

# “Responsible .... by Omission”: The United States and Genocide in Rwanda

by Lyn Graybill

*“When people rightly point the finger at certain individuals presumed responsible for the genocide, I wonder if after all there is not another category of those responsible by ... omission.”*

## HUMANITARIAN INTERVENTION AFTER THE COLD WAR

The legal principle of non-intervention in the affairs of sovereign states that was sacrosanct for most of the twentieth century began eroding immediately following the end of the Cold War. While there had been legal justification for intervening in conflicts between states if they posed a threat to international peace, for breaches of peace, and for acts of aggression, international law was silent on the right to intervene in domestic situations. However, with the end of the Cold War military intervention within states has been viewed as more acceptable. According to Michael Smith, for a brief time there was a “Dudley Do-Right euphoria” about the possibility of dispatching peacekeepers wherever they might be needed.<sup>2</sup> A consensus seemed to be developing that legitimized intervention for acts of aggression against a state’s citizens or for ethnic conflict within a state’s borders. The legalist paradigm, which privileged the rights of sovereign states, was slowly being superceded by the cosmopolitan paradigm that heralds the rights of individuals.

Indeed, many UN officials recall a sense of excitement during the early post-Cold War days when activism could be directed toward helping people rather than allowing *realpolitik* concerns to dominate decisions.<sup>3</sup> At the beginning of the post Cold War years, the international community began to add questions of endemic injustice and suffering as reasons to intervene in ways that had not been previously possible when the world was divided into two hostile blocs and intervention had to be avoided to

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keep the Cold War from becoming hot. There was a new concern with “human security” and saving “failed states.”

The Security Council authorized interventions for humanitarian purposes throughout the 1990s. The use of force for other than self-defense was authorized in eleven cases since 1989, for example in Somalia, Bosnia, Haiti and Rwanda. It also endorsed peace-implementation missions in Kosovo (after the NATO intervention), East Timor, Sierra Leone and Congo.<sup>4</sup> But since 1993 elite opinion has become increasingly wary of trying to do good in places where no national interest exists. Somalia in part explains this waning enthusiasm.

### SOMALIA: PRECEDENT FOR ARMED HUMANITARIAN INTERVENTION

By 1992 starvation gripped Somalia in the wake of the civil war, which followed the overthrow of Mohammed Siad Barre in January 1991. As Barre fled, the scorched earth policy of his retreating troops created a famine belt. Once a common enemy no longer existed, the clans that had united to overthrow Barre fought for control of the government. (Factions of the Hawiye based United Somalia Congress (USC) guerilla army supportive of Ali Mahdi fought factions of the Hawiye forces loyal to Mohammed Farah Aideed) Fighting at the same time as a serious drought led to anarchy and famine. 1.5 million out of a population of 2 million were threatened with starvation, and 300,000 had already died, including 25% of all children under five.<sup>5</sup>

The U.S. decided to intervene in Somalia under “Operation Provide Relief” in the summer of 1992.<sup>6</sup> The intervention was explained in terms of morality: President George Bush told the Republican Party Convention in August 1992 that “starvation in Somalia is a major human tragedy” and that the U.S. would deliver food to those who desperately needed it.<sup>7</sup> The airlift fell short of reaching its goals; there was no way to guarantee that the food got to famine victims once it was dropped. On November 26, after UN Secretary General Boutros-Boutros Ghali announced that the relief efforts were not working, President Bush announced that the U.S. would send ground troops to protect food convoys, and the United Nations passed the authorizing resolution on December 3.<sup>8</sup> The first troops with “Operation Restore Hope” hit the shores on December 9, 1992.

In May 1993, the second UN Operation in Somalia (UNISOM II) took over as a Chapter 7 peace enforcement operation with a broader mandate. Resolution 814 mandating the operation was not written by UN bureaucrats but came intact from the office of then Chairman of the Joint Chiefs of Staff Colin Powell.<sup>9</sup> In response to militia attacks on Pakistani peacekeepers in June, who were inspecting Aideed’s weapons storage sites, the U.S. pushed for the pursuit of the warlord. The UN Security Council obliged with Resolution 837 to allow force to arrest and detain Aideed. On October 3, 1993 American rangers<sup>10</sup> struck at the Olympic Hotel, believing Aideed was hiding there. Innocent people including children were killed. This act led to retaliation. In the worst shoot-out since the Vietnam War, approximately 1,000 Somalis and 18 U.S. soldiers died. After the downing of an American Black Hawk

helicopter, the bodies of the mutilated Americans were dragged through the streets of Mogadishu. President Bill Clinton announced that all American troops would be withdrawn in six months. Optimism about what intervention could do was replaced by pessimism about intervention. The giddy euphoria of the initial post Cold War period gave rise to caution.

### HUMANITARIAN FATIGUE: FROM SOMALIA TO RWANDA

Not too long after American troops were withdrawing from Somalia, to the southwest of Somalia in Rwanda, Hutus massacred up to one million Tutsis and moderate Hutus in 100 days — the fastest genocide rate in recorded history. The response this time was different. The “lesson learned” from Somalia apparently was that national interest alone would once again direct U.S. policy and by extension support for UN peacekeeping. In the aftermath of Somalia, President Clinton had enacted Presidential Decision Directive 25 (PDD 25), which limited U.S. support to UN peacekeeping only where vital national interests exist.

There is plenty of blame to go around. Much has been written about the deplorable role of the United Nations. The United Nations published a self-evaluation (albeit mostly self-serving.) France and Belgium held parliamentary hearings and published reports on their roles as well. The Organization of African Unity (COAU) also commissioned an inquiry into culpability. Human Rights Watch released a thorough analysis of the genocide and international response in *Leave None to Tell the Story*.<sup>11</sup> The U.S. is the only important actor that did not investigate its role. It neither set up a commission of inquiry nor produced any analysis of its behavior during the three months of carnage. Thus, the focus here is on the U.S.’s passivity in the face of genocide as a moral failure of American foreign policy.

