

# ***Exploring the Relationship between Hutu Refugees' Protracted Situation and Insecurity in the Great Lakes Region***

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## **Abstract**

*This paper reflects on the complex dynamics of the relationship between forced repatriation of Hutu refugees with protracted refugee situations and insecurity prevailing in the Great Lakes region, in particular, the Democratic Republic of the Congo (DRC). It critiques misconceived and misguided regional and international responses to the influx of Hutu refugees. The refugees were initially stereotyped as fleeing from prosecution and their influx was seen as a source of friction between Rwanda and its neighbouring countries and as burden to host countries' social and economic progress. Viewing them as fugitives and as an economic burden, host countries forced Hutu refugees to return. This was done in cooperation with the Rwandan government (i.e. the persecutor) under auspices of the United Nations High Commissioner for Refugees (UNHCR). The purpose of this paper is to illustrate that the forced repatriation resulted not only in the resistance of the Hutu refugees, but also in turning the territory of the DRC into a fully-fledged battlefield for the Hutus and Tutsis. Further, it is argued that this Hutu-Tutsi conflict gave rise to the recurring cycle of violence in the eastern DRC.*

**Keywords** Ethnic conflict, genocide, mass murder, Hutu refugees, cessation clause, mass repatriation, armed resistance, regional insecurity.

## **Introduction**

The eastern DRC has been characterised by recurring and persistent armed violence since 1996, when the Rwandan Defence Force (RDF) crossed the border to repatriate Hutu refugees that were viewed as a threat to the newly established government of the former Tutsi-dominated rebel movement, the Rwandan Patriotic Front (RPF)-Inkotanyi. At the time, the international community supported the RDF invasion of the DRC as the RDF was, ironically, applauded for putting an end to genocide in Rwanda when, in fact, they triggered it (Erlinder, 2013; Rever, 2018). The invasion was not viewed as a

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violation of international law, but rather as a noble cause to pursue and forcefully repatriate Hutu refugees who were believed to have fled from criminal accountability. Millions of Hutu refugees were viewed not only as genocidaires but also as a burden to host countries (Whitaker, 2002).

Viewing Hutu refugees as a burden and as fugitives led countries of the Great Lakes region to expel the refugees from their territories in 1996, which resulted in Hutu refugees taking up arms to resist their expulsion. Today, Hutu refugees are symptomatic of the tragedy of ongoing armed conflicts and political violence prevailing in the Great Lakes region, specifically the DRC. The nature of the instability of the DRC is both regional and international since it affects regional peace and stability, thereby involving regional countries as well as the international community. As a result, African states are committed to restoring peace and stability and encouraging development under the Peace, Security and Cooperation Framework for the DRC and the region. This document was signed in Addis Ababa on 24 February 2013 under the auspices of its guarantors, the Secretary-General of the United Nations (UN), the Chairperson of the African Union (AU) Commission, the Chairperson of the Southern African Development Community (SADC) and the Chairperson of the International Conference on the Great Lakes Region (ICGLR).

In light of this context, this paper seeks to explore Rwanda's invasion of the DRC for the purpose of forcing Hutu refugees to repatriate, as well as the nexus between regional insecurity and this forced repatriation. From a theoretical point of view, the paper works under the presupposition that, today, the Great Lakes region is marred with violence and armed conflict. The volatile situation – which negatively impacts the regional economic stability – has attracted regional and international interventions to restore peace. For instance, the UN deployed a peace-keeping mission, known as the UN Organisation Stabilisation Mission in the Democratic Republic of Congo (MONUSCO), and the SADC deployed troops from Malawi, Tanzania and South Africa under the Force Intervention Brigade (FIB). Both of these efforts had a mandate to neutralise and disarm Congolese and foreign armed groups.

Accordingly, this paper focuses primarily on the driving factors causing Hutu refugees to engage in armed resistance and the implications of such armed resistance on regional peace and stability. Methodologically, the paper draws on literature to demonstrate that the Hutu refugees' protracted situation was created by consistent and repeated attempts by Rwanda to encourage the UNHCR to invoke article 1C(5)-(6) of the 1951 Convention Relating to the

Status of Refugees and its 1967 Protocol (the 1951 Refugee Convention), so as to ensure that Hutus are criminally held accountable upon return. In light of this, the paper explores the relationship between the RPF's obsession with controlling all Hutus, resulting in the furtherance of armed violence. In addition, a critical analysis of the causes and rationale for armed violence is approached from the standpoint of illuminating the marginalisation and objectification of Hutu refugees on the basis of collective guilt of genocide, coupled with their lack of political muscle to voice their views. More fundamentally, the armed violence is critically analysed through the lens of the deep-seated Rwandan ethnic conflict.

## ***Rwandan Political Turmoil from a Historical Perspective***

### *Historical Hutu-Tutsi Conflicts*

During the pre-colonial era, the Hutu majority was marginalised and subjugated by the Tutsi minority (14% of the population). The Germans and Belgians – who held colonial rule – socially and politically intensified this marginalisation when they positioned Tutsis as superior to Hutus (85% of the population) and Twas (1% of the population) (White, 2009: 474). This fragmentation of society engendered ethnic conflict, which manifested itself in the form of mono-ethnic governance replete with inhumane and discriminatory practices that continued to subject Hutus and Twas to ill-treatment (Kintu, 2005: 2). Prior to independence, Hutus and Twas were treated as secondary citizens and were socially positioned as slaves to their superiors, the Tutsis (ibid.). This was reflected in the letters and memorandums sent to the UN Visiting Mission (the Mission) in the 1950s.

