HUMAN RIGHTS VIOLATIONS INCLUDING CRIMES OF GENOCIDE IN AFRICA

JOAN MBAGWU (PhD)
Department of Criminology, Security, Peace and Conflict Studies
Caleb University, Imota, Ikorodu, Lagos, Nigeria

Abstract
This study examined the principles of human rights and the implications of violation and protection, especially in Africa. This study established the fact that there are strong links between peace and human right protection and conflict and human rights violation. Also, the study showed the importance of consideration for human rights values in the development and how the United Nations is pushing for human right protections in their programs, especially in post conflict reconstruction. Instances of violations and the consequences in Africa were identified, including the use of International Criminal Courts in the cases of Sierra Leone and Rwanda. Even, the history of genocide was traced and the efforts of the UN to curb impunity through the Responsibility to Protect mechanism. This study went ahead to make recommendations on the need to respect human rights laws for sustainable peace, and avoid conditions that make genocide possible.

Background: What are Human Rights?
There are many definitions of human rights and people may well differ and argue about the relevant importance of different particular rights, for example, Vincent (1986) defined it to be ‘generally accepted principles of fairness and justice inherent in every individual by virtue of their humanity’ or ‘moral rights that belong equally to all people simply because they are human beings’. Article 1 of the Universal Declaration on Human Rights explains that ‘All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.’ Lauren (2003) and Hayden (2001) argued that many scholars identified the following principles that solidified that human beings have certain rights that no state or other individuals can take away from them, because, these rights are: ‘Inherent’ - human beings are born free and equal in dignity and rights meaning that they are not given, bought, earned or inherited. By being born human, one is imbued with rights; ‘Universal’ - human rights are generally accepted principles that apply equally to all human beings, wherever they may live, are the same for all regardless of race, sex, religion, ethnicity, political or other opinion, social or national origin; ‘Inalienable’ - because they are inherent, human rights cannot be waived or taken away, renounced, lost or forfeited; ‘Indivisible’ - human rights are based on the principle of respect for human dignity meaning that all human beings are entitled to freedom, security and decent standards of living all at the same time – human rights cannot be divided up, or made conditional upon each other, even though, they are all interconnected, interdependent, and indivisible; ‘Fundamental’ - life, dignity and other human values, needs and aspirations depend on recognition and fulfillment of rights. Human rights form the basis of every human being; ‘Apply equally’ - all people have the same human rights, and right to equal protection of their rights; this entails equal treatment before the law, and equal access to the law itself. No discrimination against any person on the basis of the persons’ race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. ‘Absolute’ - certain core rights create obligations that are absolute and cannot be limited. For example, the right to life, the right to be free from torture, the right to be free from
slavery, the right to recognition as a person before the law, and the prohibition on retrospective criminal punishment; ‘Create Duties on Others’ - it is a basic quality of a right that it has a ‘co-relative’, meaning that it puts responsibility on the other person to protect that right. For example, a right held by person ‘X’ makes sense only by virtue of the automatic duty it creates on person ‘Y’ not to disrespect, violate or interfere with that right, or to take some positive action to fulfill that right.

Statement of the Problem
Human rights violations and the crime of genocide are big issues in Africa. The problem this article is focusing on is the danger associated with the violation of human rights in Africa. The negative impact of human violation is deadly as it is leading to violent conflicts and genocide. Parlevliet (2002) argued in his article ‘Bridging the Divide – Exploring the Relationship between Human Rights and Conflict Management’ that human rights violations are causing violent conflict, and the main objective of the activities of both human rights and conflict management actors should be to reduce the level of structural violence through the transformation of the structural, systemic conditions that give rise to violent conflict in a society.

Main Objective
The main objective of this study is to show the linkage between human rights violation and violent conflict in Africa and why human rights should be protected, as it is pre-requisite for sustainable peace.

Research Objectives
This study aims to achieve the following objectives:

- To identify the human rights principles and philosophies
- To describe the activities of African leaders that violate human rights of the people
- To show the linkage between conflict and human violations including genocide in Africa
- To recommend ways to improve human rights protection in Africa

Significance of the Study
A critique of human rights violation and the crime of genocide in Africa are important because of its implication for sustainable peace. It is important that causes of violent conflicts in Africa be known so that conflict management program could be creative and strategic in order to bring lasting solutions to conflict issues in the continent. The study of the role of International Criminal Courts in breaking the cycle of impunity should be publicized to let African leaders know that there is no getting away with crimes against the people in any form.

