

European Master's Degree in Human Rights and Democratisation
Thesis for the Academic Year 2002-2003

**FAILING STATES – FAILING INTERNATIONAL COMMUNITY?
TOWARDS AN AFRICAN APPROACH TO POST-CONFLICT
SITUATIONS AND DEMOCRATISATION: THE CASE OF RWANDA**

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ABSTRACT

The present thesis deals with the concept of post-conflict response to state failure and state collapse and investigates the benefits of democratisation as one of the proposed responses to this phenomenon. Against the background of the theoretical framework that has developed in the last decade, the present thesis specifically focuses on the case of Rwanda. The country provides an example not only of a state which faced failure and collapsed but also one that had begun a democratisation process prior to state failure. Thus in this case, the effects of democratisation can be tested. The conflict left the country with an utterly divided society still confronted with security problems. In turn, the challenge for the present government is how to meaningfully pursue manner a democratisation process which requires both a certain stability as well as a population that shares a sense of common identity. The underlying causes for state failure will be analysed from a mainly historical perspective, which also helps to underpin the general argument in favour of the unique approach chosen by the Rwanda in response to its problems. Along with this a critical review of the International Community is undertaken resulting in recommendations concerning their future role.

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I. INTRODUCTION

1. Motivation

With the rising number of intrastate conflicts since the end of the Cold War, the recent focus of political scientists has concentrated on strategies of the UN has developed in response to post-conflict settlement in countries which have experienced civil-war or other internal disruptions. The standard reply within the framework of the UN (as well as other International Organisations, NGOs and bilateral co-operations), is the call for liberal democracy with financial and technical support given in this respect. The solution is envisioned as the holding of elections and the establishment of a market economy.

A new, more critical view began to be expressed in the late 1990s recognising the failures of this concept, primarily due to its rigidity in application and lack of adaptability to the particular situation of the country concerned. This view calls instead for an adjusted approach providing more room for local solutions.

The present thesis looks at the particular case of Rwanda, a state which - starting in the late 1980s and early 90s and due to a combination of internal and external pressures - has been undergoing a period of transition from a single-party authoritarian government to a multiparty system. Concurrently Rwanda experienced a hitherto unknown degree of societal division – the resurrection and political exploitation of the historical divide along social, ethnic, and racial lines of Abatutsi and Abahutu, originally rooted in the colonial history of the country. This in turn culminated in 1994 as, partially in response to the catastrophic economic situation of the majority of the rural population, the hatred and fear inculcated in the minds and hearts of the people erupted in the tragic crime of genocide.

The political transition period will reach a new phase in this year of 2003, with the promulgation of a new constitution and the holding of general elections. The main challenge for the state institutions will be the difficult task of reconciliation and the creation of conditions which will effectively reinforce the new governmental policy based on the idea of national unity, and the prohibition of any traces of ethnic distinction.

It took some time until, in the field of developmental co-operation, it was recognised that in order for a project to be „sustainable“, it must respond to needs identified by the population concerned with the means that they will accept. The same holds true for forms of government which are supposed to take care of the concerns of the population of a country as a whole. A model imposed or imported from outside will not be sustainable even if it assures the existence of institutions which may have proven efficient in other contexts.

Applying the same logic, the focal point of this analysis therefore, begins with the questions of what, according to the analysis of the people concerned, are the particular problems to be solved. Selected democratic institutions will be looked at in more detail and by examining an historical perspective, the analysis tries to highlight what changes were necessary, to adapt these institutions to the requirements of the country.

Currently, a major problem for former colonies, which make up the majority of the developing worlds, is that their policies are almost always largely a product of external influence and only to a very restricted degree the result of an internal discourse and decisions. Even well-meaning development co-operation and assistance has played its role, under the umbrella of humanitarianism, towards further manipulation and control through the arbitrary use of the instrument of conditionality. Support provided to these countries rarely reaches the broader population. Thus, policy design in these nations has never fully reflected the will of their people and has therefore borne the risks of disruption.

Instead, a more independent, individual approach is needed. The present thesis therefore tries also to analyse the extent to which Rwanda has developed a particular response to the requirements of its problems and to what extent the proposed institutions will be able to respond to the needs of Rwandan society.

The personal motivation to examine this set of problems arises from my personal experience with Rwanda when working there in different development programmes between 1992 and 2000. In the context of Human Rights and Democratisation there were a few issues which particularly struck me: first, there was the evidently very foreign concept of democracy going along with introduction, due to external pressure, of a multiparty system in Rwandan politics. Having only just arrived in Rwanda with rather limited knowledge of the political developments of the country the mostly violent demonstrations of political parties confronted

me with the disturbing reality of a political discourse and party competition¹ performed and understood quite contrary to initial intention.

As for the actions of the international community, the most striking experience for me was the inconsistent approach to what was going on in Rwanda which stood in stark contrast to what the international community always held up as their values. In the period immediately preceding genocide, which was likewise characterised by brutal massacres of large numbers of people from the Abatutsi group as well as members of the political opposition the international community did not use its No. 1 weapon, conditionality, to put a halt to these practices². Instead it kept its comfortable arrangement with a regime that guaranteed „law and order“ for the successful or at least the undisturbed implementation of thousands of development projects.

After the genocide, all of the sudden the International community had respect for „Human Rights“ and “Good governance“ on its agenda and applied it with a sudden vehemence and incomparable rigour within a state now hardly able to function at all due to lack of human or financial resources; a state facing the multiplied social and economic problems caused by genocide and civil war. Hesitating now to provide the aid so desperately needed, the international response once again put the country to a risk of failure by aggravating the difficult situation in which the country found itself.

2. Structure

This thesis will be divided into four parts. Following this introduction, the second part will deal with the general theoretical discussion of the issue of post-settlement of states which have been experiencing internal conflict, and the formulation of particular questions which should be looked at with respect to the case of Rwanda.

The third part will start with a short overview of the historical background of Rwanda from the pre-colonial period to the end of the Cold War, giving the necessary background information to illuminate the scope of problems faced and to better understand the present day decisions that have been taken.

¹ Parties were identifiable by the colours unique to them. Party members showed their membership by wearing caps in the colours of their party. Outbreaks of general violence were easily provoked during demonstrations by street-boys, paid to wear the colours of one party, and to attack the members of another party and thus shifting the blame of aggression to the opposing party.

² For example, the German Development Bank, KfW, held Intergovernmental Negotiations in 1993 with the Rwandan Government agreeing on a further extension of an important countrywide combined reforestation and agricultural programme. Astonishing for me is the fact that the recent and publicly known killings of Abatutsi people did not influence or hinder the successful concluding of the negotiations.

Following this, the subsequent time period will be divided into a pre- and post-genocide segment for a more detailed institutional analysis attempting to make evident the institutional adaptations which were made along with the developments that took place. Parallel to this the reactions and position of the international community will be highlighted.

Focus will be placed on - according to my interpretation – the particularly Rwandan elements contained in the new constitution, which will serve to underline my general argument in support of an individual solution to be found for Rwanda.

Intermediate conclusions are integrated throughout, focusing on the main ideas of the respective sections.

Despite my rather pessimistic view of the honesty of desire of the international community to truly „create a better world“ it is still important to remain optimistic. With an international community - led by an „elite“ group of states keen to respond first to their own interest - this community is caught between the pleasure of exerting power on a country and the obligations to fulfil international requirements and standards to work for a general good. Which side will emerge victorious will depend on the individuals involved.

The concluding fourth part of the thesis will therefore contain not only a general appreciation of the present Rwandan constitution but will include also some conclusions with respect to the role of the international community.

I. STATE FAILURE AND ADEQUATE RESPONSE - STATE OF THE ART

1. General

A standard introduction to the topic makes reference to the phenomenon of increased occurrence of cases of state conflicts and state crises in the last two decades with a changed pattern from inter-state conflict to intra-state conflicts. Africa takes a sad lead among the continents regarding most intra-state conflicts.

A focus on one individual state, which the present work does, provides all of the components of the general phenomenon currently of interest in political and social discourse: state failure and response. The local focus upon Rwanda reveals: the failure of the state to maintain, or even perform, its regulatory role (from at least the late 1980's); a confrontation with growing internal opposition; a process of democratisation within an authoritarian regime – a result of international pressure – interrupted by the escalation of internal conflict into murderous violence, leaving a country marked by the effects of violent conflict and state failure. Finally the example of Rwanda affords an example of a state now attempting to overcome this legacy and continue with the democratisation process. These reasons explain, why a local focus, primarily within Africa, has been selected for this work.

A definition of the state in internal conflict situation will proceed a short presentation of perspectives within the academic discourse and of leading actors. They will deal with the analysis of the underlying causes of conflict and the relevance of the topic as such before proceeding to the issue of determining what approaches to conflict response, especially in post-conflict situations, are adequate with respect to a long-term effect. As emphasis is put on the establishment and consolidation of democratic institutions the issue provides ground for further academic analysis.

2. Definition

Interested in the effects of conflict on the state, „the humanitarian tragedies“ it involves, Deng, starting from a definition of conflict as „a situation of interaction involving two or more parties in which actions in pursuit of incompatible objectives and interests result in varying degree of discord“ which „at its worst culminating in high-intensity violence,“ develops the following definition of conflict resolution focusing on institution-building: it is

„a normative concept aiming at reconciling, harmonizing, or managing incompatible interests by fostering a process of institutionalized peaceful interaction“ in order to establish „the normal state of affairs and raising the level of peaceful, harmonious, cooperative, constructive, and productive interaction, even with competition“.³ Deng’s future option for a conflict resolution mechanism which is in accordance with the UN strategy proposal is already identifiable.

A number of adjectives, such as „weak“, „failed“, „collapsed“ or „inverted“, to describe the different types and situations representing a state have used to characterise states which face crisis and conflict (either externally or internally) and may, in the long run, not be able to cope with it. Ayoob’s definition of a failed state is „the combination of a juridically sovereign but empirically non-functioning central authority“.⁴ Rotberg, in defining a failed state, concentrates on the „political goods“ as the very ‘raison-d’être’ which in a failed state, either wilfully or due institutional incapacity (excepting the Executive), have either ceased to function or been greatly weakened.⁵ All definitions differ in degree and it is difficult to choose one term for a particular situation of a state, a fact attested by inconsistent appliance by academics themselves. The terms can best be used in a sort of spectrum or continuum beginning with „stable“ and proceeding in ascending (or descending) order. Terms such as „failed states“ and „collapsed states“ are applied when looking at the process as well as the result. „Inverted“ is alternatively substituted for „collapsed“ to respond to the fact, that especially in Africa states in the majority did not really collapse.⁶ Other terms for the result of the state crisis in a sociological or political perspective include „divided societies“ and „complex political emergencies“⁷.

Relevant questions regarding states which can be placed on one level or other of the crisis continuum concern the underlying causes; the relevance of the state crisis in an international

³ F.M. Deng, *Anatomy of Conflicts in Africa*, in L. Van de Groor, K. Rupesinehe, P. Sciarone (eds.), *Between Development and Destruction. An Enquiry into the Causes of Conflict in Post-colonial States*, London, MacMillan Press, 1996, p. 220.

⁴ M. Ayoob, *State-Making, State-Breaking and State Failure: Explaining the Roots of ‘Third World’ Insecurity*, in L. Van de Groor, K. Rupesinehe, P. Sciarone (eds.), *Between Development and Destruction. An Enquiry into the Causes of Conflict in Post-colonial States*, London, MacMillan Press, 1996, p.81.

⁵ R. I.Rotberg, *The New Nature of Nation-State Failure*, in „The Washington Quarterly“, Summer 2002, p. 87. Political goods being security, education, health services, economic opportunity, legal framework of order and the judicial system.

⁶ R. Jeffries, Bookreview in „Africa“, Vol. 71, No. 3, 2001, p. 513.

⁷ D. Pankhurst, *Complex Political Emergencies: From Relief Work to Sustainable Development*, COPE working paper no. 6, Centre for Development Studies, University of Leeds, 1998, p. 1. A term within UN usage to

context; the possible role of different actors; the best political system to cope with the problems; how to respond to a divided society.

3. Causes of state failure and conflict

As for the causes of the state crisis a number of authors go beyond the immediate and sometimes stereotyped analysis of the failure of states as „man-made“ and a result of „leadership decision and leadership failures,“⁸ and point to the issue of state-building and nation-building in ‘Third-World’ countries in the post-colonial period. Among them, Deng, Ayooob and Spanger underline the fact that while the European nation-states needed hundreds of years to build their states and nations only recently agreed on a democratic political systems, African countries – representing most ‘Third-World’ post-colonial countries - are under pressure to reach the same situation in only a few decades, if not less. The very process of state-building implies conflict. The state is the result of violently fought but ultimately settled conflicts. The European states had the advantage of being able to experience and sort out internal and external conflicts without outside intervention. African states, in contrast, are artificial constructs, in which the state is the result of an externally defined geographical border and a government and bureaucratic structure, established and then left behind by the colonial powers. As the government is not the product of a decision-making process of the society, of the people, the government can suffer from a lack of legitimacy. These factors, in combination with the consequences of state-borders drawn with no respect for ethnic divisions, are the root causes for ongoing internal and regional conflicts.⁹ Zartman clearly objects to this link between colonial experience and state failure as to him state failure is „a condition of nationalist, second- or later-generation regimes ruling over established (i.e. functioning) states.“¹⁰

Ayooob and Deng also underline the effect of the new international order which gives the International Community – and after the end of the Cold War predominantly the Western

characterise conditions of multi-dimensional crisis with profound suffering which requires multi-agency response, whose root causes are partly political and where the state has either failed or collapsed.

⁸ R. I. Rotberg, *idem*, p. 93.

⁹ In the rather wide range of Rotberg’s definitions of failed nation-states developed from recent examples of state failure, the lack of legitimacy and the „impossibility of the state to deliver positive political goods“ are essential ingredients for a „failed state“. In this sense, one may ask to what extent post-colonial states could not have been defined as failed states from the very beginning of their existence.

powers - the opportunity to permanently influence internal developments in African state policies.¹¹ Essential phases of state-making process had to be bypassed, or avoided entirely due to time pressures imposed by an International Community willing to accept all states – but only with the sole requirement that those states were formally comparable structurally – even if those states had not yet internally completed the state-building process and would have technically been considered a failed state.

Ayoob stresses the unequal conditions - economic, political and social -, which impede the new norms to be respected by the Third World States and hereby partly questions the universality of those norms especially regarding human rights. Under colonial rule the concept of self-reliance had already been replaced by the concept of a welfare-state system providing social services such as education and health-care. Due to a lack of resources this could not be realised in a way guaranteeing equal access for all,¹² which resulted in the development of societal disparities. In the case of the African states, a new international order protecting (or limiting) new states with „inalienability of juridical sovereignty and statehood“ within the borders inherited from colonial times is contradicted by another international order requiring the obligation to human rights fulfilment. The human rights requirements confront the state with demands that it cannot respond to without putting their territorial integrity at risk.¹³ In this way, intra-state conflict is more a result of external influence.

Sørensen's position highlights the relationship between state and society. It is impossible for the society outside the state bureaucracy to control and limit the state's elite from exploiting their control of the state for their own benefit. The state elite has „captured autonomy“ of the state from society.¹⁴

Yet another perspective pointing in a similar direction is summarised by Murshed¹⁵, who supports the fact that „conflict-affected nations have histories of weak social contract (or a once strong social contract) that has been degraded“. Factors leading to this weak social contract are to be found in „pre-colonial ethnic rivalry over territory and assets“ as well as

¹⁰ H.J. Spanger, *Failed States or Failed Concept? Objections and Suggestions*, Paper written for Failed States Conference, Florence, 7-10 April 2000, http://www.ippu.purdue.edu/failed_states/2000/papers/spanger.html, p. 4.

¹¹ M. Ayoob, *idem*, p. 73.

¹² F. Deng, *idem*, p. 222.

¹³ M. Ayoob, *idem*, p. 76.

¹⁴ H.J. Spanger, *idem*, p. 3.

¹⁵ S.M. Murshed, *Conflict, Civil War and Underdevelopment: An Introduction*, in „Journal of Peace Research“, vol. 39, No. 4, 2002, pp. 387-393.

the „legacy of colonialism“, which Murshed limits to favourable conditions for settlers, a society internally divided along ethnic lines and „expropriation of land and resource rents“. As a further contributing factor independent from colonial intervention he includes the taking of power by one ethnic group in the immediate post-colonial era and the subjugation of others ethnic groups.¹⁶ These internal factors were superceded by external factors such as the Cold War, which supported elements of the state society - ideologically, financially and militarily - according to ideological interests of the opposing super-powers.¹⁷

The international norm requires the greater and greater fulfilment of democratic standards. However, an effective democracy, requires a strong state which „monopolizes credible the instrument of violence to preclude dissident groups from attempting to change the state’s boundaries when political controls are relaxed“¹⁸. Autocratic features of a state therefore seemed expected to be linked to an ongoing state-building process in Africa even under a democratic political system.

The effect of the democratisation process as such in contributing to violence has been noted.¹⁹ It can, however, not be identified as a root cause but rather as a trigger.

A less developed, or immature, democracy and an undeveloped economy are both favourable conditions for ethnic mobilisation and political violence, without ethnic diversity as such being the reason for conflict.²⁰ This environmental influence on ethnic conflict must be taken into consideration in conflict resolution approaches. The development of the economy should thus gain even more importance when combining development and democracy.

The „economic agenda of civil wars“ should definitely not be forgotten. The inter-linkage between lack or existence of natural resources and/or natural wealth on the one side and conflict and state failure on the other, has lately become of particular interest for academic analysis. In this context the underlying causes are positioned as being motivated by greed (economic arguments) or grievance (political/social suffering). The economic analysis extends also to matters such as the impact of international donor mechanisms as structural

¹⁶ Idem, p. 90.

