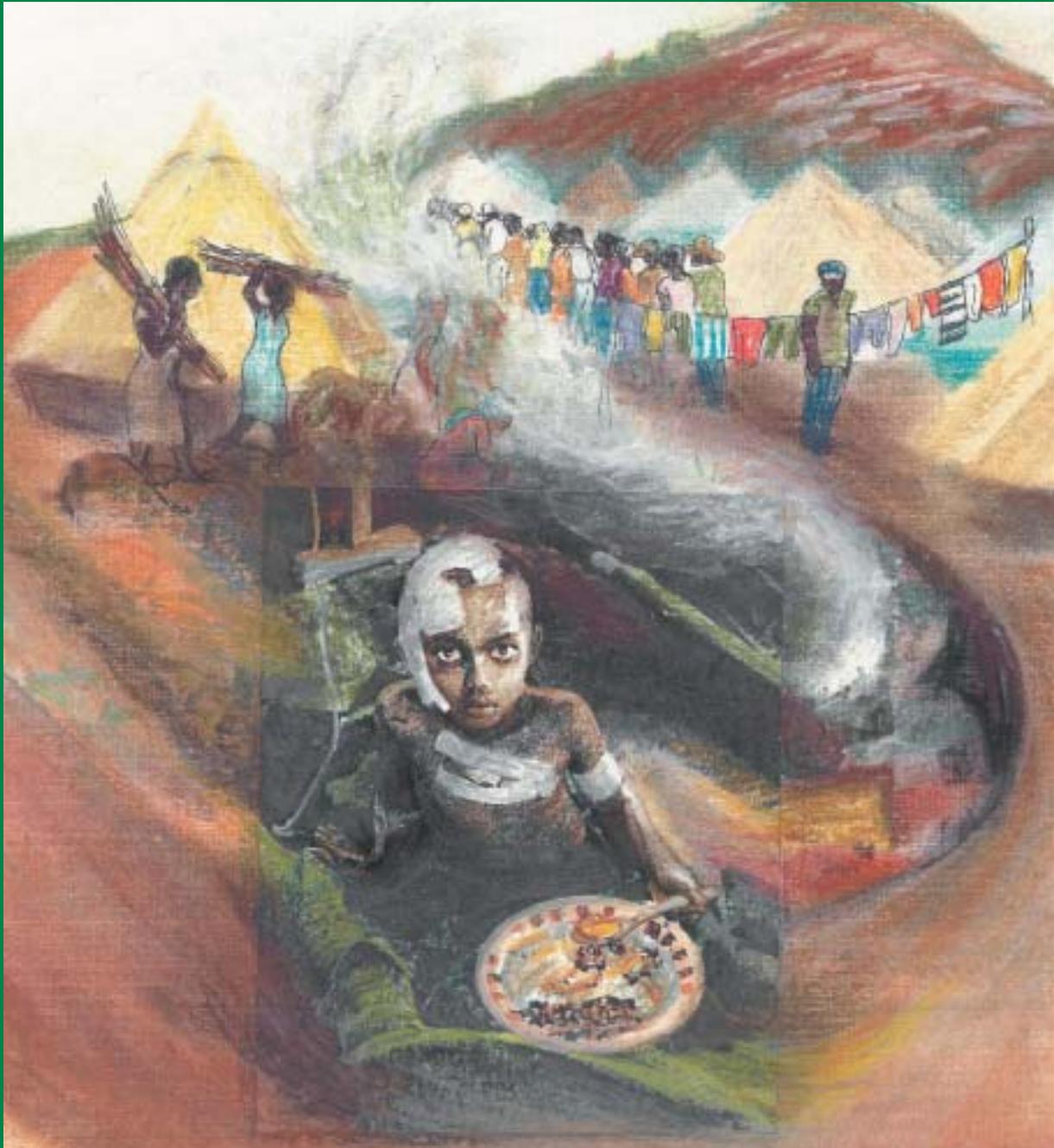


Assessment of the Impact and Influence of the Joint Evaluation of Emergency Assistance to Rwanda



**Lessons from Rwanda –
Lessons for Today**

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Influence of Joint Evaluation
of Emergency Assistance to Rwanda**

John Borton and John Eriksson

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Preface

Within a period of three months in 1994, an estimated five to eight hundred thousand people were killed as a result of civil war and genocide in Rwanda. Large numbers were physically and psychologically afflicted for life through maiming, rape and other trauma; over two million fled to neighbouring countries and maybe half as many became internally displaced within Rwanda. This human suffering was and is incomprehensible. The agony and legacy of the violence create continuing suffering, economic loss and tension both inside Rwanda and in the Great Lakes Region.

Recognizing both the magnitude of the Rwanda emergency and the implications of complex disasters for constricted aid budgets, the Danish Ministry of Foreign Affairs, through its development cooperation wing, Danida, proposed a *Joint Evaluation of Emergency Assistance to Rwanda*.

This initiative resulted in the launching of an unprecedented multinational, multi-donor evaluation effort, with the formation of a Steering Committee comprised of representatives from 19 OECD-member bilateral donor agencies, plus the European Union and the Development Assistance Committee (DAC) Secretariat of the OECD; nine multilateral agencies and UN units; the two components of the International Red Cross and Red Crescent Movement (ICRC and IFRC); and five international NGO organizations.

The main objective of the evaluation was to draw lessons from the Rwanda experience relevant for future complex emergencies as well as for current operations in Rwanda and the region, such as early warning and conflict management, the preparation for and provision of emergency assistance, and the transition from relief to rehabilitation and development

Published in March 1996, *The International Response to Conflict and Genocide: Lessons from the Rwanda Experience* was a scathing critique of the way the "international community", principally represented by the UN Security Council, had reacted – or rather had failed to react – to the warnings of, early signs of, and even to the full-blown genocide in Rwanda.

The evaluation's main conclusion was that humanitarian action cannot be a substitute for political action. Yet, since then, with notable exceptions such as East Timor, Kosovo and Sierra Leone, the international community has responded to violence, mass killings and ethnic cleansing primarily by providing humanitarian assistance. In cases like the Democratic Republic of Congo, that assistance has been very limited indeed.

The main lessons from the response to genocide in Rwanda were:

1. Unwillingness to acknowledge that genocide was happening prevented action to stop it.
2. In view of the scale of suffering, the humanitarian aid was impressive, but could have been better prepared, better coordinated and more cost effective.
3. Inadequate and slow support for reconstruction of the Rwandese society and government, including the justice system, have delayed a return to normalcy.

PREFACE

Commemorating the tenth anniversary of the genocide, ALNAP (Active Learning Network for Accountability and Performance in Humanitarian Action) and Danida commissioned two of the evaluation's original authors, John Borton, leader of Study 3, and John Eriksson, leader of the Synthesis, to review the impact of the evaluation.

This report constitutes that assessment.

December 2004

Niels Dabelstein

Former Chairman of the Steering Committee for
Joint Evaluation of Emergency Assistance to Rwanda

Table of Contents

Abbreviations and Acronyms	7
Executive Summary	11
1. Introduction: Purpose and Approach of the Assessment	21
2. A Summary of the Principal Developments in Rwanda, DRC and Burundi since Publication of the Joint Evaluation and of Seven Selected Cases of External Intervention	25
2.1 Introduction	25
2.2 Political, Economic and Social Developments in Rwanda	25
2.3 Principal Developments in the Democratic Republic of the Congo	33
2.4 Principal Developments in Burundi	36
2.5 Selected Other Examples of Conflict and International Intervention	38
3. A Preliminary Assessment of the Influence of the Joint Evaluation	45
4. Assessment of Developments in Genocide Prevention and Suppression	51
4.1 What the Joint Evaluation Recommended	51
4.2 Progress in Avoiding or Reducing the Instances of Conflict and Genocide	51
4.3 Developments in the Anticipation, Detection and Prevention of Violent Conflict and Genocide	56
4.4 Progress in Halting/Suppressing Conflict and Genocide	61
4.5 Progress in Fostering Policy Coherence	64
4.6 Using the Media in Support of Genocide Prevention and Suppression	65
4.7 Some Observations on the Recommendations and Developments in Relation to Prevention and Suppression since the Joint Evaluation	67
5. Assessment of Developments in Humanitarian Response	69
5.1 What the Joint Evaluation Recommended	69
5.2 Progress in Improving Policy Coherence and Coordination	69
5.3 Progress in the Management of Relief	75
5.4 Some Observations on the Recommendations and Developments in Relation to Humanitarian Response Since the Joint Evaluation	84
6. Assessment of Developments in Rehabilitation, Reconstruction and Recovery	85
6.1 What the Joint Evaluation Recommended	85
6.2 Progress in Supporting Rehabilitation, Reconstruction and Recovery	85
6.3 Some Observations on the Recommendations and Developments in Relation to Rehabilitation, Reconstruction and Recovery Since the Joint Evaluation	98
7. Has the International Community Become More Willing to Prevent or Intervene Against Genocide or Mass Killings?	99
7.1 Eastern DRC: An Early and Ongoing Test in the Great Lakes Region	99
7.2 Darfur: A Current Litmus Test in the Sudan	100

8. Findings and Conclusions: An Overall Assessment of the Impact and Influence of the Joint Evaluation	107
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Bibliography	113
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Annex 1 Advisory Group Members and Key Informants	123
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Additional annexes to the Evaluation Report can be found on the attached CD-ROM or viewed on the website www.evaluation.dk

Annex 2	Coverage of the Joint Evaluation in the Literature
Annex 3	Summary Reviews of the Official Inquiries into the 1994 Rwandan Genocide conducted by the Belgian Senate, the French National Assembly, the UN and the OAU
Annex 4	Principal Developments in Rwanda and Selected Other Countries Since Publication of the Joint Evaluation (Fuller version of Chapter 2 in the main text)
Annex 5	Provisional Timeline of the Darfur Crisis

Abbreviations and Acronyms

AIA	Afghanistan Interim Administration
ATA	Afghanistan Transitional Administration
AFDL	Democratic Forces for the Liberation of Congo-Zaire
ALIR	Armée pour la Liberation du Rwanda
ALNAP	Active Learning Network for Accountability and Performance in Humanitarian Action
AMIB	Assistance Mission to Burundi
AU	African Union
CAP	Consolidated Appeals Process
CDR	Coalition pour la Défense de la République
CEEAC	Communauté Économique des États d’Afrique Centrale
CHAP	Consolidated Humanitarian Action Plan
CNDD –FDD	National Council for the Defense of Democracy-Force for the Defense of Democracy
CPDC	Conflict, Peace and Development Cooperation
DAC	Development Assistance Committee (of the OECD)
Danida	Danish International Development Assistance
DDRRR	Disarmament, Demobilization, Repatriation, Reintegration, and Resettlement Program
DFID	Department for International Development (UK)
DPKO	Department of Peacekeeping Operations
DRC	Democratic Republic of Congo
ECOMIL	ECOWAS Peacekeeping Force for Liberia
ECOMOG	ECOWAS Monitoring Group
ECOWAS	Economic Community of West African States
EU	European Union
FAR	Forces Armées Rwandaises
FARDC	Forces Armées de la République Démocratique du Congo
FARG	Fonds d’Assistance aux Rescapés du Génocide
FDD	Force for the Defense of Democracy
FLD	Front for the Liberation of Darfur
FNL	Forces for National Liberation
FYROM	Former Yugoslav Republic of Macedonia
GDP	Gross Domestic Product
GoR	Government of Rwanda
GoS	Government of Sudan
HICs	Humanitarian Information Centers
HRFOR	Human Rights Field Operation in Rwanda
IASC	Inter-Agency Standing Committee
ICC	International Criminal Court
ICG	International Crisis Group
ICISS	International Commission on Intervention and State Sovereignty
ICRC	International Committee of the Red Cross
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for ex-Yugoslavia
IDA	International Development Association
IDP	Internally Displaced Persons

ABBREVIATIONS AND ACRONYMS

IFIs	International Financial Institutions
IFRC	International Federation of Red Cross and Red Crescent Societies
IGAD	Inter-Governmental Group Against Draught
IMF	International Monetary Fund
IMTF	Integrated Mission Task Forces
INGOs	International Non-Governmental Organizations
INTERFET	International Force in East Timor
IRC	International Rescue Committee
IRIN	(UN) Integrated Regional Information Network
ISAF	International Security Assistance Force
JEEAR	Joint Evaluation of Emergency Assistance to Rwanda
JEFF	Joint Evaluation Follow-up, Monitoring and Facilitation
JEM	Justice and Equality Movement
KFOR	Kosovo (International Security) Force
KLA	Kosovo Liberation Army
LICUS	Low-Income Countries Under Stress
LIPRODHOR	Rwandan League for the Promotion and Defense of Human Rights
LURD	Liberians United for Reconciliation and Democracy
MDR	Mouvement Démocratique Républicain
MINUCI	Mission des Nations Unies en Côte d'Ivoire (United Nations Mission in Côte d'Ivoire)
MLC	Mouvement du Libération du Congo
MODEL	Movement for Democracy in Liberia
MONUC	UN Military Observer Mission in the Congo
MPCI	Mouvement Patriotique de la Côte d'Ivoire
MRND	Mouvement Révolutionnaire Nationale pour le Développement
NATO	North American Treaty Organization
NGOs	Non-Governmental Organizations
NLA	National Liberation Army
NPFL	National Patriotic Front for Liberia
OAS	Organization of American States
OAU	Organization for African Unity
OCHA	(UN) Office for the Coordination of Humanitarian Affairs
ODA	Official Development Assistance
OECD	Organization for Economic Cooperation and Development
OED	Operations Evaluation Department (World Bank)
ONUB	UN Operation in Burundi
OSCE	Organization for Security and Cooperation in Europe
PALIPEHUTU	Party for the Liberation of the Hutu People
PALIR	Peuple en Armes pour Libérer le Rwanda
PCF	Post-Conflict Fund
PRSP	Poverty Reduction Strategy Paper
RCD	Rassemblement Congolais pour las Démocratie
RPA	Rwandese Patriotic Army
RPF	Rwandese Patriotic Front
RUF	Revolutionary United Front
SADC	Southern African Development Community
SC	Security Council
SG	Secretary General
Sida	Swedish International Development Cooperation Agency
SLM/A	Sudan Liberation Movement/Army

SPLA	Sudan People's Liberation Army
SRSG	Special Representative of the Secretary General
TISA	Transitional Islamic State of Afghanistan
UK	United Kingdom
UN	United Nations
UNAMA	United Nations Assistance Mission to Afghanistan
UNAMET	UN Mission in East Timor
UNAMIR	UN Aid Mission to Rwanda
UNAMSIL	UN Mission in Sierra Leone
UNCT	UN Country Team
UNDAC	UN Disaster Assessment and Coordination Teams
UNDHA	UN Department of Humanitarian Affairs
UNHCR	UN High Commissioner for Refugees
UNHCHR	UN High Commissioner for Human Rights
UNICEF	UN International Children's Fund
UNMEE	UN Mission to Ethiopia and Eritrea
UNMIK	UN Interim Administration Mission in Kosovo
UNMIL	UN Mission in Liberia
UNOCI	United Nations Operation in Côte d'Ivoire
UNTAET	UN Transitional Administration in East Timor
USD	United States Dollar
USAID	U.S. Agency for International Development
WFP	World Food Program

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Executive Summary

Introduction

The 1994 Rwanda genocide and its aftermath in Rwanda and neighboring countries of the Great Lakes Region count as one of the most horrific manmade calamities of recorded history. Given the institutional and technological instruments that could have been applied to prevent or greatly reduce the genocide, and the contextual factors that increased the likelihood of success, it also counts as one of the most colossal culpabilities of the international community in recent history.

In late 1994 at the initiative of the Evaluation Department of the Danish Foreign Ministry, representatives of bilateral donors, UN agencies, international non-governmental organizations (NGOs), and the Red Cross and Red Crescent Movement, formed a Steering Committee to sponsor an international evaluation, the Joint Evaluation of Emergency Assistance to Rwanda (Joint Evaluation), also known as The International Response to Conflict and Genocide: Lessons from the Rwanda Experience. Commencing in January 1995, the evaluation was undertaken over a 15-month period by international teams numbering 52 consultants and researchers that produced four studies plus a synthesis report covering all phases of the crisis.

In preparation for the ALNAP 15th Biannual Meeting commemorating the tenth anniversary of the genocide, ALNAP (Active Learning Network for Accountability and Performance in Humanitarian Action) and Danida approached the two current authors who had been team leaders within the overall Joint Evaluation, to undertake an assessment of the follow-up of recommendations eight years after publication of the Joint Evaluation and 10 years after the genocide. This report constitutes that assessment.

The core of the assessment comprises:

- a review of citations and use of the Joint Evaluation in the literature
- a review of developments in the three broad fields of: prevention and preparedness; humanitarian response; and rehabilitation, reconstruction, and recovery, and an assessment of the extent to which these are consistent with the recommendations of the Joint Evaluation.

Citation in the literature and official reports, and by key informants

Sixty four books, articles and reports dealing with the Rwanda genocide, its aftermath, and related subjects, were examined to assess their use of, and reference to, the Joint Evaluation. The 40 key informants were also asked about their impressions of how the Joint Evaluation had been used and influenced policy and practice. Most, but not all, key informants were at least generally aware of the Joint Evaluation. They have cited it in their own works and they can identify publications where the Joint Evaluation has been cited. Thirty-seven of the 64 sources contain at least one reference to the Joint Evaluation and some key sources made extensive use of the Joint Evaluation. With some caveats we therefore conclude that the Joint Evaluation had a wide reach in the research and policy communities.

To provide insight into how the Joint Evaluation had fed into policy processes, we studied eleven reports that we and the key informants regarded as being particularly signifi-

cant and influential in the formation of policy. These eleven reports included the reports of: the Carnegie Commission on Preventing Deadly Conflict; the Belgian Senate's Commission of Inquiry; the Mission of Information undertaken by the French National Assembly; the inquiries on the genocide undertaken by the UN and the OAU; three key reports and policy guidance on conflict and security system reform issued by the OECD Development Assistance Committee; the so-called 'Brahimi' Report on UN Peace Operations; the 'Responsibility to Protect' report by the Independent Commission on Intervention and State Sovereignty and the OECD/DAC Principles of Good Humanitarian Donorship.

Five of these reports refer explicitly to the Joint Evaluation. The OAU Report cites the evaluation 43 times, far more than any other source. The Joint Evaluation is not cited by the other six reports. There is clear evidence in the literature and from key informants that the Joint Evaluation stimulated further research and analysis of complex emergencies and the tendency toward genocide. It has also been used widely as a teaching resource at the college and university levels. Not least of the impacts traceable to the Joint Evaluation is the impetus it gave to efforts such as the Sphere Project and the Humanitarian Accountability Partnership to improve accountability and performance in the humanitarian sector. In addition the Joint Evaluation had a positive impact on analytical and evaluation capacities in humanitarian assistance organizations, including the formation of the Active Learning Network for Accountability and Performance in Humanitarian Action (ALNAP). Offsetting these impacts is the fact that those charged with analysis and evaluation still tend to be isolated from those charged with policy and program development, especially in official development agencies.

Key informants saw the Joint Evaluation as pioneering in the following ways:

- It was the first report to be published that assessed the performance of the international community in all phases of the genocide. As one interlocutor put it, "The speed with which the Joint Evaluation was done was important".
- The unusually wide scope of the Joint Evaluation was also valued: Informants saw it as being the only review of the Rwanda genocide that assessed in the same analysis all elements of the involved international community.
- Other factors cited were the inclusive governance of the Joint Evaluation which gave the evaluation political weight and "voice." The fact that its Steering Committee included the same elements as those to whom the evaluation was addressed increased its credibility.

Prevention and preparedness

The field of prevention and preparedness encompasses instruments for avoiding and reducing instances of conflict and genocide, as well as for anticipating, detecting, and preventing violent conflict and genocide. Developments in the following ten categories of instruments were reviewed: diplomacy; aid process; human rights machinery; justice and law enforcement systems; arms flows and embargoes; peace agreements; early warning; military intervention; and establishing preparedness and contingency measures.

A main conclusion is that while there has been some progress in applying several of these instruments, the international community has failed to view them all in systemic terms and to agree on a strategy for applying the instruments vigorously and systematically. This applies within as well as among the above categories. For example, a range of tools under diplomatic conditionality, short of military intervention, should be considered and applied if warranted by the situation and there is a chance of their having an

effect. The strategy should include not just the classic demarche, or diplomatic visit to express concern, but threats to withhold visas, freeze bank accounts, reduce or cancel development and other assistance, and impose trade sanctions or embargoes – and a plan to implement these measures.

The Joint Evaluation recommended a systematic study of past experience with positive and negative conditionality, and that drawing from such a study, a clear and uniform policy be formulated, after consultations within and among such bodies as the OECD Development Assistance Committee, the Development Committee for the Bretton Woods institutions and regional development banks, and the UN Inter-Agency Standing Committee. Such a study has yet to be undertaken.

Although it did not receive extensive coverage, the Joint Evaluation concluded that international assistance agencies were insensitive to the question of what impact their assistance might be having on tendencies toward violent conflict and genocide. This is consistent with the findings of subsequent, more intensive research. Peter Uvin, who has explored this issue in most depth, finds that virtually all international donors to Rwanda during the years leading up to the genocide were generally blind to what was happening (or acted as if they were). His analysis also finds that resources provided by donors (particularly the IMF and the World Bank), contributed essential wherewithal (e.g. foreign exchange to import arms and machetes) to carry out the genocide (Uvin 1998).

Monitoring of human rights abuses can be an important tool in the arsenal of genocide prevention. Monitoring has arguably been more systematic and visible before and during recent major violent conflicts than was the case in Rwanda. Eastern Democratic Republic of Congo (DRC) and Darfur are likely exceptions. Human rights monitoring initiatives have generally come from international groups, both intergovernmental bodies and international NGOs (INGOs). Indigenous civil society organizations have recently become involved as well. Rwanda was a trial field effort for the new High Commissioner on Human Rights (HCHR), but its four-year history in Rwanda was dismal, owing to very poor support from headquarters, Government of Rwanda (GoR) opposition, and varying leadership.

The Joint Evaluation called for rigorously enforced arms embargoes, pointing in particular to source countries. Over the intervening years, elements of the international community have paid considerable attention to arms movements. But it is not apparent that the effectiveness of arms embargoes and controls has increased. Conferences on the subject have enjoined participants to: “ensure,” “encourage,” and “promote.” One consideration that undoubtedly comes into play is the conflict of interest manifested by the Permanent Five members of the Security Council who are also the top arms suppliers worldwide.

Many observers identified lack of pre-genocide early warning as a serious issue in the Rwanda genocide. The Joint Evaluation stressed analysis and scenario building as the main gaps and recommended that a unit for this purpose be established in the UN Secretary General’s Office. No such unit has been established, though units have been established and/or strengthened in several UN offices, such as OCHA (Office for the Coordination of Humanitarian Assistance). Two recent developments could have a major impact on the capacity of the UN system to identify, analyze, and take actions on conflict and genocide information. On April 7, 2004, the Secretary General announced his intention to appoint a Special Adviser on Genocide Prevention and the appointee,

Juan Mendez, was announced in July 2004. The Secretary General has also established a High Level Panel on “Threats, Challenges and Change.” The panel is examining policy and systemic issues in the UN system and is to submit its report by the end of 2004.

Military intervention under the UN Assistance Mission to Rwanda (UNAMIR) was flawed from the beginning. It had a weak mandate, was poorly resourced and was reduced rather than strengthened in response to the start of the genocide. The Joint Evaluation recommended that the creation of a Peacekeeping “Chapter 6.5” Mandate that would provide a stronger mandate including the protection of civilians. In the event the “6.5” mandate has not been established but has been superseded by a greater willingness by the Security Council to authorize Chapter 7 mandates for interventions by individual members proposing to intervene in a situation (eg. British troops in Sierra Leone and the Australian-led INTERFET in Timor Leste).

In Africa itself there have been some encouraging developments. Significant progress has been made in the development of sub-regional capacities for intervention, particularly in West Africa through ECOWAS. Under the OAU, state sovereignty was paramount and non-interference was its trademark. The 2002 replacement of the OAU with the African Union, with clear commitments in its Constitutive Act to human rights and maintaining peace, and its 15 Member Peace and Security Council, appears to signal a stronger approach to massive human rights abuses in member states. Though belated and modest the recent deployment of 300 AU troops to protect international monitors in Darfur is a positive step.

The Joint Evaluation made two sets of recommendations with regard to preparedness and contingency measures. The first was that all agencies and donors should develop policies and procedures for undertaking needs and capacities assessments, contingency planning, preparedness measures and procurement of supplies and equipment for cost-effective interventions, as well as for cost-effective investments in mitigating critical logistical bottlenecks. The second was addressed specifically to donors and agencies funding implementing partners that they should be prepared to provide increased ‘up-front’ funding to agencies for contingency planning and preparedness measures for major complex emergencies and honor pledges to do so and develop “a common understanding regarding mutually acceptable levels of investment in contingency planning and preparedness measures and accompanying levels of risk.”

There have been a number of initiatives and the development of mechanisms over the last few years in this field. One initiative has been the International Humanitarian Partnership (IHP – comprising the UK, Denmark, Sweden, Norway, Finland and the Netherlands) with the objective of providing tailor-made, mobile, flexible, rapidly deployable support modules for UN missions. The UN Disaster Assessment and Coordination Teams (UNDAC) and the Humanitarian Information Centers have been important beneficiaries of the IHP emergency support modules to date. Whilst there have been improvements in contingency planning and preparedness by many of the larger agencies and some notable inter-agency collaboration in relation to high profile anticipated crisis events (eg. anticipated refugee outflows from Afghanistan and Iraq) it appears that many agencies continue to experience difficulty in translating contingency plans into practical operational plans.

The Joint Evaluation found that inadequate and inaccurate reporting on the genocide by the international media contributed to international indifference and inaction. This fail-

ure occurred in spite of local media, which became dominated in the early 1990s by a radio station and newspaper whose vitriolic propaganda incited hatred and violence. The Joint Evaluation recommended that the media should review their reporting on Rwanda and organize a conference for and by the international media to examine media reporting on Rwanda and draw lessons for responsible reporting on future complex emergencies. Several conferences have been held since 1994 that have focused on the role of the media in the Rwanda genocide. But these have not been widely attended by frontline media personnel, who are not “conference goers.” A more effective approach would be to introduce the lessons of the media’s role in Rwanda into the courses of major journalism schools and into special mid-career graduate courses offered to journalists at top universities.

Humanitarian response

Two key findings of the Joint Evaluation in relation to the humanitarian response were that:

- a) The international community had in effect used humanitarian aid as a form of substitute for effective political and military action. Governments had provided generous funding for the humanitarian response at the same time as reducing rather than reinforcing UNAMIR and failing to respond to UN proposals to deploy a force to disarm the ex-FAR troops and the militia in the massive refugee camps and provide security in the camps. This approach was described in terms of ‘a lack of policy coherence’ which had placed humanitarian agencies in situations that were often untenable from the perspectives of both security and ethically.
- b) Whilst there had been shortcomings in the response by the humanitarian sector, these had been responsible for considerably fewer deaths than could be attributed to the abysmal shortcomings in the diplomatic, political and military response by the international community to the genocide. The approximately 50,000 deaths that occurred during 1994 as a result of diseases such as cholera and dysentery, compared to the approximately 800,000 killed during the genocide. Among the factors contributing to the shortcomings in the humanitarian response the Joint Evaluation highlighted weaknesses in response capacity, coordination, the monitoring of the effectiveness of overall efforts, the professionalism of some NGOs and accountability mechanisms in the sector generally.

As one means of improving ‘policy coherence’ the Joint Evaluation recommended the establishment of a Humanitarian Sub-Committee of the Security Council (SC) to ensure adequate consideration of the humanitarian dimension in the SC. No such committee has been established, though the SC did commence briefing sessions from humanitarian agencies outside the UN system. In 1997 the Department of Humanitarian Affairs was superseded by the Office for the Coordination of Humanitarian Affairs (OCHA) and its mandate included a responsibility of ‘advocacy of humanitarian issues with political organs notably the Security Council’. The case for more effective consideration of humanitarian issues by the Security Council appears to remain. It engaged with the Darfur crisis in March 2004 only after the UN Resident Coordinator had given a series of international media interviews characterizing the situation as the ‘world’s worst humanitarian crisis’ and ‘close to ethnic cleansing’ and 12 months after the start of the rebellion and its repression by the *Janjaweed* militia.

As another means of improving ‘policy coherence’ the Joint Evaluation recommended that the UN Secretariat establish a team of senior advisers for all complex emergencies to synthesize crisis information, bring coherent policy options to the Secretary-General and formulate a framework for an integrated UN line of command between headquarters and the field, and within the field, for political action, peacekeeping and humanitarian assistance. This recommendation and its subsequent interpretation have proven contentious. A series of organizational and policy reforms in the UN as a result of the 1997 ‘Program for Reform’ (the Strong report) and the 2000 ‘Panel on Peace Operations’ (the Brahimi Report) have led to much greater integration of the different areas of UN activity in conflict-affected areas, particularly where UN peacekeeping forces are deployed. Independent assessments of the results of this ‘search for coherence’ conclude that humanitarian objectives are consistently being pushed into ‘the back seat’ in UN peace operations and that the integrationist approach to coherence needs to be rethought.

In response to requests from the Steering Committee, the final report of the Joint Evaluation offered options in relation to certain recommendations intended to address identified shortcomings in humanitarian response. One of the more radical recommendations intended to address weaknesses in coordination – the consolidation of the UN’s various humanitarian response capacities into one agency came very close to being recommended by the 1997 Strong report. Since then the approach has been very much one of encouraging closer and more effective working between the various UN agencies by way of a range of different approaches and mechanisms: the creation of OCHA in 1997; the Humanitarian Coordinator system, UN country teams; the work of the Inter-Agency Standing Committee and its various Working Groups; increased use of inter-agency missions and teams; and the Consolidated Appeals Process and its more recent component – the Consolidated Humanitarian Action Plan. Such measures are generally judged to have improved field level coordination, though challenges remain in filling the gaps between mandates and capacities and broader system-wide problems.

The Joint Evaluation saw two broad options in the approach to improving NGO performance: self-managed regulation or an international system of accreditation. Faced with the prospect of an accreditation system being imposed on NGOs many collaborated on a range of independent initiatives to improve performance and overall accountability. Many agencies have increased their investment in training, staff development and more rigorous recruitment procedures and the technical knowledge and caliber of personnel appears to have improved in many agencies. Perhaps the most critical development in the sector was the Sphere Project to develop minimum technical standards in relation to: water supply, sanitation and hygiene promotion; food security, nutrition and food aid; shelter settlement and non-food items; and health services. Widely translated and disseminated, incorporated into training and increasingly integrated into monitoring and evaluation systems by donor organizations and UN agencies as well as by NGOs, the Sphere standards have become an important part of the vocabulary of performance and accountability in the humanitarian sector. Many observers agree that the NGO sector has made significant improvements in the areas of professionalism, standards and accountability mechanisms since 1996 and some see this as the area where the Joint Evaluation has had the greatest impact.

Rehabilitation, reconstruction, and recovery

The post-conflict period has several dimensions, including economic growth, international assistance, economic and political stability, justice and human rights, and reconciliation. The economic recovery of Rwanda at the macro level has been impressive.

Since 1998 real GDP growth has averaged about 6% a year, which is expected to continue through 2005. But a major driver of recent economic growth has been a favorable world coffee market, something that cannot be counted on. Moreover, data on how the benefits of economic recovery have been shared are contradictory. Many observers would argue that the political and social sustainability of recovery is far from achieved.

Responding to substantial lags in the provision of international assistance pledged to Rwanda in the first two years after the genocide, the Joint Evaluation called for flexible, fast-disbursing post-genocide assistance. There has been some improvement in the performance of donors in these respects. In Rwanda, the volume of British aid has grown substantially, with about half provided as general budget support under the Government's Poverty Reduction Strategy Paper (PRSP). Budget support is, at least in principle and intent, more flexible and faster disbursing than project aid. In general though there has been little international appetite for a third pillar 'recovery fund' (between emergency and development budgets).

Research subsequent to the Joint Evaluation has shown that international donors and development agencies have tended to push traditional economic policy reforms before they are appropriate for post-conflict countries. This was evident in the early pressure by the Bretton Woods institutions for privatization soon after the Rwandan genocide. There are other instances where trade and other reforms have been pushed prematurely. In these cases macroeconomic reforms have countered political stability and the objective of peace, when they should be compatible and mutually reinforcing.

The issue of aid not being made conditional on adherence to international human rights standards and democratic values was highlighted by the Joint Evaluation and developed in subsequent work by Peter Uvin. In their generous provision of aid to the GoR some donors have been slow to call the government to account for its human rights abuses, its deep military involvement in the DRC and the gradual development of a centralized and autocratic rule by President Kagame. In this sense a key lesson from before the genocide is not being applied in present day Rwanda.

The Joint Evaluation found a critical need to strengthen the Rwandan system of justice. It was immediately apparent that two systems were needed: an external mechanism to try those accused of crimes against humanity who had fled Rwanda, and an internal system to try the accused who remained in Rwanda. The International Criminal Tribunal for Rwanda (ICTR) was established in Arusha, Tanzania, in November 1994, to try the accused in exile. Notwithstanding the Joint Evaluation recommendation to provide an adequate budget to the ICTR, the international community was slow in providing the resources needed. As of mid-2004, about 70 persons have been indicted and tried by the ICTR. Critics have pointed to ICTR costs, about USD 8 million per indictment, or USD 25 million per conviction. Others point to the new body of international criminal law that has been established that will be important for the future, including for the new International Criminal Court (ICC). International efforts to establish an ICC, a move supported by a recommendation of the Joint Evaluation, finally bore fruit when the ICC was established in 2002.

The Joint Evaluation called for development and support for a comprehensive plan for reconstruction of the Rwandan justice system. Notwithstanding some initial delays, donors did provide substantial, well-coordinated assistance to the internal Rwanda justice system (over USD 100 million by one estimate). The GoR adapted in 2001 the traditional "gacaca" system of community-based justice for judging those accused of lower level

participation in the genocide. After massive training for thousands of village judges, the program is finally getting underway. In the meantime, some of the more notorious perpetrators of genocide have been tried in formal courts and 22 executed. Others have been released from prison, often drawing criticism from the public and from the survivors of the genocide, in particular. Critics point to a one-sided bias in the Rwandan internal justice system (as well as in the ICTR) in that crimes against humanity perpetrated by current GoR forces do not get brought to justice and punished.

Reconciliation has been a slow, halting process in Rwanda. The obstacles include the slow progress of the justice system, a perceived one-sided approach by the system, and distrust of would be reconcilers, such as church leaders. The policy of the Government of Rwanda to deny ethnic difference and create an identity based on nationality rather than ethnicity may be the only long term solution but many observers view the policy and the unavoidable demographic reality of a country ruled by a Government largely composed of an ethnic minority as being unsustainable. Some see recognition of the good as well as the bad deeds of the respective ethnic groups as being essential for the reconciliation process. That is, recalling memory, not suppressing it (LeMarchand 2004). The international community has tried to be helpful; for example, by facilitating the sharing of experience from Israel and South Africa, and by supporting trauma counseling. But the needs are vast and the experiences and techniques from other countries tend not to transfer well. Toleration may be a more attainable goal for Rwanda than reconciliation.

Darfur and the Eastern DRC: Test Cases for the Joint Evaluation

In many respects events in Zaire/DRC since the Joint Evaluation was published represent a continuation of the conflict and genocide of 1994 and stem directly from the failure of the international community to isolate and control the Rwandan Army (FAR) and Hutu militia elements among the bona fide refugees during 1994-96. In order to reduce the security threat presented by the ex-FAR and militias Rwanda has since twice invaded Zaire/DRC and provided critical support to Congolese proxies. The second invasion in 1998 which pitched Rwandan and Ugandan troops against troops from Zimbabwe, Angola and Namibia in support of the government of Laurent Kabila became the most destructive and widespread conflict yet witnessed in modern Africa. An estimated 3.5 million people have died since 1998 as a result of the fighting or the deterioration it has caused in food security and health. With its moral authority to confront Rwandan aggression weakened by its failure to halt the Rwanda genocide and its ability to act collectively limited by the differing approaches to relations with the Governments of Rwanda and Uganda, the international community's response was initially supine. Despite the lessons of UNAMIR and the Brahimi Report's call for robust mandates and well equipped forces, the modest UN peacekeeping force in DRC has had a weak mandate, and been poorly equipped.

It was not until 2002, after powerful evidence was produced of Rwandan and Ugandan exploitation of Congo's natural resources, the human rights abuses and the appalling death toll caused by the conflict that the international community began to publicly condemn Rwanda and Uganda. Even now, long after the ex FAR and militias have been neutered, Rwanda continues to exert a critical influence over the DRC's political transition process and has been found to have supported the (fortunately short-lived) rebel capture of Bukavu in May/June 2004.

The loss of over 3 million lives in the eastern DRC as a result of the conflict that began in 1998 implies appalling failings in the international communities instruments and

institutions for mitigating conflicts and their humanitarian effects. Given the enormity of what has happened in eastern DRC and the seriousness of the accusations being leveled at the international community, the UN and the humanitarian sector generally, the DRC case deserves to be subjected to an evaluation as thorough, transparent and wide ranging as the Joint Evaluation.

The current case of Darfur also suggests that many of the lessons from the Rwanda genocide and the recommendations of the Joint Evaluation have not resulted in improved practice. Whilst there are some important differences between the Rwanda and Darfur cases, there are also some similarities – notably the issue of sovereignty, the emphasis given to keeping a peace process on track and not confronting human rights abuses for fear of upsetting that process, and a tardy response by the international community to mass killings and ‘ethnic cleansing’. Attacks by the rebels on Government targets and the response by the *Janjaweed* Arab militia in attacking and forcibly displacing civilians of black African origin began in early 2003 and yet the Security Council did not actively engage with the issue for a year and it was not until July 2004 that a small AU force was deployed to protect ceasefire monitors. By the time of writing in September 2004 the Security Council had still not even taken the step of introducing sanctions in response to the Government’s failure to comply with earlier resolutions demanding action by the Security Council, let alone more forceful steps such as imposing a no-fly zone on the Sudanese Airforce to prevent its bombing villages in support of *Janjaweed* attacks. Whilst a build-up of the current AU contingent appears quite likely it is less likely that they will be given a mandate expressly to protect civilians. Forceful military intervention by non-AU forces looks remote.

While being tardy in its response to address the security and protection issues on the ground the Security Council has simultaneously been encouraging and pressing for an increased presence of humanitarian agencies in Darfur. The Joint Evaluation’s conclusion that ‘humanitarian action cannot substitute for political action’ is once again being ignored. The Joint Evaluation’s recommendation that a Humanitarian Sub-Committee of the Security Council be established was neither considered nor implemented. The Darfur case, the difficulties being experienced by the humanitarian community in relation to the ‘integrated mission’ model for peacekeeping operations and the need for a stronger voice for the humanitarian community in the political milieu of the Security Council justify serious consideration of the original Humanitarian Sub-Committee proposal.

A particularly worrying element of the Darfur story has been the reluctance to use the term ‘genocide’ even though several of the criteria of the 1948 Convention on the Prevention and Punishment for the Crime of Genocide (emphasis added) appear to have been met. In September 2004 the US Secretary of State concluded that a genocide had occurred though the US remains the only state to have publicly drawn this conclusion. As in 1994, states are avoiding use of the term because they are reluctant to undertake direct interventions as required under the Convention. This leads us to join the OAU Eminent Personalities who, in their ‘Rwanda the Preventable Genocide’ report (OAU 2000) called for a review of the Convention that would clarify the definition, the criteria that have to be met and the obligations that ensue.

Ideally the Secretary General’s new Special Adviser on Genocide Prevention will have the authority and capacity to determine when the genocide term becomes applicable independently of the member states that would be likely to be involved in any intervention to ‘prevent’, let alone mitigate it. We also propose that an independent high-level

Genocide Panel, composed of three to five highly respected Nobel Peace Laureates be established. This “Nobel Genocide Panel” would provide independent support to the Special Advisor and the Secretary General. The reports of the Panel would be presented to the Security Council and would be public.

Conclusion

The critical test is whether reports and policy prescriptions, explicitly attributed to the Joint Evaluation, get translated into practice. This assessment has revealed a number of areas where the Joint Evaluation had a positive influence and impact. It has also revealed recommendations that were not implemented that remain valid and warrant further efforts to implement them. Even allowing for the achievements in the humanitarian sector in relation to accountability, standards and greater professionalism, on the central issue of the prevention and suppression of genocide and massive human rights abuses our assessment yields a conclusion that is on balance pessimistic; a conclusion that is supported by much of the literature many of our interlocutors, the literature and examination of the Darfur case. Several interlocutors proposed that massive public interest mobilization campaigns would be required to put sufficient pressure on decision makers in key countries to get action on an issue like genocide prevention and intervention. The successful global campaign against landmines demonstrated what can be achieved by such campaigns.

1. Introduction: Purpose and Approach of the Assessment

Background

The 1994 Rwanda genocide and its aftermath in Rwanda and neighboring countries of the Great Lakes Region of Central Africa count as one of the most horrific manmade calamities of recorded history. Given the institutional and technological instruments that could have been applied to prevent or greatly reduce the genocide, and the contextual factors that increased the likelihood of success,¹ it also counts as one of the most colossal culpabilities of the international community in recent history.²

The public participation in the 1994 genocide and the brutality of the slaughter have no known parallels. Between April and July 1994 a society was created in Rwanda based on genocide, the killing taking place in broad daylight. As a direct result of the genocide the largest refugee crisis on record was created in the Great Lakes Region. This catastrophe de-stabilized the region, resulting in war and human deprivation with an incalculable number of victims. The failure to adequately assess the reality of the racism in Rwanda before the genocide and then to determine genocide was occurring is one of the greatest scandals of the Twentieth Century and for which we still have no adequate explanation.

At the initiative of the Danish International Development Assistance (Danida), a group of 39 representatives of bilateral donors, UN agencies, international non-governmental organizations (NGOs), and the Red Cross and Red Crescent Movement, comprised a Steering Committee to sponsor an international evaluation, the *Joint Evaluation of Emergency Assistance to Rwanda (Joint Evaluation)*, also known as *The International Response to Conflict and Genocide: Lessons from the Rwanda Experience*. The evaluation was undertaken over a 15-month period by international teams numbering 52 consultants and researchers that produced four studies plus a synthesis report covering all phases of the crisis.

The Joint Evaluation was published in March 1996 and launched simultaneously in four key locations: Geneva, London, Nairobi, and New York. The Synthesis Report contains 64 recommendations addressed to all elements of the international community. Team leaders also led discussions of the Joint Evaluation's findings and recommendations at a seminar in Kigali, Rwanda, in September 1996.

At the initiative of the Swedish International Development Cooperation Agency (Sida), the Steering Committee sanctioned a one-year follow-up of the Joint Evaluation recom-

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1. *These contextual factors include the extent of the information available to the international community in advance, the low-tech nature of the genocide itself, the easy access to the Kigali airfield, and the relatively small number of troops that would have been required to prevent or greatly reduce the genocide.*
 2. *Citing the rapid rate of killing and "inaccessible location" (of Rwanda), one analyst finds a "tough case" for intervention to stop the genocide once it had started, but at the same time recognizes the limited military strength of potential adversaries and the country's small size as factors enhancing the prospects for intervention. Kuperman 2001:109-110. Kuperman does emphasize the importance of prevention efforts, including vigorous implementation of diplomacy and negotiation strategies.*

1. PURPOSE AND APPROACH

mendations – the Joint Evaluation Follow-up, Monitoring, and Facilitation (JEFF) Network. JEFF comprised 11 individuals representing the Management Group, Steering Committee and study teams of the Joint Evaluation. Their role was to raise awareness of the Joint Evaluation through presentations of the reports and participation in national and international conferences and monitor the steps taken in the organizations concerned in response to the 64 targeted recommendations contained in the Synthesis Report. As part of its work JEFF assessed the status of each of the 64 recommendations.³ JEFF's report was presented to the final meeting of the Steering Committee and a final version (taking account of some potentially significant developments during the first half of the year) was completed in June 1997 (JEFF 1997).

At the final meeting of the Steering Committee in February 1997, there was no commitment to sustain the Committee after the publication of the JEFF report. This removed a structure that had legitimated a system-wide review and follow-up on issues raised by the Joint Evaluation, many of which remained outstanding. The current report recommends that a detailed study be undertaken of the adoption of changes in donor organizational structures and practices resulting from the Joint Evaluation, the JEFF, and other policy statements, such as those of the OECD/DAC.

In preparation for the ALNAP 15th Biannual Meeting commemorating the tenth anniversary of the genocide, ALNAP (Active Learning Network for Accountability and Performance in Humanitarian Action) and Danida approached two members of the Joint Evaluation team, John Borton, leader of Study 3, and John Eriksson, leader of the Synthesis, to undertake an assessment of the follow-up of recommendations eight years after publication of the Joint Evaluation and ten years after the genocide. This report constitutes that assessment.

Purpose

The purpose of the current assessment is four-fold. Using the Joint Evaluation as a basis, the assessment seeks to:

- 1) Assess the extent to which the evaluation has been acknowledged in subsequent literature and official reports, and by key informants;
- 2) Review developments in the different fields/sectors covered by the Joint Evaluation recommendations since publication in 1996;
- 3) Ascertain the degree to which developments in the different sectors that the Joint Evaluation addressed are consistent or inconsistent with Joint Evaluation recommendations; and

4. *Fifteen months after publication of the Joint Evaluation, JEFF's assessment was that two thirds of the recommendations had had at least some positive outcomes. At that stage the main areas of progress were judged to be:*

- *the strengthening of human rights machinery in Rwanda;*
- *the development of early warning information systems in the Great Lakes region;*
- *the broadly supported efforts within the NGO community to improve performance through the development of standards and self-regulation mechanisms;*
- *the commitment shown by donor organisations, UN agencies and NGOs to improve accountability within the humanitarian aid system.*

The main areas where there was judged to be no progress were:

- *'Fostering Policy Coherence' (directed at the UN Security Council, Secretariat and General Assembly) and*
- *'Effective Prevention and Early Suppression of Genocide' (directed at the UN Security Council, the Secretary Generals of the UN and OAU and the High Commissioner for Human Rights). (JEFF 1997, see also Borton 2004).*

- 4) Identify, where possible, changes in policies or practices of the international community in response to the Joint Evaluation.

Approach

Principal phases of the assessment included:

1. Identification of Advisory Group members
2. Preparation of a Literature Review outline for consideration by the Advisory Group
3. Holding Advisory Group Meeting (8th May, Berkhamsted, UK)
4. Identification of Key Informants.
5. Interviewing of Key Informants
6. Submission of draft report to Advisory Group members and commenters during the first week of June
7. Presentation of the draft report to the Biannual Meeting of the Active Learning Network for Accountability and Performance in Humanitarian Action (ALNAP) in Copenhagen 14th June 2004.
8. Finalization of the report taking account of comments and feedback received and undertaking additional enquiries and literature review where necessary.

Purpose of the literature review:

- Summarize developments in the different fields/sectors
- Make a preliminary assessment of the degree to which those developments are consistent or inconsistent with the direction and outcomes intended by the Joint Evaluation
- Identify extent to which reviewed literature takes Joint Evaluation into account
- Elicit suggestions by the Advisory Group on:
 - 1) any gaps in the literature reviewed
 - 2) the validity of the preliminary assessments made.

The Literature Review and selections of Advisory Group members and Key Informants were structured around eight broad categories that roughly correspond to the main substantive categories in the Joint Evaluation Synthesis Report and to continuing major issues in complex emergencies. Namely:

- 1) Humanitarian Assistance and Protection
- 2) Genocide Prevention
- 3) Human Rights and International Humanitarian Law
- 4) Military Intervention
- 5) Reconstruction and Recovery Assistance
- 6) The Media
- 7) Conflict Prevention and Peace Building
- 8) Rwanda and the Great Lakes Region.

Literature – mainly books and reports – were selected for their salient contributions in each of these categories. Similarly, Advisory Group members and Key Informants who were specialists in each of the eight categories and who had made significant contributions through their writing or in other ways were identified. Key informants were interviewed from 17 May to mid-July 2004.

Summary findings from a selection of the reviewed literature are contained in Annex 2, the Advisory Group and Key Informants are identified in Annex 3 and the full list of reviewed literature is presented in Annex 4.

Limitations of the Assessment

Limitations of time and resources precluded expanding the assessment to cover additional French written sources and French-speaking authors and stakeholders in Rwanda, the DRC, Belgium, and France. Very few UN and bilateral donor officials were interviewed. Nor were many Rwandans interviewed or Rwandan literature in *Kinyarwanda* consulted. But, offsetting these limitations are the leading scholars and practitioners who served as advisors and interviewees for the assessment. These experts have conducted extensive research on genocide, conflict, and post-conflict, as well as on Rwanda and the Great Lakes region (see Annex 2).

Outline of the Report

Chapter 2 of the Assessment Report provides a summary of the principal developments in Rwanda, the Democratic Republic of Congo, Burundi since publication of the Joint Evaluation and brief summaries of international interventions intended to prevent or mitigate massive human rights abuses in seven selected cases. Chapter 3 reviews knowledge of the Joint Evaluation as reflected by the literature, advisory group members, and key informants. Chapters 4-6 review developments with respect to prevention and preparedness; response; and rehabilitation, reconstruction, and recovery, respectively. Through the exploration of two current examples, Darfur, Sudan, and the eastern DRC, Chapter 7 addresses the question, “Has the International Community Become More Willing to Prevent or Intervene Against Genocide?” Chapter 8 concludes with an overall assessment of the impact and influence of the Joint Evaluation.

2. A Summary of the Principal Developments in Rwanda, DRC and Burundi since Publication of the Joint Evaluation and of Seven Selected Cases of External Intervention

2.1 Introduction

Before reviewing major policy developments since 1996 in selected fields in order to assess the influence of the Joint Evaluation, the following context is discussed in this chapter:

- a) events and developments in Rwanda and the Great Lakes region since 1996, and;
- b) some of the principal examples of international interventions in conflicts and contexts of mass violations of human rights since 1996.

This chapter therefore provides a summary of the principal events and developments in Rwanda, the DRC and Burundi followed by a brief summary of the principal characteristics of international interventions in the selected cases of Kosovo, East Timor, Sierra Leone, Liberia, Côte d'Ivoire, the Former Yugoslav Republic of Macedonia and Afghanistan. In the interests of the overall structure and balance of the report, the chapter is necessarily brief. A fuller summary of the events and developments in the different cases, including an indication of the document sources employed, is provided in Annex 4.

2.2 Political, Economic and Social Developments in Rwanda

Study 4 of the Joint Evaluation was only able to assess the first 15 months or so of the response by the international community to the recovery and rebuilding tasks confronting the new Government in July 1994. Given the enormity of the tasks such an early assessment was recognized to be somewhat premature and certainly very preliminary. The issues of security, justice, human rights, reintegration, reconciliation and international recognition and assistance that were assessed in a preliminary way by Study 4 have remained the critical issues for Rwanda. How they have evolved and played out since that initial assessment is the subject of this section.

The Government of National Unity that was inaugurated in July 1994 was made up of all of the parties that had signed the Arusha Accords, with the exception of two parties banned for their role in the genocide – the Mouvement Révolutionnaire National pour le Développement (MRND – the former single party of the Habyarimana regime) and the Coalition pour la Défense de la République (CDR – the extremist Hutu party). Despite the inclusion of other parties and the appointment of Faustin Twagiramungu (a Hutu MDR leader) as Prime Minister, the Rwandese Patriotic Front (RPF) wielded considerable influence over the new Government. The provisions of the Arusha Accords were modified to create a strong executive presidency with Pastor Bizimungu (a Hutu RPF leader) as President and Paul Kagame (the Tutsi leader of the RPF) as Vice President

and Minister of Defence. Though termed ‘Government of National Unity’, the power behind the new, post-genocide government was decidedly Tutsi-RPF.

The enormity and uniqueness of the tasks confronting the new government cannot be underestimated. There were no international precedents for the ethnic group that had been the principal target and victims of a genocide immediately taking controlling power in a sovereign state and being responsible for managing the post-genocide processes of justice, reintegration and reconciliation. Unlike the subsequent cases of international intervention in Kosovo and Afghanistan, the occupying powers were not the “international community” with a self-appointed mission to build a “new and better” nation, but were Rwandans dominated by those who had been exiled and returned, and, to a lesser extent, those who had experienced and survived the genocide. Another unique aspect of the situation facing the new government was that over 1.5 million Hutu Rwandans (over 20% of the total population) were living as refugees in neighboring countries. The presence of soldiers of the former Forces Armées Rwandaises (FAR) and Hutu militias in the huge refugee camps just across the border in Zaire and to a lesser extent in Tanzania represented a significant security threat to the new regime.

Security and Human Rights

Inevitably security and human rights issues have been dominant themes in the period since the genocide. One aspect within this dominant theme was the growth in the prison population as the, often spontaneous, process of identifying and locking up those accused of participating in the genocide got underway – by October 1995 it stood at 57,000 and by the end of 1997 it had reached 120,000. The conditions in the country’s overcrowded jails were often inhumane and death rates among inmates high. Providing justice, let alone timely justice, to such large numbers of accused has proven extremely challenging and controversial (see below).

Another aspect was the immediate task of managing the closure of the Internally Displaced Persons (IDP) camps that had been established in the southwest of the country in the area covered by the French *Operation Turquoise*. The camps contained approximately 220,000 Hutus among whom were extremist militia members and others who had participated in the genocide. Assisted by the UN peacekeeping force the UN Aid Mission to Rwanda (UNAMIR), UN agencies and NGOs, the government gradually closed the camps and returned people to their home communes. But the process concentrated the extremists in a few remaining camps and in April 1995 efforts to close the camp at Kibeho resulted in violence and the killing of approximately 3,000-4,000 IDPs by soldiers of the Rwandese Patriotic Army (RPA)⁴. Despite being mandated to protect civilians the UNAMIR troops who were present did not intervene.

An aspect that was to have profound implications for neighboring Zaire was the Government of Rwanda’s approach to the approximately 1.1 million refugees in the camps in the Provinces of North and South Kivu. Despite repeated calls by human rights and humanitarian agencies for the removal of the soldiers and militia from the camps and their relocation further back from the border, the international community allowed these groups to remain in the camps and thereby to benefit from the international assistance. Having regrouped after 1994 the FAR and militia began launching attacks into Rwanda and were generally believed to be preparing for a full-scale invasion attempt. The RPA responded by providing substantial support to an uprising by the Democratic

4. Refer to Annex A for a fuller account that assesses the different numerical estimates.

Forces for the Liberation of Congo-Zaire (AFDL) which was comprised largely of *Banyamulenge* (Zairian Tutsis). The refugee camps were encircled and in November AFDL forces with the support of RPA troops attacked the camps containing FAR and militia near Goma forcibly closing them and subsequently the other camps in North and South Kivu.

During the process thousands of civilians were killed. Approximately 600,000 refugees flowed back into Rwanda while the remainder (estimated numbers vary widely) including elements of ex-FAR soldiers militia, moved westwards further into Zaire where they were pursued and repeatedly attacked by the AFDL and RPA forces. Over the next 10 months the UN High Commission for Refugees (UNHCR) 'rescued' over 260,000 Rwandans and repatriated them to Rwanda, 60,000 of them via an airlift operation (UNHCR 2000a). While the precise numbers of those who moved westwards into Zaire and who were subsequently killed or died will probably never be known, many thousands undoubtedly were killed by attack or died as a result of hunger and disease. Several weeks after the November 1996 repatriation from Zaire later, the Tanzanian Army forced another 470,000 Rwandan refugees present in Tanzania back over the border to Rwanda.

Mixed-in with the refugees, particularly those returning from Zaire, were ex-FAR soldiers and militia. During 1997 an insurgency developed in Rwanda with large groups of insurgents operating in the northwest of the country but also launching attacks in the northeast. The RPA responded brutally to the insurgency and several thousand civilians as well as insurgents are believed to have been killed. The insurgency continued through 1998 and much of 1999 taking on a more organized, political form in the shape of PALIR (Peuple en Armes pour Libérer le Rwanda) and its armed wing ALIR (Armée pour la Libération du Rwanda).

To help combat the insurgency the Government revived Local Defence Forces and, in the east and northeast of the country, gathered residents into supervised camps and later into villages as part of a larger 'villagization program' operated by the Government in many areas of the country. Fear of attacks on farmers and the policy of supervised camps and villagization had a negative impact on crop production. However, by late 1999 these internal counter-insurgency measures, coupled with the RPA operations in eastern DRC during the second DRC war served to reduce the level of support to the insurgency, though at considerable cost in terms of civilian life (see below). The violence flared up again in 2001 when ALIR forces based in the DRC crossed into northwest Rwanda but they received less support from the population in the northwest. Between May and July 2001 the RPA reportedly killed two thousand ALIR combatants and captured the same number.

An aspect of the security and human rights themes since the genocide, but which receive limited coverage in the Anglophone literature, has been the issue of deaths of civilians attributable to the RPF. Such deaths have occurred in the process of taking control of the country during 1994 and in establishing and maintaining control of the country in the period since. Accurate estimates of the numbers of deaths are not readily available but an estimation of between 25,000 to 45,000 deaths inside Rwanda due to actions by the RPA⁵ between 1994 and 2003 appear realistic. Despite evidence of abuses by the RPF dating from 1994 contained in reports by the UN Special Rapporteur of the

5. *The Economist* 28/8/03.

Commission of Human Rights, the UN Commission of Experts and the so-called 'Gersony Report' commissioned by UNHCR, many within the international community have been extremely unwilling to publicly criticize the Government of Rwanda. Guilt at their own abject failure to intervene to halt the genocide and the belief by the so-called 'Friends of the New Rwanda' (particularly the US, UK and Netherlands) that the RPF offer the only realistic option for Rwanda's recovery from 1994, has given the Government of Rwanda what has been termed a 'genocide credit' (Reyntjens 2004).

The space for human rights agencies to operate in post-genocide Rwanda has been severely constrained. The Human Rights Field Operation in Rwanda (HRFOR) was established in 1994. In February 1997 five members of staff were killed near Cyangugu following which HRFOR and other UN activities in the west of the country were severely restricted. In July 1998 HRFOR was closed down following disagreement with the Government over its continued efforts to monitor human rights abuses in the country. The Government wanted the mandate of the HRFOR to concentrate solely on technical assistance and to exclude the monitoring of human rights abuses. Unable to reach agreement on this point the UN High Commission for Human Rights chose to terminate the mission. In April 2001 following extensive lobbying by Rwandan delegates the UN Commission on Human Rights voted to end the mandate of its Special Representative for Rwanda and to end the Commission's consideration of human rights issues in Rwanda.

Before the genocide Rwanda had an active group of non-governmental human rights organizations, all of which suffered major losses during the genocide. Following the genocide their efforts to monitor the continuing human rights abuses in the country were resented by the Government, which sought to restrict their activities. From 1997 onwards three of the five Rwandan human rights NGOs gave up rigorous monitoring of government abuses and devoted themselves to less dangerous tasks. The Rwandan League for the Promotion and Defense of Human Rights (LIPRODHOR) emerged as the country's most independent human rights organization but in June 2004 the Parliament asked the government to dissolve the LIPRODHOR and four other civil society organizations because they allegedly supported "genocidal ideas". In July the organization's bank accounts were frozen and several staff fled the country.

