingdom, France and Romania were expected to agree. China and Russia however had made it clear in private that they opposed putting Burma on the agenda. China had deep political, military and economic ties to the military junta in Rangoon, while Russia opposed such discussions because of its records in Chechnya.

Because of diplomatic, economic and other interests of other members of the Council, the military government in Burma continues to escape international sanctions (Human Rights Watch, 2005: 2). The result is the endless killing of innocent Burmese people, torture and abuse of other human rights of the people by the dictatorship government while the world looks on.

Darren (2003) alleges that since the signing of the 1948 genocide convention, the cases of genocide which have taken place have received unsatisfactory reaction from the UN. It has either been a muted response or a case of too little, too late (Darren, 2003: 309).

Darren (2003) cited Rwanda and the Balkan region to be the prevalence of genocide and ethnic cleansing in the modern world and said that in both cases, the UN failed to intervene, provoking harsh but necessary questions about its competence and its potency as an international peace keeping force.

One would have expected Darren (2003) to tackle the causes and probably the consequences of the incompetence of the UNSC. This study analyses the causes of the incompetence of the UNSC as an international peace keeping force.

Apart from the negative exercising of the veto power in the UNSC which is the subject matter of this study, there are some other factors which work against the effective performance of the Council in its effort to maintain international peace and security.

Maintenance of international peace and security had been broadened to include protection and promotion of international human rights. International human right protection requires humanitarian intervention. The latter however violates the sovereignty concept that was enshrined in articles 2.1, 2.4 and 2.7 of UN Charter. Even though the UNSC is not totally bound by this concept in the face of gross human rights violations, it is to some extent limited by it. The UNSC cannot just get into a country without authorization from the government of that country. Besides, the UN troops that will maintain the peace and security in the conflict zones have to be accepted by the warring factions and the people in the country before they can be able to perform their duties effectively.

The troops, the personnel, the logistics and all other resources that are needed for prompt and successful humanitarian intervention have to be contributed by the nation states of the UN. If these countries lack political will what can the UNSC do even when it is aware of human rights violations? As Deputy Secretary General, Louise Frechette stressed on the 58th General Assembly Plenary, the UN early warning systems would be of little use unless member states summon political will to act when warning signs appear.

Bureaucratic procedures in the UN, lack of standby forces and powerful regional troops that could swiftly be used to intervene in conflict areas when need arises, lack of resources are all contributing factors to ineffectiveness of the UNSC. In addition, lack of consensus to determine the type of cases and the proper types of intervention that is required cannot be underestimated to be among the dynamics that make the UNSC wanting.

2.2.3 The UN Security Council and the 1994 Rwanda Genocide

Berry, J. and Berry, C. (1999) in studying the roles of different actors before, during and after the 1994 Rwanda genocide assert that their study offers a parallax of views

on the genocide according to the positions of the observer. Their conclusions were reached after considering the opinions of their respondents in addition to their own observations and experiences.

In discussing the role of UNAMIR in Rwanda, Berry, J. and Berry, C. are of the view that UNAMIR faced a lot of difficulties in the Rwanda Genocide. Given the fact that the mission was mandated with Chapter VI and the subsequent reduction of the troop to a relatively scanty number limited its capacity and ability. On the other hand their respondents generally felt that Rwandans had been abandoned by the UN and the international community as a whole during the genocide and the victims' cry for rescue by UNAMIR and the international community was callously neglected.

UNAMIR's difficulties in the Rwanda Genocide was sympathized with by Berry, J. and Berry, C. who regarded the troops as incapable and unable during the 1994 genocide because of the conditions in which it found itself. The fact is that UNAMIR could have been made helpful to prevent the genocide, or at least reduce its severity if the political will of the decision makers existed. This research will delve into the political will of the UNSC members in relation to the 1994 genocide and its aftermath.

There was considerable information to show that genocide in Rwanda was on the way and something needed to be done to prevent the atrocity. The leadership of UNAMIR even sent to the UN headquarters, a fax with reliable evidence that genocide was being prepared, and that the troops should be reinforced and mandated to handle the case but what prevented action was lack of political will.

The powerful countries that could have helped to prevent the catastrophe were quiet. For instance after the death of some American soldiers in Somalia in October 1993, the US decided that no significant UN missions were to be allowed at all, even if American troops would not be involved. Thus, due mostly to the delaying tactics of the US, not a single reinforcement of the UN troops or military supplies had reached Rwanda (Africa Focus Bulletin, March 31:2004). The Canadian foreign affairs opposed a contingent because it was in the process of reorienting Canada's diplomatic attentions towards Eastern Europe and the Balkans (Dallaire, 2003:85).

The result was a rise in death toll and its related problems like increase in orphans, refugees and IDPs populations not forgetting the massive suffering of the victims and the survivors.

Arthur (1998) states that the US was unwilling to act in the Rwanda crises of 1994 in what he termed “American Reticence”. He affirms that the US did not favor either the US or UN military intervention to stop the killing as it maintained that the process of peace making had become dangerously over utilized and that Rwanda is of marginal strategic importance. At home President Clinton was attuned to the non-interventionist mood in the congress as the Republican Senate leader Bob Dole had indicated that he opposed any American role in Rwanda as no vital interest was at stake (Arthur, 1995:91).

Meanwhile at the UNSC, Arthur argues, the US supported UNAMIR reduction portraying it as a safety measure. When the Security Council voted on May 17th to enhance UNAMIR, the US went along with the resolution but then it raised many objections that slowed down its implementation.

Though Arthur brought out the stand of the US and how its discretion slowed down the implementation of UNAMIRII, his assertion is quiet about the US’s position in the international system.

Since the demise of the Soviet Union, the US has since become the only economic and military super power in the world. Therefore its decision in the Security Council would definitively influence the resolutions in the Council. Consequently its unwillingness to act may in one way or the other thwart the Council’s ability to take any significant step.

Arthur (1998) in talking about French prevarication argued that France on the basis of "Francophonie" had direct interest in Rwanda and its policy was basically pro-Hutu. Therefore, France continued to arm the interim government despite the fact that it knew genocide was taking place (Arthur, 1995:80). France’s connection to the

perpetrators of the genocide led to charges of moral and practical complicity against it as it provided both armed and military training to the Hutu (Arthur, 1995: 92).

Arthur obviously exposes France's policy of national interest pursuit during the Rwanda genocide. However it does not relate it to how this could affect decision making in the UNSC as France is a P5 member. This study draws the relationship between the pursuit of national interest by the P5 members and the exercise of the veto power in the council.

Johan (2002) comments: the UN Secretary General Boutros-Boutros Ghale admitted seven weeks after the beginning of the 1994 genocide that the massacres were genocide. He apologized that the UN had failed to mobilize troops as it had promised. He accepted as well that not only did the UN ignore clear warnings of the impending genocide but also had taken its time before using the term 'genocide'. This was just because the term invokes legal responsibility under international law.

Johan's article presents the UN Secretary General as being the overall voice in the UN as far as international peace keeping and peace making are concerned. This might not be the case in the UN System. This research clarifies the roles and functions of the UNSC as the organ responsible for international peace and security.

Khan (2000) asserts that the critical issue relating to Rwanda was the international community's failure to differentiate between civil war and genocide and that the international community's basic diagnosis was faulty and the prescription that the Security Council provided was the traditional one for civil war. Khan further analyses the

fact that the Rwanda genocide was discernible and argues that the genocide could possibly have been prevented. What was absent in Khan's analysis was the political will of the secretariat and the Security Council members to make daring decisions (Khan, 2000: 198).

Khan (2000) indicts the UN for its lack of political will and action. But Khan does not relate the lack of political will to the inaction. This study identifies the political will to

be usually the driving impetus for action or inaction as far as humanitarian intervention is concerned.

2.2.4 Humanitarian Intervention and its Dilemmas

Price and Zacher (2004) in analyzing the UN Peace Keeping in the post cold war era say that the international involvement in intra-state conflicts was driven in part by strategic interests. It is also some times driven by a reaction to human rights violations and the suffering of non-combatants. Peace keeping operations became more numerous and complex involving a wide set of political, military and humanitarian tasks.

Price and Zacher (2004) argue that while the post cold war peace keeping efforts were freed from political divisions of the cold war, the Security Council also repeatedly demonstrated its willingness to invoke Chapter VII which enables the maintenance of international peace and security. The high expectation of the UN as a maintainer of international peace and security however were largely disappointing because of its failure in Somalia, Yugoslavia and Rwanda.

Price and Zacher in their analyses of the post cold war state that peace keeping dwells solely on UN peace keeping missions without including the roles of regional peace keeping missions. This research recognizes the importance of regional peace keeping missions and suggests the strengthening of the regional peace keeping troops for swift and effective interventions in conflict areas.

Welsh (2004) asserts that the UN involvement in conflict resolution, peace and security saw a significant increase both in qualitative and quantitative terms in the late 1980s. Then again, the bigger positive change is qualitative whereby the UN Security Council has broadened the definition of what constitutes a threat to international peace and security from inter-state clashes to include intra-state conflicts.

Welsh observes that the following three main issues have received increased consideration by the UN Security Council: civil war and intra-state conflicts, the possession of weapons of mass destruction and humanitarian crisis. While very few humanitarian interventions occurred during the cold war, the 1990s witnessed a series

of military actions authorized by the UNSC. He pointed out that along side the widening definition of threats there have come nagging questions about the Security Council's authority, competence and capacity to manage them.

Welsh highlights the success and failure of the UNSC but does not tackle the way the UNSC responds to crises. This study elaborates on the responses of the UNSC towards various stages of international crises using the 1994 Rwanda genocide as a case study.

Baehr (2001) defines intervention as some manner of forceful interference by a state in the domestic affairs of another state (Baehr, 2001:98). Such use of force which includes humanitarian intervention, he affirms, is not permitted under the rules of international law. However in cases of gross violations of human rights, States have the duty to overrule the principle of non-intervention (Baehr, 2001:100). Baehr further asserts, international intervention runs counter to national sovereignty.

Military intervention, he explains, is permitted by UNSC only in case of threat to international peace and security and yet gross human rights violations do not necessarily pose a threat to international peace and security. Another problem is the circumstances under which the military intervention would be allowed and how to prevent states from abusing it for their own political end.

This study does not agree with Baehr's argument that gross human rights abuses do not necessarily pose a threat to international peace and security. For gross human rights abuses mostly lead to refugee situations with their associated problems that in one way or the other affect the peace of the rest of the world. This study elaborates on the implications of human rights violations including how this affects international peace and security.

Baehr outlines as well, the relationship between the principles of humanitarian intervention and its dilemmas without any remedy. This study establishes the relationship between the pursuits of the national interest by states especially the P5 members and humanitarian intervention and suggests ways of reducing that situation.

This study proposes that crucial decisions such as that of humanitarian intervention should not be a subject of veto. Since failure to intervene in conflicts may lead to escalation in loss of precious lives, this research maintains that a more democratic approach of equal voting by all the nation States should be employed for such decision making in order to reduce the influence of the pursuit of national interest by a few power states.

The reports of International Commission on Intervention and State Sovereignty (ICISS), December 2001 regards the UNSC as the appropriate body to authorize military intervention only that it needs to improve on its effectiveness and it made some suggestions for better performance. The report stresses that the P5 members of the UNSC should agree not to apply their veto power in matters where their vital state interest are not involved to obstruct the passage of resolutions authorizing military intervention for human rights protection purposes. The report also comments on the fact that humanitarian intervention has been controversial both when it happens or not.

The negative use of veto by the UNSC members is pointed out in this report, it also recommends that this should be discouraged, which is an excellent comment. The setback is that the benefits of the use of the veto power are not mentioned. This study examines the main advantage of the veto which was identified to be for preventing another world war.

Besides, the argument of the report which presents the UNSC as the appropriate body to authorize military intervention is rather unacceptable for this is a body that does not adequately represent all the member States of the organization especially those countries that are mostly affected by war. This study emphasizes the need for a reform in the UNO as a whole that would aim at having a more appropriate body that could effectively perform this very delicate duty.

Khan (2000) asserts that with the lessons of Rwanda and other peace keeping operations, the peace keeping need to be redefined and be conceived as having a much broader and multi-functional role. Khan believes that there is no single perfect antidote for all the crises and that each of them need to be dealt with on its merits. He

advises that they should be updated and supported by financial and logistic back-up. Besides, the peace keepers should operate under a clear and precise mandate.

Khan (2000) proposes some parameters to be put in place for effective peace keeping and advises that there should be close and regular consultations between institutions that play leading roles in peace keeping for political consensus and operational capability. He further recommends that a peace keeping fire engine needs to be in a state of readiness to enable it to meet crises at short time notice (Khan, 2000: 213).

Khan (2000) does well in bringing out the difficulties that hinder the effectiveness of international peacekeeping operation and their effects on international peace keeping and suggests ways to overcome these problems. However he does not take the human rights approach. This study discusses the effects of non-intervention and unsatisfactory intervention in relating them to their human rights implications.

Darren (2003) on peace keeping explains that peace keeping missions are among the most common courses of actions and that although the troops operate under the UN banner, they are there solely to police the area of conflict and not for active involvement in the military activity of the area in question. Darren argues that since the end of the cold war, the UNSC has taken a more active role in promoting human rights standards blurring the boundaries between state sovereignty and ethical questions of rights. However the Council cannot in all honesty be relied upon to serve as a consistent defender of these standards (Darren, 2003: 83).

The UNSC's strength and weakness as far as its involvement in human rights promotion is concerned are mentioned but not sufficiently elaborated. This study being human rights oriented delves into UN human rights protection and promotion mechanisms more importantly those that protect the right to life and the ones that forbid torture and discrimination.

2.2.5 Rationale for Human Rights Protection

Baehr (2001) asserts that unlike the League of Nations, the UN Charter contains specific articles on human rights (Baehr, 2001: 57). Thus article 1; paragraph 3 of the charter says that: one of the principal purposes of the organization is to promote and

encourage respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. Article 55 of the Charter also says the UN shall promote universal respect for and observance of human rights and fundamental freedoms for all without distinction.

The Universal Declaration of Human Rights (UDHR) has influence on many national constitutions and on the UN policies. Besides it has inspired the creation of a wide net of new international regulations. The Convention on the Elimination of all Racial Discrimination was adopted in 1965 by the UN General Assembly and entered into force in 1969. The Covenant on Economic Social and Cultural Rights requires that parties periodically furnish reports to the UN Secretary General on the measures they have adopted and progress made in achieving the observance of the included rights.

The Covenant on Civil and Political Rights provides for a special permanent supervisory organ that is the human rights committee (Baehr, 2001:62).

In addition to the UDHR and the two covenants which cover general human rights issues, the General Assembly has adopted over the year a large number of declarations and conventions with regard to specific subjects (Baehr, 2001: 68).

Baehr (2001) does elaborate on the various steps taken by the UN and its specialized agents to combat human rights violations and to enforce human rights observance without talking about the challenges and weaknesses of the UN human rights protection mechanism. This study tackles the strength and weaknesses of the UN in its efforts to protect and promote human rights.

Shaw (1997) affirms that the Universal Declaration of Human Rights adopted on the 10th December 1948 emphasizes the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family, as the foundation of freedom, justice and peace in the world. While there is widespread acceptance of the importance of human rights in international structure, there is considerable confusion about their precise nature and role in international law (Shaw, 1997: 196).

Shaw (1997) observes that there exist the following types of rights: one, positive rights which are rights enshrined within a legal system, they are also called moral

rights. Two: natural rights. These are sets of principles governing all human beings in time and space. They are inalienable rights such as right to life, liberty and property (Shaw, 1997: 197). Shaw identifies positivism theory which emphasizes the authority of states and leaving little space for rights in legal system. Market system he says denied the existence of rights outside the legal order.

Shaw (1997) discusses the various rights and their corresponding theories. The theories associated with the policies of the UNSC and the rights that they promote or violate are missing in Shaw's arguments. This investigation uses realism theory to explain the negative use of the veto power in the UNSC and analyses the possible human rights violations that this could help escalate.

Darren (2003) in explaining human rights refers to the 1948 Universal Declaration of Human Rights as the most single important document of the twentieth century because, he argues, it lays down certain claims regarding the rights of all people around the world and formalizes them within the framework of international law. Darren (2003) however expresses disappointment that the declaration has not made much impact in practice. According to him, human rights abuses continue in nation-States across the globe (Darren, 2003: 26).

Darren explains that, the discourse of human rights may be relatively a modern creation but the ideas that underpin it can be traced as far back as the classics time if not before (Darren, 2003: 32). He also asserts that human rights are universal, incontrovertible and subjective.

Darren (2003) appreciates the importance of the UDHR and throws some light on the history of human rights. However he said too little about the evolution of human rights after the WWII. This study gives more details on the efforts and challenges of human rights protection and promotion after WWII. Thus regional and international human rights instruments are discussed in this study with emphasis on instruments that promote right to life and forbid discrimination and torture.

In summary, it is important to highlight the most salient gaps. Generally, most of the reviewed writings on the subject under study do not take a human rights perspective

in analyzing their literature. The majority of the reviewed texts just raised the problem of the negative use of the veto power in UNSC without tackling the effects. Many of the pieces of reviewed literature on the 1994 Rwanda genocide were just narrative and devoid of the human rights aspect of the tragedy.

This study however uses a human right perspective to fill the salient gaps of the literature reviewed. The second part of this chapter takes a look at the regional and international provisions relating to the right to life and the right not to be tortured and discriminated against.

2.3 NATIONAL, REGIONAL AND INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

2.3.1 Introduction

This second part of chapter Two gives an account of international, regional and national human rights legal framework within which the right to life and the rights not to be tortured and discriminated against at all times are situated. This part however focuses on the understanding of war and genocide. Hence the relevant legal documents were studied and analyzed starting with national laws followed by regional instruments, then the UN Charter, the international bill of rights and some other international covenants and declarations.

2.3.2 Rwandan National Laws

2.3.2.1 The Constitution of the Republic of Rwanda, 2003

Unlike the pre- genocide constitution of 1991 which emphasized more on rules that would guide the administration of the State, the 2003 constitution provides vastly for human rights. A Bill of Rights that ranges from article 10 to 51 was enshrined in the post-genocide constitution. These articles provide for fundamental human rights and the rights and duties of the citizens. These rights include among others the right to life, the right not to be tortured and the right not to be discriminated against.

Article 11 provides that all Rwandans are born and remain free and equal in rights and duties. The article further emphasizes that discrimination of whatever kind based on ethnic origin, tribe, clan, color, sex, region, social origin, religion or faith, opinion, economic status, culture, language, social status, physical or mental disability or any

other form of discrimination is prohibited and punishable by law. Article 12 also provides that every person has the right to life and that no person shall be arbitrarily deprived of life. Article 15 on its part provides for the right not to be tortured. It states that every person has the right to physical and mental integrity, and that no person shall be subjected to torture, physical abuse or cruel inhuman or degrading treatment.

It is worth noting that the above stated rights are clear and well elaborate. They are aimed at fighting the ideology of genocide and all its manifestations as well as eradicating discrimination that may lead to the violation of all other human rights. According to the Danish Institute of Human Rights report (2006) Rwanda's formal human rights commitment is high; the country has ratified all the international conventions as well as the regional instruments. The new constitution adopted in 2003 gives special place to the Convention Against all Forms of Discrimination against Women, and the Convention on the Elimination of Racial Discrimination, as well as the Covenants on Economic Social and Cultural Rights, the Covenant on Civil and Political Rights and the Covenant of the Rights of the Child. It can be concluded that though Rwanda before the genocide had ratified most of the international and regional human rights instruments, like most UN nations States, the implementation of these instruments was the problem.

2.3.3 Regional Human Rights Instruments

2.3.3.1 African Charter on Human and People's Rights (ACHPR) or Banjul CHARTER, 1981

Article 4 of this instrument stresses respect for human life and integrity of person. It says, every human being shall be entitled to respect for his life and the integrity of person and that no one should be arbitrarily deprived of this right. This article urges that everyone's life should be honored and respected. It does not specify in which circumstances this should or should not be applicable and by whom. For example, can this be obeyed in time of war also where warring parties are killing their adversaries here and there? This study indicates that the right to life should be respected and honored at all times, whether in peace or in war and by all people. And since it is difficult to prevent killing during war every precaution should be taken by the UN and the international community to prevent hostilities.