¹⁷ See also AYOOB, p. 80-81

¹⁸ M. Ayoob, p. 84.

¹⁹ G. Sørensen, *Democracy and Democratization. Processes and Prospects in a Changing World*. Second Edition, Boulder, Westview Press, 1998.

²⁰ D.Y. Mousseau, *Democratizing with Ethnic Divisions: A Source of Conflict?*, in „Journal of Peace Research“, vol. 39, No. 5, 2001, pp. 547-567. P. 564.

adjustment programs, the extent humanitarian intervention contributes to the perpetuation of conflict, the particular economic interests of the ruling elite, the role of the private sector in promoting or settling conflict.²¹

4. Why the sudden interest?

Finally, it is also interesting to look at the motivation behind the increased attention paid to state failure, state collapse and conflict which can be found explicitly and implicitly in the academic discourse. While Deng is mainly guided by moral considerations for possible action, Ayoob derives the priority of the topic - before the much more common theme of democracy versus dictatorship - from its international impact when pointing out „that the failure of the state in the ‘Third World’ constitutes a much greater source of human tragedy than the repression of people by even the most autocratic, but functioning, states like Iraq and Syria“.²² Human suffering and disorder which will not necessarily be limited to the ‘Third World’ but could easily extend through the international system as a whole, and only in part due to the military legacy left behind by the superpowers.²³

Another issue arises from the threat which failed states poses to the international system as according to Rotberg, they provide refuge for non-actors such as warlords and terrorists. Thus „understanding of the dynamics of nation-state failure is central to the war against terrorism“²⁴ and gains a „new urgency“. Rotberg’s partisan position underlines the strong interdependency between state policy and scientific research evident in the field of political sciences in which the direction of influence proceeds in seemingly different directions.

Last but not least, does the attention paid to failed states provide the opportunity to improve the Western project of „democratisation“ of the Third World begun with the end of the Cold War? Now this project can be approached with a newly gained legitimacy couched as humanitarian assistance and can be grounded on more solid feet. It helps to reinforce the control and domination over the South - probably with some material benefit²⁵ - by the

²¹ See: Mats Berdal and David M. Malone (eds.), *Greed and Grievance. Economic Agendas of Civil Wars*, London, Lynne Rienner Publishers, 2000 and Paul Collier, *Economic Causes of Civil Conflict and their Implications for Policy*, Development Research Group, World Bank, 2000.

²² M. Ayoob, *idem*, p.81.

²³ M. Ayoob, *idem*. It should be noted that the use of the term Third World in AYOOB’s argumentation includes also the former communist states in Eastern Europe

²⁴ R.I. Rotberg, *idem*, p. 85.

²⁵ If only in the enlargement of the marketplace for the Western economies.

assimilation of (until now unknown or difficult to understand) systems now made subject to Western patterns of political rule.²⁶

5. Proposals and approaches

In reference to the man-made concept of state failure it should be remembered that behaviour of African leaders has been influenced and shaped by the role which the dominant world powers played - either directly or indirectly through the UN – with relation to individual countries and the African continent as a whole.

The history of most African-International relations is a history of manipulation of and impositions on African countries and states. This tendency extended politically from the period of colonisation, over an independence period dominated by the Cold War Era²⁷ to the Post Cold War era and can also be found in economic relations regarding development assistance. Real independence has never been achieved or has never been permitted.

When reference is made to the Cold War Era nowadays one gets the impression that it is looked at as a natural phenomenon which imposed its own rules on international relations. However, it was first of all marked by the clear decision of the different blocs for a certain policy, without necessarily respecting the fundamental principles upon which the nations participating in the Cold War themselves were built.²⁸ Disregarding the very fundamental and universal precept of respecting the will of the people in deciding on their leadership, states and leaders who did not respond to the will of their people were strengthened and supported by the international community. International relations are, first of all interest driven. With the end of the Cold War the effects of this kind of support - state instability, state crisis, violent conflicts - became evident, and the question of the legitimacy of this style of international relations was finally raised.²⁹ The original fundamental principles had to be revived. In non-equal relations the assimilation of the systems by promoting democracy have been one way to achieve legitimacy. Being subject to time pressures, as international relations cannot wait for the time needed until political sound systems naturally develop, a compromise

²⁶ J. Hippler, *Demokratisierung der Dritten Welt nach dem Ende des kalten Krieges*, in J. Hippler (ed.), *Demokratisierung der Machtlosigkeit – Politische Herrschaft in der Dritten Welt*, Hamburg, Konkret Verlag, 1994, S. 11-45.

²⁷ I.A. Gambari, *Triple Agenda but One Global Vision (Boutros Boutros Ghali's contributions as United Nations Secretary General in the Post-Cold War Era) An African Perspective*, in B. Boutros-Ghali, *Amicorum Discipulorumque Liber*, Vol. II, Brussels, Bruylant, 1998, p. 1061.

²⁸ Idem, p. 1061.

²⁹ R. Ben Achour, *La contribution de Boutros Boutros-Ghali à l'Emergence d'un Droit International Positif de la Democratie*, in B. Boutros-Ghali, *Amicorum Discipulorumque Liber*, Vol. II, Brussels, Bruylant, 1998, p. 910.

had to be found. The request to establish democratic institutions was responded to in most cases, but in being imposed from above they were reduced to mere formalities.

5.1. The UN approach

In the UN Agenda for Peace 1992 and its supplement of 1994 the Secretary General underlines the reasoning behind its establishment: it is meant as a support of the Security Council, facing new challenges after the end of the Cold war, in its responsibility to maintain international peace and security under the UN Charter. Thus, apart from preventive actions, which essentially depend on the willingness to take appropriate actions, apart from peace-keeping and - building all UN sections including the General Assembly are requested to joint efforts to address both the effects and the underlying causes - „economic despair, social injustice and political oppression“ – and increased conflicts and intra-state wars³⁰. „When requested“ the UN should give institutional support promoting democratic practices.³¹ The Agenda is likewise a document which calls for the re-strengthening of the UN after having overcome the paralysing effects of the Cold War Era and pleads for resistance against unilateralism and isolationism. One essential condition for peace is that the Organisation itself should be ruled by democratic principles. Thus, to avoid risk of mistrust in the UN instrument, the principles of the Charter should be applied in a consistent manner.³² The Secretary General likewise calls for a renewal of the UN Organisation to overcome internal hindering habits and structures left over from the Cold War Era.

The Supplement to the Agenda for Peace of 1994, taking into consideration the recent cases of increasingly severe state conflict (especially in Rwanda) gives a revision and precision to the UN response to conflicts. Opting for a passive role of the UN, the Supplement calls for an extension of international intervention in a sensitive manner for „reconciliation and re-establishment of effective government“, yet, „reluctant ... to impose new political structures or new state institutions“ in response to the effects of internal state conflict, by which is understood the „collapse of State institutions“.³³ In a later paragraph this ‘reluctance’ is somehow relativised when the new tasks taken by peace-keeping forces are listed, among others, as „the establishment of new police forces“, „the design and supervision of

³⁰ *An Agenda for Peace*, Report of the Secretary General pursuant to the statement adopted by the Summit Meeting of the Security Council on 31 January 1992, in in B. Boutros-Ghali, *Amicorum Discipulorumque Liber*, Vol. II, Brussels, Bruylant, 1998, p.1484.

³¹ *Idem*, p. 1497.

³² *Idem*, p. 1503.

³³ *Supplement to an Agenda for Peace*, *idem*, p. 1507.

constitutional, judicial and electoral reforms“ and „the observation, supervision and even organization and conduct of elections“³⁴. In both papers the need is stressed for co-ordinated programmes which pay tribute to the time needed to guarantee as sustained approach addressing the underlying causes of the conflict in socio-economic, cultural and humanitarian respects.

The Agenda for Peace is complemented by the Agenda for Development (1994) which aims „to strengthen and revitalize international development cooperation generally, to build a stronger, more effective and coherent multilateral system in support of development, and to enhance the effectiveness of the development work of the Organization itself.“ The Agenda for Democratization (1996) promotes „a culture of democracy to assistance in institution-building for democratization (...) as key component of peace-building“³⁵ concentrating on electoral processes but also helping „to improve accountability and transparency, to build national capacity and to reform civil services,“ „support for the rule of law,“ „to build human rights institutions,“ „to create police and military forces respectful of human rights and the rule of law“ and to „depoliticize military establishments“. All agendas should function interdependently.

The executing actors are found in the UN system with the special organs, specialised agencies and Bretton Wood institutions, but also in bilateral development policy and (international) NGO intervention. The ideological fine-tuning of the approach is clearly marked by the main contributors to the UN finance system, if not only by the primary contributor. While the theoretical framework provided by the Secretary General and the policies of the agencies is rather carefully formulated, it should be born in mind that practical implementation normally involves other dynamics which, to a large extent are influenced by the individuals responsible for the design and realisation of the respective programmes.

Furthermore it is evident that the UN approach is more reactive than preventive. This is an inevitable consequence of the fact that it both fails to use its structure as a monitoring instrument or to respond to the critical observations made indicating possible further deterioration of a state system.

³⁴ Idem, p. 1508.

³⁵ *An Agenda for Democratization*, idem, p. 1606.

A recent analysis of the success of the UN concept of a liberal democratic polity of post-conflict settlement approach has been undertaken by Ramsbotham³⁶ and Paris,³⁷ however, without differentiating between the different agencies. It is characterised by its underlying „single paradigm of international liberalism“ based on the assumption that peace can only be based on liberal democracy and a market oriented economy.³⁸ It applies a „standard operating procedure“ (SOP) „as part of a new global agenda“³⁹ reflected in the dominant capitalist and liberal democratic ideology represented by the major Western states as well as NGOs and International Organisations under the same ideological influence. As any UN policy approach it has its effect on policy formulation for bi-lateral co-operation - be it governmental or non-governmental. The main weakness of this „SOP“ is that it does not provide for much room for adaptation to the particular conditions prevailing in the country concerned.

In this context Ramsbotham gives a overview of the overwhelming number of complex factors to be considered in a post-settlement situation which he divides into two interdependent tasks: the prevention of relapse into war and the construction of self-sustaining peace. For the latter this means solving three deficits detectable in conflict ridden countries: the political/constitutional incapacity, economic/social debilitation and psycho/social trauma. Combined approaches of solutions to the two tasks causes tension.⁴⁰ The UN responds to this with a standard procedure, which has undergone little change in its more than 20 years of application by acknowledging the necessity to turn to development activities and thorough reconstruction at a certain point.

Ramsbotham compares different critical positions based on the analysis of major UN interventions in a set of countries (Cambodia, El Salvador, Angola, Mozambique and Namibia) for post-conflict or - as he prefers - *post-settlement* peace-building and identifies 6 main points of criticisms:

1. Peace-building from below rather than a top-down approach
2. More emphasis should be put on aspects of the economic/social and psycho/social dimension
3. The time-frame should be increased so as to be more realistic

³⁶ O. Ramsbotham, *Reflections on UN Post-Settlement Peacebuilding*, in Woodhouse and Ramsbotham (eds.), *Peacekeeping and Conflict Resolution*, London, Frank Cass, 2000, p. 169-189.

³⁷ R. Paris, *Peacebuilding and the Limits of Liberal Internationalism*, in „International Security“, Vol. 22, No 2, 1997, pp. 54-89.

³⁸ *Idem*, p. 56.

³⁹ O. Ramsbotham, *idem*, p. 170.

⁴⁰ *Idem*, p. 175.

4. A questioning of third party intervention due to the disproportionate power and interest relations of intervening states as well as regional implications of intervention
5. The question of the applicability of Western approaches to non-Western countries
6. The question of the extent of force to be used⁴¹

He comes to the conclusion that while it is still not possible to argue that the applied framework has failed it likewise cannot yet be clearly stated that the UN approach has been successful, also if only due to the fact, the task is not yet completed. However, the overall assessment of criticism according to Ramsbotham still tends to recommend more rather than less international intervention. The critics lack a „systematic discussion of the liberal universalistic assumptions behind the whole undertaking“ as well as fail to offer alternative approaches.

Considering the dominant and very imposing position and approach taken by the international (mostly) Western community in conflict settlement and peace-building Ramsbotham's call for a broadened debate on the appropriateness and legitimacy extended to participants in developing countries is more than justified. Overall he assumes, however, that independent of the type of framework applied by the UN „local politics will evolve idiosyncratically in different parts of the world“ once you look beneath the ‘democratic’ surface. Thus he himself accords a rather limited impact to the UN framework.

Paris bases his analysis of the UN response to post-conflict settlement on the underlying assumption that the UN response pattern is based on only one paradigm, market democracy - liberal democratic polity and market economy - or what he calls ‘liberal internationalism,’ which provides the guarantee for sustainable peace. As a peace-building device it is applied only since in Post Cold War context but already introduced generally in the conditionality linked to financial and technical assistance offered in international co-operation.

By focusing only on a procedural concept of democracy, which satisfies itself with the establishment of democratic institutions assisted by market-oriented economies⁴² the UN approach to peace-building - although shared by most international organisations and international NGOs - is too simplified.⁴³

Basing his analysis on a case study of eight countries, Paris finds the effects of UN intervention to have a rather destabilising character. He discovers disruptive effects of main

⁴¹ Idem, pp. 178-179.

⁴² R. Paris, idem, p. 61.

elements of the liberal framework in elections (in Cambodia, Angola, and Rwanda) and structural adjustment programmes (in El Salvador, Rwanda, Nicaragua, and Mozambique). Existing mistrust is increased through elections by the approach of the parties, whose sole interest is the strengthening of their own position rather than by a programme for the society as a whole. Structural adjustment programmes increase the gap between rural areas and the cities and between rich and poor, in turn causing social and political unrest by limiting public spending on peace-building measures such as investments in health and schooling.

Paris traces these destructive elements to the tension between the logic of democracy and capitalism. The „paradox of democracy and capitalism“⁴⁴ lies in the fact that democracy and capitalism are fundamentally based on the idea of „conflict“ and competition. In peaceful wealthy Western states the public expression of conflicting interests, on the one hand is encouraged but through channelling into peaceful political institutions these conflicts are prevented from becoming violent.⁴⁵

This becomes problematic when the absence of necessary institutions prevents this channelling from taking place. Therefore, holding elections in divided societies can lead to further division when parties are oriented to exclusiveness and furthering their members' advantages while ignoring the broad public interest. It is not democracy which is inherently violent but adversarial politics „misuse“ of democracy.

The violent element of capitalism lies in its promotion of economic inequalities. While wealthy western states can respond to this by the establishment of welfare systems, developing states lack this possibility and are even forced through structural adjustment programmes to reduce the little they could do in this respect. Social unrest in societies emerging from conflict, and thus still heavily armed, can easily lead to a re-kindling of hostilities.

In his further argument Paris by rejecting alternative models, like forms of authoritarianism or the application of a „strategy of partition“⁴⁶ along the dividing lines within the society maintains a position in favour of the liberalisation approach, while calling for what he labels 'strategic liberalisation'. This could limit the destabilising effects of liberal internationalism through five major elements: (1) the development of a more gradual and controlled process of democratisation (delayed timing of elections; promotion of citizens associations, suppressing

⁴³ Interestingly, peace-building activities are still mainly performed by actors committed to the Western models of economy and politics. Others, like regional organisations of another ideological influence according to PARIS seem to be hardly involved, if at all, in peace-building.

⁴⁴ Idem, p. 73.

⁴⁵ Idem, p. 74.

⁴⁶ Idem, p. 80.

extremist politics and propaganda); (2) designing electoral arrangements that reward moderation rather than extremism; (3) redesigning adjustments policies which are not austerity measures but which promote growth and equity; (4) the co-ordination of peace-building operations; (5) the extension of the intervention period.

5.1.1. Democratisation = Elections?

Elections, occupying a central position in the international approach to post-conflict settlement and a particular aspect of the liberal strategy approach as well in general on discussion on democratisation, (the transition from authoritarianism to democracy), deserve special consideration. The general debate on elections, divided into electoralist and anti-electoralists camps, pivots around the questions of when elections should take place, what are the preconditions for them to be effective, and is the holding of an election without the fulfilment of these preconditions legitimate or merely a formality. In a position paper Clark⁴⁷ claims the pro-election position is gaining support. Studies seem to prove that, on the one hand, the emergence of electoral democracies can serve as indicator for improvements in civil and political rights as well as human rights and on the other hand that economic development is linked with the evolution of democracy. Democracy, however, does not depend on economic development as a prerequisite⁴⁸. A third support is provided for the pro-election position by the changes achieved in the election-monitoring process, which now assuredly takes into consideration „guarantees of civil and political liberties in the pre-and post-election environment“.⁴⁹ More important yet is the phenomenon of „transitional elections, as the expression of political change, as the catalyst for international action, and the frame for evolving ideas on the nature of democracy“.⁵⁰ Admitting only a slight possibility of being subject to external pressure by outside powers, Clark characterises the motivation for elections as „demand driven“.⁵¹ This demand, however, still seems created - even in her argumentation - by „pro-democracy policies of donor countries" in their response to state failures and transitions, which „have created a mini-industry to support democratization through assistance and diplomatic, even military commitments“. In the support of elections, for Clark the new approach of election monitoring is important, as it puts the emphasis on the overall democratic context in which elections are held and which aims at giving advice and

⁴⁷ E. S. Clark, *Why Elections Matter*, in „The Washington Quarterly, Vol. 23, No. 3, 2002, pp. 27-40.