Linking Human Rights Violations to Conflicts
Parlevliet (2002) argued that human rights abuses are both symptoms and causes of violent conflict in Africa as seen in the 1994 genocide in Rwanda, in which some 800 000 people died in just 100 days, and it stands as one of the most chilling illustrations of the scope of atrocities that conflict can generate. Also, the protracted conflicts in Angola and Sudan demonstrate that this kind of abuse does not only flare up in the short–term, as in both countries, the population has experienced decades of human rights violations resulting from the wars taking place. For example, the mutilation and amputation of people’s hands and other body parts by the rebels of Foday Sankoh’s Revolutionary United Front in Sierra Leone is a case in point, even the sustained denial of human rights in the South Africa’s apartheid regime gave rise to high–intensity conflict, as the state’s systemic oppression of the civil and political liberties of the majority of the population, and its restraints on their social, economic, and cultural rights, resulted in a long–lasting armed liberation struggle.
The conflict in the Delta Region in Nigeria is not only due to the oil–related pollution in the traditional living areas of the Ogoni people, but also to the fact that they seek a larger degree of autonomy and greater control of the oil production and profit. Rights–related concerns also motivated the uprising of the Banyamulenge Tutsi minority in Eastern Zaire in 1996 and their overthrow of Mobutu. It is important to note that denial of human rights does not only occur through active repression, but can also come about through the inability of the state to realize the rights of its citizens, especially in the socio–economic domain. Parleviet further argued that such ‘passive violation’ (injustice, repression, and exploitation are built into the fundamental structures in society, and where individuals or groups are damaged due to differential access to social resources built into a social system) described as structural violence by Galtung (1971) also deepen social cleavages and rivalries, thus enhancing the potential for destructive conflict.

Today, some of the most serious threats to international peace and security are armed conflicts leading to human rights abuses, including deaths, tremendous amount of suffering, displacement and devastation caused by conflicts. Assaults on the fundamental right to life are widespread including massacres, indiscriminate attacks on civilians, executions of prisoners, starvation of entire populations.

Violation of fundamental human rights relating to employment, housing, food or the respect for cultural life, and large-scale discrimination and exclusion from the decision-making processes of society are part of the root causes of many grave crises and armed conflicts have clearly illustrated the indivisibility and interdependence of all human rights. The collapse of infrastructure and civic institutions as noticed in Umuleri and Aguleri in South East Nigeria due to the conflicts which undermine civil, economic, political and social rights. Also, the rights to adequate health care, housing, education, freedom of movement and expression, privacy and fair trial are only some of the fundamental rights and freedoms affected when hospitals and schools are closed, water and sanitation polluted, local administrations unable to function, and police and judicial systems shattered or corrupted.

Causes of Genocide

In researching the causes of genocide, Harff (1992: 30) argued that ‘All cases have unique properties but also share some discernible patterns with others from which social scientists can identify some common sequences and outcomes’. However, Stewart (2011) said that the demography of a country could be a factor, as genocides commonly occur in ‘plural’ societies, i.e. societies containing distinct ethnic or religious groups, even as reflected in the UN definition of genocide … ‘to destroy, in whole or part a national, ethnical, racial or religious group’ – implies the existence of more than one group. But Rummel (1995), Bae and Ott (2008) found no relationship between ethnic (or religious) diversity and the onset of genocides. Scholars identified economic factor to be sources of genocide because in an effort to exploit resources for economic wealth, mass killing of people who stand heir way could happen. For example, Midlarsky (2005) Valentino (2000) have pointed to economic depression as predisposing to genocide as was noticed in the German holocaust caused by the depression of the 1920s and 1930s. It was considered an important factor behind Hitler’s popularity, and thus an indirect cause of the genocide.

Political factors noticed in state crises and political upheavals are seen by some scholars as factors responsible for genocide. Harff (2003: 62) argued that ‘ an abrupt change in the political community caused by the formation of a state or regime through violent conflict, redrawing of state boundaries or defeat in international war’. Scholars explained that in crises situations, when new (previously subordinate) groups come to power, and/ or there is uncertainty and competition for power it provides ‘political opportunity structures’ for genocide to occur (Harff 1987) Krain 1997). Melson (1989) in analysing the Armenian genocide and the German Holocaust argued that in each case, revolution brought new classes (with a genocidal ideology) to power, and that wartime conditions facilitated genocide, making it easier to conceal. Also,
the regime type which has to do with the concentration of power is argued to be a precondition of genocide. Authoritarian governments most likely to commit genocide and democracies least likely:

…the more power a government has, the more it can act arbitrarily according to the whims and desires of the elite, and the more it will make war on others and murder its foreign and domestic subjects. The more constrained the power of governments, the less it will aggress on others. (Rummel 1994: 1-2).