### RESPONSE TO GENOCIDE

When President Juvenal Habyarmina’s plane was shot down on April 6, 1994, the order went out for Hutus to systematically exterminate Tutsis and moderate Hutus. Within thirty minutes of the crash (even before there were news reports of the crash), the Rwanda Armed Forces (FAR) and the Interahamwe (Hutu militias) set up roadblocks throughout the city and proceeded door to door with hit lists prepared in advance. A small unit of 2,165 peacekeepers was already on the ground with the United Nations Mission for Rwanda (UNAMIR) to monitor a cease-fire under the Arusha Peace Accords between the mainly Tutsi resistance, the Rwandan Patriotic Front (RPF), and government forces which had been involved in a low-intensity civil war since 1990. However, these blue helmets were forbidden by their “monitoring mandate” as chapter VI peacekeepers to intervene.

The next day, ten Belgian soldiers with UNAMIR were tortured and murdered.<sup>12</sup> One week later, Belgium withdrew from UNAMIR, and the UN Security Council voted to reduce the UNAMIR troops. The genocide only ended when the RPF took

control over most of the country in July, and the Hutus, fearing retaliation, fled to neighboring Zaire.

What was the United States' role at the United Nations? Shortly after the Belgians announced their withdrawal from UNAMIR, the U.S. stated that UNAMIR should withdraw, since there was no longer any cease fire to monitor.<sup>13</sup> In discussions about what would happen to the Rwandans, a U.S. diplomat told the Belgian ambassador that it was "unacceptable" that concern for "humanitarian drama" be used to justify keeping peacekeepers in Rwanda.<sup>14</sup> Because of disagreement with the American position from the secretariat staff and some council members including Nigeria, a vote was not taken on April 15. Nevertheless, by the next morning, writes Allison Des Forges, authorities in Rwanda would have known of the strong position for withdrawal taken by the U.S.<sup>15</sup> One reason is that by coincidence Rwanda held one of the non-permanent rotating seats on the Security Council.<sup>16</sup> Surely all discussions were being reported back home, in effect signaling a green light. During that day, the decision was made in Rwanda to extend the scope of the genocide in intensity and area.

On April 19, Human Rights Watch and other organizations approached the President of the Security Council with reports from the field and made it clear that these acts constituted "genocide." The Security Council condemned the killing but intentionally omitted the word "genocide" from its condemnation, since one view is that the Genocide Convention obligates signatories to prevent genocide.<sup>17</sup> Whether the Convention says that signatories *may* intervene or *must* intervene is a matter of some debate. Some international lawyers argue that had the Genocide Convention been intended to do any serious work for the purpose of prevention, it would have included language authorizing the use of *all necessary means*. Rather, Henry Shue argues, it is strictly permissive, inviting any state with a notion to do something to prevent or punish genocide to approach the International Court of Justice.<sup>18</sup> But clearly the hesitance to use the "g-word" reflected the Security Council's belief that if genocide had been committed, its members would be under pressure to intervene militarily.<sup>19</sup> The UN Security Council decided on April 21 not to totally withdraw but to keep a token number of peacekeepers, 270, in Rwanda, a position supported by UN Ambassador Madeline Albright.

### U.S. APATHY

Was the Security Council following the lead from the U.S.? There was little interest from Washington in the tragedy. When President Clinton spoke of Rwanda in the initial days of the massacre, it was of concern for the 258 American expatriates' safety.<sup>20</sup> His statements in April called on *both sides* to stop the violence, which played into the media's interpretation of this as a civil war between two armies, not an organized attack on helpless civilians.<sup>21</sup> Policymakers were reluctant to call the violence "genocide." A memo to the State Department and National Security Council (NSC) from the president prohibited their use of this term. At a State Department press

conference, spokesperson Christine Shelly stated that “acts of genocide may have occurred” but that the government was not prepared to use the term genocide, which led one exasperated reporter to ask, “How many acts of genocide does it take to make genocide?”<sup>22</sup> James Woods, assistant secretary for African Affairs at the Department of Defense (DOD), has no doubt that the government knew it was a genocide as early as the second week:

Never mind that the American press, which was poorly represented anyway, hadn't quite got it right yet, at all, in fact ... there was plenty of evidence around if you'd wanted to use it... It was known that this was premeditated, and was being executed according to a carefully laid out plan with the full connivance of the then Rwandan government. This was known.<sup>23</sup>

Only after the directive to the State Department and NSC not to use the word “genocide” was reported in the *New York Times* on June 10 did U.S. Secretary of State Warren Christopher admit that “genocide” was the appropriate term.<sup>24</sup>

Even the House African Affairs Sub-Committee members, whom one would expect to speak for African interests, were muted in their calls for action. Nine members wrote the president asking for strong support for an active U.S. role “*short of committing U.S. troops.*”<sup>25</sup> (emphasis added) Senators James Jeffords and Paul Simon of the Senate Sub-Committee on African Affairs petitioned the White House on May 13 to request that the Security Council approve sending troops to stop the slaughter. The president did not respond for 27 days.<sup>26</sup> These few individuals appear to be the only important voices in the Congress calling on the U.S. to respond. At one meeting on Rwanda, Clinton asked if the Congressional Black Caucus had shown strong interest in the issue and was told they had not.<sup>27</sup> By contrast, Senator Robert Dole on “Meet the Nation” had argued, “I don't think we have any national interest here ...I hope we don't get involved there.”<sup>28</sup> Likewise, senior members of the Defense Appropriation Subcommittees of the Senate and House were wary of peacekeeping after Somalia.<sup>29</sup>

At the NSC, neither Don Steinberg, senior director for Africa, nor his boss, National Security Adviser Anthony Lake, “appears to have played the role that was clearly needed on Rwanda.”<sup>30</sup> At the State Department, George Moose and his deputy, Prudence Bushnell, favored a stronger mandate and an increase in troops for UNAMIR but found themselves ignored by higher-ups. The under secretary for political affairs, Peter Tarnoff, had no interest in Rwanda. And the under secretary of state for global affairs, Tim Wirth, apparently played no role in the decisions although his brief included human rights.<sup>31</sup> The lack of high-level interest or attention to Rwanda at the State Department meant that Pentagon thinking held sway. The DOD was concerned that no U.S. personnel or resources be siphoned off into another peacekeeping operation in Africa.<sup>32</sup> According to Holly Burkhalter, when the various agencies met to discuss Rwanda, the Pentagon sent its top brass, including under secretary of defense John Deutch on one occasion, to make this case.<sup>33</sup>

The Clinton administration decided in the wake of the Somalia debacle not to intervene again in Africa for humanitarian reasons that fell short of vital national

interests and quickly signed PDD 25 which severely limits U.S. involvement in international peacekeeping operations. Conditions necessary to intervene include a clear national interest, approval of Congress, availability of funds, a fixed date of withdrawal of U.S. forces, and an agreed upon command and control structure. Rwanda was the first test of the new guidelines on peacekeeping. The administration not only ruled out sending American troops but also tried to influence the Security Council members not to send troops. "If there was no peacekeeping operation, U.S. support could not be required for it. If there were any type of peacekeeping operations, there was always the risk that U.S. airlifts, U.S. hardware or U.S. personnel might, over time, be dragged into it," explains Tony Marley,<sup>34</sup> a political military advisor for the U.S. State Department at the time of the genocide. The U.S. in effect obstructed the good that the international community might have done.