⁴⁸ *Idem*, p. 28.

⁴⁹ *Idem*, p. 28.

⁵⁰ *Idem*, p. 29.

recommendation, rather than judgement which is extended from pure electoral concerns to the political sphere. This quality change in election monitoring not only provides the opportunity „to make statements about what constitutes a democracy“ but also provides a picture of the real state of democratisation in the respective country.⁵² For Clark this provides the general argument in favour of the earliest possible elections, while at the same time, acknowledging the existence of exceptional cases, which may require an individual approach. Post-conflict societies are definitely one of those cases. To keep democratisation ongoing, elections, as the essential motor of process must be held regularly.⁵³

This position, shared by many „electoralists“, still defends a top-down approach, not allowing for the opportunity for the people to develop a democratic system appropriate for them. The „demand“ impulse can be regarded as artificially created through conditionality on aid or through the promising perspective to be allowed in a circle of economic organisations, thus imposing democracy.

In response to this, the anti-electoralist argument would bring forward, based on experience, that „elections held under the wrong conditions can be a real setback for democratisation“.⁵⁴ Thus democratisation, as a desirable solution for failed states, should be approached as a long term process, which can even then still trigger undesirable side-effects. A re-democratic movement must definitely be established before elections can be held - and not one whose main goal is solely the replacement of the existing regime-⁵⁵. Another voice against a procedural approach to democratisation as regularly scheduled elections is Zartman, who stresses that it is instead „more important that the functions of democracy as a legitimizer, through participation, be fulfilled“⁵⁶ rather than being „shaped for external consumption“ in order to keep donors happy.⁵⁷ According to Ottaway, favourable conditions for democratisation include a pluralistic fragmentation of the elite without monopolistic attempts, the existence of an economic interest group, which can counterbalance a political interest

⁵¹ Idem, p. 30.

⁵² Idem, p. 39.

⁵³ Idem, p. 37.

⁵⁴ M. Ottaway, *Democratization in Collapsed States*, in I. W. Zartman (ed.), *Collapsed States: the disintegration and restoration of legitimate authority*, London, Lynne Rienner Publishers, 1995, p. 265.

⁵⁵ Idem, p. 244. In this respect the approach to democratisation and conflict resolution based on election should also consider the establishment of parties, which know what their role is in a democratic system and whose role is clear to the people.

⁵⁶ I. W. Zartman, *Putting Things Back Together*, in W. Zartman (ed.), *Collapsed States: the disintegration and restoration of legitimate authority*, London, Lynne Rienner Publishers, 1995, p. 271.

⁵⁷ T. Young, *Democracy in Africa*, Review Article, in „Africa“, Vol. 73, No. 3, 2002, p. 491.

group, and the necessity of defining self-determination as the right of the individual to control the government.⁵⁸

5.1.2. The ideological framework

One of the strongest critics of the international approach of promoting a ‘low intensity democracy’ first to countries in transition from one system to another, but specifically to states emerging from conflict situations – according to the aforementioned ‘Standard operational Procedure’ – is Marks. In her analysis she points out to the parallels of this approach with Schumpeter’s very reduced and outdated conception of democracy which ignores the idea of participation and leaves out the whole range of public decision making while insisting on the concept of democracy as a purely government produced instrument, only functioning if civil and political rights, the rule of law and regularly held elections are guaranteed as necessary supportive measures. With its focus on formal aspects (as institutions and events) „it reduce(s) the justification for challenging the existing order, and thus (to) weaken(s) the impetus for radical social and political change“.⁵⁹ The potential of democracy as a promoter of change and criticism of prevailing arrangements is suppressed, and political restructuring and socio-economic change are checked.

The reason behind the predominant approach according to the group of analysts represented by Marks has to be found in the link of international politics and economic perspectives with a changed Post-Cold-War-Era-world dominated by capitalist forces. At the moment state collapse is at risk, the promotion of a low intensity democracy model helps to stabilise states before social unrest can develop into forces, which might potentially challenge the newly achieved global power-order. The influence and strain of powerful transnational forces on international politics must be taken into consideration. The prospective effect of low intensity democracy is the stabilisation of „existing positions in the global distribution of power and resources“, and responding to the immediate requirements of state failure without encouraging more deep structural change thereby guarantees the maintenance of preferable structural deficits. In the end, real development is not required. Low intensity democracy provides the key to open market barriers, and legitimises „policies of economic liberalization, structural adjustment, exchange deregulation and so on“ when requested by „elected

⁵⁸ M. Ottaway, *idem*, p. 245.

⁵⁹ S. Marks, *The Riddle of All Constitutions*, Oxford, Oxford University Press, 2000, p. 52.

governments“.⁶⁰ Or as another critic formulated it: ‘the new formal democratisation is the political corollary of economic liberalisation and internationalisation’.⁶¹ In the end, according to the last critic low intensity democracy will not ultimately succeed because it will „deepen fundamental social and economic problems“. As an alternative a „popular democracy“ is proposed, which takes civil and political rights, rule of law and elections as „preconditions for processes of democratisation, which unfold to the extent that structures are developed which allow for ... the direct participation of majorities in their own vital affairs.“⁶² In another version this popular democracy also provides for „far-reaching redistributive change, as well as devolution of power to regions and localities“. Important for these critics are two aspects: first, the demand for coherent standards, that the same principles and practices which are valid in context with the analysis of democracy in stable democratic societies should be applied also to transitional countries. Second, that the „social and material conditions (which) affect the opportunities for political participation“ should be taken into consideration, which, with the focus on the form of election, are up to now overlooked.

The low intensity democracy approach enters into international law with the democratic rule thesis. The main criticism again, is that standards for democracy in international law are measured in two different ways by pursuing a two-track approach, which for developed societies envisions democracy in terms of a sophisticated track, but for the rest involves a ‘long march through formalism.

The following political implications for the evolutionary process of democratisation according the democratic rule thesis are highlighted by Marks:

- „Understanding democratic reconstruction (...) as a set of empirical data which the authorities are well advised to obtain, consider, adjust to local conditions and eventually operationalise“ and presenting the democratic change as „a technical challenge, the democratic norm thesis depoliticizes the meaning of democracy“.
- Continuity is not wished or not foreseen. A break with the old regime is expected, without integration of former values.
- The development of economic power and of civil society has to give way to prioritised elections, parliament and parties; democratisation of state institutions is more important

⁶⁰ Idem, p. 57.

⁶¹ Idem, p. 57.

than the democratisation of civil society and as consequence: civil and political rights take priority over economic and social rights. Arising problems of economic inequalities are not addressed.

- Furthermore, „democratic change is cast as independent of changes in the organization of economic life.“

Although having developed her argument based on an analysis of Eastern European States after the Cold War the applicability to African conditions seems possible.

5.2. The African approach

One should note that one main aspect of this approach seems to be the level of identification of possible roles for the African players. Analysis of the question of what extent a particular African role has been played and how that particular role has been played is difficult to find. Much more remains in a stage of appeals to act in a certain way. A very positive and encouraging impulse in support of finding African solutions based on newly achieved self-esteem was provided by the South-African experience of overcoming apartheid. Accordingly, it is South-Africa based NGOs such as the African Center for the Constructive Resolution of Disputes (ACCORD) that take a more active lead in addressing problems arising from internal conflict in promoting and applying an African approach.

Recognising that the role of local or regional actors in vicinity to the arising issue should be primarily linked to preventive measures, ACCORD puts emphasis on Early Warning Systems and Conflict prevention, responding to a shortcoming of the present UN approach observed both by Deng⁶³ and Peck⁶⁴ who both admit that the UN remains largely focused on crisis management rather than conflict prevention.

The importance of role actors on the local level in issues related to response to state failure and conflict also becomes evident not only in matters concerning reconciliation.

This is also recognised by Deng, one of the - unfortunately - few African academics which could be considered here who presents himself as a strong defendant of the UN agendas

⁶² Idem, p. 58. Cited according to Robinson 1996.

⁶³ F. Deng, idem, p. 230.

⁶⁴ C. Peck, *A More Strategic Partnership for Prevention and Resolving Conflict*, in: *Searching for Peace in Africa*, ACCORD Publication, p. 2, <http://euconflict.siteworld.nl/euconflict/sfp/part1/039/strate.htm>. However, a proposal seems to be made of establishing UN Regional Centres for Sustainable Peace concerned with conflict prevention trying to co-ordinate intervention of regional or NGO actors.

providing an African perspective, in the context of the question of how to overcome the main causes of conflict in African states - the artificial division along differing ethnic, religious and cultural identity lines, and the striving for self-determination in face of the continued efforts of nation-building -, Deng underlines the absolute importance of respecting „the democratic principles on all levels of social existence“, be it on communal, national or international level⁶⁵.

He thereby joins the group of promoters of the demand that Africa, due to the unique constellation of root causes, requires uniquely African solutions to its conflicts, which respond creatively and in adjusted manners to the particular conditions of the African states. A priority requirement is the resurrection of African principles of conflict-resolution based on the emphasis on relationships and the understanding of conflicts in their social context. There is, therefore, the imperative of finding consensus discussions among elders⁶⁶.

In the African context, it is important to accept different approaches to conflict resolution because of particular pattern conflicts. For instance, the concept of governance, according to Deng, implies the regulating and managing of competing group interests addressed to a neutral government. In many African states, however, the government itself is after society, the main actor in the competition, which does not permit a neutral standpoint.

„Western-style democracy of the vote, with the ‘winner take all’ outcome, runs counter to the African indigenous principles of power-sharing and conciliation, and therefore cannot be a basis for conflict resolution in the African cultural context“. A point shared not only by Zartman⁶⁷ but, in putting the stress on underlying causes for conflict also by the UN Secretary-General: „It is frequently the case that political victory assumes a ‘winner-takes-all’ form with respect to wealth and resources, patronage, and the prestige and prerogatives of office. A communal sense of advantage or *disadvantage* is often closely linked to this phenomenon, which is heightened in many cases by reliance on centralised and highly personalised forms of governance.“⁶⁸

A precondition would require the international community to strike a balance between the international requirement of respect for sovereignty and the necessity of intervention -

⁶⁵ F. Deng, *idem*, p. 225.

⁶⁶ *Idem*, p. 226. See also *A Continent at War and in Discourse*, ACCORD Publication, p. 1.

⁶⁷ I. W. Zartman, *idem*, p. 271 and F. Deng, *idem*, p. 226.

⁶⁸ Kofi Anan, cited in ACCORD Publication: *Searching for Peace in Africa*. *Idem*. Emphasis added.

sovereignty must give way before the requirement of defence of human rights standards agreed in International Law.⁶⁹ One important starting point is a new interpretation of sovereignty in the sense of the responsibility of the government towards assisting and protecting its population.⁷⁰ This could be achieved under the guidance of regional organisations like the OAU⁷¹ or as, South-African Landsberg/McKay put it: „may we be so bold to suggest that the time has come when African nations and their leaders need to commit to an agreed list of broad principles and objectives which they should then hold as inviolate“ which in case of non-respect by one state will be sanctioned by the other signatories. Providing a step towards the postulation of: “African solutions to African problems,”⁷² this corresponds to a request to approach problems within their immediate framework. Only in case of failure, should conflict prevention, management, or resolution move from the national, to the regional and finally the international level.⁷³

The request also results from a general critique of the effectiveness of international intervention in addressing the root causes of conflict or crisis. International intervention risks provoking an ‘immune reaction’, a resistance against this form of intrusion. In order to avoid this „the justification for intervention must be reliably persuasive, if not beyond reproach“. According to International Law, intervention must be used purely to strengthen the state human rights principles following human rights principles and not the pursuit of individual interests by deforming intervention into a means of manipulation and imposition. This means that intervention also needs to be sufficiently international.⁷⁴ However, „because governments have bilateral and multilateral relationships outside the UN system, they also bring political baggage to their interactions with the UN, which can lead to political trade-offs against principles of the Charter, and to inconsistent decision-making, motivated by national or coalitional interests rather than the greater good“.⁷⁵ The requirement to whatever approach is taken, the national, regional or international, is that the underlying root causes have to be addressed.

⁶⁹ F. Deng, *idem*, p. 229.

⁷⁰ *Idem*, p. 228.

⁷¹ *Idem*, p. 228.

⁷² Landsberg/McKay, *Wake up Africa*, in ACCORD Publication, *idem*.

⁷³ F. Deng, *idem*, p. 231.

⁷⁴ *Idem*, p. 232.

⁷⁵ C. Peck, *A more strategic Partnership for Prevention and Resolving Conflict*, in: *Searching for Peace in Africa*, ACCORD Publication, p. 2.

Mazrui⁷⁶, yet another supporter of democratisation in Africa, points to another issue needed to stabilise democracy and development in Africa, which could also be argued to fit into the preventive measures against conflict. It needs what he calls 'cultural adjustment' to assure a „balance between the continuities of African culture and Africa's borrowing from Western culture, as so far „Africa has borrowed Western tastes without Western skills, Western consumption patterns without Western production techniques, urbanization without industrialisation, secularization (erosion of religion) without scientification“. Cultural adjustment could work in order „to create a new equilibrium of tastes, values and skills“ in an Africa still out of order because „post-colonial **Africans** decided to culturally Westernize without economically **modernizing**“ and point in the same direction

6. Conclusion

Democracy has been generally accepted as the political system most appropriate to confront the underlying causes which have led to state conflict. However, democratisation is a very long process, bearing many risks and weaknesses. The support of the international community is needed to stabilise the process.

Democracy is a process which relies on the participation of the population and needs deep rooting within the society, it cannot be externally imposed. „Like development, democratisation is not something that one people does for another. People do it for themselves or it does not happen“. ⁷⁷ This holds true in post-conflict societies.

Stabilisation of the internal process by the international community and outside actors can only be achieved if as much discretion as possible is applied, leaving the responsibility to the state and providing room for decision making, while, constantly monitoring the process. To this end all the activities of the international actors should be co-ordinated and a complementarity of action guaranteed. Conditionality should be made meaningful by making it subject to this requirement.

Stabilisation and support offered in this form guarantees ownership. It should be the role of the international community, to strengthen already existing democratic forces, rather than attempting to initiate new forces in the democratic process. ⁷⁸

⁷⁶ A.M. Mazrui, *Who Killed Democracy in Africa?*, http://igcs.binghampton.edu/igcs_site/dirton9.html.

⁷⁷ C. Ake, *Rethinking African Democracy*, in L. Diamond and M.F. Plattner (eds.), *The Global Resurgence of Democracy*, 2nd ed., Baltimore and London, Johns Hopkins University Press, 1996, p. 69.

⁷⁸ Ake, *idem*.

Democracy as an African ingredient has to be revived and applied in the different states. If the value of participation is really taken seriously – this difference must be accepted by the international community. Considering the complexity of the problems arising from state conflicts much more emphasis should be put on their prevention. The possible contribution of the international community in the past should be seriously revised. Focus should be placed on identifying positive roles to be seriously pursued in support of prevention. Conflict prevention is not only in the interest of the states concerned but also in the interest of the international community as a whole.

III. THE CASE OF RWANDA

1. Introduction to the Case of Rwanda

The case of Rwanda can serve in two respects: it presents an example of a state in transition from an authoritarian to a more democratic regime; for more than a decade (not counting the early democratic attempts right at the beginning of independence) this process has been ongoing at some times with disastrous side effects.

Ethnic tension and conflict - although its root causes having been created by the actions of colonial powers and periodically sparking up in the 46 years of existence of the state - under particular conditions unique to Rwanda, especially during this period grew constantly and at an accelerating pace ultimately culminating in the human catastrophe of the genocide in 1994. The fragments of a state that remained contained a society bled nearly to death, a destroyed economic infrastructure, with mere skeletons of political structure remaining. Therefore, Rwanda of today serves first of all as an example of a collapsed state and a post-conflict state, trying to rebuild by combining reconciliation and the continuation of the democratic process.

To reflect this duality the case of Rwanda will therefore be approached principally in two parts: first by examining the historical development, emphasising the pre-colonial context and outlining general developments and occurrences leading to present day conditions, thereby identifying the causes of state-failure and conflict in Rwanda. The second by concentrating, in the light of the theoretical framework suggested, more on special institutions established to facilitate transition and in response to state failure and to post-conflict condition. The genocide will be taken as a caesura which will divide the period under closer scrutiny, starting from the end of the 1980s, in a both the pre- and post-genocide period.

2. The historical context - investigating on causes of state failure and conflict

In order to understand the societal conditions and political processes of today's Rwanda and of its recent past a broader perspective has to be taken. This must go beyond the stage when Rwanda had its present borders defined by the colonial powers, and confirmed with independence, to include the pre-colonial period, when a highly structured state system with democratic features of power sharing and mutual control existed prior to the arrival of colonial powers.

A serious cause for future failure was ingrained by the interruption of the on-going innate state-building process in Rwanda through the intervention of the colonial powers, by the misinterpretation of existing societal relation application of patterns from a completely different cultural background and through the introduction of new power relations and, especially, economic mechanisms. The unwillingness by those in power to revise the imposed structures and the incapacity of the Rwandan society also played a role. .

The devastating effects of colonisation becomes evident when the possibility of so called „self-determination“ of independence is hindered by the destructive processes initiated by the colonial powers in excluding the majority of the population from decision making processes for the sake of better indirect rule through an elite segment of the society.⁷⁹

2.1. Impact of Colonisation on pre-colonial society and rule

The pre-colonial Rwandan population developed out of groups from different origins migrating into the region then forming one people with one cultural identity, sharing one language and the same culture. Systems of relationship such as clans, families, and lineage developed in the 15th century into autonomous centralised political systems. Each of these small states was headed by a ruler, the ‘Umwami’, who combined the guarantee of political, religious and economic well-being of the community with judicial functions. The power of the ‘Umwami’ was limited by a number of representatives of different professions and families working as his advisors.⁸⁰ The responsibility for the three main essential factors assuring life was divided between three different chiefs placed on the same hierarchical level: one to be in charge of land, one in charge of livestock and the third in charge of the army.⁸¹ The respect of the authority of these personalities assured in turn for generations the respect for land rights and customs according to Rwandan traditions.