Political Developments

Despite an apparently genuine initial attempt to fashion the 1994 Government of National Unity as an inclusive, ethnically-mixed administration, the overall trend since 1995 has been towards increasingly authoritarian rule by President Kagame surrounded by a Tutsi urban-elite, many of whom had returned to Rwanda after the genocide having lived in exile for many years.

Key events in this process were the August 1995 resignation of Prime Minister Faustin Twagiramungu and the Minister of Home Affairs Seth Sendashonga over the issue of insecurity and abuses by RPF troops. The Minister of Justice and two other ministers were ousted at the same time, removing the most effective voices against military influence in the government. Seth Sendashonga subsequently sought exile in Nairobi where in May 1998 he was assassinated. During the first three months of 2000 the President Pasteur Bizimungu, the Speaker of the National Assembly Joseph Kabuye Sebarenzi, and the Prime Minister Pierre-Célestin Rwigema left their posts under pressure; in the case of the Speaker and the Prime Minister they left the country fearing for their safety. In April 2000 the former vice-president, General Paul Kagame, was elected president by the

National Assembly ending the practice of having a member of the majority ethnic group serve as titular head of the republic. A subsequent reshuffle of cabinet positions increased the RPF's dominance in ministerial positions.

In mid-1999 it was announced that the government would not step down at the end of its five-year mandate, as specified in the Arusha Accords, but would continue to rule for at least another four years with Presidential and Parliamentary elections set for 2003. During 1999, one third of the National Assembly were replaced, all by individuals designated by party leaders, following a complex series of accusations of corruption and links to the genocide or to the insurgency.

A new draft Constitution was issued in November 2002 and the final version was adopted in June 2003 following a national referendum. 'Divisionism' is prohibited but is only vaguely defined and 'revisionism, negationism and trivialization of the genocide' are criminalized but again are poorly defined. Political party activity is only permitted at the provincial and national levels so any form of grass-roots political activity is not possible. However the RPF does not observe this rule and has actively recruited at the local level.

Elections have been held at all levels of government. The first ones since the genocide were held at the two lowest levels of the administration in 1999 and District Council elections were held in 2001. During that year attempts by Former President Pasteur Bizimungu and another former Minister to set up a new political party as permitted by the constitution were thwarted by the authorities. In late 2002 accusations of 'divisionism' were brought against the MDR party (Mouvement Democratique Republicain) that had been the second largest party in the Government. Following an investigation by a special commission the National Assembly voted for dissolution of the party. The fear that the predominantly Hutu electorate might turn in a Hutu majority through the MDR in the planned 2003 presidential and parliamentary elections appears to have been an important motive for this action.

Presidential elections were held in August 2003 and Parliamentary Elections a month later. The former Prime Minister Faustin Twagirimungu returned from exile to campaign for the presidency. His party was banned and he was obliged to stand as an independent candidate. His campaign was disrupted and harassed by the authorities. President Kagame received 95% of the vote and Twagirimungu 3.7%. The report by EU election monitors concluded "there were serious problems with the electoral campaigns and election days ... There was no real opposition. The RPF and its candidate Paul Kagame dominated the two electoral campaigns ... in a climate of intimidation [there were] arrests, numerous irregularities and fraudulent practice ... and a lack of transparency" (EU Electoral Observer Mission cited in Christian Aid 2004). One seasoned observer described the elections as "a formal election painted on top of an increasingly totalitarian state", following "the closing off of all political space, a climate of fear, intimidation, disappearances, the banning of the sole opposition party with some possible popular grounding, attacks on key civil society organizations [and the] muzzling of the press" (Uvin cited in Christian Aid 2004).

Justice

Following the genocide a strong and widely held belief was that the 'cycle of violence' and the 'culture of impunity' that had existed for decades in Rwanda had to be ended and that effective justice was critical to achieving these goals. Justice has therefore been a focus of efforts, though in different ways, by the international community and the Government of Rwanda.

2. PRINCIPAL DEVELOPMENTS IN RWANDA, DRC AND BURUNDI

Since 1994 there have been three principal types of efforts to deal with the perpetrators of the genocide: the International Criminal Tribunal for Rwanda (ICTR) based in Arusha, Tanzania; the formal domestic justice system; and, since 2001, *gacaca* – based on a traditional community-based conflict resolution mechanism that has been adapted into a mechanism for judging those accused of participation in the genocide. The three principal types of justice are described in fuller detail in Annex 4.

The ICTR was established in November 1994 by a Security Council Resolution under Chapter VII of the UN Charter. Though modeled on the earlier International Criminal Tribunal for ex-Yugoslavia (ICTY) the ICTR differs in that its mandate is time limited just to the calendar year 1994 – which prevents it considering crimes committed after December 31st 1994. To date over seventy suspects have been indicted and more than 60 have been arrested and transferred to the Tribunal's custody. 21 people have been convicted and more than 20 cases are in progress. The ICTR has achieved some notable success including the first ever conviction by an international court for the crime of genocide, the first ever conviction of a former head of state for the crime of genocide and the first ever conviction in the use of rape as a crime against humanity. In producing these convictions the ICTR has developed a substantial body of case law (jurisprudence) which has been used by the ICTY and which provides an important basis for the work of the International Criminal Court (ICC) and will most probably reduce the lead-time required by the ICC to begin achieving its own indictments and convictions.

However, it has been criticized from a range of standpoints. It was slow to start its work as a result of funding delays and cumbersome procedures and experienced financial mismanagement. In addition it needed to develop its own jurisprudence. It is expensive to operate, costing approximately USD 50 million a year, though this is less than half of the annual costs of the ICTY based in The Hague. Its inability to pass the death sentence and the conditions afforded to those in custody contrast with the situation in Rwandan jails. Its location in Arusha, the lack of cooperation from the Government of Rwanda and the limited impact of the ICTR public information outreach activities in Rwanda mean that its contribution to the process of national reconciliation has been negligible. Its neglect to date of crimes committed by the RPF during 1994 and its inability to consider crimes by the RPF since then in Rwanda or in Zaire/DRC render it open to the accusation of one-sided justice.

Bringing effective justice to the very large numbers of those suspected of participation in the genocide and detained inside Rwanda since July 1994, has posed an enormous challenge to the domestic justice system of the Government of Rwanda. Conditions in the dangerously overcrowded prisons were initially appalling and death rates among inmates were high. Conditions gradually improved with support from the international community. Significant international assistance has also been provided to strengthening the judicial system through programs to train lawyers, judges and prosecutors, provide vehicles etc.

It took time for the Government to prepare the necessary legislation to bring prosecutions against those detained and the first domestic genocide trials began towards the end of 1996 some two and a half years after the end of the genocide. The progress of the trials has also been slow – by the end of 2002 only 3% detainees had been judged, leaving approximately 115,000 awaiting trial. Approximately 1,000 of those found guilty of the category one crimes have been sentenced to death. Twenty-two death sentences were carried out in April 1998 by firing squad in front of large crowds in Kigali but since then no more have been carried out. Several thousand detainees have been released without

trial because of a lack of evidence or because they were considered to be too young or too old. In January 2004 some 24,000 people were provisionally released who had confessed to having participated in the genocide. It appears that such mass releases will be repeated in the future.

Recognizing that the formal justice system was never going to bring justice quickly enough to all those awaiting trial, the Government began considering alternative procedures with potentially significantly greater capacity. In mid-1998 it produced the first draft of a proposed new system of justice called *gacaca* that was said to be developed from a traditional community-based mechanism for conflict resolution. After much discussion and redrafting the necessary legislation was approved in 2001 and the system launched in 12 pilot jurisdictions in June 2002. Among the key features of the *gacaca* system are that it excludes category one suspects and so leaves the most serious offences and the possibility of the death penalty to the regular courts; it takes the justice process much nearer to the places where the perpetrators, survivors and witnesses live. While *gacaca* offers a means of greatly accelerating the handling of the huge backlog of cases, it carries many risks, including the fear of revenge by the accused and their relatives against those who testify as witnesses; the provision of false testimony especially where there are few other witnesses; and the risk that people still holding genocidal beliefs may be released back into the community. The international human rights and legal communities have been highly critical of the *gacaca* mechanism because it falls short of internationally agreed human rights and legal standards. However, given the lack of alternative ways of bringing justice to the large numbers still in prison, international donor organizations have tended to view the mechanism as a positive development and some have provided financial support.

The Economy and International Assistance

Rwanda's GDP had performed poorly in the years leading up to the genocide as a result of the decline in coffee prices and a drought in the southern part of the country. GDP in 1992 stood just less than 2% above its level in 1985. The genocide and the conflict resulted in an economic collapse with GDP in 1994 plummeting to half of its level the previous year. Given the depth of this collapse, the recovery of the Rwandan economy since then has been impressive, even miraculous. In 1995 GDP jumped over 35% and growth during the next three years was not as dramatic but still very impressive, at 13, 14, and 9%, respectively. By 1999, real GDP had recovered to the same level as the year before the genocide, 1993. And growth has continued, year-in-and-year-out since 1998 at a respectable average rate of about 6% a year.⁶

The distribution of the economic growth being generated in the Rwandan economy is likely quite uneven. An unknown share of income and wealth is coming from exploitation of mineral resources in the eastern DRC, but it is believed to be substantial. The rents being extracted from this activity are also believed to be concentrated among military and civil elite. Agriculture, the economic mainstay for the bulk of the population, has been doing relatively well, some years growing as fast or faster than the economy as a whole. Growth in the agriculture sector would be expected to bode well for the rural poor majority. Yet, agriculture remains very dependent on the weather and on world markets for products like coffee. Both factors have been favorable recently, but will undoubtedly not remain so. Two key social indicators present contrasting pictures. Primary school enrolment has grown impressively, from about 55% shortly after the

6. *Data from database, IMF 2004.*

2. PRINCIPAL DEVELOPMENTS IN RWANDA, DRC AND BURUNDI

genocide to a current reported 87%. But infant mortality, while slowly declining, remains relatively high, at 107 per 1,000 live births in 2001, as compared with 91 in Sub-Saharan Africa and 76 in all low-income countries.⁷

Economic assistance from external bilateral and multilateral sources has played a significant role in Rwanda's economic recovery. After peaking in 1996, emergency assistance declined consistently. Disbursements of recovery and rehabilitation assistance were slow to materialize after the genocide partly due to issues of legitimacy of the new government but partly also as a result of cumbersome donor procedures. For example, by mid-1995 only 10% of the total pledged by donors at the January Round Table Conference had been disbursed (World Bank 1998a: 89). The rate of disbursements improved in succeeding years, but the immediate post-genocide years were critical. After a decline from the high levels of aid during the emergency period, overall official development finance has still remained relatively high, at USD 48 per capita in 2003, compared with USD 27 per capita for Africa as a whole.⁸ Much of this assistance has been directed towards the social sectors. Aid to the "productive sectors" such as agriculture and to infrastructure declined to very low levels by the end of the 1990s.

The five largest donors, the IDA-World Bank, EU, UK, US and the Netherlands have maintained their assistance levels over the 6-year period while others have tended to reduce their aid levels in recent years. Donors and development agencies have tended to emphasize education, health, and justice in their assistance strategies for Rwanda. The UK stands out among donors prepared to provide budget support to the GoR. France resumed aid to Rwanda in 1997.

Donor governments have been generally ready to overlook or to excuse human and civil rights abuses as one of the costs of rebuilding the nation in the aftermath of the genocide. To an extent the donors have been burdened by the guilt of their inaction during the genocide. The results of the UN's investigations into the illegal exploitation of resources in the Congo, which began in 2001, have led to increased donor questioning and criticism of the Government.

The Treatment of Vulnerable Groups

The genocide had profound demographic impacts in addition to the loss of 12% of Rwanda's population. Currently about one-third of Rwandan households are headed by women and 20% of households by widows. The genocide created about 220,000 orphans of which some became, and remain, heads of households. The term 'survivor' is used to describe all those adults and children who were targeted during the genocide but who survived. The total number of survivors is approximately 400,000 of whom 280,000 have been identified as 'the neediest survivors' in a survey by Fonds d'Assistance aux Rescapés du Génocide (FARG), a fund established by the GoR specifically for survivors. The needs of these different groups comprising this category of neediest survivors vary considerably. A particular problem for the widows has been that many were raped and infected with HIV/AIDs during the genocide.

Among the organizations that have been established with the specific aim of providing support to the genocide survivors, a generally held view is that the level of international assistance provided to the survivors has been wholly inadequate – a view that is support-

7. *School enrolment data from a confidential source. Infant mortality data from World Bank 2004a: 29.*

8. *From "Nationmaster.com." Data are reported to be taken from the CIA World Factbook, December 2003, and in turn, are said to be net inflows of Official Development Finance, as compiled by the IMF.*

ed by surveys of specific vulnerable groups such as widows and child-headed households that reveal extreme deprivation and lack of sustained external support. Why this should be the case given the substantial flows of aid to Rwanda since the genocide is not altogether clear but contributory factors appear to include: the large number and dispersed nature of those in need; problems of financial mismanagement and corruption within FARG; the view by some donors that their efforts should be directed at overall vulnerability rather than being targeted on the Survivors as a specific group; the relationship between Survivors groups and the RPF were somewhat strained as a result of political and cultural differences between those who had been in Rwanda and survived the genocide (who were largely rural) and those who had returned from Uganda and other neighboring countries (many of whom settled in Kigali and entered the government).

2.3 Principal Developments in the Democratic Republic of the Congo

Events in eastern DRC in late 1996 and early 1997 were summarized earlier from the perspective of security in Rwanda. A more detailed account of the forced closure of the refugee camps in North and South Kivu by the AFDL with support from the RPA is provided in Annex 4. As AFDL/RPA forces pursued the ex-FAR and Hutu militia mingled in with the refugees they advanced westwards into Zaire. Having captured Kisangani in February 1997 the AFDL forces advanced on Kinshasa itself. The ageing President Mobutu fled into exile in April and in May Kinshasa came under the control of AFDL forces headed by Laurent Kabila who had close links to RPF leaders in Rwanda and to leaders in Uganda.

Among Kabila's first changes were the renaming of the country to the Democratic Republic of Congo and the appointment of *Banyarwanda* to key posts. However, the popular Congolese perception was that he had been 'enthroned by foreigners' and he subsequently came under pressure to distance himself from his backers in Rwanda and Uganda. In February 1998 he removed Banyarwanda from Government posts and ordered *Banyamulenge* troops back to the Kivus. In August there was a mutiny in Kinshasa and an uprising in the Kivus by the *Rassemblement Congolais pour la démocratie* (RCD) and the *Mouvement de Libération du Congo* (MLC). The RCD and MLC were openly supported by Ugandan and Rwandan troops. Their rapid westward advance to oust Kabila was halted only when troops from Angola, Zimbabwe and Namibia intervened in support of Kabila (subsequently troops from Sudan and Chad also joined the alliance supporting Kabila and troops from Burundi joined in support of the Rwandan forces). From a situation in 1996 that was primarily a contest between the RPF and the ex-FAR and Hutu militia in the refugee camps in Zaire, the events of 1998 escalated the conflict to a multinational confrontation with many different agendas at play and the first pan-African war. Rwandan troops remained in DRC until October 2002 when, officially at least, the last troops were withdrawn to Rwanda.

Pre-existing tensions between different ethnic and political groups in the Congo were exploited by the different foreign armies and Congolese armed groups and the security situation in the eastern part of the country became extremely complex and volatile. Exploitation of the Congo's considerable mineral wealth (coltan, diamonds, copper, cobalt and gold) became an important factor in the dynamics of the conflicts with some foreign governments using the income from illegal mineral exploitation to fund their military inside DRC and to boost national incomes and the personal fortunes of certain individuals.

The human costs of the conflict were extraordinarily high. In May 2000 in the first of a series of surveys of mortality in Eastern DRC the International Rescue Committee estimated excess mortality over the previous 22 months at 1.7 million as a result of direct killings, displacement, cutting off of large population groups from their traditional supply routes and the breakdown of health services. IRC's figures were to be borne out by their subsequent surveys in 2001 (which estimated excess mortality at 2.5 million) and in 2003 (which estimated excess mortality at 3 million). The response by the international humanitarian community to such shocking estimates of mortality was limited and quite inadequate in relation to the scale of the needs. The lack of security and the consequent lack of access to large areas, the high costs of operating in such a large and logistically difficult environment, the lack of donor funding for operations in the DRC and the lack of international media coverage of the conflict(s) and the humanitarian crisis are all cited by humanitarian agencies as critical factors contributing to the inadequate response. Others have also identified the Integrated Mission approach adopted by the UN and a mistaken emphasis on 'peace-building' rather than 'life-saving' approaches as being significant contributory factors.⁹

After an April 1999 abortive attempt by President Gaddafi to broker a ceasefire, peace efforts were then led by Zambia on behalf of the Southern African Development Community (SADC). After protracted negotiations the key parties agreed on a ceasefire deal that was signed by the state actors (DRC, Angola, Namibia, Rwanda, Uganda and Zimbabwe) in Lusaka in July 1999 and by the RCD and MLC the following month. Significantly the UN was not a party to the agreement. Among its provisions the Lusaka Agreement called for the setting up of an 'Inter-Congolese Dialogue' between the various political parties, the establishment of a mechanism for disarming militias and armed groups and for the deployment of an "appropriate force" by the United Nations in collaboration with OAU "to track down all armed groups in the DRC".

The UN Security Council responded cautiously to the Lusaka Agreement. Initially the Security Council approved the deployment of 500 military observers through a UN Military Observer Mission in the Congo (MONUC) and in February 2000 an expansion to 5,500 military personnel was approved with a mandate that was based predominantly on a mandate under Chapter VI of the UN Charter but which contained a Chapter VII component that allowed for a limited provision of protection for the civilian population¹⁰. However, member states were dilatory in providing the necessary contingents. Over three years later by April 2003, four months after a further expansion to 8,700 had been approved, MONUC's military strength stood at 4,309.

Direct confrontations between soldiers of the Ugandan People's Defense Force (UPDF) and Rwandan (RPA) troops over control of access to diamond mines took place in and around Kisangani in August 1999 and then again in May and June 2000 when an estimated 1,000 civilians were killed and significant damage caused to the city's infrastructure. Violent demonstrations took place in Kinshasa against the UN and the perceived feebleness of its response. The Security Council identified Rwanda and Uganda as aggressors in the DRC and called for their troops to be withdrawn.

9. *Multi Donor Mission Report: Democratic Republic of Congo Report May 27 – June 8 2002* Stockton, Nicholas (2003) 'Humanitarianism Bound: Coherence and Catastrophe in the Congo 1998-2002'

10. *A Chapter VI peacekeeping operation is normally deployed to help keep a peace that already exists and the peacekeepers are not authorized to use force other than self-protection. Chapter VII peacekeeping operations, also referred to as 'Peace Enforcement Operations', authorize UN peacekeepers to use military force if necessary to restore peace and security*

In January 2001 Laurent Kabila was assassinated by one of his bodyguards and was replaced by his son Joseph Kabila. The new President appeared more willing to seek solutions to the conflict prompting a closer engagement by the Security Council with the DRC peace process. In February 2002 the Inter-Congolese Dialogue, agreed to in the Lusaka Agreement, finally got underway at Sun City in South Africa. Thereafter the peace process began to gather greater momentum, though with periodic setbacks and delays. In July 2002 the Governments of DRC and Rwanda agreed on a calendar for the withdrawal of the RPA from DRC and the DRC agreed to track down elements of the former Rwandan Army (FAR) and Hutu militia still operating in the DRC. Verification of these actions would be undertaken by South Africa and MONUC. The first group of Rwandan combatants (ex-FAR and Hutu militia) were repatriated to Rwanda in September 2002. By March 2004 10,500 Rwandan combatants had been repatriated.

In December 2002 the Congolese parties to the Inter-Congolese Dialogue signed an agreement for a political transition process leading within two years to legislative and presidential elections starting from the time the Transitional Government was actually established. (The Transitional Government was eventually formed on 30th June 2003.) Even though MONUC was still well below the troop levels authorized by the UN Security Council in February 2000, in December 2002 the Security Council approved an expansion of MONUC's strength to 8,700 with a mandate to implement the Disarmament, Demobilization, Repatriation, Reintegration and Resettlement (DDRRR) Program.

International pressure upon Uganda and Rwanda to withdraw their forces was also influenced by investigations by the UN. Damning and detailed investigations of the human rights abuses in the Eastern DRC by the Special Rapporteur of the Commission on Human Rights were one source for such pressure. Another was the work of the 'UN Panel of Experts on the Illegal Exploitation of the Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo'. Their first report submitted to the Security Council in April 2001 was controversial and disputed by Rwanda and Uganda but was borne out by subsequent reports. In a third report published in October 2002, 'elite networks' in Uganda, Rwanda and the DRC were identified as being involved in the illegal trade and individuals benefiting from the trade within the various armed forces and rebel movements were named.

In May 2003 two weeks of intense violence in and around Bunia in Ituri Province killed hundreds of civilians and caused widespread population displacements. The Security Council responded more decisively than previously, approving an immediate deployment of 3,000 troops for a three-month French-led intervention ('Operation Artemis') with a Chapter VII mandate to operate alongside MONUC. In July the Security Council approved a significant strengthening of MONUC's mandate to a Chapter VII mandate and an increase in its force level to 10,800 to enable it to take over from 'Operation Artemis'. The new mandate authorized the use of force in Ituri and the Kivus to protect civilians and ensure safe passage for humanitarian agencies. In September 2003 Operation Artemis ended and MONUC established the 'Ituri Brigade' which was deployed to locations throughout Ituri, thereby improving MONUC's ability to verify the withdrawal of Ugandan (UPDF) troops and monitor the activities of the different political parties and armed groups.

In March 2004 MONUC began deploying the 'Kivu Brigade' with a planned troop level of 3,500 in Bukavu. Within three months however a force of mutineers within the

army of the Transitional Government (*Forces Armées de la République Démocratique du Congo* -FARDC) who are widely believed to have been encouraged and supported by Rwanda attacked and took control of Bukavu in June. During their six-day occupation scores of civilians were killed and raped. The 600 MONUC soldiers in Bukavu did not attempt to support the loyalist troops or to oppose the mutineers. Intense diplomatic activity including pressure from the UN Security Council and US and European diplomats on the mutineers and also on the Government of Rwanda including the threat of the deployment of an EU force similar to 'Operation Artemis' resulted in the withdrawal of the mutineers in June.

The peace process remains extremely fragile. It remains to be seen which vision for the Congo of the future eventually succeeds: a united Congo controlled from Kinshasa or a federalist Congo with considerable autonomy being given to the eastern part of the country and maintaining strong links with Rwanda and Uganda.

2.4 Principal Developments in Burundi

The October 1993 attempted coup by the Tutsi-dominated Burundian army during which the democratically elected President Melchior Ndadaye was assassinated provoked mutual killings between both ethnic groups. Approximately 100,000 died and 350,000 refugees fled Burundi, many into Rwanda. These events formed an important backdrop to the 1994 genocide in Rwanda. None of those responsible for Ndadaye's assassination or the subsequent killings was ever brought to justice. Cyprien Ntaryamira who was appointed in Ndadaye's place by the Burundian Parliament was himself killed when President Habyarimana's aircraft was shot down over Kigali on 6th April 1994. The Speaker of the Parliament Sylvestre Ntibantunganya was appointed in Ntaryamira's place.

In the face of ineffective civilian leadership Burundi's army was largely controlled by radical Tutsi leaders who sought to re-appropriate the political control they had lost at the polls in 1993 through the use of violence, intimidation and political blockage. They were opposed by rebel forces of the National Council for the Defense of Democracy – Force for the Defense of Democracy (CNDD-FDD usually referred to as the FDD) and the Party for the Liberation of the Hutu People (PALIPEHUTU) and its armed wing the Forces for National Liberation (FNL). Extremist local media fanned the flames. Many Tutsi sought protection by moving into, or close to Bujumbura and many Hutu residents fled the city following attacks by Tutsi militia supported by the army. Bujumbura thus de facto became the Tutsi stronghold and the Tutsi elite was able to draw benefit from the international aid (whether developmental or humanitarian) that was routed primarily through the capital.

A critical feature of the civil war that developed after 1993 was its inter-relationship with other conflicts within the region. With bases in Zaire the FDD received support from the Mobutu regime and after the genocide in Rwanda also developed links with elements of the former Rwandan army (FAR) that had sought sanctuary in eastern Zaire. The AFDL uprising supported by Rwandan troops at the end of 1996 disrupted the FDD's support. Elements of the FDD sought safety in the Burundian refugee camps in Tanzania where they linked up with PALIPEHUTU-FNL but managed to maintain their contacts with the FAR and *Interahamwe* to the extent of undertaking joint operations – such as the January 1998 attack on Bujumbura airport. Mirroring the collabora-

tion of the rebels the Rwandan and Burundian armies (both Tutsi dominated) undertook joint military operations in areas close to their borders and across into Zaire.

The *Banyamulenge* uprising in eastern DRC in 1996 and the 'second invasion' by Rwandan troops in support of the Congolese Rally for Democracy (RCD) resulted in additional support to Burundian rebels from opponents of the RCD and Rwanda, including from the Kabila regime in Kinshasa. This enabled the FDD to re-establish its bases in eastern DRC and led to the Burundian army setting up its own operating bases in South Kivu Province along Lake Tanganyika and collaborating with Rwandan Government forces in the DRC. In apparent exchange for this collaboration the RPA carried out joint operations with the Burundian army against the FDD and FNL inside Burundi. Rwandan Hutus (ex-FAR and Hutu militia) from within the DRC (but also it seems from the ALIR insurgency within Rwanda) crossed into Burundi and provided the FNL with significant support. This cooperation continued until February 2000.

By 1996 the Front for the Defense of Democracy (FDD) was in effective control of areas of northwest Burundi and some 400,000 were displaced in the country and a further 350,000 were refugees in Zaire or Tanzania. Fifty UN member states were approached to explore their willingness to contribute troops to a possible peacekeeping operation but only Ethiopia, Uganda and Tanzania responded positively and the initiative did not progress.

In July 1996 Major Pierre Buyoya, a Tutsi, led a successful coup attempt, suspending the national parliament and banning political parties. This drove many moderates to support the extremist groups fighting the army. Development assistance was cut by two thirds to signal the international community's disapproval. Shortly after the coup the government introduced a counter-insurgency strategy of *regroupement* – forcibly grouping civilians into camp settlements where they could be controlled by the army. By 1997 700,000 people were living in these camps where conditions were appalling, morbidity and mortality rates high and residents subjected to abuse and attacks by the military. The Security Council expressed deep concern about the camps in May 1997. Though the numbers in the camps were reduced in 1998, *regroupement* remained a government policy until 2000 when they were, for the most part, closed.

From 1993 onwards numerous efforts were made by the UN, EU, OAU and NGOs to bring the parties to the negotiating table. Such efforts gradually became focused on what came to be known as the Arusha Peace Process for Burundi. Initially the process was facilitated by Julius Nyerere, the former Tanzanian President, but after his death in October 1999 the role was taken over by Nelson Mandela. It was this African-led, co-ordinated process that led to the Arusha Agreement of August 2000 that was signed in the presence of regional leaders and former US President Bill Clinton. Though the Agreement represented a considerable achievement it lacked detail in key areas and some observers branded it 'a non-agreement' Most importantly the two main rebel groups had refused to join the talks and continued their armed opposition for at least another three years.

Fears for the safety of the transitional institutions and particularly for Hutu politicians returning to Burundi to take up posts in government or parliament proved a particular source of delay in the process but the logjam was overcome by the deployment of 300 South African troops to Bujumbura in October 2001. The Transitional Government was installed the following month. Subsequently the South African troops were joined by

troops from other African countries and an OAU mandated Assistance Mission to Burundi (AMIB) was formed.

The rebel groups stepped up their attacks to demonstrate the necessity of including them in the transitional process but splits within the two main groups considerably complicated efforts by Tanzanian and South Africa to broker a cease-fire. The army remained reluctant to share power. Gradually however agreements were reached with the principal wings of the rebel groups while the process of establishing the Transitional Government and making the political changes required by the Arusha Agreement and subsequent additional Accords continued, if fitfully. Fighting and attacks on civilians continued in rural areas and around Bujumbura due to breakdowns in ceasefires and continued resistance by particular factions.

As planned under the transitional arrangements Domitien Ndayizeye replaced Pierre Buyoya at the beginning of May 2003 and by November that year the new President had signed a peace agreement with the leader of the FDD and the rebel forces joined the government forces against the FNL. In April 2004 the FNL declared a unilateral cease-fire. Despite continued fighting in some areas the UN Security Council voted in May 2004 to deploy a peacekeeping force with a Chapter VII mandate to ensure respect for the ceasefire (Resolution 1545). The force – the UN Operation in Burundi (ONUB) – has an authorized level of 5,650 military personnel and has absorbed the AMIB forces. In August 2004 by which point the ONUB troop had reached 3,100) 160 Congolese refugees were massacred in a UN transit camp at Gatumba, 16 km northwest of Bujumbura. The massacre, attributed to the FNL acting in concert with armed groups from neighboring DRC, signaled the fragility of the peace process and the security situation.

2.5 Selected Other Examples of Conflict and International Intervention

Kosovo 1998-99

Serb oppression of the Kosovar Albanian community led to the emergence during 1997 of the Kosovo Liberation Army (KLA). KLA attacks on Serb police were often followed by reprisal attacks against civilians. Following the success of the 1995 NATO bombing campaign, the Dayton Agreement and the deployment of substantial NATO forces in Bosnia-Herzegovina, NATO took a close interest in the course of events in Kosovo. In October 1998 international negotiators obtained Belgrade's agreement to aerial surveillance of the province by NATO and the deployment of 2000 monitors by the Organization for Security and Cooperation in Europe (OSCE), steps which provided the international community with immediate and accurate information on the attacks by Serb military units on Kosovar Albanian civilians.

The UN Security Council was directly engaged with the efforts to achieve a peaceful solution during 1998, but threats by Russia and China to veto any resolution that authorized the use of force led to NATO to, in effect, by-pass the Security Council. Despite the threat of NATO bombing Belgrade refused to sign a draft agreement at negotiations at Rambouillet and Paris in February and March 1999. In an operation that was of dubious legality, given the lack of direct authorization by the UN Security Council, NATO planes began bombing Serb forces in Kosovo on 24th March 1999. The start of bombing did not produce the anticipated caving-in by Belgrade which responded with a program of killings and forced expulsion of Kosovar Albanians from the province. In all 90% of the Kosovar community were displaced from their homes with 860,000 seeking refuge in

neighboring countries particularly the Former Yugoslav Republic of Macedonia and Albania and nearly 600,000 remaining as IDPs within the province.

The forced expulsion of Kosovar Albanians, the apparent disappearance of large numbers of Kosovar Albanian males, and fears of a repeat of the 1995 massacre in Srebrenica in Bosnia, led to the qualified use of the term 'genocide', at least in the US administration. The bombing campaign was escalated to include military and 'dual-use' targets in much of Serbia as well as in Kosovo. NATO ground forces were deployed to Macedonia and Albania to prepare for a ground invasion if necessary.

Efforts by Russia to find a solution eventually led to an agreement that provided for "substantial autonomy" for Kosovo within the Federal Republic of Yugoslavia but contained no timeline or mechanism for resolving Kosovo's long term status. NATO ceased its air campaign in June after 78 days of continuous bombing. On the same day the UN Security Council passed a resolution which provided the framework for the post-war administration of Kosovo which in effect became an international protectorate under UN administration – the UN Interim Administration Mission in Kosovo (UNMIK). Two days later the first of 20,000 NATO and Russian forces were deployed to the province to form the Kosovo International Security Force (KFOR) and refugees in Macedonia and Albania began to spontaneously repatriate. Reprisal attacks against Kosovar Serbs and other minority groups by Kosovar Albanians resulted in the departure of approximately 100,000 Kosovar Serbs (half of the pre-1999 population).

Despite President Milosevic's removal from office in October 2000 (and his handing over to the International Criminal Tribunal for the Former Yugoslavia in the Hague in June 2001) and a more liberal and democratic government in Belgrade, little direct progress has been made in resolving the long-term status of Kosovo. 18,000 troops from NATO and other countries remain in the province.

East Timor 1999

Indonesia's 1975 invasion and annexation of the former Portuguese colony of East Timor was not recognized by most UN member states. An insurgency developed and was brutally suppressed by the Indonesian military. Over the next 25 years an estimated 200,000 people were killed out of a total population of just 1 million. However, it was only with the replacement of President Suharto of Indonesia by President Habibie in May 1998 that meaningful consideration of East Timor's future and possible independence became possible. In May 1999 President Habibie agreed to the holding of a plebiscite on the territory's future. The plebiscite would be administered by the UN Mission in East Timor (UNAMET) but the Indonesian military would remain responsible for security during the plebiscite period. The plebiscite was eventually held on 30th August 1999 and 78.5% voted in favor of independence. Almost immediately there was widespread violence and looting by anti-independence militia helped by units of the Indonesian military. The violence left up to 1,000 dead and displaced 700,000 with 200,000 fleeing or being forced to Indonesian West Timor. While the majority of UNAMET international staff were withdrawn, some including the Special Representative of the Secretary General opted to remain in the beleaguered UN compound in a conscious decision not to repeat the UN withdrawal from Rwanda in April 1994 and to demonstrate the UN's solidarity with the majority of the population of East Timor.

Australia instigated discussions on a possible military intervention, though took care to gain the consent of the Indonesian Government to avoid major clashes with the Indone-

sian military. Consent was eventually achieved on 12th September 1999 after considerable diplomatic and financial pressure was brought to bear on Indonesia. Three days later the Security Council authorized an Australian-led multinational force of 2,500 troops – the International Force in East Timor (INTERFET) under a Chapter VII mandate. The force, equipped with helicopters and armored personnel carriers, began deploying into the smoldering ruins of Dili on 20th September. Skirmishes with the Indonesian military and anti-independence militia were limited and INTERFET was able to supervise the largely peaceful withdrawal of the Indonesian military from the territory. A UN Transitional Administration in East Timor (UNTAET) was established under a newly appointed SRSG to manage an ambitious program of civil administration, rehabilitation and nation-building. In February 2000, INTERFET transferred military control of the territory to UNTAET which eventually comprised 8,000 troops and 1,500 civilian specialists and police. UNTAET's program included preparing for democratic elections which were held successfully in August 2001. In May 2002 the new nation also changed its name to Timor-Leste and in September 2002 it joined the United Nations.

Sierra Leone 1997-2002

In early 1996, after 30 years of coups and countercoups, Ahmed Kabbah came to power through presidential and parliamentary elections. The Revolutionary United Front (RUF) which had contested the election continued a campaign of armed opposition with support provided by Liberia and Libya. A peace agreement was reached with the RUF in November 1996 following talks brokered by the Economic Community of West African States (ECOWAS), the UN, the OAU and Côte d'Ivoire. Six months later in May 1997 Kabbah was deposed in a military coup led by Major Koromah who was supported by the RUF. The coup was universally condemned and Nigeria sent a force to protect its citizens that was subsequently expanded into an ECOWAS Monitoring Group (ECOMOG) force to enforce sanctions and restore law and order. The ECOWAS intervention was subsequently supported by the UN Security Council and authorized to cut off the RUF's foreign military supplies. In February 1998 the ECOMOG force (comprising 13,000 troops 90% of whom were Nigerian) launched attacks on the junta and expelled them and the RUF from Freetown and within a few weeks had established a presence across much of the country. President Kabbah was restored to power in March 1998.

However almost a year later the RUF had recovered sufficiently to confront and push back the ECOMOG forces and, in January 1999, swept in to Freetown killing thousands of civilians, systematically dismembering and raping tens of thousands of others, and displacing 150,000 people from the city. It took several weeks for ECOMOG forces to recover and regain control of the city. The UN Security Council then became more engaged and approved the replacement of an earlier Observer Mission by the UN Mission in Sierra Leone (UNAMSIL) with a force of upto 6,000 troops a robust mandate including to "afford protection to civilians under imminent threat of physical violence". The first UNAMSIL troops arrived in December 1999 and four ECOMOG battalions were 're-hatted' as UN blue helmets. In January 2000 UNAMSIL contingents were ambushed by the RUF and their military hardware captured. The Security Council raised UNAMSIL's authorized troop level to 11,000 and expanded its mandate to enable it to use force against the RUF. The deployment of a UNAMSIL contingent to Koidu, the seat of the RUF diamond mining centre, was seen by the RUF as a direct provocation and in May a group of UNAMSIL troops and their helicopters were taken hostage and during the subsequent fighting the RUF encircled and in effect took hostage a further 500 UNAMSIL troops.

Faced with the collapse of UNAMSIL and the considerable strengthening of the RUF, the UK sent 800 paratroopers and a naval flotilla to Sierra Leone with the objectives of securing Freetown's airport, enabling a redeployment of UNAMSIL forces to strengthen the defenses of Freetown and generally providing a credible force to back up UNAMSIL. After some skirmishes between the UK forces and the RUF and the capture of the RUF leader Foday Sankoh, the situation was stabilized and the UNAMSIL hostages released. UNAMSIL's troop level was subsequently built up to 17,000 and considerable pressure brought to bear on Liberian President Charles Taylor who had been the RUF's principal backer. In March 2001 UNAMSIL contingents were deployed peacefully into RUF held areas. A disarmament and demobilization program commenced in May 2001 and was completed by January 2002 by which point 45,000 RUF and other fighters had been disarmed. The war was declared over in January 2002.

With the war over, the UN and the Government of Sierra Leone agreed to establish a Special Court for Sierra Leone that was deliberately designed to offer an alternative model to the International Criminal Tribunals for the Former Yugoslavia and for Rwanda that were perceived to be cumbersome and expensive. So far in total 13 individuals have been indicted including, in June 2003, the then President of Liberia Charles Taylor. In addition a Truth and Reconciliation Commission was established and began hearings in April 2003.

Liberia 1989-2003

Liberia has experienced two civil wars over the last 15 years. The first civil war began in 1989 when fighters of the National Patriotic Front for Liberia (NPFL) led by Charles Taylor crossed into Liberia from Côte d'Ivoire to oppose President Samuel Doe who was subsequently killed by a breakaway faction of the NPFL. An ECOMOG force dominated by Nigeria intervened but its legitimacy was questionable as Nigeria was then under military rule and the force was not supported by Francophone members of ECOWAS. The NPFL opposed the ECOMOG intervention which had the effect of preventing Taylor's capture of Monrovia. While the conflict involved a direct confrontation between ECOMOG and the NPFL the splintering of factions and the emergence of new groups controlling different parts of the country (and exploiting the natural resources) created a complex, outwardly anarchic situation.

The 1993 Cotonou peace agreement was sponsored by the UN, ECOWAS and the OAU but was not implemented, partly because ECOMOG lacked the necessary logistical capacity to deploy effectively in all areas of the country to undertake the agreed demobilization program. In 1996 after heavy fighting in Monrovia itself the US and EU overcame their antipathy towards the military regime in Nigeria and began providing military equipment to ECOMOG. ECOMOG's legitimacy was increased by the contribution of contingents by Francophone members of ECOWAS. The Abuja 2 peace process gained momentum and a disarmament process began in November 1996. Elections jointly organized by ECOWAS and the UN were won convincingly by Charles Taylor, partly because the electorate were fearful of a return to war if he lost and partly because his campaign was well-resourced from natural resource exploitation in areas controlled by the NPFL during the war.

Charles Taylor ruled Liberia from August 1997 to August 2003. His presidential style was little different from his earlier role as a warlord. Differences with ECOMOG resulted in ECOMOG's withdrawal at the end of 1998. The national army was restructured and filled with former NPFL fighters. Human rights abuses were widespread, particular-

ly against those from the Krahn ethnic group. Insecurity and banditry continued. The UN's role in Liberia after Taylor's electoral victory was limited. Donor funding for reconstruction was conditional on improvements in security and human rights and consequently much of the infrastructure remained unrepaired. In 1999 the second civil war began when rebels of the Liberians United for Reconciliation and Democracy (LURD) invaded from Guinea and were subsequently joined by the Movement for Democracy in Liberia (MODEL) which had been formed with backing from Côte d'Ivoire. While Taylor's persecution of the Krahn was an important factor in the formation of these rebel movements, so too was his apparent involvement with opposition groups in Guinea and with the 1999 coup in Côte d'Ivoire.

Taylor increasingly came to be seen as a source of instability in the region. He provided significant support to the RUF rebels in Sierra Leone and acted as a channel for the illegal export of diamonds from RUF controlled areas of Sierra Leone. Following a December 2000 report by a UN Panel of Experts on Sierra Leone Diamonds and Arms documenting these links, a UN Security Council resolution banned the export of diamonds from Liberia and imposing travel sanctions on senior officials. Rebel forces increased the areas under their control and by early 2003 were within 10 kilometers of Monrovia. In June 2003 Taylor was indicted by the Special Court for Sierra Leone for his support to, and joint planning with, the RUF. Fighting for the control of Monrovia intensified and several hundred people were killed. ECOWAS approved a new peacekeeping force for Liberia (ECOMIL) and the first forces began arriving in Monrovia in early August 2003 with largely symbolic support being provided by a force of US marines positioned offshore. On 11th August 2003, under intense international pressure, Charles Taylor resigned and left for exile in Nigeria. A week later a peace accord was signed and a National Transitional Government of Liberia was established. In September 2003 the UN Security Council approved the establishment of a peacekeeping force the UN Mission in Liberia (UNMIL) with a troop level of 15,000. The force began arriving in October and is currently undertaking a disarmament, demobilization and reintegration program.

Côte d'Ivoire 2002-04

President Henri Konan Bedie was overthrown in a military coup lead by Robert Guei in 1999. In 2000 Guei was forced out of power by a popular uprising following a presidential election widely believed to have been rigged in Guei's favor. Laurent Gbagbo, believed to have been the true victor in the election was proclaimed President. However, Alassane Outtara who had been prevented from standing in the 2000 election called for fresh elections and fighting broke out between his mainly northern Muslim supporters and Gbagbo's mainly southern Christian supporters. Over the next two years there were changing fortunes of their respective parties in parliamentary elections.

In September 2002, a group of several hundred soldiers attempted a coup d'état. Failing to take Abidjan they retreated to Bouaké in the north of the country. The failed coup soon degenerated into a war between loyalist government forces and breakaway army troops who soon began calling themselves the Mouvement Patriotique de la Côte d'Ivoire (MPCI) and seized cities and towns in the northern and central regions. A move south towards Abidjan was blocked by French troops based in Abidjan under a 1961 defense pact. In October 2002, a ceasefire was brokered by the President of Senegal with the ceasefire line dividing the country into the MPCI controlled northern half and the south remaining in under the control of forces loyal to President Gbagbo. France expanded its Abidjan force to 3,500 troops under "Opération Licorne" and agreed to supervise the ceasefire until ECOWAS troops could take over. Peace talks began in Lomé but in No-

vember 2002, two new insurgent groups appeared in the west of the country, below the ceasefire line. Their declared intention was to remove President Gbagbo and avenge the death of former junta leader Robert Guei who had been killed during the failed coup attempt.

In January peace talks in Paris resulted in a power-sharing agreement between Gbagbo and the rebel groups. A UN political mission (MINUCI) to facilitate the implementation of the agreement was approved by the Security Council in May 2003 and in July 2003 the war was declared over by the army and rebel leaders. However the situation remained very fragile with exposures of planned coup attempts and an attack on the state TV station in Abidjan in December 2003. In February 2004 the Security Council approved the deployment of a UN peacekeeping force (UNOCI – the United Nations Operation in Côte d'Ivoire) with an authorized troop level of 6,240. A subsequent Security Council resolution authorized the French troops present in the country to “use all necessary means” to support UNOCI including “intervene against belligerent actions, if the security conditions so require, outside the areas directly controlled by UNOCI”.

Former Yugoslav Republic of Macedonia – 2001

With external support and facilitation, the Former Yugoslav Republic of Macedonia (FYROM) was able to draw back from the brink of a civil war in 2001 and stands as a rare case of international intervention preventing a more serious conflict.

In 2001 a guerrilla force ‘the National Liberation Army’ emerged in the Albanian-speaking areas along the country’s northern border with Kosovo. The NLA’s political agenda was for a new Constitution guaranteeing the rights for the ethnic Albanian minority. The Government responded forcefully and the fighting spread, first to the mountainous outskirts of Tetovo, the main ethnic Albanian town in Macedonia, and in May to the region around Kumanovo in the north displacing approximately 20,000 people. Western governments were anxious to prevent a widening of the conflict into a full-fledged civil war with potentially far-reaching consequences for the situation in Kosovo and Serbia and also for Greece. The large NATO presence in Kosovo with important logistics bases in FYROM, heightened NATO governments’ concern with the situation, but also their ability to influence events.

Senior EU foreign policy representatives became intensively engaged in supporting the parties to reach a solution. In May a government of national unity was formed pledged to address minority grievances but this provoked clashes and unrest from the Macedonian majority in and around the capital Skopje. On 13th August the government and rebels signed the Ohrid Agreement that provided for greater recognition of the rights of ethnic Albanians in exchange for the handover of weapons to NATO forces. The NATO operation to collect the rebels weapons ‘Operation Essential Harvest’ took place during September. In October the government announced an amnesty for former NLA members and Macedonian police began re-entering the villages formerly controlled by the NLA. In November the Parliament approved a new constitution incorporating reforms required by August peace deal, recognizing Albanian as an official language and increasing access for ethnic Albanians to public-sector jobs, including the police. Early the following year international donors pledged more than USD 500 million in aid to help recovery from the 2001 fighting.

Afghanistan 2001- 04

Following the withdrawal of Soviet forces in 1989 there was continued conflict between the Najibullah regime in Kabul and the various mujahidin/factional groups that had

2. PRINCIPAL DEVELOPMENTS IN RWANDA, DRC AND BURUNDI

developed during the Soviet occupation. Kabul was the target of periodic destructive rocket attacks from 1992-96. Starting in 1994 the Pakistan-supported Taliban gradually extended their control over large parts of the country. By 1998 the Taliban controlled all but the north of the country which remained under the control of former mujahidin groups comprising the Northern Alliance. While the Taliban imposed stability they introduced an extreme interpretation of Islam and hosted al-Qa'ida terrorist training camps that were the target of a US missile strike in August 1998 following al-Qa'ida bombings of US embassies in Eastern Africa. Sanctions against the Taliban were authorized by the UN Security Council in 1999 and again in 2000.

The al-Qa'ida attacks on New York and Washington in September 2001 and the Taliban's refusal to surrender Osama bin Laden to the US authorities led to a US-led coalition bombing campaign in support of an advance by the Northern Alliance beginning on 7th October. Coalition ground forces also operated in support of the Northern Alliance. The operations did not receive direct authorization by the UN Security Council, though a September 12th resolution referred to the Security Council's "readiness to take all necessary steps to respond to the terrorist attacks of 11 September 2001 and to combat all forms of terrorism" and the preamble had recognized the "inherent right of individual or collective self defense in accordance with the Charter". The Northern Alliance achieved a rapid southward advance taking Kabul in November and Kandahar in December.

The UN was active in efforts to achieve a post-Taliban settlement. It sponsored the Bonn conference of December 2001 that brought together the leaders of the Northern Alliance and other anti-Taliban factions. The Bonn Agreement appointed the Afghanistan Interim Administration (AIA) and agreed to a timetable for re-establishing permanent government institutions over the course of two and a half years. The United Nations Assistance Mission (UNAMA) was established by a Security Council Resolution in March 2002 to fulfill the UN's obligations as set out in the Bonn Agreement. In accordance with the timetable agreed at Bonn, the Emergency Afghan Loya Jirga held in June 2002 replaced the AIA with the Afghanistan Transitional Administration (ATA) and elected Hamid Karzai as the head of state and pro-tem head of government of the Transitional Islamic State of Afghanistan (TISA). The ATA will remain in power until national elections, scheduled for 9th October 2004, are held.

Military operations by forces of the US-led Coalition have continued against al-Qa'ida and Taliban remnants in the southern and eastern parts of the country. Poor security in these areas and an increasing number of attacks on UN and NGO personnel and those working for private contractors have severely limited the operations of reconstruction and development efforts in these areas. Security in and around Kabul has been maintained quite successfully by a separate, UN-authorized, International Security Assistance Force (ISAF) of some 4,500 troops. Initially ISAF was led by the UK, then by Turkey and then by Germany/The Netherlands. Currently ISAF is under NATO command.

3. A Preliminary Assessment of the Influence of the Joint Evaluation

This chapter analyses the results of a review of 64 books, articles and reports dealing with the Rwanda genocide, its aftermath, and related subjects, as well as interviews with 49 key informants knowledgeable in these fields. Most of the literature reviewed is in English. Most, but not all, key informants were at least generally aware of the Joint Evaluation. They have cited it in their own works and they can identify publications where the Joint Evaluation has been cited. While the literature typically does not explicitly identify the impact and influence of the Evaluation, 37 of the 64 sources contain at least one reference to the Joint Evaluation. The frequency and extent to which some sources cite the Joint Evaluation show that it has been taken seriously. We therefore conclude, with some caveats, that the Joint Evaluation has had a wide reach in the research and policy communities.

One of the unique features of the Evaluation, according to key informants, was that it tackled *policy issues*. Therefore, it might be expected to have *influenced* policy issues. Of particular interest are major post-1995 reports intended to directly influence policy and programs. The reports are listed alphabetically below and in chronological order on the next page:

- 1) Belgian Senate. Session of 1997-1998. *Report. Parliamentary commission of inquiry regarding the events in Rwanda*. (English ver.) Brussels: December 6, 1997.
- 2) Carnegie Commission on Preventing Deadly Conflict. *Preventing Deadly Conflict. Final Report*. New York: Carnegie Corporation of New York, 1997.
- 3) French National Assembly. The Quiles Commission. *Mission of information on the military operations undertaken by France, other countries and the UN in Rwanda between 1990 and 1994*. Paris: December 1998.
- 4) Organization of African Unity (OAU). International Panel of Eminent Personalities. *Rwanda: the Preventable Genocide*. Addis Ababa: OAU, 2001.
- 5) OECD, Development Assistance Committee (DAC). *Conflict, Peace and Development Cooperation on the Threshold of the 21st Century*. Policy Statement. Paris: OECD, May 1997.
- 6) OECD/DAC. *The DAC Guidelines: Helping Prevent Violent Conflict*. Paris: OECD, 2001.
- 7) OECD/DAC. *Security System Reform and Governance: Policy and Good Practice*. DAC Guidelines and Reference Series. Paris: OECD, 2004.
- 8) *Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda*. Ingvar Carlsson, Han Sung-Joo, and Rufus M Kupilati. New York, 1999.

3. THE INFLUENCE OF THE JOINT EVALUATION

- 9) *Report of the International Commission on Intervention and State Sovereignty (ICISS). The Responsibility to Protect.* Ottawa: International Development Research Centre, 2001. (In 2 volumes)
- 10) United Nations. Report of the Secretary-General pursuant to General Assembly Resolution 53/35 (1998): *Srebrenica Report*. United Nations, 1999.
- 11) United Nations. *Report of the Panel on United Nations Peace Operations*. Lakhdar Brahimi, Chairman. New York: United Nations, 2000

Because of their importance to this assessment, the four formal inquiries into events leading up to and during the genocide – by the Belgian Senate, the French National Assembly, the UN (the Carlsson Report) and the OAU – have been reviewed in some detail and the results are presented in Annex 3.

Timeline of Key Reports Published Since the Joint Evaluation

	Rwanda-Focused Reports	General Reports
1996	<ul style="list-style-type: none"> ◀ March – Publication of the Joint Evaluation 	
1997	<ul style="list-style-type: none"> ◀ December – Belgian Parliamentary Commission of Inquiry 	<ul style="list-style-type: none"> ◀ May – DAC ‘Conflict Peace and Development Cooperation’ ◀ December – Carnegie Commission ‘Preventing Deadly Conflict’
1998	<ul style="list-style-type: none"> ◀ December – French National Assembly Mission of Information 	
1999	<ul style="list-style-type: none"> ◀ December – UN Independent Inquiry ‘The Carlsson Report’ 	<ul style="list-style-type: none"> ◀ November – UN Srebrenica Report
2000	<ul style="list-style-type: none"> ◀ July – OAU Report of the Panel of Eminent Personalities 	<ul style="list-style-type: none"> ◀ August – UN Peace Operations ‘The Brahimi Report’
2001		<ul style="list-style-type: none"> ◀ April – DAC Guidelines ‘Helping Prevent Violent Conflict’ ◀ December – ICISS ‘The Responsibility to Protect’
2002		
2003		
2004		<ul style="list-style-type: none"> ◀ May – DAC Guidelines ‘Security System Reform and Governance: Policy and Good Practice’

Five of these eleven reports refer explicitly to the Joint Evaluation. The *Final Report* of the Carnegie Commission on Preventing Deadly Conflict (1997) cites the entire Joint Evaluation in its Bibliography and Chapter 3 refers to the Evaluation's analysis (in Study 3) of a lack of a coordinated political strategy by the international community. In a supporting volume to *Responsibility to Protect* (Report of the International Commission on Intervention and State Sovereignty 2001), the Joint Evaluation is cited in the Bibliography and in the discussion of lack of political will. Both the Belgian and the French parliamentary inquiries cite the Joint Evaluation, the Belgian report containing 14 references and the French, two references (see Annex 2). The OAU Report of the Panel of Eminent Personalities, *Rwanda: the Preventable Genocide* (2001), cites the Joint Evaluation 43 times, far more than any other source.

Despite its high degree of relevance, the Joint Evaluation is not cited by the other six reports. In some cases there were no literature references of any kind, viz., the DAC Policy Statement of 1997 and the Guidelines of 2001, as well as the UN/Carlsson Report of 1999. But the UN Srebrenica Report of 1999 and the UN "Brahimi" Report on UN Peace Operations of 2000 make no reference to the Joint Evaluation, notwithstanding their references to other literature.¹¹

All 64 of the books, reports, and articles reviewed were published since 1995. Each publication deals with one or more of the issues examined in this paper.¹² A majority of these sources – 37 of 64 (or 58%) – cites the Joint Evaluation. If indirect citations were to be counted, the number would undoubtedly be higher.¹³ Most sources make one or two brief citations or bibliographic references, although some sources cite the Joint Evaluation relatively frequently or extensively (e.g. see Adelman and Suhrke, Barnett, Forman and Patrick, Jones, Minear, OAU and the World Bank in Annex 2). Although there has been a huge expansion in scholarly research in all the areas touched by the Joint Evaluation, the current assessment does not address that literature except insofar as it directly relates to, or reflects, the Joint Evaluation. We do not know to what extent the Evaluation influenced that research, although anecdotal evidence indicates the influence was considerable.

Some other observations of note emerge from Annex 2. A chapter on the political use of Rwandan refugees in Kivu, in a recent book edited by André Guichaoua (2004), makes relatively extensive use of Study 3, which is referred to as a "global analysis pertaining to movements of the Rwandan population" (p. 429; see item 24 of Annex 2). Other refer-

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11. *The DAC Guidelines on Security Reform employ some references but none to the Joint Evaluation. The 8-year interval between the Joint Evaluation and the Guidelines may be part of the explanation. The absence of references in the Brahimi and Srebrenica reports are more puzzling. An explanation in the case of the Brahimi report is offered later in the text.*
 12. *Based on literature reviews by the authors and comments from key informants, the 61 publications are believed to be broadly representative. The results of the entire review and further details about its composition are summarized in Annex 2 at the end of the Assessment. One book not included because it was published in 1995, before the Joint Evaluation, is the Africa Rights volume by Alex de Waal and Rakyia Omar, Rwanda: Death, Despair, Defiance. London: Africa Rights (1995). This massive collection of eyewitness accounts of the genocide has become a required reference for those wishing to gain a deeper understanding of what happened.*
 13. *For example, the volume edited by Zartman and Rasmussen (entry no.64 in Annex 2) does not cite the Joint Evaluation but one of its contributors cites Minear and Guillot (1996), Soldiers to the Rescue: Humanitarian Lessons from Rwanda, which does cite the Joint Evaluation (entry no.33). Individual donors and development agencies, including USAID, the World Bank, and others, have adopted policies on aid for conflict prevention, recovery, and reconstruction, including the creation of special units to include and promulgate the lessons of the Joint Evaluation.*

3. THE INFLUENCE OF THE JOINT EVALUATION

ences to the Joint Evaluation in the reviewed literature are in the areas of genocide prevention, early warning, conflict prevention and management, and human rights. Linda Melvern draws on Study 2 in making the following observation:

In a harsh rebuke to the media after the genocide was over an international inquiry concluded that, although coverage had been handicapped by danger on the ground, the press, in characterizing the genocide as tribal anarchy, was fundamentally irresponsible. The media's failure to report that genocide was taking place, and thereby generate public pressure for something to be done to stop it, contributed to international indifference and inaction, and possibly to the crime itself. (Melvern, *A People Betrayed: The Role of the West in Rwanda's Genocide* 2000:138; see entry 29 in Annex 2 below.)

At one level, it would appear that two key OECD/DAC policy guidelines on Conflict, Peace, and Development Cooperation (CPDC) have ignored the Joint Evaluation. Neither the Policy Statement of 1997 (item 37 in Annex 2) nor the Guidelines issued in 2001 (item 41) refer to the Joint Evaluation in any explicit way. However, neither of these documents cites *any* other literature. More importantly, both documents reflect the *substance* of the Joint Evaluation, especially the longer 2001 *Guidelines*. DAC Secretariat officials who have been involved in this area agree that the Joint Evaluation provided a major stimulus to these policy efforts, including establishment of the CPDC Task Force.¹⁴

The World Bank, in its 1998 post-conflict "framework paper" (*Post-Conflict Reconstruction and the Role of the World Bank*), asserts that DAC policy was "influenced significantly" by the conclusions of the Joint Evaluation (World Bank 1998b: 21). Moreover, the Bank itself drew heavily on the Joint Evaluation. The framework paper devotes a one-page box to the main conclusions and recommendations of the Joint Evaluation (22) and the Bank's Operations Evaluation Department (OED), in its *Review of the World Bank's Experience in Post-Conflict Reconstruction* (1998), draws extensively on the Joint Evaluation in its Rwanda Case Study and utilizes the Joint Evaluation in its conceptual framework for its Synthesis Report.¹⁵

The Joint Evaluation is identified in the literature in a number of ways. In fact, among the 34 entries in Annex 2 that cited the Joint Evaluation, 18 identifying labels were used, including:

- Adelman, Howard and Astri Suhrke...
- Adelman, Howard, Astri Suhrke, and Bruce Jones ...
- Borton, John ...
- Danida...
- Danish Evaluation ...
- Donor Nations Study ...

14. Telephone interviews with Development Cooperation Directorate Staff (DAC Secretariat), June 21-23, 2004. The DAC was represented on the Joint Evaluation Steering Committee even though, owing to lack of consensus on the part of all DAC members, the Joint Evaluation itself could not be carried out through the DAC. Two studies prepared for the DAC CPDC Task Force do cite the Joint Evaluation (entries 35 and 36 in Annex 2).

15. The OED Synthesis Report credits the Joint Evaluation for stressing the political nature of complex emergencies and draws on its 4-fold evaluation criteria for humanitarian emergencies: connectedness, coherence, coverage, and appropriateness (World Bank 1998a: 2, 43).