#### PROBABILITY OF SUCCESS

The dictum "ought implies can" is nowhere more applicable than in the Rwanda case. The just war criterion of probability of success would have been fulfilled by an intervention. UNAMIR commander General Romeo Dallaire advised the United Nations that a limited military intervention (as few as 5000 troops and a clear mandate—to protect civilians, seize arm caches) could halt the bloodshed. Alan Kuperman, on the other hand, argues that by the time the West was aware of the genocide, it could not be stopped and "only 125,000 lives" could have been saved in a best-case scenario. He reaches this conclusion by coupling the earliest date he says the United Nations knew a genocide was occurring (April 20), with the level of military might necessary to stop it. He asserts that a maximum intervention, involving 13,500 troops, needing 40 days lead-time, would have resulted in 125,000 lives saved. A moderate response of 6,000 troops airlifted in 21 days would have resulted in 100,000 lives saved, and a minimum response of 2,500 troops requiring 14 days lead time would have meant 75,000 saved lives.<sup>35</sup> But the United Nations Department of Peacekeeping Operations (UNPKO) had knowledge that genocide was being planned as early as January 1994, three months before it began. There is the famous "genocide cable" sent on January 11 by Dallaire to UNPKO, in which he warned of the impending genocide in the capital and a planned assault on UN forces to drive them out, and requested more troops and a stronger mandate.<sup>36</sup> The cable was placed in a separate Black File to draw attention to its content, and circulated to several departments in the UN Secretariat.<sup>37</sup> The information from the cable was shared with three ambassadors in Rwanda, including the American ambassador David Rawson. The State Department, too, was aware of the cable.

In addition, the CIA had given the State Department a desk level analysis, which also warned of the genocide. As the genocide unfolded, "Week after week for three months, reports sent directly from Rwanda to home governments and international agencies documented the magnitude of the slaughter and made it plain that this was no tribal bloodletting but the work of hard line political and military leaders."<sup>38</sup> The

fact that the mass media misrepresented the violence as a breakdown in the ceasefire and the resumption of the civil war did not mean the world's decision makers with their intelligence operations were unaware of what was happening.

Kuperman's conclusion that the international community could not have stopped the genocide is not universally accepted. Des Forges writes that had the forces that came to evacuate their expatriates been allowed to augment the UNAMIR forces, the genocide could have been stopped. These forces comprised 900 elite Belgian and French troops, backed up by 300 U.S. Marines at Bujumbura, half an hour away by plane (who were not called), and 80 Italians. Combined with the 440 Belgians and 200 Ghanaians in Kigali, they would have made a force of about 2,000 soldiers. Reinforcements could have been made available with 600 Ghanaians north of Kigali in the demilitarized zone, 80 Belgians on standby in Nairobi, and hundreds of U.S. marines off the East African coast.<sup>39</sup> Colonel Scott Feil of the United States Army confirms what Dallaire reported: "A modern force of 5,000 troops ... sent to Rwanda sometime between April 7 and April 21, 1994 could have significantly altered the outcome of the conflict. ... [F]orces appropriately trained, equipped and commanded, and introduced in a timely manner, could have stemmed the violence in and around the capital ... [and] prevented its spread to the countryside..."<sup>40</sup>

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In May the Security Council debated whether to send a second UNAMIR force. As a resolution seemed in sight — the U.S. had carefully gone through all the steps to determine if it met the strict PDD 25 criteria — the U.S. delegation abruptly said it had no instructions for the vote and forced a postponement.<sup>41</sup> Philip Gourevitch later wrote of Madeline Albright's "ducking and pressuring others to duck, as the death toll leapt from thousands to tens of thousands to hundreds of thousands...the absolute low point in her career as a stateswoman."<sup>42</sup>

On May 17 the Security Council finally authorized an expanded UNAMIR II to consist of 5,500 personnel. But lengthy exchanges about finances and logistics between the U.S. and UN about providing armored personnel carriers (APCs) for African troops who had volunteered delayed action for another seven weeks. James Woods argues that the Pentagon "got all bogged down in the issues of the exact terms of a lease; what color; who would paint them where; what kind of stenciling would go on and all of the other little details."<sup>43</sup> The delay indicated "a complete lack of enthusiasm" at the higher policy levels for this intervention.<sup>44</sup> Another DOD official said, "U.N. procurement procedures are incredibly slow. In the Rwandan case, we could have done it the normal, that is the slow way, or somebody could have said, let's get that equipment over there fast, and then cut the red tape to get it done. We didn't do

that.”<sup>45</sup>

By the time the RPF won the war and ended the genocide on July 19, there were about the same number of forces in the field as there had been at the time of the Belgian withdrawal in April, because of the foot-dragging, delays, and bungling on the part of the U.S. and other countries in sending equipment and troops.<sup>46</sup> Only then did Clinton order the Rwandan embassy closed and Rwandan assets frozen, saying that the U.S. could not “allow representatives of a regime that supports genocidal massacres to remain on our soil.”<sup>47</sup> Des Forges writes that it was as if “officials had just discovered ... that the regime they represented was carrying out genocide.”<sup>48</sup> The president also announced that he would begin efforts to remove the Rwandan representative from the Security Council.<sup>49</sup> By the time the Security Council acted on August 25 to refuse the Rwandan representative from taking its turn as president, it affected not the genocidal government but the new government whose forces had ended the genocide.