A process of territorial expansion and the integration of small neighbouring states was completed by the end of the 19th and beginning of the 20th century while which the states underwent a process of further centralisation and social restructuring.

The social structure in general was characterised by a high degree of complexity, multiple hierarchies and dependence. Social status was attributed according to economic function. The

⁷⁹ For the appreciation of the historic context of Rwanda in the present thesis three authors were of particular value H. Schuerings, *Rwandische Zivilisation und christlich-koloniale Herrschaft*, Frankfurt a.M., Verlag fuer interkulturelle Kommunikation, 1992; G. Prunier, *The Rwanda Crisis 1959 - 1994. History of a Genocide*, A. Des Forges, *Kein Zeuge darf überleben. Der Genozid in Rwanda*, Hamburg: Hamburger Edition, 2002.

⁸⁰ H. Schuerings, p. 81.

⁸¹ Umutware w’Ubutaka, Umutware w’Umukenke, Umutware w’Ingabo.

Rwandan inhabitant was identified as belonging to one of the three social groups, the Abatutsi, Abahutu, and Abatwa, respectively representing the groups of herdsmen, farmers and craftsmen. But he was simultaneously identified as a member of a certain clan or lineage, which again consisted of a combination of all groups, or a certain regional origin⁸².

With colonisation the distinction of the three different groups became increasingly defined along ethnic lines. The colonial powers (Germany from 1897 until 1918 and then Belgium from 1918 to 1962) based their administration on the main features of the Rwandan state organisation which they interpreted as comparable to the feudal monarchies of Europe. Applying ethnic ideology and racial theories of the 19th century to the distinctive features found among the population of Rwanda and dividing them into members of the bantu and hamite tribes, the understanding of Abatutsi became that of members of the ruling class, the elite; the understanding of Abahutu, originally that of adherent or henchman, was degraded to the meaning of plebeian or common people. Ethnic identities did not exist before the arrival of the Europeans⁸³. They had been introduced by the colonial powers as a simplification of the complex social structure found and used to facilitate their further rule. But the new valorisation had also been accepted by those within the Rwandan society who could benefit from it.

Technically racial distinction were reinforced and consolidated by the introduction of identity cards for each Rwandan bearing the distinctive affiliation which had been arbitrarily fixed by the Belgians.

In order to be able to rely on the new racial 'elite' within its own administration the colonial powers selectively offered education to the willing members of the Abatutsi group. The European education model introduced in Rwanda not only reinforced the European perception of Rwandan society and history, but more importantly introduced new western values on the social, religious and economic level which gradually suppressed or destroyed the traditional norms. Apart from turning the population progressively into „civilised people“ the aim of the

⁸² Idem, p. 75.

⁸³ Idem, p. 76.

educational effort was to create cheap and reliable administrative agents to be integrated into and used within the colonial structure.⁸⁴

Subsistence production of families, which had provided the means for a vital maintenance of „horizontal solidarity relationships“ among each other gave way to new bilateral monetary and profit based economic relationships mainly between the Colonial power and the individual producers. The participation of all social groups in the administration of the state and the development and the maintaining of its structure⁸⁵ was replaced by the colonial power with the selection of certain members of the Abatutsi group as the main political actors and the exclusion of all members of the Abahutu, from the political process and state administration.

The traditional value system was destroyed. In a combined effort, Christian missionaries and Colonial powers pursued their aim of forcefully bringing „civilisation“ to the „poor“ people of Africa but mainly to make the most profit out of the colony. The former ruling principle of a cosmogony in Rwanda in which everything and everybody was submitted to an interdependent and reciprocal relationship with one another, extending to all sections of life was replaced by half-hearted Christian values and the focus on the individual.⁸⁶ Religion, ethnicity, and education became the new categories along which the Rwandan society was divided, to which gender discrimination could be added as fourth issue⁸⁷.

The manipulation of the relationship between the two groups by arbitrarily strengthening or marginalising one group or the other according to political requirements of their rule, the colonial powers - especially the Belgians - contributed to the formation of a fixed idea of a new perceptions of each group towards the other, a feeling of inferiority and superiority. By this the colonial power divided the society and made it possible to exploit the larger part of the population (the Abahutu) with the instrumentalisation of a small elite that lost more and more legitimacy to rule according to traditional Rwandan standards. The abusive rule of an elite introduced by the colonial powers was to remain a constant feature of the Rwandan state through independence even when composition of the elite changed.

⁸⁴ The methods applied - education under purely western norms and severe punishment for disrespect of orders created a character of obedience noted by many authors and which became essential in the execution of the genocide in 1994

⁸⁵ A.D.Forges, *Kein Zeuge darf ueberleben. Der Genozid in Rwanda*, Hamburg, Hamburger Edition HIS Verlagsges.mBH, p. 56.

⁸⁶ Idem, p. 80, p. 92.

⁸⁷ Idem, p. 308. Through the introduction of paid labour the balanced system of work distribution between men and women was destroyed.

This small elite of select Abatutsi, together with the colonial power and the Catholic missionaries formed the actors of a triple colonisation under which the majority of the population, both Abahutu and Abatutsi, suffered until the 1950s⁸⁸.

With a society economically reliant solely upon agriculture, the only possibility for individuals to gain social status under the new value system was by either obtaining a position within the colonial bureaucracy or within the Catholic or Protestant clergy. This principle was still valid in the years after independence with the distinction, that now the Rwandan state bureaucracy that replaced the colonial power. Both state and churches provided the modern alternatives to making a living in traditional agriculture. The chance to acquire prestige and power increased the economic interest in acquiring a position in these domains. The key to these alternatives was access to higher education.

2.2. Independence - State-building under conditions externally imposed

During the 1950s, under pressure from the International Community and the UN and also due to internal developments, the Belgian colonial power shifted from a pro-Abatutsi to a pro-Abahutu policy. With it Abahutu were admitted to a much larger extent to higher education and leading functions in colonial administration. This turn was the answer to a growing discontent expressed by both educated Abahutu and Abatutsi. The former refusing the exclusive rule of the Abatutsi elite and requesting the right to political participation, the latter taking a strong position against further colonial rule requiring the reestablishment of traditional „monarchical“ political structures in an independent Rwanda.

The death of the Umwami and the inadequate selection of a successor⁸⁹ started a process which finally ended with the holding of communal elections, which were won by the PARMEHUTU party⁹⁰, one of the political parties formed in the late 50s mainly along ‘ethnic’ lines. They ended in the complete exchange of local Abatutsi authorities like chiefs and sous-chiefs with the introduction of a Belgium administration model of ‘bourgemestres’ now occupied with members of the Abahutu. The process, begun in the end of 1959 and

⁸⁸ H. Schuerings, p. 319.

⁸⁹ H. Schuerings, p. 362.

finished in early 1960, was marked by attacks against the life and property of the Abatutsi group leading to mass emigration and flight. The colonial power took a partial position favouring the Abahutu by not intervening against these violations of fundamental rights⁹¹ of their former protégés.

The events, also referred to as the „Social Revolution“, signified Rwanda’s first step towards independence. A provisional government established in October 1960 decided on the removal of the Umwami and proclaimed the Republic of Rwanda. The announcement of the first Rwandese Constitution followed in February 1961 and legislative elections were held in September 1961 with equal suffrage for men and women.

The political tension between the colonial power and the two main ‘ethnic’ groups led to the formation of the Republic of Rwanda and independence. From then on a new rule of demographic majority as legitimating democratic rule - *rubanda nymawinshi* - established an ethnic quota which regulated possible Abatutsi participation and inclusion according to their proportion in the population as a whole.

Supported by the influence of a formal education developed for a completely different cultural background and introduced by Belgium, the state-building process in Rwanda continued under external influence and grew along the framework introduced by the colonial power. Independence in Rwanda was not achieved by a clear turn against the colonial power but with its support thus the primacy of the foreign rule pattern remained unquestioned.

In Rwanda potential for future conflict did not arise, as happened elsewhere on the continent from the arbitrarily forged together of different ethnic groups into one new and artificial state. On the contrary one homogenous group was ‘ethniced’ and thus artificially divided. As no evaluation of the impact of the colonial presence was undertaken by society, this division was maintained.

The effect of the ‘social revolution’ was only evident in the exchange of the elite, which now had the exclusive right to rule. Internal displacement and the emigration of large numbers of Abatutsi in the wake of the events, led to a slight change in societal structure and laid the

⁹⁰ PARMEHUTU was co-founded by Gregoire Kayibanda, an Abahutu from the Gitarama region who had received educational training and professional opportunities from the Catholic church for which he worked as co-editor of church published newsmagazine and as a manager for a church owned agricultural enterprise.

⁹¹ G.Prunier, p. 49.

foundation for future challenges to the stability of the country, with repeated trials of refugees to return to the country.

No consequences, however, were felt by the rural population. A new elite with a different identity continued to live off the products of the majority rural population and while maintaining their exploitation and suppression. The „ethnic group“ formerly associated with the suppression of the rural population, the Abatutsi, had been exchanged and replaced by the new political elite of the Abahutu.

This „ethnic solution“ did not solve social and economic problems but rather served to reinforce and increase ethnic division of the population.⁹² Major problems included the constant population growths which contrasted with limited land resources whose scarcity was further aggravated by a decrease in soil fertility as result of intensive use and of problems of soil erosion. In combination with a dearth of non-agricultural alternatives this resulted in dire economic conditions putting extreme pressure on subsistence production.

The Rwandan economy concentrated on mere survival. Those who had managed to achieve a little better position - in state administration or clergy - did not want to let loose and share to a further extent than already required through family obligations. This tight economic situation on the other hand also hindered the development of new concepts of rule as there was no economic affluence which would have provided for the space needed or could have functioned as a corrective promoter.⁹³

2.3. Strong State - failing to serve the population

The successive regimes under both Kayibanda (1962-1973) and Habyarimana (1973-1994) were characterised by the majority rule and the biased preference for the respective region of origin of each of the two presidents. Both maintained the position accorded to the Umwami by the colonial powers thus becoming quasi „Abahutu Umwami“⁹⁴. Their policy of regional preference in filling posts and positions in the bureaucracy of the Republic, in order to guarantee loyalty among the public servants, finally turned against them, as people of the neglected regions started to react. Both present ideal examples of the type of elite rule described by Sorensen and Murshed.⁹⁵

⁹² H. Schuerings, p. 367 and G. Prunier, p. 59.

⁹³ Compare also M. Ottaway, p. 243.

⁹⁴ G. Prunier, p. 58.

⁹⁵ See preceding chapter.

Kayibanda's regime ended in a further culmination of renewed aggression against the Abatutsi population group in the wake of political events taking place in Burundi, there threatening the Abahutu population. Vigilant against the possible re-establishment of Abatutsi domination parallel to the Burundi example, the Abahutu population was incited to fight the Abatutsi group. Due to these combined factors, internal security was out of balance to such an extent that it destabilised the state and provoked the intervention of the army in a military coup in 1973. With the MRND (Mouvement Revolutionnaire National pour le Développement) military coup leader Major General Habyarimana as new President introduced a pure one-party system characterised by forced membership for every citizen and prohibition of alternative parties. While the policy of „quota democracy“ regulating access to school and job opportunities positions was maintained, politically the country was run almost exclusively by the Abahutu⁹⁶.

With stable prizes on the world-market for cash-crops like coffee and tea (which had been forcefully introduced under the colonial regime), and for tin as one of Rwanda's scarce natural resources a phase of relaxed economic pressure through the early 1980s permitted the regime a period of relative stability and security. This stability, already under the authoritarian regime of Kayibanda, attracted the donor community which was ready to give support to the country⁹⁷, in order to respond to their international obligations and to consolidate their position in the region.

Economic causes for future destabilisation were increased by the drop of the world-market prizes of cash-crops and tin in the first half of the 1980s. This changed the situation and led to a decline in political stability. Providing the main source of state income, this drop reduced the margin of income to be possibly shared among the political elite and increased the rivalry in the until then balanced relation of powers in that group⁹⁸.

⁹⁶ In the parliament of 70 members only 2 were Abatutsi; only one minister of the cabinet and one officer in the army were Abatutsi. G. Prunier, p. 75.

⁹⁷ It was during the genocide of 1994 that a colleague of mine asked himself the question why Rwanda has always been so overflowed with Aid agencies and donor activities incomparable to other African countries despite its authoritarian style. He came to the conclusion that it was the favourable conditions of order and security which made the International Community ready to invest in Rwanda. There existed no corruption, everything was under tight control of the government which did not allow any disturbance of foreign aid intervention, everybody executed obediently what the donors and NGOs required them to do. They thus found ideal conditions for their project implementation. The rest was not of interest.

Apart from regional discontent under Habyarimana, a combination of other factors contributed to further deterioration of political conditions: social services had to be reduced due to necessary reduction in the state budget and external pressure linked to structural adjustment programmes; 'Umuganda', (a joint communal work by the population for the public benefit to reduce public expenditure) was increased to such an extent that it was considered forced labour; the exiled Abatutsi once again requested to be allowed back into the country, which provided the dark prospect of increasing pressure on the growing scarcity of land resources.

A relevant contributing factor to destabilisation and future conflict from the international front was the end of the Cold War and a new interest of the International Community in the introduction and respect of democratic structures in state policies world-wide. The Rwandan Government, now increasingly dependent upon foreign aid⁹⁹ was obliged to respond to the new policy of linking aid to requirements of „Democratisation“. Thus the discourse of French President Mitterand at La Baule, at the French African Summit in June 1990 requesting political democratisation led to the acceptance of multiparty system in Rwanda affirmed in the new constitution of the country of June 1991.

The transition to democracy, introduced externally rather than as an answer to the demands of the population, contributed a final and severe stroke to the deterioration of conditions in Rwanda, wilfully promoted by state authorities. The perspective of the obligation to power-sharing confirmed by the public in up-coming elections clearly mobilised forces of the elite in power to defend their positions.

The positive impact of the introduction of a number of new parties¹⁰⁰ as a true contribution to pluralism was hindered in several aspects: their creation was encouraged by the governing party to formally respond the new requirements and not a real readiness to share power¹⁰¹; party creation was motivated by personal ends of the party leaders but not to introduce new

⁹⁸ G. Prunier, p. 84.

⁹⁹ According to OECD the foreign aid for Rwanda made up less than 5% of the GNP in 1973 to grow to 11% in 1986 and to 22% in 1991, Idem, p. 75.

¹⁰⁰ The new development encouraged the speedy creation of 16 political parties, of which the MDR (Movement Democratic Republicain), the PSD (Parti Social Democrate), the PL (Parti Liberal), the PDC (Parti Democratic Chretien) and the MRND, which took the new name Movement Revolutionnaire National pour le Developpement et la Democratie, were the most relevant.

¹⁰¹ G. Prunier, p. 127. The impression of Prunier seems right who describes Habyarimana's view of party existence as being „largely decorative“.

ideas or principles¹⁰²; a strong ideological link to the governing party was maintained, which later became evident in the split of most parties in a Hutu-POWER and non-POWER faction during the events following the signing of the Arusha Peace Accords.

The ruling MRND party managed to maintain its singular position in government until middle of 1992 when as a result of ongoing opposition request and protests, a new cabinet was formed which finally allowed the participation of four other major parties in the government: MDR, PL, PSD and PDC. Later in 1992 a fifth major party was formed as a radical off-spring of the MRND: the CDR, the Coalition pour la Defense de la Republique which was based on a extreme Anti-Tutsi racist ideology and further reinforced the MRND position.

Parallel to the internal political development, another external factor had a major impact on the stability of the country, and indirectly on the democratisation process. The exile Abatutsi demanding their return into the country had organised themselves militarily as the RPF, the Rwandese Patriotic Front and attacked Rwanda in October 1990 from their base in Uganda. The military attack marked the start of a civil war which was to come to a preliminary end in August 1993 with the signing of the Arusha Peace Accords, revived in April 1994 at the start of the Genocide, and finally came to an end only in July 1994.

Politically it helped to partially strengthen the still dominant party because the attack was seen as a threat to Rwanda as a whole and thus could be used by Habyarimana to unify opposition and his party in a front of solidarity against the RPF. Again, the Hutu-POWER factions created in most parties during the period of government re-building after the signing of the peace agreement) were the best expression of this solidarity.

From then on, the pressure against the Abatutsi population within the country increased constantly as they were considered and treated as potential allies to the enemy. A first reaction to the attack was the arbitrary arrest of thousands of Abatutsi as potential collaborators and opposition in 1990. This extended into massacres among the Abatutsi population all over the country.¹⁰³ Growing violence against the Abatutsi was either initiated

¹⁰² E. Gillet, *Les Droits de l'homme et la justice pour fonder l'avenir*, Fédération internationale des ligues de défense des droits de l'homme. (www.politique-africaine.com/numeros/pdf/068061.pdf). Although in some cases it was human rights activists who pursued their goal by taking an active role in political parties - as the case in PDS and PL.

¹⁰³ The number ranged from some tens to some hundreds of dead people as for instance in the Bugesara massacres in march 1992 were 300 people were killed.

by the state or tolerated by official state organs.¹⁰⁴ Terrorist attacks occurring all over the country created an atmosphere of tension, insecurity and intimidation.