Article 5 also warns against all forms of exploitation and degradation of man including torture. Torture is vaguely mentioned in the Charter but this study specifies that torture could be both mental and physical and they are all forbidden by the international law.

The Charter tells the member states in its preamble to dismantle all forms of discrimination especially those based on race, ethnic group, color, sex, language, religion or political opinions. Article 28 on its part states that: every individual shall have the duty to respect and consider their fellow human being without discrimination. Furthermore they should maintain relationship aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.

This instrument directly cautions individuals that they have responsibility to prevent discrimination. This is an excellent provision that is rare with many human rights instruments which normally enjoin governments to ensure that there is no discrimination. The idea to let individuals be aware of their responsibilities is very great but the problem of implementation still comes in when the government of the country that practices the discrimination has a hand in the act.

2.3.3.2 African Charter on the Rights and Welfare of the Child (ACRWC), 1990

Another relevant document to consider in the African region is African Charter of the Rights and Welfare of the Child. This instrument was published by Amnesty International Africa Regional Office (AIARO) with great contributions of Human Rights Network (HURINET), African Network for the Prevention and Protection of Child Abuse and Neglect (ANPPCAN) and United Nations Children Funds (UNICEF) in Uganda. This document is highly simplified to the understanding of its primary audience, the children, and there are francophone versions for French speaking countries. The ACRWC is also called “Mwana” which means child in many African languages.

Article 3 of Mwana provides that all children have equal rights and freedoms no matter where they live, what language they speak, what culture and religion they follow, how rich or poor they are or whether they are boys or girls. The article also provides that the government cannot treat a child unfavorably because of his or her

parents' race, origin, religion, ethnicity or status. This article helps children and those that care for them to be aware that they should not be discriminated against for one reason or the other. It also helps them to be confident and claim their human rights freedom. It also binds governments not to discriminate against children on any ground.

Article 26 also states that all governments agree to help those children living under apartheid or in countries which practice racial, ethnic or religious discrimination. This article lays responsibility upon governments to defend and protect children that are discriminated against.

Article 5 of Mwana specifies that every child has a right to life. A government has to do everything that is necessary to protect the life of a child. The death penalty cannot be applied to children. The provision for the right to life as stated in this article is narrowly related to death penalty. But this study affirms that the protection of right to life covers all circumstances and all times including war and genocide.

Article 16 of Mwana says children shall not be subjected to any forms of torture or ill treatment. Parents, guardians, school teachers or any other persons are prohibited from torturing or ill-treating children. These include any form of sexual abuse, neglect or maltreatment. This means for example that children should not be subjected to corporal punishment, such as caning, flogging or whipping. Governments should ensure that such abuses do not happen if they happen they should be properly investigated.

The physical and psychological torture and trauma that children go through in times of war and genocide are left out in the definition of torture in this article. This study insists that there cannot be war or genocide without torturing children. Therefore the fewer conflicts the world experiences the less torture children will face.

2.3.4 International Human Rights Instruments

2.3.4.1 The UN Charter, 1945

The UN Charter set the ball rolling for protection and promotion of human rights after the Second World War. It declares in its preamble that the people of United Nations

are determined to reaffirm faith in the fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small. This declaration sounds vague but it is comprehensive. Respect for fundamental human rights, dignity and worth of the human person covers protection of all human rights including the right to life, prohibition against torture and discrimination all of which are the focus of this study.

The preamble of the Charter goes ahead to caution against discrimination by stating that there should be practice of tolerance and that people should live together in peace with one another as good neighbors. Chapter 1(3) of the Charter elaborates further on respect for human rights without discrimination of any kind. These bases of human rights awareness in the Charter gave birth to the Universal Declaration of Human Rights on the 10th December 1948.

2.3.4.2 Universal Declaration of Human Rights (UDHR), 1948

The UDHR is a declaration that was adopted and proclaimed by the UN General Assembly to protect and promote human rights. It is a common standard of achievement for all peoples and all nations (UDHR, Preamble). Its thirty articles cover a wide range of rights. Although the UDHR is not a legally binding treaty, it has become a source of customary international and internal laws. That is, it has gained widespread acceptance; it influences the constitutions of many States and the formation of subsequent human rights treaties and resolutions.

The declaration is considered to be an authoritative interpretation of human rights in the UN Charter. It has become a yardstick by which to measure the degree of respect for and compliance with international human rights. The UDHR is the basic text that enshrines all fundamental human rights and freedoms of the individual. Among them article 3 protects the right to life of individuals, article 5 prohibits torture and article 28 in addition to the preamble also disallows discrimination. The drawback in the UDHR is its generality and lack of binding force.

2.3.4.3 International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966

The standard set by the UDHR was later reflected into two legally binding international covenants: the ICCPR and ICESCR that elaborated on almost every aspect of human rights. On the right to life, torture and discrimination, the ICCPR is more comprehensive than the ICESCR.

Article 7 of the ICCPR states: no one shall be subjected to torture or to cruel, inhuman, degrading treatment or punishment. This article further pointed out that a person should not be subjected to medical or scientific experimentation without his free consent. Articles 4(1), 24(1), 26 and 27 of the ICCPR all warn against discrimination of any sort. For example, article 4(1) provides that there should not be discrimination solely on the ground of race, color, sex, language, religion or social origin. While article 24(1) provides that every child should be protected without discrimination. Right to life is provided for in this instrument in article 6(1) and it states that every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

The ICESCR on the other hand is not specific about the rights considered in this study. Article 3 of the ICESCR however provides that equal rights of men and women should be ensured for the enjoyment of all economic, social and cultural rights set forth in the present covenant. This article can be interpreted to have provided for all rights including right to life, discrimination and torture. Article 2(2) of the ICESCR specifically warns against discrimination of different kinds comprising racial discrimination.

Like many other international human rights instruments, though the ICCPR and ICESCR are legally binding, their implementation remains wanting specifically in regard to right to life, torture and discrimination. Millions of people are being killed every day especially through war and genocide. In practice discrimination and torture are widespread especially when such acts are carried out as part of the government policy or where they have the tacit support of the government.

2.3.4.4 Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 1984

CAT is perhaps the most important international legal instrument that is comprehensive on the fight against torture. The CAT consists of a preamble and 33

articles. The instrument is divided into two parts. Part one ranges from article 1 to 16 and it starts with the definition of CAT. Article 1 also counsels that there should not be discrimination of any sort against any person under any circumstances.

Article 2 prescribes legislative, administrative, judicial and other measures to prevent torture. Article 3 talks about 'non-refoulement' of a refugee in danger of being tortured in his or her country. Article 4 states that torture is an offence under international law and article 8 further states that the offense is extraditable. Article 5 talks about establishment of jurisdiction over the offence. Article 6 says the torturer should be arrested. Article 7 urges the state parties to extradite the torturer in its territory or submit him to a competent authority for prosecution. Article 9 is a call to state parties for mutual assistance to one another in the area of criminal proceedings and judicial assistance.

Article 10 states that state parties should ensure education regarding prohibition of torture in their various torture prone institutions. Article 11 prescribes some measures to prevent torture among people that are under any form of arrest. Articles 12 and 13 urge prompt and impartial investigation and punishment for the offence. Article 14 asks that the tortured should be compensated. Article 15 prohibits the use of statements made under torture as evidence against the tortured in any proceedings. The second part of the Convention that stretches out from article 17 to 33 is the organizational part of the charter for its effective implementation.

CAT is at the moment the most extensive and well elaborated instrument on torture. However its implementation is far less limited to be described as successful. Amnesty International reports often suggest that almost half the world countries practice some form of torture (Darren, 2003:170). Although CAT is elaborate and extensive on torture, it does not address the subject of this study which is torture during war and genocide. Beside, its analyses and provisions against torture dwell mostly on the bigger picture of torture in public institutions while there is absolute silence on torture in families like acts of torture in marriages, domestic violence and others.

2.3.4.5 International Convention on the Elimination of all Forms of Racial Discrimination (ICEARD), 1965

The idea of non discrimination against a person on the ground of his or her race is more detailed in the ICEARD. Considering the provisions on the prohibition against racial discrimination in the UN Charter and the UDHR, its preamble affirms the necessity of speedily eliminating racial discrimination throughout the world. Article one defines racial discrimination as: any distinction, exclusion, restriction or preference based on race, color, descent, national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

Articles 2, 3 and 4 of the Convention are almost identical: they condemn racial discrimination and suggest various ways to eradicate it as well as to support the fight against it. Article 5 urges state parties to prohibit and eliminate all forms of racial discrimination and further mentions the various rights that everyone is supposed to enjoy without discrimination. Article 6 requires that States protect every one against discrimination while article 7 suggests various measures through which racial discrimination should be combated. Articles 8 through 16 safeguard the implementation measures of the Convention, while articles 17 to 25 spell out measures for adopting the Convention.

The Convention on the Elimination of all Forms of Racial Discrimination highlights various rights that every one ought to enjoy without discrimination. But it does not concern itself with right to life and right to be protected from torture.

2.3.4.6 Convention on the Prevention and Punishment of the Crime of Genocide, 1948

The Convention on the Prevention and Punishment of the Crime of Genocide is also a significant instrument to consider in this study. The contracting Parties confirm that genocide committed in time of peace or war is a crime under international law and this they undertake to prevent and punish (article 1). Article 2 defines genocide to be any of the following acts, committed with the intent to destroy in whole or in part a national, ethnical, racial or religious group:

1. Killing members of the group.
2. Causing serious bodily or mental harm to members of the group.

3. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.
4. Imposing measures intended to prevent births within the group.
5. Forcibly transferring children of the group to another group.

Although the convention is not explicit on the right to life, discrimination and torture, it indirectly protects right to life, prohibits torture and discrimination. For example as the Convention warns against killing; it protects life. When it warns against causing bodily or mental harm it clearly prohibits torture. The caution about not harming or killing a group of people clearly implies that it is against discrimination.

The importance of the Convention in this research cannot be underestimated because genocide is mass killing and it goes hand in hand with the right to life, freedom from torture and discrimination. The implementation of the Convention is however marred by national interests and political will of nation States.

2.3.4.7 Convention on the Rights of the Child (CRC), 1989

At the moment, the CRC is the most detailed international instrument on the rights of children. Since children are one of the most vulnerable people in war and genocide, this study deems its consideration necessary.

The CRC proclaims and agrees in its preamble that every one is entitled to all the rights and freedom without distinction of any kind such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Article 30 also protects the child against discrimination and it states that in those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language.

The Convention recognizes the right to life of children as it states in article 6 that every child has the inherent right to life and that State parties should ensure to the maximum extent possible, the survival and development of the child. Article 37 of the

CRC prohibits torture of all kinds. It affirms generally, to start with, that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. It further forbids capital punishment and life imprisonment for children that it defines to be persons below eighteen years of age.

Secondly, the Convention counsels that children should not be deprived of their liberty unlawfully or arbitrarily. It maintains that the arrest, detention or imprisonment of a child shall be in conformity with the law of the land, and shall be used only as a measure of last resort and for a shortest time. Thirdly, the CRC insists that every child that is detained should be treated humanly and with respect and dignity. Lastly, the Convention provides that a child that is detained has the right to prompt access to legal and other appropriate assistance as well as the right to challenge before the court the legality of his or her deprivation.

The provision in the preamble of CRC on discrimination was not specific about children. It states “...every one is entitled to rights...” instead of every child is entitled to rights....

The provision on discrimination, torture and rights to life in this convention seem to be provisions in time of peace. No specification is made for the situation in time of war. But unfortunately many children in the world are discriminated upon, tortured and slaughtered every day in war and during genocide.

2.3.4.8 Vienna Declaration and Program of Action, 1993

The Vienna Declaration and Program of Action is a world conference on Human Rights that is worth considering in this study. The conference carries out a comprehensive analysis of the international human rights system and the machinery for the protection of human rights in order to enhance and promote a fuller observance of those rights.

The declaration disallows discrimination against minorities and thus calls on states to ensure that persons belonging to a minority should fully and effectively enjoy all human rights without discrimination. The program also asked the international community to contribute generously to the Trust Fund for the Program Decade for Action to Combat Racism and Racial Discrimination. It also urges all governments to

take immediate measures and to develop strong policies to prevent and combat all forms and manifestations of racism, xenophobia or related intolerance.

On the right to life, the declaration stresses that all persons who perpetrate or authorize ethnic cleansing are individually responsible and accountable for human rights violation and that the international community should exert every effort to bring legally responsible persons to justice. It further calls on all states to take immediate measures, individually or collectively to combat the practice of ethnic cleansing in order to bring it quickly to an end. Victims of ethnic cleansing, the program says, are entitled to appropriate and effective remedies.

The world conference on Human Rights reaffirms that freedom from torture is a right which must be protected under all circumstances including internal or international disturbances or armed conflicts. The program therefore urges all States to put an immediate end to the practice of torture and to eradicate it through full implementation of the UDHR and other relevant Conventions and where necessary, through strengthening of the existing mechanism.

The program stresses the importance of further provision for assistance to victims of torture by ensuring more effective remedies for their physical, psychological and social rehabilitation. The program further urges States to abrogate legislation leading to impunity of those responsible for grave human rights violations like torture. The program also calls for adoption of the optional protocol to the CAT which will establish a preventive system of regular visits to places of detention.

The Vienna Declaration and Program of Action makes vital points on protection and promotion of human rights. The implementation of the program is therefore very essential for ensuring that the dream for having respect for human rights for all without discrimination in the world becomes a reality.

2.3.4.9 Geneva Convention Relative to the Treatment of Prisoners of War, 1949

This Convention was adopted on the 12th August 1949 by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War. It was held in Geneva from 21st April to 12th August 1949 and came into force in

October 1950. The Convention is important to this study because it protects right to life and prohibits torture and discrimination especially in time of war which is relevant to the topic under study.

This Convention lays down rules that prevent torture especially in time of war. It provides that in case of intra-state conflict, each party to the war shall be bound to treat humanly in all circumstances without discrimination of all kinds, persons taking no active part in hostilities. These include members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detentions or any other cause.

Article 3 of the Convention prohibits violence to life, specifically, murder of all kinds. It also disallows outrages upon personal dignity, in particular, humiliating and degrading treatment. The same article bans executions without proper and thorough investigation and judgment. It also counsels that the wounded and the sick shall be collected and cared for.

This Convention is one of the early documents that is well detailed on torture. The unique thing about this instrument is that it takes care of peace time as well as war time. But like many other instruments its implementation is still a distant dream

2.4 AN ASSESSMENT OF THE ABOVE PROVISIONS

The fact that men, women and children are still discriminated against, tortured and killed every day around the world, both in peace and in war time cannot be overemphasized. However the right to life, freedom from being tortured and discriminated against in particular, and all other human rights are recognized in multiple local, regional and international instruments.

The various instruments highlighted emphasize the importance of the right to life and prohibit torture and discrimination. The instruments particularly underline the enjoyment of rights without discrimination of any kind. In other words, every one notwithstanding his or her background, status or color, race among others is expected to enjoy the rights provided in them without discrimination.

It is worth noting that there is wide spread discrepancy between the legal provisions and actual practice. In reality, enforcement or implementation of the studied human rights provisions is more conditional and depends on the States in question. Where the violation of right to life, freedom from torture and discrimination are carried out as part of government policy or where such acts have the tacit support of the government of the State, it is difficult to bring criminals to account. Therefore there is prevalent impunity. Other member States also fail to enforce the standards when they have such criminals in their lands.

2.5 CONCLUSION

This chapter examined scholarly literature in the first part. It has brought out relevant literature relating to the veto power of the UNSC and humanitarian intervention. The reviewed writings try to present how the veto power could influence the decision-making and policies of the members of the council. They tackle as well UN humanitarian intervention and its dilemmas. Related scripts regarding the inaction or non- satisfactory action of the UNSC in conflict with focus on the 1994 Rwanda genocide were also showed. This was followed by some relevant legal human rights instruments in the second part. The center of attention has been regional and international provisions on the right to life, rights not to be tortured and discriminated against.

There is apparently a lot of literature on this subject; therefore this study is just another version. The difference however is that, this research takes a human rights based perspective which is rare with other pieces of literature reviewed.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 INTRODUCTION

The study methodology represents a combination of collected works in order to discover reliable data on the topic. The study combined both qualitative and quantitative methods. A questionnaire and an interview guide were used to collect primary data from selected key informants in the field. Secondary data was collected using reviews of books, recorded testimonies of the survivors and families of the genocide victims, documentation, documentaries, research papers, international human rights instruments, radio programs and the internet.

3.2 RESEARCH DESIGN

This research was a case study of 1994 Rwanda genocide which is an example of unsatisfactory reaction to an ethnic cleansing that amounts to genocide. The rationale of choosing a case study was based on the assumption that the problem under investigation cuts across nations. Therefore, whereas findings from this case study may vary in one way or the other with what is the case in other places, it is probable that similar conclusions can be drawn.

3.3 AREA OF STUDY

The study was conducted in Kigali (Rwanda) and in Kampala (Uganda). This is because Kigali is where many of the families of the genocide's victims and the survivors live. In addition most of the eye and ear witnesses including the UN agencies and the NGOs that helped during and after the genocide are still in Kigali.

Kampala was also included as some Amnesty International Researchers on the Rwanda genocide that provided considerable information on the human rights aspect of the subject under study are based in the NGO's regional office in Kampala. Besides Kampala being the capital city of the country neighboring Rwanda that experienced the genocide, still harbors quite a number of Rwandans that ran away during or just after the genocide that the researcher had the opportunity to interview.

3.4 STUDY POPULATION

Two types of respondents were involved in this study: The first category of respondents that the study named survivors include the Tutsis and Hutus. Some of them are within Rwanda and some are still refugees outside Rwanda. Then, the second category of respondents is officials of some humanitarian NGOs and some UN Agencies that were involved in humanitarian work in Rwanda during and after the genocide.

3.5 SAMPLE SIZE

In order for the research findings to be representative, valid and reliable, the researcher used a sample size of 60 respondents selected out of the study population described above. Twenty (20) of the respondents constituting the sample size were selected from all the key informants from the UN agencies and the humanitarian NGOs that were in Rwanda during and after the 1994 genocide. This represented the first category of respondents. The remaining forty (40) respondents were selected from among the Tutsis and Hutus representing the second category of respondents who were mainly the genocide survivors of various categories/caliber (males, females, widows, widowers, orphans, government workers, peasants among others).

The sampling frame used included comprehensive staff lists of the international humanitarian organizations and the UN Agencies that operated both in Rwanda and Uganda; and the lists of residents in the communes (sous prefectures) from the local chiefs (sous prefets). The membership list of the Association of Genocide Widows in Kigali was obtained from the association's secretary in addition to the list of Rwanda refugees in Uganda got from the office of UNHCR in Uganda.

3.6 SAMPLE PROCEDURE

Considering the nature of the study and the target population, the researcher selected the second category of respondents using Criterion (Purposive) random sampling, in which case the researcher purposely targeted those respondents that were knowledgeable on the subject under study to ensure that reliable information could be obtained. The selection of the first category of respondents who were mainly the genocide survivors was carried out by use of both systematic and stratified random sampling. These groups of mainly survivors of different caliber were divided into

homogenous groups according to a number of common characteristics such as their occupations, ages, literacy levels and sex. Having randomly picked the element/respondent for each category from the lists so developed, the subsequent respondents were systematically picked after a range of 5 persons.

3.7 DATA COLLECTION METHODS

Qualitative methodology was heavily relied on because the very nature of many aspects of the study is such that they cannot be easily quantified. Thus the qualitative approaches were used to throw light on power politics in the UNSC and other causes of inaction of the council. The study was interactive involving usage of self-administered questionnaires and structured interviews for some of the respondents.

3.7.1 Questionnaire Method

Open and close ended questions were used and these were administered by the researcher. Those who could read and write were served with the questionnaire and they were left to answer on their own while those with difficulties in reading and writing or understanding the English language answered with the help of interpreters and translators.

