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International Jurisdictions Compliance and Accountability Analysis
Security Address and Human Rights Demand Perspective

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Abstract

The aim of this study is to explore the venue on the implementation of the International Law bidding, principles and doctrines, including the International Human Rights Law (IHRL) and International Humanitarian Law (IHL) compliance and accountability; to investigate equal rights and impartiality principle in the exercising of the international courts of justice mandates, including the International Criminal Court (ICC) and Universal Court; and to examine how better Peace Support Operations in armed conflict can operate without violating fundamental rights or avoid international crimes. Some none bidding international doctrine will also be discussed, such as Responsibility to Protect (R2P), an international moral obligation on protection of civilian mechanism, as well as assessing the application of Jus Cogens principal, to deter or address the imminent or existing threats to the lives of people. The purpose of the discussion is to determine the implication and the overlapping of international politics over the international law and its implication, with the intent to raise awareness on human rights violations and prerequisite to peace, security and sustainable development. The study will unpack the growing situation of divided world from which the Collective West and the Global South jeopardizes the international law application within international pollical volatile environment, leaving behind gaps and threats to peace and security as per UN Charter. Qualitative, holistic and systemic methods will be used to identify challenges and suggest adequate remedies.

To the Lord

“You will never get the future you deserve by holding the past doesn’t deserve you” - Unknown

Thesis Submitted to the Academic Department of the School of Art in Fulfilment of the Requirements for the Degree of Doctorate of Philosophy in International Law at the International Atlantic University (AIU), 2025

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ABBREVIATIONS AND ACRONYMS

AIU	: Atlantic International University
BRICS	: Brazil, Russia, India, China, South Africa
CAR	: Central Africa Republican
DRC	: Democratic Republic of the Congo
EAC	: East African Community
EASF	: Eastern Africa Standby Force
EU	: European Union
FAR	: Forces Armées Rwandaises
ICCPR	: International Covenant on Civil and Political Rights
ICC	: International Criminal Court
ICISS	: International Commission on Intervention and State Sovereignty
ICTR	: International Criminal Tribunal for Rwanda
ICRC	: International Committee of Red Cross
ICTR	: International Criminal Tribunal for Rwanda
IHL	: International Humanitarian Law
IHRL	: International Human Rights Law
IDPs	: Internal Displaced People
INGOS	: International Non-Government Organizations
NATO	: North Atlantic Treaty Organization
PCCs	: Police Contributing Countries
PHAP	: International Association of Professionals in Humanitarian Assistance and Protection

PSO	: Peace Support Operations
PoC	: Protection of Civilians
PSO	: Peace Support Operations
R2P	: Responsibility to Protect
RPA	: Rwanda Patriotic Army
RPF	: Rwanda Patriotic Front
SADC	: Southern African Development Community
TCCs	: Troop Contributing Countries
UDHR	: Universal Declaration of Human Rights
UN	: United Nations
UNAMIR	: United Nations Assistance Mission for Rwanda
UNGA	: United Nations General Assembly
UNSC	: United Nations Security Council
URSS	: Soviet Union Socialist Republics
US	: United States of America

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CHAPTER ONE

INTRODUCTION

1.1. Background

After the World War One (WW1), the Britannica says that the “League of Nations on January 10, 1920 was created to promote international cooperation and achieve international peace and security”. Due to the incapacity of its incapacity to maintain global peace and security and after the World War Two (WW2) erupted, the international community replaced it by establishing the United Nations on October 24, 1945 in San Francisco, United States. It from that situation the United Nations (UN) Charter was ratified, signed and came into force on June 26, 1945 by the five Permanent Members of the United Nations Security Council (UNSC) to respond the League of Nations failure to promote human rights; maintain peace and security the humanity aspires to have and desire to live equally fundamental human rights. The P5 of United Nations Security Council (UNSC) is composed by China; France; Russia; United Kingdom and United States.

Many countries of Africa are facing armed conflicts, including in Nigeria; Mali; Burkina Faso; Niger; Sudan; Somalia, and in Democratic Republic of the Congo (DRC). In other continent, including in Ukraine; Gaza; Syria and other various places, war crimes and crimes against humanity are being committed, violating the international law, yet the UN Resolutions to bring peace and security haven been issued but the members of the UNSC apply veto power for individual political motive. A century later, the world is still experiencing wars, international crimes are still being committed, fundamental human rights are still violated. Peace and security, the central purpose of UN Charter, are not yet to be guaranteed.

The relevance of UN is still not questionable but its capacity to deter; prevent, resolve armed and assure that, except derogation in certain circumstances, the international law in general and the IHRL and IHL in particular, are not violated. Human rights compliance and accountability policies are the mechanism tools to measure the IHRL and IHL implementation in the field, therefore a main factor to determine the relevance and credibility of the international law.

To illustrate the case on the background of fundamental human rights violation, the 1994 Genocide against Tutsi, almost a century later after the creation of the United Nations with purpose to maintain global peace and security, shows clearly that the failure of the UNSC to intervene and stop the violation of fundamental human rights, as a result of the overlapping of the International Politics to the International Law. Fundamental Human Rights were fully violated, International Crimes were systematically committed and every precept of the international law was entirely violated. Million lives perished and more than three million were alleged machinery genocide planners of Tutsi. Instore no-death penalty for peace, security and promote Rwandans unity and reconciliation on one hand, and apply justice on the hand, in the context where victims aspire fairness and killers seek forgiveness, was very difficult decision to take. It required strong and visionary leadership to transform structured harmful conflict into lasting peace and sustainable development. Victims felled abandoned and perpetrators were not confident that revenge will not take place. The situation was volatile. Financial institutions, including Nations Bank were rooted; no electricity or water system was functioning; dead bodies were in all corner and abandoned houses were at the mercy of uncontrolled dogs; no judicial system was operating, no human rights organizations was advocating for effective intervention for protection of people; defending fundamental human rights or fighting against international

crimes which were being committed. UN Human rights compliance and accountability policies were illusion and misrepresented at that time. In that context where everything was an emergency, in the context where revenge was bared, judicial system was completely destroyed and national unity was a choice for the new Rwanda, bringing millions of people to justice was justice realistic, and retributive justice alone inadequate. It required mixed justice system, retributive together with restorative justice, inspired from Rwanda tradition system, 'Gacaca'. Despite its weakness of not having professional lawyers, Gacaca court had the merits of giving justice and at the same time reconciliating victims with their killers. Although not having a guided compliance and accountability policy professionally established, it was implied in moral character of judges in Gacaca courts who were elected by local community.