Violence not only accompanied the installation of the new cabinet, it became the general „political“ language. It was encouraged by the state as a legitimate means for the rural population to fight against the potential enemy within the country and to protect their own security and property. It was used by the political parties against each other when demonstrating in the streets of Kigali or at party rallies inside the country. In this context it should be noted that there existed a form of privatised violence in so far as the parties formed their own militias¹⁰⁵, which were to become important during the genocide. As violence was authorised by the state authority there was thus no protection for the attacked under the rule of law. Those who would oppose such a position of the state were considered sympathising with the enemy.

2.4. State-led destabilisation with little response from civil society

The civil society in Rwanda that potentially could have been expected to take a position against the regime consisted mainly of the different churches, among which the Catholic church had a lead role. It however, maintained strong links to the Habyarimana regime and the MRND. The regime received support through the preaching of a number of Catholic priests who shared the same profit oriented approach to power as the ruling elite, and who in turn benefited from Habyarimana's support. The Catholic church also functioned as a communication link between the masses of the rural population and the ideology of the MRND. Only late did the Vatican comment critically on political conditions in Rwanda which then led to a more critical position also expressed within the Rwandan church.

In the early 1990s a number of human rights organisations were founded, mainly by leading jurists and moderate priests, which were organised under one umbrella organisation.¹⁰⁶ In a reaction to the human rights violations committed in 1992 they requested an international investigation which was undertaken in January 1993.

¹⁰⁴ Human Rights Watch Report 1991/1992; www.hrw.org/reports/1992/WR92/AFW-07.htm.

¹⁰⁵ A. Des Forges, p.135. The Interahamwe of the MRND, the Impuzamugambi of the CDR.

¹⁰⁶ Collective of Leagues and Associations for the Defense of Human Rights, CLADHO. The other HR organisations were the Rwandan Association for the Defense of Human Rights, ARDHO founded in September '91, Association of Peace Volunteers (AVP), founded in August '91, the Rwandan League for the Promotion and the Defense of Human Rights (LIPRODHOR) also founded '91 as well as the Rwandan Association for the Defense of Rights of the Person and of Public Liberties (ADL).

Apart from this investigation the reaction of the international community was indifference towards what was going on in Rwanda. As many authors point out, this attitude of the international community gave a signal of positive acceptance of the acts of the Habyarimana regime and encouragement for it to continue in the same line. The international community, which seemed satisfied with the establishment of the multi-party system which maintained the still valid system of the majority rule, seems to have concentrated only on the fact of the civil war and accepted the government's excuse that the occurring human rights violations were only a consequence of the war. It is this context which explains why ongoing bilateral negotiations between donor governments and the Rwandan government could be successfully concluded despite the fact that reports on killings were common knowledge. By ignoring these reports, the international community preferred to rely on the habitual good relationship of undisturbed project implementation guaranteed by the regime and by increasing their financial support helped Habyarimana to finance the war.¹⁰⁷

A different position taken by the international community, simply motivated by integrity rather than convenience, could have prevented the death of hundreds of thousands of innocent people.

2.5. Conclusion

The definition of failing state and state failure is developed after the Cold War, normally drawing from examples of post Cold War period and, thus, is not applied to the Cold-War era. According to the definition given by Rotberg however, Rwanda, as described in this part of the present thesis, after the first decade of its existence had already been very close to state failure. This was linked to the nation-building process which took place excluding the participation of different political groups which had originally presented themselves to share in the political design of the newly independent state. The process was dominated by the dire economic situation of the country which kept everybody focused on the two economic opportunities introduced and created by the colonial powers: the state administration and (to a lesser extent) the clergy.

¹⁰⁷ A. Des Forges, p.159.

The primacy of foreign rule was never really questioned. In consequence one source of ongoing influence, formal education, had never been adjusted. After independence the donor countries maintained their influence, although in a rather formalistic way marked by general disinterest. This will become more evident in the years which followed.

The 'weakening' of state functions in the Post Cold-War period in Rwanda was a method a strong government applied to encourage destabilisation in order to discourage opposition from pursuing the democratic project and to divert the population's growing anger towards an artificially created internal 'enemy'.¹⁰⁸ An obedient population was slowly mobilised against this 'enemy' distracted from the real causes of their discontent. With a obeying population and no external intervention the government could achieve its aim - at least for some time – of maintaining its position of power.

¹⁰⁸ Compare also: T. Longman, *Rwanda: Chaos from Above*, in L.A. Villalón and P.A.Huxtable, *The African State at a Critical Juncture*, Boulder, Lynne Rienners, 1998, pp. 86-87.

3. An examination of Rwanda in the pre-genocide period

3.1. End of the Cold War - Impact on Rwanda

With the end of the Cold War Rwanda - as outlined - made fast progress in the direction of wilful state failure, with the state neglecting the security of important segments of the population and, despite structural capacity, dismissing the rule of law. Changing conditions in the economic and international political constellation could also be felt in Rwanda and tested the potential and rooting of the actual ruling elite who sought various ways to stay in power.

3.1.1. Contributing factors to degradation

As outlined earlier, the contributing factors for the new political option which provoked the degradation of conditions in Rwanda were threefold. First, the breakdown of communism on the international level marked the beginning for the Western powers link of granting foreign aid to the establishment of democratic political structures in countries where political preferences thus far had been generously overlooked. This conditionality meant for Rwanda the introduction of the multiparty system expressively requested by the major supporter of Rwanda, France, in the French President's discourse of La Baule. This bore the inherent risk to the ruling elite of losing their position in the future. On the other hand, it encouraged members outside the established elite to try a different political orientation.

Second, on the international economic level, price deflation of coffee and tea, on which the Rwandan economy was heavily dependant, led to a economic crisis as it contributed to the further reduction of scarce resources. Rwanda's economy was under pressure from above and below: heavy population growth in combination with soil degradation challenged subsistence production on the rural level and the effects of structural adjustment programmes introduced by the World Bank and IMF were most heavily felt on the urban level. Thirdly, the attack of the FUR in 1990 and the ensuing and ongoing civil war had a double impact. It contributed to the further deterioration of the economic situation of the state as it put an ever heavier burden on the state budget with increased military spending while further deteriorating internal security conditions. With the support of state and local authorities the rule of law was dismissed. Under their benevolent eye violent attacks against members of other parts of the population were committed which remained unpunished. However, the blame for the

deterioration was put on the RPF's invasion - which the government and the populace considered unjustified.

A characteristic feature of the Rwandan internal conflict between 1990 and 1994 is that it was fought against the national army by an extremely disciplined and motivated 'rebel army' attacking from abroad. Formed to a considerable extent by educated Rwandans in exile, predominantly with a Abatutsi backgrounds, the RPF sought a return to their native country to which, typical to all Rwandans, they kept a unusual strong mental link.

Violent conflicts elsewhere are often led by loose and uncontrolled rebel groups with a clear economic interest to satisfy immediately. The 'rebel' concept and label will have an effect on the response of international community.

3.1.2. Constitutional backing for the Rwandan state

3.1.2.1. The constitution of 1991

In looking at the constitution of May 1991, established in response to the international call for democratisation, however, it would not necessarily be possible to anticipate incipient political degradation. Promoting national unity and subscribing to the necessity of the „respect of human rights, based on liberty, equality and fraternity for all members of the Rwandan community“, the National Council of Development, as constituent assembly, manifested through the Constitution its decisiveness to guarantee prosperity, liberty and fulfilment of each person and their future generations. The Rwandan people, identified as the bearer of state power and national sovereignty in a democratic, social Republic¹⁰⁹, should exercise their power through representatives or by referendum. The constitution, as a consequence allowed for the creation of different parties and suffrage. „Political parties fulfilling the legal conditions shall concur to the expression of suffrage. They shall be formed and shall exercise their activities freely provided that they respect democratic principles and not infringe upon republican form of government, national territorial integrity, and the security of the State.“¹¹⁰ Suffrage is referred to briefly, which „shall be always secret; it may be direct or indirect“.¹¹¹

¹⁰⁹ Constitution of Rwanda, 1991, Article 1.

¹¹⁰ Idem, Article 7.

¹¹¹ Idem, Article 8.

Yet the way in which the constitution refers to the independence of 1962 and the seizure of power by President Habyarimana,¹¹² as well as the expressed denial of the monarchical system¹¹³ seem to indirectly prescribe the existing political orientation will be maintained also under the multiparty system. It also reflects the deeply rooted denial of an Abatutsi past and of the refusal of any similar perspectives or the claim for return into the country of exile Abatutsi. Furthermore, there is no indication of how the project of national unity would be approached, that is: how the division between Abahutu and Abatutsi was to be overcome. Finally the constitution makes no commitment whatsoever to either establishing or maintaining the rule of law.

In the eye of the international community the mentioning of a multiparty system and the possibility of election seems to have been sufficient in response to the call for world-wide democratisation. It seems so far that no critical comments had been issued on the actual content of the constitution. Real life showed the Rwandan interpretation of the constitution's stipulations.

3.1.2.2. The Arusha Peace Agreement of 1993

Much more room is dedicated to these issues in the Arusha protocols of agreements of July 1992 to August 1993 and the final Arusha Peace Agreement of 4th of August 1993¹¹⁴ which had been signed between the Government of the Republic of Rwanda and the RPF and which was to mark the end of the ongoing civil conflict which began with the 1990 attack of the RPF, which had been prevailing. Negotiated with the assistance of the Organisation for African Union (OAU) and the Tanzanian Government the Agreement gives definitions, as well as approaches for solutions, to the main issues which had been at stake in the preceding period: national unity, respect for human rights, democracy and the rule of law. The last is defined as the guaranteeing framework for the achievement of other issues. Compared to the then existing constitution of Rwanda the Peace Agreement is a detailed and well elaborated document offering in principal good guidance. One of its aims was to set the framework for

¹¹² Idem, Preamble.

¹¹³ Idem, Article 2.

¹¹⁴ Protocol of Agreement between the Government of the Republic of Rwanda (GoRR) and the Rwandese Patriotic Front (RPF) on the Rule of Law, August 18, 1992. Protocol of Agreement on Power-Sharing within the Framework of a Broad-Based Transitional Government between the GoRR and the RPF, January 9, 1993. Protocol of Agreement between the GoRR and the RPF on Miscellaneous Issues and Final Provisions, August 3, 1993. (www.incore.ulst.ac.uk/cds/agreements/pdf/rwan1.pdf).

the return of exiled Abatutus Rwandans and their integration into society by providing the possibility to participate in a to-be-established broad-based Transitional Government, whose form was outlined in the Peace Agreement, through a new Ministry of Social Rehabilitation and Integration, charged with the repatriation and social and economic reintegration of Rwandese refugees into society.

Above all the agreements were to serve as a sound basis for future cohabitation and national unity, provided that the contract partners would have adhered to its principles. In addition, only with the interest of the International Community in the Agreement could respect for the relevant articles (to which the contract parties themselves had put a strong emphasis) have been better promoted: the respect for human rights and the rule of law in general. The Programme of the Transitional Government was designed to concentrate on the fields of democracy, defence and security, national unity and national reconciliation, post-war rehabilitation, repatriation and reintegration of refugees, economy and national ethics.¹¹⁵

The Agreement expressly accords to the International Community the right to react to violations of Human Rights, which should be protected through the Rwandan constitution and Rwandan laws¹¹⁶ and agrees on an enquiry through an International Commission of Enquiry into Human Rights violations during the war. The establishment of an independent Rwandese Human Rights Commission was fixed to investigate on human rights violations, especially those committed by state organs, or state agents.¹¹⁷ Other specialised commissions foreseen under the Arusha Peace Agreement were the Commission for National Unity and National Reconciliation¹¹⁸, the Legal and Constitutional Commission¹¹⁹ and the Electoral Commission¹²⁰.

It also fixed the participation of the main existing parties in the broad-based transitional government, which included an equal number (five) Ministerial portfolios for the MRND and

¹¹⁵ Protocol on Power-Sharing, Art. 23.

¹¹⁶ Protocol on the Rule of Law, Art. 14.

¹¹⁷ Idem, Art. 15.

¹¹⁸ To be in charge of the establishment of a debate on national unity and reconciliation and to „prepare and distribute information aimed at education the population and achieving national unity and reconciliation“ Art. 24.

¹¹⁹ In charge of „Drawing up a list of adaptations of national legislation to the provision of the Peace Agreement, in particular those provisions relating to the Rule of Law“ and to „prepare a preliminary draft of the Constitution which shall govern the country after the Transitional Period“. Art. 24.

¹²⁰ The commission should „be responsible for the preparation and organisation of local, legislative and presidential elections. Art. 24.

the RPF and three portfolios each for the PSD and the PL, as well as four portfolios for the MDR and one for the PDC. For the parliament each of these parties was accorded eleven seats with the exception of the PDC, accorded only four. The remaining parties which had registered were each to get one seat for a final total of deputies for the Transitional National Assembly of 70 seats.¹²¹

The precondition for the participation of the different parties in the National Assembly and the transitional government was that they respected the provisions of the Peace Agreement which was to be proved by the signing of a Code of Ethics, which demanded parties in particular to „abstain from all sorts of violence and inciting violence, by written or verbal communication, or by other means“, to „reject and undertake to fight any political ideology or any act aimed at fostering discrimination based mainly on ethnic, regional differences“ and to „work towards a system whereby the political power serves the interests of all the Rwandese people without discrimination“¹²². Supervision of compliance with the Code of Ethics was assigned to the Commission on National Unity and Reconciliation. Non-compliance with the nine principles outlined in Article 80 could lead to the party’s exclusion from the transitional government. The content of the Code responded to the reality of party behaviour in the past (especially the recent past) and present, where political parties in Rwanda exhibited this kind of behaviour by trying to physically argue through violent street demonstrations rather than by leading a political discourse with verbal arguments. Parties were founded solely as a means to get to power. They were organised along some group identity lines, further reinforcing the division of the society. This points equally to the fact that parties were not necessarily ready for the democratic competition as conceived by the Western of election holding. Judges of the Supreme court were to have no party affiliation.¹²³

First national elections were to be held after a twenty-two month transition period after the establishment of the broad-based transitional government. This period could be extended by the decision of the Transitional National Assembly on the basis of a 3/5 majority vote.¹²⁴ Local elections should, under normal conditions, be held six months prior to the end of the transition period. Still, it was left to the Broad-based Transitional Government taking into consideration the legal framework and security conditions in place to decide on the

¹²¹ Protocol on Power-Sharing, Art. 60 and 62.

¹²² Idem, Art. 80.

¹²³ Idem, Art. 84.

¹²⁴ Protocol on Miscallaneous, Art. 22.

appropriate moment. Until then local authorities were to be replaced through nomination.¹²⁵ In the heading to the Article local elections are specified without further explanation as „solutions to social tensions“.

The relevant article on the economic programme acknowledged the existence of disfavoured regions and social strata in the population when it stressed the importance to stimulate economy with priority in this direction.

After one year of negotiation and the final official signature on August 4th 1993 of a document which contained a lot of good will and potentials for a peaceful cohabitation and return to national unity the President of Rwanda, Habyarimana, still disqualified the whole agreement by calling it a "dead dog“.

3.1.3. Impact of institutional changes

The admittance of the multiparty system with the 1991 constitution encouraged the speedy creation of 16 political parties, of which the MDR (Mouvement Démocratique Républicain), the PSD (Parti Social Démocrate), the PL (Parti Liberal), the PDC (Parti Démocratique Chrétien) and the MRND, (which took the new name Mouvement Révolutionnaire National pour le Développement et la Démocratie), were the most relevant. The creation of the smaller parties seem to have been encouraged simply to create the formal conditions required by the International Community, especially the French. Admitting different parties did not mean that the still ruling party of the MRND was ready to hand-over or even to share power.¹²⁶ The impression seems correct that Habyarimana's view of party existence was „largely decorative“.¹²⁷ Furthermore party creation to a large extent seems to have been the product of ad hoc individual initiative rather than the expression of a long standing political discourse trying to find and offer solutions to the social and economic problems within the country. Although in some cases it was Human Rights activists who pursued their goal by taking an active role in political parties - as was the case with PDS and PL¹²⁸ - the motivation in many cases came from the tempting prospect of taking the same profitable position as the preceding ruling elite. This led to the later establishment of a code of ethics. The strong links between

¹²⁵ Protocol on Power-Sharing

¹²⁶ G. Prunier, p. 127.

¹²⁷ Idem.

the new parties and the MRND (sharing the same political ideas) became evident in the splitting of the parties into Hutu-POWER and non-POWER factions in the developments following the of the peace accord in 1993.

The introduction of multiparty system without the population's proper understanding of democratic principles and without evidence of the new parties' qualities, did not bode well for a society which was under the daily strain of survival in which the majority of the population was now under the constant threat of even greater hardship looming in the perspective of the wrong party taking power. The violent form of party political discourse constituted yet another step in the further brutalisation of the society. It is therefore not necessarily only the holding of elections as such which poses a problem in divided societies¹²⁹ but also the preparatory process of party creation in particular.

The newly formed parties and the attack by the RPF (and their demand for reintegration into the Rwandan society) both constituted such a threat to the ruling elite that they chose to kill their opponents rather than accept the sharing of power. This readiness to sacrifice human lives for the benefit of gaining or maintaining political power - and thus to retain access to economic benefit - is a mentality responsible for the deep and persistent mistrust in all potential opposition.

The concurrence of the establishment of multiparty system and the RPF attack was used by the ruling elite to equate political opposition with sympathising with the enemy and was thereby helpful in weakening the opposition.¹³⁰

The Arusha Peace Agreement itself made power-sharing even more inevitable than the formal introduction of multiparty system in the 1991 Constitution.