When Hutus submitted a memorandum, known as the “Bahutu Manifesto”, to the Mission, which contained their moral and political views on how the iniquities of the time could be redressed in order to achieve a just and equal society, the Tutsis wrote letters dated 17<sup>th</sup> May 1958 addressed to the same Mission. In the letters, they emphatically stressed that Hutu and Tutsi were not related and could never, in any way whatsoever, act in the spirit of brotherhood (Oppenheim & Van der Wolf, 2000: 31). These letters stated that Hutu and Tutsi do not share the same ancestors, but only share a slave-master relationship. The letters had the following implications. Firstly, they were a true reflection of the institutionalised racism inherent in the assumption that Tutsis were superior to Hutus because of their non-African roots as per the colonial master's view (White, 2009: 474). Secondly, they set out the course of future Rwandan politics in that they contributed immensely to the 1959 social revolution that ultimately culminated in deposing the Tutsi monarchy and

installing the Hutu majority regime as a republic on 28 January 1961 (Ibid: 475; Twagilimana, 2015: 130).

Consequently, when Hutus ascended to power, two historical events occurred. Firstly, Tutsi fled the country to defy being governed by their servants, the Hutus. Secondly, they used every means necessary to depose the Hutu majority government. They formed a rebel movement known as INYENZI, an acronym for "*Ingangurarugo ziyemeje kuba ingenzi*," literally meaning "those who attack first and who have vowed to be the best" (Kaarsholm, 2006: 84; Thompson, 2007: 84; Twagilimana, 2015: 114). INYENZI instigated sporadic insurgencies between 1961 and 1967, waged for the purpose of restoring Tutsi supremacy in Rwanda (Banton, 1995: 5). Fearing Tutsi oppression and subjugation, Hutus retaliated mercilessly to any incursion. Each Tutsi incursion was followed by outbursts of reprisal killings against Tutsi civilians, which, in turn, uprooted them to seek asylum in neighbouring countries (White, 2009: 475). The combination of governmental military operations and civilian retaliatory attacks brought the INYENZI's insurgencies to an end in 1967 (Ibid.).

The acts of aggression were, however, revived on 1 October 1990 under the banner of the RPF-Inkotanyi. This was after the Tutsi refugees' objection to a voluntary repatriation programme, initiated and encouraged by the Hutu regime. Rather, they opted to return through military actions, which later resulted in instability first in Uganda, then Rwanda, and now the DRC. Regional instability is rooted in the Tutsian understanding that leadership belongs to them and that every means necessary should be used to protect their leadership. The instability is exacerbated by Hutu refugees who are not willing to accept defeat and surrender themselves to Tutsis, as this would imply that Tutsis are superior to them. Put briefly, the current political struggle and armed conflict is embedded in two contrasting beliefs: one belief holds that Hutus should be under control of Tutsian authoritarian leadership, while the other belief holds that there should be a Hutu majority rule through democratic processes.

### *Roots and Causes of Hutu Refugees*

The fall of President Obote of Uganda can be said to be the root cause of Hutu becoming refugees. Although it may sound unusual to make such an assertion, the reality is that Tutsi refugees engaged in Museveni's armed rebellion that ousted the Obote government in 1986. Despite their major role in establishing

the Museveni regime, it did not sit well with Ugandans to see Tutsi refugees assuming powerful positions and ranks in the newly established government. This led Museveni “to support their return to Rwanda by force of arms” (Erlinder, 2013: 65). On 1 October 1990, Tutsi refugees invaded Rwanda under the RPF movement. As a result, Rwanda experienced armed violence, massacres and atrocities that uprooted a large percentage of the population during the course of the civil war (Ndagijimana, 2009). The RPF army is wholly to blame for initiating and carrying out a systematic genocide of Hutus as part of a campaign of cleansing intended to clear certain areas for Tutsi habitation or, more clearly, to establish Tutsiland (Deme, 2010: 157; Erlinder, 2013: 42). The RPF’s military tactics were centred on causing terror in the mind of the Hutus in that the RPF army deliberately targeted Hutu civilians. It is reported that, between 1990 and 1998, shell and mortar were deliberately fired into densely populated villages, centres and towns, as well as in camps housing internally displaced people (IDP), killing many Hutu civilians (UN Security Council, S/1994/1157, para 31). In addition, the RPF, prior to the fall of the Kigali capital, managed to carry out assassinations of Hutu elites countrywide through infiltration of the Hutu regime. Assassinations included the Hutu presidents Juvenal Habyarimana of Rwanda and Cyprien Ntaryamira of Burundi. Their deaths remain at the centre of conflict today.

These facts are still unknown to many because the official narrative of the victors, the Tutsis, disregards them. This official narrative blames Hutus for planning and carrying out the genocide of Tutsis. The alternative narrative, however, recognises that both warring parties engaged in wanton killings and thus defined the tragedy, which hit the country as from 1990 as the Rwandan genocide. The alternative narratives take into account three theoretical assertions. The first assertion considers that there was the “genocide against the Tutsis”, implying that there was a genocidal mass killing of Tutsis by Hutus. The second assertion acknowledges that there was a “counter genocide against Hutus”, implying that the RPF’s troops were responsible for a litany of atrocities and massacres against Hutus, especially after the Tutsi genocide ended (Pean, 2005; Davenport & Stam, 2009; Collier & Strain, 2014: 72; Wells & Fellows, 2016: 61). The third assertion considers that the RPF systematically murdered thousands of people – overwhelmingly Hutus, along with Tutsi, Twa and others – as it advanced across the country in 1994, thousands more in gruesome massacres and summary executions after coming into power, and tens of thousands during the 1996 military campaign to destroy Hutu refugee camps and neutralise the defeated *Forces Armée Rwandaise* (FAR) combatants (Longman, 2009: 309).