What happened in 1994 genocide against Tutsi and in Srebrenica genocide in Bosnia and Herzegovina in July 1995, came as wake up call to the UN to protect people against international crimes and prevent fundamental human rights violation. The Responsibility to Protect (R2P) doctrine was created to address the issues, but armed conflicts and human rights violations are still observed across the globe.

1.2.Problem Statement

Although existing of jus cogens peremptory norm, and later, the R2P doctrine to encounter difficult abusive State sovereignty, there is still in nowadays international crimes are committed in different parts of the globe with no appropriate response; double standards and partiality have been custom practice regardless international law compliance and accountability requirements in providing justice and addressing fundamental human rights issues. International Justice

mechanism has been manipulated by international politics and the relevance of international judicial jurisdiction is therefore questionable.

1.3. Objectives of the Study

The study will be based on the following research objectives:

- i. To scrutinize the causes, actors and dynamics of armed conflicts, and the role of the UN compliance and accountability guidance for global lasting peace and security.
- ii. To critically analyze the use of coercive measures, including military intervention, against international crimes, including Genocide; War Crimes, Crimes against humanity and Crime of aggression, in compliance and accountability guidance.
- iii. To examine the unquestionable State sovereignty rights but also interrogate its vulnerability before the jus cogens preemptory norms and R2P doctrine international fundamental human rights are violated and lives of people are at risk.
- iv. To investigate why the international politics overlaps the international law and how its implication in international legal jurisdictions impacts judicial system to play impartially their role for global peace and security.

1.4. Problem Statement

The problem to be addressed through this study is the decline tendency of human rights compliance and accountability and the overreliance of the international law on the international politics, resulting on proliferation of armed conflicts, lack of trusts in UNSC, guardian of global peace and security, and loss of hope to the promising future.

The consequences of the violation of the international law and their implications are the impunity of the international crimes; promote unequal rights within divided world and upright fear and

uncertainty in global community. The way to address the issue is to restore the trust among international players built on the supremacy of the international law against States sovereignty and reduce the overlapping of international politics to the international law. It is to implement the international law, to implement and reinforce human rights compliance and accountability policies at all levels and apply zero tolerance policy in case of violation of fundamental rights and/or committing international crimes. It is to unfold the gaps and raise awareness on the relevance of the international human rights law; maintain global peace and security, and rebuild trust on international legal system.

Unfortunately, the UN Charter does not include clearly and deliberately the world accountability. By deduction, without accountability, there is no compliance. The Review of accountability frameworks in the United Nations system organizations Report of the Joint Inspection Unit as of 2023 considers that *“The Charter of the United Nations does not mention the word accountability or accountable. The closest words that it contains are ‘responsibility’, and ‘responsible’”*, with zero-tolerance policy to the non-fulfilment of the impunity or impunity on human rights violation, as per compliance UN mandate.

1.5. Research Questions

The study will investigate on the following questions:

- (1) Why the impunity over the international crimes committed when the UN Charter treaty purpose was to call for equal rights, and global peace and security?
- (2) How the UN peacekeeping mandates can effectively match with the situation on the ground and deter possible venue for proper response, including coercive measures under required human rights compliance and accountability guidance?

- (3) Why human rights compliance remains key challenge and how the international law tackles and the issue for international justice, and global lasting peace and security?

1.6. Scope and Limitation of the Study

The project will investigate the contribution of the UN to keep and maintain global peace and security as per international law provisions within domestic political boundaries. Although peace support operations is vast and complex to explore, the study will focus on three UN Peacekeeping missions, including MUNISCA (United Nations Multidimensional Integrated Stabilization Mission in Centre Africa Republic, UNMISS (United Nations Mission in Republic of South Sudan) and MONUSCO (United Nations Organization Stabilization Mission in the Democratic Republic of the Congo) in regard to the UN peacekeeping fundamental Principles and Kigali Principles on Protection of Civilians. It will explore the contribution of Responsibility to Protect (R2P) doctrine and interrogate in which conditions jus cogens peremptory should be relevant in a situation of international crimes are committed. Some cases will illustrate the analysis, including armed conflict between Russia and Ukraine, and Israel and Palestine, in regard to the International Humanitarian Law (IHL) and the International Human Rights Law (IHRL). It will also explore the contributions and challenges of international courts of justice, including Universal Jurisdictions and International Criminal Court (ICC) in regard to human rights concern.

1.7. Thesis Structure

The thesis will be composed mainly with the following:

CHAPTER 1: INTRODUCTION

- 1.1. Background
- 1.2. Problem Statement
- 1.3. Objectives of the Study
- 1.4. Research Questions
- 1.5. Scope and Limitation of the Study
- 1.6. Significance of the Study
- 1.7. Thesis Structure

CHAPTER 2: LITERATURE REVIEW CRITICAL ANALYSIS

- 2.1. Compliance and Accountability in AU/UN System
- 2.2. Peace Support Operations (PSO) Human Rights Oriented
- 2.3. Peacekeeping Missions Compliance Comparative Analysis
- 2.4. Human Right Compliance: Legal Provisions and Implementation Challenges
- 2.5. Jus Cogens Norms Compliance in Peace Support Operations: Rights and Obligations
- 2.6. Responsibility to Protect Doctrine and State Sovereignty: Relevance and Limits
- 2.7. Universal Jurisdiction and ICC Compliance: Response to Impunity

CHAPTER 3: RESEARCH METHODOLOGY

- 3.1. Definition and Background
- 3.2. Research Purpose, Aim and Objectives
- 3.3. Delimitations of the Research Thematic and Perspective
- 3.4. Setting
- 3.5. Research Questions
- 3.6. Research Sample Size
- 3.7. Data Collection

