

The Relevance of Humanitarian Intervention in the New International Dispensation: the Case of Burundi's Civil Conflict

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Abstract

The end of the Cold War has enabled a fundamental shift in the concept of humanitarian intervention as well as its practice. The demise of superpower rivalry has to a great extent removed systemic constraints on intervention in internal affairs of states. On the contrary, international norms and institutions have not been redefined and reformed to march with international needs and aspirations. In Burundi, the external interveners while they had chapter VII mandate to use force in an effort to protect civilians they never did so. However, on the diplomatic/political front, the role of external interveners was extensive. They played a key role in restoring confidence among Burundians by insuring that the situation in the country did not degenerate into chaos. Their support towards the peace process ensured the implementation of the Arusha agreement for Burundi.

La fin de la Guerre Froide a rendu possible un changement fondamental dans le concept de l'intervention humanitaire aussi bien que dans sa pratique. La fin des luttes entre superpuissances a beaucoup facilité l'ingérence dans les affaires internes des Etats. Cependant, les normes et les institutions internationales n'ont pas été redéfinies et reformulées pour être en phase avec les besoins et les aspirations internationales. Au Burundi, les intervenants extérieurs, alors qu'ils devaient utiliser le mandant du Chapitre VII de la Charte des Nations Unies, ils s'en sont au contraire abstenus. Toutefois, sur le plan diplomatique/politique, le rôle de ces intervenants étrangers fut énorme. Ils ont joué un rôle clé en restaurant la confiance entre les Burundais en s'assurant que la situation dans le pays ne dégénère pas dans le chaos. Leur aide en faveur des processus de paix assura la mise en œuvre de l'Accord d'Arusha pour le Burundais.

Introduction

While the post-Cold War international system has provided opportunity for humanitarian intervention aimed at protecting civilians facing catastrophic situations, civilians have continued to suffer massive killings, displacement and refugee related problems. This has, however, not attracted immediate attention of the international community and even where this has happened, internationally recognised norms such as sovereignty, non-intervention, and traditional peacekeeping norms have constrained efforts of interveners in protecting suffering civilians. It is against this backdrop that this paper attempts to analyse the extent to which humanitarian intervention in the post-Cold War era has been implemented by focussing on Burundi's civil conflict. Research in this area unveils key challenges constraining efforts designed to launch effective humanitarian interventionist policies to address civil conflicts.

In its first part, the analysis looks at opportunities and challenges for humanitarian intervention that are provided by the post-Cold War international system while in the second part it explores the need for humanitarian intervention in Burundi and the response to Burundi's civil conflict by the international community.

Methodology

The research exclusively employed a qualitative research approach. This is because of its characteristic quality that "focuses on the analysis of information so as to generate qualitative explanation of social phenomena", Mwanje (2001:2) The approach facilitated data analysis and helped to explain issues related to external intervention and Burundi's civil conflict. Scholarly literature, newspaper articles and reports were consulted, and semi structured in-depth interviews were administered to generate information.

Interviews involved representatives of external parties that were involved in addressing Burundi's civil conflict, field experts on conflicts in the Great Lakes Region, Burundian government officials and opinion leaders. Informants were deliberately selected based on their in-depth knowledge and experience around issues pertinent to the research problem. Information from interviews with these various stakeholders supported by information from scholarly literature improved the validity and reliability of the research results generated. The key interview questions focused on international response to Burundi's civil conflict; the application of international norms, such as, traditional peacekeeping norms and efforts to address the conflict; and external intervention and civilian protection. Among the key questions were: what are the key challenges that you have encountered in pursuing your mission objectives?; do you think if third parties (external actors) had not intervened in Burundi, the civil conflict would have escalated and thereby causing massive population displacements and alarming deaths? Explain briefly; what were your expectations of the role of third party interveners (South Africa's peace mission) in particular; in what ways have you engaged with other external parties involved in the search for peace in Burundi in an attempt to achieve your mission objectives?; how has U.N. traditional peacekeeping norms of engagement constrained or facilitated your actions or desire to keep peace in Burundi?; in your opinion, what do you think should be done by external interveners in order to protect civilians facing catastrophic situations in an intractable conflict like the one in Burundi?; and does your mandate allow you to exercise discretion in order to save civilians whose lives are at stake? Explain briefly.