3.7.2 Interview Method

A set of questions was phrased in accordance with the specific objectives of the research. These questions were used to interview some respondents. Most of the respondents interviewed were mainly those who could not handle the questionnaires because of their level of education. Questionnaires were distributed generally to those who were learned and to those who were skeptical about the purpose of the interview. In general about three-quarters of the population were interviewed. This is simpler and helped reduce the problem of delay in answering the questionnaires. The interview also helped the researcher to interact better with the respondents and to witness how sad and traumatized some of the survivors of the genocide become while trying to recollect those sad moments.

3.7.3 Library Research

Library sources were consulted in order to find out available literature on the topic and gaps to be filled after the research was carried out. Many human rights

international instruments including UDHR, ICCPR, ICEAFRD, CRC, Vienna Declaration and Program of Action among others have been helpful.

3.7.4 Radio Programs

The researcher listened to radio programs especially on BBC and RFI about the Rwanda genocide and about the way the UNSC was dealing with international peace and security and how the UN and the international community in general succeeded or failed to protect and promote international human rights. These topics normally came on news and interviews and on special programs as “Geo- Politics” that had been coming on RFI at 11.05am on Saturdays and on Sundays at 9.40pm. The researcher followed closely news on how the UNSC handled conflict resolutions in various countries like in Sudan, Rwanda, Israeli- Palestinian war, Somalia, Zimbabwe among others.

3.7.5 Documentation

The researcher watched a film on the Rwanda genocide entitled “Hotel Rwanda” that showed how Tutsis were discriminated against, how the genocide was prepared, the way massacres took place, how the international community evacuated the expatriates leaving behind the victims, and the way the killing escalated after the evacuation of the foreign nationals.

Kigali Genocide Memorial Site displayed various documents on the 1994 Rwanda genocide. The researcher came across in the site, records that showed the early warning signs of the genocide; the way genocide was organized, the propaganda campaign of the Hutus against Tutsis using “Radio Télévision Libre des Mille Collines” and “Kangura News Paper”. The responses of the UNSC to the precursors of the genocide and the genocide itself were also exhibited. Various human rights reports were as well put on view including recorded video testimonies of the survivors and the family members of the victims.

3.8 DATA ANALYSIS TECHNIQUES

After collecting data from the field and information from library research, the researcher interpreted the data and successfully tried to take out the biases and irrelevancies. Qualitative data was recorded verbatim to avoid any distortions. Raw

data was carefully studied and analyzed by the researcher. It was there after thematically arranged following the objectives of the study. Some quotations were left in their original forms while others were summarized and paraphrased. For quantitative data frequency tables have been drawn to show the relevant aspects of the subject under study.

CHAPTER FOUR

PRESENTATION OF DATA

4.1 INTRODUCTION

This chapter presents the data from the field research that was carried out in Kigali, Rwanda and in Kampala, Uganda. A sample of 60 respondents comprising Tutsis, Hutus and representatives of some humanitarian organizations and UN agencies was drawn.

Both systematic and stratified random sampling were used to obtain data from the survivors that constitute 40 respondents out of 60 respondents drawn as a sample. And criterion sampling was used to get information from eye and ear witnesses. This represents an opportunity to also study the view of the international community towards the genocide for a broader understanding of the topic under study.

The chapter gives a summary of the field research data in accordance with the specific objectives of the study. The field findings are presented using both qualitative and quantitative method of analysis.

4.2 SUMMARY OF THE PARTICULARS OF THE RESPONDENTS

4.2.1 Composition of the various types the Respondents

Table 1

Category	No.	%
Members of Association of Genocide Widows	5	8.35
Members of National Human Rights Commission	5	8.35
Officials of Rwanda Patriotic Front	5	8.35
Workers at Kigali Genocide Memorial Sites	5	8.35
Family Members of Victims of the Genocide	10	16.7
Rwanda Refugees in Nakivale Refugee Settlement in Uganda: Hutus and Tutsis	10	16.7
Amnesty International Officials in Kampala	4	6.68
Officials of Save the Children Fund	3	5
Officials of International Committee of Red Cross	3	5
UNICEF Officials in Kigali	3	5
Officials of UNHCR	3	5
Officials of UNDP Kigali	4	6.68
Total	60	100

Source: Field Research Sampling Frames discussed under 3.5 above

As shown in the table above, most of the respondents were family members of the victims and direct victims of the genocide. These victims were found within Rwanda and at the refugee camp in Uganda. These respondents lost their love ones to the genocide and they were affected themselves physically, psychologically, economically. The respondents in Nakivale Refugee Settlement in Uganda were both Hutus and Tutsis including some people that opposed the present ruling regime. The next sets of respondents were the officials from the humanitarian organizations and the officials of the UN Agencies. These respondents were relatively fewer because in their offices the boss of the office, the researchers on Rwanda genocide and those that handle the offices in charge of giving assistance to the genocide victims are targeted. In general the respondents were people from all walks of life. There were those who

were highly educated some were semi- educated and some were illiterates. Some were men and others women. This gave the researcher a wider spectrum of views on the subject under investigation.

4.2.2 Age Distribution of the Respondents

Table2

Age Groups	Numbers	Percentage (%)
19-28	8	26.4
29-38	10	33.4
39-48	16	53.4
49-58	16	53.4
59-68	10	33.4
Total	60	100

The majority of respondents were between the bracket age of (39-48) to (59 -68) years. This shows that most respondents clearly witnessed the genocide and could genuinely report what they lived. The fewer respondents of the people between the age group of 19-28 could be attributed to the fact that these people were fairly young at the time of the genocide so much response was not expected from them.

4.2.3 Survivors' Relationship with the Genocide Victims

Table 3

Relationship with the Victims	Numbers	Percentage (%)
Widow	16	53.34
Widower	12	40
Father	12	40
Mother	10	33.34
Guardian	4	13.32
Close relations	6	20
TOTAL	60	100

From the above table, the majority of the respondents that were survivors were widows who lost their husbands during the genocide. It can be deduced that more men were killed in the genocide than women.

4.2.4 Occupational Distribution of Respondents

Table 4

Occupation	Frequency	Percentage (%)
Menial workers/ unemployed	5	8.35
Teachers	5	8.35
Health workers	4	6.68
Business entrepreneur	4	6.68
NGO humanitarian workers	10	16.7
Government workers	10	16.7
UN agency officials	10	16.7
Students	4	6.68
Lawyers	4	6.68
Peasants	2	3.34
Other professions	2	3.34
Total	60	100

Among the respondents who were drawn from various walks of life, the majority were government workers followed menial workers or unemployed and teachers. However it can be observed that there were no remarkable differences in the occupational distribution among the respondents who were randomly selected. There could be an assumption that the economy is picking up evenly. The NGO and the UN officials' respondents were purposely selected.

4.3 ASSERTAINING THE OPINION OF THE RESPONDENTS

The respondents were asked if they thought the international community intervened in the 1994 Rwanda genocide. They were also interrogated about their views on the

causes of the behavior of the international community in general and the UNSC in particular.

4.3.1 The Views of the Respondents on the Humanitarian Intervention in the 1994 Rwanda Genocide

A general question on whether or not the international community or the UNSC in particular intervened satisfactorily in the 1994 Rwanda genocide was put to the survivors as well as the eye and ear witnesses. Over 90 percent of the respondents answered the question negatively. The survivors as well as eye and ear witnesses thought the international community failed to intervene successfully in the genocide. About 10 percent of the respondents were of the view that the international community was quite helpful after the genocide but its intervention before and during the genocide was very disappointing.

4.3.2 Unsatisfactory Intervention

Several answers were given by various respondents when asked about why they thought the international community did not intervene in the 1994 Rwanda genocide successfully. The table below summarizes the responses of the survivors and the eye and ear witnesses.

4.3.2.1 Causes of Unsatisfactory Intervention

Table 5

Causes	Numbers	Percentage (%)
Politics and bureaucracy in the UN system	8	13.36
No interest in a poor and small country	18	30
Shifting of attention of the word super power	4	6.68
Selfish nature of human being	24	40
Lack of willingness	6	10
Total	60	100

The above table indicates that most respondents pointed out selfish nature of human beings as the cause of non intervention. While relatively many respondents also thought it was because their country was poor, very few attributed the nonintervention

to the fact that the powerful nations that could help were committed elsewhere. This showed that most respondents did not attribute the non -satisfactory intervention to lack of resources.

4.4 THE RESPONSE OF THE INTERNATIONAL COMMUNITY TOWARDS THE 1994 RWANDA GENOCIDE

It was admitted that even though the international community failed to intervene successfully in the 1994 genocide, various moves had been made by the UN at different levels of the conflict which finally led to the genocide.

4.4.1 Preventive Role of the UNSC

When the question was put to the respondents about the preventive role that the UN and the international community played in Rwanda, more than 90% of the respondents thought there had generally been neglect on the part of the international community and sabotage on the part of France towards the 1994 Rwanda genocide. About 10% of the respondents recognized that there was an unsuccessful try by the international community to prevent the escalation of the conflict in its initial stage. Various reasons were given by the respondents when asked why they argued the way they did. The table below summarizes reasons given by the respondents.

4.4.1.1 Reasons for Neglect and Sabotage

Table 6

Reasons	Numbers	Percentage (%)
French trained Interahamwe openly.	38	63.46
French helped the Rwandan government to acquire weapons.	10	16.7
The genocide preparations were disclosed and messages sent to the UNHQ	6	10.02
Genocide could have been detected with satellites	3	5
Ratification of international Human Rights instruments with reserve	3	5
Total	60	100

The above table shows that the majority of the respondents among the survivors argued that France openly trained the Interahamwe and supplied the genocidaires with weapons. A fairly good number of people also reasoned that the preparations of the genocide were revealed by reliable sources and messages were sent to the UN headquarters. Besides, satellites could have been used to detect the fact if there was political will, they argued. Very few people actually mentioned that the genocidaire government ratified some international human rights instruments with reservations.

4.4.2 Peace Keeping

When the respondents were interrogated on their views about the international peace keeping in Rwanda during the 1994 genocide, it was found out that the survivors regarded the reduction of UNAMIRIR troops as catastrophic. This, they said truly escalated the killing. Most of the respondents thought that the evacuation of the foreigners and the reduction of the peace keeping force was an encouragement to the perpetrators. One the executive members of the Association of Genocide Widows “Association des Veuves du Genocide (AVEGA)” in Kigali pointed out in an interview that: *“the presence of the UNAMIR was a sort of refuge, hope and protection for the pursued even though the troop was not defending them”*. She said when UNAMIR was reduced, *“the perpetrators boldly claimed that the world had abandoned the Tutsis and even God hated them”*. *“On these words, the killers freely slaughtered as many people as they could in a day. They rested when they were tired and continued as far as their strength could take them”* (Personal interview, November 20, 2007). Some of the respondents also judged that the wrong mandate was prescribed therefore the peace keeping was a total failure.

4.4.3 Peace Enforcement

This study sought out whether or not Operation Turquoise was helpful. But more than 95% of the survivors answered that the operation did not help. They rather looked at it negatively. These respondents argued that Operation Turquoise was a sort of protection to the perpetrators. Some of them said that the Hutu militias regarded the French as allies and some of them also said that the operation provided a safe zone for the perpetrators to flee from the advancing RPF. However some of the eye and ear witnesses saw it as quite useful because it was able to save some lives.

4.4.4 Peace Building

There were different views about the international community's peace building role in Rwanda after the genocide. Some sizeable number of respondents thought they had been left alone after the genocide. This category of respondents expected reparation from the international community. They claimed they had been rendered poor by the genocide and expected the international community to come to their aid.

In a separate interview with a section of respondents, about 30% of them admitted that the country benefited from international help after the genocide. They acknowledged the structural development in the country, the economic empowerment of some people, scholarships for some students, the face lift of the country, the popularity of Rwanda and the opportunity given to Rwandans to travel abroad without a visa for some period of time after the genocide.

4.4.5 The UN and Post Genocide Justice

The establishment of the International Criminal Tribunal for Rwanda (ICTR) was hailed by many of the respondents. Some of the respondents thought it was a step in the right direction. In an interview with a male member of National Commission for Human Rights in Kigali, he pointed out that: *“the establishment of the ICTR indicates that genocide in Rwanda had finally been recognized by the international community”*. He argued that *“there had been genocides in Rwanda since 1959, through 1962, 1963, 1967, 1973, 1990 and finally 1994. But like in Sudan, these genocides were not recognized”*. *“However all this while”,* he said, *“Tutsis were discriminated upon, and a big number of them were killed”* (Personal interview, November 21, 2007).

4.5 OBSTACLES TO THE PERFORMANCE OF THE UNSC

After tackling the causes of inaction or unsatisfactory intervention by the UNSC and the response of the international community in general in the 1994 Rwanda genocide, the other aspect of this research was to study the constraints and obstacles that worked against the effectiveness of UNSC in the performance of its duties.

There were remarkable factors that respondents among the survivors and the eye and ear witnesses pointed out. The factors that came up frequently in the interviews conducted and the questionnaires answered are summarized in a table below. These factors are then presented in detail with explanations as given by the respondents.

4.5.1 Obstacles to the Performance of the UNSC

Table 7

Factors	Numbers	Percentage (%)
Sovereignty	4	6.68
Lack of political will	18	30.06
Lack of resources	6	10.02
Lack of agreement	10	16.7
Lack of powerful regional troops	6	10.02
Acceptability of peace keeping force	8	13.36
Bureaucracy	8	13.36
Total	60	100

From the summary in the table above, some factors propounded as the obstacles to the UNSC satisfactory intervention by the survivors and the eye and ear witnesses concur. The majority of the respondents thought lack of political will of nations was the cause of the unsatisfactory intervention in the Rwanda genocide. Relatively very few people also were of the view that sovereignty was the cause. This could be related to the fact that when there is total chaos in a country, sovereignty becomes the least important issue to almost everyone except the perpetrators.

4.5.2 Sovereignty

Some relatively few respondents attributed the problem of inaction or unsatisfactory action of the UNSC to sovereignty. This factor was mostly advanced by more educated ones among the survivors and some eye and ear witnesses. These people apparently understood the workings of the international system and mentioned sovereignty as a necessary factor to consider but cannot be held on to in time of gross human rights violations as that of the Rwandan genocide. This category of people

pointed out that even though article 2.7 of the UN Charter gives the right of sovereignty to nation States , the same Charter gives the right to the UNSC to override this right of sovereignty in case of gross human rights violations.

Some of the eye and ear witnesses that were experts in the field of international affairs further argued that even though the Security Council is still limited by some factors like the exploration of all the avenues and having the consensus of all the members of the council, the Security Council needs to determine at what point its intervention is necessary.

As for the ordinary respondents that did not understand much about the sovereignty and the workings of the international system, they simply thought that sovereignty should not be talked about when many people are being killed.

4.5.3 Lack of Political Will

The majority of the respondents among the survivors assigned the inaction or the unsatisfactory action of the UNSC to the fact that the nation States especially the world super powers that are more influential, were not willing to help because their country was small and poor. A female respondent among the survivors in an interview argued: *“If Rwanda was to be Iraq or Saudi Arabia where there is petrol or gold, the world’s most powerful countries would have intervened even when there was no much cause for intervention. But because there was no economic interest or nothing to attract the influential countries of the world, they turned deaf ears to Rwanda’s problems”* (Personal interview, 20 November, 2007).

An executive member of the Association of Genocide Widows in Kigali also commented that: *“the world was simply selfish. Since Rwanda was a poor country no one was willing to help us. We were considered as people without value; ‘even dogs had more value than us’ she exclaimed”* (Personal interview, 21 November, 2007). She said this to justify the fact that the diplomats and expatriates were evacuating their dogs while they abandoned human beings that were crying for help. *“The dictum ‘dogs are better than you’ became a popular saying in Rwanda after the genocide”, she concluded.*

Some of the eye and ear witnesses generally commented that, political will was one of the major draw backs of the maintenance of international peace and security and the promotion of international human rights. One of the male ear witnesses was pessimistic on the fact that even after the human rights atrocity of the Rwanda genocide, nations including the powerful ones had not yet learned to sacrifice their pursuits for the sake of human rights. He made the observation in relation to the Sudan genocide-like situation where some UNSC members like China and Russia are not willing to help deal with the situation in defense of their national interests.

4.5.4 Lack of Resources

This research identified the problem of mobilizing finances and other resources as a wide spread one as it was hinted on by almost every respondent. However the majority of the respondents also added that the raising of the resources should not be much of a problem if there is political will to do it. One of the female respondents in an interview rhetorically asked: “*do you think the US or the UK would not single handedly foot any cost to successfully intervene in a country where their interests were at stake*” (Personal interview, 21 November, 2007).

Other arguments about the financial constraints by the respondents can be summarized as follows: intervention demands a lot of money while many nation States are not financially sound enough to support this cause. Therefore the burden is ever on the shoulder of a few powerful countries that are already overburdened. The majority of eye and ear witnesses believed that the financial capacity of the powerful states that could have helped was fragmented and therefore became limited. These people argued that at the time of the genocide in Rwanda, there were many other civil wars in which the world super powers had involved themselves in and therefore they were constrained in resources. A male ear witness said that the world was too slow to accept that the 1994 Rwanda killings was genocide because of the financial responsibility attached to it.

4.5.5 Type of Conflict and Proper Type of Intervention

The research has identified the problem of lack of consensus to determine the type of conflict at hand and the right solution for it as a wide spread problem. This was hinted on by almost every eye and ear witness and some of the survivors. It probably

has to do with UNAMIR I's failure to help during the crises. How did the failure of UNAMIR I come about? That was the question that guided this research into probing how the wrong mandate given to UNAMIR I impeded the effectiveness of the troops.

It was emphasized in various interviews that the wrong mandate given to UNAMIR I had serious implications on its performance. "UNAMIRI's troops were a toothless dog which could not bite" was a common answer concerning the performance of UNAMIR I during the genocide. UNAMIR I, the respondents said, had no appropriate weapons neither were they making much efforts to defend the victims.

Failure to give the correct authorization is one of the factors that some of the respondents among the survivors identified to be an obstacle to the satisfactory intervention. These respondents argued referring to the Rwanda case that "if only UNAMIR I were authorized to use force and with more sophisticated weapons the perpetrators would have been scared away."

Some respondents among the survivors however considered UNAMIRI's presence despite their limitations to be helpful in one way or the other because they said it was a sort of protection and hope for the victims and their presence prevented the perpetrators from going to extremism.

4.5.6 Lack of Powerful Regional Forces or Strong Standby Troops

Lack of powerful regional and well equipped standby troops turned out to be one of the factors cited by the study as far as the obstacles of effective interventions are concerned. Many of the respondents thought a well equipped and well organized regional or stand-by UN troop would have helped in intervening promptly in such a situation.

It was emphasized in various interviews with some respondents that regional troops which are better placed to promptly intervene in crises areas within their regions were non existent. Even when they exist most of them especially those in developing countries are not well organized. They lack equipment, finances and so forth. Some of respondents lamented that some of the regional troops could be dominated by a single nation which could make the country in crises reluctant to accept their entrance

because of the fear that they could be siding with one warring party to the detriment of the others.

This view was mainly advanced by the majority of the eye and ear witnesses. One of the ear witnesses argued that strong, well trained and well equipped regional peace keeping troops would bring effectiveness into the history of international peace keeping because they would intervene promptly and would not have to wait for a long and complicated bureaucratic procedure of the UN.

Many of the survivor respondents thought that a regional or a standby troop was a very good thing on itself and it would have been beneficial to them if such provisions were made. But they were pessimistic about its effectiveness if it should be dominated by one troop. They cited their experience with Operation Turquoise which they thought was pro- Hutu. One of the female survivors who said she lost every body in the family of seven to the genocide including her dad and mum except herself and one of her younger sisters answered that: *“the troops sided with the genocidaires. They even allowed them to carry out atrocities in their camps”*. She emphasized, *“one of my sisters was killed in the Zone Turquoise* (Personal interview, 21 November, 2007).

4.5.7 Lack of Acceptability of the Peace Keeping Force

The research recognized lack of acceptability of the peace keeping force by the warring factions and the population as one of the problems that hinders effective intervention in the crises areas. How did this problem affect the effective intervention by the UNSC in the 1994 Rwanda genocide? This question guided the research in probing how the peace keeping force could be rejected by the warring factions or the population.