When the Tutsis retained control of the country on 4 July 1994, many Hutus defied governance by Tutsis. Due to the vivid memories of the pre-independence Tutsi autocracy, coupled with the RPF's campaign of terror, Hutus fled Rwanda to neighbouring countries *en mass*. In response to this, the RPF troops immediately initiated "the hot pursuit operation", aimed at forcing Hutu refugees to return. In 1995, this operation launched an unprovoked military assault on civilian refugees at Kibeho IDPs Camp, who had been fearful of returning home due to the RPF's terror (Khan, 2000: 106; Binet, 2016: 107). Military assault resulted in the killing of tens of thousands of Hutus. The assault was morally justified on the basis of reprisal attacks, as Hutus were collectively accused of committing genocide and fleeing from prosecution (MSF, 1995). These atrocities followed the June 1994 mass killings of Gakurazo, in which Roman Catholic Archbishops, Bishops, Priests, Brothers and Sisters (of Hutu backgrounds) perished along with their congregations (Reyntjens, 2013: 57). The gruesome assassination of Hutu preachers served as a strong message to Hutus that the RPF government would spare no one. It was also compelling evidence of the intent to instigate fear in the minds of the Hutu community. Throughout the occurrence of these events, there was a deafening silence from the UNHCR and international community. This silence marked the start of the RPF government's campaign to force Hutu refugees to return *en mass*. Forced repatriation started at home and gradually extended to include Hutu refugees who sought asylum in neighbouring countries. The RPF pursued them not only to ensure their return but also to destroy them (UN Mapping Report, 2010: paras 191-193, 495). It is this hot pursuit of Hutu refugees in the deep forests of the DRC that created instability and the collapse of the country, as the invading army left destruction and insecurity in their wake, thereby further weakening the sovereignty of the DRC. Consequently, the fervent pursuit of Hutu refugees resulted in the overthrow of the Mobutu regime and the establishment of Laurent Kabila's regime. Despite their efforts to escape from the RPF attacks, a large number of Hutu refugees had no alternative but to return. When they did, Hutu elites were selected from returnees and were either killed or jailed (Erlinder, 2013; Rever, 2018).

## ***Regional Responses and Their Contribution to the Conflict***

### ***Massive Expulsion***

The first regional response to the influx of Hutu refugees was expulsion. The RPF's invasion of the DRC in 1996 triggered the wave of expulsion or forced repatriation of Hutu refugees. Fear of being invaded by the RPF led the government of Tanzania to unleash its heavily armed troops to repatriate Hutu refugees by force under a military operation dubbed "Operesheni Rudisha Wakimpizi", in English "Operation Return Refugees" (Whitaker, 2002: 330). The Ugandan and Burundian governments used similar force. This mass expulsion angered the Hutu refugees and thus motivated them to take up arms and defend themselves against the injustice, vindictiveness, cruelty and repression. When Hutu refugees took up arms to defend themselves, Rwanda and its neighbouring countries initiated joint military operations – dubbed Umoja Wetu, Amani Leo, Kimya I and Kimya II – aimed at compelling Hutu refugees to return under the façade of combatting, neutralising and eliminating Hutu militia elements (Trefon, 2011: 64; Levine, 2013: 260, 266).

Forced repatriation practically and fundamentally impairs and undermines the human dignity of refugees. The use of force or duress to induce refugees' return is not only contrary to international refugee law, but also deprives refugees of their humanity, as they are treated like objects. This objectification deprives them of their human dignity, individual autonomy and freedom of choice. What pained Hutu refugees, and still pains them, is that this objectification spurred the UNHCR to surrender them to their oppressor, the RPF. Objectification of Hutu refugees is one of the reasons that Hutu refugees resisted their oppression through violence in the DRC. In turn, the violence fuelled insecurity in the region as the resistance levelled up.

### ***Contribution to Criminal Justice***

From the outset, Hutus who took flight from the RPF's litany of atrocities and massacres were not viewed as refugees but as outcasts due to the perceived belief that they had committed genocide in Rwanda, with an estimated 800,000 Tutsi and Hutu civilians dying in the space of 100 days. In the eyes of the UNHCR and host communities, they were seen as cold-hearted fugitives undeserving of the right to seek and obtain refuge, not to mention unworthy of being treated with dignity. They are not what they portrayed to be. However, as fugitives, they were not afforded refugee and human rights protection as no country was prepared to be a hub for criminals. As alleged criminals, they were deprived of liberties to participate in decision-making,

including voicing their views, deciding their destinies and making moral choices about their futures. The societies of the Great Lakes region that should have provided them with a safe haven instead reacted by expelling them en masse back to Rwanda to account for their alleged crimes. Proceeding from this premise, forced repatriation was employed as a strategy to ensure that Hutu refugees, as genocidaires, were returned home to receive punishment for fictitious crimes. It was believed that they should not evade justice. However, nothing was done to separate suspects from genuine refugees. This purposeful absence of separating the bad elements from the good elements ensured that the burden of protecting the refugees as a collective group was lessened. As such, the forced repatriation was based on the premise of collective guilt, which consolidated and fuelled Hutu-Tutsi conflict that turned the territory of the DRC into a zone of fully-fledged armed conflict.