- 3.8. Data Analysis
- 3.9. Qualitative Research Strategy
- 3.10. Validation Strategies
- 3.11. Ethical Considerations

CHAPTER 4: RESEARCH FINDINGS; DATA ANALYSIS AND INTERPRETATION

- 4.1. Introduction
- 4.2. Demographic Characteristics and Respondents
- 4.3. Analysis of Data Based on Research Questions
- 4.4. Discussion of Findings
- 4.5. Summary of Findings

CHAPTER 5: CONCLUSION AND RECOMMENDATION

- 5.1. Introduction
- 5.2. Summary
- 5.3. Conclusion
- 5.4. Contribution to Knowledge
- 5.5. Recommendations
- 5.6. Suggestions for Further Studies

CHAPTER TWO

LITERATURE REVIEW AND CRITICAL ANALYSIS

2.1.COMPLIANCE AND ACCOUNTABILITY IN AU/UN SYSTEM

The compliance and accountability include the process from defining and setup the benchmark, selecting the criterion; guidance and indicators and how and why the standards are set, to achieve a certain goal in most transparent, monitored and evaluated way from single unit to entire complex system, from its foundation to all levels. Compliance mechanism is not built with purpose to create fear and uncertainty to people or system, it only aims to foster peaceful, environment for expected results leading to IHL and IHRL equal treatment of communities, countries, regions and global, as inclusive and inner deeper mode of life, transformed into culture within its entire complexity.

Accountability framework is a stand-alone guidance tool in place for monitoring, control and evaluation to gorge and strengthen compliance capacity and mandates implementation in system, using known and agreed indicators. It considers on the report of misconduct of all AU / UN Personnel components is the duty of all United Nations personnel, including military, police and civilian.

The African Union Compliance and Accountability Framework (AUCF) project to enhancing the African Union Peace Support Operations' compliance with IIHL; HRL, Conduct and Discipline, is a tripartite AU-EU-UN project. It ensures compliance of troops through best practices and lessons learned.

Misconduct in AU/UN is prohibited and accountable with consequences, including disciplinary measures on the ground; repatriation, dismissal or ban from future participation in future mission of the personnel or any other judicial action back home for breach of compliance covered in the policy on behaviors ethics, including dignity; credibility; efficiency and effectiveness of the Organizations and ownership of their beneficiaries. Compliance culture covers IHL, IHRL; and conduct and discipline behaviors in all activities and processes within the organizations.

There is no clear and unique specific technical guidance for accountability frameworks to the compliance system. There is political will and appropriate way for each. It depends! The scope, the context and the timing may be different. But the purpose may be the same; the results may be similar.

To date, there is still no consensus on the standards to apply or perform, but there is that gap to fill for self-accomplishments and esteem and dignity, collective and global aspire, provided by the international law, equally and undeniably. Such considerations are not political, racial; gender or geographical dependent across the globe. They are inherent and natural to all human beings by simply being human beings. No double-standards will cover the complexity of such uniqueness of the rights, whoever will decide with any complicity, however powerful could be the pioneer of such deliberate breach of the international law.

Compliance and Accountability should be a mode of life, a permanent and repetitive activity to become a jurisdiction philosophy in the process of monitoring and evaluation, with political will to perform better and equal rights in line with related international legal instruments and tailored individually or collectively at all levels and for global interests, including domestic and

international arena. It requires regular assessments; coherence values and culture review, a tone of strategic guidance in transparency, systemic and holistic way.

The policy intends to avoid the breach of the IHL and IHRL; to prevent the taking side politics and double-standards practice. It held people, countries and international institutions accountable with related and relevant consequences. It provides remedial actions and their possible implementations, in appropriate manner, based on ‘no tolerance’ of inaction or non-appropriate action and in very limited international politics overlaps on international law. It covers a wide range of what is requires and what is prohibited aligned with international best practice, in way to mitigate, prevent or deter timely any coming compromise and for appropriate and expected responses.

The review provides lessons learned from beneficiaries’ feedback, parties and other stakeholders. The chain of command and delegation of power or authority in international jurisdictions should be aligned with clear and coherent, reflecting the AU/UN compliance and accountability policies and commitments.

Accountability is everyone’s business, as long as it touches individual or collective rights and international human standards. Some may not be from legal, equal and fundamental binding rights and obligations but rooted from moral dignity, cultural ethics or local doctrinal codes of conducts behavior standards. Conducted to all United Nations system organizations must but not limited to the Charter but largely to the international law, a regulation which governs the world as people inclusively would desire to live in from generation to generation.

2.2.PEACE SUPPORT OPERATIONS (PSO) HUMAN RIGHTS ORIENTED

Many scholars have discussed global peace and conflict in line with article 1, paragraphs 1 and 2 of UN Charter regarding the purpose of its existence in 1945. Peace and conflict are static event. They are dynamics in the process. They are no one without the other behind. They are two sides of the same coin. One left for the other, they are not existing at the same time, in the same place and identical causes and context. The presence of one implies the absence of the other. Peace and conflict are not event, they are process. They can change overtime, due to various factors, including root causes not identified or not addressed; primary actors interests and other direct and indirect stakeholders involvements and implications; time and context, and other identified or unknown factors. Conflict is not something coming in our lives once and while. We experience conflict every day, sometimes unspecified and unexpected in our lives.

Conflict is not only between two or more people. Even an individual can disagree with himself and have conflict within himself. Conflict is intrinsic in human nature. It is not inevitable and sometime predictable, but it is preventable and avoidable. People have limitations within, inherent ability to predict or precisely to some extent the onset conflict. Conflict is inner phenomenal. It is not always there, but there is always there potential to erupt. When it arises, it can be settled before it escalates, it can de-escalate before it amplifies, it can be resolved before reaching no turning point. Conflict resolution will depend largely on various factors including the root causes; actors and stakeholders; levels; time and duration, context and dynamics of the conflicts. Mayer, B. (2012, p.3) explains that:

“Conflict is natural, inevitable, necessary, and normal, and that the problem is not the existence of conflict but how we handle it. How we view conflicts affects our attitude toward it and our approach to dealing with it, and there are many ways to viewing it. We may think of conflict as a feeling, a disagreement, a real or perceived incompatibility of interests, a product of inconsistent worldviews, or a set of behaviors. If we are to be effective in handling conflict, we must start with a way to make sense of it and to embrace both its complexity and its essence”.