It was evident in various interviews held with survivors that UNAMIR I was not rejected ctims. On the contrary they felt protected by the presence of the troops. Some respondents also pointed out that the perpetrators did not like the presence of UNAMIR I therefore they hunted Dallaire and his men so that they could leave for them to have their freedom to commit their crime. *“The perpetrators singled out the Belgium troops which were more equipped for attack. They failed to achieve their goal after many provocations, but on the fateful day when president Habyarimana*

was killed they succeeded in killing many Belgian soldiers and this made the Belgium troops leave”, narrated one male respondent among the survivors.

4.5.8 Bureaucratic Procedures in the United Nation System

Many of the respondents thought there was too much bureaucracy in the United Nations Organization (UNO). The details of the bureaucracy in the UNO seemed not to be fully known by many of the survivors. However most of them assumed that it

was the world body that takes decisions and there was a lot of delay in their decision making procedures. Many of the eye and ear witnesses and those that understood more of the workings of the international system, emphasized that there are many unnecessary deliberations in the UN System and the worst of it is when there is no agreement reached among the P5 Members, then the whole decision making procedure turns to a stalemate.

Some few eye and ear witnesses also identified politics in the UNSC to be one of the major obstacles and a real bureaucratic procedure that militate against satisfactory intervention. A member of the human rights commission in Kigali argued in an interview that: *“once the members of the UNSC have no interest in a country, they leave it to roast in its own stew. On the other hand if their interest is at stake, they use their votes in the Council in their own interest”*. He cited Sudan as an example and said: *“over the years nothing significant had been done by the UNSC because of the interest of some few members of the Security Council that are allies to the Sudanese government”* (Personnel interview, 20 November, 2007).

4.6 HUMAN RIGHTS VIOLATIONS AND THEIR IMPLICATIONS

The core reason behind this study is to relate the inaction of the world body responsible for the maintenance of peace and security to the escalation of human rights in crises areas. This study therefore looked into the various types of human rights that worsened during the 1994 Rwanda genocide. All rights could said to be violated during the Rwanda genocide. These abuses of rights had gone from bad to worse when no significant attempts were made by the international community to stop the violations.

4.6.1 Right to Life

In answering the question as to what human rights have been violated during the genocide, more than 95% of respondents stated that the right to life was the most violated right. The respondents confirmed that more than 800,000 lives were lost and many families had been totally wiped out. They argued that, the death toll gradually increased from 200,000 at the end of April to 500,000 at the end of May and 800,000

by the end of June 1994. The death toll would not have gone that high if the international community had intervened on time, they concluded.

4.6.2 Torture

More than 90% of the respondents testified to torture of various forms during the genocide. The murderers used machetes, clubs or any blunt tool they could find to inflict as much pain as possible on their victims. Kigali Genocide Memorial Site reports that the victims were often mutilated before killing. Their tendons were cut off; they were tied up and beaten before they were killed. The perpetrators made the victims wait helplessly to be clubbed, raped and cut by machetes.

Family members were made to watch on as their parents or loved ones were tortured, beaten or raped. Some times, victims were thrown alive in latrines and rocks were thrown on them one after the other until they died. Thousands of survivors also suffered machete cuts, bullet wounds, infection and starvation. According to some respondents interrogated at random, some fathers were forced to rape their own daughters and they were killed after that. Some people were burnt to death alive and others were buried alive.

4.6.3 Discrimination

Tutsis suffered wide spread discrimination before the actual genocide in 1994. According to most of the respondents, Tutsis were not considered human; in school, hospitals, and offices. Most of the survivors said they were discriminated against. Some of them mentioned, they dropped out of school because of discrimination. A pathetic story was told of a Tutsi man and father of one of the respondents. He was the head master of a school but had to become jobless because of the discrimination. His passport was taken away from him and he was finally killed during the genocide.

Kigali Genocide Memorial Site reports that, there were intense propaganda campaigns to persuade and compel the majority Hutu population as to why they should see their compatriot Tutsi neighbors and even their own Hutu family members that either have Tutsi blood or support Tutsis as enemies. When the genocide was threatening, Radio Television 'Libre des Mille Collines,' a popular radio and television station in Rwanda was used to incite hatred against Tutsis and justify the reason why they

should be killed. The Kangura newspaper of December 1990, page 8 contained ‘Les dix commandements de Hutu’, that is “the Hutu’s ten commandments.” It stated rules which commanded Hutus to discriminate against Tutsis.

4.6.4 Human Rights Implication of the Rwanda Genocide

Following the violations of almost all the human rights of the victims and the survivors as reported by the respondents, tremendous implications on the victims, the nations, the region and even the world as a whole were identified. Some respondents stated that there were many children who became orphans. For that matter they could not go to school. Most of such girls became vulnerable to men who used them for money. For being the oldest among the survivors in their families, many children became heads of families when they were still very young. Kigali Genocide Memorial Site confirmed that there were over 300,000 orphans and over 85,000 children that became heads of their house holds with younger siblings and relatives.

There were thousands of women that became widows and many of them had been victims of rape and sexual abuse. One of the widows narrated her ordeal that after her husband was killed she took refuge with a man who hid her and her children. This man whose health status she knew nothing about wanted to sleep with her. When she refused he threatened to hand her and the children over for killing. For the sake of the children she accepted to be sexually used by the man and this traumatized her many years after the genocide. She feared that she contracted HIV/ AIDS. She could not have the courage to test either for she was afraid to be confirmed. Some human rights implications as identified by the respondents are summarized in a table below.

4.6.4.1 Human Rights Implications of the Rwanda Genocide

Table 8

Implications	Numbers	Percentage (%)
Health problems	20	33.4
Increase in refugee and IDP populations	8	13.36

Poverty	20	33.36
War and conflict	8	13.36
Dependency	4	6.68
Total	60	100

Whereas the majority of the respondents thought that health problems and poverty had increased as a result of human rights violations during the genocide, relatively very few respondents related dependency to the genocide. This could be attributed to the fact that dependency had become part and parcel of African culture and therefore it was a normal thing that attracted less attention.

4.7 CONCLUSION

This chapter presented the findings from the respondents and other field study sources without distortions and biases from the researcher. It was apparent that most respondents thought that intervention in the 1994 Rwanda genocide by the UNSC and the international community in general was not successful. Thus the causes of the unsatisfactory intervention of the UN were discussed followed by the response of the UNSC and the international community towards the genocide. At this point, the various roles that had been played by the UNSC and the international community in the Rwanda conflict till after the genocide has been found out. The role of UN and post genocide justice was also discussed. The study sought to know the obstacles that militate against the effectiveness of the UNSC in the performance of its duty as maintainer of international peace and security. Finally the various human rights violations and their implications that were recorded as a result of the genocide were talked about.

CHAPTER FIVE

CHAPTER FIVE

INTERPRETATION AND DISCUSSION OF DATA

5.1 INTRODUCTION

This chapter questions and gives a deeper interpretation to the findings presented in chapter Four. The chapter brings together the different data and engages in a discussion of the main arguments that underlie this study. It discusses the subject of study from four fronts: The first is the field findings that were gathered from the study from the respondents and other sources in the areas of study; the second is the information from literature available on the subject studied; the third is the backing from key regional and international human rights instruments as highlighted in chapter two and lastly the personal views, ideas, opinions of the researcher. The mixing of the four constitutes an attempt to make a concrete and scholarly surgery of the subject under study.

5.2 CAUSES OF INACTION OF THE UNSC IN CRISES

The very first objective of the study was to ascertain the causes of the inaction or late action by the UNSC in crises Areas. The rationale for this is that the awareness of the causes of the inaction could help clarify the assumption that the UNSC fails to intervene satisfactorily because of power politics in the council. About 90% of the respondents thought that the international community or the UNSC in particular failed to intervene successfully in the 1994 Rwanda genocide. 10% of the respondents thought the international community was quite helpful after the genocide but was very disappointing before and during the genocide.

To have an exhaustive understanding of the causes of inaction, it will be necessary to discuss first the role of the UNSC in order to appreciate its importance. This will be followed by the policies in the Council that will necessitate the explanation of the concepts 'power politics' and 'the veto' from historical and theoretical angles. How the power politics and other factors can contribute to the escalation of human rights in crises area will be discussed. The analysis of human rights violations and their implications will be finally be made.

The respondents' view about the causes of inaction by the UNSC was left to the interpretation of the respondents without any bias. Accordingly, different answers

came up some of which were totally out of ignorance and have no link with the question. The most common and frequent responds were summarized in chapter four.

The respondents were interrogated concerning their views about the causes of unsatisfactory or lack of intervention in the genocide by the UNSC. About 30% of the respondents answered, the international community had no interest in a poor and small country like Rwanda therefore it did not try to help. The majority of the respondents who gave this view were survivors that lost their spouses and children, children who lost one or both parents, relatives and loved ones during the genocide. This category of people also includes some of the executive members of the Association of the Genocide Widows in Kigali.

While some 15% of the respondents mainly the eye and ear witnesses and the well educated attributed the unsatisfactory intervention or non- intervention to politics and bureaucratic procedures in the UN system, about 40% of the respondents said it was due to the selfish nature of human beings. The respondents in this category were comprised of people from all walks of life ranging between primary school teachers, clerks in offices, business men and women, lawyers and lecturers. Whereas the illiterates and the semi literates in this group were vague and accused the international community in general for not helping because of self-centeredness, the learned related the selfish nature of human beings to the decision making in the UNSC and political will of the UN nation states.

An estimated 5% of the educated respondents related the non-intervention by the international community to the shifting of the attention of the world's super powers to other parts of the world that were also in crises at the time. However the explanation of most of the learned among the survivors made allusion to the fact that there was discrimination based on interests. For example one of the respondents ironically questioned: "would the world super powers decide to abandon the Gulf War for instance and rather choose to concentrate on a crisis in a poor country like Rwanda!"

About 10% of the respondents on their part thought that lack of resources could partly be the problem of the non-intervention of the international community. The survivors among these last two categories of the respondents did not fully blame the

international community for failing to intervene in their country but they blame themselves as being the cause of their own problems.

The various respondents' views on the causes of non-intervention of the international community in the 1994 Rwanda genocide can be summarized into politics and bureaucracy in the UN system, lack of interest, selfish nature of human beings, lack of resources and shifting of attention. However analyses of the international law dilemma and some selected scholars concerning the causes of non-intervention in conflicts by the UNSC have to be made before any meaningful conclusion could be reached.

The 1945 United Nations Charter made a rather ambiguous provision of the principle of non-intervention which emanated from the Westphalia norms of peace treaties of State formation. Article 2.7 talks about non-intervention in the internal affairs of other countries and it states: *“Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essential within the domestic jurisdiction of any State or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under chapter VI”*. In summary, the article gives the right of sovereignty to the nation States but it also cautions that this does not override the use of force for the purposes of maintenance of peace and security.

In the 20th century in particular, the international system was so traumatized by inter-state conflicts that the founding fathers of the Charter were prompted to enshrine this article as a solution against chaotic hostilities in the international system.

The article 2.7 of the UN Charter has however become the bedrock for oppressive governments to claim their sovereignty against international interventions. However sovereignty is being redefined by human rights considerations and factors that make the world a more global village. As Kofi Annan asserted while giving his thoughts on international humanitarian intervention in time of crises and the changes needed for the next century: *“Sovereignty in its most basic sense is being redefined - not least by forces of globalization and international co-operation”* (Annan, 1999: 1).

Baehr (2001) on his part perceived humanitarian intervention as some manner of forceful intervention by a State in the domestic affairs of another State and it runs counter to national sovereignty, but he nevertheless argued that there has been a new definition of what constitutes international peace and security (Baehr, 2001:100).

The Institute of International Law recalling its Declarations of New York (1929) on International Human Rights and of Lausanne (1947) on the Fundamental Human Rights as a Basis for Restoring International Law as well as its Resolutions of Oslo (1932) and Aix-en-Provence (1954) on The determination of the Domain and its Effects considered in its resolution article 2 that “ A state acting in breach of its obligations in the sphere of human rights cannot evade its international responsibility by claiming that such matters are essentially within its domestic jurisdiction”(Institute of International Law Declaration, Article 2).

Sovereignty properly defined is not a defense for breaches of gross violations of fundamental human rights (Pellet, 2000: 7). He further argued: For a long time until the World War II in 1945, human rights were part of “the reserve domain” of States and that is the issue which was in principle regulated by international law. He further clarifies that even in such a case, Jurisdiction of a State is exclusively within the units fixed by international law. The Journal of Humanitarian Assistance published in 2004 also argued that sovereignty as it is used today does not need to be abandoned but it needs to be defined in a manner which is acceptable universally and then applied consistently.

We have seen over the last five years the emergence of a new international norm – The Responsibility to Protect (Gareth, 2006: 1). The UN Charter and other human rights documents cited in this study emphasize that sovereignty is being redefined in order to facilitate humanitarian intervention in the face of gross human rights violations.

It is worthy to note that the responsibility to protect human rights notwithstanding national boundaries has become a new international order and it has become a broadly accepted norm. However, this laudable development will remain a distant dream, as Gareth Evans (2006) expressed his fear: “We still cannot be at all confident that the

world will respond quickly, effectively and appropriately to new human rights catastrophes as they come if steps are not taken to address some related obstacles.”

For the focus of this study to be well understood, the importance of the UNSC and its policies cannot be underestimated. Hence, the roles and responsibilities of the Council will be highlighted, its working procedures will also be tackled with emphasis on the causes of the dead lock that from time to time cripple the effectiveness of the Council. There will be an attempt to explain this in two folds: first the background of the genesis of the UNSC and the veto power of the five permanent members (P5 members), second the realism theory in relation to the policies in the Council.

5.2.1 The Importance of the United Nations Security Council and its Policies

The UNSC had been bestowed with the responsibility of maintaining peace and security in the world. This has been enshrined in the UN Charter article 24 and it says: “In order to ensure prompt and effective action of the United Nations, its members confer on the Security Council the Primary responsibility of the maintenance of International Peace and Security....” Thus the decision to intervene in crises situations depends on the discretion of the UNSC even if regional peace keeping forces are to be used as indicated in article 53 of the UN Charter. As Darren, 2003: 82 explains, the UNSC is empowered to determine whether or not the UN should intervene in a particular situation.

The UNSC consists of fifteen members, five of them: The United States of America (USA), the United Kingdom (UK), Russia, China and France are Permanent Members (P5 members). Each of these P5 members has a veto under article 27 of the UN Charter on all but procedural matters (Shaw, 1997: 826). This implies that the decisions of the Council can only be made effective if all P5 members agree unanimously.

The problem comes when at least one P5 member opposes a decision. This means that one veto can override the rest even in the face of grave humanitarian matters. “Anyone of the P5 members can veto a decision made by the other members of the council therefore rendering it null and void” (Darren, 2003: 82). For example on the 25th March 2004 a resolution condemning the assassination of a Hamas leader was

defeated by the US sole veto (Billmon, 2004:1). Shaw points out that the powerful nature of the council's veto especially that of the double veto which was enshrined in the article 27 of the UN Charter Constitutes a formidable barrier (Shaw, 1998: 826).

This situation in the Council could bring about deadlock which could have terrible consequences. "Many regard the capricious use of veto or threat of its use as a principal obstacle of effective international action in cases where quick and decisive action is needed to stop or avert a significant international crisis" (ICISS 2001: 65). For example "the Security Council failed to act during the Rwanda genocide in 1994 due to the hidden vetoes of France and the US. Paris and Washington not only blocked UN action, but also used their hidden veto to weaken the definition of the crisis under international law" (Nahory, C., 2004: 3).

Often, the fight for national interests, that is, the exercise of power politics or "Real Politics" is presumed to be the underlying cause of the negative use of veto that could lead to dead lock in the council. "...The possibility that needed action will be held hostage to unrelated concern of one or more of the P5 members (ICISS, 2001: 65). For example in referring to the possible challenges in the Security Council, Africa Action entertains fear that it is possible that the Security Council will not agree to intervene in Darfur even with the US leadership because of the economic and diplomatic interests of some of the permanent members (Africa Action, 2006: 4).

Looking back at the intentions of establishment of the UNSC and the veto power of its P5 members at the formation of the organization in San Francisco in 1945, there was interplay of self interest and power politics (Gordon P, L., 2003: 164). Gordon argues that, the purpose of the establishment of the Security Council and its veto was for the great powers to dominate through their permanent membership and power of veto (Gordon P. L., 2003: 161). Shaw, 1998 observes that the powers of UNSC were established on the basis of power politics in 1945 (Shaw, 1998: 826). Darren also asserts that the five leading allies victorious in the World War II have considerable power, and that the power held by the UNSC is a matter of serious concern with regard to the UN structure (Darren, 2003: 82).

Power politics is a theory associated with the Realism idea. Realism simply means the ability to direct a decision or course of affairs in one's own interest. The Penguin Dictionary of International relations defines it as "The ability to influence or change the behavior of others in a desired direction or the ability to resist such influences" (Graham, 1998: 465). This tradition focuses on nation States as the principal actors in international relations. The idea is that nation States use power to protect their interests and to ensure their survival.

Realists believe that human beings have egoistic passions and self interest, and this reflects in international politics as well. Hans Morgenthau, a prominent 20th century realist in his book "Politics Among Nations" argued that human nature was at the basis of international relations and power seeking, and that, this could easily result in aggressions.

Analogically since the nation States that constitute the P5 members of the UNSC are made up of human beings, human nature is likely to show up. They are prone to protect the national interests of their countries. In analyzing the Peace keeping in the post Cold War, Price and Zacher (2004) assert that international involvement in intra-stated conflicts was driven in part by strategic interests. In other words, to intervene or not in a country depends most of the times on consideration of national interests. "Even some countries are capable of almost infinite callousness and indifference to human suffering if geopolitical or political interests are not at stake" (Global Policy Forum, 2006: 2).

National interests make China and Russia protect Sudan and Burma governments from UNSC intervention in the face of gross human rights abuses. About Burma, "...China and Russia have made it clear in private that they oppose putting Burma on the agenda. China has deep political, military, and economic ties to the military junta in Rangoon, while Russia opposes such discussions because of its record in Chechnya" (Human Rights Watch, 2005: 1). Concerning Sudan, among other moves, "In November 2004, the Security Council held an extraordinary meeting in Nairobi, but the efforts of some Council members to impose sanctions on Khartoum were thwarted by China and Russia, veto wielding members with significant oil interests" (Global Policy Forum, 2006: 1).

National interest would also push States to intervene in conflicts that are not worth entered into. A good example is America's involvement in the 2003 Iraq War. France basically intervened in Ivory Coast's civil war to protect its national interest there. Not only was Ivory Coast a key focus for French investment and a centre of economic activity in West Africa, but new discoveries of oil and increasing oil production in West Africa gave the region strategic importance(Talbot, 2003: 1).

It was national interest that put the US off from intervening in the Rwanda genocide in 1994. "...at home president Clinton was attuned to the non-interventionist mood in the congress as the Republican Senate leader Bob Dole had indicated that he opposed any American role in Rwanda as no vital interest was at stake"(Arthur, 1995: 91). The US is notorious for not willing to take appropriate action when human rights abuse is committed by the US allies or when actions would run counter to the US's political or economic interest (Amnesty International Publications, 1998: 124).

National interests weaken resolutions in the UNSC by removing words or terms disapproved by P5 members. For example a draft resolution that France presented in January 2004 on the protection of children in armed conflict has to be changed to "situations of concern" instead of "armed conflict" because the UK and Russia strenuously opposed the inclusion of Northern Ireland and Chechnya as "armed conflict" and refused to support the text (Nahory, C., 2004: 3). "The UNSC votes for sanctions on Darfur Offenders with a 12 to 0 vote and abstentions from Russia, China and Algeria....To avoid a Chinese veto, the resolution does not include an oil embargo ..." (Global Policy Forum, 2006: 24).

From the above arguments, one may be easily tempted to charge the UNSC for failure to act in order to protect and promote international human rights as well as international peace and security. But one should not forget the laudable work of the UNSC over the years in the midst of all the obstacles.