Four years later as Clinton toured Africa, he made a stop in Rwanda (never leaving Kigali Airport.) Headlines in African newspapers said that Clinton had apologized on behalf of the American people for not intervening. “We did not act quickly enough after the killing began,” he said. His explanation, not remotely true, was that he had not known it was genocide: “All over the world there were people like me sitting in offices, day after day, who did not fully appreciate the depth and speed with which you were being engulfed by this unimaginable terror.”<sup>50</sup> He told the Rwandans that his administration would create a system for detecting genocidal tendencies early, implying that the reason the international community had not acted was lack of timely knowledge.

#### ARGUMENTS AGAINST INTERVENING

It would be unfair to lay the entire blame of UN inaction at the foot of the U.S. Certainly, other members of the Security Council had independent (and similar) reasons for not wanting to get involved. Member states of the UN argue that the body is stretched too thin and needs to exhibit self-restraint. In the aftermath of the “Somalia debacle,” the Security Council developed new criteria which included taking into consideration whether regional or sub-regional organizations could resolve the situation, and whether the safety of UN personnel could be assured, which pushed in the direction of limited intervention.<sup>51</sup> The Joint Evaluation of Emergency Assistance to Rwanda asserts that “No member of the Security Council came forward to suggest a different course of action...”<sup>52</sup> Still, U.S. leadership in favor of intervening could have been decisive in getting Security Council members to change their positions, as it had been three years earlier in “Operation Desert Storm.” Regarding U.S. leadership in humanitarian interventions, Arnold Kanter writes that, “...if the United States does not take the initiative, far from others leaping in to fill the vacuum that our restraint creates, it instead provides a convenient excuse for them to do nothing.”<sup>53</sup> The U.S. was “the only state with a demonstrated ability to energize the Council in a crisis,”<sup>54</sup>



but, haunted by memories of Somalia and preoccupied with crises elsewhere (in Bosnia and Haiti), it was not inclined to exert that leadership.

What moral principles were at play here? Protecting the lives of soldiers from UN member countries is a worthy goal. How do we calculate the worth of peacekeepers' lives relative to innocent civilians, including women and children? The lives of UN soldiers were calculated as more important than the lives of Africans. Speaking of Somalis in 1992, Samuel Huntington had argued, "It is morally unjustifiable and politically indefensible that members of the armed forces should be killed to prevent Somalis from killing one another."<sup>55</sup> This kind of thinking held sway in 1994, as the United States decided to ignore the killings of Rwandans by other Rwandans. This stance reflects the view that American soldiers have signed on to "deter, fight, and win the *nation's* wars" alone. Humans are not to die for; fellow Americans are to die for. Still, the fact that not one soldier's life was deemed worth sacrificing to stop a genocide that killed up to a million people is mind numbing.

In fact, by not augmenting the UNAMIR forces, the UN was putting the very peacekeepers whose lives it claims to value so highly at grave risk. Administrative bungling and reluctance to spend money had left the UNAMIR forces ill prepared to deal with any crisis. Des Forges writes that the forces had a two-week supply of food, drinking water in some places for only a day or two, and fuel for two to three days. They were critically short of ammunition and medical supplies. Their few armored personnel carriers were in such poor condition that only one or two functioned at any given time.<sup>56</sup> For Howard Adelman, "The sovereign states who are members of the United Nations ... not only abandoned the Rwandans, but even abandoned its own emasculated UN forces to face the tragedy without a mandate, without military equipment to defend themselves (let alone the Tutsi being slaughtered) and without supplies."<sup>57</sup>

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### **It is imperative that an ethical framework be developed that helps policymakers decide how to make choices about intervention.**

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Let's return to the issue of the lower value placed on African lives, not only vis a vis peacekeepers but also expatriates. When the French forces came to evacuate foreign nationals, the UNAMIR troops were under strong pressure from the United Nations to work with the French to evacuate Europeans rather than protect threatened Rwandans.<sup>58</sup> Instructions from Kofi Annan in New York ordered Dallaire to use his discretion to go beyond his minimal mandate "should this be essential for the evacuation of foreign nationals." This did not extend to protecting innocent civilians. Dallaire was pointedly told not to exercise his discretion to act beyond the mandate where Rwandans were concerned; in fact, he was ordered explicitly not to go beyond the mandate. The Organization of African Unity report asks, "Is there a conclusion we can draw from this incident other than that expatriate lives were considered more

valuable than African lives?”<sup>59</sup> Commenting on the relative value of expatriate and Rwandan lives, the Red Cross estimated that during the days that 4,000 foreigners were evacuated, “few of whom were actually at risk,” 20,000 Rwandans were killed.<sup>60</sup>

Michael Barnett has argued that protecting the United Nations organization’s reputation was the most important consideration and overrode any other moral considerations. The argument here is that a failed mission would mean more criticism of the UN, less support for future missions, and so less ability in the future to do good. Non-intervention, according to Michael Barnett, was deemed morally defensible because it protected the international organization’s reputation. “The moral equation was: genocide was acceptable if the alternative was to harm the future of the U.N.,” he later wrote.<sup>61</sup> Saving the reputation of the United Nations trumped saving the lives of one million Rwandans.

How does the international community decide in which instances to intervene? What can be learned from Rwanda? Although the most probable threats to peace in this millennium stem from internal rebellions and ethnic slaughter, Charles Kegley states that the major powers appear to be “proceeding without a moral compass.”<sup>62</sup> It is imperative that an ethical framework be developed that helps policymakers decide how to make choices about intervention. As Jack Donnelly urged, we need a new standard to save us from “barbarism of a pristine sovereignty”<sup>63</sup>

#### INTERVENTION AND SOVEREIGNTY

Smith argues that “claims to sovereignty are subsidiary [to human rights] in that they do not automatically trump other compelling claims.”<sup>64</sup> Smith states the principle this way: “Individual state sovereignty can be overridden whenever the behavior of the state even within its own territory threatens the existence of elementary human rights abroad and whenever the protection of the basic human rights of its citizens can be assured only from the outside.”<sup>65</sup>

A strict human rights view holds that any violation of human rights is a legitimate ground for invoking action from the world community. It is morally imperative to prevent or mitigate human sufferings and injustice whenever one has the capacity to do so.

But not all rights come with a concomitant duty from third parties. Shue writes: “...surely there are cases in which some interest is important enough that everyone should have a duty not to deprive anyone of it, but not important enough that when someone violates his duty not to deprive, some other category of persons should have a default duty to step in either to prevent or to punish the duty-violating deprivation.”<sup>66</sup> Presumably, many of the rights highlighted in the various human rights conventions and treaties would fall within this category. Proportionality between risks and outcomes would come into play. Few people would argue for the appropriateness of risking combatants’ lives in the defense of protecting all rights. Some rights enumerated in the United Nations Declaration of Human Rights—the right to work, the right to equal pay for equal work, the right to rest and leisure, periodic holidays with

pay, etc.—would fall into this category, as would the rights to free speech, religion, association, and so forth.