### *Abandoning Refugees to Their Own Fate*

Viewing Hutu refugees as criminals, the UNHCR turned its back on them. This resulted in their exposure to serious violations of international humanitarian law, including murder, torture, beatings, rape and other forms of ill-treatment, such as the denial of medication, food and water. The RPF committed these crimes against humanity in an effort to force Hutu refugees to return. Surprisingly, during forced repatriation processes, the UNHCR offered financial, technical and logistical assistance to the RPF and host countries. Nevertheless, all refugees did not return. Today, there are approximately 245 000 Hutu refugees in the forests of the DRC, who do not receive any humanitarian relief or assistance from the UNHCR or any other humanitarian organisation.

Forced repatriation was characterised by the criminal and vengeful spirit of the RPF troops as President Kagame himself affirmed. At the swearing-in ceremony of his army officers on 13 April 2010, President Kagame stated: "We have done all we promised [...] Those who preferred repatriation were safely brought into the country, but those who chose otherwise were shot. That is what we did" (Rwandainfo, 2010). Therefore, it comes as no surprise that the findings of the 2010 UN Mapping Report (2010: paras 22-33) demonstrate that the vast majority of the 617 most serious incidents committed in the territory of the DRC by the RPF and its allies included war crimes and crimes against humanity committed against Hutu refugees and Congolese people.



In particular, the 2010 UN Mapping Report notes with concern that there were crimes of genocide committed against the Hutu population. The report states that Hutus – Congolese citizens and refugees alike – were targeted by the RPF as an ethnic group under multiple attacks. It further indicates that in the First Congo War (July 1996 - July 1998), Laurent-Désiré Kabila's Alliance des Forces Démocratiques pour la Libération du Congo-Zaïre (AFDL) campaign to oust the regime of Mobutu with the support of the RPF troops was characterised by the RPF troops' relentless pursuit of Hutu refugees across the entire Congolese territory (ibid: paras 191-193). After the destruction of their refugee camps, Hutus began their long trek across the country from the eastern DRC westward towards Angola, Congo-Brazzaville and the Central African Republic (CAR). In this desperate journey, they were rounded up and either shot or bombed by the RPF troops. Accordingly, there were widespread incidents of planned and systematic massacres and killings, which targeted Hutu refugees, resulting in the death of men, women, children, the sick and the elderly. The UN Mapping Report (2010: para 515) notes that "if they were proven before a competent court, [these actions] could be classified as crimes of genocide."

Apart from what happened in the Congolese territory, it is reported that forced repatriation, especially in Uganda, Tanzania and Burundi, included serious violations of human rights and international humanitarian law. These violations manifested in the form of arbitrary arrests, detentions, abductions and deportations of Hutu refugees, in addition to the refusal to distribute food parcels to them as a means of encouraging them to return (Rever, 2013). By its very nature, involuntary mass repatriation constitutes a crime against humanity and is at odds with the principle of peace and security (Kamanga, 2008: 168-169). The campaign to repatriate Hutu refugees using force did not only negatively affect the regime of Mobutu, which was deposed in the process, but also engendered an unending spree of violence in the DRC that continues to this day. The violence has cost the lives of more than 6 million people and left millions more as either IDPs or refugees (Bellamy & Dunne, 2016: 734).

### **The Nexus between Forced Repatriation and On-Going Regional Violence**

#### *Impulse to Defend the 1959 Legacy*

As noted, the 1959 social revolution emanated from the radical need to oppose the institutionalised discrimination and degradation of the Hutu population by the Tutsis. Social denigration and discrimination are an invasion of an individual or targeted group's human dignity as they intrinsically inflict emotional and psychological harm in the form of trauma, humiliation and debasement. These social pathologies are sustained through physical violence.

Physical violence, in turn, maims people and, in cases, deprives them of their lives. The physical violence perpetrated against the Hutu population prior to the 1959 social revolution was again perpetrated against them beginning in 1990. Armed violence, which involved the intentional use of physical force to cause greater damage and deaths to Hutus as a group, was employed as a mechanism to repatriate Hutu IDPs and refugees. Considering the devastating effects of prolonged and intensive violence against Hutu refugees as well as unhindered killings and massacres, coupled with continual humiliation and debasement, Hutu refugees were compelled to find ways to defend and preserve themselves, as their fathers did in 1959. There was a radical need to show resistance. The resistance started with counter-attacks perpetrated by the FAR combatants through military infiltration of Rwanda between 1995 and 1998 (UNHCR, 2011: para 26).

In 2000, Hutu elites (including FAR combatants) who were still in the forests of the DRC, established a Hutu resistance movement, the Forces Démocratiques de Libération du Rwanda (FDLR) that combined armed struggle and political aspirations. The FDLR employs protectionist measures that ensure that Hutu refugees are free from the RPF's retaliation attacks. It is at the forefront of fighting against forced repatriation, advocating for the plight of Hutu refugees, and calling for political transformation in Rwanda that will allow for dignified voluntary return (FDLR, 2000). Viewing the armed and political struggle of the FDLR as a hope of restoration of dignity, some Hutus fled Rwanda to join the FDLR. Those who were forced to return and later re-escaped Rwanda to seek asylum in the DRC, also joined the FDLR.