Although providing a potentially good framework for future cohabitation between Abahutu and Abatutsi, its realisation depended on the willingness of the ruling elite to adhere to it. In reality the Arusha Peace Agreement was never put into effect and the establishment of the transitional government did not take place as scheduled. Unwilling to give way the ruling elite was successful from August 1993 to April 1994 in delaying the government building

¹²⁸ E. Gillet, *Les Droits de l'homme et la justice pour fonder l'avenir*, Fédération internationale des ligues de défense des droits de l'homme, pp. 61-68.

¹²⁹ Paris, *Peacebuilding and the Limits of Liberal Internationalism*, p. 75.

process while they were preparing for a brutal alternative solution. The nomination of candidates was delayed or refused. The Abatutsi population and opposition members were more and more intimidated by violent attacks from party militias who had received military training, and in parallel the population was increasingly agitated and mobilised by local authorities and through the media. A hesitant United Nations, on the other side, did not respond to the increasingly urgent demands by local UNAMIR personnel (the UN peacekeeping force in Rwanda) and by Human Rights Organisations to put pressure on the government to follow the Peace Agreement; and refused to increase the number of military personnel and to adjust the mandate of the UNAMIR.

Assistance in boycotting of the Peace Agreement was given by the military forces. The army which had increased from 1.500 soldiers before the outbreak of the civil war to a number of 50.000 men, provided a welcomed source of income to otherwise unemployed men (or an additional source of income for small scale farmers). The prospect of demobilisation foreseen in the peace agreement would have meant the end of this source of income. Thus, in response to the peace agreements, the soldiers began to revolt. Military discipline deteriorated into looting and roadblocks became common features with little reaction from the government.

The genocide marked a provisional end to the integration process. Government building according to the peace agreement was only revived after the genocide. The institutions foreseen in the Peace Agreement were not formed until 1999, six years after the final signature of the Agreement.

3.1.4. Role of the International community

Speaking of the international community in the Rwandan context, reference is made principally to the mainly Western countries which were represented in Rwanda. As mentioned earlier did France played a particular role as a supporter of Rwanda, which permitted France to extend its influence in Francophone Africa as lead role in Rwanda after Belgium had departed. Apart from France no country really showed much interest in Rwanda. It played an inferior role in the international context. This was reflected in the general attitude of the diplomatic representations - not always staffed with the top categories of personnel - which

¹³⁰ A tendency of repeting this phenomenon can still be observed even today in the very critical position of the government vis à vis the opposition.

was marked by a reluctance to make any critical comments or upset the well established and the otherwise smooth running of things relationship between their country and Rwanda. Compared to other African countries there was very little corruption and quite an efficient public administration. Even when human rights violations after 1990 were becoming more and more frequent and severe, the embassies of the main donor-countries preferred to interpret them as a result of the civil war, putting the blame on the RPF.¹³¹

Apart from supporting - as an institutional approach - the establishment of Human Rights Organisations there was no effort to defend human rights or openly criticise human rights violations.¹³² Even when an commission formed by different international human rights organisations found genocidal characteristics in their investigation of the massacres in Rwanda's southern region Bugesera in 1992 (a finding confirmed later that year by the UN special rapporteur), the international community did not pronounce one clear word of criticism: not against the massacres as such nor against the fact, that the murderers were spared from punishment. They accepted the final excuse of the Government that admitted isolated occurrences of human rights violations but at the same time denied any implication of government's agents. No other measures were taken by the international community. Funding continued without any cuts or imposition of conditions linked to the respect of human rights.¹³³ With these clear signals of non-reaction the international community indirectly approved of the politics of the Habyarimana regime and encouraged him to pursue his paths. With this the international community clearly failed to apply easily available preventive measures.¹³⁴

Why? Was it the comfortable lull of smooth running co-operation? Does the international community only become active when vital interests are at stake? Does the Western community only become active if they fear that their leading position is questioned or not respected? Was it the result of a persistent concept of Africans in general as the predominantly wild and savage part of the World population still not completely civilised - the perception that: 'they' have to kill from time to time? Or had the donors become „hostage

¹³¹ Des Forges, p. 126.

¹³² Compared to the post genocide period there are also no resolutions of the UN General Assembly on HR violations in Rwanda.

¹³³ If financial aid cuts were applied this was explained with budget constraints not as a direct reaction to human rights violations. A. Des Forges, p.127 . F.Reyntjens and R. Renard, *Aid and Conditionality: Belgium, with Particular Reference to Burundi, Rwanda and Zaire*, in *Aid and Political Conditionality*, O. Stokke (ed.), Frank Cass, London, 1995, p. 109.

¹³⁴ R. Rotberg, p. 95.

to their own policies“ on counting on the positive effects of the democratisation process and of the peace talks? There is some truth in each of these options.¹³⁵

The international community clearly missed the chance to prove their conviction of the universality of the human rights issue and how serious they take them in reality. It became evident that at any time human rights would be made subordinate to more important interests. Thus the international community did not immediately react when the genocide began and even tried to deny the fact that it was genocide was actually occurring. The failure of the international community during genocide has been described and analysed in detail elsewhere. The damage done by this attitude to future intervention for the promotion of human rights and democracy is immense. In the end the international community has to accept the fact that they are jointly responsible for the deaths of approximately one million people despite having elaborated a noble framework half a century ago in order to prevent just that: „Never again....“ The international human rights postulation in the case of Rwanda proved to be pure hypocrisy.

4. An examination of Rwanda in the post-genocide period

4.1. Main Challenges

The new government of Rwanda was established after the RPF gained control of the capital Kigali and over the majority of the country. This caused the flight into neighbouring Zaire of the interim government, formed after President Habyariamana, which had been inciting the genocide. This put the final end to the genocide in July 1994.

There was no single person in Rwanda that was not deeply affected by the genocide. The remaining people were left shocked, paralysed, scared, frightened, morally and/or physically traumatised, emptied of emotions or outraged, without faith in any value. Still, life went on and was managed by those who first got the grip of their emotions. The number of problems the new government was faced with, was and continues to be immense.

¹³⁵ See also Danida Synthesis Report. Joint Evaluation of Emergency Assistance to Rwanda p. 17 (www.um.dk/cgi-bin/printventlig.pl?url 15.5.2003).

First of all there are all those problems, which are the immediate consequence of the genocide. Apart from the psychological disaster it left, the social structure of the country has changed. The population structure is disturbed. 34% of households are headed by women, genocide widows. The male labour-force is lacking as men have either been killed, imprisoned or have left the country. The social texture is torn. There is the issue of compensation and assistance - both moral and financial - for the survivors of the genocide, the „rescapés“. There is the new group of Abatutsi returnees raised either in francophone Burundi, anglophone Uganda or elsewhere which contributes to a new division of the country along linguistic lines. In addition, each of these groups of former exiles has the expectation of compensation for past losses, which conflict with the interests of other groups like the „rescapés“. Some of the returnees left everything behind and are trying to start a new life in Rwanda - a state that has to provide services with adequate personnel neither in number nor in training. This is especially evident in the education sector, in state bureaucracy in general, but most important in the judicial sector, which is simply non-existent. A state that still has to deal with tens of thousands of genocide prisoners and has to assure justice and reconciliation and the establishment of the rule of law is in desperate need of judicial personnel adequate in number and in quality.

On top of this there are still the problems which have influenced the state since the beginning of its existence: intense agriculture dependency with limited land resources and decreasing soil fertility hardly in combination with high population density lacking clear legal regulations as to land ownership.

The refugee problem persists, as refugees were simply exchanged. In the wake of the progressive victories of the RPF, the so-called „old-case load refugees“ returned to the country while large parts of the Abahutu population forcibly or voluntarily fled the country to install themselves in refugee camps in the neighbouring states of Tanzania, Zaire and Kenya. Among them were the militia forces of the radical parties which were the main actors in the genocide and which continue to pose a security problem to the country due to the attacks the so-called „infiltrés“ have repeatedly launched mainly in the north-western region of Rwanda from bordering (newly renamed) Republic of Congo.

New and wider economic alternatives are desperately needed to accommodate all Rwandans and especially the youth in order to avoid a selective and group oriented distribution of economic wealth. The inclusion of the marginalised rural population has to be addressed.

4.2. Resuscitation of a failed state - institutional backing of the transitional government

At the end of the civil war was it the state, or the government that had finally failed, due to the incapacity or weakness of state institutions to check the government from pursuing its path? The interim government that had taken over ruling power after the assassination of President Habyarimana and of many members of his government, was formed on the initiative and pressure of extremist members of MRND and CDR (exclusively by members of the main parties belonging to the Hutu-Power faction).¹³⁶ Pretending to be willing to continue negotiations with the RPF on the building of a broad-based government they did nothing to stop the killing but instead enticed the population to pursue the massacres. Still, for the coming four months it became the accepted negotiation partner of the international community which even approved the presence of a representative of this murderous government in the UN Security Council.

This was the state that owed its existence to its recognised territory. In Rotberg's terminology and definition this state would be called a collapsed state, as „the extreme version of failed state“, in which illegitimate and unrecognised substate actors take over.¹³⁷ Can some of the post-genocide hesitant response to post-genocide Rwanda be explained by perceiving the RPF in the same way as Somalia warlords?

With the taking of the country's capital the RPF took over power in Rwanda. The civil war was thus decided in advantage of the RPF and ended. Although the Arusha Peace Accord theoretically had lost its foundation with the revival of civil war in April 1994, the project of a broad-based transitional government was resumed and on 19th of July 1994 the new broad-based government was formed - only without the participation of the former party to the accord, the MRND. With the signature of an inter-party agreement in November 1994 the other parties¹³⁸ adopted the sharing of seats as proposed by the RPF.¹³⁹ The duration formally fixed at twenty-two months was extended to five years and been prolonged in 1999 for

¹³⁶ A. Des Forges, p. 242.

¹³⁷ R. Rotberg, p. 90.

¹³⁸ MDR (Mouvement démocratique républicain), PDC (Parti démocrate chétien), PDI (Parti démocratique islamique), PL (Parti Liberal, PSD (Parti social démocrate), PSR (Parti socialiste rwandais) and UDPR (Union démocratique du peuple rwandais).

¹³⁹ In the declaration of the RPF „of 17/07/1994 establishing Government institutions and renouncing sharing power with political parties and political formations that organised and perpetrated the genocide“ in: Preface to the draft constitution of 2003.

another four years. The transitional government thus comes to an end in 2003 with the first national elections to be held on multiparty basis since 1962.

The fundamental law backing the transitional government and adopted in May 1995 is composed of several elements: the Constitution of 1991, the Arusha Peace Accord of 1993, the RPF declaration of July 1994 and the inter-party agreement of November 1994¹⁴⁰. An interesting aspect of this group of documents is that stipulations of the Arusha Peace Accord On Miscellaneous Issues foresee the precedence of the Universal Declaration of Human Rights over the Rwandan constitution in matters regarding the public freedoms and fundamental rights which gave the UDHR a quasi juridical character.¹⁴¹ It was stated in the same Agreement that Rwanda should sign all human rights instruments not yet signed in 1993 and withdraw all reservations made. A 1999 analysis in this respect shows, however, that the additional protocol of civil and political rights and the convention on the abolishing of torture had not yet been ratified.¹⁴²

The fundamental rights, which are externally supported by the human rights instruments are internally guaranteed by the constitution and the country's civil and penal code.

In continuation of the political structure fixed in the constitution of 1991, Rwanda since July 1994 stayed a presidential republic under a multiparty system, whose government of (now) seventeen ministries is led by the prime minister. The legislative is formed by a unicameral parliament formed by the transitional assembly in which the RPF, MDR, PSD and PL have thirteen, the PDC and the armed forces have six and the PDI, PSR and UDPR have two seats each. Since the communal elections of 2000 two seats are reserved for representatives of women and the youth organisations respectively.

¹⁴⁰ In which all parties agreed also in abstaining from any kind of political activity. See preceding footnote.

¹⁴¹ J. Rubaduka and N. Twagiramungu, *Droits de la personne et développement human au Rwanda: 1984-1999 Bilan et Perspectives*. [Http://hdr.undp.org/docs/publications/backgroundpapers/Rubaduka2000.pdf](http://hdr.undp.org/docs/publications/backgroundpapers/Rubaduka2000.pdf), p. 11. Article 17 of Arusha Peace Agreement Miscellaneous Items.

¹⁴² By today the 2 Additional protocols to the CRC have been signed. UNHCHR website.

4.3. Role of the International community - lessons learned?

The international community acted somehow helplessly if not awkwardly in their immediate response to the post-genocide conditions. Haunted by their failure during the genocide and trying to compensate for their silent approval before and during genocide they turned on the other hand to activism. International organisations, NGOs, bilateral aid suddenly appearing in large numbers to help and things in order, each with its own agenda and its own understanding of why things are as they are and how things should be. Interestingly, the major assistance was allocated for the refugee issue. Thus, by not recognising at the same time the suffering and hardship the genocide survivors were facing the latter were punished once more.¹⁴³ On the other hand a sudden extreme alertness: voices were becoming very loud requiring a general respect for human rights and the immediate implementation of democratic features in Rwandan politics and demanding immediate reconciliation within society.

The practical effect of their presence of such increased numbers of aid agencies actually contributed to the further deterioration of general conditions in Rwanda, especially in Kigali, where most of them concentrated their activities. Equipped with large budgets they were ready and able to pay any price for rents; staff recruited for the agencies received extremely good salaries. This led to an extreme tension in the housing market, which was already negatively affected by the competition for scarce housing opportunities between returnees - as civilians or members of the RPF - seeking accommodation, genocide survivors whose homes had been destroyed and other displaced people who felt safer in the capital. Again the losers in most cases were the genocide survivors. In this way aid agencies introduced new potential for conflict by creating unexpected economic opportunities.

Although the immediate help offered was immense¹⁴⁴ this could not be appreciated by the population: first - as already mentioned – the majority of this money was channelled to refugee camps outside the country harbouring the militias and perpetrators of the genocide; second, the disappointment and frustration with the international community due to their failure before and during genocide remain a factor which has a hindering impact on all future interventions and articulation of the international community with respect to the future design of political structures and state actions.

¹⁴³ idem, p. 29.

The positive effect of the public apology to the people of Rwanda of the president of the United States, Bill Clinton, on a visit to Rwanda in 1998 opened the opportunity for the US to strongly influence Rwandan policy and thus enables the US to protect its economic interests in the Great Lakes Region despite the fact that the US was primarily responsible for the failure of the international community in Rwanda.¹⁴⁵

A joint evaluation of the immediate response of the international community to Rwanda as a complex emergency state, undertaken on proposal of OECD bi-lateral donors, international agencies and NGOs themselves - critically remarks the too slow availability of funds, thus hindering the new government in effectively addressing its immediate problems: responding to the needs of genocide survivors, establishing a functioning justice system, which could effectively fight a culture of impunity, and increasing „potential social, political and economic costs“ by undermining „the government’s overall capacity to pursue timely initiatives for economic recovery and political stability“.¹⁴⁶ An explanation for which was the lack of „accountability and transparency of budget preparation and execution by the government“¹⁴⁷. Is this a requirement that should play a role in the immediate response to a complex political emergency?

The overall reaction of the international community was characterised by a certain feeling of offence by the sometimes brusque reactions of the RPF, which, after their past negative experiences with the international community, did not respond with the expected conciliation and often refused any proposals made by the international community. It was a proud reaction, which made clear that the Rwandan Government was not ready to be manipulated for any price. This reinforced the perception of the Rwandan Government and especially of the RPF, which they only reluctantly were willing to accept. The underlying negative description of then vice-president, Paul Kagame, as „the strongman“ has to be read in this perspective.

¹⁴⁴ From April to December 1994 US\$ 1.4 billion were allocated to the response, with a „Tap-on“ period between mid-July and September. Joint Evaluation Report, p. 20 and 25.

¹⁴⁵ S. Power, *Bystanders to Genocide - Why the United States let the Rwandan Tragedy Happen*, in „The Atlantic Monthly“, September 2001.

¹⁴⁶ Joint Evaluation Report pp. 28-29.

¹⁴⁷ *Idem*, p. 29.

The evaluation report's criticism concerning the lack of co-ordination between the different agencies in their immediate response can be extended to the whole period of ongoing assistance given to the state of Rwanda. It would be interesting to know to what extent the international community did design its intervention on the basis and in support of the existing constitution and especially the Arusha Peace Agreement, which provided a solid foundation and binding obligation for a continued commitment to the democratisation process of the remaining signatory partner as well as newly added partners. Or if this chance has been missed. This question, however, shall not be handled in the present thesis.

But the UN has learned a lesson. It recognises the failure of the international community in the past acknowledging the need for international reconciliation. The formulation of the United Nations Development Assistance Framework (UNDAF) for Rwanda in 2000 defines a strategic umbrella to support the country's development approach, which combines poverty-reduction and peace-building. The main UN actors present in Rwanda, while so far having directed their activities more or less independently, committed themselves within this framework to a better co-ordination of their activities and the concentration on the following themes: Governance and Justice; HIV/AIDS and reproductive health; raising the productive capacities of the poor; regional integration; and „transitional“ issues. Gender, Human Rights and Information and Communications Technologies for Development (ICTD) are considered cross-cutting themes.¹⁴⁸ It will depend on the way in which these themes will be approached in order for them to have really the positive impact attached to them. The majority of the themes have already been the focus of international assistance already in the past, without the expected effect.