Noting that there is no universal agreement about which human rights are worth overriding sovereignty to protect, Smith would limit interventions to responses to egregious violations of human rights.<sup>67</sup> Setting the bar high would limit interventions to the most extreme cases of moral outrage. The death penalty is the example Smith cites to justify limitation to egregious violations; although for much of the world capital punishment violates human rights, “few ... would urge or welcome the forcible landing of an international military force to prevent Virginia’s next execution.”<sup>68</sup>

Genocide, at the very least, is a category of crimes against humanity that automatically should require outside intervention. If genocide is not intolerable, what is? But should we limit intervention to the destruction of “a national, ethnical, racial or religious group”? The strict definition omits political, social, and gender groups. Should we expand the definition to include democide — the destruction of any group of people? And what of “ethnic cleansing”? Whereas genocide seeks to destroy the group, ethnic cleansing seeks to purify a territory of one ethnic group by use of terror, rape and murder in order to convince the inhabitants to leave.<sup>69</sup> Both are sub-categories of “crimes against humanity” and surely egregious human rights violations.

Should some consideration be made about the numbers of deaths? Stephen Solarz and Michael O’Hanlon would justify American intervention “to prevent the massive slaughter of life, wherever it may be occurring...”<sup>70</sup> What seems crucial as a justification for overriding sovereignty and intervening is that the deaths must be of civilians, rather than of combatants in a civil war between two willing warring parties.

Brian Hehir worries about overturning the norm of non-intervention in international law. He argues that “to legitimate military intervention on human rights grounds alone would essentially eliminate the restraint of the nonintervention norm.” For Hehir, it is better to make a few exceptions to the legal tradition of non-intervention. In addition to genocide, which he says is the one exception allowed by the legal tradition, he would qualify two, ethnic cleansing and failed states, as just causes for intervention.<sup>71</sup> (Since approximately 15% of all African states could be characterized as “failed states,” perhaps Hehir’s exceptions are too sweeping.)

Justice requires evenhandedness. At the time of the genocide, the OAU accused the international community of a double standard – cutting troops in Rwanda while increasing involvement in the former Yugoslavia.<sup>72</sup> Kosovo raises the issue of selectivity. Fewer people died in Kosovo prior to NATO bombing than in civil strife in Sierra Leone, Sudan or Rwanda.<sup>73</sup> Kosovo was not genocide, yet the U.S. intervened. Rwanda was genocide; the U.S. did not intervene. Chechnya was a near genocide; the United States did not even consider intervening.

## RIGHT AUTHORITY

Assuming we could agree on core rights worth defending anywhere and everywhere there are violations, who would decide when these core rights have been vio-

lated? Hehir argues that UN authorization is crucial as the best guarantee that military intervention will not be launched for self-serving reasons.<sup>74</sup> Most states clearly reject a unilateral right to intervene for humanitarian purposes. China, Russia, and most developing states claim such a right would amount to meddling in their internal affairs. They fear abuse especially from the United States.<sup>75</sup> The International Criminal Court (ICC) statute also prohibits unilateral action:

“Any use of force for purposes other than defense against an armed attack or execution of a Security Council mandate under Chapter 7 of the Charter constitutes the crime [of aggression.]”<sup>76</sup>

However, a problem with Security Council authorization is the veto power of the permanent members who can prevent action. Somehow we need to limit the sovereignty of powerful states to stand idly by when genocidal states massacre their own people. As Shue points out, “One of our current norms, which is understandably not stated explicitly, appears to be that while no state ought to commit genocide within its territory, no other state and no international organization – most notably, not the Security Council – is bound to do anything about genocide if they don’t feel like it.”<sup>77</sup> For him this is the “pivotal fault in the conventional conception of sovereignty” – the total freedom of the Security Council members to do nothing.<sup>78</sup> A solution to the problem of the “sovereignty of the Security Council” would be to devise criteria to permit humanitarian interventions in the absence of Security Council consensus. Michael Ignatieff recommends that the Security Council be enlarged to be more representative of the world’s population and restructured to replace the veto system of the permanent five members with majority voting.<sup>79</sup>

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### **A solution to the problem of the “sovereignty of the Security Council” would be to devise criteria to permit humanitarian interventions in the absence of Security Council consensus.**

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A further problem with waiting for UN authorization has to do with the time frame. It is easier and quicker to act unilaterally than to move through a cumbersome bureaucracy. Since no other country but the U.S. has the political, economic and military strength to lead an effective intervention in large scale crises, a UN standing army should be considered to intervene quickly in such crises. A Danish proposal calling for a multinational “UN Stand-By Force High Readiness Brigade,” whereby national stand-by units would be integrated into a larger multinational brigade, is worth considering.<sup>80</sup>

### **GENOCIDE AND LAST RESORT**

There is a problem with the “last resort” condition for just war applied to genocide. One could argue that by delaying intervention and trying other measures first,

it will be too late to stop massive killings, especially a fast moving genocide like Rwanda's where 10,000 people could be killed in twenty minutes. The notion of reasoning with genocidists strikes one as obscene.

But as Kuperman points out, "intervention is no substitute for prevention."<sup>81</sup> With advanced knowledge of the impending genocide in Rwanda, certainly preventive measures should have been the first line of attack. Oddly, no measures were even attempted. Des Forges notes that international leaders had available means at their disposal, which they did not use. They could have stopped the hate radio, which was central in instigating the genocide. This was an option that the State Department assigned a team of lawyers to examine; they concluded that jamming the radio transmissions would violate free speech rights.<sup>82</sup> They could have threatened withdrawal of aid money if the killings that preceeded the genocide in 1993 and 1994 continued. This would have been especially effective given the level of the country's aid dependence. Peter Uvin points to two examples in the four years preceding the genocide where diplomatic pressure on the government to halt human rights violations did result temporarily in changed behavior.<sup>83</sup> An arms embargo appeal to refrain from providing arms or military assistance,<sup>84</sup> made on April 30 but only imposed on May 17, could have worked if it had been in place earlier: "Had the embargo been put in place earlier and enforced more rigorously, it might have pushed the interim government to end the slaughter instead of just changing the way it was carried out."<sup>85</sup>

The international community could have denied legitimacy to the interim government at the early stages of the genocide. This may have been effective. Allowing the Rwandan representative to remain on the Security Council gave legitimacy to a regime bent on exterminating its entire Tutsi population and no doubt emboldened the genocidists to continue their attacks.