- Early Warning and Conflict Management ...
- Eriksson, John et al ...
- Evaluation of ...
- Humanitarian Response ...
- International Response to ...
- Joint Evaluation of ...
- Kumar, Krishna ...
- Millwood, David (ed.) ...
- Multi-Donor Evaluation of ...
- Sellström, Tor and Lennart Wohlgemuth ...
- Steering Committee of...
- The International Response to...

How is it that these identifiers vary so widely? A conscious reason at the time was to recognize adequately the contributions of the lead authors to each Study. However, the wide range of ways in which the Joint Evaluation has been cited may have contributed to the fact that the overall body of work that is the Joint Evaluation is not known as widely as it might have been. The fact that the set of five reports was not published and distributed by an established publisher in book form may also have been a factor. In fact, two key informants, the first, a prolific scholar on conflict issues in Africa, and the second, the project manager for the Brahimi report, indicated that they had not heard of the Joint Evaluation before. This could well account for no reference to the Joint Evaluation in the latter report, as well as the lack of references in other sources listed in Annex 2.

Two well-known sources cited in Annex 2 identified the fact that one of the Joint Evaluation Steering Committee Members, France, withdrew from the Committee after seeing the draft report (Melvern in *A People Betrayed: the Role of the West in Rwanda's Genocide*, and des Forges in *Leave None to Tell the Story*). It would have been preferable, of course, if France had remained a member of the Steering Committee.¹⁶ But, ironically, its withdrawal may have drawn wider attention to the report than would otherwise have been the case.

The main conclusions of this review of key informants' views and a sample of relevant literature is that the Joint Evaluation has had a significant impact on the literature dealing with complex emergencies and humanitarian assistance and a mixed impact on the policies and practices of donor and development agencies. One lesson is that for widespread dissemination and awareness, a commercial publishing house should be utilized. We also recommend that a study be undertaken of the adoption of changes in organizational structures, procedures, and practices resulting from the Joint Evaluation, the JEFF, and other policy statements, such as those of the OECD/DAC.

One key informant made the following relevant observation:

16. France objected to implications in Study 1 and Study 2 that France continued to supply arms to the Rwandan Government after the beginning of the genocide on April 6, 2004. Annex 2 of Study 1 drew on a report of the Human Rights Watch/Arms Project report (pp. 68-69) concerning five reported shipments of French arms into Goma, DRC, between May and June 2004 (all negotiated before the May 17, 1994 arms embargo, according to the Honorary French Consul). Study 2 referred to alleged French financing of an October 1990 GoR arms purchase from Egypt (p. 23 and footnote 24). When other Joint Evaluation Steering Committee Members voted for retention of these references, France withdrew from its membership in the Steering Committee and retracted its support for the Joint Evaluation.

3. THE INFLUENCE OF THE JOINT EVALUATION

“My own sense is the JEEAR [Joint Evaluation] quickly entered into the folk law of the humanitarian world, and within it achieved wide recognition. Outside of it, even in closely related fields such as security and development, it got less star treatment. Also, I find now that many people who entered the business post-1998 have not heard of it. This I think has to do with the continued lack of formal institutional memory arrangements. We use the JEEAR in our teaching, but it is now an academic historical document for students, not a living one.” (Peter Walker, personal communication).

4. Assessment of Developments in Relation to Genocide Prevention and Suppression

4.1 What the Joint Evaluation Recommended

Utilizing the categories of the Joint Evaluation, this chapter assesses developments in the *prevention* of conflict and genocide in Rwanda and elsewhere since 1996. The pertinent Joint Evaluation recommendations are summarized in the box below. Two sets of recommendations (A-1-a and A-1-b) that deal with policy coherence between political and humanitarian actions relate to *intervention* as well as to prevention issues. These two recommendations are therefore discussed in Chapter 5.17

Relevant Joint Evaluation Recommendations

- A. Critical Recommendations to UNSG, UNSC, Donor Agencies, NGOs, Red Cross etc**
 - A-1 a. Foster Policy Coherence in the UN Security Council and General Assembly
 - A-1 b. Ensure Policy Coherence in the UN Secretariat
 - A-2. Effective Prevention and Early Suppression of Genocide and Protection of Victims
 - A-3. A More Effective Conflict Early Warning System
 - A-4. Strengthen and Involve the Mediation and Peacekeeping Capacities of Regional and Sub-Regional Organizations and Local Parties
 - A-5. Strengthen Human Rights Machinery

- B. Detection, Prevention and Suppression of Genocide and Civil Violence**
 - B-1. More Effective Conditionality
 - B-2. Enforce Arms Embargoes
 - B-3. Sustainable Peace Agreements

- E. Roles of the Media**
 - E.1. Assess the Roles of the Media

- F. The Regional Dimension**
 - F-1. Immediate and Urgent Measures for Burundi
 - F-2. Formulate a Supportable and Sustainable Development Strategy for the Region

4.2 Progress in Avoiding or Reducing the Instances of Conflict and Genocide

Multiple Instruments and Effective Conditionality

The Joint Evaluation (B-1) called for the international community to:

17. *Recommendations of the Joint Evaluation are identified within parentheses in the text above by the same letter and number system as used in the Joint Evaluation Report.*

“...identify and be prepared to implement consistently a range of measures intended to pressure a government to halt severe civil violence and human rights violations. Between diplomatic representations at one end of the range and intervention of peacekeeping forces at the other, are such measures as implementation of economic and military assistance conditionality, freezing of foreign bank accounts and application of selective embargoes.”

Study 2 of the Evaluation found that while donors were aware of these instruments, they did not practice what they preached. The same message has been promulgated forcefully by such analysts as Alison des Forges and Samantha Power. There has been some organizational learning of this message. For example, there has been more forceful intercession by the UN Secretary General with the Security Council since 1997: e.g. the cases of Sierra Leone, Timor Leste, and Liberia, albeit strongly backed and typically led by one industrial/military power.¹⁸ Also, human rights officers are regularly incorporated in peacekeeping missions. At the same time, many UN Peacekeeping Missions reportedly go under-resourced.¹⁹

The Joint Evaluation (B-1) also cautioned that:

“actual measures adopted must be tailored to the specific situation, taking into account the possibility that a given measure might increase rather than decrease violence. For this reason, a systematic study of past experience, including an in-depth study of Rwanda, regarding timing, nature and effects of both positive and negative conditionality would be highly desirable....(and that)... drawing from such a study, the formulation of a clear and uniform policy will require consultations within and among such bodies as the OECD Development Assistance Committee, the Development Committee for the Bretton Woods institutions and regional development banks, and the UN Inter-Agency Standing Committee”

Such a study has yet to be undertaken. While there has been some progress, as noted below, the ability of the international community to apply systematically the full range of instruments outlined above remains low. The following sections take up selected potential conditionality instruments, including diplomacy, development assistance, human rights machinery, justice and law enforcement systems, arms flows and embargoes, peace agreements, and using the media.

Diplomacy

At a conceptual level, there is somewhat greater recognition of the lesson that prevention or mitigation of violent conflict and genocide requires vigorous application of diplomacy in its various stages, from monitoring through action.²⁰ While diplomacy is rarely sufficient by itself, it is a necessary first step. Not only is it with good reason a recourse of first resort, with the potential to open the way for negotiations, it also establishes an essential record for the international community if conflict progresses to more intractable stages.

18. *The UK in the case of Sierra Leone, Australia in the case of Timor Leste, and the U.S. in the case of Liberia. France in the case of Ituri, Eastern DRC could also be added. See Chapter 5 for further discussion.*

19. *See further discussion in paragraph 4.38 in the text.*

20. *Samantha Power has called for a "tool kit" of anti-genocide instruments to be consciously employed. (Power 2004).*

The Rwanda experience and indirectly the Joint Evaluation are having a positive impact on “diplomatic relations” within the UN, according to a recent paper by Jones (Jones 2004:15-16). Cables reporting conflict or potential conflict are now immediately reported to superiors rather than being pigeonholed, as were the reports from UNAMIR to the UN Secretariat in the fateful months leading up to the Rwanda genocide.

More attention needs to be given in practice to diplomatic measures to handle internal conflict before it becomes genocide. For example, in the Ivory Coast, diplomatic efforts undertaken prior to the situation becoming unmanageable were clearly inadequate. Rather than a lesson to draw on, Rwanda continues to be thought of as either unique and therefore unrepeatable, or inherent to the African condition and therefore untreatable. This is particularly flagrant in regard to prevention. In terms of the cases we have considered in this assessment Darfur, Liberia and Ivory Coast come to mind regarding unprevented catastrophes, catastrophes not as much by their magnitude compared with Rwanda, but by their unprevented preventability. In the case of Congo-Brazzaville in July 1997, thanks to foot-dragging by the U.S. in the Security Council, an opportunity to convert a cease-fire into a lasting peace agreement was lost (Zartman 1998). These examples are not intended to challenge some of the organic changes that have come about as a result of the Joint Evaluation, but rather to observe a general state of mind on diplomatic strategy, particularly among key Security Council members.²¹

The Aid Process

Owing in part to the Joint Evaluation, there is considerably greater awareness in the international community of the multiple influences of aid in the different stages of conflict and genocide. Insofar as aid is concerned, the main emphasis of the Joint Evaluation was on the *post*-genocide phase in Rwanda. While it recognized that aid might also influence the propensity toward conflict and genocide, the Evaluation did not analyze this relationship in depth. This relationship has been explored subsequently in greater depth by several sources. One of these singles out the IMF and the World Bank: the 1999 UK Parliamentary Report on *Conflict Prevention and Post-Conflict Reconstruction* observes:

“...as two of the most powerful international institutions in contact with the Rwandan Government, their concerns if expressed early enough might have proved important interventions. Neither organization recognized the direct link between growing social tension, human rights abuses and the subsequent destruction of the entire economic infrastructure”.²²

Peter Uvin finds that virtually all international donors to Rwanda during the years leading up to the genocide were generally blind to what was happening (or acted as if they were). This analysis also finds that the resources provided by donors (particularly the IMF and the World Bank), contributed essential wherewithal (e.g. foreign exchange to import arms and machetes) to carry out the genocide (Uvin 1998).

Before Uvin’s book appeared, the OECD /DAC established on the heels of the Joint Evaluation its Task Force on Conflict, Peace, and Development Cooperation, followed

21. This paragraph draws heavily on a personal communication from I. William Zartman, whose comments are elaborated in greater detail in a forthcoming volume, *Missed Opportunities to Prevent State Collapse and Deadly Conflict*.

22. House of Commons, International Development Committee, *Conflict Prevention and Post-Conflict Reconstruction. Volume I: Report and Proceedings* (London: The Stationery Office, 1999), para. 59.

by a Policy Statement (OECD 1997) and Guidelines (OECD 2001) that drew on the Joint Evaluation. Among the various reports issued by the Task Force was a case study on Rwanda (OECD 1999) that cited the Joint Evaluation frequently.

As noted in Chapter 2, individual donor and development agencies, including USAID, the World Bank, and others, have adopted policies on aid for conflict prevention, recovery, and reconstruction. They have also created special units to include and promulgate the lessons of the Joint Evaluation and related analyses, such as those by Uvin, into their projects and programs. Shortly after the publication of the Joint Evaluation, the World Bank created what is now called a Conflict Prevention and Reconstruction Unit.

While there is now said to be much greater consciousness by donors of ethnic and other socio-political impacts of aid, it is not clear that this greater awareness and the accompanying changes in policies and organizational structures have resulted in widespread change in actual *practice*. Some movement has occurred, but the consensus of knowledgeable observers is that systematic incorporation of conflict prevention and peace considerations into aid conditionality and other practices still has a long way to go. The creation of new organizational units has not been uniform, with the World Bank, CIDA, and USAID among those organizations having made such changes, but other donors, such as Sida, not having done so (Forman and Patrick 2000: 18, 64).

Human Rights Machinery

Monitoring of human rights abuses can be an important tool in the arsenal of genocide prevention. Monitoring has arguably been more systematic and visible before and during recent major violent conflicts than was the case in Rwanda. Eastern DRC and Darfur are likely exceptions. Initiatives have generally come from international groups, both intergovernmental bodies and international NGOs (INGOs). Indigenous civil society organizations have recently become involved as well. The Human Rights Field Operation in Rwanda (HRFOR) was a trial field effort for the Office of the High Commissioner for Human Rights (OHCHR) that had been established in 1993. As recorded in Joint Evaluation Study 4, the first year of HRFOR was a failure as a result of a poor leadership and support from the headquarters in Geneva.²³

Things improved somewhat in subsequent years. Better training of field staff, a recommendation of the Joint Evaluation, was occurring more regularly and with higher quality. But support from Geneva reportedly remained very poor, with little improvement since the first year of HRFOR.²⁴ Owing to tension between the field office and the Government of Rwanda (GoR) over the HRFOR monitoring role, the HRFOR was terminated in 1998.²⁵

Justice and Law Enforcement Systems

These refer to internal systems that are essential after a conflict. But they are also critical before a conflict. If they are working effectively and impartially, conflict and genocide perpetrators can be brought to justice and “defanged.” Justice and law enforcement systems are instruments in the genocide prevention “tool kit.” But these systems were biased against the victims in pre-genocide Rwanda, a bias that is found in other pre-conflict situations.

23. *The UN Human Rights Field Office in Burundi has also reportedly done a poor job—in part because of lack of human and material resources. Personal communication.*

24. *Confidential interview.*

25. *Technical assistance was not an issue.*

The Joint Evaluation did not analyze this issue in the pre-genocide setting and it is not clear how much attention the international community has given to this dimension subsequently. There has been an increase in support to strengthen justice systems in general in developing countries, as part of the increased emphasis on “good governance” and the “rule of law.”

Peace Agreements

Study 2 of the Joint Evaluation identified flaws in the Arusha Agreement process that have subsequently been examined by other analyses. A major Joint Evaluation finding was that the extremist elements could not be ignored. Stedman’s typology of “spoilers” is applicable in this case. The record was already abundantly clear in 1993 that the extremists were “total spoilers” who had to be “defanged” directly by coercive approaches rather than induced with positive incentives (Stedman, Rothchild, and Cousens 2001:12).²⁶ The ability of peacekeeping forces to defang spoilers requires that the Security Council provide them the *means* to do so.

Study 2 also concluded that peace agreements require careful follow-up and monitoring to ensure their consolidation and implementation. This may require special measures to speed up demobilization of the warring parties, disarm or neutralize opponents of the agreement, and provision of incentives to maintain momentum. Regional organizations and neighboring states should be actively involved at every stage of the process.

Recommendation B-3 called for:

- The UN Secretariat to undertake a study, in consultation with OAU and OAS, with a view to developing guidelines on follow-up and monitoring of peace agreements. Any guidelines would have to take into account the complexity of such agreements and the need for follow-up to be tailored to their unique characteristics.

Sierra Leone represents some learning from the Rwanda experience, in that all parties participated in peace negotiations and agreements. But no study of the type recommended by the Joint Evaluation has been undertaken.

Arms Flows and Embargoes

Arms flows into Rwanda before the genocide and into Eastern Zaire/DRC were serious, destabilizing phenomena. The Arusha Agreement called for a cessation of arms imports into Rwanda, but this provision was honored in the breach. The Joint Evaluation called for rigorously enforced arms embargoes, pointing in particular to source countries. Specifically, Joint Evaluation Recommendation B-2 called for:

- Breaches of arms embargoes agreed to by treaties or instituted by the UN to be investigated and penalized.
- Controls on arms export licenses to be established or tightened so as to halt arms sales to countries committing acts of violence against their citizens.

26. *Burundi may provide another test case for excluding the spoilers. An increasingly firm stand by the international community, reinforced by the stand taken by regional leaders at the early June summit, may lead to exclusion of the spoilers (FNL), which would permit seeing if they are the real problem or if their continued hold-out has just masked deeper reluctance to act by the major parties to the peace process. However, the Arusha process suggests that simply excluding the spoilers may not be enough. Coercive measures were required in that case.*

Over the intervening years, elements of the international community have paid considerable attention to arms movements, including in the African Great Lakes Region. The Joint Evaluation findings and recommendations probably provided some input into subsequent analyses and conferences on the subject. A major conference on the “Illicit Trade in Small Arms and Light Weapons in All Its Aspects” was sponsored by the UN in New York in July 2001. A 21-point Program of Action for the national, regional, and global levels came out of the conference. But most of the recommendations were at a relatively general level, enjoining parties to: “ensure,” “encourage,” and “promote.” One consideration that undoubtedly comes into play is the conflict of interest manifested by the Permanent Five members of the Security Council who are also the top arms suppliers worldwide.

4.3 Developments in the Anticipation, Detection and Prevention of Violent Conflict and Genocide

Gregory Stanton, President of GenocideWatch, has identified eight stages of genocide. At each of these stages, preventive measures can stop the development of the next predictable stage. This section is concerned with the international response to genocide during the last four stages. The issues addressed include early warning; military intervention; and regional, sub-regional, and local approaches.

The Eight Stages of Genocide

1. Classification
2. Symbolization
3. Dehumanization
4. Organization
5. Polarization
6. Identification
7. Extermination
8. Denial

Greg Stanton www.genocidewatch.org

Early Warning

The Joint Evaluation recommended that a unit be established in the UN Secretary General’s Office to analyze the early warning information being generated by various elements in the UN system as well as outside institutions, such as research institutes. Specifically, Recommendation A-3 called for:

Establishment of a unit for strategic analysis of early warning of conflicts, including genocide and political assassination, directly under the Office of the Secretary-General, drawing on, but not substituting for, the information provided by UNHCHR, UN/DHA and a worldwide network of states, regional organizations, institutes and NGOs. This unit should have the capability to analyze, interpret and develop strategic options to be presented to the Secretary-General, but should not have other operational responsibilities. The head of this unit should have guaranteed direct access to the Secretary-General. The unit would not substitute for a Humanitarian Early Warning System

No such unit has been established though units have been established and/or strengthened in several UN entities concerned with humanitarian action, such as OCHA (Office for the Coordination of Humanitarian Affairs) and UNHCR (High Commissioner for Refugees). In 1995 an interdepartmental mechanism was formed, the Inter-Departmental Framework for Coordination on Early Warning and Preventive Action (referred to as the Framework Team). The Framework Team has since grown from its original 3 members into a still semi-formal interagency mechanism involving 24 UN entities. However, one of the failings of the Framework Team noted by the Secretary General's reports on conflict prevention has been a difficulty in translating its recommendations into concrete follow up actions.²⁷ OCHA has established the Integrated Regional Information Network (IRIN – see para 5.11), which has been very successful in collecting and disseminating information on crises but was never intended to develop a scenario-building function which is so crucial for effective early warning .

Most early warning efforts fall short of the four-fold capacity called for by the Joint Evaluation, which are:

- Key Information collection
- Good analysis
- Scenario building
- Effective communication.

The element that is entirely missing in many early warning systems is scenario building.²⁸

According to one observer, the problem is not “Early Warning” in terms of information; it is “Early Awareness and Early Action.” Relevant systems of the international community are not set up to provide awareness on the basis of warning and action on the basis of awareness. One issue is the sovereignty barrier, and the idea of “Sovereignty as Responsibility” has not penetrated decision-making levels as yet. A notable example of the prevention problem is the Eritrean-Ethiopian war, which was “absolutely predictable,” given the disintegrating relations for the previous three years and the absence of a demarcated border.²⁹ There was no early awareness. Similarly, the need for a robust UN Military Observer Mission in the Congo (MONUC) is frequently noted; early warnings were present, and Security Council Members refused to take up their responsibilities.

Two recent developments could have a major impact on the capacity of the UN System to identify, analyze, and take actions on conflict and genocide information. On the tenth anniversary of the Rwanda genocide, April 7, 2004, the UN Secretary General announced his intention to appoint a Special Adviser on Genocide Prevention³⁰ In July,

27. *Membership of the Framework Team spans the peace and security, development and humanitarian assistance sectors but does not extend beyond the UN system (although "desk-to-desk" consultations now take place with the European Commission). Membership of the Framework Team includes: DDA, DESA, DPA, DPKO, FAO, ILO, OCHA, OHCHR, UNDP, UNESCO, UNHABITAT, UNICEF, UNHCR, UNIFEM, WFP and WHO. The World Bank, the IMF, DPI, OSAA (Office of the Special Adviser on Africa), UNEP, UNFPA, UNODC, and the Secretary-General's Executive Office participate on a case-by-case basis. (Personal communication from David Carden)*

28. *Personal communication from Howard Adelman.*

29. *Personal communication from I. William Zartman.*

30. *Two support positions are to be established in the Office of the Secretary General. A private Center on Genocide Prevention, to be located in New York and to undertake analyses that will also support the Special Adviser, is under discussion. Interview with Gregory Stanton, Executive Director of Genocide Watch, June 8, 2004.*

Juan Mendez was announced to fill this position. It will be important for the Special Advisor to have access to the Security Council as well as to the Secretary General. This implies that the position should have clear accountability to both entities. The Secretary General has also established a High Level Panel on "Threats, Challenges and Change." The panel is examining policy and systemic issues in the UN system, as opposed to earlier efforts, e.g. the "Brahimi panel," which focused on the existing policy framework.³¹ The High Level Panel is to submit its report by the end of 2004.

A strong case can be made for a Special Advisor to be complemented by a standing high-level panel that would command the respect of the Security Council as well as that of the Secretary General. This would be an independent group of internationally recognized persons of high moral stature, say, selected Nobel Peace prize recipients, served by a small expert staff, and reporting to the UNSG and to world leaders, who would give highest possible profile to emerging man-made humanitarian crises. The Special Advisor would be the Chair of the Panel.³²

The Joint Evaluation also stressed the importance of local and regional early warning capacity. The Inter-Governmental Group Against Drought (IGAD), with GDF and USAID support, has set up a system (CEWARN) to coordinate the early warning and conflict management systems of its member states in the Horn of Africa (CEWARUs). The office of CEWARN has just produced its first information analysis on the violent Karamoja cluster that crosses the borders of Uganda, Kenya and Ethiopia. The model directly derives from Joint Evaluation recommendations.³³

In another potentially significant development, the Heads of State Members of the African Union declared at a Second Extraordinary Session, meeting in Libya in February 2004, a "Common African Defense and Security Policy." The Policy confirmed a "Peace and Security Council" (established in Durban in 2002) to be its implementing mechanism. The Council would, among other things, serve as a "collective security and early-warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa" (Article IV- (b) – para.16). A pamphlet describing the proposed capacity is reportedly modeled on the centrality of state "secret" intelligence and a situation room for coordinating a military response, in contrast to the open, decentralized approach of the CEWARN system described above.³⁴

Military Intervention

The Joint Evaluation recommended that a Peacekeeping "Chapter 6.5" Mandate be promulgated, arguing that this would have given UNAMIR the mandate it lacked under Chapter VI of the UN Charter in Rwanda.³⁵ Recommendation A-2-b (and A-2-b-i) called for:

Developing standard operating procedures for UN peacekeeping operations, with a clear mandate to protect civilians when large numbers are threatened by vio-

31. *Phone interview with Bruce D. Jones, May 28, 2004.*

32. *The Panel proposal was made in a personal communication from Robert J. Muscat.*

33. *The initial information from CEWARN is said to be dramatic (note from Howard Adelman). Sudan has also set up an early warning and conflict management office, but its nascent status is evident by its lack of warnings produced on the crisis in Darfur.*

34. *Observation by Howard Adelman, June 8, 2004.*

35. *In a comment of June 15, 2004, Linda Melvern cites a frequent observation of former UNAMIR Commander, Roméo Dallaire, that it is "not a question only of mandate but of means."*

lence; in effect, a “6.5” mandate between the UN Chapter VI and VII mandates. Establish procedures for rapid deployment of forces under UN authority as both deterrent and actual capability; encourage and support development and first use of rapid-response capabilities under regional organizations like the OAU and the OAS, with UN authorization and support where needed.³⁶

The rationale for the hybrid mandate is that under Chapter VI (Articles 33-38) of the UN Charter (the mandate under which UNAMIR was operating, in 1994) UNAMIR was only empowered to seek the resolution of conflict through peaceful means and at the request of the parties to any dispute. But under Chapter VII (Articles 39-51), on determining a “threat to the peace, breach of the peace, or act of aggression,” the Security Council may authorize more robust measures to “restore international peace and security.” These measures can include coercive measures, such as economic sanctions and the use of military force. But other measures are to be exhausted first. Historically, the Security Council has been loath to use the Chapter VII mandate, partly owing to the difficulty of getting Member agreement on its use, and partly owing to the expense of more robust operations. The view of the Joint Evaluation was that a hybrid, “6.5” mandate could provide enough authority for a UN peacekeeping force to protect civilians, *using force if necessary*, but falling short of all the measures provided for in Chapter VII.³⁷

An external panel, convened by the Secretary General and led by former Swedish Prime Minister Ingvar Carlsson, examined the actions of the United Nations during the 1994 genocide in Rwanda (United Nations 1999).³⁸ The Panel Report made 14 recommendations that, in general, called for a more proactive and forceful role on the part of the UN, including the Secretary General and Security Council, in preventing genocide. A number of the panel’s recommendations echoed Joint Evaluation recommendations, including improving the capacity of the UN system for early warning, the flow of information on human rights issues, and peacekeeping operations.

A second, more sweeping, independent panel issued a report in 2000 on United Nations Peace Operations. The report of this Panel, led by Lahkdar Brahimi, popularly known as the “Brahimi Report,” makes 54 recommendations in 20 categories. Many of these recommendations find echoes in the Joint Evaluation but go into more detail in certain areas. For example, the Brahimi Report pays considerable attention to establishing and training civilian police that would be ready for deployment in peace operations. Detailed attention is also given to logistics and funding support, expenditure management, and information technology. Most of the report’s recommendations are directed to the UN Secretariat, but one recommendation (No. 19) calls for “substantially enhancing the field mission and preparation capacity of the Office of the UN High Commissioner for Human Rights ...”

The Joint Evaluation also recommended greater use by the UN and regional organizations of specially trained *civil policemen and policewomen* in complex emergencies (Recommendation A-2-b-iii). This recognized that combat soldiers were not needed in every situation and that civilian police could have been effective even in Rwanda. The

36. See the following section for further discussion of regional approaches.

37. A related issue is that there is no specific provision for peacekeeping forces as such in the UN Charter. This would provide another rationale for a “Chapter 6.5” provision. This suggests to one observer the need for a “6.75 provision” as well. Comment from I. William Zartman, June 15, 2004.

38. Other members of the panel were: Han Sung-Joo and Rufus M. Kupolati.

Brahimi report took up this issue and pursued its operational implications. A more accessible pool of police in supplying countries is said to have been established.

No “6.5” mandate has been established. But some recent UN Peacekeeping Operations, including in Bosnia, Ituri-DRC (most recently) Timor Leste, Sierra Leone, and Liberia, have had a Chapter VII mandate. The adequacy with which these operations have been resourced has been mixed to poor. Many of the contingents were too few in number to cover all the eventualities that they faced. They have frequently had problems of communication (language as well as incompatible radio systems), have often lacked armor and firepower and encountered difficulties arising from different military doctrines between the contributing forces. The British intervention in Sierra Leone was in effect a rescue mission after several hundred poorly resourced UN peacekeepers had been taken hostage. MONUC is currently the most costly UN PKO, but many would argue that it is still too small and weak to do the job it is required to do (including protecting the citizens of Bukavu from a predatory faction supported by Rwanda). The best-resourced operations tend to be those where the UN Peacekeeping Force is combined with a unilateral contingent from one of the Perm-Five Members of the Security Council (Kosovo-U.S.-led coalition, Ituri-France, Timor Leste-Australia, Sierra Leone-UK). A rapid deployment capability is still a work in progress, even at the regional level, where the European Union (EU) has taken the most concrete steps.

Thus, while progress has not been uniform or comprehensive, UN Peacekeeping deployments have generally become more robust and been given stronger mandates during the last eight years. However, it would appear that Security Council Members remain generally reluctant to provide the mandates and rules of engagement necessary to enable UN Peacekeeping Forces to respond effectively to all the potential threats to them and civilians in their area of operation and troop contributing states do not always provide forces equipped sufficiently to enable them to engage in more forceful ways than self-defense.

Participation of Regional, Sub-Regional, and Local Organizations

The Joint Evaluation concluded that despite rhetoric emanating from the international community about greater reliance on regional and sub-regional organizations and the neighboring states individually, these were given neither the mandate nor the resources nor the actual cooperation at some critical stages in the Rwanda emergency.

Consequently, the Joint Evaluation recommended (A-4) that the Secretaries General of the UN and regional organizations, such as the OAU and the OAS, along with member states,

- Ensure that regional participation in preventive diplomacy carries over into peacekeeping so as to establish continuity between mediation and peacekeeping.
- Allocate adequate resources to regional and sub-regional organizations and neighboring states to enable them to be effective in preventive diplomacy and peacekeeping, taking into consideration that most of the world’s conflicts occur in regions where these parties have the fewest resources to deal with them.
- Ensure that the UN sanctions action, sets parameters and monitors forceful intervention and, where needed, helps finance and otherwise support such actions, but remains the body of last resort for implementation.
- Accelerate current plans for strengthening OAU’s peacekeeping functions with the support of the UN.

The report of an independent panel commissioned by the OAU, *Rwanda: the Preventable Genocide*, took these recommendations seriously (OAU, 2001). The report was bitingly critical of the full panoply of members of the international community, including the OAU itself (see chapters 11 and 15 especially). The recommendations of the panel's report (chapter 24) bear a close relationship to those of Joint Evaluation. The current assessment has not reviewed the precise extent to which the OAU panel recommendations have been adopted in its successor organization, the African Union (AU). But the AU has been a more visible presence in complex emergency-related events in sub-Saharan Africa in recent years, such as Burundi and Liberia.

But post-1996 experience shows that reliance on regional and sub-regional organizations is not a panacea. Their objectives vary and their memberships can overlap. For example some countries, such as the DRC, belong to two sub-regional organizations with overlapping objectives: The Southern Africa Development Community (SADC) and the Communauté Economique des Etats d'Afrique Centrale (CEEAC). Some organizations are extremely weak in terms of administrative and managerial capacities.³⁹ Critical factors for the effectiveness of such organizations include the commitment of member countries as well as the commitment of donors to provide long-term support.

4.4 Progress in Halting/Suppressing Conflict and Genocide

Effective Prevention and Early Suppression of Genocide and Protection of Victims

Since the 1994 genocide in Rwanda, the world has not witnessed such a devastating and clear-cut case of genocide. The use of subsequent cases as tests of whether or not the international community has become more effective in its prevention and suppression efforts therefore involves cases that are qualitatively different from the Rwanda case, even though they may have claimed the lives of tens (or in the case of DRC hundreds) of thousands of people.

While the mass killing of members of a group has occurred in perhaps a dozen cases since 1994, so far as we are aware only one case has legally been deemed to have constituted a 'genocide'⁴⁰. However, the fact that more cases than Srebrenica have not been found to have constituted genocide may be due as much to the differential approaches to justice by the international community in the different cases as it is to the merits of the different cases.

In the cases of Kosovo and East Timor there is debate about whether the killings that precipitated the international interventions there constituted genocides. It appears that from a legal perspective neither is thought to qualify⁴¹. It remains to be seen whether the

39. *Personal communication from René Lemarchand.*

40. *In August 2001 the International Criminal Tribunal for the Former Yugoslavia (ICTY) ruled that Radislav Krstic, a Bosnian General, was guilty of genocide for responsibility in the systematic killing of over 7,000 unarmed Muslims near Srebrenica in July 1995.*

41. *In September 2001 the UN-supervised Supreme Court in Pristina ruled that Serbian troops had not carried out genocide against ethnic Albanians in Kosovo during 1998-99. While a systematic campaign of terror, including murders, rapes, arsons and severe maltreatments had occurred, "the exactions committed by Milosevic's regime cannot be qualified as criminal acts of genocide since their purpose was not the destruction of the Albanian ethnic group but its forcible departure from Kosovo" BBC News website www.bbc.co.uk 7th September 2001. For an examination of the East Timor case see Saul, Ben (2001) "Was the conflict in East Timor 'genocide' and why does it matter" Melbourne Journal of International Law*

4. GENOCIDE PREVENTION AND SUPPRESSION

ongoing investigations in Ituri by the International Criminal Court conclude that the killings of some thousands of members of the Hema and Lendu tribes constituted a 'genocide' or indeed whether the 'ethnic cleansing' that has been taking place in Darfur will subsequently be found to have constituted a 'genocide.'⁴²

Before considering the international response to selected instances of mass killings since 1994 it is worth noting that there remains some dispute as to what form of intervention by the international community would have been required to halt the 1994 genocide. General Dallaire argued that the genocide could have been halted had UNAMIR been rapidly reinforced with 5,000 capable troops and a strengthened mandate soon after the start of the genocide. While this claim was tested and broadly supported by a panel of senior military leaders⁴³ it has been contested by others⁴⁴ who argue that suppression of the genocide would have been a much more difficult operation than that imagined by Dallaire.

In examining the record of the principal external military interventions that have taken place since 1996 (see Chapter 3) it is helpful to distinguish between those interventions that were authorized by the Security Council and under UN command, those that were authorized by the UN Security Council but led by a member state/s, and those that were not authorized by the UN Security Council.

In West Africa the Economic Community of West African States (ECOWAS) undertook interventions in Liberia (in 1990-97 and again in 2003), in Sierra Leone (1997-1999) and in Côte d'Ivoire in 2002. The initial interventions by the Nigerian-dominated ECOWAS Monitoring Group (ECOMOG) forces in Liberia in 1990 and Sierra Leone in 1997 were not authorized by the UN Security Council though resolutions after the initial intervention period did offer moral support and almost retrospective approval. For part of the 1990s at least the UN Security Council effected delegated responsibility for intervention in the complex and interrelated civil wars in Liberia and Sierra Leone to the regional organization.

When NATO began its bombing campaign in Kosovo in March 1999, NATO members justified their intervention in humanitarian terms and argued that they had sufficient authorization from the Security Council. However, many states believe otherwise, indeed on the first day of the campaign four members of the Security Council including two of the Permanent Five with veto powers (Russia and China) opposed the action as representing a violation of the Charter.

Since September 11th 2001 and the start of the 'War on Terror', there has been an increased incidence of unilateral actions by the US and the UK and other coalition partners that has been justified in terms of individual or collective self-defense and prior approval by the UN Security Council has not been sought. Neither the US bombing campaign and support by Coalition Members to the Northern Alliance forces in

42. *The U.N. Security Council adopted a resolution on September 18, 2004, threatening possible sanctions against Sudan and establishing a U.N. commission of inquiry to investigate atrocities in Darfur and to determine whether Sudanese authorities and militias are responsible for committing genocide there. This followed a September 9 declaration by U.S. Secretary of State Colin Powell, citing the findings of a U.S.-supported fact-finding mission that genocide had and was still taking place in Darfur.*

43. *Feil, Scott (1998) 'Preventing Genocide: How the Early Use of Force Might Have Succeeded in Rwanda' A report to the Carnegie Commission on Preventing Deadly Conflict*

44. *eg Seybolt, Taylor (1999) 'Eyes Wide Open: Rwanda and the difficulty of worthy military intervention' Stockholm International Peace Research Institute.*

Afghanistan in late 2001, nor the bombing and subsequent invasion of Iraq by the US and UK in March 2003, were authorized by the Security Council.

Three ‘robust’ interventions that were authorized by Security Council Resolutions but which operated separately from UN peacekeeping or observer contingents were the Australian-led INTERFET intervention in East Timor in September 1999, the UK deployment in Sierra Leone in May 2000 after UN peacekeeping contingents had been taken hostage, and the French-led Operation Artemis to Bunia in DRC in June 2003. These operations all involved well-trained and well-armed forces and in the case of the East Timor and Sierra Leone interventions were supported by substantial offshore military capability. In many respects these operations were more akin to the Operation Turquoise intervention in Rwanda in 1994 than to UNAMIR and even UNAMIR II in Rwanda.

Previous chapters have noted how the investigations into the UN Peacekeeping debacles in Rwanda and Srebrenica⁴⁵ led directly to the ‘Brahimi Report’ published in August 2000. Among its many recommendations two were critical:

“United Nations military units must be capable of defending themselves, other mission components and the mission’s mandates. Rules of engagement should be sufficiently robust and not force United Nations contingents to cede the initiative to their attackers. ... It means bigger forces, better equipped and more costly but able to be a credible deterrent”

“The Secretariat must tell the Security Council what it needs to know, not what it wants to hear, when recommending forces and other resource levels for a new mission, it must set those levels according to realistic scenarios that take into account likely challenges to implementation”

Since June 1999 seven UN Peacekeeping Operations have been established and two more are in the process of being set up⁴⁶. Not all have been as robust as would have been anticipated if the recommendations of the Brahimi Report had been fully heeded. For instance, though it slightly predated the publication of the Brahimi Report the MONUC force in the eastern DRC was primarily a military observer force and was only given a more robust Chapter VII mandate in 2003 in order for it to take over from the French-led operation Artemis in Ituri. Had account been immediately taken of the Brahimi report, MONUC would have been strengthened at least two years earlier.

It would seem therefore that both member states and UN peacekeeping learnt from the Rwanda case, though in different ways. Several member states are prepared to deploy their highly trained forces to address what they regard as pressing ‘humanitarian’ needs but only appear ready to do so when they can either lead the operation themselves or entrust the command of their troops to a trusted ally. Few of the more capable and well-

45. *Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda.* Ingvar Carlsson, Han Sung-Joo, and Rufus M Kupolati. New York, 1999.
The Fall of Srebrenica: Report of the Secretary-General pursuant to General Assembly resolution 53/35 A/54/549 15th November 1999, New York.

46. *The seven peacekeeping operations are: UNMIK in Kosovo, UNAMSIL in Sierra Leone, MONUC in DRC, UNMEE in Ethiopia and Eritrea, UNMISSET in East Timor, UNMIL in Liberia and UNOCI in Côte d’Ivoire. The two currently being established are MINUSTAH in Haiti and ONUB in Burundi.*

equipped armies seem prepared to entrust the command of their troops to a UN force commander. Moreover it appears that such troops are rarely likely to be deployed in Africa unless a pressing national interest is also at stake – as for the British in Sierra Leone (where the credibility of UN peacekeeping operations was also at stake) or the French in Cote d’Ivoire. UN peacekeeping operations are now generally more robust, better equipped and better supported than was the case with UNAMIR. However without the sort of logistical reach and military capability that is available to only a small number of national armies, the ability of UN peacekeeping contingents to respond to threats (such as the RCD faction taking control of Bukavu in DRC in June 2004) remains limited, no matter how ‘robust’ they may seem.

4.5 Progress in Fostering Policy Coherence

Arguably the principal conclusion of the Joint Evaluation was that “humanitarian action cannot substitute for political action”. Among the member states and within the UN system the Synthesis report highlighted:

- conflicting interests or relative lack of interest among Security Council members in a crisis involving a country of marginal strategic importance;
- discrepancies between the Office of the Secretary-General and the Security Council;
- inadequate strategy formulation and communication within the Secretariat and disjointed relationships between its political, military and humanitarian functions;
- disjointed relationships between the Secretariat and the field level; and
- at the field level, tension between agencies and unclear division of labor among them.

It concluded: “The underlying problem has been and continues to be political. But the international community failed to come to grips directly with the political problem. Thus it has in effect, and by default, left both the political and the humanitarian problems generated by the Rwanda crisis in the hands of the humanitarian community. This is untenable. It puts burdens on the latter that it cannot and should not assume.”

Two sets of recommendations were made, one directed to the Security Council and General Assembly and the other to the UN Secretariat. The recommendation to the Security Council was that it establish a Humanitarian Sub-Committee “to ensure that the humanitarian dimension is adequately considered in decisions regarding complex emergencies”. The Security Council did not establish a Humanitarian Sub-Committee, though it did commence briefings on particular crises from key humanitarian agencies outside the UN system⁴⁷. In 1997 the Department of Humanitarian Affairs (DHA) was superseded by the Office for the Coordination of Humanitarian Affairs (OCHA) and a responsibility of ‘advocacy of humanitarian issues with political organs notably the Security Council’ was included in its mandate.

The recommendation made by the Joint Evaluation to the UN Secretariat was that it establish a team of senior advisers for all complex emergencies to synthesize crisis information and bring coherent policy options to the Secretary-General. “The purpose of this team would be to ensure that humanitarian, political and peacekeeping concerns are all taken into account in formulating options for the Secretary-General, the Security

47. *The initial briefings involved ICRC, CARE, Oxfam and MSF*

Council and in the General Assembly; it would not be charged with making operational decisions regarding humanitarian action.” As well as “reinforcing the discipline of the UN civil service as an impartial and independent resource, presenting analyses and options ... to member states based on the identified needs of that crisis, not on the supposed reactions of any one or more governments”, the team would “Formulate the essential framework for an integrated UN line of command between headquarters and the field, and within the field, for political action, peacekeeping and humanitarian assistance to ensure that the system speaks with one voice and that there is mutual reinforcement among the three types of actions.”

Even though the recommendations on coherence were not directed at governments or donor organizations, some member states took on the coherence agenda and attempted to more closely incorporate their (increasing) humanitarian expenditures within their foreign policy objectives and approaches to particular crises. In the case of the UK this resulted in a ‘New Humanitarianism’ policy statement and at one point in Sierra Leone following the March 1997 coup, in a “policy of preventing humanitarian assistance from reaching Sierra Leone ... through a combination of cutting off funding and blocking aid supplies at the border with Guinea” (Centre for Humanitarian Dialogue 2003).

The recommendations directed at the Secretariat and their subsequent interpretation have proven contentious. A series of organizational reforms and policy reforms since 1996 have sought to incorporate the notion of coherence into organizational structures and relationships. As well as creating OCHA, the 1997 Program for Reform sought to unify UN agencies under the Resident Coordinator or the Special Representative of the Secretary General (SRSG) and established executive committees (including the Executive Committee on Humanitarian Affairs and the Executive Committee on Peace and Security) to facilitate inter-departmental and inter-agency collaboration. Under the Strategic Framework Initiative an attempt was made to operationalize coherence in two trial cases (Afghanistan and Sierra Leone). Though the UN Panel on Peace Operations (‘the Brahimi Report’) appears to have given only limited attention to humanitarian issues, it recommended the creation of Integrated Mission Task Forces (IMTF) within the UN Secretariat to plan deployments of new peacekeeping missions. The IMTFs would bring together “those responsible within the UN system for political analysis, military operations, civilian police, electoral assistance, human rights, development, humanitarian assistance, refugees and displaced persons, public information, logistics, finance and recruitment”.

The ‘search for coherence’ has had significant implications for the humanitarian sector as a result of the tension between the need for UN coherence and the desire of OCHA and the UN’s humanitarian agencies to remain part of the broader humanitarian community. These tensions are explored further in Section 5.2.

4.6 Using the Media in Support of Genocide Prevention and Suppression

The Joint Evaluation found that inadequate and inaccurate reporting of the build up to and the initial phases of the genocide by the international media contributed to international indifference and inaction. References to “tribal killings” and “civil war” in sections of the media during the first weeks of the genocide had the effect of reducing pressure on key UN member states to recognize and publicly acknowledge that it was a genocide

4. GENOCIDE PREVENTION AND SUPPRESSION

that was underway. This failure occurred in spite of local media, which became dominated in the early 1990s by a radio station and newspaper whose vitriolic propaganda incited ethnic hatred and violence. The Joint Evaluation recommended (E) that:

“The media, individually and through professional associations, should review their reporting on Rwanda to explain and draw lessons for responsible reporting of future complex emergencies. And they should organize a conference for and by the international media, under sponsorship of an organization such as Reporters sans Frontières, to examine media reporting on Rwanda and draw lessons for responsible reporting on future complex emergencies.”

Conferences have been held. In 1997 an international media organization, “Crosslines,” sponsored a conference in Boston, Massachusetts, focusing on the role of the media in conflict prevention. The meeting used the Rwanda genocide and the Joint Evaluation as points of departure. Participants included media, NGO, and donor representatives. Seven years later, a number of observances of the tenth anniversary of the Rwanda genocide in March and April 2004 addressed the issue of the role of the media, and the School of Journalism at Carleton University in Ottawa hosted a conference in March devoted specifically to “The Media and the Rwanda Genocide.” However, the number of reporters and editors from media organizations participating in such events is limited: most members of the media are not “conference goers.”

Some prominent journalists have thought about the mistakes made and the lessons to be learned from coverage of the genocide by themselves and their colleagues (e.g. Dowden 2004). A number of studies have been undertaken both by individuals within the media and by academics (e.g. Minear, Scott and Weiss 1996; Rotberg and Weiss 1996; Gowing 1997, Save the Children/ECHO 1998) The Netherlands Association of Journalists held a seminar on the role of conflict prevention and peace building in 2002 and the Canadian-based Institute for Media, Policy and Civil Society (IMPACS) has developed a handbook on Conflict Sensitive Journalism and has projects in selected conflict and post-conflict areas. The Institute for War and Peace Reporting also provides support to journalists reporting on conflicts. Unfortunately, even when taken together such steps do not guarantee that major news organizations would be unlikely to repeat the same mistakes as occurred in Rwanda.⁴⁸

To complement such steps schools of journalism need to be providing at least some basic training in international human rights law and conflict prevention and media organizations and professional organizations should encourage greater reflection on their practice as organizations and individuals in such complex and challenging contexts. Some journalists argue that there are simply far too few foreign correspondents and not enough space dedicated to foreign news to provide the space for such measures.⁴⁹ Nevertheless, the media as with other professions should strive to improve its standards, accountability mechanisms and ability to learn from experience, and should be encouraged to do so.

A discussion of the media's responses to the lessons from Rwanda would not be complete without mention of the very significant technological changes that have occurred since 1994 in newsgathering and transmission. The advent of digital video cameras and

48. *Personal communication from Greg Barker.*

49. *Personal communication from Linda Melvern.*

their widespread use by private individuals has significantly increased the availability of images from many parts of the world. Journalists can now prepare and send good quality film via the Internet or satellite links. The ability of news organizations to cover events has increased substantially.

Another development since 1994 has been in the number and availability of analytical sources on a particular area of tension or conflict. In the words of one interlocutor: “Groups like the International Crisis Group (ICG) are invaluable for working journalists (and their editors), who often are generalists by nature and don’t have the time to get up to speed on the complexities of any breaking crisis. Briefing papers and websites like those produced by the ICG are easily digestible, and perceived to be relatively free of bias. In 1994, journalists who suddenly found themselves covering Rwanda had few independent sources of information about the country, the background to the crisis and were quick to resort to inappropriate narrative clichés about “ceasefire” and “tribal hatreds”.

While improvements in these areas reduce the likelihood that a future genocide will be receive inadequate and poor quality coverage, they do not guarantee improved coverage and quality in all cases. For instance the lack of film images from Darfur during 2003 and early 2004 due to travel restrictions on outsiders imposed by the Government of Sudan appears to have been an important factor contributing to the delayed international response in that case. Also it seems that editors continue to be influenced by their perceptions of what politicians, officials and the public see as “important stories”.

4.7 Some Observations on the Recommendations and Developments in Relation to Prevention and Suppression of genocide since the Joint Evaluation

The foregoing presents an opportunity to reflect on the Joint Evaluation recommendations in the light of developments since 1996. Each of the recommendations addressed to issues of prevention and preparedness remain valid. This conclusion is reinforced by the number of subsequent analyses that have cited the Joint Evaluation and by the opinions of key informants interviewed for this assessment.

Some recommendations probably are or will be superseded because the international community is taking, or will take, another approach. But these measures are compatible with the Joint Evaluation recommendations and therefore do not undermine their validity. Two examples are:

- A new “Chapter 6.5” Peacekeeping Mandate has not been established. But Peacekeeping Operations have more frequently been given Chapter VII mandates, in some cases supported by contingents with robust mandates from Security Council Perm-Five Members.
- While an early warning analytical unit has not been established in the Secretary General’s Office, some new responsibility at that level with respect to conflict and genocide prevention will be established with the appointment of the Special Advisor on Genocide Prevention. Recommendations by the High-Level Panel on Threats, Challenges and Change might give additional impetus to action in this area. A Nobel-level panel, proposed in the last chapter of this assessment, would provide critical support to the new Special Advisor on Genocide Prevention.

5. Assessment of Developments in Humanitarian Response

5.1 What the Joint Evaluation Recommended

Utilizing the categories of the Joint Evaluation, this chapter assesses developments in the humanitarian response to conflict and genocide in Rwanda and elsewhere since 1996. The pertinent Joint Evaluation recommendations are summarized in the box below. Two sets of recommendations (A-1-a and A-1-b) that dealt with policy coherence between political and humanitarian actions have already been discussed in the previous chapter but will be covered again here focusing more specifically on the implications for the humanitarian sector.⁵⁰

Relevant Joint Evaluation Recommendations

A. Critical Recommendations to UNSG, UNSC, Donor Agencies, NGOs, Red Cross etc

A-1 a. Foster Policy Coherence in the UN Security Council and General Assembly

A-1 b. Ensure Policy Coherence in the UN Secretariat

A-6. Policy and Funding for Preparedness Measures

C. Management of Relief

C-1. Refugee Camp Security

C-2. Development of an Integrated Humanitarian Early Warning System

C-3. Effective Coordination Among and By Official Agencies

C-4. Professional NGO Performance

C-5. Systematically Assess Comparative Cost-Effectiveness of Use of Military Contingents in Humanitarian Relief Operations

C-6. Ensure Accountability

C-7. Minimize Adverse Local Impacts

C-8. Equitable Food Distribution

E. Roles of the Media

E.1. Assess the Roles of the Media

5.2 Progress in Improving Policy Coherence and Coordination

Foster Policy Coherence; Effective Coordination Among and By Official Agencies

As noted in Section 4.5 the Joint Evaluation addressed a number of recommendations to the UN Security Council, General Assembly and Secretariat with the objective of achieving greater policy coherence between *inter alia* the political, military and humanitarian functions and avoiding repetition of situations where humanitarian action became

50. Recommendations of the Joint Evaluation are identified within parentheses in the text above by the same letter and number system as used in the Joint Evaluation Report.

5. HUMANITARIAN RESPONSE

a substitutes for political action. Two points of particular relevance to the humanitarian sector noted in Section 4.5 are that:

- a) the recommendation that a Humanitarian Sub-Committee of the UN Security Council be established has not been implemented
- b) the innovation proposed by “the Brahimi Report” in 2000 of integrated missions in UN peacekeeping operations.

Inevitably such developments in relation to coherence overlap considerably with efforts to improve coordination and it is difficult to separately discuss the implications of the integrated mission model from developments in coordination.

The Joint Evaluation identified coordination as a particular problem during the humanitarian response during 1994 and offered three alternative options to the UN system and recommended the adoption of Option 3.

Option 1. Strengthen and extend existing inter-agency coordinating arrangements and mechanisms through such measures as inter-agency Memoranda of Understanding, improving the funding and central services functions of the Department of Humanitarian Affairs.

Option 2. Considerably strengthen the central coordinating role of UN/DHA by channeling all humanitarian assistance for UN agencies and their humanitarian partners through DHA, enabling it to determine the priorities and amount of funding to be received by each agency.

Option 3. Consolidate in a new, expertly led and -staffed and fully operational mechanism of the United Nations, the emergency response functions of the principal UN humanitarian agencies (UNHCR, WFP, UNICEF and DHA).

Though Option 3 was regarded as completely unrealistic and even ‘off the wall’ when the Joint Evaluation was published, it apparently came close to being recommended by Maurice Strong’s 1997 *Renewing the United Nations: A Program for Reform* commissioned by the incoming Secretary General Kofi Annan. According to Weiss (1998)⁵¹ a proposal to integrate the humanitarian components of different UN agencies under the leadership of one individual remained in the draft proposals until the penultimate draft when it was removed following representations by particular agencies.

The 1997 reforms resulted in the transformation of the Department of Humanitarian Affairs (DHA) into the Office for the Coordination of Humanitarian Affairs (OCHA). The vision for OCHA was that it should be a leaner and more effective than DHA and closer to Secretary General. Its three core functions were to be emergency coordination, the development of humanitarian policies and the advocacy of humanitarian concerns to the political organs of the UN, principally the Security Council. The question of OCHA’s presence in the field was left vague (Tsui and Thant Myint-U 2004).

The reform package also included the creation of four Executive Committees covering the four principal sectoral areas of the UN: Peace and Security, Humanitarian Affairs,

51. Weiss Thomas (1998) ‘Humanitarian Shell Games: Whither UN Reform?’ *Security Dialogue* 29, no 1 (March).

Economic and Social Affairs, and Development Operations, each with its own designated Convener. Inevitably there is overlap between the membership of the four Executive Committees⁵² For the first time the Executive Committees brought the relevant UN Departments and agencies together:

“to sharpen the contribution that each unit makes to the overall objectives of the Organization by reducing duplication of effort and facilitating greater complementarity and coherence. The Executive Committees are designed, therefore, as instruments of policy development, decision-making and management. The heads of United Nations entities consult with one another on work programs as well as other substantive and administrative matters of collective concern, to identify and exploit ways of pooling resources and services so as to maximize program impact and minimize administrative costs and more generally to facilitate joint strategic planning and decision-making.” Executive Committee on Economic and Social Affairs (EC-ESA) website⁵³.

Implicit within the conception of the Executive Committees on Peace and Security (ECPS) and the Executive Committee on Humanitarian Affairs (ECHA) was that there could be common political and humanitarian strategies. As noted in Section 4.5 in 2000 the UN Panel on Peace Operations (‘the Brahimi Report’) introduced the notion of integrated missions which involved UN humanitarian operations being brought under the auspices of a peacekeeping operation under the direct authority of the Special Representative of the Secretary General and with the Humanitarian Coordinator usually being designated the Deputy Special Representative of the Secretary General. The “integrated mission” model has so far been used in Kosovo, East Timor, Sierra Leone, DRC, Afghanistan and Liberia.

The ‘search for coherence’ has been the focus of two research studies, the first conducted just before the publication of the Brahimi Report and the second over two years later. Both concluded in negative terms: “The integrationist interpretation of coherence has proved problematic in theory and in practice” (Macrae and Leader 2000) and “the search for coherence needs to be re-examined. ... The humanitarian imperative of protecting and saving lives in conflict has taken a back seat in UN peace operations” (Centre for Humanitarian Dialogue 2003)⁵⁴ Humanitarian NGOs operating in countries where the

52. *The Executive Committee for Peace and Security (ECPS) is Chaired by the Department for Political Affairs (DPA) and its membership includes the Departments for Disarmament Affairs (DDA), Peacekeeping Operations (DPKO), Public Information (DPI), and Humanitarian Affairs (OCHA), the Office of the High Commissioner for Human Rights (OCHCR), the High Commissioner for Refugees (UNHCR), the UN Development Programme (UNDP), the UN Children’s Fund (UNICEF), the World Bank, the UN Security Coordinator, the Office of Legal Affairs (OLA) and the Office of the Special Representative of the Secretary General for Children and Armed Conflict OSRSG/CAC. The Executive Committee for Humanitarian Affairs (ECHA) is Chaired by OCHA and shares nine members in common with ECPS (DPA, DPKO, DPI, OHCHR, OSRSG/CAC, UNDP, UNHCR, UNICEF. The five members it does not share with ECPS are: the UN Food and Agriculture Organisation (FAO); the UN Conference on Trade and Development (UNCTAD); the UN Environment Programme (UNEP); the UN Relief and Works Agency for Palestinian Refugees (UNRWA); the UN World Food Programme (WFP) and the World Health Organisation (WHO).*

53. <http://www.un.org/esa/coordination/ecesal/cesesa.htm>

54. *In an as yet unpublished case study for the Centre for Humanitarian Dialogue synthesis report, the researcher concluded that that the attempt to achieve coherence in the DRC had contributed to a weak humanitarian response to the massive needs. Other contributing factors included: the interpretation of the ‘Do No Harm’ approach by OCHA and other humanitarian agencies; their prioritisation of peace-building strategies over the direct provision of humanitarian assistance; poor security that limited access to large areas and the considerable logistical difficulties of operating in the DRC (Stockton 2003).*

integrated mission model are becoming increasingly critical of the approach and expressing their concerns on the Inter-Agency Standing Committee (Schenkenberg 2004; ICVA 2004). Commenting on OCHA's position one authoritative observer writes "OCHA cannot successfully protect the integrity of humanitarian action and at the same time embrace the coherence agenda of the UN system" and continues "Either .. the UN systems various mandates need to be changed or the international community needs to design new humanitarian structures that have greater independence from the prevailing political agenda (Miner 2004). Another experienced observer proposes that OCHA and OHCHR should be taken out of the 'political UN' and positioned closer to the ICRC and other 'purist' humanitarian entities such as Medecins Sans Frontieres (Donini 2004).

Commenting on the overall *problematique* of coherence Peter Walker offers the following observation:

"The problem is that we on the humanitarian side are arguing for our *analysis* to permeate and inform the political economic and military actions of governments when dealing with crises, but at the same time we are requiring that our *actions* remain independent, impartial and neutral. This is not a contradiction or a dilemma, it is just difficult to do, both to argue coherently and to do" (Walker 2004 – personal communication)

In addition to the creation of OCHA, the Executive Committees and the integrated mission model there have been several other significant developments in relation to coordination in the humanitarian sector. One such has been the strengthening of the Consolidated Appeals Process (CAP).⁵⁵ Donor frustration with unprioritized 'shopping lists' submitted by UN agencies that showed little sign of coordination or harmonization gradually led to the adoption of mechanisms and procedures within the CAP process to improve coordination and prioritization of activities. A key innovation has been the preparation of Consolidated Humanitarian Action Plans (CHAP) by the various UN agencies and their partners at the field level which feed into the CAP document. Increasingly other humanitarian actors including the Red Cross and NGOs have included their plans within the overall CAP and in some instances donors have encouraged coordination by insisting that only those proposals included in a CAP will be considered for their funding (Bassiouni 2001; Donini 2004) However, in some contexts the CAP remains far from the central coordination tool it is intended to be. A recent study in Burundi for instance estimated that the CAP represented only one-tenth of the total aid funds provided to the country signaling that many donor organizations and NGOs function outside the CAP framework (Bijojote and Bugnion 2004).

Since 1996 there has been an extraordinary increase in the availability of information on different emergency operations. Reliefweb, a project managed by OCHA was launched in 1996 and has become the central gateway to documents and other sources of information related to humanitarian relief and assistance⁵⁶. With teams in New York, Geneva and Kobe, Japan it currently provides a 24-hour coverage of relief, preparedness and prevention activities for both complex emergencies and natural disasters worldwide and is used by donors, agencies and interested members of the public. It currently receives approximately one million 'hits' each day.

55. Introduced in 1991 as part of the General Assembly Resolution 46/182 that created the Department of Humanitarian Affairs the use of the CAP mechanism grew rapidly to become the norm by the mid-1990s.

56. www.reliefweb.int

The UN Integrated Regional Information Network (IRIN) which forms part of OCHA grew out of operations in the Great Lakes during and following 1994. Using e-mail and web technology to deliver and receive information from remote and poorly developed areas of Africa it combined use of national and local news and media services with agency press releases, reports and its own interviews with key actors. It is funded by contributions from donor organizations. From its initial area of operation in the Great Lakes and East Africa, IRIN has extended its coverage to West Africa and southern Africa and more recently to Central Asia and Iraq. It is highly valued not just by agency personnel but by researchers and journalists as it has significantly increased their access to information.