Results and Discussion

Opportunities for intervention in the new world order

Traditionally, humanitarian intervention refers to peaceful enforcement aimed at halting gross human rights abuses. Thus, if the U.N. sanctions humanitarian intervention, the purpose should be to address a human rights catastrophe and not other political objectives or interests, Lillich (1980:17). However, in the African context, debate over humanitarian intervention has broadened beyond humanitarian goals to include the 'possibility of intervention to address a range of important political and other objectives, including whether intervention should also be considered where effective state authority has completely collapsed, where spill over effects threaten regional stability, or where democratization or democratic processes are threatened', Samkange (2002:73). Indeed, by simply addressing or halting the consequences of the conflict without aligning your efforts to deal with the root of the conflict, it is synonymous to dealing with the symptoms of an illness rather than its diagnostically prescribed cause.

The new opportunity and capacity for collective action that emerged with the end of the Cold War has provided 'a critically important dimension' to the current debate on intervention for human protection. The U.N. Security Council has for the first time since its establishment been provided with possibilities of achieving its envisioned role in the U.N. Charter. Although not without some drawbacks, this capacity of the Security Council was found to be real, when in the 1990s it authorized almost 40 peacekeeping or peace enforcement operations, Evans et al (2001:7). The international Commission on Intervention and State Sovereignty recognizes that, the issues and the preoccupations of the 21st century present new and often fundamentally different types of challenges from those that faced the world in 1945, when the United Nations was founded. As new realities and challenges have emerged, so have new expectations for action and new standards of conduct in national and international affairs, Evans et al (2001:3).

However, the 'mandates and capacity' of international institutions have not corresponded with the emerging and pressing international needs. Most importantly, 'the issue of international intervention for human protection purposes is a clear and compelling example of concerted action urgently being needed' to redefine international norms and reform institutions in order to march with international needs and aspirations, Evans et al (2001:3). Indeed, in order to launch successful humanitarian intervention, there is need to redefine international norms, in particular, U.N. traditional peacekeeping norms which condition intervention until certain criteria (for example, ceasefire, and consent by warring parties) have been met. This was the case in Burundi, whereby the U.N. refused to intervene before a comprehensive ceasefire was signed. Though, I do agree with the foregoing proposition of enabling effective international response to the

daunting challenges facing the world, yet without a move to reconcile individual national interest with universal aspirations, there cannot be concerted will that is very often required to launch successful interventions.

Humanitarian intervention is consistent with customary international law under certain circumstances and should be launched only when diplomatic and other peaceful means have failed, and when U.N. Security Council fails to launch an effective operation, for example, as a result of a veto by a permanent member of the U.N., Lillich (1980:136).

According to Evans et al, any new approach to intervention for human protection purposes needs to meet at least four basic objectives:

- 1) To establish clearer rules, procedures and criteria for determining whether, when and how to intervene; 2) to establish the legitimacy of military intervention when necessary and after all other approaches have failed; 3) to ensure that military intervention, when it occurs, is carried out only for the purposes proposed, is effective, and is undertaken with proper concern to minimize the human costs and institutional damage that will result; and 4) to help eliminate, where possible, the causes of conflict while enhancing the prospects for durable and sustainable peace, Evans et al (2001:11)

However military intervention should be allowed some flexibility because in some cases it might be necessary to pursue/fight spoilers (parties) who have refused to join a peace process with a view to guarantee peace to the civilians whom the peacekeeping mission is purposed to protect. For instance, it was not unreasonable for the United Nations Operation in Burundi (UNOB) to enforce peace in the areas of operation of the National Liberation Forces (FNL) considering that they had consistently refused to join the peace process. The current crisis in the Democratic Republic of Congo where the U.N. forces engaged in a confrontation with rebels, demonstrates the exercise of military intervention aimed to promote peace.

Intervention for human protection purposes has been conceptualized not to focus on the 'right to intervene' but on the 'responsibility to protect': 1) The responsibility to protect focuses on the interests or needs of the vulnerable populations, rather than the intending interveners, in other words, the need to protect civilian populations from gross murder, women from systematic rape and children from starvation; 2) the responsibility to protect recognizes the state to possess the chief responsibility to protect its population. This responsibility is assumed by the international community when the state concerned is unwilling or unable to exercise it; 3) the responsibility to protect, not only, implies the 'responsibility to react', but the 'responsibility to prevent and responsibility to rebuild', Evans et al (2001:16). In the case of Burundi, the responsibility to protect was not exercised in practical terms; while the U.N. peacekeepers who were led by South Africa (SA) in 2005 secured a chapter VII mandate to use

force in an effort to protect civilians under imminent threat, they did not do so by deploying in areas where civilians were at high risk of rebels' attack.