While conflict is inevitable, it is however avoidable. To prevent or resolve conflict will require conflict analysis, to dig deep for identifying the root causes for better and clear understanding of the disagreement. Conflict analysis allows to find possible venues to address the issues. When conflict is still latent, the prevention process will help to deter violence through monitoring; information gathering; reporting; adequate, effective and timely course of action to avoid conflict escalation or undermine peace process.

Conflict is not only about disagreement, disputes, violence or war. Conflict is each of them and it is all of them. The difference is only about the level of the conflict; causes; timing and context; people involved in and their implications. Conflict takes different forms and has different sources; manifested at different levels, harm in many ways. Conflict can be resolved through different styles and transformed for different goals. There is no one single formula or uniformed template to understand conflict and handle it. It depends. Many factors can dictate the approach to de-escalate and means to resolve it.

It is not always true that the fact of not being in conflict means to be free from it. Conflict is dynamic; it has its own ramification and sometimes uncontrollable implications. Looking after peace is not looking after a world free of it; rather, a sphere in which conflict can be preventable or resolvable once it occurs. Conflict is not just a linear socio-phenomenon. It takes different forms, has different sources, harm in many ways, be resolved by different styles and transformed for various goals. Conflict may occur even from within; imbedded, intrinsic only because of being by nature. It is inner fact. A conflict may be unknown by the one who is in conflict, maybe as real or perceived; personal or interpersonal. How we look at conflict will largely determine our way to deal with it. To prevent conflict reduces its possibility to happen, and when it happens, to decrease the momentum of its escalation and level of its effects. It helps to avoid uncontrolled latent conflict or maintain the status quo for further or future escalation and the implications around.

There is no one shoe to fit all conflicts resolutions. Many factors make a conflict unique. They need a particular attention as dealing with particular situation. When looking with different lenses to resolve conflict, the interdependence of various aspects makes that when one change, it affects all others aspects, which makes the systemic and holistic approach relevant in conflict analysis process for proper way resulting to conflict resolution. It depends.

It is then unrealistic to tackle the concept of peace without touching the conflict aspect, picturing how they are opposing each other but close one to another. D P. Barash and Webel C P. (2009. p.4) underlines that:

“Peace, like many theoretical terms, is difficult to define. But like happiness, harmony, justice and freedom, peace is something we recognize by its absence”.

Attempt to settle a conflict requires first a fully understanding of it. Once a conflict is known from its root causes; parties and other stakeholders; the interests behind and people involved behind it, and to which extent the consequences will affect, then the road map towards the conflict resolution in systemic and most holistic way, is likely to happen.

Peace Support Operations (PSO) is not only about peacekeeping. It is a long range of Conflict Prevention; Conflict Management, comprising Negotiation and Mediation, Conflict Resolution, involving Peacekeeping; Conflict Transformation and Social Transformation, including Peacebuilding long process aiming to keep, stabilize leading to lasting peace and security and heading toward sustainable development. However, some of phases of PSO may occur at the same time in the process, sometimes emphasizing on one more than the other depending on circumstances; time; context or any other key factor. In some cases, it happens that making a clear-cut line between the starting of peacekeeping and the one of peacebuilding becomes difficult. Sometimes peacebuilding does not occur only from the exit of peacekeeping mission, rather peacebuilding starts while peacekeeping is style in place, two phases of PSO working concurrently. Negotiation and Mediation happen while peacekeeping mandate is still valid. Conflict has always root causes, actors and stakeholders, and their change and implications will dictate its dynamics. Different actors may have different agenda. Each of them may have its own interests and can contribute to settle or to fuel the conflict. The way they deal with conflict may contribute largely to the prevention, to increase or decrease possibilities for a latent conflict to

escalate or de-escalate before it blows into violation. Conflict at large scale may be intra or inter-states. It can be temporally or structural. In both cases, appropriate conflict prevention or mode of conflict resolutions may contribute to safeguarding the resurgence of the conflict to happen again in future.

One of the phases of PSO, it is **Prevention**. Preventing conflict reduces its possibility to erupt again. Conflict prevention decreases the likelihood of happening, and avoids the status quo. Preventive process includes to monitor, evaluate and report any identified issue which will likely to undermine peace and security process. Preventive diplomacy acts as deterrence to other conflicts of a similar nature to happen. Conflict prevention leads to the mitigation and deterrence of the conflict before it explodes. Unfortunately, UN has missed so often the opportunity to prevent conflict when it fails to deter conflict before it escalates in first place. It has been the case in 1994 genocide against Tutsi in Rwanda, in Eastern Democratic Republic of the Congo (DRC) for almost three decades by now; and it may happen in Burundi, considering the existing symptoms facts for years. Sida., on Peace and Conflict Thematic (2017) considers that:

Conflict prevention does not only refer to preventing the outbreak of conflict, but also resolving or preventing a relapse into conflict. Theory and evidence, however, suggest that structural prevention is most effective in the early or latent stage of the conflict. The methods, approaches and mechanisms for engagement are often categorized as direct prevention and structural prevention, although the methods often overlap and so do the phases of the conflict cycle. Direct prevention refers to shorter-term initiatives that are put into place with the aim to have a direct de-escalating effect through dialogue and mediation. While, structural prevention refers to longer-term

development cooperation initiatives with the aim to address the root causes and transform key conflict factors that could lead to the outbreak or relapse into conflict.

The concern on effective conflict prevention was identified way back to the time of designing the UN Charter on its Chapter 1, regarding the maintenance of international peace and the adoption of collective preventive actions. Igarape Institute (2018) on Defining Conflict Prevention Report in 'The Handbook of Conflict Prevention' considers that:

Conflict prevention is the combined set of tools, actions and approaches, designed to prevent the onset of armed conflict by tackling both the root causes of conflict and its immediate triggers to that setting. If not, conflict may take only a small trigger for long-held resentments to rise to the surface and escalate into broad violence.