Since the Kosovo Operation many of the large, high profile humanitarian operations have benefited from Humanitarian Information Centers (HIC) which gather, collate and disseminate information relevant to the overall operation. HICs make significant use of mapping software to present the information of web-based and email systems. Though organizationally part of OCHA, HICs are operated as 'common framework' coordination support and information sharing services to humanitarian agencies (whether UN, NGO or government). HICs have now been implemented in seven operational contexts (Kosovo, Eritrea, Afghanistan, Occupied Palestinian Territories, Iraq, Liberia and Darfur).

While the IT revolution would have substantially increased the availability of information over the period since 1996, these three OCHA-managed projects, Relifeweb, IRIN and HICs have made an impressive contribution to the amount, accessibility and timeliness of the information now available. While improved information facilitates, though does not by itself guarantee, improved coordination, these projects have significantly improved the ability of humanitarian actors to coordinate their activities.

Another development in the organizational architecture aimed at improving coordination has been the increased role and profile of the Inter Agency Standing Committee (IASC) and its various working groups.⁵⁷ Policies and improved working procedures for humanitarian agencies have been produced on the CAP, gender, transition and post-conflict reintegration staff security, field coordination procedures, the use of military and civil defense assets, HIV/AIDs and Internally Displaced Persons (IDPs). The IASC has significantly contributed to the use of the framework approach and inter-agency collaboration, particularly among the UN humanitarian agencies. Currently the IASC is seeking to extend this model of working together to field operations.

So what effect have all these developments in procedures and mechanism had on actual operational coordination? A recent external review of the Inter-Agency Standing Committee (Jones and Stoddard 2003) concluded:

57. *The IASC was established in June 1992 in response to General Assembly Resolution 46/182. The IASC provides a forum that brings together as its Full Members the principal UN humanitarian agencies (OCHA, UNHCR, WFP, UNICEF, WHO, UNFPA, FAO) and as Standing Invitees the International Organization for Migration (IOM), the ICRC and IFRC, three NGO coordinating bodies/umbrella organizations (ICVA, SCHR, InterAction) and the World Bank, the Office of the Special Representative of the Secretary General on Internally Displaced Persons and the Office of the High Commissioner of Human Rights. The primary role of the IASC is "to formulate humanitarian policy to ensure coordinated and effective humanitarian response to both complex emergency and to natural disasters" www.humanitarianinfo.org/iasc*

“These tools are significantly more developed than they were five years ago. There is evidence that field level coordination has improved, at least among the UN system of agencies and with a sub-set of the major international NGOs.” However it also found “much less evidence of progress on solving perennial problems of mandate gaps, capacity gaps, or system-wide problems. In handling such issues as the ‘transition from relief-to-development’, IDPs, the military-humanitarian interface, etc.”

ALNAP’s annual reviews of evaluations of humanitarian programs frequently identify coordination as one of the weakest areas of the interventions evaluated, though good coordination practice does exist in a number of different operations and sectors (e.g. ALNAP 2002). Factors contributing to poor coordination include competition for funding and profile (by UN agencies as well as NGOs and other actors); pressures on agencies to be present and active in every high profile operation contributing to the presence of such large numbers of organizations in some operations that effective coordination becomes almost impossible; lack of clarity in the mandates and roles of key organization coupled with a willingness by some organizations to move out of their traditional mandates and areas of greatest competence in response to pressing unmet needs or by availability of funding; the quality and personalities of key individuals in the coordination structures and managing the field teams of key agencies.

Though somewhat caricatured the following quote captures these different pressures and approaches:

“In the field, political, humanitarian, development, protection, human rights and solidarity objectives – and their respective institutions – splash and overlap as in a Rorschach test. For better or for worse, mandate creep and forward flight into operational activism seem to be the names of the game. In Afghanistan, the ICRC runs agricultural programs; solidarity NGOs vie for public contracts; the military do “humanitarian” work dressed as civvies with weapons at the ready; UN humanitarian agencies carry out development; UN development agencies focus on relief; UN political and humanitarian entities carry out human rights work; UNHCR seeks development projects in order to raise money for protection; and NGOs act as donor mouthpieces, vice versa. Meanwhile, donors, UN and NGO coordination bodies try to make sense of it all, while everybody speeds around in white vehicles – to the consternation of the locals and their leadership.” (Donini 2004)

A potentially significant recent development has been the Good Humanitarian Donorship initiative. Recognition of the critical role of bilateral and multilateral donors in the functioning of the humanitarian sector and their limited direct participation in other accountability and performance enhancing initiatives in the sector led to a Conference in Stockholm in January 2003 at which 23 statements of Principles and Good Practice of Humanitarian Donorship were endorsed. These establish general principles and principles of good practice in funding, promoting standards and enhancing implementation, and learning and accountability. Currently donor performance against these principles is being examined in two selected test cases – both of which are in the Great Lakes region – Burundi and DRC.⁵⁸

58. <http://www.reliefweb.int/ghd/>

5.3 Progress in the Management of Relief

Policy and Funding for Preparedness Measures

The Joint Evaluation made two recommendations on Preparedness and Contingency Measures. The first was that all agencies and donors should “develop policy guidelines and operating procedures appropriate to their functions for undertaking needs and capacities assessments, contingency planning, preparedness measures and procurement of supplies and equipment for cost-effective interventions, as well as for cost-effective investments in mitigating critical logistical bottlenecks”. The second was addressed specifically to donors and agencies funding implementing partners that they should “be prepared to provide increased up-front funding to agencies for contingency planning and preparedness measures for major complex emergencies and honor pledges to do so” and develop “a common understanding regarding mutually acceptable levels of investment in contingency planning and preparedness measures and accompanying levels of risk.”

The OECD/DAC prepared a paper on the subject in 1997.⁵⁹ It concluded that while significant improvements had been made in preparedness during the 1990’s, the efforts were often fragmented and isolated and that the key problem was the unwillingness of agencies and governments to establish a systematic and forceful link between information gathering, the analysis of information and the planning of the response. It made a number of recommendations including encouraging a concentration of expertise and capacity among a few lead actors. Two years later a study by the Center on International Cooperation of approaches to preparedness in UNHCR, Oxfam, and IRC proposed a three-pronged approach of building preparedness capacity; removing obstacles to rapid response; and facilitating collaboration in the field⁶⁰.

There have been a number of initiatives and the development of mechanisms over the last few years in this field. One initiative has been the International Humanitarian Partnership (IHP – comprising the UK, Denmark, Sweden, Norway, Finland and the Netherlands) with the objective of providing tailor-made, mobile and flexible, rapidly deployable support modules in support of UN missions. The UN Disaster Assessment and Coordination Teams (UNDAC) and the Humanitarian Information Centers (HICs – operated as a common service to the humanitarian sector by OCHA) have been important beneficiaries of the IHP emergency support modules to date. The rapid movement of Albanian Kosovars to Albania and Macedonia in 1999 exposed severe weaknesses in UNHCR’s preparedness and response measures. Since then the agency has put significant efforts into improving its preparedness and response through the Emergency Security Management Initiative. Under this system potential countries are graded (1-3) in terms of their assessed risks of requiring UNHCR involvement and each grading carrying with it certain automatic preparedness steps such as readying standby partners,⁶¹ pre-positioning stocks, identifying funds and establishing inter-agency links. Increasingly, the larger agencies are participating in joint contingency planning exercises

59. OECD/DAC (1997) *Preparedness in the International Humanitarian System: A Policy Review of Contingency Planning, Funding and Preparedness in Relation to Complex Emergencies*

60. Center for International Cooperation (1999) *The Preparedness Challenge in Humanitarian Assistance* NYU.

61. Current standby partners include SRSA – Swedish Rescue and Safety Agency; DRC – Danish Refugee Council; RedR; THW – German Civil Defence; and NCA – Norwegian Church Aid.

Where large scale, high profile operations are anticipated – e.g. Afghanistan and Iraq – it appears that UN agencies, key NGOs and donors collaborated well in contingency planning and preparedness, though in neither case did the anticipated levels of population movements materialize.⁶² However, the system functions much less well in relation to lower profile, under-resourced contexts. According to one interlocutor the translation of contingency plans into practical operational plans is often a weak aspect of contingency planning in the humanitarian sector.

Refugee Camp Security

The Joint Evaluation highlighted the sharp challenges posed by the presence in the refugee camps in Tanzania and particularly in Zaire of ex-Far soldiers, Hutu militias, political leaders in the Habyarimana regime and those who had participated in the genocide. Despite requests by the UN Secretary General for the establishment of a force to separate the armed elements and non-bona fide individuals from the genuine refugees, only one country had offered troops and the force was never assembled. The presence of the armed elements and the location of the camps so close to Rwanda's borders represented a very real threat to Rwanda's security as well as to the safety and protection of the refugees themselves and to the surrounding populations, particularly in eastern Zaire where there were already pre-existing tensions between the Congolese population and the *Banyarwanda* and *Banyamulenge* who had long been settled in the area. Despite the 1969 OAU Refugee Convention clearly stating "for reasons of security, countries of asylum shall, as far as possible, settle refugees at a reasonable distance from the frontier of their country of origin"⁶³ both the Government of Zaire and international donors were reluctant to undertake the costly relocation of the camps.

As shown in Chapter 2 the failure by the international community to deal with the refugee issue during 1995-96 resulted in the RPA intervening in Zaire/DRC in support of the AFDL uprising of October 1996 and to the RCD/MLC uprising of August 1998. The former intervention killed tens of thousands of innocent refugees as AFDL/RPA forces pursued the ex-FAR and Hutu militias deep into Zaire and resulted in the deposition of President Mobutu and his replacement by Laurant Kabila. The second intervention precipitated the first pan-African war involving eight foreign national armies confronting each other on DRC territory and caused or contributed to at least 3 million excess deaths over the period 1998-2003. Despite the killing of many of the ex-FAR and Hutu militia combatants and the demobilization and repatriation to Rwanda of substantial numbers by MONUC since 2002, the continuing presence of a number of Rwandan combatants in eastern DRC continues to be used as a pretext by Rwanda in seeking to influence the course of the peace process and the work of the Transitional Government in eastern DRC. The consequences of the international community's failure to deal with the security issues in the refugee camps in 1995-96 have had profound consequences for the entire region and millions of people.

The Joint Evaluation recommended that UN peace missions be given the authority and the means to ensure the protection of camp populations and aid workers, working where appropriate in coordination with host governments, and in disarming camp residents, separating genuine refugees from those not entitled to refugee status, preventing military training of camp residents and expelling hostile leadership from the camps and splitting

62. *UNHCR is currently drawing on the contingency stocks propositioned in the Gulf in 2002-2003 for use in Darfur.*

63. *Article II (6) of the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.*

up large camps into smaller ones at a greater distance from the border. In addition it recommended that official and non-governmental agency staffs should be advised on prudent patterns of behavior to minimize security problems.

The UN Secretary General's 1998 'Report on the Causes of Conflict and the Promotion of Durable Peace and Sustainable Development in Africa' gave impetus to discussion of the issue by the Security Council and UN agencies. UNHCR developed the concept of a 'ladder of options' for ensuring 'the security and civilian and humanitarian character of refugee camps and settlements', ranging from preventive measures and cooperation with law-enforcement authorities in the host countries, through the deployment of civilian or police monitors to the deployment of a UN peacekeeping or other type of regional or multinational force under Chapter VII of the UN Charter. Operationalizing the 'ladder of options' has involved the creation of new posts in UNHCR at the HQ level and in the field in the form of Humanitarian Security Officers and the development of a closer working relationship with DPKO.

Where the local police force is capable and the security threats are not great UNHCR has evolved a 'security package' approach. This began in 1998 with a 'security package' arrangement with the Tanzanian Police annually providing approximately USD1.5 million worth of assistance towards the costs of deploying police in the camps, constructing new police posts, providing training and contributions to the cost of vehicles, bicycles and radios (Crisp 2001). The overall success of the 'security package' approach in Tanzania has resulted in its replication elsewhere, though with modifications to address the needs of the local context. In Guinea for instance a worsening security situation in and around the Liberian refugee camps in 2000 resulted in the relocation of the camps further back from the border, the deployment of a 'mixed force' of local police and gendarmerie. However because of the lower capability of the local police force officers seconded from the Royal Canadian Mounted Police were seconded to provide training and supervisory support.

In the more challenging context of armed ex-combatants among the refugees much depends on the capacities available locally to achieve the necessary disarmament and separation of the ex-combatants from the bona fide refugees. In DRC in 2001 the presence and active cooperation of MONUC soldiers enabled the successful separation of a group of soldiers and their families (1,200 people in all), from a larger group of approximately 25,000 refugees who had fled the Central African Republic after a coup attempt. (Yu 2002). However, camp security remains a critical issue in other parts of the Great Lakes as illustrated by the killing of 160 Congolese refugees in a UN transit camp at Gatumba near Bujumbura in August 2004.

Recognition of the need to develop a closer working relationship between UNHCR and the 'peace and security' pillar of the UN led to a process beginning in 2002 that includes staff exchanges and agreed areas and modes of collaboration including design of the mission and mandates of peacekeeping operations and Disarmament, Demobilization, Repatriation, Reintegration and Resettlement (DDRRR). In April 2004 the Under-Secretary General of DPKO and the High Commissioner for Refugees jointly addressed their staff with the agreed areas of cooperation. Such developments represent progress. However, it remains to be seen whether a repeat of the extremely challenging situation that faced UNHCR, DPKO and the Security Council in eastern Zaire in the 1994-96 period would be met with a more meaningful and vigorous response. Increased awareness of the costs of not dealing effectively with the issue of armed elements in the

refugee camps ought to, but cannot be guaranteed to, produce robust and effective interventions.

Though we do not have sufficient information to make an objective overall assessment of practices in relation to the location of refugee camps in relation to international borders, there does appear to be a greater appreciation of the issue and a greater preparedness to meet the additional costs involved in relocating camps away from the borders of conflict-affected, refugee-generating countries. The relocation of Liberian refugees in Guinea further back from the border with Liberia in 2000 noted above significantly improved their security. In Chad in December 2003 UNHCR took the difficult and costly decision to relocate Darfurian refugees in settlements strung along the border area to new camps well back into Chad. This decision was in response to cross-border attacks on the settlements by *Janjaweed* militia but was also influenced by the suspicion that some of the refugees were regularly crossing back into Darfur to fight with the rebels of the Sudan Liberation Army and the Justice and Equality Movement. By September 2004 118,000 refugees had been relocated to the new camps.⁶⁴ However, in other operations it seems that the combination of host government reluctance to allocate necessary land and the high costs involved of establishing the new infrastructure required by new, planned camps often deter camp relocation even where it is acknowledged to be desirable.

Development of an Integrated Humanitarian Early Warning System

In addition to a recommendation which called for the establishment of a unit for the strategic analysis of early warning of conflicts and genocide within office of the UN Secretary General (see Section 4.3), the Joint Evaluation also recommended establishment of an Integrated Early Warning Cell within the Department of Humanitarian Affairs (now OCHA) to provide warning of population displacements and sudden increases in relief needs. OCHA has established an Early Warning Unit which forms part of the 'Framework Team' within the UN system (the Inter-Departmental Framework for Coordination on Early Warning and Preventive Action noted in Section 4.3). Responsibility for warning of population displacements is shared between agencies and those with a presence on the ground (which might include UNHCR, WFP, UNICEF or OCHA,) feeding the information into the Framework Team and into either the response or contingency planning processes.

As noted earlier in relation to contingency planning (para 5.21) UNHCR has significantly improved its early warning and contingency planning procedures (the Emergency Security Management Initiative – ESMI) following a critical evaluation of its early warning and contingency planning mechanisms during the 1999 Kosovo crisis. A network of external analysts and country specialists produces a monthly update of "Hot Spot" countries and their likelihood of generating significant population displacements. This assessment links the identified countries to three levels of organizational preparation with pre-positioning measures taking place as part of the 'amber' stage and preparation of Emergency Response Team deployments and 'Standby Partners'⁶⁵ as part of the 'red' stages.⁶⁶ Though welcome such developments do not appear to address those situations where population displacements build-up in areas where UN staff and potential

64. <http://www.unhcr.org/> 'Darfur/Chad Emergency' site 7/9/04.

65. *Standby arrangements to provide emergency response capacity have been agreed with a number of different organisations including the Swedish Rescue and Safety Agency, Danish Refugee Council, RedR, Norwegian Church Aid and THW – German Civil Defence.*

66. *UNHCR 2004 Emergency Preparedness and Response Paper presented to the 29th meeting of the Standing Committee EC/54/SC/CRP.4 and Geoff Wordley Personal Communication.*

observers are not present – as in north-west Rwanda during the three weeks preceding the July 1994 refugee influx into Goma. The lack of UN personnel on the ground in Darfur during critical stages of 2003 and early 2004 are understood to have limited the warning of new influxes available to UNHCR teams working in Chad.

Systematically Assess Comparative Cost-Effectiveness of Use of Military Contingents in Humanitarian Relief Operations

The JEEAR recommended that a study be undertaken to compare the cost-effectiveness of military and civilian channels for the provision of humanitarian assistance. The study was undertaken by the OECD/DAC in 1998⁶⁷ It concluded that “Civilian assets are, in general, more cost-effective. Military means, which are designed to be fail-safe rather than efficient, will cost more task-by-task than civilian means”.

The JEEAR did not make any recommendations regarding civil-military cooperation.

Professional NGO Performance and Ensuring Accountability

‘Professional NGO Performance’ and ‘Ensuring Accountability’ were the subjects of separate recommendations by the Joint Evaluation and are considered jointly here because of their close relationship.

To achieve more professional NGO performance the Joint Evaluation recommended that the Red Cross/NGO Code of Conduct and “A set of standards being developed by several NGO networks that is intended to supplement the Code of Conduct” (i.e. what subsequently came to be known as the Sphere Project) ... “be widely disseminated and promoted among NGOs, official agencies and governments”. This recommendation was complemented by a recommendation addressed to NGOs, the Red Cross, the UN IASC and donor organizations and member states that proposed two optional routes by which compliance with the Codes and standards could be achieved:

- Option 1. Self-managed regulation. Under this option, NGO networks would be assisted in acquiring greater capacity to monitor member compliance with the Code and standards.
- Option 2. An international accreditation system. Under this option, core criteria for accreditation would be developed jointly by official agencies and NGOs.

The Joint Evaluation recommended use of an accreditation system.

To achieve improved accountability within the humanitarian sector the Joint Evaluation offered a choice of three options⁶⁸ while recommending the third. The first option involved simply the implementation of other recommendations on agency coordination; standards of NGO conduct and a commitment to the Red Cross/NGO Code of Conduct as, taken together, these would achieve some improvements in accountability. A more radical proposal was that a unit be established within UN/DHA that would:

- undertake regular field-level monitoring and evaluation of emergency humanitarian assistance, and review adequacy of standards followed;

67. OECD/DAC (1998) *Civilian and Military Means of Providing and Supporting Humanitarian Assistance During Conflict: Comparative Advantages and Costs Conflict, Peace and Development Co-operation Report No 1*. Paris:OECD/DAC.

68. *The practice of offering options within certain recommendations was requested by the Steering Committee of the Joint Evaluation following the presentation of single recommendations only at the draft stage.*

5. HUMANITARIAN RESPONSE

- serve as an ombudsman to which any party can express a concern related to provision of assistance or security;
- set up and manage on behalf of the international community a database on emergency humanitarian assistance operations; and
- prepare periodic status reports for the public domain.

If this recommendation were not regarded as feasible an alternative proposal was to “identify a respected, independent organization or network of organizations to act on behalf of beneficiaries of humanitarian assistance and member states to perform the functions described in Option 2 above.” It was this final option that was recommended by the Study 3 team.

Since 1996 the Humanitarian Sector has undertaken a range of initiatives aimed at improving performance and accountability within the sector. The principal initiatives have been the Sphere Project, the Active Learning Network for Accountability and Performance in Humanitarian Action (ALNAP), People in Aid and the Humanitarian Accountability Partnership-International,.

Discussions about developing performance standards within the humanitarian sector were already underway within the NGO sector by 1995 and the Joint Evaluation gave encouragement to the development of these standards. Fundraising for an initiative by the Steering Committee for Humanitarian Response (SCHR) and the US NGO umbrella InterAction took place after the publication of the Joint Evaluation and the project, titled the Sphere Project commenced in 1997. Through an inclusive process (involving over 4000 organizations in 80 countries) standards were developed in each of five key sectors (water supply and sanitation, nutrition, food aid, shelter and health services). In addition a Humanitarian Charter was developed that brought together the elements of the Red Cross/NGO Code of Conduct and the key provisions of international humanitarian law, human rights law and refugee law. A trial Handbook was published in 1998 and the first Sphere Handbook was published in 2000. Following reviews of experience in using the handbook and extensive dissemination activities a revised Handbook was published in 2004. Though criticized from some quarters for its use of the notion of “minimum” standards rather than “benchmarks”, the difficulty of setting standards that would apply to different geographical and cultural contexts and its emphasis on the assistance elements rather than the protection elements of humanitarianism, the Sphere Standards have been widely translated and adopted around the world. A recent evaluation of the Sphere Project noted “it is clear that there is a widespread perception that it has had a beneficial effect” (Van Dyke and Waldman 2004). A study by Buchanan-Smith showed how the Joint Evaluation’s recommendations on professional NGO performance and improving accountability had simultaneously encouraged and pressured NGOs to develop the Sphere Project (Buchanan-Smith 2003).

The concept of ALNAP developed during a presentation of Joint Evaluation Study 3 to a meeting of European and Nordic bilateral donors in Copenhagen in 1996. The network was launched in 1997 to provide an international, interagency forum working to improve learning, accountability and quality across the Humanitarian Sector. It currently has 50 Full Members and over 350 Observers Members bringing together bilateral and multilateral donors, UN agencies and departments, NGOs, the Red Cross and Red Crescent Movement with the Full Members drawn from a mix of policy, operations, evaluation and monitoring sections of their organizations. During its first years it focused upon encouraging greater use of evaluation in the humanitarian sector and undertook a

range of initiatives aimed at improving the quality and use made of such evaluations. In part due to ALNAP's activities, evaluations of humanitarian programs are now routine within the sector and their quality has improved.

People In Aid is an international network of development and humanitarian assistance agencies working to improve human resource management and support. It was formed in 1999 out of an earlier inter-agency working group that had undertaken a critical survey of human resource management in the sector and the development of a code of best practice for human resource management – the People in Aid Code of Best Practice. The Code comprises seven principles: health, safety and security; learning, training and development; recruitment and selection; consultation and communication; support, management and leadership; staff policies and practices; and human resources strategy. People in Aid has over 50 member agencies.

One year after publication of the Joint Evaluation a group of UK NGOs formed the Humanitarian Ombudsman Project. At an international conference in Geneva in March 2000 to review the findings of the Ombudsman project, it was recognized that an international Humanitarian Ombudsman was not be the best approach possible to tackle accountability problems. Thus the humanitarian accountability project was born to identify, test and recommend a variety of accountability approaches and mechanisms. During the period 2000-2003 through a process of consultation, research and negotiation a framework and approach was developed that resulted in 2003 in the creation of the Humanitarian Accountability Partnership-International (HAP-I). The objective of HAP-I is to make humanitarian action accountable to its intended beneficiaries through the use of both the self-regulation and accreditation methods that were posited as alternative approaches by the Joint Evaluation. Members of HAP-I (currently 16 agencies) seek to comply with seven "Principles of Accountability" in the belief that the design and implementation of their humanitarian work will be strengthened, and that as a consequence, confidence in, and support for them will also be enhanced.

In addition to these principal initiatives the humanitarian sector has also seen a dramatic increase in the provision of training courses by dedicated training providers such as RedR and BioForce Développement, by universities, by civil defense organizations and humanitarian agencies. The training section of Reliefweb lists nearly 100 organizations providing training on various aspects of humanitarian action.

Despite the impressive range of initiatives in the humanitarian sector in the period since 1996 it is interesting to reflect back on those recommendations of the Joint Evaluation that have not been implemented or come to fruition. The Red Cross/NGO Code of Conduct gained a wide sign up by organizations within the humanitarian sector but it is a voluntary, self-policing code and compliance mechanisms envisaged by the Joint Evaluation have not developed. Though national-level groupings of NGOs (such as the UK's Disasters Emergency Committee) use the Code to sanction members if need be, as yet an international association of humanitarian NGOs possessing the authority to sanction its members has not formed. Though the Ombudsman concept was actively considered by UK NGOs a different model and approach was adopted in the subsequent development of HAP-International. Neither DHA or its successor OCHA, have given serious consideration to establishing an Ombudsman for the humanitarian sector. While independent evaluations and ALNAP's synthesizing of such evaluations in its Annual Reviews goes some way to addressing the notion of 'third-party' monitoring and placing status reports in the public domain, this recommendation has not developed as envisaged by those involved in Study 3 of the Joint Evaluation.

Have these initiatives resulted in improved NGO performance and accountability? Of the principal initiatives described above only the Sphere Project has yet been the subject of an evaluation, which was broadly positive (Van Dyke and Waldman 2004). Despite the advent of the ALNAP Annual Reviews in 2001 and their synthesis of the results of evaluations of humanitarian action, the evidence base for making generalized statements about trends in performance in the humanitarian sector remain surprisingly patchy. Notwithstanding these observations, in the opinion of our interlocutors, there have been significant improvements in performance over the past decade.

Minimize Adverse Local Impacts

The Joint Evaluation found that the huge refugee camps in Tanzania and Eastern Zaire had had significant negative environmental impacts on areas around the camps and that support to communities in the hosting areas by UNHCR, UNDP and other agencies had been inadequate. Among the recommendations to minimize and mitigate adverse impacts of refugee populations on surrounding populations and their environments were that standard operating policies and procedures be prepared, that food commodities that minimize cooking requirements and fuelwood use would be provided and that other assistance to hosting communities would be extended..

Since 1996 a number of steps have been taken to address these issues. Revisions to the Memoranda of Understanding between UNHCR and UNICEF in 1996 and between UNHCR and UNDP in 1997 specifically mentioned consideration of the needs of local communities in refugee hosting areas in the design of programs. The 1997 revision to the MOU between UNHCR and WFP specifically mentions the need to minimize the environmental impacts in choosing commodities and the fuel sources most likely to be used. UNHCR's 2003 'Framework for Durable Solutions for Refugees and Persons of Concern' includes programs for Development Assistance to Refugees and Development through Local Integration that include the goals of sustainable improvements in conditions for host communities as well as refugees. UNHCR has also developed comprehensive guidance on environmental management in refugee operations (UNHCR 1998) and has a dedicated unit in HQ. The most the most recent version of the UNHCR Handbook for Emergencies (UNHCR 2000 b) repeatedly refers to the need to consider the needs of the local populations and host communities. However, studies of the impact of refugee operations on host communities continue to tell a story of negative impacts on certain sections within the host communities, often the poorest least able to adapt, that are not offset by the economic opportunities and improved access to certain types of services resulting from the refugee operation (Whitaker 1999). In the arid, resource scarce context of Chad, a recent UNHCR Real Time Evaluation notes the development of resource conflicts between the Darfurian refugees and local Chadians and the need for these to be addressed by the response program if such conflicts are not to worsen (Bartsch and Belgacem 2004).

Equitable Food Distribution

The Joint Evaluation found that the use of commune leaders as an expedient mechanism for food distribution in the huge camps in Tanzania and Eastern Zaire had resulted in rations being diverted from refugee consumption and reinforced the power of the commune leaders and of the Hutu militia present in the camps. It recommended the use of distribution systems providing rations directly to the household level. In the majority of refugee camps food is now distributed direct to households using ration cards⁶⁹. However, in the early days of large-scale refugee influxes where formal registration has

69. Stephen Green, WFP, personal communication.

not yet been undertaken, UNHCR and its implementing partners have little choice but to make use of the group leadership within the refugees to organize initial distributions.

Assess the Roles of the Media

The role of the media in the development and coverage of armed conflicts and genocide was discussed in Section 4.6. The media also play a critical role in relation to the humanitarian response.

Due to the important role of private funding for NGOs the amount of media coverage of a particular humanitarian crisis can have a substantial impact on the amount of private funding that is available. So called “forgotten emergencies” that receive little or no coverage in international press and television will receive only limited funding from private sources and agencies involved in the response will be heavily reliant on the levels of funding provided from official sources. In contrast, humanitarian crises that receive high and sustained levels of coverage (such as the Kosovo crisis in 1999) are also likely to receive high levels of private funding. While this dynamic is understandable in relation to private funding, the same dynamic is also evident though to a lesser extent in relation to official sources. Increased media coverage of a humanitarian crisis generally leads to increased funding from official sources as bilateral donor organizations and their ministers come under pressure from their respective public and parliaments and then from journalists “to do more”. Such pressures are undoubtedly heightened by the involvement of troops from that country in the peace enforcement or peacekeeping operations associated with that humanitarian crisis. With the two dynamics (private and public funding) operating in the same direction high and sustained media coverage can produce exaggerated levels of assistance in some contexts, contrasting with totally inadequate levels of funding in other contexts that have not been visited by international television crews and where ‘the story’ has not caught the attention of press and TV editors.

A study by Oxfam (2000) found that in response to the 1999 UN appeal for Kosovo and the rest of former Yugoslavia, donor governments gave USD 207 for every person in need. Those suffering in Sierra Leone received USD16 a head, and in the Democratic Republic of the Congo, little over USD 8. It concluded “the reality that Oxfam sees in disasters around the world [is] that, despite their own tenacious efforts, people suffer because not enough aid is given to those emergencies beyond the media spotlight, or outside the areas of interest to the main Western governments.” Addressing or at least reducing such enormous discrepancies in levels of resourcing is one of the objectives of the Good Humanitarian Donorship Initiative.

Television coverage of the international response to humanitarian emergencies is often restricted to news programs that tend to give profile to the situation when dramatic footage is available but drop it once “the story” is judged to have “been covered” by editors and/or dramatic footage is unavailable. Because of the costs of deploying international TV crews and the competition between news organizations the resources available are rarely adequate to sustain coverage for more than a few days and so TV crews may spend only a few days in the area before being deployed to cover another story in another country. A concern with providing a connection between the viewing audience and the international assistance and staff involved frequently results in interviews with expatriate staff even when they comprise only a tiny percentage of the personnel involved in a response. (Benthall 1993; SCF/ECHO 1998; Ross 2004)

5.4 Some Observations on the Recommendations and Developments in Relation to Humanitarian Response Since the Joint Evaluation

There have been a number of significant developments in relation to response since 1994 in both the military and humanitarian spheres. In the military sphere peacekeeping deployments are generally now more robust, there is a greater willingness to undertake forceful interventions by some states in some contexts to confront those undertaking massacres and widespread abuses of human rights. However, there appears to be little consistency in international approaches to the different cases, and the response to mass killings and conflicts in Africa continues to be generally extremely slow and risk-minimizing. In contrast, in the humanitarian sector there has been an impressive number of initiatives aimed at improving coordination performance and accountability that are generally perceived to have had a positive impact. In addition there have been a range of efforts to improve contingency planning and the rapid expansion of operational capacity where needed. Whilst these are viewed positively, they do not guarantee that, when faced with the same situation that confronted agencies in the Great Lakes region in 1994, that the response would be markedly better.

In retrospect, it would appear that an important recommendation of the Joint Evaluation on coherence has been interpreted and implemented in ways that were not anticipated and that have subsequently been judged to have had negative results in the humanitarian sector.

6. Assessment of Developments in Rehabilitation, Reconstruction and Recovery

6.1 What the Joint Evaluation Recommended

This chapter reviews post-conflict issues, including international assistance, security, macroeconomic and political stability, justice and human rights, repatriation, reconciliation, and the role of the media. These issues remain critical for Rwanda.

There is no sharp demarcation in practice between the concepts of rehabilitation, reconstruction, and recovery. Planning for all three should take place in conjunction with peace negotiations. The historical record in this respect is mixed. In El Salvador, economic planning for reconstruction by the Bretton Woods Institutions and peace negotiations led by the UN were compartmentalized – to the disadvantage of all parties, including the country.⁷⁰ The bulk of emergency relief would normally be delivered during the crisis, but may continue for a brief period after peace accords and include modest rehabilitation assistance (e.g. for basic shelter repair). Among other things, rehabilitation aid may include assistance for education. Lines between rehabilitation, reconstruction, and recovery are blurred.

Relevant Joint Evaluation Recommendations

A. Critical Recommendations to UNSG, UNSC, Donor Agencies, NGOs, Red Cross etc

A-7. Rapid Availability of Flexible Resources for Key Functions

D. Supporting the Rebuilding of Society

D-1. Expand Support for Justice System and Law Enforcement

D-2. Remove Barriers to Repatriation

D-3. Support to Reconciliation Efforts

E. Roles of the Media

E.1. Assess the Roles of the Media

F. The Regional Dimension

F-1. Immediate and Urgent Measures for Burundi

F-2. Formulate a Supportable and Sustainable Development Strategy for the Region

6.2 Progress in Supporting Rehabilitation, Reconstruction and Recovery

Full, sustainable recovery from violent conflict is likely to be a long-term process. The definition of “long-term” will vary from country to country. The Ugandan experience suggests that at least two decades of sustained effort were required there (World Bank

70. See Boyce 1996, De Soto 1994, and World Bank 1998b.

1998c: 83). The great trauma in Rwanda, measured in part by the intensity of killing in a short period of time, suggests that sustainable recovery will take longer. Such assessments turn, of course, on the definition of "recovery." At the macroeconomic level, with the annual growth of real GDP in Rwanda averaging just over 6% for the last five years (1999-2003), and estimated to keep growing at the same impressive rate for the next two years, it would appear that economic recovery is around the corner, if it hasn't already arrived (IMF 2004: Annex Table 6).⁷¹ But, as observed in Chapter 2, a major driver of recent economic growth has been a favorable world coffee market; something that all coffee producing countries have learned cannot be counted on. Moreover, data on how the benefits of economic recovery have been shared are mixed. National poverty headcount data are not available and data on growth rates in key sectors, like agriculture, where the poor – and the Hutu – are concentrated, are contradictory, with one series suggesting agriculture lagging behind the rest of the economy and another series indicating that agriculture has kept up with, or even exceeded, growth in the economy as a whole.⁷² Many observers would argue that the political and social sustainability of recovery is far from achieved (Christian Aid 2004; Reyntjens 2004).

The role of the international community in the early post-conflict period has typically been to emphasize assistance to restore macroeconomic stability. Rwanda was no exception. Widespread violent conflict is destabilizing economically as well as politically and socially. Assistance for strengthening the justice system was also an early and continuing emphasis of external aid to Rwanda. Donors have also been concerned about reconciliation but this has been a difficult and contentious area. Most observers believe that it will be a matter of decades if not generations before reconciliation is achieved in Rwanda and that in the meantime, tolerance is a more realistic goal (Anderson and Olson 2003: 24,31).⁷³ Others have expressed doubt about the international community's effectiveness in fostering reconciliation in any event.⁷⁴ Some of these issues are discussed further in the following sections that cover rapid, flexible resources; restoring security; macroeconomic and political stability; justice and law enforcement; repatriation, compensation and restorative justice; and the role of the media.

Rapid Availability of Flexible Resources for Key Functions

The following section first discusses an overarching Joint Evaluation recommendation calling for the provision of flexible, fast-disbursing aid resources in a post-conflict situation. This recommendation applies to all forms of assistance, including emergency assistance. But in Rwanda it applied with special force to reconstruction and recovery assistance because the needs were so great and fast-disbursing, flexible assistance was very slow in coming.

For the first year after the Rwanda genocide, flexible aid was promised but disbursed very slowly. The pace picked up in the second and subsequent years. Consequently, the Joint Evaluation made the following recommendations (A-7):

- 1) Initiate, at the earliest possible stage, consultations between donors and the government to address concerns on both sides, and to agree on the conditions under which donors will provide assistance.

71. *In fact, GDP reached its pre-genocide level in the year 2000.*

72. *The results for agriculture differ between series for annual growth rates and series for shares of GDP. See World Bank 2004: 29 and*

73. *Robert Muscat, personal communication.*

74. *Also see the BBC New Website, "Have the lessons been learnt from Rwanda?" 15 April 2004. http://news.bbc.co.uk/1/hi/talking_point/3602369.stm*

- 2) Develop guidelines through DAC for countries recovering from complex emergencies that:
- 3) Ask donors to allocate designated resources to “recovery funds” as a category distinct from emergency relief funds on the one hand, and longer-term development funds on the other.
- 4) Indicate how donor accountability requirements can be met in providing fast-disbursing, untied recovery funds without re-introducing protracted processes and requirements that recovering countries will not be able to meet; and
- 5) Propose procedures dealing with such matters as utilization of NGOs, donor coordination, etc., tailored to the circumstances of complex emergencies.

There has been some improvement in the performance of donors in these respects. In Rwanda, the volume of British aid has grown substantially, with about half provided as general budget support under the Government’s Poverty Reduction Strategy Paper (PRSP). Budget support is, at least in principle and intent, more flexible and faster disbursing than project aid. Citing, among other sources, the call of the Joint Evaluation to “shorten the transition from emergency assistance to recovery aid,” a recent independent study called for a rapid response “Global Reconstruction Fund,” to be administered jointly by the World Bank, the UNDP, and the UNHCR (Forman and Patrick 2000:42). The proposal has not been taken further since, according to one observer, there has been little international appetite for a third pillar ‘recovery fund’ (between emergency and development budgets).⁷⁵ This is for two reasons: first, the resources for such a fund would unlikely be ‘new money’ but rather a re-allocation or stretching forward and backward of existing emergency and development budgets; and second, a view that managing three budgets would increase bureaucratic complexity and, ironically, potentially add to, rather than subtract from, delays.

The following paragraphs focus on the World Bank. This reflects the availability of information to the authors. Similar analyses for other major donors should have been undertaken. Time and resource constraints precluded this.

The World Bank has made relatively steady progress in providing more timely recovery funds. In 1997, the Bank established a *Post-Conflict Fund* (PCF). The Fund provides grants with a focus on the restoration of lives and livelihoods of war-affected populations, with priority given to innovative approaches to conflict, partnerships with donors and executing agencies and leveraging resources through a variety of funding arrangements. Between 1997 and the end of 2003, about USD 63 million had been allocated to 150 projects in 30 countries.⁷⁶ In 2001 the Bank issued a new policy, *Development Cooperation and Conflict* (OP 2.30, World Bank 2001), which provided for “exceptional financial assistance” for post-conflict countries, holding out the possibility for flexible, fast-disbursing grant funding in “transitional” post-conflict situations. Each proposal for exceptional financial assistance is subject to approval by the Bank’s Board and must be consistent with the Bank’s other financial policies, its preferred creditor status, and with the principles of burden sharing (World Bank 2001: para 11).

75. *This observation and several in the following four paragraphs are drawn from personal communications from Colin Scott as well as from World Bank publications.*

76. *The maximum grant is USD 1 million, although there have been exceptions. The average grant size of USD 420,000 over the 7-year life of the Fund has been increasing, with USD 11.8 million provided for 16 grants, or an average of about USD 740,000 per grant, in 2003.*

A new “LICUS” (“Low-Income Countries Under Stress”) Trust Fund was established in 2003. This potentially significant instrument provides larger grants than the Post-Conflict Fund, up to USD 5 million per country. The initial allocation to the LICUS Fund was USD 25 million over a 3-year period. Thus, the number of countries to receive grants will necessarily be relatively small – at least to begin with. LICUS Fund grants have been made to the Central African Republic (CAR) and to Liberia so far. Grants are in process for Haiti, Somalia, and Sudan. The substantive orientation of the LICUS Fund goes beyond the “innovative” orientation of the Post-Conflict Fund to include basic developmental areas, such as governance, capacity building, and implementation of key public services. The fact that the LICUS initiative is managed from the Bank’s Vice-Presidency for Operational Policy and Country Services is seen as boosting the status of this initiative as compared with that of the Conflict Prevention and Reconstruction (CPR) Unit, which is located in the Social Development Department of the Vice Presidency for Environmentally and Socially Sustainable Development.

The concessional lending mechanism of the Bank, IDA (International Development Association), includes a “post-conflict window.” This window could theoretically provide much larger, fast-flowing resources to a post-conflict country. The “P-C” credits include a mix of grant resources, making them even more concessional than normal IDA resources. But to be eligible, a country must meet IDA requirements, including not only need in terms of low per capita income, but also in terms of policy performance criteria. Therefore, the scope for post-conflict countries to take advantage of this opportunity is probably going to remain limited. Country-specific multi-donor trust funds have been established for several countries, including Afghanistan and East Timor. These typically provide major resources for those few countries for which such funds have been established.

A recent promulgation of new operational policy has significant implications for Bank post-conflict programs. This policy sets out guidelines for expenditures eligibility: *Eligibility of Expenditures in World Bank Lending: A New Policy Framework* (World Bank 2004c). The new policy permits Bank financing of local costs, recurrent costs, “reasonable costs” of taxes and duties associated with project expenditures, and in certain circumstances a range of other expenditures. This relaxation makes Bank lending much more valuable in typical post-conflict settings.⁷⁷

With regard to a Poverty Reduction Strategy Paper (PRSP), the issue is meeting its requirements. Country ownership of a long-term, results-oriented strategy focused on poverty reduction is at the core of a PRSP. So is good, accountable governance. Not all post-conflict countries can meet these requirements, at least not in the immediate post-conflict period. Moreover, a PRSP does not automatically entail budget as opposed to project support. Donors normally require evidence of sound financial management systems in the recipient government as a condition of providing budget support –PRSP or no PRSP.

At the other extreme are instances where the existence of a sovereign country is in doubt, or non-existent (e.g. Bosnia, at the outset, and West Bank and Gaza). In these cases, special Trust Funds have been established, such as the Holst Fund. New policies and new instruments do not guarantee efficient implementation. Countries and NGOs

77. *A revision in the Bank’s overall operational policy for post-conflict assistance is also in the works. This would expand Operational Directive 8.50, which currently focuses on natural disasters, to give adequate attention to so-called “complex emergencies” or manmade conflicts.*

continue to complain about delays and inflexibilities in the disbursement of recovery funds, regardless of the instrument.⁷⁸

Restoring Security

Physical security is fundamental to all other forms of economic and social exchange. Almost total lack of security was one of the hallmarks of the Rwanda conflict and genocide and the violent conflicts that mark other “complex emergencies” around the world. A signed peace agreement does not guarantee a return to sustained security, however. Assistance to the parties to restore the security sector is one of the highest priorities in an immediate post-conflict situation. This importance is manifested by the recent issuance of a new OECD/DAC statement on Security System Reform (OECD 2004).

In most immediate post-conflict settings, a high degree of insecurity prevails and law and order are tenuous at best. The means of providing what security there is vary considerably. Security, as well as insecurity, may be provided by the victorious army, as was the case in post-genocide Rwanda. Or government forces and rebels may provide security in different sectors. Or a combination of international peacekeeping forces and warlords may provide it, as in post-conflict Afghanistan. In Rwanda the international community relied on Government forces (Rwandan Patriotic Army – RPA) to provide security, in spite of incidents and allegations of abuses and human rights violations.⁷⁹

Demobilization, reinsertion, and reintegration of ex-combatants have been a key prerequisite for improving security in post-conflict situations. While there was a modest demobilization of Rwanda armed forces in 1996, the situation was further complicated by the large numbers of combatants of the army of the former regime (FAR) and the notorious militias that had fled, along with massive numbers of refugees – mostly to Eastern Zaire – in July 1994. The former FAR combatants and militias sowed insecurity when they made raids into northwest Rwanda.⁸⁰ Some former combatants have returned to Rwanda and pose a different challenge. Their reintegration has involved a difficult re-education process.

The Joint Evaluation identified the challenges in this area but did not make any recommendations. As noted in Chapter 2, Rwanda was unique in that the victorious army took charge of most disarmament, demobilization, repatriation, reintegration and resettlement activities. One of the subsequent developments in the UN system has been greater collaboration between relevant departments and agencies in the design and implementation of what have come to be known as Disarmament, Demobilization, Repatriation, Reintegration and Resettlement (DDRRR) activities. In subsequent complex emergencies, donors have typically sought to address security needs through support for DDRRR programs, and they have become a common feature of post-conflict programs where the international community has and maintains a strong presence. In Liberia the end of the first civil war was not followed by an internationally supervised or

78. *This issue is a reported major irritant in Afghanistan. Comment from Larry Minear, June 8, 2004.*

79. *The most serious incident being killings in April 1995 at the Kibeho Displaced Persons Camp, where, as noted in Chapter 2, estimates of the massacre by Rwandan Patriotic Front (RPF) forces ranged from an initial UN estimate of 8,000 persons (subsequently revised to 2,000) to a Government estimate of 400, and an independent estimate of 3-4,000.*

80. *The extent to which incursions from the DRC continue is not clear. For example, GoR claims of a recent incursion into northwest Rwanda have not been verified by any independent source, including a MONUC investigation that found no evidence that would establish an incursion. Moreover, the well-equipped Rwandan Army outnumbers estimated combatants in DRC by a factor of almost ten. Personal communication from Alison Des Forges.*

managed DDRRR process and it was only a matter of time before a second civil war developed. In Afghanistan, reintegration training was provided to combatants.

The international community, including the World Bank, has assisted demobilization in a number of countries. The experience of Mozambique is believed to have been particularly successful. One reason for this is the high degree of participation by Mozambican officials in the design and implementation of the demobilization program. In spite of the problematic experience of international peacekeeping efforts in the DRC, a mandate to carry out a DDRRR program was sufficient to get Security Council approval in December 2002 to expand the strength of the UN Military Observer Mission in the Congo (MONUC) to 8,700 in order to implement the DDRRR Program. Such developments represent progress. However, as also noted in Chapter 2, it remains to be seen whether a repeat of the extremely challenging situation that faced UNHCR, DPKO and the Security Council in eastern Zaire in the 1994-96 period would be met with a more meaningful and vigorous response.

Macroeconomic and Political Stabilization

Macroeconomic and political stability have long been recognized as basic prerequisites for sustainable recovery from violent conflict. James Boyce has consistently pointed out the interrelationships between these two dimensions and the need to ensure that the efforts of donors to support the two types of stability are compatible and reinforcing rather than competitive and mutually defeating. This tenet of compatibility is based on a growing recognition among leaders of the international community that peace is fundamental for development and that conditions for sustaining peace, as enshrined in peace agreements, are legitimate conditions for international development assistance.

The international community has not always recognized the need for this relationship to be complementary. For example, in Rwanda, the Bretton Woods institutions pushed for privatization of state enterprises in 1994 and 1995 when it was clear there was insufficient capacity to undertake such major structural changes in the economy, and more importantly, when a shift of ownership to the private sector was extremely contentious politically and would likely have increased the concentration of wealth.

Parallel to the basic axiom of macroeconomic stability is the typically acute need of post-conflict governments to strengthen fiscal capacity. But the policies of governments and international financial institutions, such as the IMF, have often run counter to this objective. For example, post-genocide Rwanda has had to confront a tension between the need to augment domestic revenues and pressures from the IMF to cut tariffs. The ratio of government revenue to national income is very low (around 10%); and the Rwandan government cites 'a significant tariff reduction' as a reason for revenue shortfalls in its November 1999 Letter of Intent to the IMF, yet proceeds to promise further reductions via the elimination of temporary import surcharges and all intra-regional tariffs.⁸¹

This example relates to one of several recommendations to international financial institutions (IFIs) made by Boyce in a recent paper (Boyce 2004).⁸²

81. *Example provided by James Boyce from, inter alia, IMF, Memorandum of Economic and Financial Policies of the Government of Rwanda for 1999/2000 (July-June), 2 November 1999, para. 5 and box 3 (<http://www.imf.org/external/np/loi/1999/110299.HTM>).*

82. *Boyce notes that in recent speeches the heads of the IMF and World Bank have recognized that adherence to peace agreements is a fundamental condition for development assistance. The text presents a selection of Boyce's recommendations.*

- The IFIs should invest in development of capacity to assess impacts of their policies and projects on horizontal equity – that is, on disparities across lines of ethnicity, region, religion, and race – and should incorporate horizontal equity impact assessment into policy formulation and project appraisal.
- To reconcile macroeconomic stabilization and political stabilization, capacity should be built to monitor indicators of both aspects of stabilization (including alternative macroeconomic indicators, such as the purchasing power of the population) and to assess potential tradeoffs between them.
- The IFIs should develop the capacity to balance efficiency gains from trade liberalization against costs of lower tariff revenues and the consequent reduced funds available for peace building expenditures.
- The IFIs should develop capacities to evaluate the potential fiscal contribution of luxury taxes and to assist in their design and implementation.
- The IFIs should explore ways to tap incomes generated in post-conflict aid bonanzas and negotiate payments in lieu of taxes for their staff and contractors.⁸³
- Building on precedents in international law, including the current discussions of Iraqi debt, the IFIs should establish a body to assess the possible scope and implications of initiatives to erase ‘odious debts’ inherited by post-conflict governments.

Related to the need for fast-disbursing assistance is the need for effective coordination of aid in a post-conflict situation, preferably evolving toward country-led coordination. Coordination has moved haltingly in this direction in Rwanda. During the first year after the genocide, coordination was rather chaotic, partly because the World Bank did not have strong, continuous leadership on the ground in Kigali. An unclear division of labor in coordination functions led to tensions between the Bank and the UNDP. This has improved over time but donors still express concern about the Government’s ability to provide overall coordination leadership (World Bank 2004a:19-20). One major donor, DFID of the UK, has expressed its confidence by committing up to half of its assistance in the form of general budget support to the GoR. The new “UN Country Team” (UNCT) mechanism that brings together all UN agencies, the World Bank, and lead NGOs operating in some countries, promises significant improvement in coordination.

Justice and Law Enforcement

The Joint Evaluation made several recommendations aimed at: strengthening the domestic justice system in Rwanda (including civilian law enforcement and penal institutions); reviewing and adjusting legislative restrictions that prevented some donors from providing effective support to justice law enforcement systems in post-conflict countries and strengthening the International Criminal Tribunal mechanism. Chapter 2 has already described and analyzed developments in relation to the International Criminal Tribunal for Rwanda (ICTR), the formal domestic justice system; and the *gacaca* system introduced in 2001. (A fuller version of the analysis of these three principal types of justice is also provided in Annex 4). This section will therefore concentrate

83. *This includes nationals who work for, or sell goods and services to, aid agencies. They comprise a significant share in Rwanda of what Uvin refers to as a "fourth ethnic class" of urban evoules, who have become isolated from their ethnic roots. (Uvin 1999: 121-135).*

on parallel developments in the justice and law enforcement area in other post-conflict situations.

Before doing so, it is useful to summarize the rationale for international attention to this area as articulated by the Joint Evaluation. The characterization applies to most post-conflict situations. The justice system inherited by the post-genocide government was “non-functioning.” The critical needs for a functioning justice system included: (1) reducing the reluctance of refugees to return home; (2) reducing the desire for revenge; (3) beginning to dissipate the culture of impunity; and (4) (in the words of Study 4) “above all, an effective judicial system that guarantees basic human rights [as] a prerequisite to political stability and to evolution of a democratic ethos in Rwanda (Steering Committee 1996: 4: 72).”⁸⁴

Contained within a recommendation directed at the strengthening the International Criminal Tribunal mechanism, the Joint Evaluation made the point that “for the longer-term, the proposed International Criminal Court must be established on a permanent basis in order to expedite the prosecution of those accused of genocide and other crimes against humanity”. At that time the prospects for the creation of an International Criminal Court (ICC) appeared very weak. However by July 1998 120 States voted to adopt what became known as the Rome Statutes of the International Criminal Court. By July 2002, far sooner than even the most optimistic observers had imagined possible, the requisite sixty States had ratified the Rome Statutes and they therefore entered into force⁸⁵. Crimes of genocide, crimes against humanity and war crimes committed after 1st July 2002 are liable for prosecution by the ICC. Since 2002 the ICC has been establishing itself and commencing its first investigations. In June 2003 the elected Chief Prosecutor, Mr. Luis Moreno Ocampo of Argentina was sworn in and by September 2003 had selected the situation in Ituri Province in DRC as “the first situation to be closely followed” by the ICC. In December 2003 following a request from President Museveni of Uganda the Chief Prosecutor added the situation concerning the Lord’s Resistance Army (LRA) to his program of investigations. The initial work by the Chief Prosecutor in Ituri, DRC was viewed very favorably by one interviewee and was seen as boding well for the future of the ICC.⁸⁶ Both the Ituri and LRA investigations were proceeding at the time this assessment was being finalized.

The launch of the ICC in 2002 was somewhat marred by the hostile stance adopted by the US Government that was concerned that its soldiers would not be immune from prosecution by the ICC. At the same time as seeking to gain exemption for its troops through the Security Council⁸⁷ the US also passed domestic legislation (the American Service Members Protection Act of August 2002) that prohibits cooperation with the ICC by US agencies, and placed restrictions on US participation in UN peacekeeping activities. On a bilateral basis the US has sought to reach agreement with each of the States Parties to the Rome Statutes (known as Article 98 agreements) that will exempt

84. *Study 4, Rebuilding Post-War Rwanda, p. 72. See Chapter 2 of the current report for a more complete analysis of the justice situation in 1994 and subsequent developments.*

85. *By September 2004 96 countries had become States Parties to the Rome Statute.*

86. *Phone interview with humanitarian law expert, June 2004.*

87. *In May 2002 the US threatened to veto all Security Council resolutions concerning peacekeeping and collective security operations until the Council adopted a resolution that would exclude members of such operations from the jurisdiction of the Court. Such pressure was successful and from 2002 until June 2004 the Security Council annually granted the US exemption for its troops from prosecution by the ICC. However as a result of the abuse of Iraqi prisoners by US military guards in Iraq in June 2004 the Security Council withdrew its annual approval.*

US troops from any prosecutions by the ICC. Whilst the US's position does detract from the spirit of the ICC, so far it has not had a significant impact on the work of the ICC. One observer writes "These developments have actually proved to be little more than squalls and the Court has weathered them without major mishap" (Schabas 2004). In a development influenced in part by the US's desire to encourage alternative approaches to post-conflict justice and a widely shared concern about the effectiveness and cost of the International Criminal Tribunals for the Former Yugoslavia, in January 2002 the UN and the Government of Sierra Leone agreed to establish a Special Court for Sierra Leone. Though sharing some features with the earlier ICTY and ICTR, the Special Court for Sierra Leone has consciously been established to offer an alternative model to the two International Criminal Tribunals. First it is not a subsidiary organ of the UN having to work within UN recruitment and staffing rules: it is a treaty-based body, operating within its own administrative and financial framework. Its budget is funded by voluntary international contributions for a period of three years. The US Government is the largest contributor of funds to the Special Court and the Chief Prosecutor is David Crane a former US Defense Department lawyer. Second, the mandate of the Special Court is to try only a limited number of cases – those individuals who were in key positions of authority and power – and to do so speedily so that the country can move forward. As well as key figures in the RUF, the Special Court has also indicted senior figures within the Government such as Sam Hinga Norman the Minister of Internal Affairs and Liberian President Charles Taylor. The latter's indictment in June 2003 was a factor contributing to his ousting from power in August 2003. Five of the indicted Sierra Leonians were arrested in March 2003. So far, a total of 13 individuals have been indicted, though two have died since their indictment, including Foday Sankoh, who died from natural causes in July 2003. It remains to be seen whether Special Courts become a feature of international efforts to provide justice in post-conflict contexts and if so how the Special Courts will relate to the work of the ICC.

Repatriation as a help or hindrance to recovery

The Joint Evaluation came out seven months before the massive return of refugees from former Zaire and Tanzania in November and December 1996. The widespread opinion of the international community at the time was that repatriation would be a help rather than hindrance to recovery. There were two basic reasons for this conclusion: (1) the number of refugees was so large relative to the population of Rwanda that their continued absence would constitute a drag on recovery, especially on agricultural production; and (2) their continued presence just outside Rwanda's borders, along with the former armed forces and militia, would constitute a continued source of insecurity, particularly in border areas.

The Joint Evaluation recommended seven measures (D-2) intended to promote voluntary repatriation:

- Improve Refugee Camp Security in order to remove the intimidation and repression that acted as one important barrier to voluntary repatriation.
- Facilitate establishment of local "peace committees" to monitor security of returnees.
- Support the government's efforts to establish and promulgate degrees of guilt and punishment for participation in the genocide and other killings.
- Insist on compliance with the rule of law and observance of fundamental human rights principles, and monitor closely abuses by the government.
- Provide expanded support for strengthening local capacities to provide basic governmental and related services, such as education, health and agricultural research and extension, and for income-generating activities (e.g. micro-enterprise, rural works programs, etc).

- Provide support to the government to develop and implement land tenure and property rights legislation, especially the right of women to inherit and own land; and to develop clear procedures and identify institutions for dispute settlement.
- Provide support for experts under auspices of the UN High Commissioner for Human Rights to work with authorities and local NGOs to design and implement human rights training, in accordance with OAU, UN and Red Cross Conventions.

The dilemma posed for international agencies, particularly the UNHCR, in the refugee camps was an acutely difficult one. In view of the uncertain and insecure conditions prevailing in at least parts of Rwanda, should they have employed the “stick” as well as the “carrot” in inducing refugees to return? Such an approach would have undoubtedly been perceived as abandoning the principle of non-refoulement or “voluntary repatriation,” long-enshrined in the UNHCR.

As it turned out, none of the above recommendations provided the main impetus to repatriation. Rather, the “push” of the RPA in Zaire and the Tanzanian Army in Tanzania were the main factors that impelled the repatriation. But the last five recommendations are still important for reconciliation in Rwanda and all seven could be important for repatriation in other circumstances and countries.⁸⁸

Reconciliation

The road to reconciliation continues to be extremely difficult for Rwanda. There are micro-examples of attempts at reconciliation, sometimes fostered by churches or church-related groups.⁸⁹ But there are several major stumbling blocks to the larger success of such efforts. One is the fact that operational adoption of the “gacaca” model continues to encounter difficulties although an indigenous approach should not be judged entirely by Western criteria and standards. Another obstacle is that a number of church personalities were themselves implicated in the genocide (see Steering Committee 1996:4:68). There has been only partial admission of guilt on the part of the mainstream Rwandan church leadership so far. Finally, critics argue that the failure to pursue justice for crimes by the RPF and the increasingly severe treatment of any dissenting opinion makes official rhetoric about reconciliation sound hollow for the majority of Rwandans.

The recommendations of the Joint Evaluation regarding reconciliation (D-3) remain valid today:

- Support should be expanded for local NGOs involved in activities attempting to open dialogue and build bridges among groups in society. This will be a long process marked with reversals as well as gains.
- In addition to women’s groups and religious movements, there is an urgent need to work with young people who have been profoundly affected by genocide and conflict. This “intermediate generation” will become decision-makers and opinion leaders in coming years. Unless they are actively involved in the reconciliation process, seeds for future violence will flower.
- Education of children and teachers (in problem-solving, non-violent conflict resolution,

88. *Another factor affecting repatriation should be mentioned. The Convention on Refugees of 1951 contains a so-called "Exclusion Clause," which provides for exclusion from refugee status for person(s) about which the UNHCR has reason to believe the person(s) have committed crimes against humanity. But UNHCR has no mechanism to screen for such persons, nor to implement and enforce this clause. Phone interview with human rights expert, June 2004.*

89. *Examples involving the Quakers and the Lutherans have come to one of the author's attention. The success and sustainability of these efforts is unknown.*

etc.) has a critical role to play in the process of reconciliation. The international community has a challenge and an opportunity to support innovative efforts in this area.