According to Charvet (1997:7), although humanitarian intervention is the most forceful means of defending human rights at an international level, it is inconsistent with non-intervention and state sovereignty. In as far as, humanitarian intervention is based on legitimate prerequisites for intervention for human protection and pursued within its intended purposes, it should not be seen to undermine norms of non-intervention and sovereignty as this would be perceived to shoulder the responsibility to protect civilians, which primarily rests on the concerned state, but has failed or is unable to exercise it.

In the recent past, significant failures and successes have been registered, especially in the area of international intervention. There are ongoing fears regarding the acknowledgement of a 'right to intervene'. In order for intervention for human protection purposes including the option for military intervention to gain legitimacy, it is necessary that the international community design 'consistent, credible and enforceable standards to guide state and intergovernmental practice', Evans et al (2001:11). Experience in Somalia, Rwanda, Srebrenica and Kosovo, and interventions and non-interventions in many other countries, clearly reveals the need to comprehensively reassess the tools, devices, and conception of international relations in the new world order in order to address the challenges of the 21st century, Evans et al (2001:11). However, in order that this assessment registers meaningful results, it should be carried out in conjunction with the search for concerted will that is often the locomotive, which influences intervention policies. For instance, although the civil conflict in Burundi killed hundreds of thousands since the country's independence in 1962, the international community's will to intervene was only implemented in 2004.

Sovereignty has been reconceptualized as state responsibility to protect its 'vulnerable populations'. The international community assumes such responsibility only when the state in question has failed to exercise it. The focus is placed on the rights of populations in need rather than on the rights of the interveners. Therefore, since the state exercises the key responsibility to protect, thus sovereignty remains a fundamental principle. Only when a state is not able or intently fails to exercise the responsibility to protect, does an international obligation to rescue civilians facing harm triumph over the rights of the sovereign state, and does the principle of non-intervention passed on to an international responsibility to protect, Terry (2004:16-17). However, events in Darfur clearly suggest that the government of Sudan has intently failed to exercise the responsibility to protect; hundreds of thousands of civilians have been killed by Janjaweed militia, who are supported by the government in Khartoum. Why couldn't then the international community assume such responsibility without necessarily having to seek consent from Khartoum to

intervene? Could this suggest that sovereignty that has been reconceptualized to protect populations facing catastrophe is no less than mere rhetoric- lacking in force to implement the decision of the international community?

The end of superpower rivalry has created potential for consensus in the Security Council and has facilitated international intervention in global conflicts. This is reflected in the dramatic increase in the number and scope of military intervention, Annan (1998). Superpower 'disagreements no longer paralyze the U.N.' on intervention in regional and civil conflicts, Regan (1998:754-779). Based on the foregoing arguments, it can be argued that intervention in a given state is determined by the will and interests of the key members of the U.N.

The end of the cold war has provided an opportunity for an increased number of United Nations interventions into ongoing conflicts, Diehl (1996:683-700). This, however, is dependent on whether or not the interests of the only superpower or any other permanent member of the U.N. Security Council are preserved or promoted on intervention. For instance, a Security Council member will veto any decision to intervene in a given conflict in which its interests will be undermined. The decision to intervene is also influenced by the anticipated benefits to obtain on intervention in a given country. The failure to intervene in Rwanda during the 1994 genocide could support the preceding argument. This could similarly apply in the case of Burundi, where hundreds of thousands of people were killed in the face of the international community. Also the current humanitarian situation in Darfur- Sudan, in which China has opposed any action by the Security Council against the Sudanese government, exemplifies the argument.

The superpower rivalry during the Cold War had made a multilateral humanitarian intervention almost impossible to launch, but in the post-Cold War era, multilateralism emerged as one of the key considerations for humanitarian intervention or in order for any humanitarian intervention to earn legitimacy, it has to be multilateral in nature, Kardas (2001).