The failure of the UN to stop the 1994 Rwanda genocide against Tutsi and wide spreading humanitarian crisis in former Yugoslavia, pushed member states to demand that conflict prevention be pushed to the core of UN policy. After such humanitarian calamities, major humanitarian crisis was suspected but with unfolded strategy to face the situation, which called for collective action and multilateral way, under UN leadership, to respond reactively. The emerged conflict prevention raised the concern on how better the international community could be more proactive than simply reactive responding to already erupted and escalated conflict with major humanitarian catastrophic implications. The situation led by Kofi Annan, urging the UN to incorporate and mainstream conflict prevention throughout the UN pillars. Also, Igarape Institute emphasizes that:

“A preventive cultural shift does not take place spontaneously, without being grounded in specific and strategic reforms to the organization and prioritization of the concept in its official discourse. Without sufficient concrete steps, the call for cultural change results only in discursive shifts without corresponding action”.

Equally, the HIPPO Report (2015) recommended that the UN strengthens its capacity in conflict prevention and mediation in peace operations settings. The report included targeted suggestions for how responses may be better designed, coordinated, and implemented, for better prevention plan, and more effective and holistic responses to conflicts to keep the momentum. The reports review represented a key landmark in the effort to stress the need for more inclusive conflict prevention debate. Refers to UNSC Resolution 2250 in 2015.

Peacemaking however, it is a way of bringing hostile parties to a negotiated and mediation peace agreement. It is used through diplomatic channel to bring parties to common understanding and parties’ interests through win-win negotiation and mediation conflict resolution approach. Boutros Boutros-Ghali (2003): defines Peacemaking as:

Action to bring hostile parties to agreement, essentially through peaceful means and Pacific Settlement of Disputes as per Chapter VI of the UN Charter.

Peacemaking is way of bringing together, through dialogue; negotiation, mediation and arbitration, with intent to move antagonist positions to a peaceful settlement of disputes. Peacemaking is a peaceful approach applied when conflict has already erupted, at escalation level with a possible layer of de-escalation, and possible venue of reaching a common ground for lasting peace. Nita Yawanarajah considers that:

UN Peacemaking excludes the use of force, unless imposed as last resort, taken by the UNSC to facilitate the process as prescribed by Chapter VI of the UN Charter.

At this stage, actors are known and by digging a bit more, the root causes may be identified and the dynamics are monitored. Systemic and holistic analysis approach may contribute to identify differences, level of disagreement and its implications, and help to bring together on discusses table and creates conducive environment to establish common ground for dialogue, negotiation or mediation. The aim of the process is to prevent further step to escalation before reaching the pick, leading parties to no possible turning back for lasting peace.

The idea is to find a middle ground of hostile parties and finally sign a peace agreement through win-win situation, to avoid shaming feeling to any of the parties. The UN considers that:

“Peacemaking generally includes measures to address conflicts in progress and usually involves diplomatic action to bring hostile parties to a negotiated agreement”.

Peace Support Operations are not only about conflict prevention and Peacemaking. They include also **Peacekeeping**. Peacekeeping is a third party to the conflict. It aims to help parties to settle conflict mostly during ceasefire and negotiation process. It secures environment, protect Internal Displaced Peoples (IDPs); assist to prevent international crimes as per IHL and IHRL provisions.

At this phase, peacekeeping is applied when there is a peace to keep. However, in most cases, situation is volatile and UN peacekeeping mission is deployed where there no peace to keep, rather to restore, sometime with coercive measures, including the use of force, as per UNSC

Resolution, investing the mission with Chapter VII mandate. UN peacekeeping mission must be well trained and properly equipped. It must operate timely following UN Peacekeeping Fundamental Guidelines, governing pillars of the mission (United Nations Peacekeeping Operations: Principles and Guidelines, P. 31, 2008), including the consent of parties to conflict, operating impartially and use force proportionally, all as last resort. In addition to the UN fundamental principles, there are also other important factors for success of the mission, which include Legitimacy, Credibility and National Ownership of the overall mission. However, although well designed, the UN fundamental guidelines lack some important ingredients in their implementation on sector commandant ground. The gaps have been assessed in high level conference of troop and police contributing countries held in Rwanda, from which the outcome listed some elements to fill the gap, summed up in what were called 18 Kigali Principles on Protection of Civilians, as to be to the centre or forming the core business of a peacekeeping mission. They are the endorsement and ratification of UN Member States, and waiting for a possible insertion in UN Doctrine and training Manuals.

The UN Department of **Peacekeeping** Operations (DPKO) defines peacekeeping as:

“The use of military, police and civilian personnel to lay the foundation of sustainable development. Peacekeeping is one among a range of activities undertaken by the United Nations to maintain international peace and security throughout the world”.

Peacekeeping operation is subject to State consent and it is not primary player to protect people of the country. The primary responsibility to protect people falls on State itself. It is only in case of unwilling or inability of the concerned State that the UN intervene through a peacekeeping

mission. When it cannot, a peacekeeping mission come by a collective commitment of UN through a Resolution and design mandate as to keep peace impartially in volatile situation. Since it is not the primary responsibility, peacekeeping mission will not last indefinitely and will operates with a plan to exit sometimes when conditions allow or from unexpected or unpredicted circumstances. Diehl F. Paul (1994, p. 9) indicates that:

“It might be noted that while permission may be easily granted as a part of the deployment of peacekeeping troops, that permission does not constitute an indefinite legal right for the operation; it may be withdrawn at any time”.

In the past, peacekeeping was only military own activity. Some commentators used to indicate that *‘Peacekeeping is not military business but only military can do’*. But the new shift to contemporary understanding has considered that peacekeeping must integrate all components, including military, police and civilians. None of these components can operate in isolated way because of the complexity of the mission. Peacekeeping is no longer exclusively military affairs, rather an integrated mission. The overall mission is mandated to use all necessary measures, either by show force or using of, and civilian component by taking their humanitarian responsibilities, and collectively in complementarity and ownership way, each component using its own expertise. Peacekeeping is not an end itself. It is one of the means for conflict resolutions. In some situation peacekeeping uses only show force to deter conflict. In some others, it uses force as last resort, when the situation becomes violent or increases at large scale, to save lives. Haas Ernest (1994, p. 34) says that:

“The first criterion for judging the success of peacekeeping operations is their ability to deter or prevent violent conflict in the area of deployment”.