#### INTEREST VS. VALUE

The notion that the United States should only intervene for vital interests (the Weinberger-Powell doctrine) is a morally bankrupt concept. Still, leaders may feel that they need to justify intervention to a cautious public in interest language. In that case, they could point to the interest in stopping violence so that it does not spill over its borders, threatening regional stability. And while Rwanda may be of no commercial interest to the U.S., neighboring resource-rich Congo is. A simple cost-benefit analysis would sometimes push in favor of early intervention to stop massive killings. For instance, the U.S. spent more on aid for the refugee problem in Congo (then Zaire), an outcome of the genocide in Rwanda, than it did for its contribution to peacekeeping in Rwanda for UNAMIR. But as Thomas Weiss explains, "Allocating and disbursing billions of dollars of humanitarian aid after violence has erupted is easier for risk-averse politicians and policymakers than ... commit[ing] armed forces early in a conflict cycle."<sup>86</sup>

Arnold Woffers wrote nearly half a century ago about "milieu goals"— those objectives of foreign policy whose aim is to preserve or improve conditions beyond

one's borders in the creation of a better world.<sup>87</sup> A great power's wish to improve its "milieu" has to do in part with the desire to improve its international reputation. Thus, a rigid dichotomy between interests and values is not as great as pure realists assert. But whereas our reputation may have been an important component in defining our interests during the height of the Cold War when an ideological battle raged for the "hearts and minds" of nations, that argument seems less persuasive at the beginning of the twenty-first century when the U.S. is the only game in town. Some of the arguments that try to collapse value and interest into one concept seem somewhat disingenuous, amounting to verbal sleights of hand. It is not always in our interest, whether narrowly or broadly defined, to intervene to protect human rights. Better to say as Ignateiff has: "Values trump interests. When innocent civilians are dying, America may have to intervene even when its vital interests are not at stake."<sup>88</sup>

Furthermore, the public is not as interest-based as elites think and is willing to support interventions that are morally compelling. A recent study from the University of Maryland concludes that leaders invariably misread the public. Polling from that study indicates that the public is highly supportive of intervening to allay civilian suffering and deaths (including stopping genocide) even where no national interest exists, or assuming American lives would be lost, if likelihood of success is high.<sup>89</sup> In 1994, 65 percent of the public believed the United States should intervene to stop genocide always (31%) or in most cases (34%); 23 percent believed we should stop genocide only when national interest is at stake and only 6 percent said we should never stop genocide.<sup>90</sup> In a 1999 poll asking for the largest number of American deaths that would be acceptable to stabilize a democratic government in Congo, the figure was 7,000.<sup>91</sup> (Whether this hypothetical public support could be maintained once the body bags of real American soldiers start piling up is problematic.) Overall, there does seem to be a dis-connect between public opinion in favor of intervening for other than national interest reasons (and a greater tolerance for casualties) than what government officials assume.<sup>92</sup>

The result of misreading the public has been a push for half measures and zero tolerance for casualties. The Rwanda case demonstrates a policy decision that started with risk assessment, rather than balancing it against a worthy goal. As Dallaire later commented,

An operation should begin with the objective and then consider how best to achieve it with minimal risk. Instead, our operation began with an evaluation of risk, and if there was risk, the objective was forgotten. You can't begin by asking if there is a risk. If there is no risk, they could have sent Boy Scouts, not soldiers.<sup>93</sup>

Unfortunately, the lessons from Rwanda do not seem to have been learned by the new president. During the second televised candidates' debate on October 11, 2000, George W. Bush was asked to reflect on Rwanda. Bush argued that Clinton had been right not to send American troops there. He made clear that his foreign policy would be based on national interest alone and suggested that events in Africa, seemed to him

remote from American interests. The Rwandan genocide was not compelling enough for him to make an exception to the interest-based rule for using U.S. force if a similar crisis were to develop on his watch.<sup>94</sup>

#### Notes:

<sup>1</sup>Colonel Luc Marchal (commander of the Kigali sector of UNAMIR), cited by Allison Des Forges, *Leave None to Tell the Story: Genocide in Rwanda* (New York: Human Rights Watch, 1999), p. 609.

<sup>2</sup>Michael Joseph Smith, "Humanitarian Intervention: An Overview of the Ethical Issues," *Ethics & International Affairs* (1998), Vol. 12:63-79, p. 66.

<sup>3</sup>Michael Barnett, "The U.N. Security Council, Indifference, and Genocide in Rwanda," *Cultural Anthropology* (1997), Vol. 12, No. 4: 551-578, p. 567.

<sup>4</sup>Chantal de Jonge Oudraat, "Humanitarian Intervention: The Lessons Learned," *Current History* (December 2000): 419-429, p.422.

<sup>5</sup>Peter Shraeder, *United States Foreign Policy Toward Africa: Incrementalism, Crisis and Change* (New York: Cambridge University Press, 1994), p. 177.

<sup>6</sup>A UN mission of 50 military observers to monitor a ceasefire between Mahdi and Aideed along with 500 infantrymen to protect aid agencies from bandits and looters had been unsuccessful in protecting food deliveries.

<sup>7</sup>Under just war theory, for a military action to be just, the stated intention must be the actual intention. Critics of the intervention say that the Bush Administration knew of the severity of the food situation as early as mid 1991 yet discouraged donors from helping Somalia. If intervening were merely an election ploy, the stated intention was not the actual intention.

<sup>8</sup>"Humanitarian" was mentioned eighteen times in the resolution authorizing the US-led intervention.

<sup>9</sup>Michael Maren, *The Road to Hell: The Ravaging Effects of Foreign Aid and International Charity* (New York: The Free Press, 1997), p. 221.

<sup>10</sup>17,700 troops made up the US Joint Task Force in Somalia and were not under UN operational command.