Given that the RPF government pursues repressive policies and applies state sponsored persecutions to gain control over the Hutu majority populations and to silence real or perceived opponents regardless of their ethnic backgrounds, Rwandans flee the country and feel urged to join the resistance movement. The RPF governance, characterised by autocracy, despotism and totalitarianism, drives not only Hutu refugees but also Tutsi refugees to seek ways to oust the RPF regime. The return of Tutsi totalitarianism gradually urges Hutus to resist the neo-oppression and to defend the legacy of the 1959 Social Revolution.

The move of Hutu refugees to self-defend through physical violence has been a constant source of insecurity and instability in the eastern part of the DRC. The insecurity is, firstly, caused by the desire of the RPF government to suppress the FDLR forces. However, the FDLR appear to be strong as it has not

been neutralised or eliminated by the joint military operations, mentioned earlier. Secondly, the listing of the FDLR as a terrorist group by the UN has caused insecurity and instability, as the MONUSCO and the FIB were jointly deployed to dismantle the FDLR and other armed groups (Levine, 2013: 267). Thirdly, the birth of the FDLR has led many national and foreign opportunistic groups to capitalise on it in forming their own armed groups in the eastern DRC, escalating the war that attracted various African and western countries to intervene and resulting in the so-called “scramble for Congo” (Turner, 2007) or Africa’s World War. Fourthly, some of these Congolese groups have been cooperating with the RPF government to facilitate the pursuit of its economic objectives, including looting the DRC’s natural resources. It follows that Rwanda used the FDLR as a scapegoat to create further proxies to legitimise the renewed political conflict. The RPF government is in fact a hawkish state that has become the epicentre of successive invasions and economic crises in the region, the last being the creation and support of the M23, which drove the economic sanctions that some western countries have taken against Rwanda (UN Security Council, S/2014/42).

#### *Moral Justifications of Return by Armed Force*

There is a moral force behind refugees preparing to wage a war against their home country for their rights and freedoms rather than live in a country where their hosts constantly remind them that they have no place. The desire of refugees to fight to find their way back home and to topple the government from which they had fled can be morally linked to the host country’s refusal to treat refugees with dignity. Their desire to return home by any means necessary is motivated by the fact that they are reduced to the scum of the earth, especially when they are forced to return or dumped in camps where they are viewed as human waste with no useful role to play in the host country’s economy. There is no intention on the part of the host community to integrate them into the social and economic order and, as such, for refugees living in the camps there is no hope of return (Pinson et. al., 2010: 9). Hutu refugees were left to their own miserable fate and ultimately forgotten in the dense forest of the DRC. Likewise, Hutu refugees who live in urban cities find it difficult to gain access to basic public services, given that they are – like other refugees – excluded from the socio-economic order. As a result, they live in intolerable conditions. When refugees are both impoverished and experiencing the ills of the host country, they are persuaded to return. To Hutu refugees, return through military campaign is the only option since the Rwandan government has opted to hunt them down. They are pursued by the RPF army and spies in their respective host countries where, in addition to

living under protracted refugee situations, they are killed, abducted and abandoned to their own fate by the international community.

Furthermore, Hutu refugees' moral desire to return by means of force is strengthened by the fact that (i) the RPF have re-installed apartheid policies in Rwanda that exclude the Hutu majority from socio-economic designs and political participation, (ii) the RPF government has objected to any political dialogue or negotiations that would lead to voluntary and dignified repatriation and (iii) Hutu refugees see no future in the host countries. It has now been more than 20 years since the onset of the Rwandan crisis, and the Hutu refugee situation remains unresolved even though host countries have and continue to periodically apply forced repatriation under the auspices of the UNHCR. Today, it is estimated that there are more than 300 000 Rwandan refugees around the world.

A combination of these difficulties motivates Hutu refugees not only to fight for their survival, respect and dignity in their host countries but also to establish an armed rebellion against the draconian regime instated in Rwanda by the RPF. From their point of view, the military campaign for repatriation is seen as a viable solution to their never-ending misery and suffering. Proceeding from this premise, armed violence is viewed as a mechanism to limit the power of the RPF government in various ways: by coercing the RPF to enter into political negotiations with Hutu refugees, abandon its apartheid policies in order to open a political space, compromise its political ideologies and stance on the nature of genocide and encourage it to make concessions. Historically, the use of armed violence is a political strategy that has been employed by refugees to induce a fundamental change in their home countries. For example, the same methodology has been successfully used by the Tutsi refugees from Rwanda and Hutu refugees from Burundi (Ndarishikanye, 1998: 140-56; Pontzele, 2004: 19-21). Similarly, it was employed by South African refugees during the liberation struggle against the apartheid regime that oppressed black people in South Africa and forced them to flee (Yousuf, 1985: 65-66).

It follows that it is morally and legally just for individuals or groups who are victim(s) of physical attacks or violence to resort to force to mitigate or repel such violence. This moral understanding is recognised under Article 20 of the 1981 African Charter on Human and Peoples' Rights. Article 20 clearly states that "colonised or oppressed peoples shall have the right to free themselves from the bonds of the domination by resorting to any means recognised by

international community.” Furthermore, it states that nothing justifies domination of one by another. In this context, Hutu refugees resort to armed resistance so as to exercise their right to self-determination, which includes free participation in democratic processes and the pursuit of economic and social development.