The UNSC has been continually making resolutions on all matters especially on international peace and security and human rights issues. This brings to mind the UNSC resolution 678 of 29th November 1990 authorizing the coalition of States to use

force to drive Iraq out of Kuwait (Johnson, 1995: 9). The UNSC played a major role in the Rhodesian economic sanction as well as the Congo and Cyprus operations. Take for instance the ongoing Sudan war, the UNSC has made many resolutions in order to find solutions to the trouble and to promote and protect human rights. Among other things, the UNSC voted in favor of a resolution that refers Sudan to the International Criminal Court (ICC) for massive- scale human rights atrocities. It voted to put an arms embargo on Sudan and impose a flight ban over Darfur on Khartoum. In March, 2005, the UNSC unanimously adopted a resolution authorizing the deployment of 10000 peacekeeping troops to Sudan (Global Policy Forum, 2006: 20).

It is worth noting that there are other dynamics that could also contribute to inaction or late action of the UNSC in conflict. This study will discuss sovereignty, lack of political will, lack of resources, lack of regional forces, lack of standby troops and lastly, acceptance of the UN peace keeping troops by the warring factions and the population.

5.3 THE RESPONSE OF THE INTERNATIONAL COMMUNITY TOWARDS THE 1994 RWANDA GENOCIDE

The UNSC is empowered to decide whether or not the UN should intervene in crises areas. This section makes a critical analysis of the UNSC responses to the crises before, during and after the 1994 Rwanda genocide in what will be broadly classified as the preventive, peace keeping and peace building role of the UNSC.

5.3.1 Preventive Role of the UNSC towards the 1994 Rwanda Genocide

The concept of preventive role is basically used to mean peaceful settlement of disputes before they erupt into conflict and Chapter seven of the UN Charter confers onto the UNSC this role.

5.3.1.1. Peaceful Settlement of Disputes and Conflict Prevention

This initial stage of peacekeeping is aimed at preventing conflicts from happening through the settlement of disputes by peaceful means. When a complaint concerning a

threat to peace is brought before the Council, its first action is usually the recommendation of peaceful agreement to the parties (Norway Mission to the UN, 2003:1). These recommendations usually include conciliation, arbitration, mediation, good offices or even sanctions.

In the case of the Rwanda crisis that led to the 1994 genocide, the peace agreement called the Arusha Accords was organized and mediated by the United State of America, France and the Organisation of African Unity (OAU). Two days after the signing of the Arusha Accords, the UNSC in its effort to observe the peace agreement, commissioned resolution 872 (1993) on the 5th October, 1993. This established the United Nations Assistance Mission for Rwanda (UNAMIR) whose objective was to assist and supervise the implementation of the Arusha Accords which aimed at ending the three-year Rwandan civil war. The UN was however widely accused of ignoring the early warning signs of the genocide.

The Deputy Secretary General of the UN in a meeting of the 58th General Assembly Plenary (82nd meeting) to mark the day of reflection on the 1994 Rwanda genocide regrettably said that the international community failed Rwanda. He further stated that none of them neither the Security Council, nor the UN Secretariat, nor the Media paid enough attention to the gathering signs of disaster and once the genocide was under way, no one did enough to stop it.

Upon receiving information from reliable sources about four major caches as well as preparations and plans by Hutus to exterminate Tutsis, General Dallaire requested for permission to act in order to neutralize the arms caches (Khan, 2000: 200).

To elaborate more on this issue, Amnesty International USA's report on "The Story of Rwanda" records that six months before the killing started, one of the chief planners of the genocide defected to the UN and explained in detail that preparations were in progress. A cable including details of the genocide was sent to the UN head quarters by the defector along with a memo describing the plans. In addition Dallaire sent a cable to the UNHQ warning that violence was impending and requested more forces be deployed immediately.

Beforehand, “A whole series of verifiable early warnings had already been given by as early as 1991, increasing in 1992 and being passed directly to the UN heads on the spot from autumn 1993” (Scherrer, 2002: 71). However, all those warnings that genocide was being planned and requests including the need for Chapter VII yielded no result.

A political analyst J. Walter Dorn drew up a strong indictment of the UN bureaucracy as well as the Security Council for not reacting effectively to the clear signals of the genocide that were discernible in Rwanda (Khan, 2000: 197). The Joint Evaluation of Emergency Assistance for Rwanda (JEEAR) also sharply criticized the UN and the Security Council for not heeding to the early warning signs of disaster (Khan, 2000: 199).

More than 90% of the respondents maintained that there had been clear indications that genocide had been prepared for but much had not been done by the international community to prevent it. They argued that France openly trained the Interahamwe and helped them to acquire weapons. The respondents that gave this answer were people from all walks of life ranging from highly educated ones to the uneducated. The more educated ones, to be specific; lawyers, human rights defenders and educationists further explained that there had been many reports that the militia were preparing for genocide and these reports, they maintained, were officially published in Paris.

Some of the respondents also argued that the Rwandan government ratified some international instruments with reserve on some human rights clauses. Others also reasoned that the world super powers would have detected with satellites that genocide was being prepared for and would have prevented it if they were willing. Nearly 10% of the respondents also recognized the international community’s effort to intervene in the conflict through the Arusha peace talks. Some eye and ear witnesses and some few highly educated respondents held this line.

The study queries the assumption of some of the respondents about some international instruments’ ratification with reserve by the Rwandan government. This is because the study argues that international law does not allow international instruments to be

ratified with reserve on articles or clauses that promote or protect human rights let alone genocide.

The accusations against the international community and the UN in particular may be justified because nations may be insensitive to other nations' problems if there is nothing to motivate them. The early warning signals were not heeded to as political will of nations among other factors was absent. The unfortunate Rwanda was generally neglected as it is normally the rule of the society to overlook the plight of the poor while the rich are rather quickly attended to. The world is nevertheless working hard to rectify this status quo.

As was expressed in 2004 by the president of the General Assembly in his opening address on the 58th General Assembly Plenary (82nd meeting) to mark the day of reflection on the 1994 Rwanda genocide, there is increasing determination through joint efforts to protect and promote human rights. He emphasized that such costly mistakes may not be repeated again. The General Assembly, the UNSC as well as high representatives of the Economic and Social Council (ECOSOC), the UN Secretariat and the regional groups had come together to re-affirm their joint resolve that should be seen as a sign of hope with understanding that the organization would not fail the world again.

5.3.1.2 Peace Keeping

Peace keeping entails deployment of armed forces after a peace agreement has been reached between warring parties for conflict resolution and restoration of peace. In the UN system, Chapter VI mandate is given to the peace keeping troops under normal circumstances.

A peace keeping force (UNAMIR 1) was deployed in Rwanda prior to the genocide with the Chapter VI mandate to guarantee the shaky cease fire on which the Arusha Peace Accords was resting upon. UNAMIR I with the chapter VI mandate was authorized to use force only in self- defense and in the protection of the UN installations (John and Carol Berry, 1999: 142). Soon after the genocide started, the UNAMIR troop of 2500 soldiers was reduced to 400 troops. The reduced force still with the chapter VI mandate, was mainly involved in the evacuation of foreign

nationals and UN civilian workers prior to the combat forces dispatched from foreign countries (Berry, J. and Berry, C. 1999: 144)

More than 95% of the respondents attributed the reduction of the UNAMIR troops and the evacuation of foreigners as factors that triggered off the mass killing. The majority of respondents explained that even though UNAMIR was not fighting and defending those that were persecuted, its presence formed a sort of hope and protection for the victims thus the reduction of the troops was like the end of the world to them.

The chapter VI mandate given to UNAMIR troops seems to be totally inadequate. At least from the time the genocide started, emergency decisions or pragmatic resolutions should have been taken by the UNSC to authorize a Chapter VII mandate. The Chapter VII mandate requires that the deployed troops should be equipped with offensive weapons to fight, as against the small arms of self-defense of the Chapter VI mandate. Thus during the Rwanda crisis, the capacity in terms of weapons, the personnel and the resources should have been increased to confront the situation at hand.

5.3.2 Peace Enforcement

In cases of extreme violence, a peace keeping force acting under Chapter VII could be deployed to restore peace in a crisis area. This enables humanitarian relief and civilian personnel to operate in territories where institutions have collapsed (Khan 2000: 210). So far, Chapter VII had only been used in Korea and more recently, in the Gulf War and in Somalia. The Chapter VII mandate violates national sovereignty and costs vast amounts of resources and probably some amount of loss of life.

In Rwanda, General Dallaire and his team should have been given the chapter VII mandate to deal with the situation on ground as Magnarella, P. J., (2000: 35) stated: “This was the kind of mandate General Dallaire had sought for and was denied back on the 11th of January and repeatedly in April”.

General Dallaire visited Rwanda prior to his recommendation. He was tempted to put his mind on the Chapter VII mandate for he envisaged the problem ahead. However

he understood it needed a sanction of a coalition of nations to invade the country with offensive military force and impose peace on the parties if it became necessary. He also realized that no nation would be prepared to contribute a Chapter VII mission to a country where there were no strategic interests and no major threats to International Peace and Security (Dallaire, 2003: 71).

General Dallaire rather proposed the Rule of engagement (ROE) for the mission in Rwanda that involved paragraph seventeen which would authorize them to use force up to and including the use of deadly force to prevent crimes against humanity. This is moving towards chapter six and a half; a new approach to conflict resolution since Chapter VII could not be possible (Dallaire, 2003: 72).

Three weeks into the genocide, the Security Council approved the French demand to intervene in Rwanda with Senegal in a Joint Humanitarian Mission. This mission named “Operation Turquoise” was allowed to invoke Chapter VII of the UN Charter and was an authorized multinational operation for humanitarian purpose until UNAMIR II was deployed (Khan, 2000: 35).

UNAMIR II was voted for and created by the UNSC several weeks into the genocide. These troops which were supposed to have had 5500 members were mandated to establish and maintain security. They were also authorized to provide support for the distribution of humanitarian relief. However the troops could not come into full force till after the genocide was almost over. “The world again failed to deliver, as the full compliment of troops and material would not arrive in Rwanda until six months after the genocide ended” (Ferroggiaro, 2001:2).

Almost all the respondents from the survivors’ group that were interviewed criticized Operation Turquoise of not being helpful to the victims. They rather thought it was a sort of protection for the genocide perpetrators. Some of the respondents said Hutu militias saw the French as allies and that the Operation Turquoise resulted in providing a safe zone for the genocidaires to flee from the advancing RPF. The respondents who held this view were Tutsi survivors, most of whom had lost their loved ones. However, some of the eye and ear witnesses argued that the Operation Turquoise was able to save some lives despite the accusations raised against them.

The French had a relationship with the Habyarimana regime that stretched back to the mid seventies. Over the years, the French government had made a significant investment in French-speaking Rwanda, supplying it with arms and military expertise, support that had escalated to outright intervention against the RPF insurgent force in October 1990 and again in February 1993... (Dallaire, 2003: 62). France has been particularly identified as a country that propped up the dictatorial regime of Habyarimana. France is said to have logistically and militarily supported the regime. It trained some extremists and in some instances French troops were accused of being directly involved in the mistreatment and killing of the citizens of Rwanda (Howards and Astri, 1999: 82).

Arthur, 1998 in expressing his view on what he termed the French Prevarication argued that France on the basis of 'Francophony' had direct interest in Rwanda and its policy was basically pro-Hutu. For this matter, France continued to arm the interim government despite the fact that it knew genocide was taking place (Arthur, 1998: 80).

Against these backgrounds France was accused especially by the survivors of camouflage support for the genocidaires through Operation Turquoise. However France claimed that its mission was humanitarian. Nevertheless, the salient point is that France was able to raise 2500 troops single handedly with just 32 troops from Senegal within a few days. In 2001, America and Britain raised troops and equipments for intervention in Iraq. In 1980, Tanzania single handedly raised resources to intervene in Uganda.

The question is that, how could 52 nations of the UNO have failed to raise 5500 member troops and equipments to intervene in a small country like Rwanda for protection of lives? This allegedly shows that national interest and partisan support are the driving impetus of political will and the ability to raise resources for intervention in crises areas for the cause of protection of human rights. Here comes Baehr's argument that "Sometimes, conflict may occur between human rights and other foreign policies but proper weighing should be done (Baehr, 2001: 92). This argument is typical of human behavior in a world of realism which mostly undermines human rights consideration.

The report of the Global IDP (October 2004:23) says that, following the proclamation of the RPF government, 1.2 to 1.5 millions IDPs fled to the Zone Turquoise. This probably confirms the allegation that the Operation Turquoise was a kind of protection for the genocide perpetrators

5.3.3 Peace Building

This stage of peace keeping encompasses action to strengthen structures aimed at achieving durable peace in conflict areas. This is to prevent a slide back into conflict and anarchy. Post conflict Peace building includes: revival of infrastructure, reconciliation, refugee rehabilitation and support of institutions such as civilian, police, judiciary and civil service among others. (Khan, 2000: 210)

Peace Building is described as actions undertaken at the end of a conflict to consolidate peace and prevent a recurrence of armed confrontation. This may involve the creation or strengthening of national institutions, monitoring of elections, promoting human rights, providing for reintegration and rehabilitation programs and creating conditions for resumed development. (Boutros-Ghali, 1998: 18)

5.3.3.1 Reviving of a Devastated Country after the Genocide

UNAMIRII had been mandated to keep the peace but by the time it arrived in full strength, the crisis was over. RPF had won the war and formed a broad-based government. The UN peace keepers could of course help keep the peace and prevent revenge killing but UNMIR II was given neither the mandate nor the minimal finance to perform this essential post conflict, peace building role (Khan, 2000: 202). UNAMIR II had the personnel of all calibers to help in rebuilding the capacity but could not employ them for revival of a devastated country and people. The troop was equipped and capable of performing the peace building role single handedly in Rwanda but it had no mandate to do so.

The members of UNAMIR II in their own capacity however were able to help as individuals out of humanitarian grounds. The UN headquarters direction was that UNAMIR II could not be given the role of peace building as this was the exclusive domain of the humanitarian agencies. But the troops on the ground and their leaders

stretched the rules and involved themselves in the revival and restructuring of the devastated country even though they had minimal funds to sustain such operations.

A sizable number of respondents denounced the UN and the international community saying they did not do much to help them after the genocide. They complained that they were not compensated after the genocide. Most of the respondents in this category were mainly widows that thought they were left to become poor after losing everything they had including their husbands and children.

The arguments of this category of respondents had been confirmed in a conference held in Kigali in April 2004, 10 years after the genocide to mark a week of commemoration for the victims. This conference was attended by survivors, academics and foreigners who witnessed the killings. Several speakers in the conference accused the international community of showing indifference to the survivors of the killings, many of whom were raped and infected with HIV (BBC News, 2004: 1-2).

About 30% of the respondents thought Rwanda had somehow benefited from the international community's assistance after the genocide. They admitted that there had been several structural developments and many people have been empowered economically. Many children of school going age have benefited from foreign scholarships. Most people in this category of respondents were young people between 30 and 35 years of age. Some of them concluded that even though the genocide had been a very painful experience that brought about loss of their loved ones, however it has lifted up the face of their country. The country is now known in the international scene and some people became quite popular because they were taken to various places to give testimonies about the genocide. This, according to the respondents, brought about a popular saying among the youth "who would know you if not because of the genocide".

The problem of bureaucracy was at play when it came to the question of post war peace building role. As it is stated, only UNAMIR was equipped and capable of performing this essential peace building role in the twilight zone but it did not have the mandate (Khan, 2000: 203).

Kofi Annan lamented in his report on UN Reform that no part of the United Nations System effectively addresses the challenge of helping countries with the transition from war to lasting peace. He therefore proposed to member States the creation of an inter-governmental peace building commission as well as a peace building support office within the United Nations Secretariat to achieve this end (Global Policy Forum, 2005: 3).

With the Peace Building Commission, there will be criteria for policies that would ensure quick and effective disbursement of funds into war torn areas. This would avoid situations like in Rwanda where an overwhelming amount of \$1.2 billion was pledged by the International community at a conference in Geneva and yet none of the funds could be made available immediately to the Rwanda government while it desperately needed liquid cash to revive its infrastructure (Khan, 2000: 72).

This study believes that with the establishment of the peace building commission in December 2005 and its subsequent inauguration on the 23rd June 2006 (Thallinger, 2007: 2), there would be hope for the future as far as the UN Peace Building role is concerned. For its goal of dealing with post conflict peace building may possibly become a reality.

5.3.3.2 The UN and the Post Genocide Justice in Rwanda

Articles 1, 3 and 4 of the Convention on the Prevention and Punishment of Crime of Genocide clearly state the necessity to punish every act of genocide. For instance article 3 states: “the following acts shall be punishable (a) genocide, (b) conspiracy to commit genocide (c) direct and public incitement to commit genocide, (d) attempt to commit genocide and (e) complicity in genocide.”

For the sake of peace and reconciliation, forceful revenge and the prevention of going back to war, the country urgently needed both a national and international judicial system. In addition, as Khan explained; the issue of justice was vital for the people of Rwanda because the psychological rehabilitation of a traumatized nation cannot begin without the dispensation of transparent justice (Khan, 2000: 151).

Like the situation in every war torn country, the judiciary system was totally broken down. Some of the judges were killed or run away. Khan (2000) records that, the internal system of justice had sunk without a trace. In July 1994, not a single judge or magistrate was available. They had either fled or had been killed. The same was true with the registrars, the prosecutors, clerks and judicial cadres that sustained the judicial system. Therefore, there was the need for immediate international intervention.

Besides, an act of aggression that led to a threat and breach of International Peace and Security had been committed. Therefore the world was waiting anxiously to witness justice in Rwanda as it observed the horrors of the genocide, the suffering of the survivors and the appalling distress of the prisoners. Thus the media, human rights organizations, foreign governments and even public opinion joined the people of Rwanda in calling for immediate and transparent justice.

The Security Council assigned with the responsibility to deal with International Peace and Security owed Rwanda a duty to speedily establish an international court system to rescue the situation. But unfortunately, the actual time of commencement of the tribunal appeared not to match with the urgency of the cases at hand. After the commission of expert published its report in October 1994, the Security Council had passed its resolution no 997 in March 1995 setting up the International Criminal Tribunal for Rwanda (ICTR). The court however held its first formal Session in Arusha on the 8th of January 1996 (Khan, 2000: 155).

The ICTR, having been established by the Security Council and acting under Chapter VII of the UN Charter, required the contracting parties of the Convention on the Prevention and Punishment of the Crime of Genocide to extradite the perpetrators of the genocide but most countries extricated themselves from this responsibility by claiming that they first needed to pass enabling domestic legislation. By the time UNAMIR II was leaving Rwanda, two years after the genocide, only 4 arrests had been made in the Western countries and 19 in African countries despite the fact that 443 names of alleged criminals were sent out by the Rwanda government (Khan, 2000: 157).

An estimated 70% of the respondents believed that the establishment of the ICTR was a step in the right direction. This, they hoped, would bring total reconciliation to the nation. Some of the people among these respondents, who were obviously well educated Tutsis, further argued that the establishment of ICTR shows the world has now recognized that there had been genocide in Rwanda. They claimed, there had been genocide in Rwanda since 1959 through 1966, 1963, 1967, 1973, 1990 and the biggest one was in 1994. Over the years, they maintained, the Tutsis had been discriminated against, their women were raped and a number of them killed. But like in Sudan, the world failed to recognize that there had been genocide until 1994.

As the respondents stressed, the establishment of the ICTR to investigate and punish the culprits of the genocide was a laudable achievement by the Security Council. But in general, the effectiveness of this commendable success looked to be marred by delay, apparently caused by bureaucracy and lack of political will of the member States. Khan (2000) says, transparent justice and fair play were essential for refugees to return home and resume a vengeance free existence, but the ICTR seemed to take ages to establish itself in Arusha. Meanwhile in Rwanda, the delay in setting up a judicial process led to overcrowding in prisons that was so horrific that prisoners' limbs began to decay due to gangrene (Khan, 2000: 205-206).