<sup>11</sup>See Des Forges

<sup>12</sup>Given the strict mandate as Chapter 6 peacekeepers, some attribute their deaths to their belief that there were no circumstances in which they could legitimately fire their weapons. (See Des Forges, p. 597).

<sup>13</sup>Des Forges, p. 629.

<sup>14</sup>Des Forges, p. 630.

<sup>15</sup>Des Forges, p. 630.

<sup>16</sup>By tolerating the presence of the representative of Rwanda during their daily meetings, the 14 members of the Security Council put "the observance of procedural decorum before the need to denounce a genocidal government and the crime it was committing." (See Des Forges, p. 635).

<sup>17</sup>On the issue of permissive right to intervene versus the duty to intervene, see Paul G. Magnarella, "Universal Jurisdiction and Universal Human Rights: A Global Progression," *Journal of Third World Studies* (Fall 1995), Vol. 12, No. 2: 159-171, p. 161.

<sup>18</sup>Henry Shue, "Conditional Sovereignty," *Res Publica* (1999), Vol. 8, No. 1: 1-7, p. 3.

<sup>19</sup>William Schabas, "The Genocide Convention at Fifty," *USIP Notes* (January 7, 1999):1-8, p. 6.

<sup>20</sup>William J. Clinton, "The President's Radio Address," April 19, 1994 *Public Papers of the President*, vol. 1:658-660 and "Letter to Congressional Leaders on the Evacuation of United States Citizens from Rwanda and Burundi," April 12, 1994, *Public Papers of the President*, Vol 1:678-679

<sup>21</sup>William J. Clinton, "Statement on the Deaths of Leaders of Rwanda and Burundi," April 7, 1994, *Public Papers of the President*, vol 1:635. See also Holly J. Burkhalter, "The Question of Genocide: The Clinton Administration and Rwanda," *World Policy Journal* (Winter 1994-1995), Vol. 11, No. 44: 44-54, p. 47.

<sup>22</sup>US State Department daily press briefing, June 10, 1994.

<sup>23</sup>James Woods interview, *Triumph of Evil*, Frontline documentary (1999), [www.pbs.org/wgbh/pages/Frontline/shows/evil/interviews/Woods.html](http://www.pbs.org/wgbh/pages/Frontline/shows/evil/interviews/Woods.html).

<sup>24</sup>Des Forges, p. 642.

<sup>25</sup>Linda R. Melvern, *A People Betrayed: The Role of the West in Rwanda's Genocide* (New York: Zed, 2000), p. 190.

- <sup>26</sup>Melvern, p. 203.
- <sup>27</sup>Des Forges, p. 624.
- <sup>28</sup>Melvern, p.148.
- <sup>29</sup>Burkhalter, p. 48.
- <sup>30</sup>Burkhalter, p. 52.
- <sup>31</sup>Burkhalter, p. 47.
- <sup>32</sup>James Woods interview, *Triumph of Evil*, [www.pbs.org/wgbh/pages/frontline/shows/evil/interviewed/Woods.html](http://www.pbs.org/wgbh/pages/frontline/shows/evil/interviewed/Woods.html).
- <sup>33</sup>Burkhalter, p. 48.
- <sup>34</sup>Tony Marley interview, *Triumph of Evil*, [www.pbs.org/wgbh/pages/Frontline/shows/evil/interviews/Marley.html](http://www.pbs.org/wgbh/pages/Frontline/shows/evil/interviews/Marley.html)
- <sup>35</sup>Alan J. Kuperman, "Rwanda in Retrospect," *Foreign Affairs* (January/February 2000), Vol. 79, No. 1: 94-118, p. 106.
- <sup>36</sup>The revelations were based on an informant's knowledge of the plan. The informant had not minded fighting the RPF but when the plan to kill innocent civilians was revealed, he wanted nothing to do with it.
- <sup>37</sup>Joint Evaluation of Emergency Assistance to Rwanda, "The International Response to Conflict and Genocide: Lessons from the Rwanda Experience," *Journal of Humanitarian Assistance*. [www.jha.ac](http://www.jha.ac), posted on 12 June 1998.
- <sup>38</sup>Organization of African Unity (OAU), *Rwanda: The Preventable Genocide* [www.oau-oua.org](http://www.oau-oua.org)
- <sup>39</sup>Des Forges, 606.
- <sup>40</sup>Organization of African Unity (OAU), *Rwanda: The Preventable Genocide* [www.oau-oua.org](http://www.oau-oua.org)
- <sup>41</sup>Des Forges, 644.
- <sup>42</sup>Philip Gourevitch, *We Wish to Inform you that Tomorrow We Will be Killed with Our Families* (New York: Farrar Straus and Giroux, 1998), p. 151.
- <sup>43</sup>James Woods interview, *Triumph of Evil*, [www.pbs.org/WGBH/pages/Frontline/shows/evil/interviews/Woods.html](http://www.pbs.org/WGBH/pages/Frontline/shows/evil/interviews/Woods.html)
- <sup>44</sup>James Woods interview, *Triumph of Evil*, [www.pbs.org/WGBH/pagesFrontline/shows/evil/interviews/Woods.html](http://www.pbs.org/WGBH/pagesFrontline/shows/evil/interviews/Woods.html)
- <sup>45</sup>Burkhalter, 51.
- <sup>46</sup>Des Forges 646.
- <sup>47</sup>Statement by the Press Secretary, July 15, 1994.
- <sup>48</sup>Des Forges, 690-91.
- <sup>49</sup>Des Forges, 691.
- <sup>50</sup>William Clinton, "Remarks Honoring Genocide Survivors in Kigali, Rwanda," *Weekly Compilation of Presidential Documents*, March 25, 1998, Vol. 34, No. 13: 495-498. See p. 496.
- <sup>51</sup>The decision not to intervene in Burundi in October 1993 (when nearly 100,000 died in ethnic violence) was a rehearsal for the inaction a year later in Rwanda.
- <sup>52</sup>Joint Evaluation of Joint Assistance to Rwanda, "The International Response to Conflict and Genocide: Lessons from the Rwanda Experience," *Journal of Humanitarian Assistance*. [www.jha.ac](http://www.jha.ac) posted on 12 June 1998
- <sup>53</sup>Arnold Kanter, "U.S. Policy on Armed Humanitarian Intervention: Guidelines for Managing Painful Dilemmas," *Miller Center Report* (Winter 2001), Vol. 17, No. 1, pp. 12-17, see p. 15.
- <sup>54</sup>Joint Evaluation of Joint Assistance to Rwanda, "The International Response to Conflict and Genocide: Lessons from the Rwanda Experience," *Journal of Humanitarian Assistance*. [www.jha.ac](http://www.jha.ac) posted on 12 June 1998
- <sup>55</sup>Samuel P. Huntington, "New Contingencies, Old Roles," *Joint Forces Quarterly*, No. 2 (Autumn 1992), p. 338. Cited by Smith, p. 63.
- <sup>56</sup>Des Forges, 597.
- <sup>57</sup>Howard Adelman, "Rwanda Revisited: In Search for Lessons," *Journal of Genocide Research* (2000), Vol. 2, No. 3: 431-444, p. 433.
- <sup>58</sup>Organization of African Unity (OAU), *Rwanda: The Preventable Genocide* [www.oau-oua.org](http://www.oau-oua.org) posted July 7, 2000
- <sup>59</sup>Organization of African Unity (OAU), *Rwanda: The Preventable Genocide* [www.oau-oua.org](http://www.oau-oua.org), posted July