The international community has tried to be helpful in this arena. For example, by facilitating the sharing of the experiences of South Africa and Israel. But the GoR has had firm ideas of how to approach this issue and these have prevailed. Donors could provide support to current national efforts to introduce national history at all school levels, including addressing Rwanda's violent past and the superior attributes of non-violent conflict resolution. A brief chapter, "Psycho-Social Healing," was devoted to this subject in Study 4 of the Joint Evaluation. Particular attention was given to a program supported by UNICEF to train some 2,000 trauma counselors around the country. At the time of Study 4, it was "too early to detect a discernable effect on the country" of the trauma counseling program or of other NGO and church-related efforts to promote reconciliation (Steering Committee 1996:4:69). Study 4 pointed to two major limitations of existing programs: (1) insufficient focus on the needs of women, who comprised 60-70 % of the population; and (2) a misapplication of the Western one-on-one approach to trauma counseling, when group, community-centered approaches could be both more efficient and more effective (Steering Committee 1996:4:69).

Considerable conceptual work on reconciliation, drawing from experience, has been undertaken since the Joint Evaluation. For example, the Christian Michelsen Institute identifies four necessary ingredients of reconciliation, including: Recognition and acknowledgement, Justice, Compensation, and Memory and memorialization.

The first two ingredients have been emphasized in Rwanda but the last two, relatively less so. The following sections explore in more depth several of these ingredients.

Truth and Reconciliation

The so-called "truth and reconciliation commissions" employed in South Africa and in Latin America can constitute meaningful first steps in the reconciliation process. They fall into the "recognition and acknowledgement" category above. In Sierra Leone, the Lomé Peace Accords in 1999 had included provision for the establishment of a Truth and Reconciliation Commission. Following an Act of Parliament in 2000 the Commission was set up for one year in late 2002. For legal and administrative reasons it was established as a project of the UN Office of the High Commissioner for Human Rights (OHCHR) in Geneva. The OHCHR has undertaken fundraising and provided administrative support to the Commission, and the UNDP office in Freetown has served as the local administrative partner. The TRC's hearings began in April 2003 and by August 2003 it had received 8,000 testimonies from victims, witnesses and perpetrators. In October 2003 President Kabbah granted the TRC a six month extension. Although there has been no TRC established as such in Rwanda, there is some evidence that some gacaca courts are performing such a function at the local level.

Compensation and Restorative Justice

The Joint Evaluation alluded to the plight of the survivors of the genocide, who were relatively ignored in the years immediately following the genocide (see Study 4 especially). But no recommendations were made to specifically address the needs of the survivors. One approach that might have been recommended would have been to implement restorative justice in the form of compensation in cash and/or kind directed expressly to the survivors.

Restorative justice has been practiced in a large number of countries although the literature posted on the Internet suggests that approaches employing modern, or state, justice systems are limited to developed countries. Traditional, non-state, justice systems throughout the world typically rely on a restorative approach, including some form of restitution from the offender to the victim. The restitution may be in cash, kind, or service.⁹⁰

The restorative approach is said to bring unique benefits to the offender as well as the victim. Restitution is said to better satisfy a victim's need for vindication, as the offender must personally acknowledge and account for the offence. Potentially, for the offender, restitution can be less punitive as well as more rehabilitative than incarceration.⁹¹

The genocide law provides for lesser Rwandan genocide offenders to undertake some form of community service. But this restorative justice element has never been implemented. A restorative approach might have been pushed further if donors had supported cash payments to survivors. This assumes that the loss experienced by survivors exceeds the benefit they obtain from services provided by offenders through the formal or the *gacaca* systems. This does not seem to be an unreasonable assumption.

Memory and Memorialization

Those who perished in the Rwanda genocide have been memorialized collectively but a fundamental plank of the Government of Rwanda's approach to rebuilding the society after the genocide has been to deny or suppress group identities, in particular the ethnic identities of the Hutu, Tutsi and Twa. This 'suppression of memory' is seen by critics as inevitably delaying reconciliation. The OAU Panel of Experts in their first recommendation urged:

“... Rwandans to acknowledge the ethnic realities that characterize their society. This central fact of Rwandan life must be faced squarely. Pretending that ethnic groups do not exist is a doomed strategy. But the destructive and divisive ethnicity of the past must be replaced with a new inclusive ethnicity.” (OAU 2000)

A distinguished scholar on the Great Lakes region, Professor LeMarchand, argues that far from burying memory, the current policy of memory suppression is using memory as a tool to maintain and enhance power. In a recent paper, drawing on Paul Ricoeur's, *Memory, History and Oblivion*, he discusses “thwarted memory, manipulated memory, and enforced memory” as applied to the Rwandan situation (LeMarchand 2004: 4).⁹²

“What is being thwarted through the ban on ethnic identities is the memory of atrocities by Hutu and Tutsis, where ethnicity, though singularly unhelpful for discriminating between victims and perpetrators, is crucially important for addressing the roots of the injuries suffered by each community. What is being thwarted is the memory of those generally referred to as “Hutu moderates” ... (LeMarchand 2004: 4)

90. The GoR has reportedly promised reparations to survivors in both the law on genocide and the *gacaca* law but has not followed through with implementation. Personal communication from Alison Des Forges.

91. There are a number of issues surrounding restorative justice in state settings. Restitution faces many obstacles, including the fact that many offenders are never caught, prosecuted, or convicted, and for those who are caught, restitution often cannot be monitored and enforced (see discussion of history of restorative justice on the web page of “Restorative Justice Online” www.RestorativeJustice.online.org. To the extent that genocide justice is brought to the community level in Rwanda, these issues would appear to be less salient. Also see Umbreit et al (2002). Non-state justice systems in Bangladesh and the Philippines have recently been examined for their developmental lessons. See Golub 2003.

92. For a contemporary analysis that deals in part with the current Rwandan Government's policies and practices regarding ethnicity, see Reyntjens 2004: 187-188.

The concept of “manipulated memory” is described as follows:

Summoning a de-ethnicized victim-centered memory is not enough; what has yet to be given proper recognition is that Hutu and Tutsi were victims of a calamity for which responsibility is shared by elements of both communities. This sharing of responsibility is what Rwanda’s official ideologues refuse to acknowledge. Instead every effort is made to manipulate memory so as to exonerate the ruling elites of all responsibility in the circumstances that led to the abyss. Complex though they are, a key element in the chain of events leading to the butchery is the outbreak of the bitter civil war instigated by the RPF. (LeMarchand 2004: 5)

Finally, “enforced memory” includes the decree that legally rules out public expressions of ethnic memory. An example are the rituals of the annual genocide commemoration, at which the “elimination of public references to ethnic identity conveniently erases from the record the memory of Hutu victims or those ‘righteous’ Hutu who died protecting Tutsis friends and neighbors. The only category left are the *genocidaires*.” (LeMarchand 2004: 7)

What is required in LeMarchand’s view is the “work of memory,’ involving both recognition and reconciliation. “Recognition in this sense means more than mere remembrance, it means coming to terms with the unspeakable atrocities inflicted on Hutu and Tutsi, by Hutu and Tutsi; it means “to name wrongs as wrongs and to bring some of those responsible to account...” (LeMarchand 2004: 9).

LeMarchand concludes pessimistically:

The imposition of an official memory, purged of ethnic references, is not just a convenient ploy to mask the brutal realities of ethnic discrimination, it institutionalizes a mode of thought control profoundly antithetical to any kind of inter-ethnic dialogue aimed at a rethinking of the atrocities of mass murder. This is hardly the way to bring Hutu and Tutsi closer together in their common understanding of their tragic past. (LeMarchand 2004:10)

The Role of the Media in Support of Reconciliation and Recovery

The Joint Evaluation focused on the role of the media during the crisis itself, both in Rwanda during the genocide and outside Rwanda, in the refugee areas. It did not deal with the role of the media during the period of rehabilitation and recovery. One reason is that once the bulk of the refugees returned, there was very little international media coverage to assess.

At its best, international media coverage on Rwanda influenced humanitarian agencies to act urgently and responsibly, and raised awareness of politicians and the public at large, which in turn helped to generate funds for emergency assistance to the refugees in Eastern Zaire and Western Tanzania. The period surrounding the tenth anniversary of the Rwanda genocide, April 7, 1994, has been marked by a spate of media coverage on Rwanda and the genocide. Some of the coverage has been quite thorough and balanced.⁹³ This recent Rwanda coverage has in turn probably led to more Darfur coverage than would have otherwise been the case. But the articles, presentations, and discussions have given very little attention to the continuing ethnically-based and motivated and therefore genocidal type killings in the Eastern DRC.

As already noted, the Joint Evaluation recommended (E) that a conference be organized by and for the media to examine media reporting on Rwanda and draw lessons for responsible reporting on future complex emergencies. But as also noted, such gatherings are not likely to engage significantly media members themselves, and those who are likely to attend are a self-selected group already inclined to cover complex international crises. A more fruitful approach could be to introduce sessions on the lessons of Rwanda and issues related to conflict prevention in the key journalism graduate schools (e.g. Columbia University School of Journalism) and mid-career journalist fellowship programs (e.g. Nieman Fellows at Harvard University and Knight Fellowships at Stanford University).⁹⁴

6.3 Some Observations on the Recommendations and Developments in Relation to Rehabilitation, Reconstruction and Recovery since the Joint Evaluation

The analysis and recommendations of the Joint Evaluation with regard to rehabilitation, reconstruction, and recovery are generally valid in any country ravaged by violent conflict. Many of them are still valid in Rwanda.

An overarching, even unique problem faced by Rwanda in the post-conflict period that few other countries have faced may be termed a “self-imposed security dilemma.” The RPF and Tutsi minority-dominated government, rightly afraid for its existence, has taken measures that make it justifiably even more afraid for its existence. It is hard to see how Rwanda can escape its current ‘entrapment’ in this situation without undergoing a process involving: allowing (rather than suppressing) the development of political parties that reflect the reality of the country’s ethnic demographic composition; acknowledge and punish (rather than deny or ignore) crimes committed by the RPA; and recognize (rather than suppress) ethnic identities. As yet there has been no concerted effort to work out how to achieve this, necessarily long-term strategy, and yet the Rwandese entrapment is today’s biggest challenge to conflict prevention, at least in the region. (Zartman May 2004).

On the economic front, as suggested by Boyce (above), more could have been done to bring about macroeconomic stability and at the same time enhance fiscal and public sector capacity. Economic policy prescriptions could have been more sensitive to the political environment and, in particular, to “horizontal equity.”

As the Joint Evaluation itself admits, it could have pushed the envelope further in analyzing the impact of development aid and aid policies on horizontal equity, especially, the ethnic dimension. The main thrust of a recent book on conflict and aid by Robert Muscat is that all phases and modes of the aid relationship, as well as the content of aid, can influence nascent or actual violent conflict one way or another in the recipient country and should be analyzed and designed with that in mind (Muscat 2002).

Conflict prevention and post-conflict reconstruction units tend to be buried in donor structures. In the World Bank this unit is in the Social Development Department of the Environmentally Sustainable Development Vice Presidency. This does not provide the visibility and stature that the unit needs and that it would have if it were located, for example, in the office of the Senior Vice President for Development Economics.

93. For example, the U.S. Public Television (PBS) presentation, “Ghosts of Rwanda” aired in April 2004.

94. The critique and several suggestions are from a personal communication from Greg Barker.

7. Has the International Community Become More Willing to Prevent or Intervene Against Genocide or Mass Killings?

7.1 Eastern DRC: An Early and Ongoing Test in the Great Lakes Region

In many respects events in Zaire/DRC since the Joint Evaluation was published represent both a continuation of the conflict and genocide of 1994 and reflect the critical failings of the international community in that period, principally in:

- a) failing to halt the genocide and
- b) failing to separate the FAR and Hutu militia elements from the *bona fide* refugees in the camps in eastern Zaire between 1995-96.

Because of the unwillingness of the UN Security Council and UN member states to undertake a military operation in the camps to manage a threat to the security of Rwanda, Zaire and also Burundi, the Rwandan Government was left to take its own action to protect its security. In undertaking its operations to push back refugees into Rwanda and, with its AFDL allies, to pursue those who moved westwards there is some evidence that Rwanda was given a green light and even received support from some members of the Security Council. However, what might have initially been seen through the then fashionable lens of 'African solutions to African problems,' Rwanda's military operations in Zaire were a massive abuse of the rights of the *bona fide* refugees who were intermingled with the Hutu militia. Moreover they set off a sequence of events that became the most destructive and widespread conflict yet witnessed in modern Africa and arguably the bloodiest conflict in the world since the Second World War. With its moral authority weakened by the failure to halt the Rwanda genocide and its ability to act collectively limited by the differing interests of its members the international community's response was initially supine. It was not until 2002, after powerful evidence was produced of Rwandan and Ugandan exploitation of Congo's natural resources, the human rights abuses and the appalling death toll that the international community began to publicly condemn the two countries.

Given a role by the (African led) 1999 Lusaka Agreement and frequent reports on the severity of the situation by the Secretary General, the Security Council chose not to heed the lessons from Rwanda in 1994 and dispatched only an observer UN mission to DRC. Poorly supported by member states even this mission took years to reach its designed strength. It was only following widespread killings in Bunia in 2003 (fully four years after the Lusaka Agreement) that a Chapter VII operation by willing member states was authorized and MONUC upgraded to a Chapter VII operation. The six-day violent occupation of Bukavu by army mutineers with links to Rwanda in June 2004 exposed the inability of the Chapter VII UN force to prevent a major town falling into the hands of a faction seeking to derail the Transition Process. While robust intervention by the international community seems to be the order of the day in other parts of the world, in central Africa 'robust' is a very relative term. A central conclusion drawn by General Dallaire from his experience as head of UNAMIR during the genocide was that

human beings in central Africa were valued differently from human beings in other parts of the world (Dallaire 2003). One should add to this the geopolitical unimportance attached to some countries by some members, usually the Permanent Five, of the UN Security Council. Despite recent indications of a willingness to increase the size of MONUC, there is no reason to believe that this situation has changed significantly over the last ten years.

Attempting to attribute the cause of death to violent and non-violent causes in such a context is fraught with difficulty. But even when allowance is made for a wide margin of error it is interesting to reflect that the ratio between violent and non-violent deaths revealed by the IRC surveys in the DRC since 1998 (15:85) is almost the exact reverse of the ratio recorded by Study 3 of the Joint Evaluation.⁹⁵ While much of this contrast can be attributed to important differences between the two cases⁹⁶, it suggests that the performance of the humanitarian sector has been exceptionally poor in the DRC. Whereas the Joint Evaluation attributed much of the blame for the loss of life to the failings in the political, diplomatic and military domains, it would appear that in the case of eastern DRC the humanitarian sector must be added to the list. One seasoned observer recently wrote: 'The case of Congo ... demonstrates appallingly sparse responsibility to protect and plenty of inhumanitarian non-intervention.' (Weiss, 2004)

Given the enormity of what has happened in Eastern DRC and the seriousness of the accusations being leveled at the international community, the UN and the humanitarian sector generally, the DRC case deserves to be subjected to an evaluation as thorough, transparent and wide ranging as the Joint Evaluation.

7.2 Darfur: A Current Litmus Test in the Sudan

The ongoing crisis in Sudan provides an extremely topical basis for an assessment of what has, and has not, changed since the 1994 genocide regarding the international community's response to massive human rights abuses. A chronology of the key events, publications and pronouncements on the situation since the first rebel attacks in February 2003 are provided in Annex 5.

At the time of writing, out of a total population of approximately 4.5 million in Darfur, an estimated 50,000 people have been killed or died as a result of their displacement, 1.2 million people are internally displaced and 200,000 have sought refuge in neighboring Chad. The total number classified as 'Conflict Affected' is 2.2 million, all of whom are predicted to require assistance over the coming year. The vast majority of those killed and displaced are of the Fur, Zaghawa and Massaleit tribes of black African origin. At the time this report was being finalized the U.N. Security Council had recently (18th September 2004) adopted a resolution threatening possible sanctions against Sudan and establishing a U.N. Commission of Inquiry to investigate atrocities in Darfur and to determine whether Sudanese authorities and militias are responsible for committing

95. *Approximately 90,000 people were estimated to have died as a result of cholera and dysentery whereas the numbers killed during the genocide are generally believed to be 850,000, giving a ratio of violent to non-violent deaths of approximately 90:10.*

96. *Key features of the two cases are: 1994 Great Lakes: a genocide of 100 days duration; ready, and comparatively safe, access by humanitarian agencies to refugees and IDPs 1998-2004 Eastern DRC: a five year conflict between armed groups (with scant regard for the rights of civilians) in which access by humanitarian agencies to a substantial proportion of the affected population has been denied or has been dangerous.*

7. WILLINGNESS TO PREVENT OR INTERVENE AGAINST GENOCIDE OR MASS KILLINGS?

genocide there. This followed a 9th September declaration by U.S. Secretary of State Colin Powell, citing the findings of a U.S.-supported fact-finding mission that genocide had and was still taking place in Darfur.

While there are some important differences between the Rwanda and Darfur cases there are also some similarities – notably the issue of sovereignty, the emphasis given to keeping a peace process on track and not confronting human rights abuses for fear of upsetting the peace process, and a tardy response by the international community.

Though the formation of the Sudan Liberation Movement/Army (SLM/A)⁹⁷ in February 2003 is frequently taken as the start of the rebellion in Darfur, it is important to appreciate that Darfur has a long history of what might be termed ‘traditional’ resource conflicts between nomadic herders and settled farmers over access to fertile land and water sources. Important contextual factors are: the process of desertification that has pushed herders further south and intensified competition for land and water; and the growing sense of marginalization and neglect of Darfur as a result of the civil war between the central government and the Sudanese People’s Liberation Army (SPLA) in the south since 1983 that has absorbed much of the national income and attention of the central government. However, over the last 15-20 years the formerly ‘traditional’ conflicts have intensified and taken on new and increasingly ethnic identification due to:

- Manipulation of the resource competition along ethnic lines by politicians in Khartoum and in the region
- The emergence of an Arab-supremacist strain in regional politics
- The arming of Arab militias in the region as part of Khartoum’s strategy for containing the SPLA rebellion.

Thus it was during the 1987-89 conflict between the Fur and the ‘Arabs’ that ethnically polarized claims were made about land-use management and the creation of an ‘African Belt’ around Jebel Marra and armed Arab militias were formed that were known (even then) as *Janjaweed*. A redrawing of the administrative boundaries in 1994 to create a third province (Western Darfur) within the state had the effect of reducing non-Arab representation in the government. A subsequent attempt to subdivide the traditional homeland of the Massaleit and allocate some areas to Arab groups sparked a conflict between the Massaleit and Arab militia. That conflict lasted from 1996-98 and resulted in the deaths of hundreds of people and displaced at least 100,000 Massaleit into Chad as refugees. Interestingly this conflict received little international attention.

The first armed action by the SLM/A was its (temporary) capture of Gulu in Jebel Marra in February 2003 – an event that signaled the existence of the movement and its capability. The fact that it came four months after the agreement between the Government and the SPLA to cease hostilities appears to be significant: as non-Arab groups in Darfur seem to have feared that a deal between north and south that excluded Darfur would lead to a further marginalization of their position. Amnesty International was quickly on the case issuing a press release on the 21st February urging the Government of Sudan to set up an independent Commission of Inquiry into the situation in Darfur.⁹⁸ The first attack was followed over the next few weeks by attacks on government installa-

97. *The movement began as the Front for the Liberation of Darfur (FLD) at the beginning of 2003 but changed its name to Sudan Liberation Movement/Sudan Liberation Army in February 2003. In March another rebel group – the Justice and Equality Movement (JEM) was formed.*

7. WILLINGNESS TO PREVENT OR INTERVENE AGAINST GENOCIDE OR MASS KILLINGS?

tions in Tiné, Kutum and even el Fasher itself where aircraft at the airport were damaged. The attacks provoked a forceful response by the Sudanese army and the *Janjaweed* with the objective of crushing the rebellion and punishing those communities that sheltered the rebels. What is not clear is the point at which the strategy of collective punishment became one of deliberate displacement and prevention of return, through the destruction of community assets such as schools and wells.

In reviewing the timeline in Annex 5 the fact that the Security Council did not discuss the situation in Darfur until March 2004 (fully 13 months after the outbreak of fighting and 6 months after UNHCR had announced that the number of refugees in Chad had reached 65,000) is remarkable. Even then the subject only seems to have been discussed following the UN Resident Representative's unprecedented step of denouncing the process of "ethnic cleansing" in Darfur in a series of press briefings and interviews in Nairobi a few days earlier.

At the time of writing, the international humanitarian presence has become significant (see below) but it only became so after July 2004 when the Government of Sudan gave in to concerted international pressure to relax its visa and travel restrictions. Under the auspices of the African Union 120 international observers are operating in Darfur to monitor the ceasefire agreement of 8th April 2004 and are protected by some 300 AU troops provided by Rwanda and Nigeria. Despite Security Council Resolution 1556 of 30th July 2004 that demanded that the Government of Sudan fulfill its earlier commitments to ensure the protection of civilians in Darfur and the threat of further actions in the event of non-compliance, on 18th September 2004 the Security Council gave more time to the Government of Sudan despite clear evidence of continued attacks on civilians by the *Janjaweed* and support to them by the Sudanese military. Despite the recent use of the term genocide by the US Government, international military intervention to confront the *Janjaweed* and prevent aerial bombing of villages by the Sudanese military still appears distant. A gradual expansion of the AU force and an expansion of its mandate to include provision of protection to the camps for internally displaced persons appears the most likely hope for deeper international engagement.

In a telling echo of the Joint Evaluation's conclusion that 'humanitarian action cannot substitute for political action' the Head of the UN Inter-Agency Internal Displacement Division made the following correction during an interview following a visit to Darfur:

Interviewer: "What is your sense of the way the Darfur situation is evolving, given the massive pressure on the Sudan government at the Security Council and elsewhere, and the massive international presence in Darfur?"

Denis McNamara: "The massive presence in Darfur is humanitarian – 500 international and 3,500 nationals. There is no massive international presence otherwise. I think humanitarians should not become a substitute for political security presence. We have seen that too often." (IRIN News interview with Dennis McNamara 7th September 2004).

98. *Prophetically the press release stated "The situation must not be allowed to deteriorate further into another Sudanese war. We call on the government to respond to the escalating cycle of attacks by immediately settling up an independent Commission of Inquiry which should investigate the situation, report publicly and make recommendations which must be implemented." Press Release 21st February 2003.*

7. WILLINGNESS TO PREVENT OR INTERVENE AGAINST GENOCIDE OR MASS KILLINGS?

On the basis of a provisional analysis of our various sources it would appear that the principal factors contributing to the tardy response by the international community include the following.

Access by outside observers to Darfur was severely restricted until early 2004

The lack of access to areas where attacks by the SLM/A and JEM and the army and *Janjaweed* were occurring was been a key factor in delaying a fuller engagement by the international community prior to February 2004. Permits for travel outside of the Provincial capitals were tightly controlled by the Government and the staff of the few humanitarian agencies operating in the state during 2003 often did not receive permission to travel or had to wait weeks for their permits. Prior to the Government of Sudan granting improved (but still heavily restricted) access in February, UN agencies estimated that they were only able to reach about 15% of the affected population. Freelance filmmakers and journalists have managed to enter Darfur illegally from Chad but their reports have invariably been dismissed or contested by the Government of Sudan. Significantly it was the first-hand information gathered by the UN teams given greater access to areas of Darfur beyond the three Provincial capitals in February 2004 that enabled the UN Resident Representative to speak out as he did on 19th March.

Warnings were issued at a very early stage by Amnesty International but it took time for other organizations to add their voice

While Amnesty International was quick to draw attention to the situation and has issued repeated and well-informed warnings, other human rights groups appear to have been slower. The International Crisis Group's first report on covering the situation in Darfur was published in June 2003⁹⁹ and it appears that the first press release on Darfur by Human Rights Watch was not issued till March 2004.¹⁰⁰ The first public 'expression of concern' by the Acting High Commissioner for Human Rights does not appear to have been made until the end of January 2004 and the first report on the situation in Darfur by his office did not appear until May 2004.¹⁰¹ Since access to external observers and organizations began to improve from February 2004 onwards numerous assessments and fact finding missions have been undertaken. Whilst the majority appear to have been in broad agreement on the scale of the killings and the displacements, opinions have differed as to the extent of government involvement in the attacks by the *Janjaweed* and whether there is a 'grand plan' to force the Fur, Zaghawa and Massaleit tribes of black African origin out of their traditional home areas.

International attention was focused on achieving peace in the south until at least early 2004

The attention of many international organizations, including the donor community and some human rights organizations, was focused on the progress of the Naivasha talks between the Government and the SPLM/A. Undoubtedly, after 21 years of civil war the

99. Titled 'Sudan's Other Wars' the report stated "The violence in Darfur should be the subject of a separate and concentrated initiative – by the Khartoum government, strongly encouraged by the international community – to end hostilities and ensure that the issues are also addressed within the IGADD process"

100. The first HRW press release in March was soon followed in April by the detailed report 'Darfur in Flames: Atrocities in Western Sudan'.

101. Commission on Human Rights (2004) 'Report of the High Commissioner for Human Rights: Situation of human rights in the Darfur region of the Sudan' Advance Edited Version 7th May 2004. The report was delayed for a month by the Government refusing access to an investigation mission and then insisting that an investigation that had been undertaken in April on the Chad side of the border by interviewing refugees be complemented by an investigation inside Sudan – a tactic that conveniently delayed the publication of the combined report till after the annual session of the Human Rights Commission in Geneva had ended.

7. WILLINGNESS TO PREVENT OR INTERVENE AGAINST GENOCIDE OR MASS KILLINGS?

prospect of peace in the south represented 'The Big Prize' and for several months the situation in Darfur seems to have been regarded either as unwelcome 'noise' or as 'an issue we can turn to **after** we have achieved firm agreements on the south'. Progress at the Naivasha talks has certainly been much slower than most observers were anticipating in early 2003 and the flaws of the sequential approach have been exposed.

In retrospect, the peace process in the south should have been more inclusive of the ongoing and latent conflicts in other areas of Sudan, but after two decades of failed peace attempts in the south it was probably right to regard widening the peace process too soon as too risky to achieving the long-sought agreement between the Government and the SPLA. The focus on the 'prize' of obtaining signatures on a peace agreement and a reluctance to appreciate, or even a deafness towards, ongoing and worsening human rights abuses was a feature of the build up to the genocide in Rwanda. There also seems to be a similar phenomenon at work in the tardy response by the international community to the massive abuses in Darfur.

According to ICG the diplomatic community in Khartoum considered possible vehicles for international action regarding escalating conflict in Darfur during the last quarter of 2003. The action of a senior UN humanitarian official giving a presentation to the Security Council was considered but according to ICG "some influential members, namely the UK and US, advocated a lower profile"

African Governments were slow to condemn the human rights abuses by the Sudanese Government and the *Janjaweed* militia

Though the AU has gradually come to play a leading role in the current international response, it would appear that many African states have been very slow to condemn the abuses by the Government during 2003 and early 2004. Apparently during the Human Rights Commission meeting in Geneva in March 2004 a resolution that was critical of the Government was watered down by African nations supported by others on the Commission to such an extent that the US delegation voted against the eventual resolution because it was so weak.¹⁰²

There has been extreme reluctance by UN member states and the UN Secretariat to use the word 'genocide' to describe the killings and mass displacements in Darfur

Despite early reports by Amnesty International on the initial attacks by the SLM/A rebel movement, and the response by the Government of Sudan and the *Janjaweed* militia that involved attacks on whole villages and the forced displacement of their inhabitants, the international community has been extremely slow to acknowledge the significance and ethnic nature of the conflict and the possibility that it might constitute genocide. Terms such as 'ethnic cleansing' and 'scorched earth policies' were only introduced into the official discourse in March 2004, when the UN Resident Representative spoke out on the subject in the international media. The term 'genocide' began to appear with some regularity in US press coverage and comment from the end of March 2004 onwards, in part associated with the tenth anniversary of the 1994 genocide in Rwanda. Frustrated at the US Government's avoidance of using the term on 23rd July 2004 the US House of Representatives unanimously adopted a resolution calling on the Government to call the atrocities in Darfur "by its rightful name: 'genocide'." It was seven weeks later that the US Secretary of State publicly conceded "that genocide has been

102. *Human Rights Watch "U.N.: Rights Body Appoints Sudan Monitor, But on Last Day of Session, Commission Fails to Address Significantly Rights Crisis in Sudan" 23rd April 2004. Remarkably, Sudan (as a member of the Human Rights Commission) was allowed to vote against the resolution.*

committed in Darfur and that the Government of Sudan and the *Janjaweed* bear responsibility". As yet the US Government is the only one to have used the term publicly. At the time of writing neither the UN Secretariat, the Office of the High Commissioner for Human Rights or the UN Security Council have used the term publicly despite three of the five criteria in Article 2 of the 1948 Genocide Convention appearing to have been met.

Box 7.1 Convention on the Prevention and Punishment for the Crime of Genocide

Article 2

"In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a) Killing members of the group;
- b) Causing serious bodily or mental harm to members of the group;
- c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d) Imposing measures intended to prevent births within the group;
- e) Forcibly transferring children of the group to another group"

http://www.unhchr.ch/html/menu3/b/p_genoci.htm

As in Rwanda in 1994 there remains extreme reluctance by member states to publicly acknowledge that genocide may be occurring. Whilst the Darfur case is less clear cut than in Rwanda (where after the initial confusing picture it became readily apparent to most observers, if not governments, that it was a genocide that was taking place) and different assessments and fact-finding missions have reached different conclusions over the existence of genocide in Darfur¹⁰³, it appears that the public acknowledgement of genocide continues to be avoided by member states for as long as possible because of the obligation to intervene that it then places on UN member states.

International disquiet and hostility towards the US led invasion of Iraq in March 2003 has contributed significantly to the reluctance of western governments to intervene militarily in Darfur

The commitment of US, British and other western forces in Iraq and hostility towards their presence in most Arab countries has made it extremely unlikely that western forces will be deployed in Darfur in the foreseeable future. Awareness of this situation may well have contributed to international reluctance to use of the term genocide to describe the situation in Darfur: Though European air forces assisted in transporting the AU contingents to Darfur and European governments are providing financial support to the AU monitors, a peace enforcement operation along the lines of the interventions in Kosovo, Sierra Leone, Cote d'Ivoire or East Timor involving US and European forces is extremely unlikely, despite UK troops being tentatively offered in July 2004. International dis-

103. For instance just over two weeks after the US House of Representatives adopted its resolution calling on the US Government to use the term 'genocide' to describe the atrocities in Darfur and four weeks before the US Atrocities Documentation Team reported on its survey involving 1,200 refugees from Darfur in Chad, a five day EU military and civilian assessment mission concluded that "we are not in a situation of genocide there".

7. WILLINGNESS TO PREVENT OR INTERVENE AGAINST GENOCIDE OR MASS KILLINGS?

quiet towards the US and the UK appears to have made those two governments reluctant to undertake a military intervention in another Arab country or at least to undertake a military intervention that is not sanctioned by the UN Security Council. While the US and other western countries were prepared to intervene militarily in Kosovo, Afghanistan and Iraq on the basis of either tenuous authorization by the Security Council or on the grounds of self-defense, in the case of Darfur approval by the Security Council is being regarded as vital by western members – quite possibly as a consequence of the international censures of those countries involved in the invasion and occupation of Iraq. Within the Security Council one of the Permanent Five members (China) is extremely cautious about authorizing external intervention in the affairs of a sovereign member and the process of moving from open criticism to the setting of targets to agreeing on possible sanctions and other steps in the event of non-compliance is proceeding at a painfully slow pace. With the excess mortality due to the attacks on civilians and the displacements estimated to be between 4,500-8,500 per month, the death toll in Darfur continues to rise whilst the Security Council works through this process.

On the basis of this brief provisional assessment it is clear that the international community has been extremely slow to engage adequately with the situation in Darfur. Though there are factors that may help explain the delay, they do not in themselves provide adequate excuse for the delay. The current situation where the international ceasefire observers have been deployed, humanitarian agencies have established a significant presence on the ground and the Security Council is focusing on the issue (though still stopping short of imposing sanctions on the Government of Sudan or taking military steps to prevent attacks by either the *Janjaweed* or the Sudanese air force) ought to have been reached in September or October 2003. In this sense the numbers that have been killed, displaced or died though increased morbidity since September or October last year could be attributed to the tardy response by the international community. Since May 2004 the international community has had sufficient access to Darfur to establish the existence of genocide and take steps to prevent the attacks and displacements. Instead it has proceeded painfully slowly. Though it is nearly three years since the International Commission on Intervention and State Sovereignty produced its 'Responsibility to Protect' report, it appears to have had little if any discernible impact in the case of Darfur.

The confusion over whether or not a genocide has been taking place in Darfur and the extreme reluctance by members states to publicly use the term genocide points to the need for an entity within the international community with sufficient independence and expertise to authoritatively pronounce on whether or not the situation warranted the use of the term 'genocide' in relation to the criteria set out in the 1948 Convention on the Prevention and Punishment for the Crime of Genocide. Some observers had hoped that the appointment of a Special Adviser to the UN Secretary General on the Prevention of Genocide might include this role. At present however it appears that this is not the vision of the Secretary General or the Security Council. When sending the UN High Commissioner for Human Rights and the Special Adviser on the Prevention of Genocide to Darfur in September 2004 the Secretary General described their task as "not to describe or characterize what is happening, but to see what more can be done to stop it, and to prevent further abuses."¹⁰⁴

104. "Secretary-General Calls for Security Council Action on Sudan" 16th September
<http://www.un.org/News/press/docs/2004/s040916.sgsm.htm>

8. Findings and Conclusions: An Overall Assessment of the Impact and Influence of the Joint Evaluation

Most interlocutors interviewed by the authors knew of the Joint Evaluation. Moreover, they saw the Joint Evaluation as pioneering in the following ways:

- It was the first report to be published that assessed the performance of the international community in all phases of the genocide. As one interlocutor put it, “The speed with which the Joint Evaluation was done was important. Simply in being there first to push a serious consideration of what happened pushed others to undertake a serious self-examination. Without the Joint Evaluation, I doubt there would have been the UN or OAU studies.”¹⁰⁵
- A sentiment expressed by several interlocutors was that the Joint Evaluation had “put the issues on the table as they were seen by evaluators and researchers commissioned by a collective of donor, multilateral, UN and non-governmental organizations and that this had legitimized and facilitated subsequent inquiries and investigations.” One informant stressed the inclusion of *policy* issues by the Joint Evaluation as being important and unique.
- Informants noted that the Joint Evaluation was the only review of the Rwanda genocide that assessed in the same analysis *all* elements of the involved international community: the United Nations system, regional organizations, Member States, bilateral donors and the international financial institutions, international NGOs, and the media. One interlocutor noted: “Covering all stakeholders was just not in the schema of some folks. The Joint Evaluation set a good precedent in this respect.”
- Another factor cited was the *governance* of the Joint Evaluation, the fact that its relatively large Steering Committee was representative of the same elements as those to whom the evaluation was addressed. This combination of large numbers and the form of governance gave the evaluation, according to our interlocutors, political weight and “voice.”¹⁰⁶ For another observer, the fact that the Steering Committee was *multi-donor* in character was significant and encouraged greater candor in the reports than might otherwise have been the case (Forman and Patrick 2000:60).
- Last but not least, our informants said that the fact the Joint Evaluation was a serious effort in terms of quality was also important. While it is difficult to trace the impact from one specific recommendation, the weight of *all* the Joint Evaluation recommendations taken together was important in the view of one interlocutor.

One of the most extensive (and complimentary) references in the literature to the Joint Evaluation is excerpted below:

“doubtless the most comprehensive and detailed review ever conducted of a single

105. Interview May 19, 2004.

106. Interview, May 24, 2004.

8. FINDINGS AND CONCLUSIONS

humanitarian initiative ... Yet the Rwanda study has been associated with only limited structural reform in the international humanitarian apparatus and as of 2002 momentum to implement its recommendations has waned. It did succeed in documenting many policies and procedures that are now accepted as requiring changes. The current UN SG has accepted many of the criticisms made in the original study, in marked contrast with the initial response.... Perhaps the most enduring outcome of this ‘mother of all evaluations is ALNAP.’ (Minear 2002)

A factor limiting the attention paid to the Joint Evaluation and its potential impact in the view of several interlocutors was its mode of dissemination and that a commercial publishing house was not secured. Another factor cited by a key informant as potentially limiting dissemination was the lack of a strategy for lead authors to publish articles emanating from the Joint Evaluation in a series of journals. Another factor may be that the printing of the Joint Evaluation in French was relatively limited, at 1,000 copies. But there is clear evidence in the literature and from key informants that the Joint Evaluation stimulated further research and analysis of complex emergencies and the tendency toward genocide. It has also been used widely as a teaching resource at the college and university levels.

Not the least of the impacts traceable to the Joint Evaluation is the impetus it gave analytical and evaluation capacities in humanitarian assistance organizations, including the formation of ALNAP. Offsetting these impacts is the fact that those charged with analysis and evaluation still tend to be isolated from those charged with policy and program development, especially in official development agencies.

The impact and influence of the Joint Evaluation on policy reports prepared for key organizations like the UN, bilateral donors, and international financial institutions is mixed. The Joint Evaluation had a major direct impact on the OAU Panel Report and on an evaluation of World Bank experience with post-conflict reconstruction, but no discernible influence on the UN Panel Report on Peace Operations (the “Brahimi” Report). In other instances, the influence of the Joint Evaluation was indirect but discernable, as in the case of background papers that fed into such reports as the *Responsibility to Protect* and the OECD/DAC *Guidelines on Conflict, Peace, and Development Cooperation*.

One factor, but perhaps not the only one, was simply whether the staff preparing such reports was aware of Joint Evaluation. As noted previously, the Project Manager for one major report had not been aware of the Joint Evaluation. Yet, in spite of this, there is substantial overlap between the findings and recommendations of the two reports.¹⁰⁷

The critical question is whether reports and policy prescriptions, explicitly attributed to the Joint Evaluation or not, get translated into practice. In the humanitarian sector there have been clear and positive developments in relation to accountability, standards and greater professionalism. The understanding of the different elements and steps required to achieve stability after a period of conflict has improved considerably as witnessed by some successful Disarmament, Demobilization, Repatriation, Reintegration and Resettlement (DDRRR) programs. Though they do not meet all the requirements for an effective early warning system, the development of the work of organizations such as Amnesty International, Human Rights Watch and the International Crisis Group has

107. Prior to the interview by one of the authors with this Project Manager, he scanned the Joint Evaluation recommendations and found about 30 recommendations and findings that closely parallel those of the other report.

greatly increased the availability of information and detailed analysis of the situation in many unstable areas of the world. However on the central issue of the prevention and suppression of genocide and massive human rights abuses the views of interlocutors and the literature together with our own assessments of the two cases of DRC and Darfur are on balance pessimistic. Whilst the international community has shown itself able to use military force to confront groups undertaking massive human rights abuses in Kosovo and arguably East Timor it would appear that for many countries in Africa massive public interest mobilization campaigns will be required to put sufficient pressure on decision makers in key countries to get action on an issue like genocide prevention and intervention.¹⁰⁸ The successful global campaign against landmines comes to mind.

The current outlook is particularly grim because the lead power, the U.S., is not likely to commit resources to another crisis, partly since it is stretched thin by the ongoing conflicts in Iraq and Afghanistan. Particularly if the crisis is remote and is not seen to constitute a strategic threat to the “great powers.” In this context the outlook for Darfur looks very dire, not to mention the Eastern Congo (DRC).¹⁰⁹

When giving testimony to a US Congressional Committee shortly after the 10th anniversary of the genocide in Rwanda, the author of the influential book ‘A Problem From Hell’ aptly stated:

“If we are serious about learning the ‘lessons’ of Rwanda, we must do more than remember and regret; we must press our leaders to make genocide prevention and suppression the foreign policy priority it has never been. Otherwise, when we pledge ‘never again Rwanda’, what we will really be saying is ‘never again will Rwandan Hutu kill 800,000 Tutsi between April and July 1994’” (Power 2004)

One potentially bright spot in this bleak picture are the efforts mainly in Africa and Europe to mobilize the capacity to intervene relatively quickly in crisis situations. The AU and some countries have shown their capability to establish a military presence in Burundi. Darfur is a tougher problem politically and militarily. Neither African countries nor the AU have shown any appetite for intervening so far. But perhaps a “willing coalition” of African, European and other countries would provide the needed combination for an effective peacekeeping effort.

Great Lakes Issues

Issues producing continuing violence and human rights violations are far from resolved in the Great Lakes Region of Africa, even in Burundi and Rwanda, notwithstanding the Peace Agreement in Burundi and almost ten years of “peace” in Rwanda, not to mention the continuing insecurity in Eastern DRC. Recommendation F-2 of the Joint Evaluation called for, among other things:

- A sustainable, long-term solution to the cycles of civil and ethnic violence must involve the people and be a regional one. The countries of the Great Lakes Region must take the lead in developing this solution. But strong support from bilateral and multilateral development agencies and international NGOs is also essential.
- A carefully planned major donor conference to marshal external support.

108. *Samantha Power argues that such an approach is necessary (Power 2004).*

109. *For a sharply-argued view along these lines, see the previously cited papers by Thomas Weiss, "The Responsibility to Protect: Is Anyone Interested in Humanitarian Intervention?" and "The Sunset of Humanitarian Intervention? The Responsibility to Protect in a Unipolar Era." Op. cit.*

A regional conference is planned for November 2004 in Dar es Salaam. This provides the countries of the region and the international community an opportunity to address development, political, and humanitarian issues that are still critical. This opportunity deserves the most serious attention by all parties. Another opportunity may not present itself when conditions are as propitious as they are now. There are important lessons contained in the Joint Evaluation of Emergency Assistance to Rwanda that will be still be relevant to the objectives of the upcoming conference.

Three Proposals

Our extensive review of the literature and interactions with our interlocutors and Advisory Panel have encouraged us to offer three proposals that appear exceptionally pertinent and worthwhile.

The Determination of Genocide and a Nobel Panel on Genocide to support the new Special Adviser to the Secretary General

Had more timely and strategic information been brought to the UN Security Council, meaningful actions might have been taken before it was too late in both Rwanda and Darfur. In 1993-94 there was no mechanism for the various bits of information suggesting planning for genocide to be analyzed and brought to the attention of the Secretary General and the Security Council. Our report recommended that such a unit be established in the Secretary General's Office. No such measure was taken over the following eight years, but at the time of the 10th Anniversary of the Rwandan Genocide in April 2004, the UN Secretary General announced the creation of a Special Adviser on Genocide Prevention and the incumbent, Mr. Juan Mendez was announced in July.

The new Special Adviser could theoretically play a key role. But he will need adequate budget and staff, neither of which seems assured at this point. It is important that he and his staff have the capacity and the mandate to undertake the determination as to whether or not a genocide according to the 1948 Convention is actually taking place in a particular context. Confusion over what it takes before the term 'genocide' can legitimately be used and the current practice of carefully treading around the term until one or more members of the Security Council choose to make their own pronouncement is wholly unsatisfactory. The determination function needs to be independent of those who will be obligated to respond if the occurrence of genocide is actually determined. Moreover it needs to be authoritative and soundly based.

It therefore seems essential to us that the Special Adviser and the Secretary General be supported by a highly respected external panel composed of, for example, three to five Nobel Peace Laureates (from around the world). This "Nobel Panel on Genocide" would help ensure that reports of the Special Advisor and Secretary General are made public and that when it is decided on the basis of the evidence available that a genocide is actually taking place that at least someone close to the Security Council has the mandate and the courage to use the 'G' word and ensure that "names are named and shamed" – both among the perpetrators and the key members of the international community.

An Evaluation of the International Response to the Conflict and Humanitarian Crisis in the Democratic Republic of Congo

The loss of over 3 million lives in the eastern DRC as a result of the conflict that began in 1998 stands as a specter on the ability of the current institutions and instruments of the international community to mitigate international conflicts and their humanitarian effects. Given the enormity of what has happened in eastern DRC and the seriousness of

the accusations being leveled at the international community, the UN and the humanitarian sector generally, the DRC case deserves to be subjected to an evaluation as thorough, transparent and wide ranging as the Joint Evaluation.

A Humanitarian Sub-Committee for the Security Council

The Joint Evaluation strongly recommended the establishment of a Humanitarian Sub-Committee of the Security Council, in order to ensure that the Council was fully informed of the humanitarian dimensions in countries experiencing complex emergencies. In part the recommendation was intended to provide a channel for humanitarian agencies, particularly NGOs with their strong grass roots bases and well-informed perspective on the situation at the field level, to inform the Security Council of the humanitarian situation 'on the ground'. NGOs operating in Rwanda had credible information as early as 1993 about plans for genocide, but they had no entrée with the Security Council. Similarly, NGOs had specific information over a year ago about killings, massive population displacement, and the parties involved in Darfur.

In part also the recommendation was intended to reduce the likelihood of humanitarian assistance being used as a substitute for resolute political, and if necessary military, action. In its deliberations during the Rwanda crisis the Security Council had focused upon political and security aspects; humanitarian aspects and the implications of any decisions for the humanitarian agencies working on the ground, were not properly considered. Though the Humanitarian Coordinator does now provide briefings to the Security Council, the Sub-Committee recommendation was never seriously considered, let alone implemented.

During the course of this assessment members of the Advisory Group and key informants indicated that they continued to find merit in the Sub-Committee proposal. In addition to the original reasons there is the current, widely held-concern (noted in Sections 4.5 and 5.2) that since the 'Brahimi' Report in 2000 and the advent of the Integrated Mission model, that humanitarian considerations are regularly being "forced into the back seat" in UN peacekeeping missions. In addition the Darfur case shows once again that when faced with resistance to strategies designed to address fundamental security and protection issues in a country, the Security Council will tend to allow (or even actively push) for improved humanitarian access and view this as some form of substitute for more vigorous action to address the fundamental security and protection issues. A Humanitarian Sub-Committee would give the Humanitarian community a stronger voice in the political milieu of the Security Council and mitigate the continuing tendency for the community to be treated as an "instrument" of whatever policy thrust the Council, or key members of it, are pursuing.

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ANNEX 1

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Annex 2 Coverage of the Joint Evaluation in the Literature

The following review of coverage of literature begins in 1996, the year that the Joint Evaluation was published. An effort has been made, through reviews of the literature and eliciting the views of Advisory Group members and other commenters on the draft Assessment report, to ensure that the review is as complete as possible. But there undoubtedly are omissions. The selection has emphasized books, monographs, reports, and some website essays. Not included are newspaper articles, which generally do not include references. Some entries, such as the book by Gourevitch (item 23), omit or minimize the normal scholarly apparatus of notes and bibliography. Given the significance of the latter book and the frequency with which it is cited in the literature, it has been included in the table.

Literature Source	Reference Type
1 Adelman, Howard and Govind C. Rao, eds. <i>War and Peace in Zaire/Congo: Analyzing and Evaluating Intervention 1996-1997</i> . Lawrenceville, NJ: Africa World Press, 2004.	15 citations, all to <i>Joint Evaluation of Emergency Assistance to Rwanda</i> .
2 Adelman, Howard and Astri Suhrke, eds. <i>The Path of Genocide: The Rwanda Crisis from Uganda to Zaire</i> . New Brunswick and London: Transaction Publishers, 1999.	Reference in bibliography to Study 2 of Joint Evaluation, <i>Early Warning and Conflict Management: Genocide in Rwanda</i> .
3 Amnesty International. <i>The Genocide in 1994. Hidden Violence</i> . Website. 2004. http://www.amnesty.org/ailib/intcam/rwanda/genocide.htm	No reference to the Joint Evaluation.
4 Anderson, Mary B. <i>Do No Harm: How Aid Can Support Peace – or War</i> . Boulder and London: Lynne Rienner, 1999.	One reference to Multi-Donor Evaluation of Assistance to Rwanda in Ch. 12 (p. 146), re: humanitarian action substituting for political action.
5 Barnett, Michael. <i>Eyewitness to a Genocide: The United Nations and Rwanda</i> . Ithaca, NY: Cornell University Press, 2002.	10 citations in first 4 chapters – all to: <i>International Response to Conflict and Genocide: Lessons from the Rwanda Experience</i> .
6 Belgian Senate. Session of 1997-1998. <i>Report. Parliamentary commission of inquiry regarding the events in Rwanda</i> . (English version) Brussels: December 6, 1997.	14 citations to the Joint Evaluation, 9 to Study 1 and 5 to Study 2. One of the lead authors of Study 2 testified before the Commission, 3 sections of which were included in the main report.
7 Boyce, James K. <i>Investing in Peace: Aid and Conditionality after Civil Wars</i> . London and New York: Oxford University Press, 2002.	No reference.
8 Boyce, James K. and Manuel Pastor. "Aid for Peace: Can International Financial Institutions Help Prevent Conflict?" <i>World Policy Journal</i> , 1998, Vol. 15, No. 2, pp. 42-49.	Cites (on p.45) Study 2 conclusion of Joint Evaluation that "human rights conditionality was preached but not practiced" by donors prior to the genocide.

ANNEX 2

Literature Source	Reference Type
9 Carnegie Commission on <i>Preventing Deadly Conflict. Preventing Deadly Conflict: Final Report.</i> New York: Carnegie Corporation of New York, December 1997.	Cites entire Joint Evaluation in Bibliography. Chapter 3 refers to Joint Evaluation's analysis (in Study 3) of a lack of a coordinated political strategy by the international community.
10 Cohen, Roberta and James Kunder. <i>Humanitarian and Human Rights Emergencies.</i> Policy Brief 83. Washington: Brookings Institution. June 2001	No reference.
11 Colletta, Nat J. and Michelle E. Cullen. <i>Violent Conflict and the Transformation of Social Capital: Lessons from Cambodia, Rwanda, Guatemala, and Somalia.</i> Washington: World Bank, 2000.	No reference.
12 Dallaire, Roméo. <i>Shake Hands with the Devil: The Failure of Humanity in Rwanda.</i> Toronto: Random House Canada, 2003.	No reference.
13 Des Forges, Alison. <i>Leave None to Tell the Story: Genocide in Rwanda (including "Ten Years Later" chapter).</i> Section on "Propaganda and Practice." New York: Human Rights Watch, 2004.	Cites Study 2 reference to 1993 International Commission of Inquiry into Human Rights Abuse in Rwanda (note 62). The Joint Evaluation is referred to as the "Danish Evaluation." The withdrawal of support by the French is noted.
14 de Waal, Alex. <i>Famine Crimes: Politics and the Disaster Relief Industry in Africa.</i> London: African Rights, 1997.	No reference.
15 Donini, Antonio, Norah Niland and Karin Wermester (eds). <i>Nation-Building Unraveled?: Aid Peace and Justice in Afghanistan.</i> Bloomfield, CT: Kumarian Press, 2004.	Synthesis Report cited in Chapter 1 by the editors and by Nicholas Stockton in Chapter 2.
16 Dorn, A. Walter, Jonathan Matloff and Jennifer Matthews. <i>Preventing the Bloodbath: Could the UN have Predicted and Prevented the Rwanda Genocide?</i> Kingston, Ont.: Royal Military College of Canada, 2000. (First published as Occasional Paper #24, Cornell University, Peace Studies Program, November 1999.)	There are two references to Study 2: note 31 cites pre-genocide arms caches and note 74 cites a correlation between peace agreements and civil violence. Joint Evaluation said to be known as the "Donor Nations Study."
17 Duffield, Mark. <i>Global Governance and the New Wars: The Merging of Development and Security.</i> London and New York: Zed Books, 2001.	Reference to Adelman, Suhrke, and Jones, Study 2 of the Joint Evaluation, in the Bibliography.
18 Durch, William J., Victoria K. Holt, Caroline E. Earle, and Moira K. Shanahan. <i>The Brahimi Report and the Future of UN Peace Operations.</i> Washington, D.C., The Henry L. Stimson Center, 2003.	No reference.
19 European Solidarity towards Equal Participation of People (Eurostep). <i>Lessons from Rwanda: The Argument for a More Coherent European Policy on the Great Lakes Region.</i> Website. Brussels: Eurostep, 1996.	Eurostep is an EU-focused development NGO network. It devoted a web-based article to Joint Evaluation in April 1996, one month after Joint Evaluation publication.

Literature Source	Reference Type
20 Forman, Shepard and Stewart Patrick, eds. <i>Good Intentions: Pledges of Aid for Post-conflict Recovery</i> . Boulder and London: Lynne Rienner, 2000.	Joint Evaluation is cited twice in Bibliography; twice in Ch. 1, "Introduction," by Forman and Patrick (pp. 7-9), and twice in Ch. 2, "The Donor Community" by Patrick (pp. 38 and 60). Citations relate to Joint Evaluation calls for shortening transition from emergency to reconstruction aid and to honor aid pledges. Cost of Joint Evaluation is viewed favorably relative to lessons.
21 French National Assembly. The Quiles Commission. <i>Mission of information on the military operations undertaken by France, other countries and the UN in Rwanda between 1990 to 1994</i> . Paris: December 1998.	Two references to Joint Evaluation regarding pre-genocide economy and aid flows (apparently to Study 1; citation to overall editor: Millwood).
22 Gakusi, Albert-Enéas and Frédérique Mouzer. <i>De la Révolution Rwandaise à la Contre-Révolution : Contraintes structurelles et gouvernance, 1950-2003</i> . Paris : L' Harmattan, 2003.	No reference.
23 Gourevitch, Philip. <i>We wish to inform you that tomorrow we will be killed with our families. Stories from Rwanda</i> . New York: Picador, 1998.	No reference.
24 Guichaoua, André (ed.). <i>Exilés, réfugiés, déplacés en Afrique centrale et orientale</i> . Paris: Éditions Karthala, 2004.	Three references to Joint Evaluation Study 3: <i>Humanitarian Aid and Effects</i> . In a chapter by Arnaud Royer, "L'instrumentalisation politique des réfugiés du Kivu entre 1994 et 1996," pp. 425-528.
25 Jones, Bruce D. <i>Peacemaking in Rwanda: The Dynamics of Failure</i> . Boulder and London: Lynne Rienner, 2001.	Joint Evaluation and Study 2 are cited in the bibliography. Studies 2 and 3 are cited 12 and 4 times in the text, respectively. Ch. 5, "UN Peacekeeping and the Collapse of Arusha," contains 11 references.
26 Kuperman, Alan J. <i>The Limits of Humanitarian Intervention: Genocide in Rwanda</i> . Washington, DC: Brookings Institution, 2001.	No reference.
27 Leaning, Jennifer, Susan Briggs and Lincoln Chen (eds). <i>Humanitarian Crises: The Medical and Public Health Response</i> . Cambridge, MA: Harvard University Press, 1999.	Study 2 cited in Ch. 9, "Human Rights Challenges," by Arheh Neier and Jennifer Leaning, and whole evaluation cited in Ch. 10, "Complex Emergencies and NGOs: the Example of CARE," by Marc Lindenberg.
28 Mamdani, Mahmood. <i>When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda</i> . Princeton, NJ: Princeton University Press, 2001.	No reference.
29 Melvern, Linda. <i>A People Betrayed: The Role of the West in Rwanda's Genocide</i> . London and New York: Zed Books, 2000.	Six references drawn from Joint Evaluation Studies 2 and 3. Extensive references to role of the media. Author notes the French withdrawal from Joint Evaluation Steering Committee.

ANNEX 2

	Literature Source	Reference Type
30	Melvorn, Linda. <i>Conspiracy to Murder: The Rwandan Genocide</i> . London and New York: Verso, 2004.	Full identification of Joint Evaluation, including all lead authors, given in "Sources" section. Ch. 10 contains passage on role of media similar to that cited in text above from 2000 volume.
31	Miall, Hugh, Oliver Ramsbotham, and Tom Woodhouse. <i>Contemporary Conflict Resolution</i> . Cambridge, UK: Polity Press, 1999.	References to Study 1 (Adelman) and to Synthesis Report (Eriksson).
32	Minear, Larry. <i>The Humanitarian Enterprise: Dilemmas and Discoveries</i> . Bloomfield, CT: Kumarian Press, 2002.	One extensive, page-and-a-half citation of the Joint Evaluation (excerpted in Chapter 8 of the main text of the current Assessment (see above). Several citations of "products" of Joint Evaluation, including JEFF report and papers by Borton and Dabelstein.
33	Minear, Larry and Philippe Guillot. <i>Soldiers to the Rescue: Humanitarian Lessons from Rwanda</i> . Paris: Development Centre, OECD, 1996.	Bibliography includes reference to Joint Evaluation Steering Committee. Contains 1 citation to Study 1 (pp. 56 & 71).
34	Moore, Jonathan (ed.). <i>Hard Choices: Moral Dilemmas in Humanitarian Intervention</i> . Lanham, MD and London: Rowman and Littlefield, 1999.	One reference to the Study 2 in Ch. 9, "Hard Choices after Genocide: Human Rights and Political Failures in Rwanda," by Ian Martin.
35	Muscat, Robert J. <i>Investing in Peace: How Development Aid Can Prevent or Promote Conflict</i> . Armonk and London: M.E. Sharpe, 2002.	Joint Evaluation Study 1 and Synthesis Report referenced in bibliography. Pre-genocide history cited from Joint Evaluation (pp. 51-2, 99).
36	Organization of African Unity (OAU). International Panel of Eminent Personalities. <i>Rwanda: the Preventable Genocide</i> . Addis Ababa: OAU, 2001 (report prepared by Gerald Caplan).	With 43 references, this source draws more heavily on Joint Evaluation than any other (15 from Study 1, 14 from 2, 5 from 3, 8 from 4, and 1 general reference) The Joint Evaluation is labeled "an important report" (p. 198). The Joint Evaluation is identified by its editor, David Millwood.
37	OECD, Development Assistance Committee (DAC). <i>Conflict, Peace and Development Cooperation on the Threshold of the 21st Century</i> . Policy Statement. Paris: OECD, May 1997.	No reference.
38	------. <i>Civilian and Military Means of Providing and Supporting Humanitarian Assistance During Conflict – Comparative Advantages and Costs</i> . Report No. 1. Paris: OECD, 1998.	Joint Evaluation is cited in the bibliography.
39	------. Informal Task Force on Conflict, Peace and Development Cooperation. Anton Baaré, David Shearer, and Peter Uvin. <i>The Limits and Scope for the Use of Development Assistance Incentives for Influencing Conflict Situations: Case Study Rwanda</i> . Paris: OECD, 1999.	Five references to the Joint Evaluation. The authors use the Joint Evaluation as their context and point of departure (see paras 5 and 149). The last recommendation, to "promote an institutional memory," laments: "some people working on Rwanda today, had never heard of Joint Evaluation." (Recommendation 12)
40	------. Peter Uvin. <i>The Influence of Aid in Situations of Violent Conflict</i> . Paris: OECD. 1999.	No reference.
41	------. <i>The DAC Guidelines: Helping Prevent Violent Conflict</i> . Paris: OECD, 2001.	No reference.