Only UN Peacekeeping mission under Chapter VII has mandate of use of force. The challenging situation is that: (1) The use of force according to the UN Fundamental Principles on peacekeeping says that ‘The use of force is allowed only in case of *‘Self-defense and defense of the mandate’*. There is nothing embedding or openly says that protection of civilian is a core business of the mission that the mission must be accountable on lack of the compliance in regard to the IHL and IHRL operation requirements. (2) Even when a peacekeeping is operating under Chapter VI mandate from which the use of force is not clearly cited, any UN Resolution defining the mandate of the mission, it always said that the mission, when assessed the situation and deemed evidently necessary, it *can ‘use all necessary measures’*, including the use of force. If it is the case, then the questions to ask will be the following: (1) When it could be better time for a peacekeeper, to use all necessary measure (including embedding use of force) than when a peacekeeper is under imminent threat of his own life, with a pretext that the mission operates under Chapter VI mandate (reference to the killing on spot of 10 peacekeepers from Belgium contingent in UNAMIR in Rwanda – HIPPO Syndrome)? (2) On which other more serious conditions for a peacekeeper can use better the ‘use all necessary measures’, than a situation when peacekeeper knows so well that a minute later after leaving targeted people they will be killed (Reference on UNAMIR Belgium contingent, during 1994 genocide against Tutsi, leaving behind thousands target people in ETO Kicukiro – Kigali - Rwanda, in the hands of Forces Armées Rwandaises (FAR) and Interahamwe in Kicukiro)?

The fact that the use of force is not always explicitly in other UN Mandates, except in Chapter VII, a mission can hide behind the vagueness of the mandate to interpret it the way its leadership

wants without compromise the UN guidelines, but letting people die in peacekeeping mission presence for political reasons or other interest behind of individual countries or the entire UNSC as whole. In most cases, the decision makers deliberate create confusion between the understanding of the use of impartiality principle, on of UN Peacekeeping Fundamental Guidelines on Protection of Civilian with Neutrality and at some extent with indifference, when lives of people are in danger. When it happens, the mission behaves with no human rights compliance binding policy and no accountability risk to face during and after mission exit. It finally ends with failure; lacking trust and credibility, which may be difficult to recover from it.

In opposite, however, a successful peacekeeping mission lays down a foundation of peace consolidation and peacebuilding process. Peacekeeping is a conflict resolution mechanism designed to preserve peace, using military force as last resort when necessary. Each peacekeeping mission is unique. No two situations can feel always the same approach. One can inspire from the other but none can necessary be duplicated in two different contexts or time. Conflicts can share similarities but none can be identical to the other, to be duplicated in way of resolving conflict. Peacekeeping is dynamic. Context, actors and interests can change over time, which means that mission mandate should always change to be up to the task.

Peacekeeping mission share some similarities with Robust Peacekeeping and Peace Enforcement. ***Robust peacekeeping*** involves the use of force at the tactical level with the consent of the host country, while ***Peace enforcement***, by contrast, does not require the consent of the parties to conflict and may involve the use of military force authorized by the UNSC under Article 2 of the UN Charter. Peace enforcement involves the application of a range of coercive

measures, when a breach of peace is detected. But the UNSC must first determine a threat to international peace and security as per Article 39 of the UN Charter authorizing peace enforcement, as last. The only difference is that peacekeeping requires consent of the host country, while peace enforcement intervenes under Chapter VII with no need of the consent. White Nigel (2012, pp. 214-224) says that:

“Military enforcement action is taken against the sovereignty of a State, while peacekeeping operations are undertaken with consent and cooperation of the state. Peace Enforcement missions don’t usually fall under the rubric of peace operations, as they reassemble collective security military operations more than traditional notions of peace operations; the use of force is more extensive. Peace Enforcement also differs from Robust Peacekeeping largely in degree, in that Robust Peacekeeping has greater military capacity and mandate the renewal of warfare. It is thereby closer to a conventional military operation”, as it requires consent of the host country.

To be credible and operates towards lasting peace, a UN mission, in addition to the legitimacy bearded from its inception in UN Resolution Mandate, peacekeeping must be efficient, credible and owned by the host. It must promote peace and security, under guidance of IHL and IHRL. Chiyuki Aoi, Cedric de Coning and John Karlsrud (2017) in *Addressing the Emerging Gap between Concepts, Doctrine, and Practice in UN Peacekeeping Operations*, outline the difference between Robust Peace and Peace Enforcement:

“Robust Peacekeeping is distinct from Peace Enforcement where use of force is at the strategic level and pursued often without the consent of the host nation and main

parties to the conflict. The threats and use of force in robust peacekeeping is at the tactical level, limited in time and space”.

The UNSC Resolution determines the legal basis of the mission and design a clear mandate and the Rules of Engagements (RoE), under the International Law provisions. Peacekeeping does not cover by itself all aspects of Peace Support Operations; rather it is part of it. A successful peacekeeping mission lays down the foundation of peace consolidation and peacebuilding process leading to lasting peace. The success of a peacekeeping mission is a combination of various factors at different layers including Strategic, Operational and Tactical levels. It depends on political will, clear and appropriate mandate; required training, fitting equipment, national and local ownership, timing, and other direct or indirect factors.

Peacebuilding: There is no a clear and straight cutline up to where peacekeeping process ends and from where the course of peacebuilding starts. Peacebuilding requires some basic peace and security to lay down its foundation. It is a range of various and long-term measures aimed at reducing the risk of re-escalating into new conflict. Military component covers a wide range of Peacekeeping in terms of personnel both in number and impact on the ground in the whole post-conflict recovery process, and peace and security consolidation. Peacebuilding process aiming at to remove the structural causes of war, restoring peace, ensure security, undertake conflict transformation activities and establish peace consolidation initiatives, toward lasting peace and sustainable development. From the Organization for Economic Co-operation and Development (2008), The Alliance for Peacebuilding considers that:

“Peacebuilding covers broad range of measures implemented in the context of emerging, current, or post-conflict situations, which are explicitly guided and motivated by primary commitment to the promotion of lasting and sustainable peace”.