5.4 CONSTRAINTS AND OBSTACLES TO THE PERFORMANCE OF UNITED NATIONS SECURITY COUNCIL

Article 24 of the UN Charter confers on the UNSC the primary responsibility for maintenance of peace and security. Politics in the UNSC may be one way or the other the cause of inaction or late action of the Council as far as humanitarian intervention is concerned. However, there are some other factors that also work against the efficiency of the Council. This study has singled out sovereignty, political will, lack of resources, lack of consensus, acceptability of the Peace Keeping Force and lack of strong regional as well as standby troops to be some of the challenges that the UNSC faces in the performance of its duties

5.4.1 Sovereignty

The concept of sovereignty, simply referred to as the right to own and control some areas of the world (Robertson, 1984: 440), was enshrined in the UN Charter articles 2.1, 2.4 and 2.7. The basis of this notion can be traced from the Westphalia peace treaty of 1648. This became in 1945, a principle that gives a right to States to claim their national sovereignty and their protection against foreign invasion. The principal objectives of the enduring Westphalian system of nation States are made on one hand to protect the sovereign independence of the nation States, while on the other hand they are made to avoid inter- State war in which there are really no winners (Campbell, 1998: 5).

For many States and peoples, sovereignty is also recognition of their equal worth and dignity; a protection of their unique identities and their national freedom. It is the affirmation of their right to shape and determine their own destiny (ICISS, 2001: 17). In the first four decades of the UN existence, State sovereignty was privileged, almost absolutely over human rights with the exception of apartheid in South Africa (Thakur, 2003:7).

When fighting erupts, the UNSC needs to sanction humanitarian military intervention. But the dilemma is that this appears to violate the principle of national sovereignty. Moreover many UN States, especially those that obtained their independence in the early 60s, hold in high esteem articles 2.4 and 2.7 of the UN Charter and they normally defend themselves with these articles to the detriment of respect of human rights. Even some P5 members of the UNSC, like China, view human rights issues as internal domestic matters not liable to outside interference.

These arguments make many UN States, which are supposed to contribute to humanitarian intervention, silent and reluctant to react to major massive and systematic human rights violations. Neither does the majority of these nations themselves protect and respect human rights in their own countries.

Sovereignty has been redefined of recent. Besides, Chapter VII of the UN Charter gives to the Security Council the right to act in the face of human rights violations. In other words, the Security Council is not limited by sovereignty principles in the face of human right abuses. However, the Security Council is still restrained in one way or

the other by the concept. For example, before the UN sends troops to a country to observe peace, it needs the agreement of the government in the country where the crisis exists or the nearby country from where the troops would operate in case of total collapse of the State. The intervention needs to be accepted as well, by the warring factions and the population so as not to be seen as encroachment on their sovereignty.

The problem of sovereignty caused delay in Mozambique for instance. This country had stalled the signing of the Status Of Mission Agreement (SOMA) for the Peace Keeping Mission there and when the UN sent the peace keepers without the signature of SOMA, they were hit with a crippling series of taxes on soldiers and equipment as soon as the mission arrived. For similar reasons, after the UNSC had approved UNOMUR in June 1993, the troops could not operate until the Arusha peace agreement was signed by Rwandans in August 1993(Dallaire, R., 2003: 52-53).

In the name of sovereignty, many authoritarian regimes oppress their opponents or people they suspect to be a threat to them. They go about intimidating, beating up, detaining and killing them. President Mugabe's regime of Zimbabwe, Togo under Eyadema and Uganda under Idi Amin among others, can be cited as examples. In such cases, the UNSC cannot do much to help maintain international peace and security because it is often argued that "such cases are purely domestic matters", even though there are gross violations of human rights. For the same reason of sovereignty, the UN could not deploy its troops to Sudan because of the continuous refusal of the Sudan government to accept UN Peace Keeping Mission in that country.

As indicated in Chapter Four, some the respondents including some survivors and the eye and ear witnesses reasoned that the right to national sovereignty is supposed to be respected by all nations and organizations but in a chaotic situation where there are gross violations of human rights like was the case of Rwanda, sovereignty cannot be taken into consideration. Some of the respondents that understood more about sovereignty, further conceded that there was a need for Security Council to determine when to intervene.

It has been observed that whenever there is chaos in a country, the warring factions take advantage of the situation and become uncontrollably wild. They could do anything to anyone including foreign nationals. Most times, they target foreigners to remind them that they were sovereign in their own countries. For example, the plan of the Interahamwe in Rwanda was to severely attack and defeat the most equipped Belgian troops. Once the Belgian troops who were their main obstacle were withdrawn, the perpetrators would have their way to carry out their evil plan. In other words, it is a way of telling foreigners who have come to help the victims that “we don’t want your intervention so leave us alone to do what we want in our country”.

With the establishment of a government in a war torn country, the UN Forces present on the ground to help in the peace building process could be faced with the sovereignty problem and therefore could not fully give off their best. In Rwanda the relation between the Rwanda government and UNAMIR II had reached its lowest point. According to the government of Rwanda, UNAMIRI’s overbearing presence with its vast resources undermined the sovereign authority of the government. (Khan, 2000: 122). It can be concluded that despite the fact that efforts are being made internationally to redefine sovereignty, the concept still remains a big obstacle to humanitarian intervention.

5.4.2 Lack of Political Will

Since the signing of the 1948 Genocide Convention, the cases of genocide which have taken place have received unsatisfactory reaction from the UN. It has either been a muted response, or a case of too little too late (Darren, 2003: 309). This could possibly be attributed partly to the attitude of some key member States. The US was unwilling to act in the Rwanda crisis in 1994 neither did it favor UN military intervention to stop the killing as it maintains that the process of peace had become dangerous and over utilized and that Rwanda was of marginal importance (Arthur, 1995: 91).

During the 1994 Rwanda genocide, one of General Dallaire’s options to the Security Council was to reinforce UNAMIR I and expand its mandate. It was an attempt to coerce the opposition force into a cease fire and to try to restore law and order and put an end to the killings. However if this alternative was to be considered, it would

require several thousand additional troops, perhaps about ten thousand, and UNAMIR 1 may have needed given enforcements. Nevertheless, Dallaire commented that, reading between the lines and catching the red flags of the suggested enforcement powers, which no Security Council member would wish to grant UNAMIR, he suspected that the option may have been included only for the archives.

The argument of the respondents presented in Chapter Four that, the world was not willing to help, because Rwanda was small and poor and had no strategic and economic interests, should not perhaps be overlooked. This reasoning was advanced specifically by most of the survivors. The eye and ear witnesses generally commented that political will of nation States was one of the most important factors that militate against successful intervention of the UN.

A successful UN humanitarian intervention needs the full support of its member states which have to contribute troops and other resources. But more often than not, the calls for UN humanitarian interventions seem to attract very little required political will of its members. Adam Smith's assertion in Darren, 2003 page 78 that 'humans by nature are economic actors' may perhaps be applied in this content. It appears that member States naturally find it difficult to endanger the lives of their soldiers or make economic sacrifices for humanitarian reasons, especially when they have no interest whatsoever.

The line of reasoning of Hendi Annabi, the head of Africa section in the political division of the UN Department of Peace Keeping Operation (DPKO) may further explain the relation between national interest and the political will of nations. He said, there was talk of mounting a larger peace keeping mission inside Rwanda itself, but only in passing. In conclusion he added, the trouble was that no one but the French and possibly the Belgians had any interest in that part of the world, where would the political will come from? (Dallaire, R., 2003: 50-51) he ironically questioned.

5.4.3 Lack of Resources

Before setting off on mission in Rwanda, General Dallaire's ideal recommendation was 5500 troops and personnel composed of 3 battalions each numbering 800, and 350 unarmed military to roam the country as the mission's eyes and ears. Besides,

they would need full logistical support, helicopters, armored personnel carriers, vehicles and hospitals. He however knew that this would never be approved. Therefore he had to call for a significantly smaller force of about 2500 personnel that required the mission to take more risks (Dallaire, R., 2003: 75).

The majority of the respondents on this issue thought that even though there could be difficulty in mobilizing resources; this in itself may not be the main problem but the will to provide them may be the actual driving force. Their argument was that the world super powers would always be ready to provide resources if their interests were at stake. Some few respondents also argued that, the financially and militarily powerful countries that could have helped were occupied with some other conflicts elsewhere.

It may possibly be true that political will could play a major role in the provision of resources. The contrast in deployment effectiveness between UNAMIR II and Operation Turquoise could be given as an example. While three months after the Security Council resolution, UNAMIR II could muster only 20% of the formed troop strength and had to wait several months longer for its full complement of equipment, France was able to deploy within a week of the relevant resolution, 2500 men with 100 armored personnel carriers and other important powerful equipment for the Chapter VII operation.

It might however be admitted that the powerful States with apparent massive resources are often overburdened with conflicts here and there and sometimes they are discouraged out of non-acceptability. Thus, they become too reluctant to embark on new engagements. After the death of 18 American soldiers in Somalia in 1993, the US decided that no significant UN missions were to be allowed at all, even if American troops would not be involved. (Africa Focus Bulletin, Mar 31, 2004). This could probably explain America's reticence and its delay tactics throughout the Rwanda genocide.

The question of resources in the face of humanitarian intervention could be controversial; Some countries may be unwilling because it may be costly and usually non profitable; the world powers refused to call the 1994 Rwanda crisis a genocide,

maybe because of the responsibility that the term ‘genocide’ in the 1984 Convention carries (Dallaire, 2003: 333). Others may be busy finding solutions with their existing resources to other unrest areas in the world. Some times, some countries are ready to help but the resources to do it are not available. For example, when African Countries were asked to shoulder the responsibility of peace keeping in Rwanda, a number of States were willing to contribute, but none of them had the logistical capacity to deploy and sustain their forces without assistance from the First World (Dallaire, 2003: 374-375).

5.4.4 Failure to Determine the Type of Cases and the Proper Types of Intervention

It is essential that the international community reach agreements not only on the principle that massive and systematic violations of human rights must be checked wherever they take place, but also on ways of deciding what action is necessary, when and by whom (Annan, 1999: 2).

Since cases present themselves differently, there is the need for appropriate guidelines to direct the Security Council in decision making. There may be sense in the arguments of some of the respondents that thought that if only UNAMIR I were well equipped with powerful and sophisticated weapons and the use of force, the perpetrators of the genocide would not have gone as far as they did. In most cases, the UNSC spends quality time discussing and debating or trying to analyze what to do but some times, wrong decisions may be taken. Khan (2000) asserts that, the international community’s diagnosis was simply faulty. Khan asserts that the prescription the UNSC provided was the traditional one for civil wars as that of Somalia, Mozambique and Liberia, while genocide demands a heavily armed peace enforcing Chapter VII presence to prevent civilian massacre (Khan, 2000: 196).

The majority of the respondents contended that the wrong mandate had been recommended for the case in Rwanda. They said chapter VII would have been mandated instead of the Chapter VI force that was used. Some of the respondents further argued that the deliberations in the Council and the agreement arrived at, had very negative effects on the situation on the ground. The majority of the people that

held these views were the eye and ear witnesses and the highly educated ones among the survivors.

99% of genocide survivors testified that the serious slaughtering started after the reduction of the UNAMIR I troops. Many of the survivors did not know the exact number of the troop members that were taken away but they all knew that only comparatively very few soldiers were left behind. This was a sort of encouragement to the perpetrators, the argued.

A series of deliberations could be made in the UNSC in order to find solutions to particular crises. But at the end of the day grave mistakes could be made if there is no proper consensus on the types of cases and the required remedies for them. During the 1994 Rwanda crisis, the failure to call the massacre a genocide in good time and the decision to make the UNSC Resolution 912 that reduced the UNAMIR I force to a skeleton one (Dallaire, 2003: 322) were probably a misstep. This study thinks that having reliable and effective intelligence on ground could help guide the UNSC to swiftly prescribe the appropriate solutions for the detected precursors.

5.4.5 Lack of Powerful Regional or Standby Troops

Article 53 of the UN Charter explicitly authorizes the UNSC to use regional arrangements or agencies for enforcement action under its authority. This becomes impossible most of the time because of the weak capability of regional organizations. Currently, only NATO, EU, and ECOWAS (to some extent) have the ability to enforce human rights militarily outside the UN frame work (Murphy, D., 1996: 33).

Generally, the respondents thought a well equipped regional troop would have been faster to deploy therefore more helpful. Some thought powerful standby forces would have enabled the UNSC to be prompt in the deployment of forces into Rwanda. Besides, as situations deteriorated and change was required on the use of strategy (that is, Chapter VI was needed instead of Chapter VII) the council would not have had to wait for ages in order to adjust and be effective.

The UN needs powerful standby forces which may prevent the re-occurrence of such atrocities in future, remarked the majority of the eye and ear witnesses. It was

observed that most survivors seemed to be skeptical about regional troops. They referred to their experience with Operation Turquoise which they claimed supported the Hutus and concluded that regional troops may become dangerous if they take sides with one of the warring parties. But all things being equal, they said, well equipped regional or standby troops would be helpful since they are likely to intervene on time.

The UNSC would perhaps find it easier to authorize efficient regional peace keeping troops or well equipped standby troops to meet crises on short notice instead of waiting for a long time before mobilizing the international ones. Besides, regional organizations have an advantage in playing peace keeping role since they have a better feel for the issues involved in the conflict and their leaders are usually personally acquainted with the main players. The regional organizations are also familiar with the customs and traditions of the local population so that they are better able to adjust to the local environment.

5.4.6 Acceptability of the Peace Keeping Force

Most of the survivors interviewed on this issue admitted that they had needed help and were ready for intervention. Some even stressed that the presence of UNAMIR 1 was a sort of hope for them but its departure was like the end of the world for them.

This issue of acceptability of the peace keeping force cannot be generalized. It should be examined in two angles. The victims or the oppressed are always ready for help no matter where it comes from, while the oppressors or those who have one interest or the other do not want any interference. In Rwanda, the victims needed help and they were ready to welcome any international or regional intervention. For example, shortly before Rwandan's Prime Minister, a moderate Hutu, was killed, she said: 'They are coming to kill me and my family. Please tell the world to help us against these murderers' (Khan, 2000: 17).

However, the perpetrators were hostile to UNAMIR I and did everything possible to chase them away. For example, General Dallaire and his troops became a target in the Rwanda genocide. General Dallaire especially, was sought for killing: "The threats got even more personal on May 21, the day that RTLM first openly exhorted its

listeners to kill Dallaire, describing me as the white man with the moustache. If I was seen”, the broadcasts said, “I was to be stopped and killed immediately”. “At that point, I became the target of any Hutu with a machete” (Dallaire, 2003: 380).

As some of the respondents narrated, the Belgian troops that were most equipped were targeted for attack and that was what happened just before the genocide had started. Khan (2000) confirms that ten Belgian soldiers were butchered shortly after the presidential plane was shot down. This triggered off the withdrawal of the Belgian troops and the subsequent reduction of the entire UNAMIR I force (Khan, 2000: 11).

The rejection of the peace keeping force by the warring factions and some sections of the population is one of the factors that militates against the success of a humanitarian intervention. This is perhaps one of the factors that discourages nation States to willingly commit themselves at the risk of their troops especially when there is no strategic interest. Cases in hand are the Somalia war of 1993 where some Americans were killed.

Though the United States of America did not have the mandate of the UNSC, it claims its aim for the 2003 intervention in Iraq was for humanitarian purposes. USA would have been hailed by the majority of the people for saving them from a dictator like Sadam Hussein. However, some sections of the population have taken the humanitarian intervention to be a foreign occupation, therefore a force to fight. This has made the war drag on for several years resulting into more human rights violations than what would have occurred under a dictatorship regime.

Sometimes, the government or the warring factions, categorically refuse international intervention, like in Sudan. Government in the crisis area could even pretend that the situation at hand is under control and help is not needed from outside. In such cases the UNSC would be in a fix and be rendered inactive.

5.4.7 Bureaucratic Procedures in the United Nation System

“Nevertheless, while some delay in putting the ICTR in place was inevitable, a lack of urgency and a bureaucratic approach to administrative problems was apparent. A more cohesive and urgent approach between the tribunal headquarters in The Hague,

the UN's legal department and the Deputy Prosecutor's Office in Kigali could have shortened the gestation period for the ICTR." (Khan, 2000: 156).

As some sizeable number of the respondents pointed out, there was too much bureaucracy in the UN Organization that brought about its failure to intervene successfully in Rwanda during the genocide. Every stage of the UN System is full of bureaucracy, namely the lengthy deliberation in the UNSC before a resolution or deadlock, sticking to a particular mandate on the field when there is a need to quickly change and adapt to the situation on ground, among others. For example, when Dallaire sought permission to act in order to neutralize the arms caches upon receiving information from a very reliable source that genocide was being prepared to kill 1000 Tutsis in 20 minutes, the UN headquarters did not give the permission on the grounds that UNAMIR's mandate did not allow the pro-active action proposed by the Dallaire (Khan, 2003: 200).

When it was time to rebuild the devastated Rwanda after the genocide, UNAMIR II had all the means it took to help revive the country but they could not do it because they had no mandate and the most frustrating part was that, UNAMIR II could not be given such role according to the UN Headquarters because it was the exclusive domain of the humanitarian agencies (Khan, 2000: 45). Meanwhile after more than a year of waiting for the money that was pledged by the humanitarian agencies in the Geneva Round table Conference as aid to rebuild Rwanda, the promises were yet to be fully materialized.

Considering the appalling situation in the prisons in Rwanda (Khan, 2000: 119) something speedy needed to be done by the UNO to restore the judiciary services and establish the International Criminal Tribunal (ICT) to save the situation. But, as stated above, it had to take a long time for this to materialize due to bureaucracy in one way or the other. It is important that when there is emergency especially when human rights are at stake, long bureaucratic procedures need to be put aside or cut down for the sake of quick action.

5.48 Geopolitics Involvement in Rwanda's Crisis

A bird's eye view on the historical background of Rwanda would help us understand better the geopolitics of that country. The Hutus which formed about 84% of the population of Rwanda, the Tutsis 15% and the Twa 1% were living together in a country called Ruanda-Urundi that used to be Rwanda and Burundi together. Several centuries before the independence of Rwanda, the hierarchical order saw the minority Tutsis dominate the majority Hutus and perpetuated their leadership through better education in addition to access to resources and power. Even the Belgians after WWI ruled the country through the established Tutsis dominated social and political order.

The Belgians and later French colonial powers saw the apparent inequity of the minority dominating the majority in the 1940s and 1950s and tried to redress the imbalance by providing education, jobs and access to power to the subjugated Hutus. This enables the Hutus to rise up and even occupy the leadership position of the country after the independence (Khan, 2000: 3). This background brought about hatred between Hutus and Tutsis and subsequent several ethnic conflicts after independence leading to many Tutsi taking refuge in neighbouring countries including Uganda, Burundi, Tanzania and Zaire. The Tutsi refugees in Uganda later organized themselves into an armed group, Rwanda Patriotic Front (RPF) against the ruling Hutu government.

According to the testimony of some former members of RPF, P.K. Claude Dusaidi and Charles Muligande, Paul Kagame (a leading member of high commander unit) asked New York and Washington to stop the UN intervention which was supposed to be sent and protect Rwanda people from the genocide. The reason was to allow the RPF leadership to take over Kigali government and show the world that it was RPF that stopped the genocide. Kagame also asked MINUAR to leave Rwanda soil within hours while UN was examining the possibility of increasing its troops to stop the genocide (Chossudovsky, May 2000).

France deployed its Elite Rapid Action Force to help the Habyarimana's government to defeat the English based RPF opposition. By 1993 it gave about 55million French Francs roughly 10 millions US Dollars aid to the regime. On the other hands, the US was giving training to some RPF members including Paul Kagame. The US gave

further military assistance to RPF in January 1994 in form of arms and logistics (Peace work, 1997).

The truth of the matter was that the US wanted to displace the francophone regime in Rwanda and install an Anglo-American protectorate in that country while France wanted to maintain its interests and French language in that country. Therefore despite the good diplomatic relations between Washington and Paris, there was an undeclared war between them (Peace work, 1997). This greatly reflected in the two P5 members behavior's towards the Rwanda crisis in the UNSC and consequently affected the decision making of the council.

5.5 HUMAN RIGHTS VIOLATIONS AND THEIR IMPLICATIONS

It is a prevalent phenomenon that neither the literature on the policies of the members of the UNSC nor the UN Humanitarian Interventions take a human rights approach. The tendency in this literature has been to look at the factors that may possibly cause the inaction of the UNSC and the various human rights abuses that they could help escalate, coupled with their implications.