Literature Source	Reference Type
42 <i>Security System Reform and Governance: Policy and Good Practice</i> . DAC Guidelines and Reference Series. Paris: OECD, 2004.	No reference.
43 Oxfam International. <i>Rwanda Genocide 1994. Questions and Answers</i> . Website. 30 March 2004. http://www.oxfam.org/eng/pro40330_rwanda_QA.htm	No reference.
44 Pottier, Johan. <i>Re-imagining Rwanda: Conflict, Survival and Disinformation in the Late Twentieth Century</i> . Cambridge: Cambridge University Press, 2002.	Extensive citation of Study 3. Studies 2 and 4 also cited in Bibliography.
45 Power, Samantha. "A Problem from Hell," <i>American and the Age of Genocide</i> . New York: Perennial, 2003.	No reference.
46 Prunier, Gérard. <i>The Rwanda Crisis: History of a Genocide</i> . New York: Columbia University Press, 1995; second edition with additional chapter published in 1997.	No reference.
47 <i>Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda</i> . Ingvar Carlsson, Han Sung-Joo, and Rufus M Kupolati. New York, 1999.	No reference.
48 <i>Report of the International Commission on Intervention and State Sovereignty (ICISS). The Responsibility to Protect</i> . Ottawa: International Development Research Centre, 2001.	No reference in main report. The entire Joint Evaluation listed in bibliography of Supplementary Volume. The Joint Evaluation is cited in connection with discussion of lack of political will on p. 42.
49 Rieff, David. <i>A Bed for the Night: Humanitarianism in Crisis</i> . New York: Simon and Schuster, 2002.	No reference.
50 Seybolt, Taylor B. <i>Rwanda and the Difficulty of Worthy Military Intervention</i> . Stockholm: Stockholm International Peace Research Institute, 1999 (version 1.3; draft).	Cited as "among the best accounts of the genocide in Rwanda" (note no. 2).
51 Shawcross, William. <i>Deliver Us from Evil: Warlords and Peacekeepers in a World of Endless Conflict</i> . London: Bloomsbury, 2000.	No reference.
52 Simons, Penelope C. <i>Humanitarian Intervention: A Review of Literature</i> . Working Paper 01-2. Waterloo, Ontario: Project Ploughshares (no date). Smyser, William. <i>The Humanitarian Conscience: Caring for Others in the Age of Terror</i> . New York: Palgrave Macmillan, 2003.	No reference. No reference to Joint Evaluation, but refers to ALNAP.
53 Stedman, Stephen John, Donald Rothchild, and Elizabeth M. Cousens. <i>Ending Civil Wars: The Implementation of Peace Agreements</i> . Boulder and London: Lynne Rienner, 2002.	Study 2 cited in bibliography. Study 2 cited 3 times in Gilbert M. Khadiagala, "Implementing the Arusha Peace Agreement on Rwanda" (pp. 18, 58, 98).

ANNEX 2

	Literature Source	Reference Type
54	Stedman, Stephen John and Fred Tanner, editors. <i>Refugee Manipulation: War, Politics, and the Abuse of Human Suffering</i> . Washington: Brookings, 2003.	Four references in Howard Adelman, " The Use and Abuse of Refugees in Zaire" -- three references to Study 2 (pp. 95, 100, 106) and one to Study 3.
55	Terry, Fiona. <i>Condemned to Repeat? The Paradox of Humanitarian Action</i> Ithaca: Cornell University Press, 2002.	Synthesis Report cited twice; Study 1, once; Study 2, once, and Study 3, six times.
56	<i>The Nation</i> . "Humanitarian Intervention: A Forum." Richard Falk, et al. July 14, 2003.	No reference.
57	United Nations. Report of the Panel on United Nations Peace Operations. Lakhdar Brahimi, Chairman. New York: United Nations, 2000.	No reference.
58	Uvin, Peter. <i>Aiding Violence: The Development Enterprise in Rwanda</i> . West Hartford, CT: Kumarian, 1998.	Bibliography cites Studies 2 and 4 as well as the Synthesis Volume, including the lead authors. Text includes 10 references to Study 2 and two quotes from Study 2, citing the lead authors (Adelman and Surhke).
59	United States Institute for Peace. <i>Rwanda: Accountability for War Crimes and Genocide</i> . Special Report 13. Washington: USIP, 1995	No reference.
60	Weiss, Thomas. <i>Military-Civilian Interaction: Intervening in Humanitarian Crises</i> Lanham, MD: Rowman and Littlefield, 1999.	
61	Woolf, Linda M. "Recommended Readings on the Holocaust and Genocide." Geneva: Webster University, (no date, but latest entries are for 1998).	Under "Rwanda and Burundi," books by Gourevitch, Keane, Lemarchand, Nyankanzi, and Prunier are recommended. No mention is made of the Joint Evaluation..
62	World Bank. Operations Evaluation Department. <i>The Experience of the World Bank with Post-Conflict Reconstruction</i> . Washington, DC: World Bank, 1998.	Cited twice in Select Bibliography, Synthesis (Eriksson) and Study 4 (Kumar), pp. 48-49. Four evaluation criteria for complex emergencies attributed to the Joint Evaluation on p. 43 (Connectedness, Coherence, Coverage, and Appropriateness). Sharpening complex emergency definition to include political nature attributed to Evaluation (p.2).
63	World Bank. <i>Post-Conflict Reconstruction : The Role of the World Bank</i> . Washington, DC: World Bank, 1998.	Cited (as Steering Committee ...) in Select Bibliography. DAC Guidelines on Conflict, Peace, and Development Cooperation said to be influenced by Joint Evaluation (p. 21). Full page Box summarizes main Joint Evaluation findings and recommendations on p. 22.
64	Zartman, I. William and J. Lewis Rasmussen (eds.). <i>Peacemaking in International Conflict: Methods and Techniques</i> . Washington, DC: United States Institute of Peace, 1997.	No direct reference but cites Minear and Guillot (see entry no. 33 above), who in turn cite the Joint Evaluation.

Annex 3 Summary Reviews of the Official Inquiries into the 1994 Rwandan Genocide conducted by the Belgian Senate, the French National Assembly, the UN and the OAU

Belgian Senate 'Parliamentary Commission of Inquiry Regarding the Events in Rwanda' December 1997.

The Parliamentary Commission of Inquiry was established in April 1997 and delivered a detailed and hard-hitting report in December 1997¹¹⁰. The Commission was made up of 15 MPs led by Phillipe Mahoux and Guy Verhofstadt¹¹¹. It heard the testimonies of 95 witnesses – mostly Belgian ministers, diplomats, and members of the military and was allowed to consult all relevant official documents in the Foreign Affairs and Defense Ministries, including all correspondence between Kigali and Brussels. Members of the Commission visited Rwanda for one week.

The origins of the Commission are of some interest. The surfacing of the 11th January 1994 cable during 1995¹¹² and an article in the Belgian press in late 1995 about the warnings that had been available ahead of the genocide, led to a call for a Parliamentary Inquiry by two MPs, one of whom (Alain Destexhe) had been Secretary General of MSF International during the period 1991-95. Following an initial rejection of their call by the ruling party, a public campaign was launched to press for an Inquiry. The campaign was supported by families of the ten paratroopers who had been killed. Over 200,000 signatures were collected and a public opinion survey found that 70% supported an Inquiry. After some brinkmanship over an unrelated vote in the Parliament the Government agreed to the formation of a group of four MPs the so-called 'Rwanda Ad Hoc Group' to investigate the issues¹¹³. The group began work in August and submitted a report in December 1996. In view of the amount of material and the importance of the issues the Ad Hoc Group proposed the formation of a larger Special Commission on Rwanda. The establishment of the Commission was delayed by legal issues over its status and access to secret documentation. It was therefore decided to establish the Commission with the status of a formal Parliamentary Board of Inquiry.

In its report submitted in December 1997, the Commission noted some of the limitations it had encountered in undertaking its work. One limitation was that it had not been able to interview General Dallaire or any other UN officials due to the refusal by the

110. *The full report was nearly 700 pages in length and contained just under 1500 endnotes and references to sources. The full report (in French) is available at <http://www.senate.be/www/?MIval=/publications/viewPub.html> and an English translation of the findings and recommendations is available at <http://www.senate.be/english/rwanda.html>*

111. *Subsequently, in July 1999, Mr. Verhofstadt became Prime Minister of Belgium.*

112. *It is believed (but cannot be proven) that the Joint Evaluation was responsible for the first circulation of this document and its entering the public domain.*

113. *http://destexhe.be/commission_parlementaire_rwanda.htm*

UN Secretary General Secretary (Kofi Annan) to authorize UN officials to testify before the Board¹¹⁴. In addition the Commission undertook its work at the same time as a legal investigation was underway into possible criminal negligence by the Officer in Charge of the Belgian contingent (Luc Marchal) when the ten Belgian paratroopers had been disarmed and murdered. To respect the separation between the two processes the Commission did not call certain potential witnesses and respected the right of silence of certain other witnesses.

The report focused in considerable detail on what it identified as the 17 principal 'failures, errors and responsibilities':

- Shortcoming on the UN Security Council's decision-making process in establishing UNAMIR
- Shortcoming in Belgium's decision to participate in UNAMIR
- The lack of effective technical preparation of the Belgian contingent in UNAMIR
- The deficient performance of the UN Secretariat and DPKO during the mission
- The deficient performance of the Belgian Army's General Staff and the Operations Centre established at the Evere Army Headquarters during the operation
- The absence of an on-site information service and effective analytical capacity [within UNAMIR]
- The failure to provide protection to the informant 'Jean-Pierre' who was the source of General Dallaire's cable of 11th January 1994
- The deficient co-ordination between the Department of National Defense and the General Staff of the Belgian Army
- The deficient monitoring of the Rwanda Dossier by the Belgian Council of Ministers and the Departments of National Defense and Foreign Affairs
- The weakness of diplomatic efforts aimed at reinforcing UNAMIR's mandate
- The incorrect assessment of the situation and passive attitude on 7th April 1994 of the UN Secretary General's Special Representative in Rwanda and High Ranking UNAMIR Officers
- Lapses in the reception and accompaniment of the families of the ten paratroopers
- The unilateral decision to withdraw Belgian troops from UNAMIR
- The absence of an effective reaction against RTLM (Radio Television Milles Collines)
- Interference by unofficial political channels and intermediaries¹¹⁵
- The biased handling of the Rwanda Dossier by the Belgian military authorities
- The presence of Rwandan refugees in Belgium and the possibility of protection in the handling of legal dossiers

Where the Commission felt it appropriate, responsibility for these 'failure and errors' were apportioned to governments, organizations and individuals. In doing so the Commission frequently employed direct language. For instance, on the issues of 'lapses' identified in decisions by the Security Council when deciding to deploy UNAMIR the report states:

"the permanent members of the Security Council, in particular the United States, had excessive weight in a decision where the success of the mission was often sub-

114. *For a period in early 1997 it was hoped that the Commission would be able to conduct an indirect interview with General Dallaire via an intermediary (Astri Subrke, co-author of Study II of the Joint Evaluation). However even this arrangement was not authorized by the Secretary General.*

115. *This refers to attempts by certain Rwandan politicians to reduce the support for the Arusha Accords by the Belgian Government (that were unsuccessful) and links between certain Belgian political parties and the Rwandan Government prior to the genocide.*

ordinated to the selfish and often contradictory interests of Council members. ... The Commission felt that the governments of the permanent members of the Security Council bear considerable responsibility in this area".

The Commission was very critical of the refusal by DPKO to approve General Dallaire's 11th January request to undertake searches for arms caches in the Kigali area. It saw such 'passiveness' as rendering UNAMIR "less and less credible in the eyes of Rwandans which consequently gave the impressions that they could impede UNAMIR's work with impunity". The Commission identified numerous "lapses" within the UN Secretariat and Security Council and concluded that:

"the United Nations' organizational structure, in particular with regard to peacekeeping missions, the Security Council, the general secretariat, led at that time by Mr. Boutros Boutros-Ghali, and the DPKO, which was led at that time by Mr. Kofi Annan, bear responsibility for these lapses".

"The Commission believes that in the critical moments of the Rwanda crisis, the following people did not react to the events in an effective manner and, in some cases, did not act professionally" and named SRSG Booh Booh, General Dallaire and three officers in the Belgian UNAMIR contingent.

The report made a total of 55 recommendations. Whilst the majority of the recommendations were addressed to the Belgian military, several were addressed to the UN and other countries. One called for parliaments of "each of the countries that, in one way or another, was involved in the events in Rwanda, as well as the United Nations, to carry out an in-depth analysis and assessment of what happened". Another recommendation called for the inclusion within domestic Belgian law of provisions to enable the punishment of crimes against humanity and in particular the crime of genocide.¹¹⁶

French National Assembly 'Mission of Information on the military operations undertaken by France, other countries and the UN in Rwanda between 1990 to 1994' 'The Quiles Commission' December 1998¹¹⁷

In March 1998, three months after publication of the Belgian Senate's Commission of Inquiry, the French National Assembly established a 'Mission of Information'. The Mission of Information was undertaken by the two standing parliamentary commissions on Defense and Foreign Affairs and was headed by Paul Quiles, a Socialist Senator. The 'Mission' met 45 times and heard 88 civil and military witnesses – academics, high ranking military officers, governmental and parliamentary members, and diplomats. The rapporteurs of the Mission also met with UN officials in New York, with US officials in Washington, and with representatives of the Belgium Government, Parliament and Commission of Inquiry. They also traveled to Rwanda, though only briefly. The Mission had access to classified documents, some of which were included in the annexes of the final report.

116. *This recommendation led to the so called 'Belgian Genocide Law' being introduced that allowed foreigners, including heads of state, to be tried in Belgian courts for war crimes and crimes against humanity. In 2003 however after cases were brought against Ariel Sharon and Colin Powell the Belgian parliament voted to restrict the scope of the law.*

117. *This account of the Mission of Information is based on a background paper prepared by Agnes Callamard who was one of the contributors to Study II of the Joint Evaluation.*

The concept of a 'Mission of Information' is weaker than that of an 'Inquiry' or 'Investigation' by the National Assembly. The concept was imposed by Senator Quiles and did not respond to calls by other political parties at that time, notably the Greens and Communists, for a more formal Inquiry. The Mission saw its role as contributing to an objective, evidence-based debate and discussion and in particular to elucidate the mechanisms and motivations behind the three French military interventions in Rwanda during the period 1990-94¹¹⁸. Its role was not to establish individual or collective responsibilities but to analyze what had happened during the various French military operations in Rwanda and extract general conclusions and recommendations. The mission did not carry any sanctioning power. Practically, it also meant that witnesses did not have to give testimony under oath, and that some witnesses were heard in closed sessions.

The report was presented on December 1998. It ran to over 1,200 pages in length¹¹⁹. The main conclusion of the Mission was that successive Governments in Paris had made "errors of judgment and strategy," but it absolved France of any responsibility for the killings. France was found to be guilty by omission rather than by commission and had not been an "accomplice" in the Rwanda genocide.

"France in no way incited, encouraged, aided or supported those who orchestrated the genocide and began it in the days that followed the assassination"

This overall conclusion was seen by some French and foreign media as amounting to a whitewash. However, a number of observers have also pointed out that the Mission did highlight a large number of structural and institutional problems with the way French policies in Rwanda were conceived and implemented. In particular:

- (i) France was trapped by its own strategy and manipulated by the Hutu-led Rwandan government.
- (ii) French military support to Rwanda was too heavy,
- (iii) France significantly increased its arms transfers to Rwanda at a time when the Rwanda army was weak and disorganized and more or less unable to fight;
- (iv) Operation *Noroît* did not aim solely at protecting French nationals working in Rwanda but was also intended to ensure that the Habyarimana regime remained in place.
- (v) French military personnel involved in Operation *Noroît*¹²⁰ conducted operations that were extremely close to the front line with the RPF

"If France did not participate in battle, nevertheless on the ground it was extremely close to the Rwandan armed forces. It continuously participated in the working out of battle plans, provided advice to the general staff and to sector commanders, proposing redeployments and new tactics. It sent advisers to instruct the Rwandan armed forces in the operation of advanced weapons. It taught mining and ambush techniques, suggesting the most appropriate emplacements."¹²¹

118. *The three operations were: Operation *Noroît* which provided military support and training to the FAR during the period following the RPF invasion of northern Rwanda in October 1990 until just after the signing of the Arusha Accords in August 1993; Operation *Amaryllis* which evacuated French and other nationals and members of the President Habyarimana's family and Government over a three day period in April 1994; and Operation *Turquoise* in the west of the country during July and August 1994.*

119. <http://www.assemblee-nat.fr/dossiers/rwanda.asp>

120. *The number of French troops participating in Operation *Noroît* varied from 168 to 700.*

121. *New York Times translation*

- (vi) The "logic" of French military support to the Rwandese government before and immediately after the genocide consisted in preserving some degree of political and diplomatic capacity to negotiate, in view of the fact that the RFP was certain of a military victory.
- (vii) French pressures on Habyarimana to democratize the regime remained very weak, especially when compared with the extent of French military support.

Among its other findings were that:

- There had been no US plot with the objective of supplanting French influence in Rwanda
- Accusations that French forces trained and supported the Hutu militia were untrue
- Reports that arms had been supplied to the FAR in the period after the Arms embargo introduced as part of the Arusha Accords and indeed after the 6th April in via both Kigali and to the FAR elements in Goma after the end of the conflict were unsubstantiated
- Operation Turquoise had not actively assisted members of the Interim Government who had played leading roles in the genocide to leave Rwanda and seek sanctuary in Zaire.
- There had been a three day delay in troops of Operation Turquoise locating and providing protection to a group of many thousands of Tutsi at Bisesero near Lake Kivu, during which time they had been attacked and thousands killed. However the delay in the provision of protection by the French forces had not been intentional

The Mission made six broad recommendations:

1. Increase/strengthen the transparency and coherence of international crisis management;
2. Improve French parliamentary control over military operations conducted outside the national territory
3. Strengthen the reform of French cooperation with African states
4. Contribute effectively to African Security¹²²
5. Improve the effectiveness of UN peace keeping and peace making operations
6. Establish an International Criminal Court

Ten years after the genocide, on the occasion of the Anniversary, a number of French political parties and organizations (e.g. the Green party, the Communist party, the International Federation of Human Rights) requested a Commission of Inquiry whose main purpose would be to determine French responsibilities and possibly individual responsibilities.¹²³

In addition a group of French NGOs and other groups have organized a 'Citizens Inquiry' into the genocide¹²⁴. The NGOs behind the initiative include Survie, Cimade, and others. Their preliminary conclusions are extensive and clearly attack the Mission of Information conclusions and its head Paul Quiles personally. In its preliminary conclusions, the citizen inquiry goes back to accusations that have been made in the past,

122. *Relations with former French colonies, particularly those in Africa had traditionally been largely managed by the Elysée Palace with limited parliamentary control.*

123. *International Federation of Human Rights 7/04/2004 'Lettre ouverte à M. Jacques Chirac, Président de la République française' http://www.fidh.org/article.php3?id_article=858*

124. *'Commission d'enquête citoyenne sur le rôle de la France durant le génocide des Tutsi au Rwanda en 1994' http://www.survie-france.org/article.php3?id_article=393*

bringing new evidence. These key accusations are related to questions badly or inadequately addressed by the Parliament Mission of Information, including:

- (i) French military presence at check points where Tutsi were killed in front of them,
- (ii) Training of the FAR, many of whom were or became militia members,
- (iii) Events regarding the massacre at Bisesero;
- (iv) Assisting perpetrators to escape Rwanda towards Goma, including Théoneste Bagosora, Jean-Baptiste Gatete, and others
- (v) Important violation of the arms embargo after the genocide
- (vi) Continued diplomatic relations with perpetrators of genocide

'Report of the Independent Inquiry into the Actions of the United Nations During the 1994 Genocide in Rwanda' December 1999 'The Carlsson Report'¹²⁵

In March 1999, 27 months after his inauguration as UN Secretary General, Kofi Annan informed the Security Council of his intention to appoint an independent inquiry into the actions of the United Nations during the genocide. The initiative was supported by the Security Council. In May, the Secretary-General appointed Ingvar Carlsson (former Prime Minister of Sweden), Professor Han Sung-Joo (former Foreign Minister of the Republic of Korea) and Lieutenant-General Rufus M Kupolati (rtd.) (Nigeria) to conduct the inquiry.

The Inquiry was mandated to establish the facts related to the response of the United Nations as a whole to the genocide in Rwanda, covering the period October 1993 to July 1994, and to make recommendations to the Secretary-General. The task of the Inquiry thus included studying the actions of UNAMIR, the Secretary-General and the Secretariat, as well as the Member States of the organization and the political organs in which they are represented. With respect to actions of Member States, the Inquiry focused on positions taken which affected the response of the United Nations to the tragedy and noted that: "It will be the task of other bodies to analyze the broader issues raised by individual countries' positions on the Rwandan issue".

The Inquiry was given access to all UN documents and studied files in the central UN archives, those maintained by the different departments in the Secretariat and the UNAMIR archives. It interviewed over 100 individuals in the US, Europe, Rwanda and other countries in the Great Lakes region. Those interviewed included Boutros Boutros-Ghali, Kofi Annan, General Dallaire, Alain Destexhe (Belgian Senate Inquiry) Paul Quiles (French National Assembly Mission of Information), Presidents Bizimungu of Rwanda and Museveni of Uganda and former South African President Nelson Mandela. The Inquiry team also met with survivors of the genocide in Rwanda, Belgium and the US, the families of the ten Belgian paratroopers, representatives of NGOs in Rwanda and academics and experts on Rwanda including Howard Adelman the co-leader of Study II of the Joint Evaluation.

The Inquiry team's report was presented in December 1999. At 85 pages long it was considerably shorter than the Belgian Commission of Inquiry, the French Mission of Information and the OAU report that was published 7 months later in July 2000. It did not reference its specific sources of information whether documentary or through inter-

125. <http://www.un.org/News/press/docs/1999/9912/9912010.htm> or alternatively <http://www.ess.uwe.ac.uk/documents/RwandaReport5.htm>

view and it is therefore less transparent in its method than the other studies. Nevertheless the language used is clear and direct and the responsibilities for particular mistakes and failings are indicated.

The report focussed on nine 'key events' that were identified as follows:

- Arusha Peace Agreement
- Establishment of UNAMIR
- 11th January cable
- Crash of the Presidential plane
- Withdrawal of the Belgian contingent
- Continued role of UNAMIR
- New proposals on the mandate of UNAMIR
- Establishment of UNAMIR II
- Operation Turquoise

The overall conclusions of the Inquiry were damning and are captured in the following two paragraphs:

"The overriding failure in the response of the United Nations before and during the genocide in Rwanda can be summarized as a lack of resources and a lack of will to take on the commitment which would have been necessary to prevent or to stop the genocide. UNAMIR, the main component of the United Nations presence in Rwanda, was not planned, dimensioned, deployed or instructed in a way which provided for a proactive and assertive role in dealing with a peace process in serious trouble. The mission was smaller than the original recommendations from the field suggested. It was slow in being set up, and was beset by debilitating administrative difficulties. It lacked well-trained troops and functioning materiel. The mission's mandate was based on an analysis of the peace process which proved erroneous, and which was never corrected despite the significant warning signs that the original mandate had become inadequate. By the time the genocide started, the mission was not functioning as a cohesive whole: in the real hours and days of deepest crisis, consistent testimony points to a lack of political leadership, lack of military capacity, severe problems of command and control and lack of coordination and discipline."

"The Independent Inquiry finds that the response of the United Nations before and during the 1994 genocide in Rwanda failed in a number of fundamental respects. The responsibility for the failings of the United Nations to prevent and stop the genocide in Rwanda lies with a number of different actors, in particular the Secretary-General, the Secretariat, the Security Council, UNAMIR and the broader membership of the United Nations. This international responsibility is one which warrants a clear apology by the Organization and by Member States concerned to the Rwandese people."

The report made a total of 14 recommendations that were summarized as follows

1. The Secretary-General should initiate an action plan to prevent genocide involving the whole UN system.
2. Renewed efforts should be made to improve the capacity of the UN in the field of peacekeeping, including the availability of resources. ... In each peacekeeping operation it should be clear which Rules of Engagement apply.

3. The United Nations – and in particular the Security Council and troop contributing countries – must be prepared to act to prevent acts of genocide or gross violations of human rights wherever they may take place. The political will to act should not be subject to different standards.
4. The early warning capacity of the United Nations needs to be improved, through better cooperation with outside actors including NGOs and academics, as well as within the Secretariat.
5. Efforts need to be made to improve the protection of civilians in conflict situations.
6. Further improvements in the security of UN and associated personnel, including local staff, are necessary. Consideration should be given to changing existing rules to enable the evacuation of national staff from crisis areas.
7. Cooperation between officials responsible for the security of different categories of staff in the field needs to be ensured.
8. An effective flow of information needs to be ensured within the UN system.
9. Further improvements should be made in the flow of information to the Security Council.
10. The flow of information on human rights issues should be improved.
11. National evacuation operations must be coordinated with UN missions on the ground.
12. Further study should be given to the possibility to suspend participation of the representative of a Member State on the Security Council in exceptional circumstances such as the crisis in Rwanda.
13. The international community should support efforts in Rwanda to rebuild the society after the genocide, paying particular attention to the need for reconstruction, reconciliation and respect for human rights, and bearing in mind the different needs of survivors, returning refugees and other groups affected by the genocide.
14. The United Nations should acknowledge its part of the responsibility for not having done enough to prevent or stop the genocide in Rwanda. The Secretary-General should actively seek ways to launch a new beginning in the relationship between the United Nations and Rwanda.

'Rwanda the Preventable Genocide: The Report of the International Panel of Eminent Personalities to Investigate the 1994 Genocide in Rwanda and the Surrounding Events' July 2000

In early 1998 the OAU approved the establishment of an International Panel of Eminent Personalities (IPEP) to investigate the 1994 genocide in Rwanda. This was first time in the history of the OAU that one of its commission that's would be completely independent of its creators in its findings and its recommendations.

The Panel's mandate was broader in scope than any of the other three Inquiries/Missions: A key section of its TOR states, "The Panel is expected to investigate the 1994 genocide in Rwanda and the surrounding events in the Great Lakes Region...as part of efforts aimed at averting and preventing further wide scale conflicts in the... Region. It is therefore expected to establish the facts about how such a grievous crime was conceived, planned and, executed; to look at the failure to enforce the Genocide Convention in Rwanda and in the Great Lakes Region; and to recommend measures aimed at redressing the consequences of the genocide and at preventing any possible recurrence of such a crime.

The Panel had seven members:

- Sir Quett Ketumile Joni Masire; Chairman, Former President of Botswana
- General Ahmadou Toumani Touré; Former Head of State of Mali
- Lisbet Palme; Chairperson of the Swedish Committee for UNICEF, Expert on the UN Committee on the Rights of the Child
- Ellen Johnson-Sirleaf; Former Liberian Government Minister, Former Executive Director of the Regional Bureau for Africa of the United Nations Development Program (UNDP)
- Justice P.N. Bhagwati; Former Chief Justice of the Supreme Court of India
- Senator Hocine Djoudi; Former Algerian Ambassador to France and UNESCO, Permanent Representative to the UN
- Ambassador Stephen Lewis; Former Ambassador and Permanent Representative of Canada to the UN, former Deputy Executive Director of UNICEF

It held its first meeting in October 1998 and delivered its 290 page report 30 months later in July 2000¹²⁶. It met with 270 people in 10 countries "representing every facet of this tragedy: academics; United Nations officials; representatives of Rwandan, neighboring, and several other governments; survivors; accused perpetrators; refugees; and human rights groups". The Panel commissioned studies where they felt there were gaps in the available literature and was supported by, or received contributions from, 21 academics and specialist scholars including two of the Team Leaders from the Joint Evaluation (Lennart Wohlgemuth and Howard Adelman). In terms of its scope, time taken to complete its work and the numbers of people interviewed the OAU report was the most comprehensive of the four Inquiries/Missions¹²⁷ and arguably shared much in common with the scope and intent of the Joint Evaluation published over four years earlier and from which it frequently cites.

The language of the Panel's report was forthright, sometimes passionate and supported in considerable detail with over 1,000 endnotes. Unlike the other reports, it examined for instance the political situation in Rwanda, the plight of women and children in Rwanda and the first and second wars in the DRC. Few of the actors escape the Panel's criticism, including the OAU. A sample of some of the criticisms are provided below:

"... the OAU's reluctance to take sides in the Rwandan conflict continued to result in practices that this Panel finds unacceptable. It was bad enough that the genocide was never condemned outright. But this failure was seriously compounded at the regular Summit meeting of OAU Heads of State in Tunis in June, where the delegation of the genocidaire government under interim President Sindikubwabo was welcomed and treated as a full and equal member of the OAU, ostensibly representing and speaking for Rwandan citizens. If it was intolerable, as so many have angrily said, for this government to be allowed to keep its temporary seat on the Security Council in New York throughout the genocide, and for its ministers to be welcomed at the French presidential palace, how much more offensive for it to have been treated at Tunis with the same respect and the full paraphernalia of protocol as other legitimate African governments?" (para 15.92)

126. The report is available at <http://www.aegitrust.org/index.php?option=content&task=view&id=92&Itemid=123> or at <http://www.visiontv.ca/RememberRwanda/Report.pdf> The document was not published commercially, which in retrospect is regrettable given its importance and comprehensiveness.

127. The team had significantly more time to undertake its work than the three other Inquiries/Missions which took between 7 and 9 months to complete their work.

"... the UN Secretariat went far beyond being merely neutral bureaucrats carrying out the wishes of their political masters in the Security Council. Time and again, they imposed on UNAMIR the tightest constraints imaginable, refusing it the slightest flexibility even when lives were directly at stake. The sole exception to this rigid position was when the lives at stake were those of expatriates as they were being frantically evacuated from the country after April 6" (para 15.34)

"France has constantly denied sending arms to Rwanda once the genocide was unleashed, yet we know France was involved. It is possible that the arms were part of a covert action, not officially endorsed by the government. It was widely known that a faction of the French military was fanatically pro-Hutu and anti-RPF and was capable of such an act. The report of the French parliamentary inquiry pointed out that the French arms trade included both official and unofficial deals, yet it explicitly ruled out investigating the latter. It also noted that the French parastatal agency that controlled the arms business had laid down many rigorous regulations on doing business in arms, yet 31 of 36 arms transactions with Rwanda were conducted "without following the rules." (para 15.79)

"Through July, August, and September, according to UN officials, the French military flew a raft of genocidaires out of Goma to unidentified destinations. These included the genocide leader, Colonel Theoneste Bagasora, as well as Interahamwe, Ex-FAR and militia troops. (para 15.80)

"It is not realistic to expect reconciliation [in Rwanda] so long as an unelected minority rules. Majority rule must be respected. No majority will forever accept minority rule. The government will not relinquish power unless minority rights are guaranteed and ironclad. A majority government that excludes or discriminates against a minority is not democratic." (para 23.70)

The Panel made 31 recommendations relating to Rwanda, the Great Lakes Region and Africa as a whole, the OAU, the International Community and, alone among all the Inquiry/Mission reports, on the Genocide Convention itself.

On Rwanda the Panel urged:

"... Rwandans to acknowledge the ethnic realities that characterize their society. This central fact of Rwandan life must be faced squarely. Pretending that ethnic groups do not exist is a doomed strategy. But the destructive and divisive ethnicity of the past must be replaced with a new inclusive ethnicity." (Recommendation 1)

"Before the general election scheduled for the year 2003, the Rwandan government should establish an independent African or international commission to devise a democratic political system based on the following principles: the rule of the political majority must be respected while the rights of minorities must be protected; governance should be seen as a matter of partnership among the people of Rwanda; and the political framework should take into account such variables as gender, region, and ethnicity." (Recommendation 6)

The Panel also placed the issue of the payment of reparations before the international community:

"Apologies alone are not adequate. In the name of both justice and accountability, reparations are owed to Rwanda by actors in the international community for

their roles before, during, and since the genocide. The case of Germany after World War Two is pertinent here. We call on the UN secretary-general to establish a commission to determine a formula for reparations and to identify which countries should be obligated to pay," (Recommendation 12)

"Since Africa recognizes its own primary responsibility to protect the lives of its citizens, we call on: a) the OAU to establish appropriate structures to enable it to respond effectively to enforce the peace in conflict situations; and b) the international community to assist such endeavors by the OAU through financial, logistic, and capacity support." (Recommendation 22)

On the Genocide Convention the Panel called for:

"a substantial re-examination of the 1948 Geneva Convention on Genocide.

Among the areas that should be pursued are the following:

- the definition of genocide
- a mechanism to prevent genocide
- the absence of political groups and of gender as genocidal categories
- determining the intention of perpetrators
- the legal obligation of states when genocide is declared
- the process for determining when a genocide is occurring
- a mechanism to ensure reparations to the victims of genocide
- the expansion of the Convention to NGO actors
- the concept of universal jurisdiction, that is, the right of any government to arrest and try a person for the crime of genocide wherever it was committed" (Recommendation 30)

Reactions to the report were varied. President Kagame reportedly stated that "Where the investigation has remained within the mandate and terms of reference given by the OAU, the report has been relevant, informative and shows originality in its investigation". However he criticized the parts of the report which he regarded "outside the mandate and terms of reference". Here, he mainly focuses on the "theory of a double genocide". It was felt "unreasonable" that Gerard Prunier and Filip Reyntjens had been quoted throughout the report. "The Government of Rwanda has reservations about the report's over-reliance on the biased and revisionist literature of Gerard Prunier who has recently not only revised his book and his views on the genocide, but also revised the facts without further research to fit his newly acquired revisionist ideology, stance and solidarity with the perpetrators of the genocide".¹²⁸

128. *Africa Online 24th August 2000 "Rwandan government protests against new report on the genocide"*
http://www.afrol.com/News/rwa004_report_genocide.htm

Annex 4 Principal Developments in Rwanda and Selected Other Countries since Publication of the Joint Evaluation

1. Political, Economic and Social Developments in Rwanda¹²⁹

1.1 Study 4 of the Joint Evaluation was only able to assess the first 15 months or so of the response by the international community to the recovery and rebuilding tasks confronting the new Government in July 1994. Given the enormity of the tasks such an early assessment was recognized to be somewhat premature and certainly very preliminary. The issues of security, justice, human rights, reintegration, reconciliation and international recognition and assistance that were assessed in a preliminary way by Study 4 have remained the critical issues for Rwanda. How they have evolved and played out since that initial assessment is the subject of this section.

1.2 The enormity and uniqueness of the tasks confronting the new government cannot be underestimated. There were no international precedents for the ethnic group that were the principal target and victims of a genocide immediately taking controlling power in a sovereign state and being responsible for managing the post-genocide processes of justice, reintegration and reconciliation.¹³⁰

"Rarely in human history has a society ... insisted that all of its people live together again, side by side, in the aftermath of a genocide" (USCR, 1998)¹³¹

1.3 Unlike the subsequent cases of international intervention in Kosovo, Afghanistan and Iraq the occupying powers were not the 'international community' with a self-appointed mission to build a "new and better" nation, but were Rwandans who had been either exiled and returned, or who had experienced and survived the genocide. Having failed so conspicuously to intervene and suppress the genocide the 'international community' had little credibility with, or influence upon, the Government of National Unity installed in July 1994. The Government of Rwanda¹³² therefore had significant latitude in defining and treading its own path through these enormous issues.

129. Unless otherwise stated the sources for the section on Rwanda are the various annual reports on the country prepared by Human Rights Watch and Des Forges et al (1999) *Leave None to Tell the Story* New York: Human Rights Watch/Paris: International Federation of Human Rights

130. Strictly speaking many members of the RPF were drawn from what are referred to as the 'old caseload' refugees who had been in Uganda since the 1959-63 crisis when Belgium, the then colonial power had transferred its support from the Tutsi minority to the Hutu majority in the period immediately before independence. During this period the Tutsi monarchy had been overthrown, some 20,000 Tutsi had been killed and 300,000 fled to seek refuge in neighboring countries – the majority in Uganda. In the two-year period after the end of the 1994 genocide an estimated 800,000 'old caseload' refugees (predominantly Tutsi) repatriated to Rwanda. This number was approximately four times larger than the approximately 200,000 Tutsi in Rwanda who had survived the genocide.

131. In an article on the 2003 Presidential Elections *The Economist* (August 28th) likened the RPF's position in 1994 to that "of a small army of Jews, whose leaders barely spoke German, occupying post-war Germany in 1945."

132. The conventional term Government of Rwanda (abbreviated hereafter to GoR) is used here in preference to the value-laden Government of National Unity. Strictly speaking the title of Government of National Unity continued throughout the (extended) transition period and the title only came to an end with the Presidential and Parliamentary Elections in 2003.

Security

1.4 An issue that is rarely given prominence in much of the Anglophone literature on Rwanda concerns the deaths of civilians attributable to the RPF in the process of taking control of the country during 1994 and subsequently. Killings during 1994 were noted by the UN Special Rapporteur of the Commission on Human Rights Mr. Degni-Ségui in his June 1994 report (cited in HRW 1999), by the UN Commission of Experts report of December 1994 pursuant to Security Council Resolution 935 (UNSC 1994) and by the so-called Gersony Report prepared for UNHCR¹³³. Whilst the UN Commission of Experts found no evidence to suggest that acts committed by the RPF were undertaken in a concerted, planned, systematic and methodical way with "the intent to destroy the Hutu ethnic group", the Commission recommended that investigation of violations of international humanitarian and human rights law by the RPF be continued by the Prosecutor of the newly established ICTR. As will be seen later, the way in which the international community handled this initial evidence of abuses by the RPF, particularly the Gersony Report, established a pattern of unwillingness to criticize crimes committed by the RPF. At least some of the killings of aid workers and human rights observers that were presented at the time by the Government as the action of Hutu incursions and insurgency have subsequently been found to have probably been the action of the RPA¹³⁴.

1.5 Inevitably, the overriding concern of the new Government was that of any threat to security from the opponents of the new regime, principally the Interahamwe and soldiers of the defeated and exiled FAR but also other sources of opposition among the general population. Whilst the majority of the Interahamwe had crossed with the refugees into the refugee camps in North and South Kivu, some remained inside Rwanda either within the IDP camps that had formed in the southwest of the country during the French-led Operation Turquoise or mixed among the general population. In late 1994 the Government declared its intention to close the IDP camps containing approximately 220,000 people and return them to their home communes. Assisted by UNAMIR, UN agencies and NGOs organized under 'Operation Retour' the program took place during the first months of 1995 and proceeded with some success but increasing difficulty until April when efforts to close the camp at Kibeho resulted in violence and the killing of several thousand IDPs by RPA troops¹³⁵. Despite being mandated to protect civilians the UNAMIR troops who were present did not intervene. During the process of being returned to their communes (whether by truck or on foot) the IDPs

133. *A three person team led by Robert Gersony had worked in Rwanda during August and early September 1994 to explore ways of speeding the repatriation of the nearly two million Rwandan refugees outside Rwanda. During the course of their work the team became convinced that the RPF had engaged in systematic killings in large areas of the country. The report was quickly suppressed by the UN with the support of the US Government and possibly other states as well who were concerned that further circulation of the report would weaken the new government.*

134. *For instance, investigations by Spanish and independent investigators into the January 1997 murder of three Spanish medical workers in Ruhengeri strongly suggest that the RPF was responsible for their deaths (Alison des Forges personal communication). Investigation by the Centre de Lutte contre l'Injustice et l'Impunité au Rwanda (CLIR) in Brussels into the February 1997 murder of five staff members of the UN Human Rights Field Office in Rwanda (UNHRFOR) near Cyangugu points to the murders having been perpetrated by the RPA (Eneas Gakusi personal communication)*

135. *The Rwandan Government contested the initial UN estimate of 8,000 dead and announced that fewer than 300 had been killed. Later UN officials lowered their estimate of those killed to about 2,000. Joint Evaluation contributor, Howard Adelman, citing the Australian contingent to UNAMIR reports, estimated the number of dead from 3000-4000. Cf. Centre for Refugee Studies, York University, December 4, 1995: Howard Adelman, "Humanitarian Intervention and the Slaughter at Kibeho," Conference on "Refugees and Rwanda: Protecting Women and Children".*

were reportedly subjected to attacks by both the RPA and civilians and on arrival at their home communes hundreds were arrested and pressed into overcrowded lockups where more died.¹³⁶

1.6 The process of identifying Interahamwe and those involved in perpetrating the genocide who were mixed-in with the population was largely undertaken by RPA soldiers backed by civilian recruits. Often the process was spontaneous and did not involve the foreknowledge of the judicial authorities or arrest warrants. The prison population grew rapidly to 57,000 by October 1995, 83,000 by the end of 1996, and over 120,000 by the end of 1997 together with an unknown number held in lockups and irregular facilities. The conditions in these overcrowded jails were often inhumane and the death rates among the inmates were high (see Justice section below).

1.7 Of the 1.1 million or so Rwandan refugees in camps in North and South Kivu during 1995 and 1996 the majority were non-combatants. But tens of thousands, mixed in with the refugees or in nearby special camps, were FAR soldiers, Interahamwe and members of the civilian authority under the Habyarimana regime. Despite repeated calls by human rights and humanitarian agencies for the removal of the soldiers and militia from the camps and the relocation of the camps further back from the border, the international community allowed these groups to remain in camps close to the Rwandan border and to benefit from the international assistance provided to the refugees. Having regrouped during the remainder of 1994 and early 1995, the FAR and militia began launching attacks into Rwanda from the refugee camps (some of which were located only a few kilometers from the border) and were generally believed to be preparing for a full-scale invasion attempt. The GoR made it clear it would act against the FAR and militias in the camps if the international community did not take action and it appears that the US administration signaled that it would not oppose such an action if it were taken.

1.8 Antagonism towards the Zairean citizens of Tutsi origin (Banyarwanda) in North Kivu by the 'autochthones' (indigenous Zaireans) and the Mobutu regime was exacerbated a combination of the RPA victory in Rwanda, the presence of large numbers of refugees in Zaire, and the inflammatory influence of the Interahamwe against all Tutsi. During a series of attacks on the Banyarwanda in the Masisi area of North Kivu many were killed or forced to flee into Rwanda. By October 1996 another group of Zairian Tutsis in South Kivu (known as Banyamulenge) who were threatened and attacked by Zairian military and civilians, took up arms and received support from the RPA. The refugee camps were encircled and international staff withdrawn. In November AFDL forces with the support of the RPA attacked the refugee camps that contained FAR and Interahamwe groupings near Goma and forcibly closed these and the other camps in North and South Kivu. During the process thousands of civilians were killed.

1.9 Approximately 600,000 refugees flowed back into Rwanda¹³⁷ whilst the remainder, including elements of ex-FAR soldiers and militia, moved westwards further into Zaire where they were pursued and repeatedly attacked by the AFDL and RPA forces.

136. E.g. Sibomana, A. 1997. *Gardons espoir pour le Rwanda*, Paris : Desclée de Brouwer ; Gasana, J. 2002. *Rwanda : du Parti-État à l'État-garnison*, Paris : L'Harmattan ; Kabagema, E. 2001. *Carnage d'une nation. Génocide & Massacres au Rwanda 1994*, Paris : L'Harmattan.

137. Formal counts were not made of the numbers flowing back into Rwanda. UNHCR initially estimated that the number was 500,000 whilst the US held to an estimate of 600,000. Eventually UNHCR accepted the 600,000 figure (Mills 2004).

The number that moved westwards has been much disputed.¹³⁸ Over the next 10 months UNHCR 'rescued' over 260,000 Rwandans and repatriated them to Rwanda, 60,000 of them via an airlift operation (UNHCR 2000). Estimates of the numbers that remained in the DRC varied widely and depend very much on the initial estimates of the refugee numbers in North and South Kivu prior to the AFDL and RPA operations. Undoubtedly many thousands were killed by attack¹³⁹ or died as a result of hunger and disease¹⁴⁰. Over one year later UNHCR estimated that 213,000 remained 'missing' inside DRC whilst its own statistics for the number of known Rwandan refugees in the country at the end of 1997 was 37,000. The precise numbers of those who moved westwards into DRC and who were subsequently killed or died will probably never be known (see the DRC section in this Chapter for further information on these events).

1.10 In December 1996, several weeks after the return of approximately 600,000 of the refugees from Zaire the Tanzanian Army forced another 470,000 Rwandan refugees in Tanzania back over the border back to Rwanda. Whilst the population undoubtedly contained combatants and those suspected of genocide, the Tanzanian government and the international community had failed to separate out these groups from the larger mass of refugees. Apart from the combatants and those suspected of genocide, many other refugees feared persecution upon their return. The use of teargas and sticks to herd the refugees towards the border amounted to a serious violation of international refugee law that prohibits forced return (refoulement) but was facilitated and sanctioned by UNHCR, and watched with virtually no protest by the international community.

1.11 In addition to the major repatriations from Zaire in November 1996 and Tanzania in December 1996 there were subsequent repatriations from Burundi and other countries as well as further repatriations from Zaire and Tanzania. Between November 1996 and the end of 1997 a total of nearly 1.3 million refugees had returned to Rwanda. Inevitably mixed in with the refugees, particularly those returning from Zaire, were ex-FAR soldiers and Interahamwe. Faced with such large numbers of returnees and anxious to ensure their orderly return and dispersal to their communes the Rwandan authorities did not screen the returnees. The number of attacks on Tutsi and government targets increased. As the year progressed it became apparent that an insurgency was underway with large groups of insurgents operating in the northwest of Rwanda but also launching attacks and killings in the northeast. The RPA responded brutally to the insurgency. By October an estimated 3,500 unarmed civilians had been killed in the course of military operations and several hundred more were killed in 'circumstances other than military operations' such as the killings of scores of detainees in prisons. UN Human Rights Officers and ICRC officials were invariably denied access to those detained in the course of military operations. Rwandan Human Rights organizations attempting to investigate were harassed and threatened. Many aid agencies with-

138. *During the initial preparations for the Multi-National Force (MNF) Oxfam were given privileged access to US aerial reconnaissance photogrammetry that "confirmed in considerable detail the existence of over 500,000 people distributed in three major and numerous minor agglomerations" (Stockton 1996) Three days later however the US military claimed that they had located only one significant cluster of people which 'by the nature of their movement and other clues can be assumed to be the ex-FAR and militias'. Allowing for the fact that a proportion of this number were probably Zairois Oxfam concluded "that as many as 400,000 refugees and unknown numbers of Zairean displaced persons, have in effect, been air-brushed from history" (Stockton 1996).*

139. *See report by the UN Secretary General's Investigative Team S/1998/581 29 June 1998.*

140. *The mortality rate among the refugees near Kisangani around April 1997 were an unprecedented 62/10,000/day. Normal mortality rates in a refugee camp are 0.6/10,000/day and a rate above 4/10,000/day is regarded as an emergency out of control (Mills 2004).*

drew their staff from the northwest and the opportunity for international monitoring of the situation was significantly reduced.

1.12 The insurgency continued through 1998 and much of 1999. During 1998 the insurgents' previously clandestine operation (Peuple en Armes pour Libérer le Rwanda – PALIR and its armed wing Armée pour la Libération du Rwanda – ALIR) began to take on an organized political profile making declarations and circulating a newspaper. In 1998 the Government revived Local Defense Forces to complement the RPA and the developing police force. Early in 1998 the RPA began gathering residents from dispersed hilltop communes in prefectures in the east and northeast of the country into supervised camps. By October 1998 the supervised camps held almost half a million people. Subsequently these populations were then moved into officially designated 'villages' as part of a villagization program operated by the Government in many areas of the country.¹⁴¹ Fear of attacks on farmers and the policy of supervised camps and villagization had a negative impact on crop production. By late 1999 these internal counter-insurgency measures, coupled with the RPA operations in eastern DRC during the second DRC war (which served to reduce the level of support to the insurgency coming from the Interahamwe and other groups) began to take effect, though at considerable cost in terms of lives. The violence flared up again in 2001 when Armée pour la Libération du Rwanda (ALIR) forces based in the DRC crossed into northwest Rwanda but they received less support from the population in the northwest. Between May and July the RPA reportedly killed two thousand ALIR combatants and captured the same number.

Political Developments

1.13 The Government of National Unity that was inaugurated in July 1994 at the end of the genocide was made up of persons named by the RPF and other political parties that had signed the Arusha Accords, with the exception of the MRND. Whilst the intention was to respect the provisions of the Arusha Accords that had been agreed in August 1993, this was to prove difficult due to the very changed context and the difficulty of honoring provisions relating to the former ruling party and armed forces in the light of the role played by members of those groups during the genocide. Since 1994 these provisions have gradually been eroded or overridden. Central to the political developments has been the former Vice President (now President) Kagame seeking to impose his control and vision of the path that a post-genocide Rwanda should follow. At the heart of this vision is that the identity of Rwandans should be their nationality rather than their ethnicity as either Hutu, Tutsi or Twa.

1.14 Political developments since the genocide have been complex and events subject to widely differing interpretations. The following paragraphs attempt to summarize the principal developments and events. Given the limitations of space they are inevitably somewhat selective and simplified.

1.15 In August 1995 the Prime Minister Faustin Twagiramungu and the Minister of Home Affairs Seth Sendashonga resigned over the issue of insecurity and abuses by RPF troops. The Minister of Justice and two other ministers were ousted at the same time. This removed the most effective voices against military influence and crimes in the gov-

141. By the end of 1999, for instance, 94% of the population of Kibungo prefectures in the east had been moved into villages, and 40% of the prefectures surrounding Kigali.

ernment. Seth Sendashonga subsequently sought exile in Nairobi where in May 1998 he was murdered.¹⁴²

1.16 During 1999 the first elections since the genocide were held for the two most local levels of government. Voters lined up behind candidates in a departure from the usual practice of voting by secret ballot. In mid-1999 it was announced that the current government would not step down at the end of its five year mandate, as specified in the Arusha Accords but would continue to rule for at least another four years. Sparked by the removal of four members of the National Assembly accused of involvement in the genocide, links to the insurgency or corruption, numerous other politicians were forced to resign or were removed until finally a third of the National Assembly had been replaced – all by individuals designated by party leaders.

1.17 During the first three months of 2000 the President Pasteur Bizimungu, the Speaker of the National Assembly Joseph Kabuye Sebarenzi, and the Prime Minister Pierre-Célestin Rwigema left their posts under pressure. In the President's case the issues were differences over the composition of a new cabinet and his accusing parliament of targeting Hutu politicians in anti-corruption investigations. The prime minister and speaker of the National Assembly subsequently left the country saying they feared for their lives. The speaker of the National Assembly was the first leading Tutsi politician to flee and his departure highlighted the rift between Tutsi survivors of the 1994 genocide and the RPF over such issues as jobs in the administration, military promotions, aid to genocide victims, and justice for the genocide. The resignations in early 2000 left a shrinking circle of power holders. In April 2000 the former vice-president, General Paul Kagame, was elected president by the National Assembly ending the practice of having a member of the majority ethnic group serve as titular head of the republic. A subsequent reshuffle of cabinet positions gave ten of eighteen seats to Kagame's party, the Rwandan Patriotic Front (RPF), violating the arrangements made in the Arusha Accords of 1994.

1.18 During 2001 District Council elections were held and a new flag and national anthem introduced as part of the efforts to promote national unity and reconciliation. In June, former president Pasteur Bizimungu and former Minister Charles Ntakirutinka attempted to set up a new political party, PDR-Ubuyanja, as permitted by the constitution. The government declared the party illegal and twice put Bizimungu under house arrest. Street gangs attacked Bizimungu and Ntakirutinka with impunity. In April 2002 Bizimungu and Ntakirutinka were arrested on charges of attacking state security, fostering ethnic division, and engaging in banned political activities¹⁴³. Twenty-four other suspected members of PDR-Ubuyanja were arrested and in December 2001 unknown assailants assassinated another PDR-Ubuyanja founder in Kigali.

1.19 A new draft Constitution was issued in November 2002 and the final version was adopted in June 2003 following a national referendum. It guarantees freedom of association, assembly, opinion and press. However it subjects these freedoms only to

142. *This was the second assassination attempt on Sendashonga. The first, two years earlier, resulted in the departure from Kenya of an RPF military officer posted to the Rwandan Embassy in Nairobi who had been found by Kenyan police close to the scene of the attempt and in possession of a recently fired gun. (des Forges, personal communication).*

143. *In June 2004, Pasteur Bizimungu and seven others were found guilty of participation in an 'association of wrongdoers'. Bizimungu and former minister Charles Ntakirutinka were also found guilty of incitement to disobedience against the authorities. Additionally Bizimungu was convicted of a third count of fraud, bringing his total sentence to 15 years.*

ordinary legislation making it impossible for courts to defend them on constitutional grounds. 'Divisionism' is prohibited but is only vaguely defined and 'revisionism, negationism and trivialization of the genocide' are criminalized but again are poorly defined. Political party activity is only permitted at the provincial and national levels so any form of grass-roots political activity is not possible. However the RPF does not observe this rule and has actively recruited at the local level.

1.20 In late 2002 accusations of 'divisionism' were brought against the MDR party (Mouvement Democratique Republicain) that had been the second largest party in the Government. Following an investigation by a special commission the National Assembly voted for dissolution of the party. According to Reyntjens (2004) the report by the special commission and the debate in the National Assembly "revealed a strong fear of the 'Burundi syndrome', i.e. the fear that the predominantly Hutu electorate would cause a surprise in the 2003 presidential and parliamentary elections by turning in a Hutu majority through the MDR.

1.21 Presidential elections were held in August 2003 and Parliamentary Elections a month later. The former Prime Minister Faustin Twagirimungu, then living in exile, announced his intention to return to Rwanda and run for the presidency. His party was banned and he was obliged to stand as an independent candidate, campaign leaflets were seized and two days before the election all 12 provincial campaign managers arrested. President Kagame won 95% of the vote and Twagiramungu received 3.7%. The EU election monitor's report on the August Presidential Election concluded "In general, the elections were well organized ... and election days were calm. But there were serious problems with the electoral campaigns and election days ... There was no real opposition. The RPF and its candidate Paul Kagame dominated the two electoral campaigns ... in a climate of intimidation [there were] arrests, numerous irregularities and fraudulent practice ... and a lack of transparency" (EU Electoral Observer Mission cited in Christian Aid 2004). One seasoned observer described the elections as "a formal election painted on top of an increasingly totalitarian state", following "the closing off of all political space, a climate of fear, intimidation, disappearances, the banning of the sole opposition party with some possible popular grounding, attacks on key civil society organizations [and the] muzzling of the press" (Uvin cited in Christian Aid 2004). A Norwegian team that monitored the elections concluded "if the peace is to last, the NORDEM team doubts that the most viable route ahead is the one followed during the elections. For if opposition remains repressed and dissent keeps being criminalized, Rwandans who would normally express their views peacefully may start to consider other means as a last resort. Empowered with electoral victory, the regime therefore has everything to win on opening up more space for the expression of the variety of views that exist in any society (NORDEM, 2003). A similar sentiment "It's time to open up" served as the title of a report by the UK NGO Christian Aid.

Justice

1.22 Following the genocide a strong and widely held belief was that the 'cycle of violence' and the 'culture of impunity' that had existed for decades in Rwanda had to be ended and that effective justice was critical to achieving these goals. Justice has therefore been a focus of efforts, though in different ways, by the international community and the Government of Rwanda.

1.23 Since 1994 there have been three principal types of efforts to deal with the perpetrators of the genocide: the International Criminal Tribunal for Rwanda (ICTR) based

in Arusha, Tanzania; the formal domestic justice system; and, since 2001, *gacaca* – based on a traditional community-based conflict resolution mechanism that has been adapted into a mechanism for judging those accused of participation in the genocide.¹⁴⁴

The ICTR

1.24 The ICTR was established in November 1994 by a Security Council Resolution under Chapter VII of the UN Charter concerning threats to international peace. It is mandated to judge those who ‘planned, instigated, ordered, committed or otherwise aided and abetted’ the crimes of genocide, crimes against humanity, and violations of article 3 common to the Geneva Conventions and of Protocol II Additional to the Conventions. Modeled on the earlier International Criminal Tribunal for ex-Yugoslavia (ICTY) and sharing the same Appeals Chamber and originally the same prosecutor,¹⁴⁵ the ICTR differs in that its mandate is time limited just to the calendar year 1994. The time limit is problematic in two respects. Much of the planning of the genocide took place before 1st January 1994 and the time limit complicates proving complicity in planning the genocide prior to that date. The prosecution of any crimes committed after December 31st is made impossible by the deadline, despite the recommendation by the UN Commission of Experts in December 1994 that the investigation of violations of international humanitarian and human rights law by the RPF be continued by the Prosecutor of the newly established ICTR. In contrast the ICTY’s open-ended mandate has allowed it to undertake cases subsequent to the initial end of combat.

1.25 The Tribunal issued its first indictment against eight accused in November 1995. To date over 70 suspects have been indicted and more than 60 have been arrested and transferred to the Tribunal’s custody. Arrests are undertaken with the help of judicial and police authorities in the states where the suspects are located. A total of 22 countries including 15 African countries have cooperated with the Tribunal in this way. The intention of the Security Council was that the ICTR would focus upon government authorities involved in the genocide. Jean Kambanda the Prime Minister of Rwanda during the genocide was the first head of government to be indicted and convicted (in September 1998) of genocide. A further fourteen Ministers of the 1994 interim government of Rwanda are in the Tribunal’s custody as well as senior military commanders and high ranking central and regional government officials. In addition however those held in custody include businessmen, church leaders, journalists and intellectuals. In some cases these individuals were detained in third countries but could not be returned to Rwanda because of doubts about the fairness of the trial process or the possibility of their receiving a death sentence and so were ‘offered’ to the ICTR.

1.26 ICTR’s jurisprudence represents the synthesis of two legal systems – common and civil law. Considerable time and effort was taken in synthesizing the two systems, though this investment will greatly benefit the International Criminal Court. ICTR’s investigations had to develop their own methodology, as there were no established procedures for investigating a crime that encompassed millions of people. ICTR’s trials are complex processes as defense council and witnesses have to be brought from all over the

144. *In addition to these three principal types are prosecutions have been undertaken in the national courts in Belgium and Switzerland. The first in a Cour d’Assize resulted in conviction of all four accused of genocide and sentences varying from 12 to 20 years, to be served in Belgian prisons. In Switzerland a military court convicted a Rwandan burgomaster of violation of the Geneva conventions and sentenced him to life in prison, a sentence later reduced to twenty years. Another case is currently outstanding in the French judicial system.*

145. *In August 2003 the Security Council established a second prosecutor just for Rwanda.*

world and because of the requirement for translation and interpretation from and into the two official languages of the Tribunal (English and French) and Kinyarwanda – the language of the accused and most of the witnesses. The majority of the 800 witnesses that have so far been heard in the various cases require protective measures in order that they can testify anonymously and be protected from the risk of reprisals. The ICTR has therefore been obliged to develop a sophisticated witness protection program, unique in Africa.