The end of the Cold War has enabled a fundamental shift in the concept of humanitarian intervention as well as its practice. This shift is informed by a number of factors. One of the key factors is the 'changing nature of the international system'; the demise of superpower rivalry has to a considerable extent gotten rid of the 'systemic constraints' on intervention in internal affairs of independent states, Donnelly (1993:628, 632). As the Cold War had made non-intervention an absolute term, with its demise norms providing for the protection of individual rights have widely gained approval. This created a conducive 'political atmosphere' for launching interventions, Kardas (2001:4). Given the then appalling humanitarian situation in Zimbabwe that was climaxed by President Mugabe's urban restructuring program, which left hundreds of thousands of civilians without shelter and the means of survival, in Darfur,

Sudan where hundreds of thousands have been massacred by a militia group supported by the Sudanese government, what then prohibits humanitarian intervention in such cases? This implies that, in practical terms, the principle of non-intervention is as absolute as ever.

Scott (1996:334) argues that the decision to intervene was based on 'doctrinal policies and bureaucratic infighting' by the United States and the Soviet Union in the Cold War. According to Blechman (1995:63-73), intervention in interstate conflicts is motivated by morality. The international community is compelled to react in humanitarian crises involving famines and refugee flows. Refugee flows are likely to impose costs on national interests and thus interventions in civil conflicts with massive refugee flows are supported by international convention. For example, when national security is threatened by internal conflict in neighboring countries, intervention is considered to be an option by a bordering country. The Soviet intervention in Afghanistan is a classical example of national security threat, Regan (1998:756, 764). Also intervention in civil conflicts is justified (by the Geneva Convention on Genocide) when there is evidence of mass killings, which could be translated into genocide, however, why wasn't intervention forthcoming in Burundi in the face of massive killings and refugee flows, and internally displaced people? This raises the question of self-interest as a key consideration that motivates states' desires to intervene in a given conflict.

Kardas (2001:5) observes that, during the Cold War intervention was regarded as illegal since it breached norms of sovereignty and self-determination. The shift in focus of Article 2(4) to 2(7) of the U.N. Charter has subjected the provision to 'reinterpretation', whereby a government committing serious atrocities against its own people or a state collapsing into anarchy cannot invoke international law in defense of military intervention into its internal affairs, Greenwood (1993:40). Will, therefore, a state unable to ensure the protection of sections of its population invoke international law in defense of military intervention? This calls forth to a detailed provision that accommodates all situations which subject the lives of civilians to serious threat. Consider, for example, the aftermath of the assassination of the first democratically elected Hutu President of Burundi, where hundreds of thousands died and with hundreds of thousands fleeing into neighboring countries especially Tanzania, and thousands internally displaced, and where some parts of the country were no-go areas: should intervention in such a state of affairs be hampered?

The Security Council increasingly regarded gross violations of human rights that were a result of civil conflicts as a breach of international peace and security and therefore warranting intervention. These interventions were often, carried out in ways that raised more concerns than they addressed. Critics saw the right to intervene as the instrument of inconsistent, cruelly selective intervention policies, hijacked by the national interests and ethnocentrism of the more

powerful states, in blatant contradiction to the principles of equality and sovereignty, and in dubious relation to the principle of self-determination, Tanguy (2003:141).

This could be corrected by coherent and credible policy guidelines that allow for when and how intervention should be carried out in a given conflict situation. The policy should also provide for the specific purpose intervention is intended to address, which purpose should be geared towards addressing the root cause of the conflict.

According to Samkange (2002:73-76) intervening in order to promote humanitarian objectives has often been justified in overriding state sovereignty. In Africa, the debate goes beyond humanitarian goals to include intervention when a failed state threatens regional stability. What about a situation where state authority is unable to control part of a country's territory due to rebel activities, which often violate human rights and cause massive population displacements? Though, Burundi did not slip into a failed state, the conflict made the country fall within this category, in which case, intervention would have been appropriate as a means to rescue the suffering civilians.

Respect for state sovereignty, that is, territorial integrity and political independence is fundamental to the stability, security, and progress of the international system, Annan (1998:56). This is enshrined in article 2(7) of the U.N. Charter: states are obliged not to intervene in affairs considered to be within the domestic jurisdiction of an independent state, Department of Public Information (1973:7). Intervention for human protection purposes, including military intervention in severe situations, is justified when civilians are faced with catastrophe, and the state in question is not in position or is unconcerned with ending civilian suffering, or is itself the instigator. Such an internal situation interpreted to constitute a threat to international peace and security in order to justify enforcement action is provided under chapter VII of the U.N. Charter. This emerging notion for military intervention for purposes of human protection also draws support from various legal instruments. These include fundamental natural law principles; provisions of human rights under the U.N. Charter; the Universal declaration of Human Rights and the Genocide Convention; the Geneva Conventions and additional protocols on international humanitarian law; the Statute of the international Criminal Court; and many other international human rights and human protection agreements and covenants. The level of legitimacy attached to intervention usually requires responses to such questions like the purpose, means, exhaustion of other alternatives of resolving the conflicts, level of response in relation to provocative situation and the authorizing agency, Evans et al (2001:16).