That said, in a country such as Rwanda, where power is not derived from the people or from the consent of the governed, or in a country where people are oppressed and subjugated, people will indeed resort to violence to voice their dissatisfaction and to bring about the desired socio-political change. The oppressed will use violence to remind the rulers that the powers they possess derive from the people, and to compel an authoritarian regime to accept the conditions put forward by leaders of the liberation. An armed liberation struggle is a mechanism used to depose the despotic regime or to bring it to the negotiation table (Shaw, 2009: 97). In resorting to armed struggles, Hutu refugees are exercising their right to self-determination, and through it, they claim the human dignity afforded to others. They seek to make the regional and international communities hear their voices and sympathise with their suffering, and they aim to compel the RPF government to accept their conditions relating to their peaceful return and participation in Rwandan affairs.

The Hutu refugee survivors created the FDLR in line with the spirit of fighting against the bonds of Tutsi domination and oppression and for the realisation of several components of the concept of self-determination. The moral intent of the RPF to carry out a campaign to combat and eliminate all Hutu refugees is substantive enough to justify the moral demand and appeal for the Hutu to resort to any means necessary to fight for equal rights and freedoms. The onus rests on them to liberate themselves from unfair geopolitics that result in their oppression, subjugation and humiliation. The statements of President Kagame, holding that refugees are human waste, useless species, criminals and terrorists sheltered by host countries, are provocative enough to induce and entice Hutus to wage a war against such denigration and debasement (Salem-News, 2011). What is apparent from the president’s description of Hutu refugees is a radical need for Hutus to restore their pride, glory and dignity through resistance and armed struggle.

### *The Impact of the UNHCR Declarations of Cessation Clause On Regional Insecurity*

As from 1996, the UNHCR has been cooperating with persecutors to assist them in locating their victims. In this respect, the UNHCR employed a

mechanism referred to as the Declaration of the Cessation Clause. In September 2012, the UNHCR declared Rwanda a safe country, which enabled distant host countries to turn Hutu refugees away. The declaration was intended to ensure that the RPF gained control over them or otherwise silenced their dissenting voices in an attempt to strengthen and enhance the RPF's exclusive power. The declaration led to negotiations and tripartite agreements between the UNHCR, Rwanda and a number of African countries hosting Rwandan refugees. These countries included CAR, Burundi and Tanzania in 2002; then Zambia, Congo-Brazzaville, Uganda, Malawi, Namibia, Mozambique and Zimbabwe in 2003; and South Africa in 2004 (Amnesty International, 2004: 2). Implementing these tripartite agreements was incorporated under the 2004 Dialogue on Voluntary Repatriation and Sustainable Reintegration in Africa, which focused on massive repatriation of refugees in nine African countries: Angola, Burundi, the DRC, Rwanda, Eritrea, Somalia, Sudan, Liberia and Sierra Leone. However, the date of return for Rwandan refugees was initially and officially set to commence on 31 December 2011 and all aspects of the cessation of refugee status for Hutu refugees were to be implemented throughout 2012 so as to enable their status to cease by latest 30 June 2013. The date on which refugee status would cease was later set for 31 December 2017. These declarations have severe implications on the recognition of Hutu refugees as people genuinely seeking asylum in distant host countries.

The UNHCR declarations are, accordingly, regarded among Hutu refugee communities as the international community's final betrayal, whereby they have sided with the perpetrator when the victims have not been consulted as stakeholders or given a platform to voice their concerns. Within this understanding, recommendations by the UNHCR to host countries to apply the cessation clause have led many Hutu refugees in countries implementing it – in African countries in particular – to prepare to flee anew. Some have targeted the Great Lakes Region, especially the DRC, as a point de rappel in the hopes of losing themselves in the chaos there. Others, especially the youth, have given up on the peaceful resolution of the protracted uncertainty of their future and have opted to join the FDLR resistance movement to fight for their cause so that they can one day go home in peace and dignity. Still others have chosen to press forward and aim for Europe and America in an effort to find lasting peace in a sanctuary that is perhaps better than their previous one. Whatever choice Hutu refugees make, it will undoubtedly contribute to the already existing protracted insecurity and instability in the Great Lakes region.

Hutu refugees' asylum has never been secure and this uncertainty is mainly caused by the UNHCR. For that reason, refugees lament about the UNHCR's chosen methods in trying to end their asylum, which has deleteriously affected their lives and impaired their dignity. They have never enjoyed peace, freedom and justice in exile. Although the Rwandan refugee communities and independent international institutions and organisations have voiced much criticism and concern regarding the declarations of the UNHCR, the UNHCR, in cooperation with some African countries, was undeterred and proceeded to implement the cessation clause for Rwandan refugees, rendering them informal and illegal refugees in Africa. So far, Zambia, Uganda and Malawi have responded to the cessation clause by indicating that they will consider other legal status as an alternative to repatriation for the purpose of ending the protracted limbo and uncertainty of Hutu refugees. The European Union also took the decision to not abide by the UNHCR's recommendation to invoke the cessation clause (Harrell-Bond & Cliché-Rivard, 2012). Other countries cannot, therefore, justify the implementation of the cessation clause which implicitly targets Hutu refugees who fled Rwanda between 1994 and 1998. The cessation clause is discriminatory by its very nature because it does not apply to the Tutsi refugees who fell out of the Kagame regime as from 2000. The message is very clear: the cessation clause actually targets Hutu refugees as those Tutsi who fled Rwanda prior to 1994 have retained ruling power in Rwanda. From this perspective, one cannot hesitate to point out that the UNHCR contributes to regional insecurity when it takes a biased decision aimed at suppressing Hutu refugees.