Peacebuilding is a process, not an event. It doesn't happen overnight and ends the following morning. It goes through preparation, transformation and evaluation. From the UN Peacebuilding Support Office (2010), the Alliance for Peacebuilding says that:

“Peacebuilding involves a range of measures targeted to reduce the risk of lapsing or relapsing into conflict by strengthening national capacities at all levels for conflict management, and to lay the foundations for sustainable peace and development. Peacebuilding strategies must be coherent and tailored to the specific needs of the country concerned, based on national ownership, and should comprise a carefully prioritized, sequenced, and therefore relatively narrow set of activities aimed at achieving the above objectives”

Peacebuilding is another approach of PSO in Conflict Resolutions. It is commonly known that Peacebuilding starts in post-conflict period but it also happens that peacebuilding starts even in time of armed conflict during peacekeeping, Negotiation and mediation phase leading to peace agreement. Before peacekeeping mission comes to exit, it assists on building the capacity of nationals to take over after the mission exits; building basic infrastructure, including schools and hospitals, promoting unity and reconciliations activities. etc. Such deliberate effort helps to deter, mitigate and prevent conflict to relapse into violence.

Peace Support Operations requires to identify the root causes, parties to the conflict, and its dynamics over time. It is important to assess the environment and timing; the involvement of other stakeholders; the ramification and implication of the conflict to national and global peace and security, as whole. Military operations can only win the battle, but only full politico-military engagement can win both: battle, mind and heart.

Whatever means of PSO used to deter; prevent, de-escalate or resolve conflict, protection of civilian must be at the centre, as core business. Human rights compliance must be the guided process all the way. Accountability must be the control and evaluation mechanism to verify appropriate achievement and balance system by addressing security issues without compromising justice and human rights requirements for lasting peace and sustainable development.

2.3. PEACEKEEPING MISSIONS COMPLIANCE COMPARATIVE ANALYSIS

The United Nations is an international organization created after World War II (WW2) on 24 October 1945 in San Francisco, after have been ratified by China, France, the Soviet Union, the United Kingdom and the United States of America, and by the majority of other Signatories. It is composed by six organs, including the UNSC, a body in charge of prevention and maintain of world peace and security. The UNSC is comprised with 15 members, including 5 Permanent Members (P5), China, France, Russia, United Kingdom (UK) and United States of America (US), and 10 non-permanent members elected for a two years term, rotating from UN Members.

Since the end of the Cold War, UN peacekeeping missions have taken a centre stage to promote collective international peace and security. The relevance and success of UN peacekeeping missions have triggered academia and policies makers debate on their implementation.

Sambanis. (2008) says that Peace operations are meant to be international interventions that seek to protect people and enhance peace and security within countries. They include a variety of

peace operations, including monitoring and facts-finding; support of existing peace agreements, peace enforcement and multi-dimensional peace building, depending of the situation. These can generally be categorized either as facilitative missions seeking to contain conflict or to prevent; decrease, resolve or transform conflict. The UNSC is a political organ within the UN institution invested with capacity to take legal binding action through Resolution and Mandate designs under international law guideline. It is responsible of maintaining power and security of the world, including military action, in case of threat to peace, a breach of international law and an act of aggression (Article 39 of UN charter). Peace Support Operations aims to bringing peace through conflict prevention, conflict management, maintaining, peacekeeping or peacebuilding process.

Diehl & Druckman, (2010) say that ‘All peace operations aim to abate conflict and are legitimized through the United Nations Charter’. The UNSC cross some challenges in its decisions and military interventions to mitigate or to deadlock the conflict when one or more of P5 are parties or stakeholders to the conflict.

The UN Charter, Article 27 indicates that the decisions making process of the UNSC is made by affirmative vote of nine members. Each member has one vote. In case of opposed positions among the P5, the Veto Power is applied.

Since its creation, the UN has accomplished a milestone of achievements, but also mixed with failures in history, including the unwillingness to prevent genocide against Tutsi in 1994, half of century later. Today, a slight mistake of one of parties in Russia-Ukraine war, can likely trigger the WW3.

On its Article 1, Paragraph 1, it indicates that the purpose of the UN Charter is:

“To maintain international peace and security, to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of peace; in conformity with the principles of justice and international law, which might lead to a breach of peace”.

One of the ways of performing its obligations when the inter-states armed conflict has erupted, the UNSC designs the mandate and deploy a Peacekeeping mission, legitimated and binding by its inherent virtual legal power. (Diehl F. Paul, 1994, p. 72)

“The mandate of peacekeeping operations defines its mission and often sets out to be achieved. The mandate provides precise plans for deployment and duties to be performed. The key aspects of the mandate are its clarity and specificity. It sets the expectations of actors involved, presumably reflecting consensus among protagonists and authorizing agency on what the peacekeeping will do in the area.”.

UN peacekeeping mission mandate must be clear, precise and relevant to the situation for addressing appropriately the issue on ground. The mandate must be suitable, effective and timely for the success of the mission. Peacekeeping mission will require the consent of the host country before the its deployment. Its credibility will depend largely from its ability and political will to respond to the real issue, which will impact the mission and create local and national ownership of the country. It will require to dig a bit deeper to identify the root causes; parties to the conflict; and contextual dynamics for the good plan of timely and appropriately mission intervention. The

success will depend on various factors, including having well trained, equipped and disciplined integrated mission, comprised with military, police and civilian components in integrated and multidimensional mission set up.

Mandate is a road map for peacekeepers to operate. It should be relevant to the mission and related means for expected results. Performance, Compliance and Accountability must be evaluated against the objectives, the plan and the implementation, in accordance with the mission mandate. Where the UN fundamental principles and other success factors present the gaps, the 18 Kigali Principles have been designed to fill. However, it is observed that currently not all countries have already endorsed the Kigali Principles, but only few have already ratified them by UN Member States. As of 31st July 2018, only 47 of the entire UN members have endorsed the principles, only very few of them have ratified.