The international community has recently offered to play a positive role by providing - upon request of the government - technical training in questions of understanding and promoting the ideas of democracy. In this respect the US has taken a lead role with seminars and workshops organised accompanying the constitution building process and the preparation for elections.¹⁴⁹ To what extent the country will be able to include an idiosyncratic design of democratic institutions corresponding to its unique identity and heritage is yet to be seen. There is evidence, however, that this can be achieved.

¹⁴⁸ UN-Rwanda UNDAF.

¹⁴⁹ For example: IFES (International Foundation for Election Systems Final Report: *Workshop on Civic Education for Elections in Rwanda*, 15.-18.May 2002.

4.4. Democratisation in practice: Harmonising reconciliation and democratisation

In its response to the multitude of issues to be addressed in the process of rehabilitation of society and economy and the establishment of a new political system, the Rwandan government is subject to particularly harsh criticism by international and national human rights groups. As much as these groups' monitoring work is important and relevant, the exclusive out-of-context use of their findings by outside analysts of the country's situation risks hampering a process of gradual improvements if positive developments do not receive a similar or even stronger attention.

The main obligation for the state is to harmonise meaningful participation and security demands for the Abahutu and Abatutsi groups of the Rwandan society. Quality of participation will improve and become meaningful if economic opportunities are widened. This would have not only a positive effect on the decrease of the potential of violence but also on a change of attitude towards participation which would then be seen as of interest for both the society in general and the ruling elite.

The Rwandan government has so far tackled its obligation by concentrating on the decentralisation of decision making processes using a bottom-up approach, which is also aimed at breaking the persistent culture of blind obedience to authority which facilitated the genocide.¹⁵⁰ In this context then achievements like the introduction of community development committees (CDCs) to transfer decision-making for development issues to the local level, the introduction of gacaca courts¹⁵¹, aiming at a more participatory justice process and finally regular consultations among groups of the populations and among parties have to be mentioned. By this re-empowerment of local structures the present government seems to be trying to revive and strengthen decision making structures which had been functioning in the Rwandan state structure, prior to the arrival of the colonial powers. The empowerment of women has been recognised as an important factor in the solution finding process. A bottom-up election process started in 1999 first with elections held on the lowest sector and cell level,

¹⁵⁰ *Postgenocidal Reconstruction. Building Peace in Rwanda and Burundi*. Special Report of the United States Institute of Peace, <http://www.usip.org/pubs/specialreports/sr990915.html>, Sept. 1999. p. 9.

¹⁵¹ Gacaca courts are courts established on the local level to judge on lesser categories of accused genocide perpetrators through a voting by gacaca judges selected on the communal level for being of particular integrity and objectiveness. With the term gacaca the courts make allusion to an old system judgment finding existing already before colonial times.

followed by elections on the next higher district level in 2001 and eventually national elections in 2003.

This bottom-up approach is institutionally reflected and supported by specialised missions established since 1999.

4.4.1. Specialised missions

As required in the Arusha Peace agreement by the year 2000 four specialised missions have been established: a Commission for National Unity and National Reconciliation, a National Human Rights Commission, a National Electoral Commission and a Legal and Constitutional Commission. After having sketched the objectives of the first two the two last mentioned commissions will be looked at in detail in the context of their tasks.

Founded in 1999, the Rwandan Human Rights Commission got its final name in 2002. The relevant law of December of that year prescribes its mandate as ranging from awareness raising for human rights issues among the population to advising government and legislature with respect for human rights to investigation into human rights violations and punishment thereof. To this end the members of the Human Rights Commission have been accorded status of police officers whose territory of responsibility is extended to the whole nation. The same law further prescribes that hindering the work of the Commission - by individuals or associations - is punishable with fine and/or imprisonment.¹⁵²

The National Unity and Reconciliation commission (NURC) was set up in March 1999 with the main task of sensitising the population about how to enhance unity and reconciliation or as the law states: „to prepare for, and facilitate debates at the national level with the aims of promoting unity and reconciliation among Rwandans“. Issues dealt with in the commission are being collected among the population in consultative meetings held all over the country. They can be grouped in three programmes concerning civic education, conflict mediation and community initiatives. On a yearly basis National Summits on Unity and Reconciliation are being held which also invite international guests, preferably from countries which are confronted with similar problems as Rwanda and which serve to enlarge the scope of suggestions on how to approach the issues of unity and reconciliation. One important aspect

of the task of the NURC is the analysis of government policies with respect to their effect on peace, reconciliation and national unity.

4.4.2. The election commission and elections

Accounts of the elections held with lesser or stronger involvement of the National Electoral Commission (NEC) can be found in election evaluation and observation reports and in the overall outcome of the elections. The NEC itself was established with a law of November 2000 and was in charge of organising the local and community elections of held in March 2001, in which councils and executive committees on the provincial and district level were elected by the population, which were then to nominate and elect the burgomasters through indirect vote. Two years before the first election after the 1994 genocide took place to elect the representatives of the population at the sector and cell level.¹⁵³ Both elections were characterised by a high voter turn-out of around 81% for the sector elections and 96% for the 2001 elections.¹⁵⁴ Both elections show the endeavour to respond to the particular conditions prevailing in the country; be it in the timing, in the election system chosen and or in their technical realisation.

A secondary approach to the Rwandan elections is helpful to underline some issues:

It shows how intercultural election evaluation is influenced by the perspective taken by the analyst which is often derived from his own background from which he applies essential criteria to a new setting less (or not) familiar to him. It is rather worrying, though, that wrongly formulated criticism can potentially do much harm to a fragile situation of democratisation when implicitly the criticised receives more destructive contempt for his achievements than constructive criticism. Both aspects can be found in the ICG election evaluation of the March 2001 elections.

This report mockingly questions the consensual approach chosen by the Rwandan government by specially highlighting it in the report's title: „Consensual Democracy“. It is influenced by a narrow perception and an underlying prejudice against a strong RPF, thus

¹⁵²Website of the Rwandan Commission for human rights. www.crdh.org/base.html.

¹⁵³ The administrative structure of Rwanda provides under the new government for a division of the country into 12 provinces (formerly prefectures), 105 districts/towns (formerly 154 communes) which each are divided into sectors and cells. Terminology in Kinyarwanda of the Habyarimana period has been exchanged with terms from the pre-colonial time, which were used also during the colonial period.

¹⁵⁴ International Crisis Group (ICG) „*Consensual Democracy*“ in *Post-Genocide Rwanda. Evaluating the March 2001 district elections*, Africa report No. 34, Nairobi/Brussels, p. 17 and 34.

lacking a neutral standpoint. Even if some findings were (or are) true the way the report is written does nothing to contribute anything to overcoming the observed shortcomings. It misses the opportunity to present an alternative, which would better respond to the requirements of the environment in which elections are to be held, without leading (as have been pointed out by many academics)¹⁵⁵ to the destructive effects which elections, held in the wrong way and at a wrong time, could have. This report could serve as a negative example to support a new approach to election evaluation in which judgements, according to academic opinion would be better replaced by recommendations.

4.4.2.1. The sector and cell elections of 1999

The fixing of the first election date after the genocide was influenced by the overall tense security conditions in Rwanda in 1997 and 1998. With brutal attacks launched from the neighbouring (former) Zaire by radical militias linked to the old government, the security situation was destabilised especially in the north-west of the country as well as in the adjoining province of Gitarama. For security reasons, elections held at an earlier moment would definitely have caused considerable problems, as both voters as well as candidates were at risk. As no elections in preparation of the end of the transitional period could be held prior to 1999 the extension of the transitional period was a logical consequence. Thus the first elections only took place about five years after the seizing of power through the RPF. The outside observer could either interpret this as a position of a government hostile to democratisation or as a rather prudent decision of a government confronted with a daunting triple task: conflict management, country stabilisation and democratisation.

The remarkable feature of the 1999 elections was the „queuing system“ which was used mainly to reduce cost. Apart from that latter advantage the ICG, for example rejects this kind of voter expression of will, where the voter gives her vote by queuing-up behind the candidate she chooses out of a group of other candidates, all standing with their back to the electorate, because it „denies freedom of choice and any subsequent appeal since no material proof of the vote remains“.¹⁵⁶ In reality this could also be seen as an exercise in civic education, since people were or became aware of the importance of the situation and started discussing on the procedures, if irregularities or manipulation had been observed, and defended the position

¹⁵⁵ Compare: Zartman, Ottaway, Malone.

¹⁵⁶ ICG report, p. 11.

„physically“ taken. There were sectors which repeated the process until a consensus was found on the understanding of procedures and their implementation. For the broad majority of the population not familiar with sophisticated western-style election procedures this method was seen as an improvement over past experiences and was appreciated as a promising exercise.

4.4.2.2. The district elections of March 2001

In its own appreciation of the main obstacles the NEC is facing in introducing elections as a instrument to launch democratisation process in Rwanda, it lists next to the lack of democratic understanding among the population and the lack of experience with elections on the national level infra-structural shortcomings and problems, including personnel inexperienced in the preparation and organisation of elections.¹⁵⁷ However, within only a few months they managed to establish an election framework which allowed for the holding of elections -albeit non-party elections- with universal suffrage to elect (at sector level) one representative of the general population as well as one women and one youth representative each. The latter two representatives were an innovation introduced for the future district council, in acknowledgement of the particular problems of women and youth in the post-genocide circumstances. They require a special voice and a tribute to the leading economic role of the women, especially in rural areas as bearers of the main burden of agricultural labour.¹⁵⁸ The district council was then formed by the twelve representatives of the general population out of the twelve sectors per district plus four women representatives and youth representatives each to make a membership of twenty persons all together. The illiteracy problem within the population was addressed with the innovative use of ballot papers bearing the copied photos of the candidates as well as the use of different coloured ballot papers for each type of representative.

Criticism was expressed regarding the selection requirement for candidates, which were to have completed secondary school education, which in rural areas hardly anybody could meet.¹⁵⁹ The NEC explained this as being „basic requirements for the candidates for competent human resource necessary to handle the devolved functions to District and

¹⁵⁷ Website of the National Election Commission, www.comelena.gov.rw/francais/defis.html.

¹⁵⁸ Personal interview with NEC member, Dec. 2000.

¹⁵⁹ ICG report, p. 15.

Municipal levels“.¹⁶⁰ It also reflects the still persistent distinctive value assigned to secondary education in Rwanda and which definitely must be overcome in order to promote inclusion of the majority rural population. However, this issue will have to be addressed through a general redesign of the education system and not by new criteria introduced in one of the first elections of Rwanda in a very long time. Recognition among the population of candidates not fulfilling the education requirements would probably have been difficult. Apart from this, one should remember in this respect that until quite recently, higher education was an exclusive requirement for the participation in general elections in Europe.

The ICG report remarks that the „electorate’s genuine wishes and choices are peripheral to the strategy“ applied by the Rwandan government, whose objectives are „to establish a competent and politically reliable local government leadership that will guarantee the flow of aid; efficiently pursue the government’s development strategy; provide constant support for national unity and reconciliation; and last but not least ensure satisfactory political results for the RPF in 2003“.¹⁶¹ Isn’t that just that what a government should do? Especially when running the risk of being labelled „weak“ and making itself subject to opposition attacks and destabilising the political and security situation of a country? Furthermore does this criticism concentrate on opposition elite as the „electorate’s genuine wish“ and not on the large population, whose primary interest at this moment still concentrates on two things: to be able to live in peace and to have something to eat.

The ICG analysis is also interesting in so far as it cannot deny the innovative potential in the electoral system of indirect representation chosen by the RPF in support of „the purpose of its policy, which aims to break the personalisation of authority“ by trying „to weaken any link between the population and its district leaders in favour of a stronger collective accountability that would increase popular participation in local government“. It attests that the Rwandan system of indirect representation, as it is not undemocratic and „common at local and national levels in many democratic societies“ to be „an interesting experiment in building a new type of governance“, „at least in theory“.¹⁶²

¹⁶⁰ National Electoral Commission’s Observations on the International Crisis Group (I.C.G.) Report - „consensus Democracy“ in post Genocide Rwanda: Evaluating the March 2001 District Elections. October 2001. www.comelena.gov.rw/observicgeng.htm, p. 4.

¹⁶¹ ICG report, p. 2.

¹⁶² Idem, pp. 5-6.

Decentralisation is presented as an invention of the RPF designed to strengthen the position of the party's own interest.¹⁶³ However, decentralisation had been introduced under Habyarimana, although pursued in less rigorous way. He responded to the demands of the international community. The UN programmes for Rwanda likewise are aiming at decentralisation, as centralisation has been noted in academic analysis as one obstacle to democratisation.¹⁶⁴

Elections were organised in the time-frame given to the NEC, that had started only few months before the elections were held, whose staff had to familiarise itself with the establishment of an election system that responded to international standards did managed to fulfil the task by direct consultation with the international community on electoral questions. If the NEC was to perform astonishing well it was certainly due to the commitment of its staff, who was ready to learn by doing. The urgent need for civic education, as mentioned by NEC as one of its main challenges, resulted in a workshop held on the national level in May 2002 through a specialised agency sponsored by the United States Agency for International Development (USAID) bringing together representatives of all sectors of Rwandan society.¹⁶⁵ This corresponds to the observed development „of mini-industry to support democratisation“ in recent years.¹⁶⁶ Depending on support like this the state remains exposed to influence exerted by foreign powers.

According to one academic, „the rebuilding of state and power structures must be achieved with a bottom-up approach“. Furthermore, „a temporary but effective agent at the top is needed to provide a provisional framework within which the structure of institutions can gradually be erected to allow the state to return to the centre of social and political organisation of civil society.“¹⁶⁷ The elections can thus be regarded as first step towards democracy with the present Rwandan government fulfilling its role in state-building according to this view. Carefully organised and held at the right moment elections are a good exercise even in a conflict-ridden state thus giving support to the argument of Ottoway, that all elections that do not respond to these requirements would present a setback to democratisation.¹⁶⁸

¹⁶³ Idem, p. 6.

¹⁶⁴ UNDP report.

¹⁶⁵ IFES, Civic Education.

¹⁶⁶ E.S.Clark, p. 29.

¹⁶⁷ I. W. Zartman, *Putting things back together*, p. 268.

¹⁶⁸ M. Ottoway, p. 245.

4.4.3. Harmonising national unity and multiparty system

Both elections were non-party elections. Since the signature of the agreement of understanding between party representatives in November 1994 parties abstained from any kind of activities resembling party propaganda. Still parties formally exist, and they are also taking part in the transitional government as well as holding as well government posts. Representatives elected in the two elections were not selected to party affiliation but rather were elected in general recognition of their capacity and morality in the community. It should be assumed that potentially those elected could eventually turn out to be sympathising with one of the parties which will eventually compete in the national elections. However, this depends on the fact to what extent parties in Rwanda actually show a distinctive profile where the voter can vote for a certain programme corresponding to his/her expectations rather than feeling that the vote will only go towards supporting the personal interests of party leaders. A culture of political parties that fit into the idea of competition within a democratic system as known to Western democracies still needs to develop. Existing parties today for the most part originally been founded during the first attempt of introducing the multiparty system in the 1990s. Experiences of the population with these parties, as mentioned earlier, are linked with negative feelings: associated with an experience of violence culminating in genocide and with selfish personal interests pursued by party leaders. After the genocide new parties mostly developed outside the country formed by the diaspora of Rwandan refugees living in Western countries. Parties - so far as programmes are currently available to analyse - do not present a programmatic approach of main issues identified to be addressed or give an indication of how the party intends to address them. They focus more on offering a group identity than on political decisions. The interdiction of party campaigning could be seen in this context. „The fact that the law forbid ideological campaigns was in line with institutional requirements of the level at which elections were held and the insistence of non-ethnic and sectarian campaigns was in the general government philosophy of rebuilding a cohesive Rwandan society“¹⁶⁹ writes the NEC in reply to the ICG report. In Rwanda the idea of political campaigning is still strongly linked with the fear of potential ideological or ethnic oriented campaigning. Apart from the respective stipulations in the Arusha Peace agreement the country is still in need of a legal regulation concerning parties and elections in general.

It is interesting to draw upon the example of another African country like Tanzania to compare how the introduction of a multiparty system is similarly perceived in an environment of the African continent that has not been exposed to ethnic conflict. Here it has been introduced due to donor pressure (and that of internal local groups) despite a 80% popular opposition.¹⁷⁰ This negative attitude towards the multiparty system reflects the deep mistrust of the people against possible corruption coming along with new parties and hints to the lack of understanding about basic democratic structures currently found in many countries that are being urged to change to multiparty system.¹⁷¹ Although parties are taking up „concerns of Western liberal ideology“ in their programmes these are, as has been observed in the same context, „unclear and unformed“.

Another issue in this example is worth noting which can be applied to a general African context and to the particular case of Rwanda: People in the end seem to vote not so much for the party and its programme, but more for the candidates in as much as they represent personalities of integrity. Deeds and reputation count more than words. Without persons of integrity and reputation multiparty system in Africa - as the experience of Tanzanians shows - runs the risk that candidates, although elected by the people, will use their newly acquired position for their own ends. „The people we have elected turn out worse than those appointed by central government.“¹⁷²

As in Tanzania so also in Rwanda, differences of perceptions and understanding of the multiparty system and democratic development as a whole between the urban and rural areas have to be acknowledged. With a more than 90% rural population, a lot of attention must be focussed toward the information and education of this majority part of the population. Their understanding of political representation is not necessarily so clearly linked to what Western concepts of representation prescribe.

If the call for inclusion of marginalised parts of the population is seriously pursued this does not mean the imposition of a system on them which has developed in a completely different environment over a long sequence of years and proven successful there. It requires the allowance of room for the development of new forms of understanding of democracy which

¹⁶⁹ NEC, idem, p. 4.