Human rights being the claim that one is entitled to as a result of being human is “universal, indivisible, interrelated and interdependent.” (Amnesty International Primer, 2005: 6). Recognizing the importance of respect for human rights, there have been several international, regional and local moves especially after World War II to protect and promote human rights.

The Universal Declaration of human rights reiterated that: *Recognition of the inherent dignity and of equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world* (preamble of UDHR, 1948).

In 1966, the international community succeeded in agreeing to turn this declaration into a binding international law which led to the adoption of two separate covenants: the International Convention on Economic, Social and Cultural Rights (ICESCR) and the International Convention on Civil and Political Rights (ICCPR). Both contain obligations to be achieved immediately and progressively.

In addition to these general international human right instruments, a number of declarations on human rights dealing with specific human rights issues have come into being under the auspices of the UN. This study has considered the Convention on the Prevention and Punishment of the Crime of Genocide (1948), the International Convention on the Elimination of All Forms of Racial Discrimination (1965), the International Convention on the Rights of the Child (1989) and the Convention against Torture and other Cruel Inhumane or Degrading Treatment or Punishment (1984).

In the 1994 Rwanda genocide, all human rights can be said to have been violated because genocide in itself is a human rights atrocity. The genocide could have probably been avoided if there had been timely intervention by the international community. This study emphasizes the violation of the right to life, the right not to be tortured and the right not to be discriminated against. Some related human rights implications are as well, briefly tackled.

5.5.1 Rights to Life

There is no consensus on the number of dead between April 6 and mid July. Unlike the genocide carried out by the Nazis or by the Khmer Rouge in Cambodia, authorities made no attempt to record deaths. The RPF government stated that 1,071,000 were killed out of which 10% were Hutus. The UN lists the death toll as 800,000 (BBC News, 2004:1). What is important to remember is that there was genocide. There was an attempt to eliminate Tutsi men, women and children and erase every memory of their existence.

Darren (2003) refers to genocide as violation of the right to existence. The right to life has been spelt out in the UDHR article 3 as followed: “Everyone has the right to life, liberty and security of person” (UDHR, 1948). In the 1994 Rwanda genocide, not only were hundreds of thousands of men, women and children killed but they were also deprived of their liberty, and the survivors were unsecured for they were vulnerable as they had been captured and could be killed at any time. Some of the respondents interviewed disclosed that, they were buried under cattle hay from where they came out in the middle of night to eat. This implies that the victims had access to food and water only once a day.

Article 6 of the ICCPR calls on nation State parties to the covenant for protection and respect for the right to life. *Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life* (ICCPR, 1966). The article 6 also lists out different ways in which to realize this dream in various cases. Considering the importance of the right to life of children, CRC also states that, *state parties must recognize that every child has the inherent right to life. State parties have to ensure to the maximum extent possible, the survival and the development of the child* (CRC, 1989).

The African Charter on Human and Peoples' Rights on its part states that *human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right* (ACHPR, 1981).

The Convention on the Prevention and Punishment of the Crime of Genocide signed in 1948 reaffirms that *genocide, whether committed in time of war or peace is a crime under international law. Genocide is defined as any of the acts committed with intent to destroy in whole or in part a national, ethnical, racial or religious group such as: killing its members, causing serious bodily or mental harm to them, or deliberately inflicting on them calculated conditions of life to bring about total or partial physical destruction or measures to prevent them from giving birth or forcibly transferring their children to another group* (Malcolm, N. S., 1997: 210).

The various international and regional instruments for promotion and protection of right to life and even the convention for prevention of genocide can best serve as statements to create awareness and criteria for judgment after the violation has been committed. Even though this is a good thing, rules to help implement these articles and prevent the crimes are missing. There should be measures for the use of force and enforcement of rights. Awareness alone will not deter a state or a group of people from planning to kill or commit genocide. Enough evidence pointing to attempted genocide should be an alarm calling for prompt international intervention.

In Rwanda, there had been incitement activities against the Tutsis as the majority of the respondents and documentations in Kigali Memorial site affirm. There were intense propaganda campaigns to persuade and compel the Hutus to see the Tutsis as their distrusted enemies. For example, “Radio- Télévision Libre des Mille Collines” was used to incite hatred, to give instructions and justify the killings. The Kangura newspaper of December 1990 page 8 published “les Dix Commandements de Hutu” (The Ten Hutu’s Commandments) which encouraged Hutus to discriminate against their fellow Tutsis.

All these precursors to the genocide that claimed nearly a million lives would have probably been handled appropriately if there had been international criteria to ensure that such issues were tackled at the right time before they escalated into the worst situation. As some of the respondents thought, maybe the death toll would have been lower if the international community had successfully intervened earlier or tried to stop the atrocity from going up to about three months.

5.5.2 Torture

Every one has the freedom to live without the threat of torture and ill- treatment. International law unequivocally and absolutely prohibits torture in all circumstances. Yet despite the universal condemnation, the perpetrators of torture continue to inflict physical agony and mental anguish on countless victims and get away with it (Kim, 2004: 2).

Torture is to be made punishable as a crime of a grave nature and States are to consider it among those crimes that they treat as extraditable. Unless a State extradites an alleged torturer to another country to stand trial it is obliged to institute criminal proceedings against any such person within its jurisdiction regardless of the latter’s nationality, or of where the crime was committed (Nigel, 1987: 47).

Article 5 of UDHR states that: *No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment* (UDHR, 1948). CAT was built particularly upon the declaration on the protection of all persons from being subjected to torture and other cruel inhumane and degrading treatment or punishment (Shaw, 1997:242).

CAT calls upon all State parties to take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction. Article 2(3) of the same instrument also cautioned that neither should a state of war, a threat of war, internal political instability nor other public emergency be invoked as justification of torture. Article 2 (3) spelt out that an order from a superior officer or a public authority may not be invoked as a justification of torture. Article 16 of CAT further spells out preventive measures against torture.

Other international instruments have not failed to tackle the fact that torture must be prevented. Article 7 of ICCPR rather stresses on psychological torture. CRC also provides that no child shall be subjected to torture or other cruel inhuman or degrading treatment or punishment. Common Article III of Geneva Conventions also prohibits violence to life and person, cruel treatment, torture or outrage upon personal dignity (AI USA Report, 2001: 3).

Torture, cruel, inhuman and degrading treatment or punishment is prohibited and under no circumstances should anyone be tortured (UHRC, 2006:22). However, the 1994 Rwanda genocide was characterized by many forms of torture both physical and psychological. Kigali Genocide Memorial Site records that at least 500 women were victims of rape and many of the women were raped by men who were known to be H.I.V positive. The majority of women respondents among the survivors confessed that many of them were raped. Some of them said they were raped by those who were sheltering or hiding them. They were helpless; they could not even defend themselves because their rappers threatened to hand them over for killing if they resisted. Various investigative reports following the 1994 Rwanda genocide revealed that nearly every female over the age of 12 years who survived the genocide was raped. Generally, according to majority of the respondents, any Tutsi who was found was humiliated, murdered, raped and dumped by the roadside. Some were chained together with pad locks before being buried alive.

Rape is a severe ill treatment regardless of the circumstances under which it occurred (South Africa Truth and Reconciliation Commission, 1998: 297). Rape during times of armed conflict has a long history. For example during the Second World War, some 200,000 Korean women were held in sexual slavery as comfort women to the

Japanese army. During the armed conflict in Bangladesh in 1971 it is estimated that 200,000 civilian women and girls were victims of rape committed by Pakistani soldiers.

The most explicit prohibitions against rape during conflict can be found in Common Article III of the Geneva Convention and its accompanying Protocol II (AI USA report, 2001:7). Over the last decade, women's and human rights activists have forced more serious attention to these crimes. As a result, important steps have been taken at the international level to prosecute rape and other sexual violence as a war crime. The Statutes of the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda explicitly list rape as a crime under their jurisdictions. Both tribunals have indicted and convicted defendants for this war crime. (Human Rights Watch, June 2006:88).

The murderers used machetes, clubs, guns and any blunt tool to inflict as much pain on their victims. Women and children were mutilated. Women were forced to kill their own children and children were often forced to kill their friends, neighbors and loved ones before they themselves were killed. Family members were made to watch on as their loved ones were tortured, beaten or raped (Kigali Genocide Memorial Site).

Despite the existence of various international laws against torture, the practice is still used in many countries both in peace and war times. For example, Amnesty International reports regularly suggest that almost half the countries of the world carry out some form of torture. More than 40 United Nations member states routinely practice torture including those that ratified the CAT (Darren, 2003: 170).

The bridge between the UN and the related covenants and sanctions and the responsibility of nation State governments to enforce those standards within their own borders or with regard to their foreign policies still remain noticeable because of the following identified factors. First, nation States are the main actors; they are the ones that ratify the international law and they are the ones who are expected to implement it.

The declarations and the covenants regarding torture are more of a standard to follow. There are seemingly no cohesive measures to force the nation State parties to the Covenant to adhere to their promises. It is realized that torture is used as a political tool. Meanwhile, a closer look at the cases in countries reveals that apart from rebel groups or relatively few individuals, governments of States are notorious for using torture. They use their agents to do the acts with impunity.

In the 1994 Rwanda genocide, leaders in the government were in communication with figures among the population who formed and armed militias called Interahamwe and Impuzamu. These groups especially the youth wings were to be responsible for most of the violence.

5.5.3 Discrimination

The prohibition of discrimination is a fundamental human rights principle and it is included prominently in the UN Human Rights Norms. Non discrimination provides an example of both the negative obligation to refrain from violations and the affirmative obligation to promote human rights (Amnesty International Publications, 2004: 9). The UN Charter prohibits by and large, racial discrimination. The UDHR also made a general provision to prohibit discrimination. It states that *everyone is entitled to all the rights and freedoms without discrimination*. Further emphases to the concept of non discrimination were made in the International Convention on Elimination of All Forms of Racial Discrimination (ICEARD). However, more appropriate provision for discrimination in this study can be found in ICCPR and CRC; Articles 27 of ICCPR and article 30 of CRC emphasize discrimination against minorities.

Many Tutsi respondents mentioned that before the 1994 genocide took place, they had been discriminated against in their communities, schools and hospitals. Their very existence was hated. Some of the respondents who said they were now trying to catch up with their education lamented that they dropped out of school because of discrimination. This may confirm Mahmood Mamdani's analysis that Tutsis were considered racial strangers in colonial and postcolonial Rwanda (Mahmood, 2001: 37).

In the whole, almost all the human rights of the discriminated ones were abused. As Darren (2003) puts it, the rights and the privileges of the discriminated victims were removed as part of the process of dehumanization after which the physical extermination became an easier task (Darren, 2003: 326).

Discrimination is a human right violation that occurs within the social sphere that is, it is normally committed by one group of people against another. If the discrimination is not politically biased, it is easier to fight. However the irony is that most kinds of discrimination are allegedly mediated through the political sphere that either looks on or encourages it. For example, a Rwanda Prime Minister, Jean Kambanda, revealed in his testimony before the International Criminal Tribunal for Rwanda that the genocide was openly discussed in cabinet meetings and that one cabinet ministers said she was personally in favor of getting rid of all Tutsis. Without Tutsis, she told the ministers, all of Rwanda's problems would be over.

It can be wrapped up that discrimination is a psychological conviction rooted in the minds of the people that are involved. This might be caused by economic, social or cultural differences that could bring about a superiority or inferiority complex. In Rwanda the root causes of the discrimination between Tutsi and Hutu could be traced to colonial as well as social, economic and political factors.

Belgians elevated the minority Tutsis to positions of power over the majority Hutus (Dallaire, 2003: 47). The Belgian colonialists also introduced identity cards to classify Tutsis from Hutus. Tutsis were traditionally cattle keepers and stock breeders who were wealthier than the Hutu farmers. An economic, political and social system evolved in which the Tutsis not only established their domination over the Hutu but also perpetrated their leadership through better education and access to resources and to places of power (Khan, 2000: 3). One of the defendants argued during a section of Gacaca Jurisdiction that the ethnic situation in Rwanda was aggravated by the politics imposed on Rwandans by the 'the white men'. He said, to be able to govern, they used one group (Tutsi) to the detriment of the other (Hutu). They only chose one group. Those who should be condemned are the colonizers and the old regime (PRI, May 2004:21).

Discrimination is a violation of one's rights to belong that could be healed or greatly reduced by fair distribution of national resources in addition to the creation of awareness of the crime and the implementation of the international law provisions that prohibit it. However, this could possibly be a still born solution if the discrimination is spearheaded by the government in power.

5.5.4 Human Rights Implications of the Genocide

The weapon of rape used during the 1994 Rwanda genocide resulted in an increase in the rate of HIV/AIDS and its related consequences such as reduction of labor supply and income, high cost of treatment and death. Women and girls who had been raped or otherwise sexually abused had been psychologically damaged as well as physically injured and many may never fully recover from the sexual violence they suffered. A significant number of the women and girls became pregnant with unwanted pregnancies. The outcomes were rampant abortions which even resulted in the death of some girls and women and caused the streets to become flooded with rejected children.

Some of the girls and women had serious medical problems caused by rape, child bearing and unassisted births. Many of them could not seek medical treatment after the rape for fear of knowing their HIV status and they lived in trauma and anxiety over the years. One of the respondents confessed that she could not have the courage to go for HIV testing after she was raped and she was often sick out of worry. When she finally took the HIV test after many years of distress she realized that she was negative.

The study found out that many of the genocide orphans have no parental care and they face various forms of abuse and exploitation, and a number of them became street children. Human Rights Watch (March 2003:1&62) reported that perhaps the most devastating legacy of the genocide and war is the sheer number of children left on their own and the government's failure to protect them from abuse and exploitation. An estimated seven thousand of Rwanda's most vulnerable children had fled various forms of abuses to the streets of Kigali and other provincial capitals. A number of girls fled to the streets when families who had taken them in either as foster children or as domestic servants began to abuse them physically or sexually.

One of the respondents, nineteen years old, in an interview on the 20th November, 2007 recounted that she lost her job as a domestic servant after her employer's brother often raped her. With no where to go, she went to the streets where she experienced worse cases of rape. A local NGO, "Kigali Archdiocese: Qui suis-je?" reported on the 26th February, 2002 that more than 80% of Rwandan street girls have been victims of rape.

Rwanda boys that survived the genocide had their own share of ordeals. They did not only witness the horror but were also forced to participate in the killings. Besides, many of these innocent children were arrested and detained for crime of genocide. As many as four thousand children who were aged between fourteen and eighteen during the genocide continue to languish in overcrowded prisons (Human Rights Watch, March 2003: 1). The horrifying health conditions in the prison due to over-crowding should also be noted. For example, many became gangrenous in their legs, and some of them had decayed limbs. A UN Commission for Human Rights official, Mr. Ian Martin, said on May 14th 1996 that 22 people had died of suffocation in two prisons in Kibuye province on May 11th and 12th 1996. He said the problem of over crowding in Rwandan jails was causing increasing concern (Africa Research Bulletin, June 1996: 12277).

The genocide set the stage for a whole host of short term and long term systematic human rights violations. Many of the children have become petty thieves in the street probably because of lack of support. The poor children are often exploited for their labor or their property and they are denied their right to education. These unfortunate children are taken advantage of by some unscrupulous people, even sometimes by members of their own families.. "An alarming and apparently increasing number of abuses against girls come from members their own families" (Human Rights watch, 2002: 25). So deep was the trauma associated with the Rwanda genocide that some children refused to go home even when humanitarian agencies had located their families and could promise a reunion (Human Rights Watch, March 1996:12).

The genocide interrupted or ended many children's education. During the genocide that lasted about three months, schools were closed down, the infrastructures were totally destroyed, homes were demolished, and everything was at a standstill. "By

October 1994, a government did exist in Rwanda but it had no offices, no transport, no telephones, and no cash to pay essential salaries” (Khan, 2000: 93). Even many years after the genocide, the majority of children cannot afford education. UNICEF estimated that 67% of boys and 68% and girls of primary school age were enrolled by 2001 but some of them were likely to be expelled for failure to pay school fees. Despite the government survivor’s fund and the heavy assistance of international donors, not all the children are able to benefit from free education. In November 2000 for example, the government fund had paid for only a handful of children (Human Rights Watch, March 2003: 50&52)

Before, during and even after the genocide many people run for their dear lives and became refugees or Internally Displaced Persons (IDPs). Among them were many children of school going age that would not even have had the opportunity to go back to school. Some UN Agencies like UNICEF and UNHCR try to give some assistance, but sometimes, some of the children may not fall under their mandate. The assistance might not be enough to sufficiently cater for their education. For example, one of the conditions of the UNHCR is that refugee children’s educations are sponsored only when they are in refugee camps. “Some refugees are permitted to live in urban centers on condition that they are able to look after themselves without support from the government or the UNHCR” (UHRC 2000-2001: 43-44).

Many children lost one or both parents during the genocide or the war. A growing number were orphaned by HIV/AIDS most of which were the result of rape committed during the genocide. A number of the children’s parents were held in detention for crime of genocide. Human Rights Watch (March 2003: 44) report states that an estimated 400,000 Rwanda children were orphans. This implies the loss of their sponsors. The documentation at Kigali Memorial Site registered over 300,000 orphans with 85,000 of them becoming heads of their household with younger siblings and relatives.

Kigali Genocide Memorial Site recorded that the refugee number were over 2,000,000. Refugee camps were set up in Burundi, Tanzania Uganda and Zaire. Two thirds of the Rwandan population was displaced either as refugees or Internally Displaced Persons (IDP). Many of these displaced people lost their lives in the

process. For example Khan (2000: 34) notes that 50,000 deaths were recorded from the refugee camps in Zaire. Between 1500 and 2000 IDPs were killed in the Kibeho tragedy. One the whole, there had been an increase of refugee and IDP populations.

A number of children have become homeless with no means to support themselves because their homes and their parents' lands and properties had been forcefully taken over by some corrupt adults. The researcher's in-depth interview on the 21 November 2007 with some members of the Association of Survivors of Genocide revealed the ordeals that some of them faced as orphans. A female respondent said when she was seventeen, she was evicted from her family house by a woman who claimed her father owed her. But her lawyer was able to resolve the matter after detecting that the signatures were forged and the unpaid debt story was fabricated. Another respondent also narrated that after running away for her life she came back four years later only to find out that their family house was encroached upon by a man who claimed ownership of the land and the house.

Precious lives continue to be destroyed. For example, RPA troops killed thousands of children outright when they attacked Rwandan refugee camps in Zaire in late 1996 (Human Rights Watch, March 1996: 12). People's lives have become unstable. Until 2005 people were still running from their country as a result of the effects of the genocide. "As the jurisdictions started pre-trial inquiries throughout Rwanda, some 100, 000 Rwandans fled to surrounding countries , many saying they feared false accusations and unfair trials" (Human Rights Watch, 2006:123). Over the years the number of refugees in the world has significantly increased from around eight million a decade ago to around 15 millions today. In addition, an estimated 25 to 30 million people have been forced to leave their homes as IDPs because of human rights violations or threats to their lives (Amnesty Internal Report, April 2005: 3-4).

Refugees and the IDPs may become vulnerable, unproductive and dependent. Some countries' refugee law does not favor the helpless refugees. For example, The Control of Alien Refugee Act (Act 1960 Cap 64) of Uganda violates several aspects of the refugees' human rights even though this theoretically erodes international law (UHRC, 2000-2001:43). The Refugees are more often subjected to the whips and caprices of their host countries. For example, they are most of the times confined to

camps where their conditions of life are not only miserable but they also sometimes face insecurity. “In the name of security the government has confined most refugees to camps in underdeveloped and insecure areas” (Human Rights Watch, May 2002: 21).

The refugees at times have difficulty in obtaining identity papers. Permits are on occasion refused to be given to them as a deliberate means to confine them in camps. The Asylum seekers are often maltreated by the police who initially handle their applications. They are sometimes treated as suspected criminals. They sometimes spend months without an interview and welfare assistance. For example in Uganda, the Refugee Eligibility Committee was sitting only once every two months and they attended to only a few asylum seekers a day (UHRC, 2000-2001:44). At times the host countries accuse the refugees of being a source of insecurity in their lands thus making life unbearably difficult for them. “The frequent xenophobic or anti-refugee statements, police harassment, arbitrary arrests and extortion by government officials have created an increasingly hostile environment for the thousands of refugees” (Human Rights Watch, May 2002: 21).