The best way to account for and to predict genocide is by the degree to which a regime is totalitarian along a democratic-totalitarian scale.’ (Rummel 1995: 25).

Scholars’ statistical investigations show that regime type is generally associated with genocide; for example, Harff (2003) finds that the presence of an autocratic government increases the likelihood of genocide, and Easterly et al (2006) find that the extent of democracy is significantly (inversely) related to the incidence of mass killings. The Constitutional design, which explains the effects of concentration of power in one arm of government without checks and balances, could also lead to mass killing. Stewart (2011) argued that there when there are constitutional checks and balances, there is decentralization of power, and it could help check genocide tendencies. However, there tends to be a strong association between autocracy and concentration of power and there have been very few attempts to separate them in investigating associations with genocide. Political exclusion and dominance by one ethnic group in a plural society is a major cause of genocide. Harff (2003) explained that if one ethno-class rules over a subordinate ethno-class where socio-economic inequalities between ethnic groups coincide with political dominance, there is the likeliness of genocide occurrence. Krain (1997) has argued that political exclusion and political discrimination on the basis of ethnic hierarchy is a factor conducive to genocide, similarly, the presence of a dominant ethnic group together with an exclusionary ideology raise the risk of genocide.

Psychological dehumanizing is another cause of genocide as was argued by various scholars. Dehumanization is the psychological process of demonizing the enemy, making them seem less than human and hence not worthy of humane treatment. This can lead to increased violence, human rights violations, war crimes, and genocide. Dehumanization has the power to justify society's most Violent and terrible impulses. If outsiders such as the Jews in Germany or the Tutsis in Rwanda are seen as less than human, then this clears the way to commit atrocities against them. Maiese (2003:1)

Opotow (2000) argues that dehumanization is a psychological process whereby opponents view each other as less than human and thus not deserving of moral consideration. For example, Jews in the eyes of Nazis and Tutsis in the eyes of Hutus in the Rwandan genocide are not recognize as part of a shared human community. Therefore, these feelings of intense hatred and alienation among conflicting parties lead to the more the psychological distance between groups which can result in moral exclusion, and those excluded are typically viewed as inferior, evil, or criminal. In her essay of Moral Exclusion of 1995, Opotow said that individuals viewed as outside the scope of morality and justice, "the concepts of deserving basic needs and fair treatment do not apply and can seem irrelevant." Therefore, any harm that befalls such individuals seems warranted, and perhaps even morally justified, as they are typically perceived as psychologically distant,
Expendable, and deserving of treatment that would not be acceptable for those included in one's moral community.

Deutsch (2000) identified the common criteria for exclusion to include ideology, skin color, and cognitive capacity. People typically dehumanize those whom they perceive as a threat to their well-being or values. These scholars argue that the psychology of dehumanization is actually an extension of a less intense process of developing an "enemy image" of the opponent. During the course of protracted conflict, feelings of anger, fear, and distrust shape the way that the parties perceive of each other; adversarial attitudes and perceptions develop and parties begin to attribute negative traits to their opponent as a dangerous, warlike monster. For example, the Jews in the eyes of Nazis are seen as rodents and roaches while the Tutsis in the eyes of Hutus are seen as reptiles.

Maiese (2003) in describing the dangers of dehumanization said once certain groups are stigmatized as evil, morally inferior, and not fully human, the persecution of those groups becomes more psychologically acceptable, and restraints against aggression and violence begin to disappear. This is why dehumanization increases the likelihood of violence and may cause a conflict to escalate out of control, as parties may come to believe that destruction of the other side is necessary, and pursue an overwhelming victory that will cause one's opponent to simply disappear. Actually, dehumanization often paves the way for human rights violations, war crimes, and genocide. For example, in WWII, the dehumanization of the Jews ultimately led to the destruction of millions of people, and similar atrocities have occurred in Rwanda, Cambodia, and the former Yugoslavia. However, it is thought that the psychological process of dehumanization might be mitigated or reversed through humanization efforts, the development of empathy, the establishment of personal relationships between conflicting parties, and the pursuit of common goals.