1.27 The ICTR is an expensive way to administer justice: it employs some 800 staff and costs approximately USD 50 million a year, all of which is met by contributions from UN member states.¹⁴⁶ In its early years the ICTR experienced numerous problems including setting up the facilities in Arusha, lack of funds (initial contributions were below requirements), bureaucratic delays, and prolonged vacancies in key posts and corruption. Problems of mismanagement had become so apparent by late 1996 that a UN Auditor undertook an investigation and the registrar responsible for the daily functioning of the tribunal and the deputy prosecutor were replaced. As the ICTR approaches the final stages of its existence it is again experiencing funding shortfalls. Certain member states have not paid their contributions and unlike in previous years when temporary shortfalls could be made up through borrowings from peacekeeping funds, a ruling by the General Assembly during 2003 has cut off that option. As of June 2004 all hiring was frozen and those staff who had managed to find jobs elsewhere in anticipation of the ICTR being wound up are not being replaced.

1.28 The location in Arusha has certainly added to the ICTR's difficulties. The first prosecutor Richard Goldstone was keen for the ICTR to be located in Rwanda but because of concerns about the safety of staff and trial participants the Security Council chose to locate the trial chambers in Arusha in neighboring Tanzania whilst the office of the deputy prosecutor is located in Kigali. The division of personnel between Kigali and Arusha and the distance of both from the general headquarters of the two tribunals in The Hague complicates and slows communications between the staff. Initially the ICTR had two chambers, each with three judges but to accelerate the handling of cases a third chamber with another three judges and a group of *ad litem* judges who travel to Arusha to sit in selected cases on a temporary basis was added by the Security Council in 1998. To hold those arrested pending their trial an ICTR Detention Facility was constructed in the compound of the Tanzanian prison in Arusha.

1.29 Assessments of the ICTR's performance vary widely depending on one's perspective. From a legal perspective the ICTR has been a substantial achievement with the first ever conviction by an international court for the crime of genocide, the first ever conviction of a former head of state for the crime of genocide and the first ever conviction in the use of rape as a crime against humanity. In producing these convictions the ICTR has developed a substantial body of case law (jurisprudence) which has been used by the ICTY and which provides an important basis for the work of the International Criminal Court (ICC) and will most probably reduce the lead-time required by the ICC to begin achieving its own indictments and convictions.

146. *An April 2002 estimate of the total expenditures on the ICTR put the costs at that stage at USD 540 million www.internews.org/activities/ICTR_reports/ICTR_reports.htm Whilst the annual running costs of the ICTR may seem high it should be pointed out that they are approximately only 40% of the annual running costs of the ICTY which are currently around USD 130 million. <http://www.un.org/icty/glance/index.htm>*

1.30 From the perspective of the Government of Rwanda however, the ICTR is an expensive and hypocritical show by an international community that is trying to atone for its inaction during the genocide. From their perspective it operates too slowly, affords too many comforts to those in custody and protects them from the death penalty which would have been deployed had the accused been brought to trial under Rwandan domestic law. "There is a deep, widespread, and understandable imbalance between the extreme evil of genocide and the refined judicial treatment afforded the detained leaders of the genocide" (Mironko 2003).

1.31 In approving the establishment of the ICTR the Security Council envisaged the Tribunal contributing to the "process of national reconciliation and to the restoration of peace ... [and] strengthen the courts and judicial system of Rwanda, having regard in particular to the necessity for those courts to deal with large numbers of suspects" (quoted in Mironko 2003). In these respects the ICTR's contributions have been limited if not negligible. The location in Arusha, the lack of coverage of the Tribunal's work by the Rwandan media and the initial, and arguably continuing, lack of public information outreach by the ICTR results in a very low profile in Rwanda.¹⁴⁷

1.32 The ICTR's neglect, to date, of crimes committed by the RPF during 1994 is criticized for its one-sidedness by most human rights lawyers and human rights organizations. From the perspective of Rwandans who are not RPF supporters it is seen as proof of the international community's bias and obsession with the genocide rather than the wider concerns of human rights and justice in Rwanda, but also in Burundi and the DRC where many thousands of Rwandan Hutu refugees have been killed by the RPF and its allies. "The one-dimensional focus on the genocide over the past decade thus reinforces the notion, like in an old Hollywood western, that all evil is associated with one type of people and all goodness, implicitly or explicitly, with another. Those now in power have clearly benefited from this situation" (Mironko 2003).

Domestic Justice inside Rwanda

1.33 Bringing effective justice to the very large numbers of those suspected of participation in the genocide and detained inside Rwanda since July 1994 (120,000 by the end of 1997), has posed an enormous challenge to the Government of Rwanda.

1.34 A pressing need, highlighted by Study 4 of the Joint Evaluation, was to reduce pressure on the dangerously overcrowded prisons. Providing support for the construction of prisons was an unfamiliar area for most donors and it took time for additional capacity to be created. Short-term palliative measures were undertaken by some humanitarian organizations including the ICRC. Even when additional capacity was constructed it came under added pressure following the repatriation of refugees from Zaire and Tanzania and the detention of those suspected of participation in the genocide.

1.35 Even before 1994 Rwanda's judicial system was weak with only a limited number of professionally trained attorneys and magistrates. During the genocide many of these people were killed, many fled the country and some actually participated in the genocide. Many court buildings were damaged or destroyed. The donor community provided substantial assistance to the justice sector. It is estimated that over USD 100 million was provided to more than 100 justice-related projects. These projects included: the training of lawyers, judges and prosecutors; the provision of vehicles and covering

147. To some extent NGOs have sought to complement the ICTR's belated outreach efforts. LIPRODHOR, a human rights NGO, covers the work of the ICTR in its newsletter and *Internews*, a US funded NGO, shows films of ICTR and its trials inside Rwanda as part of a public information campaign.

their running costs; the construction of courtrooms and the provision of advice on the reform of administrative and court procedures (Mironko 2003).

1.36 It took time for the Government to prepare the necessary legislation to bring prosecutions against those detained. The ‘Organic Law on the Organization of Prosecutions for Offences Constituting Genocide or Crimes Against Humanity Committed Since October 1st 1990’ was only passed in September 1996 and the first domestic genocide trials began towards the end of that year, some two and a half years after the end of the genocide. The Organic Law divided the accused into four categories according to the extent of their alleged participation in the crimes. Thus category one includes leaders and planners of the genocide, notorious murderers and those using excessive malice and sexual torture; category two includes the perpetrators or accomplices in homicides and rape; category three includes accomplices in crimes without the intention to kill; and category four offences against property. The punishments for those found guilty in the different categories range from punishment unto and including the death penalty for category one to the payment of reparations to victims in the case of category four. Twenty-two death sentences were carried out in April 1998 by firing squad in front of large crowds in Kigali. No more death sentences have been carried out since then even though about 1,000 have been sentenced to death.

1.37 By the end of 2001 approximately 6,500 suspects had been judged in the thirteen courts. Acquittal rates have risen as the number tried increases and are high (40% during 2002) indicating what had long been suspected: that a significant proportion of those incarcerated had been falsely accused¹⁴⁸. The proportion of those receiving the severest sentences (death and life imprisonment) has fallen over time and accounted for 40% of all verdicts in 2002. Several thousand detainees have been released without trial because of a lack of evidence or because they were considered to be too young or too old. Nevertheless progress was slow and by the end of 2002, eight years after the end of the genocide, no more than 3% of detainees had been judged, leaving approximately 115,000 awaiting trial on charges of genocide. In January 2004 some 24,000 people were provisionally released who had confessed to having participated in the genocide. It appears that such mass releases will be repeated as the Government has indicated that another one is in imminent during 2004.

1.38 Recognizing that the formal justice system was never going to bring justice quickly enough to all those awaiting trial, the Government began considering alternative procedures with potentially significantly greater capacity. In mid-1998 it produced the first draft of a proposed new system of justice called *gacaca* that was said to be developed from a traditional community-based mechanism for conflict resolution. After much discussion and redrafting the ‘Organic Law for the Creation of Gacaca jurisdictions’ was adopted by parliament in February 2001. In October 2001 approximately 250,000 ‘persons of integrity’ were elected as judges and received 6 days training and *gacaca* was launched in 12 pilot jurisdictions in June 2002.

1.39 Key features of the *gacaca* system are:

- It applies to those suspects within categories two, three and four of the four levels of gravity of the crime. It excludes category one suspects and so leaves the most serious offences and the possibility of the death penalty to the regular courts¹⁴⁹

148. *False accusations are known to have been used by individuals standing to gain from having the accused incarcerated as a result of disputes that often involve property or employment.*

149. *Under gacaca law rape was classified as a category one crime meaning that rape cases will only tried in the normal courts*

- The accused are not able to appeal against their initial categorization
- It has extraordinary outreach and takes the justice process much nearer to the places where the perpetrators, survivors and witnesses live. A total of 11,000 *gacaca* courts are being established at the cell and sector level
- The cell level *gacaca* courts try category four crimes only whilst more serious offences are considered by the sector level *gacaca* courts
- Neither the accused nor the victim has the right to counsel
- It offers the possibility of reconciliation at a personal level.

1.40 Whilst *gacaca* offers a means of greatly accelerating the handling of the huge backlog of cases, it carries many risks. Survivors may not testify for fear of revenge by the accused and their relatives; the protection of witnesses remains a very serious issue. Cultural antipathy to the public discussion of rape may deter rape victims from testifying. People may give false testimony especially where the lack of other witnesses reduces the chances of their testimony being challenged. Some observers feel that rather than encourage reconciliation *gacaca* may stir up confrontations and hatreds. Another risk, and one that is particularly disturbing to survivors, is that people still holding genocidal beliefs may be released back into the community.

1.41 The international human rights and legal communities have been highly critical of the *gacaca* mechanism because it falls short of internationally agreed human rights and legal standards. However, given the lack of alternative ways of bringing justice to the large numbers still in prison, international donor organizations initially viewed *gacaca* as a positive development and some have provided financial support. More recently however it appears that the initial experience in the majority of provinces have been unsatisfactory, with lack of attendance by popular audiences and judges being a significant problem due to a combination of fear, impatience with the length of the proceedings and the pressure of other demands on peoples' time and the belief that it constitutes one-sided justice¹⁵⁰. In some places, authorities have resorted to using Local Defense Forces to enforce attendance or have fined or even imprisoned those who do not attend. These practices naturally undermine the very legitimacy of the system, supposedly based on voluntary community participation. A law reforming *gacaca* (reducing the number of judges and streamlining procedures) was drafted in the early part of 2004 but has not been passed as of June 2004. Since the changes do not address the one-sided nature of the system, it is unclear whether the reform will actually make the system more popularly acceptable or not.

Human Rights

1.42 Needless to say there have been severe and widespread abuses of human rights in the period since the genocide. Thousands have been killed by the RPA, by the insurgents and by killings and revenge attacks between civilians. Estimates of the numbers killed since the end of the genocide are not readily available¹⁵¹. In addition to the large numbers killed and injured many more have been forcibly displaced to live in camps or officially designated 'villages'.

150. Like the ICTR *gacaca* has a mandate to deal with war crimes and crimes against humanity as well as with genocide, but in its operation any crimes committed by the RPF are excluded. Those who have seen their families and friends victimized by the RPF are little inclined to participate in a justice system that ignores these crimes.

151. The Economist estimates that between 25,000 and 45,000 have been killed inside Rwanda by the RPA in its operations against insurgents and *génocidaires*. The Economist 28/8/03.

1.43 Within this context the space for human rights agencies to operate has been severely constrained. Before the genocide Rwanda had an active group of non-governmental human rights organizations, all of which suffered major losses during the genocide. Following the genocide their efforts to monitor the continuing human rights abuses in the country were deeply resented by the Government, which sought to restrict their activities. Human rights workers were detained; one died suddenly in suspicious circumstances. From 1997 onwards therefore three of the five Rwandan human rights NGOs gave up rigorous monitoring of government abuses and devoted themselves to less dangerous tasks. The Rwandan League for the Promotion and Defense of Human Rights (LIPRODHOR) emerged as the country's most independent human rights organization. Though harassed throughout much of the post genocide period the organization was successfully registered in 2002. However, the following year LIPRODHOR was cited in the parliamentary report that recommended the dissolution of the MDR party and since then the Government has become more critical of its activities. International NGOs providing support to LIPRODHOR and other Rwandan NGOs involved in human rights and reconciliation activities were recently criticized by an important member of the National Human Rights Commission. At the end of June 2004 after three days of debate, the Rwandan parliament asked the government to dissolve the LIPRODHOR and four other civil society organizations because they allegedly supported "genocidal ideas".

1.44 The Human Rights Field Operation in Rwanda (HRFOR) that had been established in 1994 was closed in July 1998 following disagreement with the Government over its continued efforts to monitor human rights abuses in the country. The Government wanted the mandate of the HRFOR to concentrate solely on technical assistance and to exclude the monitoring of human rights abuses. Unable to reach agreement on this point the UN High Commission for Human Rights chose to close the mission. The closure of the office did not provoke any significant response by the international community. As noted above five HRFOR staff were killed near Cyangugu in February 1997 following which HRFOR and UN activities generally in the west of the country had been severely restricted.

1.45 Following extensive lobbying by Rwandan delegates, in April 2001 the UN Commission on Human Rights voted to end the mandate of its Special Representative for Rwanda and to end the Commission's consideration of human rights issues in Rwanda.

The Economy and International Assistance

1.46 In the last half of the 1980s, up to the crisis years of 1993-94, the Rwandan economy exhibited a "stop-and-go" nature, with positive growth one year being wiped out by negative growth the following year. The annual average rate of growth of GDP during this period was 0.4% and GDP in 1992 stood just less than 2% above its level in 1985. One cause of this poor performance was tumult in the world coffee market and a precipitous decline of 50% in prices in 1989, accompanied by draught in the southern part of Rwanda. Government policies biased against the rural poor have also been cited. Donor policies and actions, in particular, the Structural Adjustment Credit extended by the IMF and the World Bank in 1990, are also cited as being insensitive to the growing poverty and intensifying conflict and ethnic polarization (Organization of African Unity 2001)¹⁵².

152. See Chapter 4 and the sources cited therein.

1.47 While the massive genocide did not begin until April 1994, genocidal violence was increasing in 1993. The violence had an impact on the economy, which contracted by over 8%. A particularly severe drought also contributed to the decline. But the 1994 genocide was responsible for the greatest economic impact. The economy collapsed on itself, with GDP plummeting to half of its 1993 level.

1.48 Given the depth of this collapse, the recovery of the Rwandan economy has been impressive, even miraculous. The biggest spurt, as might be expected, was in the year immediately following the genocide, 1995, when GDP jumped over 35%. Growth during the next three years was not as dramatic but still very impressive, at 13, 14, and 9%, respectively. By 1999, real GDP had recovered to the same level as the year before the genocide, 1993. And growth has continued, year-in-and-year-out since 1998 at a respectable average rate of about 6% a year.¹⁵³

1.49 The distribution of the economic growth being generated in the Rwandan economy is likely quite uneven. An unknown share of income and wealth is coming from exploitation of mineral resources in the eastern DRC, but it is believed to be substantial. The rents being extracted from this activity are also believed to be concentrated among military and civil elite. Agriculture, the economic mainstay for the bulk of the population, has been doing relatively well, some years growing as fast or faster than the economy as a whole. Growth in the agriculture sector would be expected to bode well for the rural poor majority. Yet, agriculture remains very dependent on the weather and on world markets for products like coffee. Both factors have been favorable recently, but will undoubtedly not remain so. Two key social indicators present contrasting pictures. Primary school enrolment has grown impressively, from about 55% shortly after the genocide to a current reported 87%. But infant mortality, while slowly declining, remains relatively high, at 107 per 1,000 live births in 2001, as compared with 91 in Sub-Saharan Africa and 76 in all low-income countries.¹⁵⁴

1.50 Economic assistance from external bilateral and multilateral sources has played a significant role in Rwanda's economic recovery. Charts 2.1 and 2.2 depict trends and patterns of Official Development Assistance (ODA) to Rwanda, expressed in US Dollars per capita. There was a gradual growth in pre-genocide aid, which reached a peak in 1992 and then declined sharply between 1993 and 1994, in parallel with the surge in violence. This was followed by an unprecedented growth, reaching a peak of USD 40 per capita in 1996. As shown in Chart 2.2, this peak is largely accounted for by the phenomenal growth in emergency assistance.

1.51 But after the peak in 1996, emergency assistance declined consistently for the rest of the decade, almost as sharply as it grew earlier. In spite of this decline, overall ODA, as shown in Chart 2.1, declined not more than 25-30% and since 1997 has fluctuated in a band between USD 25 and USD 35 per capita.¹⁵⁵ Chart 2.2 suggests that significant growth in assistance to the social sectors was at least partly responsible for arresting the decline in overall aid. But aid to the "productive sectors" (such as, agriculture) and to infrastructure declined to very low levels by the end of the 1990s.¹⁵⁶

153. *Data from database, IMF 2004. There was one exception to the steady growth rate of 6%; in 2003, growth was just 1%, but this was offset by 9.4% the previous year, and 7.6% in 1999 and 6.7% in 2001.*

153. *School enrolment data from a confidential source. Infant mortality data from World Bank 2004a: 29.*

153. *Figures vary according to source and definitions. Chapter 2 (para 2.28) in the main text cites an IMF figure of USD 48 per capita "Official Development Finance to Rwanda in 2003.*

153. *It is true that infrastructure damage during and after the genocide was relatively light.*

Chart 2.1 Official Development Assistance to Rwanda

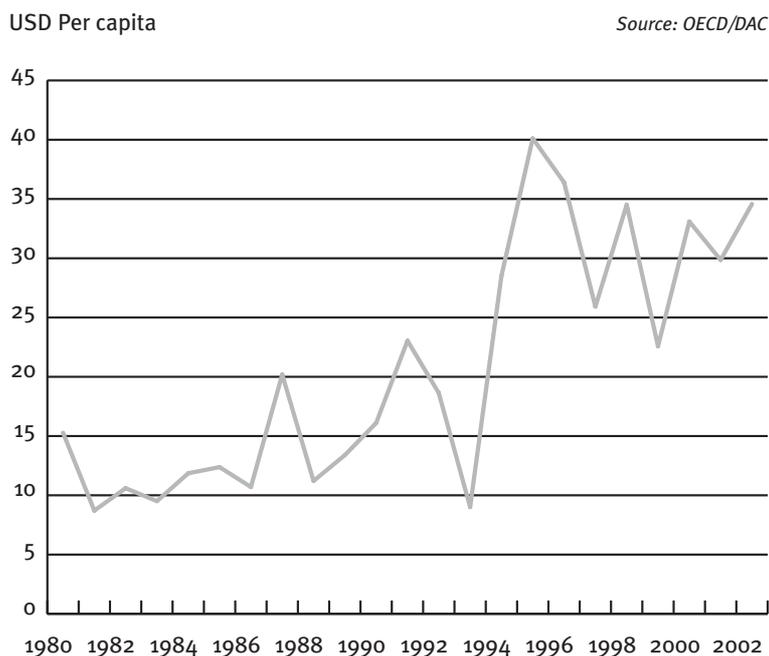
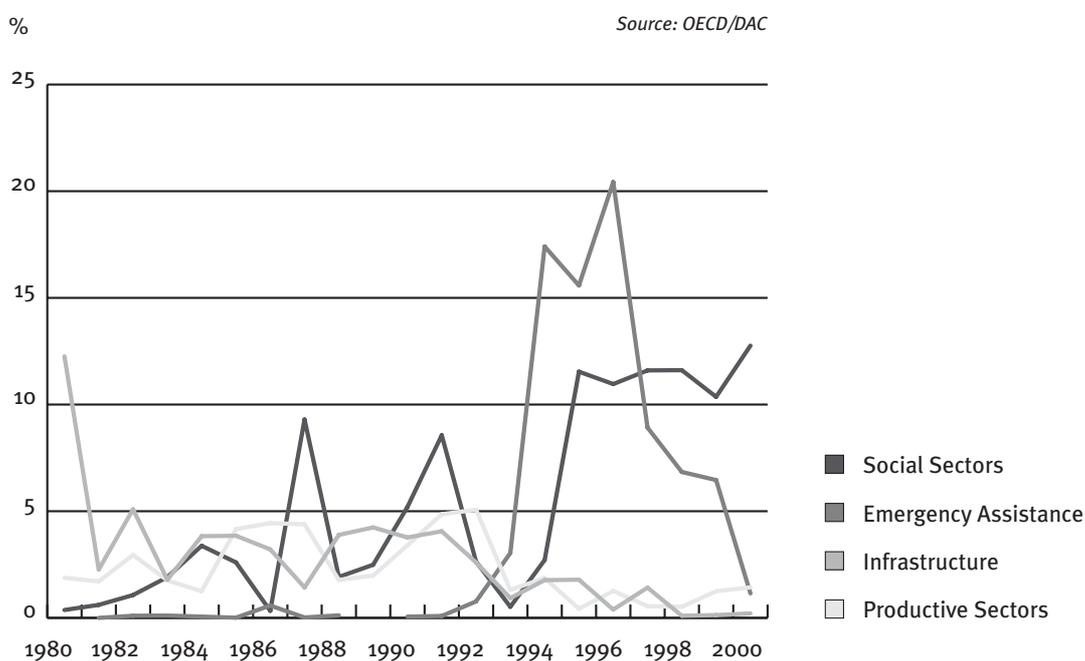
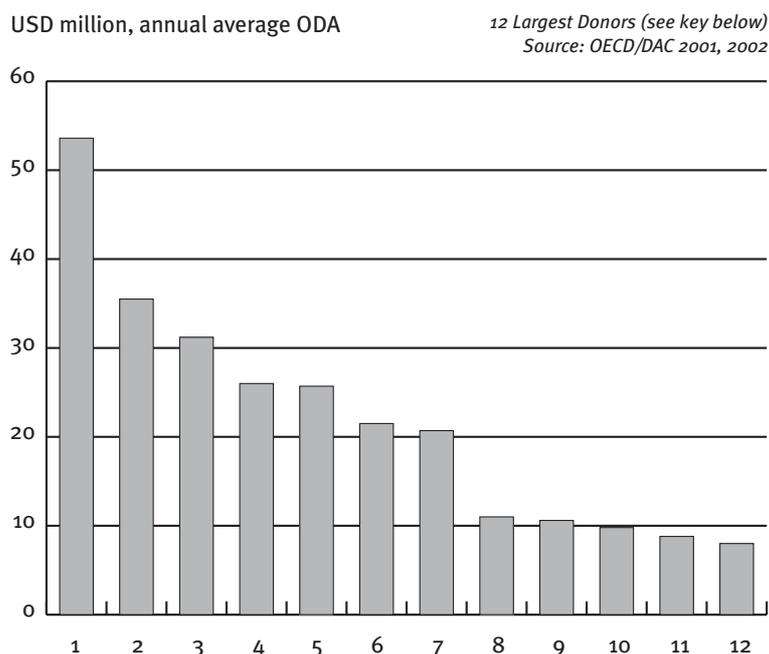


Chart 2.2 Official Development Assistance to Rwanda by Sectors



1.52 Chart 2.3 suggests the degree of donor concentration of aid to Rwanda. In fact, the first seven columns on the graph, depicting average annual net ODA to Rwanda during 1996-2002 by the seven largest donors and development agencies, represent 63% of all aid to Rwanda during this period. The next five "medium donors" add another 14%, or 77% for the 12 largest donors. The remaining 30 donors and development agencies reported by OECD/DAC provided 23% of ODA.

Chart 2.3 Major Donors to Rwanda 1996-2002



1.53 The 12 largest donors, in the same sequence as in Chart 2.3, are: IDA-World Bank, EU, UK, US, Netherlands, Germany, Belgium, Canada, France, Sweden, Norway, and Switzerland. While the five largest donors have maintained their assistance levels over the 6-year period, the others have tended to reduce their aid levels in recent years (Belgium and Sweden are exceptions). Aid disbursements were slow to materialize after the genocide. For example, by mid-1995 only 10% of the total pledged by donors at the January Round Table Conference had been disbursed (World Bank 1998a: 89). The rate of disbursements improved in succeeding years, but the immediate post-genocide years were critical.

1.54 Donors and development agencies have tended to emphasize education, health, and justice in their assistance strategies for Rwanda. The UK stands out among donors prepared to provide budget support to the GoR. France resumed aid to Rwanda in 1997 at a relatively modest level (just over USD 10 million a year on average) with a focus on the education and health sectors.

1.55 Donor governments have been generally ready to overlook or to excuse human and civil rights abuses as one of the costs of rebuilding the nation in the aftermath of the genocide. To an extent the donors were burdened by the guilt of their inaction during the genocide. The results of the UN's investigations into the illegal exploitation of resources in the Congo, which began in 2001, have led to increased donor questioning and criticism of the Government.¹⁵⁷

157. A close scholarly observer of Rwanda, Filip Reyntjens, continues to find the donors guilty of ignoring increasing dictatorial behavior and human rights abuses on the part of the GoR. He traces the problem back to a failure to tie pledges to addressing human rights abuses at the first post-genocide UNDP/GoR-led donor Round Table in January 1995 (Reyntjens 2004: 179).

The Treatment of Vulnerable Groups

1.56 The genocide had profound demographic impacts in addition to the loss of 12% of Rwanda's population. Currently about one-third of Rwandan households are headed by women and 20% of households by widows. The genocide created about 220,000 orphans of whom some became, and remain, heads of households.

1.57 Study 4 of the Joint Evaluation described the distinctive needs of women (as widows, as victims of violence and rape and as heads of household) and unaccompanied children and orphans in the first year after the genocide and analyzed the initial responses by the international community to their needs. It made four recommendations to donors in relation to Vulnerable Groups including the development of economic support and rehabilitation programs, supporting women's organizations, the removal of legal barriers to women's ownership of land and other productive resources and enhancing the capacity of families, female headed households and communities to cope with the support and care of orphans and unaccompanied children.

1.58 Whilst the Synthesis Study highlighted these needs (using the term 'survivors') and contrasted the imbalance between the attention and resources directed to the survivors in relation to the refugees, it did not elevate Study 4's recommendations on Vulnerable Groups to the status of a specific recommendation in Chapter 5 of the Synthesis Study.

1.59 When defined broadly, the term 'survivor' encompasses all those who were targeted during the genocide but who survived. Because Hutus as well as Tutsi were targeted during the genocide the term applies to both ethnic groups, but has come to be associated solely with the Tutsi who comprised the majority of those targeted. Whilst the term is helpful in identifying a significant group that was directly and severely damaged by the genocide and should be specifically targeted by aid efforts, the term is problematic in that it excludes those who have been widowed and orphaned at the hands of the RPA and insurgents since the genocide. Most aid agencies have chosen to include such groups within their overall approach towards assisting vulnerable groups regardless of when and how they were made 'vulnerable'. This complicates any attempt to assess the level and effectiveness of assistance provided to the genocide survivors.

1.60 Within the broadly defined group of 'survivors' that probably numbers around 400,000 the term 'neediest survivors' is generally used to describe those who have been rendered vulnerable as a result of violence directed at them and/or the killing of either their partners, their parents or their families during the 1994 genocide. A 1998 survey by FARG estimated the 'neediest survivors' to number 282,000 of which 48,000 were widows, 147,000 were orphans (fatherless), 10,000 orphans (motherless) and 64,000 orphans (both parents).¹⁵⁸ The needs of these different groups varied considerably. A particular problem for the widows has been that many were raped and infected with HIV/AIDs during the genocide.¹⁵⁹

158. *The numbers for the groups add up to 269,000 rather than 282,000. It is not clear which category defines the remaining 14,000 neediest survivors.*

159. *According to a UN estimate quoted by Amnesty International between 250,000 and 500,000 rapes were committed during the genocide and of the women who survived these attacks 70% are estimated to have been infected with HIV. Most reportedly still suffered from severe trauma and have little hope of receiving adequate medical care or compensation. <http://amnesty.org.uk/news/temp/060404.shtml>*

1.61 A number of organizations have been established with the specific aim of providing support to the genocide survivors.¹⁶⁰ These organizations generally view the level of international assistance provided to the survivors as wholly inadequate – a view that is supported by surveys of specific vulnerable groups such as widows and child-headed households that reveal extreme deprivation and lack of sustained external support.¹⁶¹ Why this should be the case given the substantial flows of aid to Rwanda since the genocide is not altogether clear but contributory factors appear to include the following:

- The large number and dispersed nature of those in need created difficulties for their identification and the coordination of assistance efforts by the GoR, UN agencies and NGOs
- FARG experienced problems of financial mismanagement and corruption
- Some donors felt that because FARG accounted for such a sizeable proportion of the overall vulnerable population that their efforts should be directed at overall vulnerability rather than being targeted on the Survivors as a specific group
- Efforts by the international NGOs were often piecemeal. Those providing direct assistance will have duplicated and potentially diverted resources from national NGOs.
- Some international agencies may well have felt uncomfortable supporting groups that focused only on the needs of those who had survived the genocide whilst no groups existed to support the not insignificant numbers that had been widowed or orphaned as a result of RPA killings during and since 1994
- The relationship between Survivors groups and the RPF were somewhat strained as a result of political and cultural differences between those who had been in Rwanda and survived the genocide (who were largely rural) and those who had returned from Uganda and other neighboring countries (many of whom settled in Kigali and entered the government).

2. Principal Developments in the Democratic Republic of the Congo¹⁶²

2.1 In March 1996 when the Joint Evaluation was published there were approximately 1 million Rwandan refugees in North and South Kivu in camps clustered

160. *Fonds d'Assistance aux Rescapés du Génocide – FARG. A fund established by the GoR specifically for survivors. The fund received a private donation from former President Bill Clinton and significant funding from USAID and other bilateral donors. Ibuka – 'Memory and Justice' A group formed to represent the interests and concerns of the genocide survivors. Avega – The Association of Genocide Widows. Formed in 1995 it assists widows and other groups of survivors. The Survivors Fund (SURF) a UK-based organization raising funds in support of Avega and other survivors groups in Rwanda.*

161. *ACORD (2001) 'The Situation of Child Heads of Households in Rwanda: A Significant Challenge' Report on a Survey conducted by the Agency for Co-operation and Research in Development, Kigali. Human Rights Watch (1996) Shattered Lives: Sexual Violence during the Rwandan Genocide and its Aftermath <http://www.hrw.org/reports/1996/Rwanda.htm> Human Rights Watch (2003) Rwanda Lasting Wounds: Consequences of Genocide and War for Rwanda's Children <http://hrw.org/reports/2003/rwanda0403/>*

162. *Unless otherwise stated the sources used in compiling this account were: MONUC Mission History <http://www.monuc.org/HistoryEn.aspx> ICRC Annual Reports 1997-2002 (sections reporting on activities in DRC) Human Rights Watch Annual Reports 1996-2003 MSF (2003) Ituri: Unkept Promises? A Pretence of Protection and Inadequate Assistance Pottier, Johan (2002) 'Everybody Needs Good Neighbors: Understanding Conflict(s) in the Eastern DRC' *Caderno de Estudos Africanos* No.2 Janeiro/Julho 2002 Nzongola-Ntalaja, Georges (2002) *The Congo From Leopold to Kabila: A People's History* Zed Books, London.*

around Goma, Bukavu and Uvira¹⁶³. Among the genuine refugees were also thousands of Hutu militia and, concentrated in Mugunga and Lac Vert camps near Goma, remnants of the FAR and politicians and officials from the former regime. Despite repeated calls by human rights and humanitarian agencies for the removal of the soldiers and militia from the camps, the Government of Zaire and the international community allowed them to remain in the camps and to benefit from the international assistance being provided to the refugees. The victory of the RPF in Rwanda and the presence of the Hutu extremists in the camps exacerbated pre-existing tensions in North Kivu between the indigenous Zaireans and the Banyarwanda (ethnic Tutsi who had been settled for generations in North Kivu). The Hutu militia in the camps launched raids into Rwanda against the RPF and Tutsis and also began attacks against the Banyarwanda in North Kivu forcing many to seek safety in Rwanda. Closing the camps and removing the security threat they posed was a priority to the Government of Rwanda.

2.2 In October 1996 the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL) under the spokesperson, Laurent Kabila, who soon emerged as the leader, launched a *Banyamulenge*¹⁶⁴ rebellion against the Mobutu regime. With the support of the RPA they surrounded the camps and the international staff of UN agencies and NGOs were withdrawn mostly to Gisenyi and Kigali. Assuming that water and food would run out, the agencies made predictions about likely death rates in the camps that were given prominence by the international media. A multinational force to (MNF) to intervene was called for by some states but the response from many others was cautious. The Canadian Government offered to lead such a force and this resulted in the proposal initially receiving support from the USA, the UK and others.¹⁶⁵ Reconnaissance and preparatory teams were deployed to the region by several Governments and the US and British Air forces were tasked with undertaking the vital aerial reconnaissance role.

2.3 In November, whilst the initial MNF preparations were underway, troops of the AFDL and RPA attacked the FAR elements in Mugunga camp. Over the next few days some 600,000 refugees streamed back into Rwanda. Their relatively healthy appearance contrasted with the mortality predictions made earlier by some agencies and the international media became critical and distrustful of the agencies¹⁶⁶.

2.4 As already described earlier in this Annex (para 1.9) the number and the fate of the refugees that did not return to Rwanda have been much disputed. Certainly AFDL and RPA forces pursued the FAR remnants and the Hutu militia westwards, killing

163. At the time UNHCR used a figure of 1.2 million though many agencies felt that this was an overestimate and some such as the US Committee for Refugees felt that 900,000 was the probable number. (http://www.refugees.org/news/press_releases/1996/112696.htm) In subsequent publications UNHCR uses the figure of 1.1 million.

164. The Banyamulenge are ethnic Tutsis settled for generations in South Kivu.

165. By early November the US Government had formally withdrawn its support claiming that the intervention was not feasible (Adelman and Baxter, 2004)

166. Gowing, Nik (1998) 'New Challenges And Problems For Information Management in Complex Emergencies: Ominous Lessons from the Great Lakes and Eastern Zaire in late 1996 and early 1997' Paper presented to the Dispatches from Disaster Zones Conference London 27-28 May 1998.

many in fighting and through attacks on temporary refugee settlements¹⁶⁷. Many groups of refugees sought safety in remote forests and experienced high morbidity and mortality rates.¹⁶⁸ UNHCR negotiated access arrangements with the AFDL and began 'search and rescue' operations supported by NGOs to locate and repatriate the refugees to Rwanda. Gradually it was realized that these operations were being used by the AFDL/RPA troops to identify and attack refugee concentrations, creating a terrible dilemma for the agencies. By September 1997 when the 'search and rescue' operations ended, UNHCR had 'rescued' over 260,000 Rwandans and repatriated them to Rwanda, 60,000 of them via an airlift operation (UNHCR 2000). The agency estimated that 213,000 remained 'missing'.¹⁶⁹

2.5 After the November attack on Mugunga camp the AFDL/RPA forces advanced westwards rapidly taking control of Kisangani in February 1997 and Kinshasa in May (Mobutu having flown into exile the month before). Kabila changed the name of the country to the Democratic Republic of Congo and appointed Banyarwanda to key posts. The popular Congolese perception was that he had been 'enthroned by foreigners' and he subsequently came under pressure to distance himself from his backers in Rwanda and Uganda. New political parties were formed in the Kivus: the *Rassemblement Congolais pour la démocratie* (RCD) with Professor Ernest Wamba-dia-Wamba as its leader. Subsequently the *Mouvement de Libération du Congo* (MLC) under Jean-Pierre Bemba was formed with substantial support from Uganda. In February 1998 Laurent Kabila 'gave in' to popular pressure to 'send the Rwandans home' and removed Banyarwanda from Government posts and ordered Banyamulenge troops back to the Kivus. In August there was a mutiny in Kinshasa and an uprising in the Kivus by the RCD and MLC that was openly supported by Ugandan and Rwandan troops. Their rapid westward advance to oust Kabila was halted only when troops from Angola, Zimbabwe and Namibia intervened in support of Kabila (subsequently troops from Sudan and Chad also joined the alliance supporting Kabila and troops from Burundi in support of the Rwandan forces).

2.6 From a situation in 1996 that was primarily a Rwandan Tutsi-Hutu confrontation, the events of 1998 escalated the conflict to a multinational confrontation with many different agendas at play and the first pan-African war. The different sides sponsored armed groups within the Congo.

167. *An investigation of these events was undertaken during 1998 by a team appointed by the UN Secretary General. Despite being obstructed in its work by the government of Laurent Kabila in Kinshasa the team concluded "... the killings by AFDL and its allies, including elements of the Rwandan Patriotic Army, constitute crimes against humanity, as does the denial of humanitarian assistance to Rwandan Hutu refugees. The members of the Team believe that some of the killings may constitute genocide, depending on their intent, and call for further investigation of those crimes and of their motivation."* S/1998/581 29 June 1998. *The Security Council did not act on the teams recommendations – a fact decried by human rights organizations. "UN Security Council shamefully abandons victims in Democratic Republic of Congo" Amnesty International 15th July 1998 New York.*

168. *Surveys conducted in Ndjoundou camp in Congo-Brazzaville in July 1997 to document the 1500 km flight of that group of Rwanda refugees through Zaire, found that 82.5% of the initial group disappeared or died during the migration and that the peaks of mortality matched the attacks of the AFDL forces along their journey (Legros and Brown 2001) As noted in an earlier footnote the mortality rate among the refugees near Kisangani around April 1997 were an unprecedented 62/10,000/day. Normal mortality rates in a refugee camp are 0.6/10,000/day and a rate above 4/10,000/day is regarded as an emergency out of control (Mills 2004)*

169. *This figure remains disputed as it depends on the accuracy of the estimates of refugee numbers before the operations by AFDL and RPA forces in October 1996.*

2.7 Pre-existing tensions between different ethnic and political groups in the Congo were exploited by the different foreign armies and Congolese armed groups. The security situation in the eastern part of the country became extremely complex. In addition to the conflict between forces (national and foreign) supporting Laurent Kabila and those supporting the RCD and MLC (including Rwanda and Uganda) the next 3-4 years also witnessed:

- fighting between the RCD and Mai-Mai groups (autochthonous populations) especially in South Kivu resulting in the massacre of whole communities
- fighting between the Lendu and Hema in North Kivu as a result of disputes over land rights especially near the town of Bunia
- periods of direct conflict between Rwandan and Ugandan forces inside DRC and their respective sponsored factions

2.8 Exploitation of the Congo's considerable mineral wealth (coltan, diamonds, copper, cobalt and gold) became an important factor in the dynamics of the conflicts with some foreign governments using the income from illegal mineral exploitation to fund their military inside DRC and to boost national incomes and the personal fortunes of certain individuals.

2.9 In April 1999 President Gaddafi attempted to broker a ceasefire agreement between Laurent Kabila and President Museveni at Sirte in Libya but the RCD and Rwanda would not agree to it. Peace efforts were then led by Zambia on behalf of the Southern African Development Community (SADC). After protracted negotiations the key parties agreed on a ceasefire deal that was signed by the state actors (DRC, Angola, Namibia, Rwanda, Uganda and Zimbabwe) in Lusaka in July 1999 and by the RCD and MLC (but not the Mai Mai) the following month.

2.10 The Lusaka Agreement included provisions on the normalization of the situation along the DRC border; the control of illicit trafficking of arms and the infiltration of armed groups; the holding of a national dialogue; the need to address security concerns; and the establishment of a mechanism for disarming militias and armed groups. It also provided for a Joint Military Commission (JMC) composed of two representatives from each party under a neutral chairman appointed by the Organization of African Unity (OAU) and proposed that an "appropriate force" be constituted, facilitated and deployed by the United Nations in collaboration with OAU¹⁷⁰. The Agreement also provided for the appointment of a Facilitator to organize the Inter Congolese political talks intended to lead to a new political order, in consultation with the Congolese parties.

2.11 The UN Security Council which had been accused by the DRC of doing nothing more than 'making statements' to end the war, responded cautiously to the Lusaka Agreement. Significantly the UN had not been a party to the Agreement and differences in perception and expectations between the parties to the Agreement and the UNSC and DPKO appear to have existed from the outset.¹⁷¹ In August 1999 the SC approved

170. *The wording in the Ceasefire Agreement was: "The United Nations Security Council, acting under Chapter VII of the UN Charter and in collaboration with the OAU, shall be requested to constitute, facilitate and deploy an appropriate peacekeeping force in the DRC to ensure implementation of this agreement; and taking into account the peculiar situation of the DRC, mandate the peacekeeping force to track down all armed groups in the DRC. In this respect the UN Security Council shall provide the requisite mandate for the peacekeeping forces"* cited in *Refugees International, 2003*).

171. *A report by Refugees International notes: "According to a senior representative of a Mission to the UN, 'The Congo file started in Africa, not in the United Nations. The Lusaka Agreement called for UN forces. They didn't know what they were writing. The UN wasn't there. The UN came in with a framework that wasn't theirs'". (Refugees International, 2003 p. 5)*

the deployment of 90 military liaison personnel in the capitals of the belligerent states as a precursor to the deployment of 500 military observers through a UN Military Observer Mission in the Congo (MONUC). In February 2000 the UNSC authorized the expansion of MONUC to 5,500 military personnel under a mandate that was predominantly Chapter VI but which contained a Chapter VII component that allowed self protection and limited protection for the civilian population¹⁷². However, member states were dilatory in providing the necessary contingents. Over three years later by April 2003¹⁷³ MONUC's military strength was 4,309 – a figure that included 455 military observers, 3,803 troops and 51 civilian policy personnel (Refugees International, 2003).

2.12 Direct confrontations between Ugandan (UPDF) and Rwandan (RPA) troops took place in and around Kisangani in August 1999 and then again in May and June 2000. The motivation of such 'turf battles' was control of access to diamond mines in the area. The fighting involved heavy artillery and killed an estimated 1,000 people and caused extensive damage to the city's infrastructure. Violent demonstrations against the perceived feebleness of the UN response to the fighting took place in Kinshasa. The Security Council then identified Rwanda and Uganda as aggressors in the DRC and called for their troops to be withdrawn. In May 2000 in the first of a series of surveys of mortality in Eastern DRC the International Rescue Committee estimated excess mortality over the previous 22 months at 1.7 million as a result of direct killings, displacement, cutting off of large population groups from their traditional supply routes and the breakdown of health services. IRC's figures were to be borne out by subsequent surveys conducted by the organization in 2001 (which estimated excess mortality at 2.5 million) and in 2003 (which estimated excess mortality at 3 million).

2.13 The response by the international humanitarian community to such shocking estimates of mortality was limited and quite inadequate in relation to the scale of the needs. The lack of security and the consequent lack of access to large areas, the high costs of operating in such a large and logistically difficult environment, the lack of donor funding for operations in the DRC and the lack of international media coverage of the conflict(s) and the humanitarian crisis are all cited by humanitarian agencies as critical factors contributing to the inadequate response. Others have also identified the Integrated Mission approach adopted by the UN and a mistaken emphasis on 'peace-building' rather than 'life-saving' approaches as being significant contributory factors.¹⁷⁴

2.14 In January 2001 Laurent Kabila was assassinated by one of his bodyguards and was replaced by his son Joseph Kabila. During visits to Paris, Brussels, Washington and New York he appeared committed to seek solutions to ending the conflict. This appears to have prompted a closer engagement with the DRC peace process by the Security Council, which conducted its own assessment and consultative mission in the Great Lakes Region including DRC in May 2001.

172. *The wording of this unusual provision within UNSC Resolution 1291 (2000) of 24 February was: "Acting under chapter VII of the Charter of the United Nations, the Security Council also decided that MONUC may take the necessary action, in the areas of deployment of its infantry battalions and as it deems it within its capabilities, to protect United Nations and co-located JMC personnel, facilities, installations and equipment, ensure the security and freedom of movement of its personnel, and protect civilians under imminent threat of physical violence".*

173. *Four months previously the UN Security Council had authorized an increase to 8,700 military personnel.*

174. *Multi Donor Mission Report: Democratic Republic of Congo Report May 27 – June 8 2002 Stockton, Nicholas (2003) 'Humanitarianism Bound: Coherence and Catastrophe in the Congo 1998--2002'*

2.15 International attention to the issue of the exploitation of Congo's resources by the foreign forces operating within DRC increased in 2001 with the publication in April of the first report of the 'UN Panel of Experts on the Illegal Exploitation of the Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo'. This prompted condemnation of those involved by the Security Council. Rwanda and Uganda protested and pointed to inaccuracies in the first report but by the end of the year a second report had been produced that confirmed the findings of the first report. In a third report published in October 2002, 'elite networks' in Uganda, Rwanda and the DRC were identified as being involved in the illegal trade. Military and political officers from the three countries as well as members of the various rebel movements were named as being involved in and benefiting from the trade. Such reports, coupled with the earlier damning, detailed investigations of the human rights abuses in the Eastern DRC by the Special Rapporteur of the Commission on Human Rights, Roberto Garreton, increased the international pressures on Uganda and Rwanda to withdraw.

2.16 Such reports however also appear to have affected the humanitarian space on the ground in eastern DRC. Agency personnel were increasingly suspected by the various armies and armed groups of having provided information to the human rights and mineral exploitation investigations. In April 2001 just days after the publication of the first report of the UN Panel, six ICRC staff were murdered near Bunia in Ituri. The ICRC suspended all operations in territory controlled by the Congo Liberation Front and the Ugandan People's Defense Force. Humanitarian activities of UN and several NGOs were also halted. The Ugandan authorities agreed to undertake an investigation but it did not yield conclusive results.

2.17 In February 2002 the Inter-Congolese Dialogue, agreed to in the Lusaka Agreement, finally got underway at Sun City in South Africa. Thereafter the peace process began to gather greater momentum, though with periodic setbacks and delays. For instance in May 2002 soldiers of RCD-Goma (supported by Rwanda) undertook operations in Kisangani and killed an estimated 200 civilians. Twelve hundred MONUC troops stationed in the city did not respond to the attacks nor did they offer protection to civilians who came to them for safety¹⁷⁵. In July 2002 the Governments of DRC and Rwanda agreed on a calendar for the withdrawal of the RPA from DRC and the DRC agreed to track down elements of the former Rwandan Army (FAR) and Hutu militia still operating in the DRC. Verification of these actions would be undertaken by South Africa and MONUC (whose role in support of Disarmament, Demobilization, Repatriation, Reintegration and Resettlement of foreign armed groups – DDRRR had been approved by the Security Council in November 2001). The first group of Rwandan combatants (FAR and Hutu militia) were repatriated to Rwanda in September 2002. By March 2004 10,500 Rwandan combatants had been repatriated.

2.18 In December 2002 the Congolese parties to the Inter-Congolese Dialogue (i.e. the Kinshasa Government, MLC, RCD, RCD-ML, RCD-N, Political Opposition, Civil Society and the Mai Mai) signed an agreement for a political transition process leading within two years to legislative and presidential elections starting from the time the

175. *The MONUC contingents in Kisangani comprised 650 Moroccans and 550 Uruguayans. However neither were infantry and so MONUC's interpretation of the situation and of the wording in the Chapter VII component of the MONUC mandate was that: protection of the civilians was not "deem[ed] to be within [their] capability" even though the civilians were under "imminent threat of physical violence" (Refugees International 2003).*

Transitional Government was actually established. (The Transitional Government was eventually formed on 30th June 2003.) Even though MONUC was still well below the troop levels authorized by the UN Security Council in February 2000, in December 2002 the Security Council approved an expansion of MONUC's strength to 8,700 with a mandate to implement the Disarmament, Demobilization, Repatriation, Reintegration and Resettlement (DDRRR) Program.

2.19 Despite the progress (if painfully slow) of the peace process, events on the ground show how fragile the situation is. In May 2003 there were two weeks of intense violence in and around Bunia causing hundreds of civilian deaths and widespread population displacements. The Security Council responded by calling for an immediate deployment of 3,000 troops for a three-month period under a Chapter VII mandate to operate alongside MONUC. France led the operation 'Operation Artemis' which began its deployment in Bunia in June. In July the Security Council approved a significant strengthening of MONUC's mandate to a Chapter VII mandate and an increase in its force level to 10,800 to enable it to take over from Operation Artemis. The new mandate authorized the use of force in Ituri and the Kivus to protect civilians and ensure safe passage for humanitarian agencies. In September 2003 Operation Artemis ended and MONUC established what is known as the 'Ituri Brigade' with troops from India, Pakistan, Bangladesh, Nepal and Indonesia. After establishing Bunia as a 'weapons free area' contingents began deploying to locations throughout Ituri Province, a development that improves MONUC's ability to verify the withdrawal of Ugandan (UPDF) troops and monitor the activities of the different political parties and armed groups. In March 2004 the 'Kivu Brigade' of the expanded MONUC began deploying in Bukavu. With a planned troop level of 3,500 it will cover North and South Kivu and Maniema Provinces. The deployment in Bukavu was marked by anti-UN demonstrations.

2.20 At the end of May 2004, three months after the deployment of MONUC's 'Kivu Brigade' to Bukavu, a force of mutineers within the army of the Transitional Government (*Forces Armées de la République Démocratique du Congo* -FARDC), who are widely believed to have been encouraged and supported by Rwanda attacked and, at the beginning of June, took control of Bukavu for a period of 6 days and killing scores, possibly hundreds of civilians. The mutineers were led by General Jules Mutebusi the Deputy Commander of the FARDC contingent in South Kivu, who was reinforced by mutineers from the FARDC in Goma led by General Laurent Nkunda. Between them the combined force of mutineers numbered around 4,000 troops and easily overran the loyalist FARDC soldiers who attempted to defend the city. The 600 MONUC soldiers in Bukavu did not attempt to support the loyalist troops or to oppose the mutineers. Whilst they did provide some protection to several hundred civilians during the fighting, the majority of Bukavu's civilians were not protected from the killing, raping and plundering by the mutineers. Once again there were demonstrations against MONUC's perceived feebleness in Kinshasa during which several protesters were shot dead by MONUC forces defending a MONUC warehouse.

2.21 The mutineers withdrew from the city on June 9th after intense diplomatic activity including pressure from the UN Security Council and US and European diplomats not only on the mutineers but also on the Government of Rwanda. It is understood that during his visit to the region the Belgian foreign minister Louis Michel threatened the deployment of a European Union-led rapid intervention force similar to the three-month Operation Artemis that had helped stabilize the Ituri region in the Congo's northeast in 2003 (International Crisis Group, 2004)

2.22 At one level the cause of the mutiny was tension between the different elements that were being integrated within the FARDC. Theoretically Mutebusi was an officer in the new national army but his background was as a leader of RCD-Goma that had traditionally seen South Kivu as an area under its control. The appointment of General Felix Mbuza Mabe, a supporter of the Kinshasa government during the civil war, as Mutebusi's commander was undoubtedly an important catalyst for Mutebusi's mutiny. However, many observers see the mutiny as a product of a confrontation between opposing visions for a future Congo – between a united Congo controlled from Kinshasa and a federalist Congo with considerable autonomy being given to the eastern part of the country and maintaining strong links with Rwanda and Uganda. Some see the mutiny as being encouraged by Rwanda to disrupt the transition process, expose Kinshasa's military weakness in the eastern part of the country and to demonstrate Rwanda's continued ability to influence events in Congo during the transition (eg. Lemarchand 2004; ICG 2004).

2.23 In early September 2004 the UN Secretary General requested the Security Council to authorize an expansion of MONUC's troop level from 10,800 to 24,000 with the objective of improving security in the east of the country and being better able to respond to mutinies similar to the Bukavu episode. After three weeks of negotiation at the beginning of October the Security Council look set to approve an expansion from 11,000 to 17,500. Diplomats involved in the negotiations stated that the 6,000 troop increase was "all that was politically feasible given the heavy demands for peacekeepers worldwide".¹⁷⁶

3. Principal Developments in Burundi¹⁷⁷

3.1 The Joint Evaluation highlighted how the October 1993 attempted coup by the Tutsi dominated Burundian army, during which the democratically elected President Melchior Ndadaye was assassinated and which sparked mutual killings between both ethnic groups in which approximately 100,000 died and 350,000 refugees fled Burundi, many into Rwanda, had formed an important backdrop to the 1994 genocide in Rwanda. None of those responsible for Ndadaye's assassination or the subsequent killings was ever brought to justice. Cyprien Ntaryamira who was appointed in Ndadaye's place by the Burundian Parliament was himself killed when President Habyarimana's aircraft was shot down over Kigali on 6th April 1994. The Speaker of the Parliament Sylvestre Ntibantunganya was appointed in Ntaryamira's place.

3.2 In the face of ineffective civilian leadership the army was largely controlled by radical Tutsi leaders who sought to re-appropriate the political control they had lost at the polls in 1993 through the use of violence, intimidation and political blockage. They were opposed by rebel forces of the National Council for the Defense of Democracy (CNDD) based in Zaire and the Party for the Liberation of the Hutu People (PALIPEHUTU) based

176. *Voice of America* 1st October 2004 'UN Security Council Agrees 6,000 More Peacekeepers for Congo'. www.voanews.com

177. *The principle sources for this account are:*

Human Rights Watch Annual Reports on Burundi from 1995 to 2003

Havermans, Jos (2002) 'Burundi: The Peace Accords – Impact and Prospects' WriteNet Paper 15/2001 prepared for UNHCR Emergency and Security Service

International Crisis Group (2003) 'A Framework for Responsible Aid to Burundi' Africa Report No. 57, 23rd February 2003 Brussels/Nairobi.

in Tanzania. Extremist local media fanned the flames. Approximately 9,000 civilians and 1,000 soldiers were killed during 1995. Many Tutsis sought protection by moving into or close to Bujumbura and many Hutu residents fled the city following attacks by Tutsi militia supported by the army. Bujumbura thus de facto became the Tutsi stronghold and the Tutsi elite was able to draw benefit from the international aid (whether developmental or humanitarian) that was routed primarily through the capital. By 1996 the Front for the Defense of Democracy (FDD) was in effective control of areas of northwest Burundi and some 400,000 were displaced in the country and a further 350,000 were refugees in Zaire or Tanzania. Fifty UN member states were approached to explore their willingness to contribute troops to a possible peacekeeping operation but only Ethiopia, Uganda and Tanzania responded positively and the initiative did not progress.

3.3 In July 1996 Major Pierre Buyoya, a Tutsi, led a successful coup attempt, suspending the national parliament and banning political parties. This drove many moderates to support the extremist groups fighting the army. Development assistance was cut by two thirds to signal the international community's disapproval. Shortly after the coup the government introduced a counter-insurgency strategy of *regroupement* – forcibly grouping civilians into camp settlements where they could be controlled by the army. By 1997 700,000 people were living in these camps where conditions were appalling, morbidity and mortality rates high and residents subjected to abuse and attacks by the military. International agencies were divided as to how to respond to the needs in the *regroupement* camps with some arguing that provision of support would only support the government's policy and other arguing that the pressing humanitarian needs should be met regardless. The Security Council expressed deep concern about the camps in May 1997. Though the numbers in the camps were reduced in 1998, *regroupement* remained a government policy until 2000 when they were, for the most part, closed.

3.4 As well as being faced by such acute policy dilemmas, humanitarian agencies were also subject to attack. In June 1996 for instance an ICRC convoy was ambushed and three expatriate ICRC staff killed, after which the ICRC withdrew from the country and did not resume direct operations in the country until 1999. In October 1999 two expatriate UN aid workers and seven Burundian staff were killed, which resulted in a halt to UN activities outside Bujumbura, though these were resumed after a period.

3.5 From 1993 onwards numerous efforts were made by the international community to bring the parties to the negotiating table. The UN and EU appointed special envoys, the OAU sent a mission in 1994 and NGOs such as International Alert and Search for Common Ground attempted to promote contacts and understanding between the different groups. Such efforts gradually became focused on what came to be known as the Arusha Peace Process for Burundi. Initially the process was facilitated by Julius Nyerere, the former Tanzanian President, but after his death in October 1999 the role was taken over by Nelson Mandela. It was this African-led and co-coordinated process that led to the Arusha Agreement of August 2000 that was signed in the presence of regional leaders and former US President Bill Clinton.

3.6 Among the provisions of the Agreement were:

- The formation of a transitional government for a period of three years
- The establishment of an International Judicial Enquiry Commission to investigate war crimes, crimes against humanity and genocide
- The establishment of a Truth and Reconciliation Commission to address other political crimes

- Reform of the armed forces and judicial systems to achieve equal and fair representation of Tutsis and Hutus
- A 50:50 split in seats in the new Senate
- Elections to be held before the end of the transition period
- An International Peacekeeping Force could be deployed but only if requested by the Government and following a cease-fire

3.7 Though the Agreement represented a considerable achievement it lacked detail in key areas and some observers branded it ‘a non-agreement’ Most importantly the two main rebel groups¹⁷⁸ had refused to join the talks and continued their armed opposition for at least another three years. Under an additional accord in July 2001 the original parties to the August 2000 Agreement also agreed to:

- Switch the occupants of the posts of President and Vice President at the mid-point of the three year transition (meaning that Pierre Buyoya would become Vice President in May 2003 and be replaced by Domitien Ndayizeye a Hutu)
- Establish a special force (USI – Unité spéciale de protection des institutions) to provide protection to transitional institutions and particularly Hutu politicians returning to Burundi to take up posts in government or parliament

3.8 By October 2001 the special force (USI) had not been formed and so some 300 South African troops (the South African Protection Support Detachment supported with funding from Belgium) took on the role and the Transitional Government was installed on 1st November 2001. (Subsequently the South African troops were complemented by small contingents from Ethiopia and Mozambique, brought under the umbrella of the African Union and renamed the African Mission in Burundi – AMIB)

3.9 The rebel groups stepped up their attacks to demonstrate the necessity of including them in the transitional process. Efforts to broker a cease-fire by Tanzanian and South African mediators foundered due to a combination of divisions within the two rebel movements (the FDD split into two wings in 2001 and the FNL similarly split in 2002), personal and policy differences among the mediators and a continuing reluctance in the army and government to share power. In September 2002 the stronger wing of the FDD began direct negotiations with the government and shortly thereafter the weaker wing of the FNL also began direct negotiations. Though a ceasefire was agreed with the FDD in December 2002 fighting flared again at the beginning of 2003.

3.10 As planned under the transitional arrangements Domitien Ndayizeye replaced Pierre Buyoya at the beginning of May 2003. Negotiations continued with the FDD and FNL but in July there was a major assault on Bujumbura and thousands were displaced. However in November 2003 President Ndayizeye and the FDD leader Pierre Nkurunziza signed an agreement to end their conflict at an African Union Summit in Tanzania. The forces of the FDD then joined with the government against the FNL Pierre Nukurunziaa took up his post as Minister of Good Governance in the Transitional Government in December 2003. The FNL continued fighting the combined government and FDD forces until April when it declared a unilateral ceasefire. Despite continued fighting between the FNL and government forces, notably in the prefecture of Bujumbura Rural, the UN acted to establish a peacekeeping force. On 21st May 2004 the UN Security Council voted unanimously to deploy a peacekeeping force

178. *The National Council for the Defense of Democracy-Forces for the Defense of Democracy (CNDD-FDD usually just called the FDD) and the Forces for National Liberation (FNL) of PALIPEHUTU.*

to Burundi under a Chapter VII mandate to ensure respect for the ceasefire (Resolution 1545). The force – the UN Operation in Burundi (ONUB) – has an authorized level of 5,650 military personnel and has absorbed the AMIB forces

3.11 A critical feature of the civil war that developed after 1993 was its inter-relationship with other conflicts within the region. With bases in Zaire the FDD received support from the Mobutu regime and after the Genocide in Rwanda also developed links with elements of the former Rwandan army (FAR) that had sought sanctuary in eastern Zaire. The AFDL uprising supported by Rwandan troops at the end of 1996 disrupted the FDD's support. Elements of the FDD sought safety in the Burundian refugee camps in Tanzania where they linked up with PALIPEHUTU-FNL but managed to maintain their contacts with the FAR and *Interahamwe* to the extent of undertaking joint operations – such as the January 1998 attack on Bujumbura airport. Mirroring the collaboration of the rebels the Rwandan and Burundian armies (both Tutsi dominated) undertook joint military operations in areas close to their borders and across into Zaire.