Africans have on many occasions been key proponents of intervention. However, the move toward intervention especially military intervention in the

name of humanitarian and other purposes has not been generally accepted. The nature of past interventions has caused much concern leading to increased interest in the intervention debate especially for Africa. While effective action may be launched to save large numbers of populations or perhaps promote basic human rights, interventions that are poorly planned may prove more destructive than helpful, and may undermine the human norm of non-intervention and thus heighten the 'likelihood and potential for conflicts between and among states', Evans et al (2001:73-74). It should, however, be appreciated that humanitarian intervention purposed to prevent gross human rights violations, e.g., killings and rape in a war situation, will take a military form if at all such a situation must be put under control. As will be revealed in the following sections, Burundi's civil conflict demonstrated the need to adopt an interventionist policy suitable to the current international environment that we live in.

Obstacles to policy of intervention and remedy for effective humanitarian intervention

According to Annan (1999:3), states' conception of their national interests poses one of the key obstacles to effective intervention for human protection. Annan (1999:3) argues that since the world has changed in profound ways with the end of the Cold War, 'a new broader definition of national interest is needed in the new century, which would induce states to find greater unity in the pursuit of common goals and values'. How do we then explain a situation where national interest of states (especially in Africa) are at stake as a result of an on-going conflict in a neighbouring state and yet such countries have remained passive? This raises the issue of financial/economic constraints as another key hindrance to launch effective intervention for human protection.

While Annan (1999:1) acknowledges the importance of intervention in preventing gross and systematic violations of human rights, he argues that intervention must earn international consensus and should be seen to be legitimate and based on internationally accepted norms. On the one hand, Annan (1999:1) recalls the Rwandan genocide as a catastrophe that befell the world due to inaction of the international community, and on the other, he points out the dire consequences of the Kosovo conflict in which action, less of international recognition and legitimacy were regrettable. This has subjected humanitarian intervention to a state of dilemma: 'is it legitimate for a regional organization to use force without U.N. mandate? On the other hand, is it permissible to let gross and systematic violations of human rights, with grave humanitarian consequences, continue unchecked?' Though these are valid questions in search for justification of a coherent interventionist policy, yet without responding to how the operation should be carried out whether or not it is sanctioned by the U.N., is itself untenable to the resulting consequences of a conflict. Responding to this not only can provide a framework within which an intervention should be conducted, but also spells out specific activities of an intervening force.

Although the view of the U.N. Security Council on massive violations of human rights in a civil conflict constitute a threat to international peace and security and, thereby, justify intervention, humanitarian actors are faced with serious concern regarding the legitimacy, level of damage, and mode of operations of the interventions, Tanguy (2003:141). Responding to these concerns requires a contextual, legal, and operational framework within which interventions should take place. In other words, there is need for a framework defining the role of interveners in a conflict situation. If then gross violations of human rights constitute a threat to international peace and security and therefore justify intervention, what prevents the international community from launching interventions in order to stop civilian deaths and suffering where they occurs? Or what motivates actors in having to intervene in precarious and dangerous situations? These can be answered by responding to a country's motivation over intervention, which is largely influenced by its 'national interest'.

The zero-sum nature of the Cold War implied that intervention in civil conflicts during that era provided an increased expected payoff than a similar policy in the post-Cold War period. In the post-Cold War era, where ideological and bloc politics are unimportant matter, strategic interests are weighed down in the decision over intervention, Regan (1998:764-765). Moreover, this has changed considerably since the 1993 American unsuccessful intervention in Somalia which left a number of Americans dead. To the extent that intervention now seems largely to be influenced by cost-benefit considerations of states. This could explain why the world looked on while hundreds of thousands were being killed after the assassination of the first democratically elected Hutu President in Burundi in 1993, and the subsequent 1994 Rwandan genocide which resulted in the massacre of over a million Tutsis and moderate Hutus.