Examples of Genocide Cases

Genocide and mass crimes has been widely occurring in modern times including Turkish crimes against Armanians, Holocaust, Rwanda, Former Yugoslavia, East-Timor, and Cambodia. The Sudan genocide has been since 2003 as the international community turned its back on the mass crimes, rapes, and atrocities of the Janjaweed militias in the Darfur region of Sudan. The Government of Sudan continues to kill its own people, and still, there has been no intervention. Apparently, an international community that will stop human rights abuses remains very far from any country on earth. So many cases of genocide have passed unchallenged that perpetrators do not believe they will ever be held accountable. In fact, there has been a consistent pattern by the international community neither to intervene nor to take seriously the implications of grave human rights abuses that do not directly affect the interests of individual states. In Rwanda, civil strife and internal violence led to genocide on a vast scale. From April to July 1994, a systematically planned genocide by extremist Hutu militia claimed the lives of between 500,000 and 1 million persons. The main victims of this carnage were members of the Tutsi minority and moderate Hutus. The civil war forced hundreds of thousands of Rwandans to flee to neighboring countries. By mid-July, more than 2 million Rwandan refugees were living in camps in Burundi, Tanzania and Zaire, thousands more had been displaced internally within the territory of Rwanda.

Breaking the Cycle of Impunity: Establishing the International Criminal Court

The International Criminal Court (ICC) was created at the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, held in Rome from 15 June to 17 July 1998. Delegations from 160 countries, 17 intergovernmental organizations, 14 United Nations specialized agencies and funds and 124 NGOs participated in the five-week landmark Conference. The Rome Statute of the International Criminal Court was adopted by a vote of 120 in favor to 7 against, with 21 abstentions. The
treaty establishing the Court needs to be ratified by at least 60 States parties before entering into force. Moghalu (2008) Schiff (2004) and Prunier (2008) all argued that the establishment of the Court makes it clear that the international community no longer tolerates violations of human rights without assigning responsibility. Unlike the ad hoc Tribunals, the Court provides a comprehensive mechanism for punishing perpetrators of genocide and other crimes against humanity. The assurance that at least some perpetrators of war crimes, crimes against humanity or genocide may be brought to justice acts as a significant deterrent, and in itself may provide incentives to end conflicts.

Ensuring that individuals are held criminally responsible and punished for committing serious human rights abuses is one of the most effective means of dealing with grave injustice and fostering necessary reconciliation. In countries where the justice system does not function properly, legislative reforms are required first, before the judiciary can effectively undertake investigations.

- **International Criminal Tribunal for Rwanda**
  In November 1994, the Security Council created the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda (ICTR). The Tribunal also prosecutes Rwandan citizens responsible for genocide, crimes against humanity and war crimes committed in the territory of neighboring States between 1 January 1994 and 31 December 1994. While the Hague Tribunal consists of two chambers and an appeals chamber, the International Criminal Tribunal for Rwanda, which has its seat in Arusha, Tanzania, recently added a third chamber to accelerate the procedural process. The Chief Prosecutor, based in The Hague, serves for both Tribunals.

  The International Criminal Tribunal for Rwanda issued its first indictment in November 1995. By 1998, three trials had commenced. As of August 1998, 35 indicted individuals were in custody in Arusha. One of the most dramatic cases so far before the Tribunal has been the trial of Rwandan ex-Prime Minister Jean Kambanda. In his long-delayed, first appearance before the Tribunal on 1 May 1998, Kambanda pleaded guilty to the crime of genocide. This is the first time in history that an accused individual publicly confessed to the crime of genocide. The former Prime Minister was sentenced to life in prison, and he was the first-ever convicted individual for the crime of genocide. In a related trial, the former mayor of the Rwandan District of Taba, Jean-Pierre Akayesu, was convicted on 2 September 1998 of genocide against Tutsi citizens, as well as for the crimes of rape, torture and other inhumane acts and subsequently sentenced to life imprisonment.

- **Special Court of Sierra Leone**
  The Special Court for Sierra Leone is an independent judicial body set up with a mandate to "try those who bear greatest responsibility" for the war crimes and crimes against humanity committed in Sierra Leone after 30 November 1996 during the Sierra Leone Civil War. The court was located in Freetown. The court process started with the letter written on 12 June 2000, by Sierra Leone's President Ahmad Tejan Kabbah to United Nations Secretary-General Kofi Annan asking the international community to try those responsible for crimes during the conflict. Based on this letter, on 10 August 2000, the United Nations Security Council adopted Resolution 1315 requesting the Secretary-General to start negotiations with the Sierra Leonean government to create a Special Court. The Statute of the Special Court for Sierra Leone outlines four different types of crimes with which the Court can charge individuals: Crimes Against Humanity, Violations of Article 3 common to the Geneva Conventions and of Additional Protocol II (war crimes), Violations of international humanitarian law, Crimes under Sierra Leonean law.