### *Impact of Partial Transitional Justice on Regional Instability*

The official narrative of the RPF on genocide holds that all Hutus are responsible for the 1994 Rwandan calamity and that Hutus from all walks of life should be prosecuted. They were prosecuted by either the Gacaca courts or the International Criminal Tribunal for Rwanda (ICTR). The ICTR had prosecuted almost a hundred former Hutu leaders, and not a single Tutsi. Likewise, the Gacaca courts have prosecuted more than 1.2 million Hutu elements without calling any Tutsis to account (UN, 2014). The absence of justice for Hutu victims is another important factor that logically and morally legitimises the belief that the Hutu need to rise up and claim criminal justice for themselves and their rightful place in Rwanda. Undoubtedly, it has always been the duty of the living to seek justice for the dead. If Hutus remain without voice in post-genocide Rwanda, the impunity will prevail on the side of Tutsi counterparts and their oppression will never end.

The 1994 tragedy remains elusive and difficult to define because the voices and narratives of Hutus on the genocide are missing. It remains debatable whether the tragedy should be recognised as Rwandan genocide as to accommodate all victims – that is Hutus, Tutsis and Twas – or whether it should be recognised as Tutsi genocide so as to restrict it to Tutsi victims only. Social and political injustice are embedded in the establishment of the RPF regime around the political rhetoric of the collective guilt of Hutus without distinguishing between the guilty and the innocent. The RPF's insistence on collective guilt is to entrench and consolidate an exclusive power in its hands and, in that respect, justice is used as an instrument of repression to achieve a political goal. Any aspiring Hutu politician is thus silenced through accusation of having a genocide political philosophy. Genocide has become a political weapon used by the Tutsian governance to reduce Hutu majority to second-class citizens, blocking the avenues of reconciling a divided and fragmented society. A great deal has been written on the genocide, particularly illustrating its genesis, discrediting the Hutus' collective guilt and expounding the reasons behind the international community's reluctance to hold the Tutsis to account (Ndagijimana, 2009; Erlinder, 2013).

For example, Kintu (2005), a UN researcher, dismisses the argument holding that Hutus have an extensive plan to eliminate Tutsi civilians. This argument holds that if they had such a plan, they would not have been defeated by the Tutsi minority. His view was confirmed by the findings of the ICTR, in *Prosecutor v Bagosora and Others*, Case No. ICTR-98-41-T of 18 December 2008 (paras 1996, 2258); *Bagosora and Another v The Prosecutor*, Case No. ICTR-98-41-A of 14 December 2011 (paras 730, 740); *Ndindliyimana and Others v The Prosecutor*, Case No. ICTR-00-56-A of 11 February 2014 (paras 253, 278, 322, 388); and *Karempera and Another v The Prosecutor*, Case No. ICTR-98-44-A of 29 September 2014 (para 643), which stated that there was no evidence to support the contention that Hutu leaders were involved in any plan or conspiracy to destroy Tutsi civilians given that the ICTR prosecutorial team failed to discharge the onus to prove their guilt beyond reasonable doubt.

Testimonies provided by senior leaders of the RPF – who fell out of the RPF regime – attest that the RPF planned and executed the shooting down of the former President Habyarimana's plane, which triggered Hutus' reprisal attacks against Tutsi (Ruzibiza, 2005; Erlinder, 2013: 25-6). The Tutsi elites' testimonies and confessions state that the RPF, after assassinating the President, immediately launched attacks in which mass killings and ethnic



cleansing were perpetrated. The ICTR describes this situation as the Hutu and Tutsi civilians being caught up in war-time violence. Despite such recognition, international justice has done nothing to call Tutsis to account. Judges Bruguiere of France and Merelles of Spain have made an attempt to indict and issue arrest warrants for the RPF leaders, including President Kagame, for crimes committed by the RPF (Erlinder, 2013: 152). In this regard, the one-side justice has become a major problem that contributes to the reluctance of Hutu refugees to return home. Politically, the Hutu refugees' refusal to return is used to judge and condemn them without regard for their victimisation by the RPF.

Relying on the justice system to exclude and silence Hutus does not appease the anger caused by the 1990s invasion of Rwanda and the crimes of the RPF against the Hutu community; rather, it augments such anger and strengthens the desire to fight back. What actually saddens and pains the Hutus is that evidence clearly indicates that a higher number of Hutus than Tutsis perished in the horrendous events of 1990-1994. The number of genocide victims during the 1994 genocide is often stated as 800 000 Tutsi and moderate Hutus by the UN reports, and is often stated as more than one million Tutsi by the RPF Government (Turner, 2013: 300). This narrative is contested by many researchers who have developed a counter narrative asserting that if the total number of the Tutsi victims ranged from 800 000 to one million people, "the majority of the victims must have been Hutu and Twa Rwandans, because there were not enough Tutsi in Rwanda in 1994 to yield victim numbers of this magnitude" (Erlinder, 2013: 63; Wells & Fellows, 2016: 61). This implies that most of those accused and brought before Gacaca courts were in fact victims of RPF atrocities, whom the RPF was able to silence through criminalising any claim, narrative, view or opinion holding that Hutus were the majority victims of the genocide. Any person who challenges the official genocide narrative is charged with the crime of minimising or denying the Tutsi genocide. According to Human Rights Watch (2011: 32), the genocide law creates criminal tools such as "revisionism," "negationism," "genocide denial" and "gross minimisation of genocide" that are used to quash debate on the responsibility of the RPF in Rwanda. Suppressing debate and invoking collective guilt are, as Kintu (2005: 18) puts it, intended to protect the true designers of mass murder and ethnic cleansing. The fight of Hutus also includes a struggle to expose the true culprit behind the Rwandan tragedy. In other words, the twisting of facts and truth, which degrades and humiliates Hutu, strengthens their conviction to emancipate themselves from institutionalised moral degeneration.