According to SA respondents, external interveners should assume a more active role with no restrictions in their movements/operations in attempts to monitor the security situation of the host country so as to establish the actual cause of a given incident. Both FNL and Burundian government forces often accused each other to have launched attacks on civilians, but SA troops had no enough evidence to establish the offender. A host country must not impose restrictions on external interveners, which will limit them from effectively carrying out their mandate. This greatly constrained operations of external troops in Burundi as they were restricted from moving during night hours. In addition, mandates of external interveners must be flexible enough to provide for eventualities. While it is essential for external interveners to maintain flexible mandates, it is also important that memoranda of understanding should be made in reference to the prevailing situation on the ground and not just as a 'toothless' tool that will not produce tangible results. However, in case the host government reneges on its commitment, and in the face of potential danger to civilians, the external party should use its humanitarian obligation and intervene to protect such civilians.

This underscores the need for sufficient personnel and military resources to enable effective interventionist policies.

According to SA respondents, their mandate in Burundi did not allow them to exercise their discretion in an attempt to save civilians. This is 'unacceptable since it restricted us from protecting the lives of innocent civilians'. Redesigning of mandates with a view to provide clear guidelines to peacekeepers as to how and when one should respond when faced with a situation that exposes civilian lives at a risk, could go along way in ensuring that civilian lives are safely protected. In essence, such inflexibility in mandates that does not provide for eventualities which could threaten the lives of civilians and therefore make provisions for discretionary measures aimed at protecting them, fails to acknowledge the wider recognition of civilian protection by the international community in the contemporary era, which has been accorded to humanitarian intervention. Such limitation can be located in memoranda of understanding between the host country and the external party, and in national agendas (interests) of an intervening force.

The need for humanitarian intervention in Burundi

Lemarchand (1997:3) states that the end of colonial rule in Burundi was followed by 'genocides and mass killings', and deeply entrenched historical conflicts emerge whenever there is a broader social-political transition. He argues that in both cases 'a history of conflict and antagonism fuels a power struggle that ends in genocide'. Tribalism is the 'age-old' vehicle that accounts for the spread of violence and killings.

According to Weinstein and Schrire (1976:9-10) the Burundian society was fundamentally problematic. The Tutsi minority sought ethnic security from the Hutu majority, while on the other hand, the Hutu sought political power that 'legitimately' belonged to them owing to statistical figures as the majority ethnic group. The Tutsi, who had for three decades of independence politically dominated, had denied the Hutu access to power. The society had failed to resolve this dilemma. 'Outbursts of violence between the two groups in 1965, 1969, 1972, 1988 and 1991 claimed hundreds of thousands of lives'. Thus, the two opposing and irreconcilable motivations for seeking power by the two groups suggested the urgent need for third party intervention to design a formula by which power would be shared, a move which has been implemented.

Further, the United Nations revealed that the Burundian conflict led to the killing of tens of thousands of people and caused hundreds of thousands to flee to neighbouring countries, Katzenellenbogen (2003:13). Purely, this was a serious humanitarian catastrophe that fell within the criteria of the United Nations' Charter- of a conflict that threatened international peace and security, which thus, demanded urgent attention by the United Nations Security Council to address.

In view of the turbulent history characterized by genocide and other crimes against humanity, during the Arusha peace process for Burundi, Burundian parties committed themselves to adopt political principles and measures designed to ensure that such atrocities never re-occur. These, inter alia, included; prevention, suppression and eradication of acts of genocide, war crimes and other crimes against humanity, as well as violations of human rights, including those which are gender-based; and implementation of a vast awareness and educational programme for national peace, unity and reconciliation, United States Institute of Peace Library (2000:Art. 6, para 2&3).

In order to guard against acts of genocide and coups d'Etat, and the need to achieve ethnic balance, in the Arusha peace Agreement for Burundi, Burundian parties proposed that the national army shall not be composed of more than 50 per cent of any one ethnic group. Similarly, an equal percentage and rationale applied to the national police force, United States Institute of Peace Library (2000:Art. 6, para 9, 10 & 11). Achieving ethnic balance in the army and the police, by itself, is no guarantee to preventing acts of genocide, rather introducing policies and measures aimed at addressing the genocidal ideology, or to be exact, extremism which is strongly embedded in the thinking of some individuals, could go along way in creating a culture of humanism and tolerance on which enduring peace can be built.