  Thirteen individuals have been indicted on charges of committing crimes against humanity, war crimes, and other violations of international humanitarian law. No individuals have been charged with crimes
under Sierra Leonean law. The SCSL has indicted 21 individuals, and 20 of them have been captured or had their proceedings terminated due to death. Five individuals are currently on trial (two of whom are serving sentences from prior convictions), one has been acquitted, eight have been convicted and are serving sentences (including two who are currently on trial on additional counts), one has been convicted but has yet to be sentenced and four individuals have completed their sentences. Proceedings against three individuals were terminated following their death, and one individual, Johnny Paul Koroma, is a fugitive, though he is believed to have been executed by order of Charles Taylor. Because Taylor still enjoyed considerable support in Liberia, and the region was not entirely stable, his trial in Freetown was deemed undesirable for security reasons, as the United Nations Mission to Sierra Leone UNAMSIL having considerably reduced its presence. United Nations Security Council Resolution 1688 of 17th June 2006 allowed the Special Court to transfer Taylor’s case to The Hague, Netherlands, where the physical plant of the International Criminal Court would be used with the trial still being conducted under SCSL auspices. Taylor's trial started on 4 June 2007, with the first witness appearing 7 January 2008, and it is available in streaming video. The Prosecution rested its case on 27 February 2009, and the Defense began their case on 13 July 2009 and rested on 12 November 2010. According Cable Network News (CNN) on Thursday 26th April 2012, in a historic ruling, after thirteen months of trial, The Special Court for Sierra Leone found Liberia's former president, Charles Taylor, guilty of aiding and abetting war crimes and crimes against humanity in supporting notoriously brutal Sierra Leone rebels in return for blood diamonds. In the first-ever international judgment against a former head of state, presiding Judge Richard Lussick the 64-year-old warlord-turned-president provided arms, ammunition, communications equipment and planning to rebels responsible for countless atrocities in the 1991-2002 Sierra Leone civil war and he called the support “sustained and significant.” Even though Mr. Taylor has maintained his innocence since the trial, he is scheduled to be sentenced on May 30th 2012, and any prison term would be served behind British bars.


The concept of a Responsibility To Protect (R2P), first developed by the International Commission on Intervention and State Sovereignty in 2001 and pioneered by Canada, was developed to respond to issues of human rights violations and crimes of genocide. The responsibility to protect: Core principles are to protect the world from war, by the prevention of conflict. However, in the event that this fails, the UN has the duty to intervene as a means of protection, particularly of civilians as outlined by the International Commission on Intervention and State Sovereignty. It has the following Basic principles: a. State sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself; b. Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non–intervention yields to the international responsibility to protect.

The Principle for Military Intervention is based on the just cause threshold which aims to control large scale loss of life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation; or large scale ‘ethnic cleansing’, actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape. The second principle is for precautionary purposes to halt or avert human suffering supported by regional opinion and the victims concerned; and finally, military intervention can only be justified when every non–military option for the prevention or peaceful resolution of the crisis has been explored, with reasonable grounds for believing lesser measures would not have succeeded.

**Conclusion and Recommendations**

In conclusion, it is important to know that human rights violations are both causes and consequences of conflict and should be strongly prevented. African leadership should be able to wake up to the realities of
the time especially in the context of possible trial. For the fact that Charles Taylor was convicted for abuses and Al’Bashir of Sudan has been dethroned and has been invited to the ICC, although, he is refusing to go are indications that the international community is ready to stop human rights violations.

Based on relevant studies, countries at risk of genocidal episodes in the near future are likely to be authoritarian, centralized, with very few checks on power; and they are likely to exclude significant groups in society from power and from fair terms with respect to economic and social resources. Therefore, efforts should be made to prevent countries from falling into conflict or becoming genocidal. Studies have shown that inequalities in cultural recognition can provoke resentment and bind people together as a group. Recognition and respect for the cultural rights of different groups in society is important to reduce intergroup hostility as well as contributing to greater socio-economic equality. The ideology of hatred should be strongly condemned as it is commonly argued that some genocidal episodes like the case of Rwanda exhibit genocidal ideologies, which include the idea that the target group is subhuman and potentially contaminating. This type of ideology may be assumed by leaders instrumentally, as an effective way of mobilizing support; it is then deliberately propagated to the mass of the population, systematically and over a prolonged period. It is important to make this type of hate propagation illegal as an important element in any preventative policy as recorded by (Stewart and Brown 2007) and monitoring such activities may also be useful in providing early warning indicators of violent mobilization.

Reference


http://www.humansecurityinitiative.org/genocide-mass-crimes