¹⁷⁰ K.A.Snyder, *Being of one heart: Power and Politics among the Iraq of Tanzania*, in „Africa“, 1, 2001, p. 138.

¹⁷¹ Idem, p. 139.

responds to the needs and habits of these specific people and which eventually should be expressed by them. In a peaceful environment such as Tanzania this „domestication“ of democracy¹⁷³ can take place undisturbed. In a post-conflict environment interference by other actors risks hindering this development, which is necessary for democratic sustainability.

5. The constitutional design for the future

Constitutional engineering in a divided state like Rwanda in post-conflict situation and in transition to democracy while responding to the above outlined requirements has to serve two purposes: to enhance the democratisation process and assure conflict management. The Legal and Constitutional Commission approached the task principally through consultations with the population living inside and outside the country.¹⁷⁴

In May 2003, the population decided by referendum on a constitutional draft presented by the Commission, combining the preceding different documents into one document as a future basis for the state. Although some of its characteristics may hint at Western influence, especially from the US, it also contains some typical features, which reflect Rwandan traditions and history as lessons drawn thereof. It has been approved by 93 % of the 3.8 million voters¹⁷⁵ in an electoral proceeding whose performance has been considered by the EU Election Observation Mission as having taken place under „satisfying conditions“.

5.1. „Constitutional Choices“ in Rwanda

With this step the Rwandan population agreed on a semi-presidential form of government being supported by a bicameral parliamentary legislature, consisting of the chamber of deputies and the senate. The constitution provides for different electoral systems. The president will be elected by simple majority while the chamber of deputies, increased to eighty members, will be elected through closed lists following the proportional representation system and also through indirect vote. The threshold for representation in the Chamber of deputies is fixed at 5%. Fifty-three members of the Chamber of deputies will be elected by universal suffrage, while twenty-four women will be elected indirectly by a joint assembly of council representatives and executive committee members of women’s organisations. Two

¹⁷² Idem p. 141.

¹⁷³ Idem, p.144.

¹⁷⁴ Legal and Constitutional Commission, „Towards a Constitution for Rwanda. Actionplan 2002-2003.“ pp.1-35.

youth representatives will be elected by the National Youth Council and one member of this chamber will be elected by the Federation of Associations of the Disabled.

The senate will be composed of members both elected and appointed. The majority of senators are chosen by indirect vote through the community councils (twelve members), by nomination of the president (eight members), through identification by the consultative forum of the political parties (four members) and election on university level (two members).

5.1.1. Special features in response to particular conditions of Rwanda

The constitution designs a political structure with a strong leading figure with quite extensive powers. Involved in most decision making, the president is limited directly only in respect to a two-term presidency permitted and to the required approval of the parliament in decisions relating to state of emergency, war, and signatures of international treaties. Although it is the responsibility of the president to nominate the prime minister as head of government, the cabinet cannot consist of more than 50% of majority party members. This prevents the domination of the presidential party within the government and therein limits to a certain extent the executive power of the presidency.¹⁷⁶ While article 59 of the draft Constitution explicitly excluded the possibility that the President, Prime Minister and President of the Chamber of Deputies belong to the same party, the final document currently available mentions a restriction on a shared party membership only for the President of the Republic and the Speaker of the Chamber of Deputies.¹⁷⁷ This chamber has the right to question the performance of government or particular government members through a vote of no confidence. On the other hand the Chamber of Deputies can be dissolved by the president after consultation between the government, the president of the Supreme Court, the president and speakers of the two chambers.

Lijphart, in trying to explain constitutional choices in Europe, mentions findings on the democratisation of monarchical power by either taking away and replacing most of the monarchs power with a parliamentary system or by maintaining the conceptual position of the monarch but replacing the hereditary aspect with a democratic election process thus

¹⁷⁵ www.irinnews.org, News of May 26 and 28, 2003.

¹⁷⁶ Compare A.Lijphart, *Constitutional Choices for new democracies*, in L.Diamond and M.F. Plattner, (eds.), *The Global Resurgence of Democracy*, 1st Edition, Baltimore and London: Johns Hopkins University Press, 1993, p. 163-164.. „Presidential systems concentrate executive power (...) not just in a single party but in a single person.“

¹⁷⁷ The Constitution of Rwanda 2003, Article 58.

producing a presidential system.¹⁷⁸ A certain analogy to the latter alternative can be made in Rwanda where since independence the presidential system has always prevailed and in which the presidents generally were compared with and accepted in their role as „Umwami“, the „monarch“ of pre-colonial times. With an Umwami-like president with a number of extended consultative bodies around him the constitution might to a certain extent reflect a revival of the pre-colonial political structure as a modern outfit with democratic institutions.

5.1.2. The party dilemma

The issue of existence of political parties in Rwanda is interesting in so far as the constitution - speaking in the English translation in a general way of „political organizations“¹⁷⁹ confirms the interdiction for parties based on any criteria that may give support to discrimination.¹⁸⁰ They will thus not fit into the argument generally put forward in favour of multiparty system, which is to assure minority representation¹⁸¹. Until they have developed a distinctive argument and awareness of their political and creative role they rather seem to have kept their decorative function - according to the Western understanding of political parties - already noted under the Habyarimana regime. Furthermore the political organisations are only permitted which are founded on the territory of the republic. This excludes all parties which have been created by Rwandan refugees now in the diaspora. The still pending design of a law on the creation of parties, whose establishment is provided for with Article 57 of the constitution, should consider the importance of the creative input expected from parties for the development and improvement of democratic structures. It might offer a new understanding of their function altogether.

5.1.3. Consensus finding and integrity of the individual

¹⁷⁸ *Idem*, p. 165.

¹⁷⁹ The English version of the Draft constitution still made distinction between party and political organisation. In this context it is interesting to note that the RPF according to its present secretary general seems to consider itself not as a party but as a political movement, open to every Rwandan. (www.irinnews.org of May 9, 2003. 28.5.2003). On the other hand, in a French version, the RPF document on its ruling principles uses the term ‘parti’. This might be explainable with a possible translation problem between the Kinyarwanda and the English/French versions regarding the concept of „party“ and „political organisation“. The claim, if true, points also to a striking similarity between the RPF and the MRND.

¹⁸⁰ The Constitution of the Republic of Rwanda, 2003, Art. 54.

¹⁸¹ Minority representation is only taken care of through Article 82 by specifying criteria for the nomination of senators through the president who „shall ensure the representation of historically marginalized communities“.

Importance is attributed to the possibility of consensus finding on different levels within the political system, be it within the legislative, the executive or the judiciary. This goes along with the great value accorded to moral integrity and individual merits of persons to be selected for the respective functions within these branches. In particular these criteria are applied in the strictest sense as requirements for candidates to the twenty-six senator posts. The same prerequisite is put forward for candidates of the Supreme Court and Judiciary in general. This underlines the attention paid to persons' behaviour and reputation rather than pretentiousness already mentioned in a different earlier African example. In the context of a post-genocide society this criteria gains even more importance. The establishment of the Chamber of the Senate has been conceived particularly with respect to conflict resolution necessarily arising from political discourse between parties and political formations¹⁸². In addition to this the constitution provides for the institutionalisation of the practice of party consultations within a consultative forum of political parties.¹⁸³ This forum has already been created during the rule of the transitional government when parties voluntarily abstained from extended political activities. The purpose of the forum apart from „consolidating national unity“ and „facilitating exchange of ideas by political organisations on major issues facing the country“ is to mediate between and within political organisations. Parties are required to follow certain ethics in line with the principles of the constitution which are to be specified in the above mentioned law.

On the executive side the president calls in a National Dialogue Council which is proposed to meet on a yearly basis (at minimum) and to bring together five representatives of the district, town and municipality councils. It is meant to permit feedback from the communal level to central politics for the future improvement of state institutions.

Apart from the gacaca courts now formally integrated in the judiciary the constitution also foresees a mediation committee to be established in each country sector which follows the same logic. For these committees twelve persons again with recognised mediation capacity and chosen for their personal integrity are identified among the population in each sector by the councils. Conflicting parties are required to chose three mediators from the committee to try to settle the dispute. Only after unsuccessful intervention of the mediators proves can the case, on presentation of a mediation report, be handed over to a First Instance Court for

¹⁸² Draft Constitution, preface.

¹⁸³ The Constitution, Art. 56.

settlement. Allegedly this procedure has been put into place following the suggestions taken from the population during consultations for the constitution. The underlying concept is „to promote the spirit of dialogue and reconciliation among Rwandans as well as to reinforce unity of the Rwandan community.“ It will certainly contribute to lessening the load on an overburdened Judiciary.

5.1.4. Gender awareness

The Rwandan constitution is dedicated towards guaranteeing equality between women and men. It is a repeated condition for selection of candidates or the occupation of positions. Institutionally positive action in favour of female participation has been taken by fixing the percentage of women to be represented in the two Chambers at a minimum of 30%.¹⁸⁴ A women’s council has been established on the national level to discuss issues relevant to Rwandan women. Compliance with gender requirements on all state levels is to be monitored and supervised by a newly established „Gender“ Monitoring Office, that is also supposed to give orientation in ways how to achieve equal opportunity and fairness.

The attention paid to the role of women in the decision making process is an acknowledgement of their changed status in Rwandan society in particular since the genocide, (for which the high percentage of women headed households for example can serve as an indicator). The change of laws and regulations in recognition of the new status of women is necessary, as according to old legal order women were solely considered as subjects of their husbands, the husbands family or their father. To continue this process of legal adaptation already begun for example with respect to changes in hereditary laws in response to the changed social status of women requires strong female representation. The shifting of the traditional role of women in Rwanda also gained support through the impact of the returning old refugees, socialised in different cultures and through the emancipated role women had gained in the ranks of the RPF. In addition, the pragmatic requirements of the situation of life created by the genocide prompted women to take an even more active role which they are now ready to defend. In a way this also indicates a reorientation to older values of pre-colonial times when women had a more clearly defined and recognised position.

5.1.5. More specialised Commissions

¹⁸⁴ In the international comparison Rwanda will then take a position among the top ten countries with women’s representation of more than 30%.

Finally does the constitution provides for the establishment of further specialised commissions in addition to those already institutionalised according to the Arusha Peace Agreements. These include the Commission of Fight against Genocide, the office of the Ombudsman, the Public Service Commission in charge of guaranteeing a transparent and equal way of recruitment for public service posts, and the Office of the Auditor General of Public Finance. The first mentions answers to particular conditions created by the Genocide, the others are meant to contribute to greater transparency and accountability. They report to both the parliament and the cabinet.

5.2. The Constitution of 2003 assessed

In the situation where the state continues to be exposed to all of the factors that in the history of the country have led to state failure and state collapse - limited land resources, heavy population growth combined with lack of economic alternatives to agricultural production - the design of the constitution, stressing the aspects of reconciliation and national unity, reflects the prioritisation followed in response: State-building or state consolidation before democratisation, however, the introduction of democratisation nonetheless in a complementary way.¹⁸⁵

In the context of the first mentioned aspect great attention is attributed to conflict prevention. The concept of political organisations or parties as being a potential source of conflict is accorded a particular interest due to mistrust born from bad experiences¹⁸⁶ and mechanisms have been integrated into the constitution that should help prevent future similar conflicts from arising. However, as the particular law regulating elections and party building is still to be designed an evaluation of the impact is difficult to yet make. Much will depend on the contents of these laws. The individual is required to call to mind and develop forgotten or hidden values of integrity as input to achieve the desperately needed national unity and reconciliation. All sides are demanded to contribute.

A cautious step in the direction of democratisation has been made, which is much more dedicated than that of the constitution of 1991. However, it is still influenced by the lack of confidence in the general moral change of attitude, which is reflected by the integration of safeguards of mutual control while maintaining the principle of a strong leading hand.

¹⁸⁵ M. Ayoob, *State-Making, State-Breaking and State Failure*, p. 84.

Weaknesses can be found in the unclear orientation given as to how to define such criteria as ‘moral integrity’ or on the negative side ‘divisive tendency’ without falling into the trap of arbitrariness.

However, the constitution provides a proper orientation and requires a commitment to certain basic values of a democratic state, which can be monitored from both within and outside the country. The constitution still needs to develop towards perfection but this will only be possible when the true forces for change, the people, are economically and educationally empowered. For this there is a great potential and hope - as already the great promoters of this change - women the rescapees of the genocide , have had their role in society acknowledged by the new constitution.

¹⁸⁶ It underlines the argument of Ottaway that more attention should be paid to party development rather than civil society.

IV. CONCLUSION

In response to state failure and the consequences of the genocide present day Rwanda has decided to put the priority on the restoration of national unity, after its destruction through the intervention of the colonial powers. This critical and necessary aspect in the process of nation-building has never been attempted since 'independence'. Instead political decision making led to the aggravation of societal divisions. These divisions were kept up due to the economic advantages attainable for those in power and led to repeated outbreaks of violence through the decades of independence prior to the genocide.

Real independence has never been achieved by most African states. This held particularly true for Rwanda. Constraints in economic development potential made continuous support from donor countries necessary. Donor countries' action (or even lack of action) has always had an influence on political decision-making. While the superiority of the donors had to be unconditionally accepted, the alleged moral superiority of (especially of the Western) countries over the small African state was seriously challenged, when these states failed to adequately respond to the human catastrophe of the genocide in Rwanda which was allowed to develop and to take place under their indifferent eyes.

This unchallenged acceptance of external superiority leads the Western states to the tempting but misguided assumption that theirs is always the best solution to conflicts and problems arising elsewhere. It is assumed that since their political system functions successfully, guaranteeing peace and stability in their countries, they should function, or at least be tried, everywhere. Thus democratisation was imposed on Rwanda at the end of the Cold War when the country was facing both externally and internally caused conflict. Without considering the appropriate speed necessary for this it jeopardised the fragile democratic beginnings in the country.

Accustomed to unquestioned acceptance of the established hierarchical order, the international community and especially the Western states had difficulties accepting a new self-confidence expressed by the new leadership in Rwanda after the genocide. This led to an inadequate response in the immediate post-conflict situation. Opposition against the Western influence has since given way. Still the present government tries to develop individual

solutions to the challenges with which it is still confronted. Its approach to reconciliation and democratisation is based on Rwandan traditions and their revival.

But reconciliation and democratisation will not be successful unless living conditions are improved. Only if the interrelated security conditions and economic development is improved can the project of democratisation really work, with calls for pluralism and democratisation arising from the people, from the bottom-up.

However, the underlying causes for past conflicts persist. Economic conditions remain tense, and can even be expected to worsen considering population growth due to immigration and reproduction. To achieve the task of national unity access to economic benefit has to be opened through other ways than exclusionary group membership. This requires the broadening of economic opportunities. Education has to be designed in order to respond to Rwandan conditions, overcome thinking in ethnic categories, promote individual accountability, provide civic education, and create a human resource to contribute to future economic development. The decentralisation policy pursued by the government, with support of the UN, might help to bridge the gap between „modernity“ and „tradition“ between city and rural environment, which continues to exist, even in a small country like Rwanda. Meaningful support for the education system and the broadening or reorientation of economic possibilities in combination with the decentralisation policy will hopefully contribute to the inclusion of the majority (90%) rural population in the decision making process in order to prevent their future manipulation.

All this provides options for the international community for the future orientation of assistance. It will require, however, the evaluation and revision of general intervention in this sense up to now, including revision of the issue of debt relief. The state must be strengthened to be able to guarantee a framework in which democratic processes can naturally develop.

Responsibility must be left with the state to guarantee ownership. As Ake demands to „leave African leaders alone in the democratisation process. They know what they are doing“, the Rwandan policy design should be left to the Rwandans. The Rwandan state is at present concentrating on the state-building process. In a complementary way it is adapting the „lofty ideas of democracy to the realities of the African conditions“ by trying to revive Rwandan

traditions. This adaptation to Rwandan conditions explains the traces of authoritarianism remaining in the government.¹⁸⁷

It has to be assured, however, that government keeps a sound balance between a necessary strong hand of control and the guarantee of equal participation of all parts of the population, politically and economically. There is a tension between these aspects. In this context support from the international community could be given to those relevant institutions.

The extreme dependency of Rwanda on foreign donors necessitates that the point of view of the International Community is heard. This should not lead, however, to a scenario in which the International Community takes over the design of Rwandan institutions. International influence on democratic development should not focus on the introduction of new structures or policies, but instead on the insistence of strict compliance with standards and principles upon which the state itself has agreed (such as human rights conventions) and on strengthening existing democratic structures. All external support given, however, requires a great amount of sensitivity and knowledge of the country. By the same logic external appraisals of the process of democratisation processes should be done with care and not by applying the Western pattern, which does not necessarily fit to Rwandan reality. Positive developments should be highlighted. Serving as a positive model would have much more impact than constant criticism. As such, a precondition for the international community to continue to play a positive role in assisting Rwanda on its path to further stabilisation, should be the consistent application of its own rules of good governance to itself, in its own context as well as towards the partner country.

The monumental task which lay before the new government after the genocide has been met with both great concern and great enthusiasm and despite the most unfavourable conditions, it has produced impressive results. There are still short-comings which will have to be addressed as, for example, improvements in the access to free media and to freedom of expression.

The popular approval of the constitution could mark a new stepping stone in this direction. It signals the readiness of the population to commit to the overall policy of national unity, which in turn will increase the government's confidence in the people. In the Rwandan context small steps such as approaching and agreeing on a common project like the constitution bear more

¹⁸⁷ Ake, *idem*, p.75., Ayoob, *idem*, p. 84, Deng, *idem*, p. 225.

importance than the existence of a theoretically flawless formal framework. Personal relations count more than technicalities. Rwanda's approach to policy design takes this into consideration.

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