In an effort to promote national reconciliation, the parties in the Arusha peace Agreement recommended the establishment of a national truth and reconciliation Commission, which shall be tasked with investigating serious acts of violence committed in the past, and identify the perpetrators and the victims. However, the Commission shall not be mandated to deal with acts of genocide, crimes against humanity and war crimes. On completion of investigations, the Commission shall be required to propose to the competent institutions or adopt measures deemed appropriate to promote reconciliation and forgiveness, 'order indemnification or restoration of disputed property', or propose appropriate measures suitable for particular cases, United States Institute of Peace Library (2000:Art.8, para 1). Instituting a national truth and reconciliation Commission is of paramount importance considering that killings and counter killings in Burundi were instituted in form of revenge of past killings. However, in order for this exercise to bear positive results, there is need for extensive educational programmes through the media and public debates that are aimed at revisiting and reconciling the history of Burundi with a view to creating a national consciousness in the Burundians.

Since the assassination of the first democratically elected Hutu president in October 21, 1993 by the military, Burundi experienced genocide, albeit at a slower pace, while the leaders embroiled in fruitless negotiations. Several dozens died every day. 'Hundreds of thousands' either fled into exile or lived under inhuman conditions in displaced areas within the country, Ndikumana

(1998:29-47). The conflict, which worsened after the 1993 coup d'Etat, had since then claimed 300,000 people, (<http://www.womenwagingpeace.net> (nd), <http://www.alertnet.org> (nd) and <http://www.cnn.com> 30 November).

Based on the shift in focus of Article 2(4) to 2(7) of the U.N. Charter and the new conception of humanitarian intervention in the post-Cold War era, such a devastating humanitarian situation that spread across into neighbouring countries warranted international attention in form of intervention for human protection.

Response to Burundi's civil conflict by the international community

This section covers some important findings from interviews with Burundian government officials and opinion leaders. Findings are based on intervention in Burundi by external parties.

According to the respondents, external intervention in Burundi's conflict ensured that issues of concern between parties were addressed and thus, prevented ongoing killings of civilians on a massive scale and displacement. One respondent argued that, if external interveners had not intervened 'things would have seriously worsened; we would have had another Rwanda because both warring parties were desperate'. The role of external interveners was extensive; they played a key role in instilling confidence in Burundians by insuring that the situation in Burundi did not degenerate into chaos. While external interveners played a key political role in restraining belligerent parties from continuing with the fighting, they also restrained some elements in the army who would have desired to threaten stability.

External interveners helped to support the peace process by ensuring that the Arusha agreement was implemented or else warring parties would have disregarded the agreement leading to renewed confrontation. For instance, President Ndayizeye's government had blocked food supplies to the National Council for the Defense of Democracy- Forces for the Defense of Democracy (CNDD-FDD) combatants who had regrouped for disarmament, the U.N. had to intervene by providing food supplies, otherwise, out of desperacy the rebels would have resorted to fighting in search for food and thus resulting into massacres.

External interveners also managed to resolve three contentious issues that would have escalated the conflict: they proposed a 50/50 per cent composition of the army to both Hutus and Tutsis, which had been rejected by Tutsis; determined the transition period and who had to rule during the first period; and brokered the ceasefire agreement, which created confidence in exile Hutus and those who were fleeing into Rwanda by encouraging them to return home.

On the other hand, a respondent claimed that external interveners only intervened after genocide had occurred in Burundi; they were only helpful in facilitating talks between parties which aimed to search for a solution to

eradicate genocidal tendencies. External interveners did not play a significant role since they only intervened when the armed confrontation had almost ceased, that is, around 1998. External interveners did not prevent civilians from being killed, sometimes, by government or rebel forces. For example, almost four years back when the Forces for National Liberation (FNL) attacked Bujumbura, external forces had to flee the fighting.

Additionally, external intervention helped to instill both moral and psychological security in Hutus especially former exile leaders since they had lost trust in the Burundian army. Hutus were confident that in the event that the army developed an intention to overthrow government, external forces would quickly intervene to foil the move.

Although the presence of external parties helped to prevent killings and population displacements, however, after they have left 'whether or not it takes a while, unless there is justice, people will have to revenge on those who killed their relatives'. South African troops offered protection to former exile leaders who left the country after killing people. This was followed by the release of political leaders found guilty by courts of law to have incited killings. Intervention would have rather started with setting up tribunals to try such leaders, or else, this has created room for future armed conflicts.