3.12 The *Banyamulenge* uprising in Eastern DRC in 1998 and the 'second invasion' by Rwandan troops in support of the Congolese Rally for Democracy (RCD) resulted in additional support to Burundian rebels from opponents of the RCD and Rwanda, including from the Kabila regime in Kinshasa. This enabled the FDD to re-establish its bases in eastern DRC and led to the Burundian army setting up its own operating bases in South Kivu Province along Lake Tanganyika and collaborating with Rwandan Government forces in the DRC. In apparent exchange for this collaboration the RPA carried out joint operations with the Burundian army against the FDD and FNL inside Burundi. Rwandan Hutus (ex-FAR and *Interahamwe*) from within the DRC (but also it seems from the ALIR insurgency within Rwanda) crossed into Burundi and provided the FNL with significant support. This cooperation continued until February 2000 when it broke down and FNL forces killed more than a hundred of the Rwandans. In July 2002 as part of the DRC Peace Process Rwanda and Burundi agreed to withdraw their forces from DRC territory and declared the withdrawal complete by October the same year. In August 2004 160 Congolese refugees were massacred in a UN transit camp at Gatumba, 16 km northwest of Bujumbura. The massacre, attributed to the FNL acting in concert with armed groups from neighboring DRC, signaled the fragility of the peace process and the security situation and the continued ability of armed groups from neighboring countries to influence the course of the peace process.

4. Selected Other Examples of Conflict and International Intervention

Kosovo 1998-99¹⁷⁹

4.1 Kosovo had enjoyed a degree of autonomy within the People's Federal Republic of Yugoslavia during the 1970's and 1980's. But with the rise of Serb nationalism and

179. *The principal sources used in preparing this summary were:*
Independent International Commission on Kosovo (2000) The Kosovo Report: Conflict, International Response, Lessons Learned Oxford: OUP
International Commission on Intervention and State Sovereignty (2001) The Responsibility to Protect: Research, Bibliography, Background Supplementary Volume Section B Past Humanitarian Interventions Ottawa: International Development Research Centre.
Power, Samantha (2002) A Problem from Hell: America and the Age of Genocide London:Flamingo Paperbacks.

the break-up of Yugoslavia, Kosovo's autonomy was drastically reduced and in 1989 the province effectively became part of Serbia. Ethnic Albanians made up approximately 90% of the population of 2.2 million but were increasingly persecuted by the Serb authorities of the Government of President Milosevic.

4.2 In Bosnia-Herzegovina, the July 1995 massacre of 7,000 Bosnian Muslim men and boys at Srebrenica (a UN declared Safe Area) by Bosnian Serb forces elicited a significantly more robust approach by the US and European Governments to the conflict in that part of the former Yugoslavia. A 12 day bombing campaign by NATO in August and September 1995 resulted in territorial gains by Bosnian Croat and Muslim forces and persuaded Bosnian Serb leaders and President Milosevic to reach an agreement. Significantly for Kosovo the Dayton Peace Agreement of November-December 1995 focused upon Bosnia-Herzegovina: the task of addressing Kosovo's relationship to Serbia was postponed.

4.3 However, Serb oppression of the Kosovar Albanian community led to the emergence of the Kosovo Liberation Army and the start of attacks on Serb police and symbols of Serb rule in Kosovo. Invariably these were followed by brutal Serb reprisal attacks upon whole families and communities.

4.4 The success of the 1995 NATO bombing campaign and the deployment of substantial NATO forces in Bosnia-Herzegovina in support of the Dayton Agreement¹⁸⁰ resulted in NATO taking a particular interest and perspective on the course of events in Kosovo. International negotiators seeking political solutions between Belgrade and representatives of the Albanian majority in Kosovo were able to point to the possibility of NATO using force to impose a settlement if progress was not achieved in the political and diplomatic negotiations.

4.5 In October 1998 Belgrade reluctantly agreed to aerial surveillance by NATO and the deployment of 2000 OSCE monitors as part of a Verification Mission. These gave the international community immediate and accurate information on the continued attacks by Serb police and military units on Kosovar Albanian civilians. The UN Security Council was directly engaged with the efforts to achieve a peaceful solution during 1998. However Russia and China threatened to veto any resolution that authorized the use of force and this led to NATO in effect by-passing the Security Council claiming that it already had sufficient authority to resort to the use of force if progress was not achieved. At negotiations at Rambouillet and Paris in February and March 1999 Belgrade refused to sign a draft agreement that provided for the holding of a referendum on Kosovo's independence within three years and allowing NATO freedom of movement through Serbia.

4.6 In an operation that was of dubious legality, given the lack of direct authorization by the UN Security Council, NATO planes began bombing Serb forces in Kosovo on 24th March 1999. Some western politicians justified the bombing in terms of 'humanitarian' objectives i.e. as a means of confronting and turning back Serb attacks on Kosovar Albanians. The apparent assumption by NATO was that Belgrade's resistance to the draft Rambouillet Agreement would collapse after a short bombing campaign. To

180. 60,000 NATO troops were deployed to Bosnia-Herzegovina under the initial Implementation Force (IFOR). The level was reduced under the subsequent Stabilization Force (SFOR) and currently stands at around 20,000.

minimize the risk to NATO planes, bombing was carried out from an altitude above 15,000 feet. However, Serb forces responded with a campaign of attacks upon, and forced displacement of, the Kosovar Albanian population. Within a few days there were 750,000 refugees in Albania and Macedonia and 250,000 IDP's held at the border just inside Kosovo¹⁸¹. UNHCR, which had prepared contingency plans for 100,000 refugees, was soon overwhelmed and a massive humanitarian operation began with extremely generous levels of official and private funding.

4.7 The attacks upon, and forced expulsion of, Kosovar Albanians, the apparent disappearance of large numbers of Kosovar Albanian males, and fears of a repeat of the Srebrenica massacres, led to the qualified use of the term 'genocide', at least in the US administration.¹⁸² The dramatic turn of events and Belgrade's clear determination to resist the NATO pressure resulted in an escalation of the bombing campaign to cover much of Serbia as well as Kosovo and to include 'dual-use' as well as military targets (i.e. transport links, power grids, state media broadcasting, etc.). In addition NATO ground forces in Macedonia and Albania were built-up to back up the threat to undertake a ground invasion if necessary.

4.8 Efforts by Russia to find a solution and avoid the threatened ground invasion led to an agreement between Russia and the G7 countries on a seven point peace plan that provided a framework for subsequent diplomatic efforts. At the beginning of June 1999 the Serbian Government and subsequently the Serb Parliament agreed to a revised version of the plan that provided for "substantial autonomy" for Kosovo within the Federal Republic of Yugoslavia but contained no timeline or mechanism for resolving Kosovo's long term status within the FRY. NATO ceased its air campaign on 10th June (after 78 days of continuous bombing) and on the same day the UN Security Council passed Resolution 1244 which provided the framework for the post-war administration of Kosovo. In effect Kosovo became an international protectorate under UN administration. NATO and Russian forces that would form the Kosovo International Security Force (KFOR) began deployment of 20,000 troops into Kosovo on 12th June. Refugees in Macedonia and Albania began to spontaneously repatriate despite the risk of land-mines. The UN Interim Administration Mission in Kosovo (UNMIK) was established with Bernard Kouchner as the first SRSG taking up the post in mid July. Reprisal attacks by Kosovar Albanians on members of the Kosovar Serb community and other minority groups (particularly Roma) in the province were not prevented by KFOR which was still establishing its presence. Approximately 100,000 Kosovar Serbs (half of the pre-1999 population) left the province for Serbia.

4.9 Four years on from these events Kosovo remains under UN administration and KFOR troop levels stand at 18,000 (from NATO countries and a dozen non-NATO nations). Much has been done to stabilize the province and set up a functioning administration. However unemployment remains high and ethnic tensions between the

181. *According to the Independent International Commission on Kosovo (2000) during the NATO air campaign approximately 863,000 civilians sought or were forced into refuge outside of Kosovo and a further 590,000 were internally displaced. The two figures imply that over 90% of the Kosovar Albanian population were displaced from their homes.*

182. *"What we see unfolding in Kosovo are war crimes, ethnic cleansing, crimes against humanity. And these are occurring on such a systematic and widespread basis that we have to conclude that we're witnessing what might be described as indicators of genocide unfolding in Kosovo" Ambassador David Scheffer speaking at a Foreign Press Centre Briefing 5th April 1999 quoted in Samantha Power A Problem from Hell p.468*

Albanian majority and Serbian, Ashkali and Roma minorities remain prevalent and close to the surface – as shown by the outbreak of violence in April 2004 which resulted in 19 deaths and hundreds being injured.

4.10 President Milosevic was removed from office in Belgrade in October 2000 after a contested election result and popular uprising and in June 2001 was handed over to the International Criminal Tribunal for the Former Yugoslavia in the Hague where he is undergoing trial for genocide. Despite a more liberal and democratic government in Belgrade little direct progress has been made in resolving the long term status of Kosovo. As preparation for eventual 'final status' decisions and to encourage the development of political structures in Kosovo that will participate in such decisions an elected Provisional Institutions of Self-Government (PISG) has been established and is gradually gaining more responsibility.

East Timor 1999¹⁸³

4.11 Indonesia's invasion and annexation of the former Portuguese colony of East Timor in 1975 was not recognized by the vast majority of UN member states. An insurgency developed and was brutally suppressed by the Indonesian military. Over the next 25 years an estimated 200,000 people were killed out of a total population of just 1 million. However, it was only with the replacement of President Suharto by President Habibie in May 1998 that meaningful consideration of East Timor's future and possible independence became possible.

4.12 In May 1999 President Habibie agreed to the holding of a "popular consultation" (i.e. plebiscite) on the territory's future – a process that was to be administered by the United Nations (the UN Mission in East Timor UNAMET)¹⁸⁴, though the Indonesian military would remain responsible for security in the territory. The plebiscite was eventually held on 30th August 1999. 98% of registered East Timorese voted, of whom 78.5% voted in favor of independence. Almost immediately there was widespread violence and looting by those anti-independence militia helped by units of the Indonesian military which left up to 1,000 dead including several locally recruited UNAMET personnel. As many as 700,000 were displaced from their homes creating a humanitarian, as well as a security, emergency. Approximately 200,000 fled, many forcibly, to Indonesian West Timor where they were at risk of attack by anti-independence militia. Whilst the majority of UNAMET international staff were withdrawn, some including the Special Representative of the Secretary General opted to remain in the beleaguered UN compound in a conscious decision not to repeat the UN withdrawal from Rwanda in April 1994 and to demonstrate the UN's solidarity with the majority of the population of East Timor.

4.13 Australia instigated discussions on a possible military intervention, though took care to gain the consent of the Indonesian Government to avoid major clashes with the Indonesian military. This was eventually achieved on 12th September after considerable diplomatic and financial pressure was brought to bear. On 15th September the Security Council authorized an Australian-led multinational force of 2,500 troops – the International Force in East Timor (INTERFET) under a Chapter VII mandate. The

183. *The principal sources used in preparing this summary were: International Commission on Intervention and State Sovereignty (2001) The Responsibility to Protect: Research, Bibliography, Background Supplementary Volume Section B Past Humanitarian Interventions Ottawa: International Development Research Centre.*

184. UNAMET was made up of 900 UN staff, 270 civilian police and 4,000 locally employed staff.

force, equipped with helicopters and armored personnel carriers, began deploying into the smoldering ruins of Dili on 20th September. Skirmishes with the Indonesian military and anti-independence militia were limited and INTERFET was able to supervise the largely peaceful withdrawal of the Indonesian military from the territory.

4.14 A UN Transitional Administration in East Timor (UNTAET) was established under a newly appointed SRSG to manage an ambitious program of civil administration, rehabilitation and nation-building. In February 2000 INTERFET transferred military control of the territory to a UNTAET which eventually comprised 8,000 troops and 1,500 civilian specialists and police. UNTAET's program included preparing for an organizing democratic elections to formation a Constituent Assembly. The elections were held successfully in August 2001. In May 2002 the new nation also changed its name to Timor-Leste and in September 2002 it joined the United Nations.

Sierra Leone 1997-2002¹⁸⁵

4.15 In early 1996, after 30 years of coups and countercoups, Ahmed Kabbah came to power through presidential and parliamentary elections. The Revolutionary United Front (RUF) which had contested the election continued a campaign of armed opposition to the new government. Support to the RUF was provided by Liberia and Libya. A peace agreement was reached with the RUF in November 1996 following talks brokered by the government of the Côte d'Ivoire, the Economic Community of West African States (ECOWAS), the UN, and the OAU. Six months later however in May 1997 a successful coup d'état was carried out against President Kabbah by junior military officers led by Major Koromah who was supported by the RUF. Before fleeing to Guinea President Kabbah requested Nigeria and ECOWAS to intervene to restore constitutional order to the country.

4.16 The coup was universally condemned, including by the OAU in one of its first public stands against an illegal seizure of power. At the end of May 1997 Nigeria sent a force to protect its citizens and to try a restore law and order. Subsequently in August 1997 ECOWAS mandated the ECOWAS Monitoring Group (ECOMOG) to enforce sanctions and restore law and order. The ECOWAS intervention was subsequently supported by the UN Security Council and authorized to cut off the RUF's foreign military supplies. In February 1998 the ECOMOG force (comprising 13,000 troops 90% of whom were Nigerian) launched attacks on the junta and expelled them and the RUF from Freetown and within a few weeks had established a presence across much of the country. President Kabbah was restored to power in March 1998.

4.17 However almost a year later the RUF had recovered sufficiently to confront and push back the ECOMOG forces and, in January 1999, swept in to Freetown killing thousands of civilians, systematically dismembering and raping tens of thousands of others, and displacing 150,000 people from the city. It took several weeks for ECOMOG forces to recover and regain control of the city. Approximately 100 Nigerian troops were killed in the RUF offensive and the subsequent ECOMOG counter-offensive.

185. *The principal sources used in preparing this summary were:*

International Commission on Intervention and State Sovereignty (2001) The Responsibility to Protect: Research, Bibliography, Background Supplementary Volume Section B Past Humanitarian Interventions Ottawa: International Development Research Centre.
Adebajo, Adekeye (2002) Building Peace in West Africa: Liberia, Sierra Leone and Guinea-Bissau International Peace Academy Occasional Paper Series
International Crisis Group (2003) 'The Special Court for Sierra Leone: Promises and Pitfalls of a "New Model"' ICG Freetown/Brussels 4th August 2003.

4.18 A UN Observer Mission in Sierra Leone (UNOMSIL) had been established in 1998 to monitor the security situation. In October 1999, following a speech by Nigerian President Obasanjo to the UN General Assembly in which he called for "the Security Council to assume its full responsibility specifically in Sierra Leone" UNOMSIL was replaced by UNAMSIL with an authorized strength of 6000 troops and a more robust mandate including to "afford protection to civilians under imminent threat of physical violence" The first UNAMSIL troops arrived in December 1999 and four ECOMOG battalions were 're-hatted' as UN blue helmets. In January 2000 UNAMSIL contingents were ambushed on several occasions by the RUF and significant amounts of military hardware captured. UNAMSIL's failure to respond to the ambushes and to the RUF challenges led the Security Council agree to raising UNAMSIL's authorized troop level to 11,000 and to expand its mandate under Chapter VII to enable it to use force against the RUF. However the UNAMSIL Force Commander continued to adopt a soft approach to the RUF which refused to give up its weapons. The deployment of a UNAMSIL contingent to Koidu, the seat of the RUF diamond mining centre, was seen by the RUF as a direct provocation and on 1st May 2000 17 Kenyan and Indian UNAMSIL troops and their helicopters were taken hostage. Fighting ensued during which the RUF encircled and in effect took hostage a further 500 UNAMSIL troops.

4.19 Faced with the collapse of the UNAMSIL and the considerable strengthening of the RUF on 7th May 2000 the UK sent 800 paratroopers and a naval flotilla to Sierra Leone. Their objectives included securing Lungi airport near Freetown, evacuating expatriates, enabling a redeployment of UNAMSIL forces to strengthen the defenses of Freetown and generally providing a credible force to back up UNAMSIL. After some skirmishes between the UK forces and the RUF and the capture of the RUF leader Foday Sankoh, the situation was stabilized and the UNAMSIL hostages released. UNAMSIL's troop level was subsequently built up to 17,000 and considerable pressure brought to bear on Liberian President Charles Taylor who had been the RUF's principal backer. In March 2001 UNAMSIL contingents were deployed peacefully into RUF held areas. A disarmament and demobilization program commenced in May 2001 and was completed by January 2002 by which point 45,000 RUF and other fighters had been disarmed. The war was declared over in January 2002.

4.20 In January 2002 the UN and the Government of Sierra Leone agreed to establish a Special Court for Sierra Leone. Though sharing features with the earlier International Criminal Tribunal for the Former Yugoslavia and that for Rwanda, the Special Court for Sierra Leone has consciously been established to offer an alternative model to the two International Criminal Tribunals. First it is not a subsidiary organ of the UN having to work within UN recruitment and staffing rules: it is a treaty-based body, operating within its own administrative and financial framework. Its budget is funded by voluntary international contributions for a period of three years. The US Government is the largest contributor of funds to the Special Court and the Chief Prosecutor is David Crane a former US Defense Department lawyer. Second the mandate of the Special Court is to try only a limited number of cases – those individuals who were in key positions of authority and power – and to do so speedily so that the country can move forward. As well as key figures in the RUF, the Special Court has also indicted senior figures within the Government such as Sam Hinga Norman the Minister of Internal Affairs and Liberian President Charles Taylor. The latter's indictment in June 2003 was a factor contributing to his ousting from power in August 2003. Five of the indicted Sierra Leonians were arrested in March 2003. So far in total 13 individuals have been indicted, though two have died since their indictment including Foday Sankoh who died from natural causes in July 2003.

4.21 The Lome Peace Accords in 1999 had included provision for the establishment of a Truth and Reconciliation Commission. Following an Act of Parliament in 2000 the Commission was set up for one year in late 2002. For legal and administrative reasons it was established as a project of the UN Office of the High Commissioner for Human Rights (OHCHR) in Geneva. The OHCHR has undertaken fundraising and provided administrative support to the Commission, and the UNDP office in Freetown has served as the local administrative partner. The TRC's hearings began in April 2003 and by August 2003 it had received 8,000 testimonies from victims, witnesses and perpetrators. In October 2003 President Kabbah granted the TRC a 6 month extension.

Liberia 1989 – 2003¹⁸⁶

4.22 Liberia has experienced two civil wars over the last 15 years. The first civil war lasted from 1989 to 1997 and is estimated to have claimed 200,000 lives. It ended with the electoral victory of Charles Taylor, leader of the strongest faction the National Patriotic Front for Liberia (NPFL). However Taylor's victory and his ruthless rule did not address the underlying problems and within two years other insurgencies had developed with support from neighboring Guinea. The second civil war lasted from 1999 to late 2003. It ended with the forced departure of Charles Taylor and the deployment of a UN peacekeeping force of 15,000 troops who are currently undertaking the disarmament and demobilization of former fighters.

4.23 The first civil war began with Taylor's NPFL fighters crossing into Liberia from Cote d'Ivoire in 1989 with the objective of overthrowing the brutal government of Samuel Doe. New factions quickly developed: there being eight principal factions during the period of the first civil war. In 1990 a breakaway faction of the NPFL captured and killed Doe but before he was captured he appealed to ECOWAS to intervene. In August 1990 an ECOMOG force with Nigeria contributing 90% of the troops intervened. Ostensibly ECOMOGs mission was to restore order in Monrovia and protect Nigerian and other West African citizens who had been taken hostage by the NPFL, but the legal basis for the intervention was dubious, it was not supported by Francophone members of ECOWAS who feared Nigerian domination in the region, and did not receive support from the UN Security Council until 1992. NPFL forces opposed the ECOMOG intervention which had the effect of preventing NPFL capturing Monrovia and Charles Taylor suspected the motives of the Nigerian Government (then headed by General Babangida) which had previously supplied arms to Doe's Armed Forces of Liberia (AFL) which subsequently became another of the warring factions.

4.24 Between May 1990 and August 1994 a total of nine peace agreements were signed by various parties to the conflict but none of them held. Adebajo (2002) summarizes the principal factors contributing to the lack of a settlement as:

"the unwillingness of Taylor to share power; the mutual suspicion of rival warlords and their fears of disarmament if other reneged on the deal; and, significantly, the

186. *The principal sources used in preparing this summary were:*

International Commission on Intervention and State Sovereignty (2001) The Responsibility to Protect: Research, Bibliography, Background Supplementary Volume Section B Past Humanitarian Interventions Ottawa: International Development Research Centre.

Adebajo, Adekeye (2002) Building Peace in West Africa: Liberia, Sierra Leone and Guinea-Bissau International Peace Academy Occasional Paper Series

Kamara, Thomas S (2003) 'Liberia: Civil War and Regional Conflict' UNHCR Emergency and Security Service, WriteNet Paper 17. Geneva: UNHCR.

lucrative bounties for economic resources that were derived from areas under the warlords' control. Sub-regional actors remained divided on the best approach for achieving peace and were compromised by their support for rival Liberian factions. International donors considering Liberia an area of little strategic interest and wary of Nigeria's military regime, failed to commit the resources needed to implement the accords".

4.25 In 1993 the UN became more directly involved, sponsoring peace talks in Cotonou cooperation with ECOWAS and the OAU. The agreement resulted in the expansion of ECOMOG and the deployment of OAU troops from Tanzania and Uganda and 368 UN Military Observers to monitor the ceasefire agreed between the different factions. However the planned National Transitional Government failed to materialize and ECOMOG did not receive logistical support it required from western countries to impose its control over large areas of the country and the demobilization process never really took-off. Fighting resumed between the different factions. Under an agreement signed in Abuja in August 1995 (Abuja 1) a timetable for disarmament and the setting up of a joint Council of State was agreed. However factional fighting resumed in April 1996 and there were two months of heavy fighting in Monrovia during which an estimated 3,000 people died.

4.26 The fighting and the growing frustration with the situation within the region and internationally led to changes in approach – notably by the US and European Union which decided to "separate their displeasure with the domestic politics of Nigeria's military regime from its support for ECOWAS's multilateral peacekeeping efforts" (Adebajo 2002). The subsequent progress in peace negotiations and resulting agreements was known as Abuja 2. The subsequent provision of trucks, helicopters and communications equipment to ECOMOG strengthened their capacity and ability to deploy to all parts of the country. ECOMOG troop strength was increased and its legitimacy improved with contingents being provided from the Francophone West African countries. With leadership being provided by the Dutch Minister for Development, funding was raised for the disarmament, demobilization and electoral process. The disarmament process began in November 1996. By February three-quarters of the estimated 33,000 fighters in the various factions had been disarmed and demobilized. Though this represented dramatic progress the security situation was still perceived to be too risky for many of the 625,000 Liberian refugees in neighboring countries and only about 75,000 returned to participate in the elections.

4.27 Preparations for elections were jointly organized by ECOWAS and the UN. The elections were held in July 1997 and Charles Taylor won 75% of the vote. Adebajo (2002) identifies two principal reasons for his victory. "First, Liberians saw Taylor as a guarantor of peace and stability and feared a return to war if he lost. ... Second, with an estimated USD 450 million in earnings from natural resources in areas he controlled during the war, Taylor had an electoral war chest that his rivals simply could not match. This enabled him to reach more voters through private radio stations and newspapers as well as allowing him to distribute largesse to voters"

4.28 Charles Taylor ruled Liberia from August 1997 to August 2003 but "failed to transform himself from warlord into a statesman" (Adebajo, 2002). A critical failing was his backtracking on an earlier agreement to allow ECOMOG a role in the restructuring of the national army (Armed Forces of Liberia). Instead Taylor undertook his own restructuring removing many of the officers belonging to the Krahn ethnic group and

filling the AFL with former NPFL fighters. The rule of law was not established and human rights abuses were widespread, particularly against those from the Krahn ethnic group. Opponents were silenced and newspapers and radio stations closed down. Insecurity and banditry continued.

4.29 The UN's role in Liberia after Taylor's electoral victory was limited. A small peace-building office (UN Office in Liberia – UNOL) was established but was only reluctantly agreed to by the Security Council and was poorly resourced and had limited influence. A donor conference for Liberia's reconstruction was held in Paris in April 1998 but funds were made conditional on progress on security and human rights and most of the pledged funds never arrived. Much of the country's infrastructure remained damaged and unrepaired.

4.30 Taylor's relationship with ECOMOG deteriorated quickly after the election and ECOMOG forces were withdrawn from the country by the end of 1998. A key factor was Taylor's support for the RUF in Sierra Leone and his involvement in the illegal exportation of diamonds from RUF-controlled areas through Liberia. Taylor opposed the ECOMOG intervention in Freetown (led by Nigerian troops) in February 1998 to restore the elected government of Ahmed Tejan Kabbah.

4.31 In 1999 Liberian rebels belonging to the Liberians United for Reconciliation and Democracy (LURD) invaded Lofa county from Guinea signaling the start of the second civil war. Subsequently another rebel movement, the Movement for Democracy in Liberia (MODEL) was formed with backing from Côte d'Ivoire and took control of areas in the east of Liberia. Whilst Taylor's persecution of the Krahn was an important factor influencing the formation of these rebel movements, so too was his apparent involvement in efforts to destabilize the Government of Guinea and his support for Robert Guei in the 1999 military coup in Côte d'Ivoire (see below).

4.32 The international perception of Liberia as a source of regional instability increased. In July 2000 the US Ambassador to the UN accused Liberia of exporting USD 300 million worth of diamonds originating in Sierra Leone while Liberia's own diamond exports were worth less than USD 10 million (Lederer 2000 cited in Kamara 2003). In December 2000 a report by a Panel of Experts on Sierra Leone Diamonds and Arms documented Liberia's military support for the RUF and this was followed in May 2001 by a UN Security Council resolution banning the export of diamonds from Liberia, imposing travel sanctions on senior Liberian officials and tightening an existing arms embargo. Fighting in the country between the national army and the rebel movements intensified in early 2002 and a state of emergency was announced. In December 2002 reports emerged of Taylor benefiting from al-Qa'ida involvement in the illegal diamond trade through Liberia. In March 2003 the rebel movements advanced to within 10 kilometers of Monrovia.

4.33 In June 2003, just as he arrived in Ghana for talks aimed at reaching agreement with the LURD and MODEL rebels, Taylor was indicted by the Special Court for Sierra Leone for his support to and joint planning with the RUF. The following month the fighting for the control of Monrovia intensified and several hundred people were killed. ECOWAS approved a new peacekeeping force for Liberia (ECOMIL) and the first forces arrived in Monrovia began arriving in early August 2002. The US positioned a force of marines offshore from Monrovia. On 11th August under intense international pressure Charles Taylor resigned and left for exile in Nigeria. A week later a peace accord

was signed and a National Transitional Government of Liberia was established. In September the UN Security Council approved the establishment of a large peacekeeping force UNMIL (the UN Mission in Liberia) with a troop level of 15,000. The force began arriving in October and is currently undertaking a disarmament, demobilization and reintegration program.

Côte d'Ivoire 2002-4¹⁸⁷

4.34 Côte d'Ivoire was ruled by Felix Houphouët-Boigny from independence in 1960 until his death in 1993; for nearly all the period as a de facto one party state. In 1990 opposition parties were legalized and elections held which the ageing President won. Following his death he was succeeded by Henri Konan Bedie. Opposition to Bedie's rule grew and increasingly Ivorian politics took on a north-south, Muslim-Christian division. In 1999 Bedie was overthrown in a military coup lead by Robert Guei. Within a year Guei too was forced out of power by a popular uprising following a Presidential election widely believed to have been rigged by Guei in his own favor. Laurent Gbagbo, who was believed to have been the true victor in the election was proclaimed President. However, Alassane Ouattara who had been prevented from standing in the 2000 election called for fresh elections and fighting broke out between his mainly northern Muslim supporters and Gbagbo's mainly southern Christian supporters. Despite an agreement between the two to work towards reconciliation, the next two years saw a struggle for power and changing fortunes of their respective parties in parliamentary elections. In August 2002 Ouattara's opposition party was given four ministerial posts in a new government.

4.35 On 19 September 2002, a group of several hundred soldiers attempted a coup d'état. Failing to take Abidjan they retreated to Bouaké in the north of the country. The failed coup soon degenerated into a war between loyalist government forces and break-away army troops who soon began calling themselves the Mouvement Patriotique de la Côte d'Ivoire (MPCI) and seized cities and towns in the northern and central regions. A move south towards Abidjan was blocked by French troops based in Abidjan under a 1961 defense pact. In October 2002, a ceasefire was brokered by the President of Senegal and signed unilaterally by the MPCI. The ceasefire line divided the country in half: the north being under MPCI control and the south remaining in under the control of forces loyal to President Gbagbo. France expanded its Abidjan force to 3,500 troops under "Opération Licorne" and agreed to supervise the ceasefire until ECOWAS troops could take over. Following intense diplomatic activity by West African leaders and France, peace talks began in Lomé under the leadership of the President of Togo. However in November 2002, two new insurgent groups – the Mouvement Populaire du Grand Ouest (MPIGO) and the Mouvement pour la Justice et la Paix (MJP) – appeared in the west of the country, below the ceasefire line. Their declared intention was to remove President Gbagbo and avenge the death of former junta leader Robert Guei who had been killed during the failed coup attempt.

4.36 Peace talks held in Paris resulted in a power-sharing agreement between Gbagbo and the rebel groups in January 2003. A UN political mission (MINUCI) to facilitate the implementation of the January peace agreement was approved by the Security

187. *The principal sources used in preparing this summary were:*

Griffiths, Thalia (2003) 'Côte d'Ivoire: A Situation Analysis' UNHCR Emergency and Security Service, WriteNet Paper 18. Geneva: UNHCR.

International Crisis Group (2003) 'Côte d'Ivoire: The War Is Not Yet Over' ICG Freetown/Brussels 28th November 2003

UNOCI website <http://www.un.org/Depts/dpko/missions/unocil>

Council in May 2003¹⁸⁸ and in July 2003 the war was declared over by the army and rebel leaders. However the situation remained very fragile with exposures of planned coup attempts and an attack on the state TV station in Abidjan in December 2003 during which 19 people were killed. In February 2004 the Security Council approved the deployment of a UN peacekeeping force (UNOCI – the United Nations Operation in Côte d'Ivoire) with an authorized troop level of 6,240. The mandate provides for cease-fire monitoring; disarmament, demobilization, reintegration, repatriation and resettlement; the protection of United Nations personnel, institutions and civilians; support for humanitarian assistance; support for the implementation of the peace process; assistance in the field of human rights; public information and support for law and order. A subsequent Security Council resolution authorized the French troops present in the country to "use all necessary means" to support UNOCI including "intervene against belligerent actions, if the security conditions so require, outside the areas directly controlled by UNOCI".

Former Yugoslav Republic of Macedonia – 2001¹⁸⁹

4.37 The Former Yugoslav Republic of Macedonia escaped the inter-ethnic violence that ravaged much of the Former Yugoslavia during the period from 1991 to 1995. However the position of the ethnic Albanian minority in relation to the Macedonian majority has made for a fragile political situation in the country¹⁹⁰. The country declared its independence in 1991, despite dissension from the Albanian minority who were concerned for their rights in the new country and who, surveys indicated, would have preferred their own territorial autonomy. International recognition was delayed by Greek fears that the country's name implied territorial ambitions towards the northern Greek region of Macedonia; formally the country is still referred to by its full title which is often abbreviated to FYROM. The UN established a Preventive Deployment Force (UNPREDEP) in FYROM in 1992 to monitor the situation and provide early warning of any threats to its stability. During the period 1994-95 Greece imposed trade restrictions causing economic hardship in the country.

4.38 The Kosovo Crisis of 1999 placed a considerable strain on Macedonia, economically, socially and politically. The economy suffered from the cutting of normal trade with Serbia and Kosovo. The NATO bombing and the use of Macedonia as a marshalling area for NATO ground forces was politically contentious. The exodus of 200,000 Kosovar Albanians to Macedonia was socially and politically sensitive, so much so that FYROM closed its border and refused to grant unconditional asylum forcing western countries to host Kosovar Albanian refugees through what was termed a Humanitarian Evacuation Program. The removal of Serbian control over Kosovo and the successful establishment of the rights of the Kosovar Albanian majority had an important demonstration effect for the Macedonian Albanians and the common border between Kosovo and the predominantly Albanian-speaking areas of Macedonia opened up an easy route for the provision of support between the two communities.

188. According to Griffiths (2003), an earlier UN involvement in Côte d'Ivoire had been blocked by the US as a form of retaliation against France because of its opposition to the war in Iraq.

189. The principal sources used in preparing this summary were:
International Crisis Group (2002) Moving Macedonia Towards Self Sufficiency: A New Security Approach for NATO and the EU
BBC News Website 'Timeline: Former Yugoslav Republic of Macedonia' www.bbc.co.uk

190. Ethnic Albanians comprise approximately 25% of the total population of 2 million and ethnic Macedonians 65%, the remainder being of Turkish, Roma and Serb descent. Linguistically 68% are Macedonian speakers and 25% Albanian. In terms of religion 70% are Macedonian orthodox and 29% Muslim. (Source: CIA World Fact Book)

4.39 In 2001 a guerrilla force calling itself the National Liberation Army emerged in the Albanian speaking areas along the country's northern border with Kosovo. Their political agenda was for a new Constitution guaranteeing the rights for ethnic Albanians and international mediation. The Government responded forcefully and the fighting spread, first to the mountainous outskirts of Tetovo, the main ethnic Albanian town in Macedonia, and in May to the region around Kumanovo in the north. Areas of the country in effect came under the control of the NLA. Approximately 20,000 people were displaced by the fighting.

4.40 Western governments were anxious to prevent a widening of the conflict into a full-fledged civil war with potentially far-reaching consequences for the situation in Kosovo and Serbia but also for Greece. The large NATO presence in Kosovo with important logistics bases in FYROM, heightened their concern with the situation, but also their ability to influence events. The US, then at the early stage of the Bush presidency was keen for the EU to take the diplomatic lead.

4.41 Senior EU foreign policy representatives became intensively engaged in supporting the parties to reach a solution. In May a government of national unity was formed pledged to address minority grievances but this provoked clashes and unrest from the Macedonian majority in and around the capital Skopje. On 13th August the government and rebels signed the Ohrid Agreement that involved greater recognition of the rights of ethnic Albanians in exchange for the handover of weapons to NATO forces. The NATO operation to collect the rebels weapons 'Operation Essential Harvest' took place during September. In October the government announced an amnesty for former NLA members and Macedonian police began re-entering the villages formerly controlled by the NLA. In November the Parliament approved a new constitution incorporating reforms required by August peace deal, recognizing Albanian as an official language and increasing access for ethnic Albanians to public-sector jobs, including the police. Early the following year international donors pledged more than USD 500 million in aid to help recovery from 2001 fighting.

4.42 With external support and facilitation, the country was able to draw back from the brink of a civil war in 2001. Proof of the improved stability of the country was demonstrated by the tragic death of President Boris Trajkovski in a plane crash in Bosnia in February 2004 and the peaceful election in April of his successor Branko Crvenkovski.

Afghanistan 2001-4¹⁹¹

4.43 Afghanistan has experienced conflict and political instability since the 1970s. Following the withdrawal of Soviet forces in 1989 there was continued conflict between the Najibullah regime in Kabul and the various mujahidin/factional groups that had developed during the Soviet occupation. Kabul was the target of periodic destructive rocket attacks from 1992-96. Starting in 1994 the Pakistan-supported Taliban gradually extended their control over large parts of the country. By 1998 the Taliban controlled all

191. *The principal sources used in the preparation of this summary were:*
 Giradet, Edward and Jonathan Walter (2004) *Afghanistan CROSSLINES Essential Field Guides to humanitarian and conflict zones 2nd Edition Geneva: Media Action International*
 Afghanistan Research and Evaluation Unit (2003) *The A to Z Guide to Afghanistan Assistance 2nd Edition Kabul: AREU.*
 Kapur, Ratna (2002) *Collateral damage: Sacrificing legitimacy in the search for justice Harvard International Review 22nd March 2002 from HighBeam Research www.highbeam.com*

but the north of the country which remained under the control of former mujahidin groups comprising the Northern Alliance. Whilst the Taliban imposed stability they introduced an extreme interpretation of Islam and hosted al-Qa'ida terrorist training camps that were the target of a US missile strike in August 1998. Sanctions against the Taliban were authorized by the UN Security Council in 1999 and again in 2000.

4.44 The al-Qa'ida attacks on New York and Washington in September 2001 and the Taliban's refusal to surrender Osama bin Laden to the US authorities led to a US-led coalition bombing campaign initiated against Taliban military positions on 7th October in support of an advance by the Northern Alliance. Coalition ground forces also operated in support of the Northern Alliance. The operations did not receive direct authorization by the UN Security Council, though a September 12th resolution referred to the Security Council's "readiness to take all necessary steps to respond to the terrorist attacks of 11 September 2001 and to combat all forms of terrorism" and the preamble had recognized the "inherent right of individual or collective self defense in accordance with the Charter".

4.45 The Northern Alliance achieved a rapid southward advance taking Kabul in November and Kandahar in December.

4.46 The UN was active in efforts to achieve a post-Taliban settlement. It sponsored the Bonn conference of December 2001 that brought together the leaders of the Northern Alliance and other anti-Taliban factions. The Bonn Agreement appointed the Afghanistan Interim Administration (AIA) and agreed to a timetable for re-establishing permanent government institutions over the course of two and a half years. The United Nations Assistance Mission (UNAMA) was established by a Security Council Resolution in March 2002 to fulfill the UN's obligations as set out in the Bonn Agreement. UNAMA is led by a Special Representative of the Secretary General.

4.47 In accordance with the timetable agreed at Bonn, the Emergency Afghan Loya Jirga held in June 2002 replaced the AIA with the Afghanistan Transitional Administration (ATA) and elected Hamid Karzai as the head of state and *pro-tem* head of government of the Transitional Islamic State of Afghanistan (TISA). The ATA will remain in power until national elections, planned for 9th October 2004, are held.

4.48 International resources for the humanitarian, reconstruction and nation building tasks from October 2001 onwards were provided in response to two principal Appeal Mechanisms – the UN Consolidated Appeals Process and the Tokyo Ministerial Meeting held in January 2002. The Tokyo Ministerial Meeting was presented with the Preliminary Needs Assessment for Recovery and Reconstruction 2002-2006 undertaken rapidly by the World Bank, Asian Development Bank and the UNDP during December 2001 and January 2002.

4.49 Military operations by forces of the US-led Coalition against al-Qa'ida and Taliban remnants have continued in the southern and eastern parts of the country under 'Operation Enduring Freedom'. Poor security in these areas and an increasing number of attacks on UN and NGO personnel and those working for private contractors have severely limited the operations of reconstruction and development efforts in these parts of the country. Security in and around Kabul has been maintained quite successfully by a separate, UN-authorized, International Security Assistance Force (ISAF) of some 4,500 troops. Initially ISAF was led by the UK, then by Turkey and then by Germany/The

Netherlands. Currently ISAF is under NATO command. A vital component of the nation building efforts is the Security Sector Reform program which provides for the disarmament, demobilization and reintegration (DDR) of ex-combatants, the building of the Afghan National Army (ANA), the creation of a National Security Council and reform of the ministries of Interior and Defense, the police and the judicial system.

Annex 5 Provisional Timeline of the Darfur Crisis

Sources:

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<http://web.amnesty.org/library/eng-sdn/index>
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<http://www.hrw.org/doc?t=africa&c=sudan>
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2003

February 2003

First attacks by Front for the Liberation of Darfur (FLD – subsequently the FLD changed its name to Sudan Liberation Movement/Sudan Liberation Army SLM/A)

(21st) Amnesty International Press Release Sudan: Urgent call for Commission of Inquiry in Darfur as situation deteriorates.

April 2003

(30th) Amnesty International and Swiss-based World Organization Against Torture condemn increasing cases of arbitrary arrests and torture by the Sudanese security forces in the Darfur.

Refugees from Darfur begin arriving in Chad. Initially they put down in settlements close to the border or close to Chadian villages. (UNHCR closed its office in Chad in 2001 and consequently is slow to respond to the initial influxes)

June 2003

(25th) ICG publish report 'Sudan's Other Wars'

July 2003

(1st) Amnesty International 'Sudan: Looming Crisis in Darfur'

(30th) IRIN reports widespread insecurity in Darfur "according to humanitarian sources in contact with the region"

August 2003

Peace talks begin between Government of Sudan (GOS) and SLM/A hosted by President Déby of Chad in the town of Abéché.

(29th) Amnesty International Public Statement "Sudan: Immediate steps to protect civilians and internally displaced persons in Darfur" "Hundreds of civilians, mainly from sedentary groups such as the Fur, Zaghawa, Masalit and Tungur have been killed or injured and tens of thousands displaced in the past few months".

September 2003

(2nd) UNHCR spokesperson says numbers of refugees from Darfur in Chad has reached 65,000

(3rd) 45 day Ceasefire Agreement at Abéché talks between GOS and SLA. But this is not respected by GOS/Janjaweed and fighting intensifies.

(19th) Four person UNHCR Emergency Response Team arrives in Abeche to begin preparations for provision of emergency assistance to the estimated 65,000 refugees now in Chad. Airlift of stocks from UNHCR store in Ngara in Tanzania set to begin next week.

(29th) UN High Commissioner for Refugees Ruud Lubbers in Opening Address to UNHCR Executive Committee states: "... the ongoing fighting in the Darfur region in northern Sudan is of serious concern. Fighting has already led to the exodus of some 65,000 refugees to Chad, as well as to considerable internal displacement. Every effort must be made to put an end to this new conflict."

(during the last quarter of 2003) The diplomatic community in Khartoum considers possible vehicles for international action regarding escalating conflict in Darfur. Statement by senior UN humanitarian official before Security Council is considered but according to ICG "some influential members, namely the UK and US, advocated a lower profile"

October 2003

(26th – 4th November) SLA and GOS hold second round of talks at Abéché with Chad mediator present. UN office in Khartoum, alarmed at the lack of a humanitarian access provision in the September agreement, offers draft language to provide for humanitarian access. The parties did not accept the mediator's proposal and agreed merely to allow humanitarian access "under the guidance of the Sudanese Humanitarian Affairs Commission and with the knowledge of the

Tripartite Commission". Even this conditional access is subsequently rendered meaningless by a combination of government restrictions on travel permits and deterioration of security conditions on the ground.

The Sudanese government rejects demands, including international monitoring, put forward by SLA as conditions for resumption of negotiations with Khartoum

Peace talks break down indefinitely and attacks by the Government and Janjaweed increase significantly.

November 2003

(7th) OCHA Press Release 'Sudan: Displacement Rises, Access Declines' "The humanitarian situation in the Greater Darfur Region of western Sudan may emerge as the worst humanitarian crisis in the Sudan since 1988. Insecurity continues, humanitarian access is in some cases non-existent, and there are few aid workers in the area."

(11th) Medair vehicle attempting to reach IDPs near Kolbus attacked and team kidnapped for thirteen days

(27th) Amnesty International Press Release 'Sudan: Humanitarian crisis in Darfur caused by Sudan Government's failures' There is compelling evidence that the Sudanese government is largely responsible for the human rights and humanitarian crisis in Darfur in the western Sudan, Amnesty International said today after its delegates returned from visiting refugee camps in eastern Chad.

UN says Sudanese government is hampering humanitarian intervention by renegeing on a pledge to process aid workers' travel permits speedily. (IRIN)

December 2003

(2nd) IFRC launch appeal for Sudanese Refugees in Chad

(5th) UN Emergency Relief Coordinator Jan Egeland says the humanitarian situation in Darfur is now one of the worst in the world.

(6-7th) Tom Eric Vraalson the Secretary General's Special Envoy for Humanitarian Needs in Sudan visits all three provinces of Darfur.

(8th) OCHA Press Release 'Humanitarian Situation in Darfur Said to Be Amongst Worst in the World' The Special Envoy "noted a significant worsening of humanitarian and security conditions which now affect one million people. He said he was shocked by the conditions in which internally displaced people were living."

(9th) UN Secretary General appeals to all parties to reduce the impact of conflict on civilians and expresses his alarm at the "deteriorating humanitarian situation in Darfur" (SG/SM/9067, AFR/790)

WFP staff relocated to Nyala because of worsening security in El Geniena and WFP activities in the area suspended

- (?) According to ICG US offers to covers costs of extending the coverage of the US-led Civilian Protection and Monitoring Team (CPMT) for the South to Darfur to verify attacks on civilians but quietly drops proposal when Khartoum resists.
- (16th) Third Round of Peace Talks between GOS and SLA being held in N'djamena collapse after only one day. SLA demand for direct talks with GOS and international observation of the talks produce GOS decision to leave. Collapse signals intensification of GOS/Janjaweed attacks.
- (18th) Amnesty International Press Release 'Sudan: Peace Agreement must be inclusive and ensure justice for all' "The negotiators in Kenya must not ignore the fighting elsewhere in Sudan"
- (23rd) UNHCR announce decision to deploy another Emergency Response Team to Abeche following visit previous week of Assistant High Commissioner Karmal Morjane and increasing pace of influx (25,000 refugees have crossed into Chad over last month bringing the total influx since April to 91,000 people). Plans to move an initial group of 10,000 from the volatile border to a safer site further inland.
- (31st) Press reports that President Omar al-Beshir has vowed to annihilate the Darfur rebels in western Sudan, declaring this a top priority for his government (IRIN)

2004

January 2004

- (7th) Amnesty International Press Release 'Sudan: Killings, abductions of children and arbitrary detention in Darfur'
- Naivasha talks suspended for 3 weeks to allow Vice President to undertake pilgrimage to Mecca. Talks scheduled to restart on 17th February. According to ICG GOS 'uses thee week break to launch new offensive in Darfur hoping to remove need to negotiate further with SLA/JEM'
- (17th) UNHCR begins relocation of first refugees from their settlements along the border back into camps further into Chad
- (23rd) UNHCR announces the number of refugees in Chad estimated at 110,000. 18,000 have crossing in last ten days.
- (29th) Sudanese air force bombs civilians on Chadian side of border. Chadian refugee official tells IRIN that Sudanese planes are bombing villages on the Sudanese side on a daily basis since 9th January when before then it had been every 2-3 days.
- (29th) Acting UN Commissioner of Human Rights expresses "deep concern over the deteriorating human rights and humanitarian situation in Darfur, western Sudan. Systematic human rights abuses against unarmed civilians have been reported, including against women and children, as well as burning and looting of villages, causing massive internal displacement and an outflow of refugees."

February 2004

Access to the capital cities for the three states of Darfur is permitted but humanitarian workers still need to obtain travel permits for each visit outside these capitals

(2-5th) UN High Commissioner for Refugees Ruud Lubbers visits eastern Chad

(24th) OCHA dispatches three UNDAC communications and coordination support modules to Darfur

(25th) EU Presidency expresses "its serious concern at the situation in the Darfur region of western Sudan".

March 2004

(16th) Amnesty International Press Release 'Sudan: Darfur – attacks against civilians ongoing' "This is not a situation where the central government has lost control. Men, women and children are being killed and villages are burnt and looted because the central government is allowing militias aligned to it to pursue what amounts to a strategy of forced displacement through the destruction of homes and livelihood of the farming populations of the region,"

(19th) In a series of media interviews the UN Humanitarian Coordinator in Sudan describes the conflict in Darfur as "ethnic cleansing" "comparable to Rwanda" and "now the world's greatest humanitarian and human rights catastrophe" GOS reacts strongly saying the description is "a heap of lies". UN Security Council discusses Darfur for the first time later that week.

(24th) ICG publish detailed report 'Darfur Rising: Sudan's New Crisis'

(27th) Op Ed in New York Times by columnist Nicholas Kristoff "Will We Say 'Never Again' Yet Again?" "For decades whenever the topic of genocide has come up, the refrain has been, "Never again". Yet right now the government of Sudan is engaging in genocide against three large African tribes in its Darfur region here. Some 1,000 people are being killed a week, tribeswomen are being systematically raped, 700,000 people have been driven from their homes, and Sudan's Army is even bombing the survivors. And the world yawns"

April 2004

(2nd) Human Rights Watch Report Darfur in Flames: Atrocities in Western Sudan'

(6th) Op Ed in New York Times by Samantha Power "Remember Rwanda, But Take Action in Sudan"

(8th) GOS and the two rebel groups (SLA/SLM and JEM) agree humanitarian ceasefire to come into effect on 11th April

(8th) OHCHR fact-finding mission begins work in Chad interviewing refugees. Permission to visit Darfur has not been granted by GOS but OHCHR decide to press ahead with assessment on Chad side of border.

(20th) Human Rights Watch Press Release 'Sudan: Monitor Darfur Ceasefire' "The ceasefire in Darfur is a welcome first step but requires immediate and rigorous

international monitoring to avert a humanitarian disaster and continued civilian displacement."

(20th) Faced by release of report of OHCHR fact finding mission in Chad to the High Commission on Human Rights the GOS finally approves their visit to Darfur saying that release of their findings to the Commission on Human Rights would be 'incomplete' without a visit to Darfur

(23rd) Human Rights Watch Press Release Government and Militias Conspire in Darfur Killings

At end of its annual 6-week session the UN Commission on Human Rights appoints a monitor to investigate the human rights situation, though it watered down expressions of concern and failed to condemn the GOS for abuses in Darfur

May 2004

(7th) Human Rights Watch publish report 'Darfur Destroyed: Ethnic Cleansing by Government and Militia Forces in Western Sudan' It concludes "The government of Sudan is responsible for "ethnic cleansing" and crimes against humanity in Darfur. ... The Sudanese government and the Arab "Janjaweed" militias it arms and supports have committed numerous attacks on the civilian populations of the African Fur, Masalit and Zaghawa ethnic groups. Government forces oversaw and directly participated in massacres, summary executions of civilians--including women and children -- burnings of towns and villages, and the forcible depopulation of wide swathes of land long inhabited by the Fur, Masalit and Zaghawa."

(7th) High Commissioner for Human Rights submits report on 'Situation of human rights in Darfur region of the Sudan (E/CN.4/2005/3) by the fact finding mission to the Commission on Human Rights (two weeks after its annual session ended) and also presents findings to UN Security Council. The report concluded that: "... the mission encountered a consistency of allegations that government and militia forces carried out indiscriminate attacks against civilians; rape and other serious forms of sexual violence; destruction and property and pillage; forced displacements; disappearances; and persecution and discrimination."

(8th) African Union dispatches reconnaissance mission to Darfur to assess conditions for the establishment of a Ceasefire Commission. The mission is made up of AU civilian and military personnel, a representative of the Chadian mediation team and representatives from the UN, EU, USA and France.

(11th) UNHCR claims to have only received USD 14 million of the USD 21 million needed for their operations in Chad

(12th) US Committee for Refugees calls on President Bush to "lead more boldly on Darfur, don't repeat Bill Clinton's historic mistake on Rwanda".

(13th) UN Secretary General writes to President Omar Hassan al-Bashir to disarm the Janjaweed militia and improve access to humanitarian workers

- (16th) Updated UN Darfur Humanitarian Profile estimates that there are now in excess of 2 million 'conflict-affected' people in Darfur of which almost 1 million are IDPs. OCHA Senior Humanitarian Affairs Office in Nyala is deported from South Darfur. WFP vehicles attacked by Janjaweed militia
- (18th) US Government calls on Sudan to improve access for humanitarian aid workers "The government has continued to play games with travel permits while the humanitarian situation has deteriorated" UN estimated that there were at least 116 humanitarian workers awaiting entry visas or travel permits dating back over five weeks.
- (21st) GoS announces speeding up of visa processing for humanitarian workers to 48-hour application to issuance time and a waiving of travel permit requirements to Darfur.
- (23rd) ICG publish report "Sudan: Now or Never in Darfur" It concludes "A month after the international community solemnly marked the tenth anniversary of the Rwandan genocide in April 2004 with promises of "never again", it faces a man-made humanitarian catastrophe in western Sudan (Darfur) that can easily become nearly as deadly. It is too late to prevent substantial ethnic cleansing, but if the UN Security Council acts decisively -- including by preparing to authorize the use of force as a last resort -- there is just enough time to save hundreds of thousands of lives directly threatened by Sudanese troops and militias and by looming famine and set in train a serious negotiating process to resolve the underlying political problems and reverse the ethnic cleansing".
- (25th) African Union Peace and Security Commission approves sending 60 strong observer team to Darfur to monitor the April 8th ceasefire. If necessary the force will be accompanied by a 100-300 strong AU protection force.
- (28th) Sudan People's Liberation Movement/Army signs three key protocols on power-sharing and the contested areas of Abyei, the Nuba Mountains and the southern Blue Nile paving the way for a comprehensive peace agreement for the south.

June 2004

- (3rd) Joint UN/EU/US meeting in Geneva to review funding for the humanitarian programs in Darfur
- (3rd) 16 humanitarian aid personnel (UN, ECHO and NGO) forcibly detained by SLA in North Darfur. Group released 3 days later.
- (8th) UNHCR announces nearly 90,000 refugees from Darfur have been relocated to eight camps further inside Chad.
- (10th) G8 Summit at Sea Island in Georgia USA calls on the GoS "to disarm immediately the "Janjaweed" and other armed groups which are responsible for massive human rights violations in Darfur"
- (14th) US Secretary of State Colin Powell states that the US Government is considering whether the mass displacements and killings in Darfur constitute genocide.

- (18th) Jan Pronk (formerly a minister for development cooperation in the Netherlands) named as the UN Special Representative of the Secretary General to Sudan.
- (22nd) Oxfam criticizes donor governments for failing to respond sufficiently to the UN Consolidated Appeal for Darfur and singles out France, Germany, Italy, Japan, Spain and rich Arab countries for particular criticism. (Only one third of the USD 350 million requested in the CAP launched in April has so far been provided)
- (25th) WFP claims that it will only be able to provide rations to 500,000 of the planned 800,000 beneficiaries in Darfur due to insecurity and a lack of funds.
- (30th) Kofi Annan and Colin Powell meet in Khartoum – both are on visits to Sudan including trips to Darfur

July 2004

- (3rd) At end of Kofi Annan's visit to Sudan a joint UN/GoS communiqué is issued. Its provisions include: GoS suspension of all restrictions on aid workers and their freedom of movement throughout Darfur; an end to limits on the importation and use of humanitarian materials, vehicles, aircraft and communications equipment; and the establishment of a high level Joint Implementation Mechanism made up of GoS and UN officials to oversee implementation of the joint communiqué
- (19th) UK Disasters Emergency Committee launches appeal for Darfur that eventually raises USD 50 million for use by UK NGO members in Darfur and Chad
- (22nd) Guardian newspaper carries report that British Prime Minister has "asked officials to draw up plans for possible military intervention in Darfur".
- (23rd) US House of Representatives unanimously adopts resolution call on the US Government to call the atrocities in Darfur "by its rightful name: 'genocide'."
- (30th) Security Council Resolution 1556 (2004) adopted with 13 votes in favor, none against and two abstentions (China and Pakistan). Resolution demands that the GoS fulfill its commitments to disarm the Janjaweed militia and apprehend and bring to justice their leaders and associates involved in atrocities. Secretary General requested to report in 30 days on progress and UNSC expresses its intention to consider further actions in the event of non-compliance.

August 2004

- (1st) 200 French troops begin assisting Chadian troops patrolling the country's border with Darfur
- (4th) WFP begins airdropping food sacks to inaccessible areas in West Darfur
- (5th) UN SRSG Jan Pronk and Sudanese Foreign Minister Mustafa Osman Ismail agree detailed 'Plan of Action' to disarm the militias over the next 30 days.

(9th) Following a five day EU military and civilian assessment mission to Darfur the head of the EU delegation (Pieter Feith) says "it is clear there is widespread, silent and slow killing going on and village burning of a fairly large scale" but "We are not in the situation of genocide there". The following day the US Senate majority leader Bill Frist disagrees with the EU statement saying his discussions with refugees and official representatives "leads me to conclude that what is going on in Darfur is genocide".

(14th) 150 Rwandan troops arrive in Darfur to serve as protection for the AU monitors. They are subsequently joined by 150 Nigerian troops.

September 2004

(2nd) As required by UNSC Resolution 1556 a report is presented to UN Security Council. SRSJ Jan Pronk reports that Sudan has not disarmed militias or stopped attacks on civilians but GoS has made some progress in lifting restrictions on humanitarian access and improving security for some Internally Displaced Persons.

(9th) Whilst giving testimony to the US Senate Foreign Relations Committee Secretary of State Colin Powell concludes, "that genocide has been committed in Darfur and that the Government of Sudan and the Janjaweed bear responsibility -- and that genocide may still be occurring" His conclusion is based on findings of a US State Department funded Atrocities Documentation Team that had interviewed 1,200 refugees from Darfur in Chad

(13th) WHO survey indicates daily mortality rates of 1.5 per 10,000 per day in North Darfur and 2.9 per 10,000 per day in West Darfur implying an excess mortality of 4,500 – 8,500 per month. Results appear to corroborate earlier UN estimates of 50,000 deaths as a result of the conflict and displacements.

(17th) UN Secretary-General announces he is sending the UN High Commissioner for Human Rights, Louise Arbour, and the recently appointed Special Adviser on the Prevention of Genocide, Juan Méndez, to Darfur to recommend what could be done to protect civilians there from attacks by local militias. "Their job is not to describe or characterize what is happening, but to see what more can be done to stop it, and to prevent further abuses"

(18th) UN Security Council (Resolution 1564 2004) allows more time for Sudan to comply with Resolution 1556 rather than opting for a more forceful response but introduces for the first time the threat of sanctions against the oil industry. "(T)he Council, in the event the Government of Sudan fails to comply with resolution 1556 (2004) or this resolution ... shall consider taking additional measures as contemplated in Article 41 of the Charter of the United Nations, such as actions to affect Sudan's petroleum sector and the Government of Sudan or individual members of the Government of Sudan, in order to take effective action to obtain such full compliance or full cooperation"

(21st) Amnesty International Report on High Level AI Mission to Darfur "Death, Despair and Disappointment in Darfur" Calls for international arms embargo to be extended to include Government of Sudan.

Lessons from Rwanda – Lessons for Today

Following the 1994 Genocide in Rwanda the Danish Ministry of Foreign Affairs initiated a comprehensive evaluation of the international response. The findings were highly critical of nearly all the international actors. Ten years after the genocide the Ministry commissioned this assessment of the impact and influence of the evaluation. It concludes that the evaluation contributed to increased accountability among humanitarian organizations and that it had important influences on several major donor policies. But, despite a greater willingness by the international community to intervene militarily and to undertake more robust peacekeeping missions, these remain the exception rather than the rule where mass killings of civilians threaten or are even underway. The evaluation's main conclusion – that "Humanitarian Action cannot substitute for political action" – remains just as valid today as 10 years ago.