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<sup>60</sup>Des Forges, 613.

<sup>61</sup>Barnett, 562.

<sup>62</sup>Charles Kegley, "International Peacemaking and Peacemaking: The Morality of Multilateral Measures," *Ethics & International Affairs* (1996), Vol. 10: 25-45, p. 39.

<sup>63</sup>Jack Donnelly, "Human Rights: A New Standard of Civilization," *International Affairs*, Vol. 74, No. 1 (January 1998) 1-23. See pp. 15-16.

<sup>64</sup>Smith, p. 79.

<sup>65</sup>Smith, p.77.

<sup>66</sup>Shue, pp. 2-3.

<sup>67</sup>Smith, p. 77.

<sup>68</sup>Smith, p. 78.

<sup>69</sup>Schabas, p. 4.

<sup>70</sup>Caveats are that it be multilateral and carry only moderate risk to the troops. Stephen J. Solarz and Michael O'Hanlon, "Humanitarian Intervention: When is Force Justified," *Washington Quarterly* (Autumn 1997), Vol. 20, No. 4.

<sup>71</sup>J. Bryan Hehir, "Military Intervention and National Sovereignty," in Jonathan Moore, ed. *Hard Choices: Moral Dilemmas in Humanitarian Intervention*, Lanham, MD: Rowman and Littlefield, 1998, pp. 29-54. See p. 30.

<sup>72</sup>Des Forges, p. 637.

<sup>73</sup>Michael Mandelbaum "A Perfect Failure, NATO's War Against Yugoslavia," *Foreign Affairs*, Vol. 78, No. 5 (September/October 1999), pp. 2-8. See p. 6.

<sup>74</sup>This last criteria would delegitimize the bombing of Kosovo, which was a NATO mission.

<sup>75</sup>Oudraat, p. 422.

<sup>76</sup>Tom J. Farer, "Restraining the Barbarians: an International Criminal Law Help?" *Human Rights Quarterly*, Vol. 22, No. 1 (February 2000) pp. 90-117,. See p.114.

<sup>77</sup>Shue, p. 4.

<sup>78</sup>Shue, p. 4.

<sup>79</sup>Michael Ignatieff, *Virtual War: Kosovo and Beyond* (New York: Henry Holt and Company, 2000), p. 182.

<sup>80</sup>Turid Laegreid, "UN Peacekeeping in Rwanda," in Howard Adelman and Astri Suhrke, editors, *The Path of a Genocide: The Rwanda Crisis from Uganda to Zaire* (New Brunswick, N.J.: Transaction Publishers, 1999), pp. 231-251, See p. 250.

<sup>81</sup>Kuperman, p. 117.

<sup>82</sup>Des Forges, 641.

<sup>83</sup>Peter Uvin, *Aiding Violence: The Development Enterprise in Rwanda* (West Hartford, Connecticut, Kumarian Press, 1998), p. 99.

<sup>84</sup>The importance of firearms has been minimized by some observers; the common perception is that the massacres were done exclusively with machetes. According to des Forges, soldiers and militia slew thousands of civilians with firearms, often incapacitating them before they were attacked with machetes. (See des Forges, pp. 650-651.)

<sup>85</sup>Des Forges, 653

<sup>86</sup>Thomas Weiss, *Military-Civilian Interactions: Intervening in Humanitarian Crises* (Lanham, MD: Rowman & Littlefield Publishers, 1999), p. 204.

<sup>87</sup>Arnold Wolfers, "The Goals of Foreign Policy," in Arnold Wolfers, *Discord and Collaboration* (Baltimore: Johns Hopkins Press, 1962), pp. 67-80..

<sup>88</sup>Michael Ignatieff, "The Next President's Duty to Intervene," *New York Times* (February 13, 2000).

<sup>89</sup>Steven Kull and I.M. Destler, *Misreading the Public: The Myth of a New Isolationism* (Washington, D.C.: Brookings Institution, 1999), pp. 102-104.

<sup>90</sup>Kull and Destler, p. 51.

<sup>91</sup>Cited by Oudraat, p. 425.

<sup>92</sup>Jentleson and Britton's study found that the public is likely to support humanitarian interventions (HI), defined as "the provision of emergency relief through military and other means to people suffering from famine or other gross and widespread humanitarian disasters" but less likely to support internal policy change (IPC)

interventions, defined as “influencing the domestic political authority structure of another state.” During the Rwanda crisis, support for HI objective was high (75%) but support for IPC goals was low (43%) Public support for IPC interventions (civil wars) is the weakest of the three categories of interventions they discuss. (Their research indicates the U.S. public is the most supportive of foreign policy restraint (FPR) interventions for restraining an adversary engaged in aggressive actions against the U.S., its citizen, or its interests. The key example here is the Gulf War.) See Bruce W. Jentleson and Rebecca L. Britton, “Still Pretty Prudent: Post-Cold War American Public Opinion on the Use of Military Force,” *Journal of Conflict Resolution* (August 1998), Vol. 42, No. 4: 395-417, pp. 399-400. Would the administration’s actions have been different had the media accurately portrayed the Rwandan conflict for what it was, a genocide, and not a civil war?

<sup>93</sup>Cited by Oudraat, p. 425.

<sup>94</sup>Second Presidential Debate, October 11, 2000.