As submitted by respondents, external intervention was enormous on the diplomatic and political front; were helpful in facilitating negotiations, which addressed key issues, e.g., power sharing, which were a source of conflict. However, as far as military intervention was concerned, external interveners' contribution was insignificant; although, they intervened late after massive killings had been carried out, they failed to prevent ongoing civilian killings perpetrated by warring parties. This challenges the need to launch intervention for human protection that has been occasioned by the post-Cold War era, in which human rights have gained wider recognition, and international norms of sovereignty and non- intervention reconceptualized. Moreover, this raises the question of early warning mechanisms, which can unveil potentially precarious situations that demand urgent intervention both in terms of diplomatic/political and military policies in order to address them and thus, prevent mass killings of civilians.

Although, protection to former exile leaders (thought to have committed atrocities against the Burundian people especially in 1993 after the assassination of the first democratically elected Hutu President) by South African troops created a sense of stability by preventing any attack against the leaders, which attack would have otherwise escalated the conflict, this in reality should be seen as a temporary measure since South African troops are not going to ensure permanent protection for these leaders. Which, scenario raises the issue of justice for peace in Burundi.

Civilians continued to be killed by rebels even in the presence of South African (SA) troops, who could not intervene to protect them. In collaboration with the Burundian government, SA troops played a role of observer after the ceasefire had been signed. While under the AU, SA troops provided protection to former exile leaders, under the U.N. they were deployed in various parts of the country and their role extended to include civilian protection, and protection of ex-combatants in areas of reassembling and demobilization, and their role also included monitoring and observing to ensure that parties respect the ceasefire.

According to some respondents, SA troops did not do much in peacekeeping in Burundi despite the fact that they were more prominent under the U.N. Besides, they were not well equipped to intervene and promote peace; they only monitored and reported the security situation. The government of Burundi was scared of them in reporting its human rights abuses to the U.N., which behavior would have led to the imposition of sanctions and aid cuts against the country. Whether or not SA troops failed to intervene in preventing civilian killings owing to their mandate which did not include civilian protection or because of insufficient military equipments, it remains a challenge to the widely recognized post-Cold War norm of intervention for human protection and, therefore, a challenge to promote peace in the contemporary world.

Not much was expected from SA peacekeepers regarding civilian protection as this did not fall under their mandate. However, since the U.N. had discharged a Chapter VII mandate, intervention to protect civilians under imminent threat was expected of them but yet it was not done. For instance, external interveners were expected to deploy in rural Bujumbura where FNL operated from but this was not the case. Even when their positions were attacked by the FNL, they did not fight back. Intervention was also expected to involve fighting negative forces in order to stabilize Burundi. According to the respondents, external interveners did not militarily intervene to protect civilians faced with imminent threat nor did they make any attempt to prevent attacks on them by deploying in rebels' operational areas. Thus, while diplomatically/politically intervention by external interveners was helpful in enabling negotiations between the main warring parties, which eventually achieved partial peace, military intervention to protect civilians was not given due attention.

Conclusion

As much as the new international dispensation has provided a conducive political atmosphere to launch intervention for civilian protection, without reconciling individual national interests with universal aspirations, concerted will and effort necessary to launch effective intervention will be difficult to realize. The Burundi civil conflict demonstrated an urgent need for an early warning system, which can identify potentially precarious situations/indicators that demand urgent action in terms of diplomatic/political and military

intervention with a view to address them expeditiously and thus prevent mass killings of civilians. This argument is premised on the fact that hundreds of thousands of Burundians were massacred under mysterious circumstances which did not attract immediate intervention by the international community. Moreover, countries contributing troops to the U.N., should surrender their will to the U.N. in order to determine whether or not their troops should enforce peace in an attempt to protect civilians under severe circumstances. This can ensure that the U.N. is not paralyzed in the course of executing its decisions. For instance, despite the fact that at some point in the process of bringing peace to Burundi, the U.N. had discharged Chapter VII mandate to enforce the peace, intervention to protect civilians who were under imminent threat was not implemented.

Attempts toward meeting the current global challenges, will also require a redefinition of international norms, such as, the concept of sovereignty (to one which cannot be easily circumvented by self-interested states), and ceding of some sovereign rights (actual) by states to supra-national bodies like the United Nations in order to permit expeditious and effective response to severe circumstances that undermine, or that are a threat to universal human rights.

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