## ***Conclusion and Recommendations***

The regional instability cannot be separated from the Tutsi's struggle for political domination and supremacy and Hutu's defiance against being governed by the Tutsi minority in Rwanda. To ensure that the Hutus are subjugated and controlled, they were collectively blamed for committing genocide and the collective blame has been used as a weapon to unleash reprisal attacks against them. The RPF government has been invoking the collective blame to call upon host countries to deny or deprive Hutu refugees of asylum or to cross the borders to attack them in their shelters. Whilst the international community has abandoned Hutu refugees to their own despondent, it has been supporting the RPF to attack Hutus at home and abroad with impunity.

Killing Hutus with impunity angers and pains Hutus. They have been killed from 1990 to this day. In an attempt to defend themselves, Hutus – especially refugees – have taken up arms. As Hutu refugees are forced to return through military means and as attacks on Hutu refugees continued unabated, the Hutu resistance blossomed into an armed rebel movement. As the Hutu citizens are subjugated, and as the armed resistance gains wide support among the Hutu population, the territory of the DRC is becoming a fully-fledged battlefield for Hutus and Tutsis.

It has been demonstrated that the Hutu-Tutsi conflict is historically deep-rooted and has led both Hutus and Tutsis to engage in wanton killings during different periods. The Tutsis desire to destroy Hutus in order to maintain exclusive power and the battle has been transferred to the DRC. What this tells us is that, in finding durable solutions to armed violence in the DRC, regional and international actors should grasp the inherent Hutu-Tutsi conflict and thus find ways of reconciling them. Durable solutions should be devised with regard to the significance of the legacy of the 1959 Hutu emancipation from Tutsi oppression and enslavement; the RPF's invasion of Rwanda in 1990 and the rationale behind it; the litany of atrocities committed by the RPF since 1990; and the RPF's shooting down of the presidential plane that triggered the reprisal attacks against Tutsi civilians. Considering the 1959 legacy is key to any durable solution of the Rwandan ethnic tension. The Rwandan Republic is constituted on the 1959 legacy, including the recognition of democratic governance based on the will of the people.

Because Hutus constitute the majority, discussions of power-sharing as well as watchdog institutions are crucial to safeguard any proposed power-sharing. Restoring democratic governance is possible through negotiated political settlement, which will introduce the compromised leadership whereby Hutus and Tutsis will have equal political voice and participation. Compromised leadership will protect the interests of every citizen regardless of his or her ethnic background. It follows that peace and stability in the region will ensue if the regional and international actors have the willpower necessary to consider the killings of the Hutus by the RPF soldiers and to investigate the assassination of President Habyarimana and prosecute the perpetrators.

Finding an effective solution to armed conflict in the DRC is a political question that requires political response by addressing the Rwandan ethnic conflict. First of all, the UNHCR and other regional and international actors need to inform themselves of the politics of Rwanda to grasp the political problems that have uprooted the Hutu refugees, which resulted in the Hutus' resistance to return unless their desired political changes are met. In finding viable solutions, the UNHCR must treat refugees as autonomous individuals able to choose their own destinies, make independent moral choices, shape their identity and participate in the decisions that may adversely affect their lives. Both the UNHCR and host countries must desist from viewing all Hutu refugees as criminals, and rather see them as human beings whose inherent dignity and equal worth must be respected at all times. In respecting their human dignity, authorities must adhere to the fairness and justice principles, including the presumption of innocence until proven guilty. Refugee status cannot diminish these principles. Therefore, the UNHCR should meaningfully engage with all stakeholders with a particular focus on the protection of Hutu refugees who are the victims of the RPF's persecutions. It is unfair to return individuals to their persecutors without evidence that they are criminals.

As a UN agency mandated to protect refugees, the UNHCR must use its power to influence regional countries to initiate an inclusive dialogue between Hutu refugees and the RPF government in an effort to establish peace, security, harmony and tolerance. It has been shown that unilateral, non-democratic, and non-transparent decisions to force Hutu refugees to repatriate will, for example, breed further internal and external violence as such decisions will simply work to intensify the need to repatriate by force of arms. Regional countries should also be at the forefront of initiating and mediating an inclusive dialogue to discuss the alleviation of ethnic Hutu-Tutsi conflict before it spills beyond the region under the pretext of hunting down Hutu *genocidaires*. International community intervention is needed to put an end to

the collective guilt card that the RPF uses to violate the territorial integrity of other nations. Violence is the only weapon that can be used by Hutu refugees to express their dissatisfaction or to compel or induce the totalitarian regime to accept some of the conditions put forward by the oppressed. If there is to be enduring peace in the Great Lakes region, refugee voices and actors must be included in the determination of their fate. Failure to do this will result in protracted conflict and insecurity for the unforeseeable future, or worse, a spread of violence in the region as other state actors are drawn in.

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