The refugees could also be a cause of insecurity to the host countries. The senior official responsible for firearms licensing in Kenya stated that many refugees immigrating from neighboring war torn countries carry with them all manner of firearms. He also identified them as former fighters who cross the borders with their weapons and sell them for subsistence (Human Rights Watch, May 2002: 20). The refugees may also cause damage to the properties of the host countries. They most of the times provoke ecological, social and economic stresses on the resources of the host countries and putting an impossible burden on their populations. For example Zaire was hosting 1.5 million refugees from Rwanda, who it claims, had destroyed the region’s agriculture, polluted the cities and taken over the entire region. Schools could not open in Goma and Bukavu because refugees had occupied them and were burning chairs and desks for fuel. (Khan, 2000:75).

The refugees may go and organize themselves into rebel groups that could attack their country of origin thus bringing about fresh conflicts and new forms of human rights violations. The Rwanda Patriotic Front’s invasion of Rwanda for example was a case

worth citing. Some of the exiles including the Tutsi families that fled their country after the death of the last monarch in 1959 and the massacres of the civilian population in 1962 and 1972, organized themselves into a force, the RPF (Kieh Jr. and Mukenge, 2002: 57). The RPF including the Banyarwanda serving in Ugandan army organized rather openly and attacked Rwanda (Klinghoffer, 1998:15). This became the genesis of a civil war that latter degenerated into genocide. After being defeated by the RPF, the Rwanda Patriotic Army (RPA) under the directions of the defeated political and military leaders, reorganized and rearmed within the refugee population, and prepared for new attacks on Rwanda (Human Rights Watch, June 2002:11).

The rebels born out of refugees may also attack other countries in the region thus causing regional instabilities and inter-state wars. For example, Zairian Hutu militants often from communities displaced in 1993 joined forces with Rwandan Interahamwe and attacked Zairian Tutsi. This happened in Rutshuru first then in Masisi between November 1995 and May 1996. This brought about the killing of thousands of Tutsi in Zaire and about 15,000 of them fled to Rwanda (Pottier, 2002: 41).

Internally Displaced Persons sometimes do not have a place stay. They live dispersed in the forest. The women and girls have little protection and they could easily be attacked and raped by unscrupulous soldiers and combatants. Because people can not go to their farms or take their product to the market, lack of food and malnutrition becomes the order of the day. This situation coupled with lack of clean water, medicine and shelter bring about poverty, mental and physical problems that are generally associated with lack of productivity, lack of development and dependency. Once the poor country cannot provide for itself, it has to depend on other countries for grants and loans for survival.

5.6 CONCLUSION

The causes of non-intervention or unsatisfactory intervention have been analyzed. This then led to the examination of the importance of the UNSC and its policies. The power politics that emanate from human nature was singled out to be the factor that causes the inaction or late action of the UNSC. The response of the UNSC towards the 1994 genocide was looked at as a case study. This involved the study of the

preventive, peace keeping and peace building roles of the UN and the international community.

The constraints or obstacles which are also considered to be factors that work against the effective performance of the UNSC in its duty of maintaining international peace and security were as well dissected. The study identifies these as sovereignty, political will, lack of resources, lack of consensus to determine the type of cases at hand and the proper types of intervention that is required, lack of powerful or standby troops, acceptability of peace keeping forces by warring parties as well as the population and bureaucracy.

The human rights that were violated in the 1994 genocide were also looked into. The study stated that all human rights were violated in the horror. However it distinguished and elaborated on the right to life, torture and discrimination. The analyses of some human rights implications resulting from the genocide were lastly made. These included an increase in health, refugee, poverty and dependency problems, in addition to multiplication of war and conflicts.

In summary, this chapter has established a relationship between the egoistic human nature and human rights violations using the realism theory. This behavior does not only show up in the foreign policy of nations but also in the decision making of the UNSC through their voting system which could lead to inaction in the face of gross human rights violations.

The study also recognized the existence of other factors that cause inaction or unsatisfactory action of the UNSC. The end result was identified to be not only loss of life and its related human rights violations but also its negative implications. Apparently there is the need for P5 members to put aside their alleged national interests in the face of human rights violations for prompt and effective action. Other UN nations States are also called upon to cooperate with the UNSC so that, human right violations would be seen reduced instead of escalating in crisis areas.

CHAPTER SIX

GENERAL CONCLUSION

6.1 CONCLUSIONS

This study combines the issue of inaction, late action or unsatisfactory action in conflict areas by the UNSC and human rights perspectives with focus on the 1994 Rwanda genocide. Many assumptions, suggestions, speculations and criticisms have been made in the various chapters of this study.

The research started by stating the problem at hand that required further investigations and profound analyses. Consequently, library work that provided substantial amount

of literature on the subject of the study as well as relevant regional and international human rights instruments related to the study was first made. This was followed by the field research which combined both the objective and subjective views of respondents.

The next stage of this study was to combine all the previous arguments and findings into an academic discussion. This was done in chapter five where critical and analytical assessment of all the related issues was made to portray the originality of the study.

This chapter is set to make a general wrapping up of the study; it will make an analytical recapitulation of the most important issues as they came up in the research and thereafter draw a final conclusion. Some significant recommendations are in the end suggested as a way forward.

An attempt was made to search and put into context various available literature on the subject under study. Thus the literature provided the first set of findings which were confirmed or discarded by the field study findings. The literature was divided into two categories: scholarly publications and legal human rights instruments.

The summary of the key human rights instruments as summarized in Chapter Two shows that the right to life is a fundamental human right whose abuse leads to violation of all other human rights. The importance of the right to life has been recognized and enshrined in several local, regional and international legal document

The overall findings as far as the literature is concerned were that the policies of the UNSC may negatively or positively affect human rights in conflict areas. This necessitated the study of the importance of the UNSC and its working strategies as far as maintenance of international peace and security is concerned. It was observed that the P5 members of the Security Council retain veto powers that they could use to override the decisions of other Security Council members. It was noted that despite these obstacles, the UNSC ought to be credited for often making significant resolutions for the protection and promotion of international human rights.

The genesis of the UNSC and its veto power were also examined where it was said to have been established after the Second World War to avoid the occurrence of another global war. The trouble was that the veto power of the P5 members is assumed to be often influenced by national interest that emanates from human nature. The result is the probable negative use of the veto even when human rights are at stake. This in turn may cause inaction or unsatisfactory action by the UNSC which may lead to an increase in human rights violations in conflict areas.

The UNSC and for that matter the international community's intervention in the 1994 Rwanda genocide was investigated as a case study to ascertain the extent to which the UNSC fails or succeeds as the chief maintainer of international peace and security. A critical analysis of all the stages of the UNSC's intervention from the preventive role through peaceful settlement of disputes, peace keeping, peace enforcement and peace building was made.

Close analyses of the various answers from the respondents and a multitude of writings concerning the UN humanitarian intervention in the 1994 Rwanda genocide in this investigation shows that the intervention in the 1994 Rwanda genocide was generally unsatisfactory. It has been observed that from the preventive role of the UNSC to peace enforcement, very little was said to have been done. However, while the peace building role of the UN can hardly be described as successful, very much was realized in terms of reviving and restructuring the devastated country and the establishment of justice.

It was noted that there are other factors that limit the UNSC in the execution of its duty. The following obstacles were singled out in this study.

Sovereignty is said to be enshrined in the UN Charter after the order of the Westphalia Peace Agreement. This was done ultimately to prevent inter-state wars. As much as sovereignty is being redefined in recent years in order to combat human rights abuses, and though the UNSC is not entirely bound by this principle in the face of human right violations, the concept still remains an obstacle to prompt and timely action in time of conflict . This is because the UNSC still needs some kind of

approval from either the State where the conflict is or from neighboring States for using their land to penetrate the conflict zone.

The UNSC's effectiveness to intervene in conflict areas was said to depend largely on the willingness of the member States to contribute the necessary resources. But it has been realized that the willingness of the Member State to support the UNSC to maintain peace in conflict places is more often than not subjected to the national interest of various countries. As a result, many UNCS's efforts to intervene have failed because of lack of political will.

A majority of the respondents on the issue of resources disagreed that lack of resources was the real cause of unsatisfactory or lack of intervention in the Rwanda genocide. It has been confirmed that political will was the driving impetus for the contribution of resources towards the maintenance of peace in another country. This study maintained that the powerful members which could generously contribute are most of the times over burdened and seemingly turn to make their choices. Poverty in relatively powerless countries was also emphasized as a contributing factor for lack of resources towards humanitarian intervention spearheaded by the UNSC.

The UNSC some times fails to reach appropriate agreements concerning the type of conflict that is on the ground and the right type of remedy that is needed. This normally leads to failure to prescribe the right mandate. Therefore one of the key findings of this research was that there was glaring discrepancy between the Chapter VI mandates that was given during the 1994 Rwanda genocide and the battle that was taking place on the ground.

The lack of able regional troops and the non existence of standby forces that could swiftly be dispatched to keep peace when the need arises was identified to be perhaps deficient in the UNSC's effort to maintain international peace and security. The views gathered from both the field and the available literature revealed that troops were needed for reinforcement when the situation got tougher. Well organized and equipped regional troops or powerful standby forces were said to have been very much useful to avert the atrocity in the 1994 Rwanda genocide.

The issue of admitting the presence of the peace keeping force by the warring faction and the population mostly determines the success of the peace keeping mission. When the troop is not accepted, it is usually fought like an enemy. This study identified that the rejection of the peace keeping force in a conflict area remains in the way of the UNSC's effort to maintain international peace and security. This study assumed that this could likely be one of the factors that discourages the nation States from committing themselves into going to such battle fields at the expense of their troops and people, especially when there are no strategic interests. At times, the UNSC may be willing to act or intervene but the government of the war torn country refuses or pretends that the situation is under control, therefore giving the message that no outside help is needed.

It is evident from the pieces of literature reviewed and the reactions of the respondents as it was elaborated in Chapter Four, that there may be delays in the UN system due to bureaucracy. This research identified as examples, lengthy deliberations in the UNSC before they could result into a resolution or a deadlock, the delay by the UN humanitarian agencies in honoring pledges made for rebuilding the war torn countries and the delay in setting up international criminal tribunals for adjudication of justice.

It was noted that the wealth of scholarly work available had not taken a human rights perspective in treating either the negative use of the veto power in the UNSC or the inaction or unsatisfactory action of the UNSC in international conflicts. There has been an attempt in this study to fill that gap in the literature.

This investigation tried to show how inaction or unsatisfactory humanitarian intervention could lead to an increase in human rights violations. It has been stipulated that all human rights were purportedly violated during prolonged conflicts but this research concentrated on the violation of the right to life and the rights not to be tortured and discriminated against. The study also pinpointed that some of these human rights implications mainly cause an increase in health, refugee, IDP, poverty, war and dependency problems.

The overall conclusion to draw is that national interest is possibly the influential force behind the negative use of the veto in the Security Council and the secret power that backs most of the studied obstacles that work against the effectiveness of the Council. This study establishes the fact that national interest stems from human nature which is also the root of all conflicts and the source of all human rights violations.

Machiavelli and Hobbes in their social, political and psychological theories captured the gist of this fact. Machiavelli's theory describes human nature as selfish and greedy of security and power. According to Hobbes' psychological theory of man, "each human being is actuated only by considerations that touch his own security or power, and other human beings are of consequence to him only in so far as they affect his" (Ochieng-Odhiambo, 1994: 82-83).

It is national interest that would make a Nation willing or not to help intervene in another Nations for humanitarian reasons. Most of the times, Nations are not willing to suffer for others if they have no interest of any sort. For example nations would in most occasions go all out to provide the resources needed to intervene in a chaotic country if their interests are at stake. On the other hand, when there is no interest, they would argue that the means to intervene are not available even when precious lives are being destroyed.

Human nature would make unscrupulous dictators hide behind the sovereignty concept and continue torturing and violating the basic human rights of their people with impunity. For the same reason some warring factions and some set of people in conflict countries would refuse international intervention in order to satisfy their personal gains and selfish ambitions.

It is worth stressing however that from time immemorial there have been individuals, groups of people and institutions from different eras and diverse settings that have been working tirelessly towards shaping human attitudes in order to promote and protect human rights in the world. Each of them flows in their own unique way in form of religious meditation, poetic expression or philosophic contemplation. On other occasions it has been through violence, peaceful demonstrations, writings or passing of legal human rights documents.

A widespread example is that all the major religions of the world seek in one way or the other to address the issue of human responsibility towards others, especially those who are suffering, despite differences in race, color, religion, sex and the rest. Each of them tries to provide ways that direct personal thoughts and actions away from self-centeredness and urges one to behave towards others as they would like to be treated. For example, Christianity believes in responsibility and compassion, while one of the pillars of Islam is charity or lifting the burdens of those that are less fortunate. The Qur'an further speaks on mercy, compassion and respect for human beings among other things.

Many philosophers at different times and places have over the years contributed tremendously towards the course of human rights protection and promotion through their thoughtful search of the meaning of human nature and moral responsibilities to others among other things. For example, the Chinese moral philosopher Mo Zi's writings emphasize the importance of duty, self-sacrifice and all-embracing respect towards all others throughout the world (Gordon, 2003:10).

After the Second World War the world governments deemed it necessary to come together to fight a common goal. This culminated in the inception of the UN Charter in 1945 followed by the Declaration of Human Rights in 1948 and all the subsequent international, regional and local human rights instruments. Human rights governmental organizations like Human Rights Commissions (HRCs) and Inspector General of Governments (IGGs) have also sprang up in many countries.

The proliferation of wealth of human rights Non-Governmental Organizations (NGOs) over the recent years cannot be underestimated in this fight for protection and promotion of human rights in the world. At this point it is worth citing Amnesty International, Human Rights Watch and International Commission of Jurists to mention just a few as NGOs that are actively working in this area.

All said than done, the question to ponder is whether all these efforts to combat human selfish nature as well as to promote and protect human rights have yielded the

corresponding solutions. The uncontrolled wars in various parts of the world, the genocide in Rwanda and the ongoing genocide-like war in Sudan among others, and human rights violations in many part of the world show that there is still a long way to go even though a lot has been achieved.

6.1.1 Verification of Hypotheses

The research hypotheses were that, in the case of the 1994 Rwanda genocide, first the inaction by the UNSC had devastating consequences on human rights and second, the international community's response to humanitarian crises was directed more by national interest than protection of life. The research findings and discussions reveal that the hypotheses are true.

It has been discovered that failure of the UNSC to successfully play its interventional role in the Rwanda conflict led to the degeneration of the civil war into genocide. Inaction had also led to the extent and subsequent severity of the genocide which can be classified as one the worst massacres that mankind has ever experienced. The early warning signs of the genocide were not heeded to, neither were quick actions taken to stop it on time. The result was a rise in the death toll, and in fact the escalation of all the other human rights violations.

The findings also indicate that the UN Member States including the P5 members are often reluctant to contribute resources for intervention in conflicts when they have little or no interest. Very few countries were noted to have quickly raised resources for intervention in conflicts while the whole of the UN States failed to gather resources on time for deployment in the 1994 Rwanda genocide.

6.2 RECOMMENDATIONS

As much as the veto power was introduced in the UNSC to enable P5 members to have exigencies of power (Shaw, 1997: 826), this study suggests that there should be a reform in the UNSC whereby all Nations of the UN organization should be represented in the Security Council on a regional basis. This is because the world is changing and people everywhere want to participate in the decision making on issues that affect them. The fact that people everywhere in the world advocate for democracy to enable them to express themselves through their votes explains why the UNSC also

should adopt equal voting system for the sake of transparency and democracy. For example, the demand by the African Union of two permanent, veto-wielding seats for Africa in the Council (Sudan Tribune, 2005: 2) is considered by this study to be a step in the right direction. Therefore, it advises that similar considerations should be given to all regional organizations if a Security Council with veto powers should still be maintained.

Alternatively every country should be represented in the Council without veto-wielding power but with respect for the voice of the majority, through democratic voting. This should be instituted to reduce the influence of national interest on decision making in the Council. Besides, there should be an establishment of standby forces and strengthening of regional troops for quick deployment when the need arises.

The study maintains that the Council should be assigned with absolute power to enter without any impediment into problematic countries in order to discipline recalcitrant governments and trouble makers. For this study believes that people and States need to be compelled to obey the law as again advocated by Hobbes and Machiavelli.

UN emergency funds should be established wherein emergency contributions should be periodically made by the UN States. This is aimed at having ready financial resources for intervention to meet urgent financial needs.

There should be UN funds monetary departments for monitoring the use of aid money allocated by the UN agencies to help alleviate the suffering of the victims of wars and genocides in the world and for protecting and promoting international human rights.

The UNSC should set up a committee that would be responsible for probing conflicts when they occur and recommend the appropriate interventional mandate. Those individuals or group of people that would fight privately or as a government the UN mandated peace keeping force should be track down and persecuted at the International Criminal Court.

Lastly bureaucratic procedures in the UN system should be considerably reduced. Pragmatic approaches of solving conflict related problems should be adopted to prevent waste of time that could lead to human rights violations.

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APPENDIX II: INTERVIEW GUIDE

- 1) There had been wide spread outcry that UN did not intervene satisfactorily in the 1994 Rwanda Genocide! Do you also hold the same opinion? Please explain why.
- 2) If you think the intervention of the UN was not satisfactory, what do you think was the cause?
- 3) What effect do you think the Security Council Resolutions at the time had on the crisis on ground in Rwanda?
- 4) What do you think about the international peace keeping in Rwanda during the 1994 genocide? Please explain.
- 5) What is your opinion about the French led Operation Turquoise? Please explain.
- 6) What is your view about the international community's peace building in Rwanda after the 1994 genocide?
- 7) What is your opinion about the establishment of the International Criminal Tribunal for Rwanda?
- 8) In your view, what were the obstacles that prevented the successful intervention of the UNSC?
- 9) According to your observations, what types of human rights have been violated during the genocide? Why?
- 10) According to your observations, what do you think were the implications of these human rights violations?

- 11) Do you think that the unsatisfactory intervention of the international community contributed to the escalation of the genocide? Why?

- 12) What solutions would you suggest in order to bring about timely and successful humanitarian intervention by the UNSC and the international community in crisis?

APPENDIX III: QUESTIONNAIRE FOR RESPONDENTS

Dear respondents, I am a student of Master of Arts in Human Rights from Makerere University. I am undertaking a field research to write a dissertation on Power Politics in the United Nation Security Council and Human Rights Violations taking a case study of the 1994 Rwanda Genocide. Kindly fill this questionnaire and the information given will be purely for academic purposes. It will be treated with ultimate confidentiality.

I thank you; Ami A. Apedoh

Sex: Male Female

Age: 19-28

29-38

39-48

49-58

59-68

Occupation:

Menial worker/unemployed

Teacher

Health worker

Business entrepreneur

NGO worker

Government worker

UN official

Student

Lawyer

Peasant

Other professions

1) What is your opinion about the intervention of the UN? Please explain.

Satisfactory

Non- satisfactory

2) Did the UN play a preventive role in the 1994 Rwanda crisis? Please explain.

Yes No

3) What effect did the UNSC resolutions have on the Genocide? Please Explain

Positive Negative

4) What do you think about the UN peace keeping mission in the Rwanda Genocide?
Please explain.

Failed Helpful Successful

5) If you think the UNAMIRI failed, how did the failure come about? Please explain.

6) Was the French led Operation Turquoise accepted by the population and the warring faction? Please explain.

Yes No

7) Were the UN and the international community helpful during the peace building period in Rwanda after the genocide? Please explain.

Yes No

8) Do you think UNAMIR I was accepted by the population and the warring faction? Why?

Yes No

9) What do you think about the establishment of International Criminal Tribunal for Rwanda? Why?

10) What do you consider to be the obstacles/ constraints of the inaction of the UN Security Council and the international community?

11) What types and nature of Human Rights in your opinion had been violated during the 1994 genocide?

12) What Human Rights implication did you observe or witness concerning the genocide?

13) Was there any link between the non intervention and the killing on ground during the genocide? Please explain.

Yes No

14) How should UN's timely intervention be encouraged?