Clapham Christopher (2000, p. 34) says:

“The mission mandate must be clear enough as to avoid vagueness and open to different interpretations for mission success. It determines how and where the duties will be done. The mandate is the essential base on which any peacekeeping or peace enforcement mission must depend. It is needed to provide the mission with legitimacy as an activity that properly undertaken on behalf of the international community. Mandates are essentially legal documents. They define the “Rules of Engagement (RoE) under which forces are deployed”.

Mandate and Rules of Engagement (RoE) are the foundation on which the whole mission is built on. They design how the mission will look like, the capacity and limitation of the power. They are key documents which provide the guidance, the 'dos and don'ts'. they should be clear enough to be easily interpreted, with no room for confusion. They need to be designed in the way to match with the situation on ground, with goals and objectives well defined and challenges to face well assessed. They should be protection of civilians and human rights centered. Mission mandate must contain possible proactive room, to intervene when necessary; proportionally and impartially. If it happens to be seen as one sided between belligerents, it may put in danger lives of peacekeepers. Without local and national ownership of the mission, it would be portrayed as failed, either unable or unwilling to achieve objectives itself sat and accused to fuel the conflict and increase violence than to be part of the solution. It should avoid to create any presumption of having a hidden agenda. It should avoid anything which can undermine, in one way or another, its image, consequently, its credibility and legitimacy.

When peacekeeping is unable to keep and maintain peace, the causes of the failure could be numerous, one mission different from the other. But whatever the reason of the failure, it ends up always by undermine its credibility, relevance and legitimacy, in part or in whole, which can result, in some cases, on withdraw of the consent from the host country. Although each conflict is unique and no one solution can fit all, some of the indicators of the failure are similar in different missions and the outcomes are not that different. Peacekeeping business should have one central point, the protection of civilians, keeping in mind and heart human rights compliance and its mode of evaluation, the accountability. Every UN peacekeeping mission deployment, should be a result of the field assessment which lead to a resolution on which basis the required

mandate is designed. The mismatching between the mandate and the ground in host country explains most of the time the failure of the mission.

The protection of civilians is the primary responsibility of the State. However, due to the inability, unwillingness or in worst case, when there is not only involvement but rather a State become itself perpetrator of international crimes to its own people, a UN peacekeeping, formed at ad hoc basis, is likely to fail. Those are not imaginary cases; they are real stories. The United Nations Assistance Mission for Rwanda (UNAMIR) was deployed to operate in hostile environment; State was the planner and the implementer of the genocide against Tutsi. It brainwashed and indoctrinated people on the ethnicity discrimination politics and fostered the hate speeches and echoes propaganda against Tutsi across the country; increase the training and arming of the Interahamwe for all ages, from young to elders, girls and women. How could UN succeed in that environment if, and only if, it has not assessed deeply the conflict, from its roots to its eruption, and design the mandate enable to prevent or to stop genocide against Tutsi? How the UN could even ignore its own Charter violation by Rwanda government at the time, which promote, plan and implement mass killings, prelude to genocide against Tutsi, committing then the worst international crime, genocide, against self-determination of almost stateless people of three decades, fighting only for their fundamental, inherent and natural rights? The United Nations Organization Stabilization Mission in the Republic of the Congo (MONUSCO) could either doing better when the same mistake was committed only after less than a decade in just neighboring country of Rwanda, the DRC? No indication shows that the DRC conflict was well assessed and that the mandate was designed with required commitment to make difference and keep peace and security in eastern DRC. The failure of MONUSCO was predictable and no

success will come out of it if the attitude of the UN in DRC remains unchanged and keep advancing the neighboring countries scapegoat politics, instead of digging a bit more to know the internal and external root causes; the parties and stakeholders of the conflict; the dynamics and their implication to the DRC and the region leading to the required and appropriate mode of conflict resolution for lasting peace and security. Not only the State does not protect one part of its people discriminated, Congolese people of Kinyarwanda speaking, but it is also involved by encouraging the hate speech politics; denial of their Congolese identity and citizenship, welcoming and integrating the FDLR in DRC and in its national army, knowing well that what they did in Rwanda by committing genocide against Tutsi, they will do the same against Tutsi Congolese.

The failure of the UN is the failure of the entire international community. There is no permanent UN military force. It is voluntarily, offered through political will of UN members States. Troop contributing countries are also accountable on the success or the failure of UN peacekeeping missions, through compliance and accountability mechanism. In addition, missions are funded by powerful Country, they should have a say in designing the mandate and evaluating its implementation performance. If they decide to not playing such important role, then they will be accountable to the failure and accused of complicity in that complex exercise of power, taxed to have a hidden agenda, individual or collective based.

Once deployed, a mission has three layers of decisions in its implementations: Strategic at UNSC Headquarters, Operational and Tactical in mission ground, in addition to the domestic process in host country. The success of the mission depends on the whole hierarchy of decision layers on

various actors, some with invisible hands, in the whole peace support operations ways involved to bring, keep and maintain peace and security.

The United Nations Peacekeeping Operations, Principles and Guidelines (2008, p. 17) considers that Peace Support Operations can be understood in three different ways:

By purpose: they are undertaken by the United Nations and other international actors to maintain international peace and security throughout the world." By means: they are an International Operation that impartially makes use of diplomatic, civil and military means, to restore or maintain peace normally under United Nations Guidelines. By activity: they are that type of activity that can be used to prevent, limit and manage violent conflict as well as rebuild societies in the aftermath of violence. By authority: they are internationally authorized, multilateral, civil-military efforts to promote and protect transitions from war to peace.

One of the most important challenges of the mission is to keep its **“Credibility”**, which is assessed through its performance by meeting people’s expectation through compliance and accountability evaluation mechanism. It relies and determined also on the level of **“National and Local Ownership”** of people who feel important the presence of the mission and the relevance of the mission, from which its relevance is measured by making difference from the existed situation in protection of civilian process. The failure of one peacekeeping sector may undermine the image of the whole mission.

Apart the *consent principle*, one of the UN Fundamental Guidelines on Protection of Civilians, granted by the host country, which also can be withdrawn anytime during its stay; the next one is the *“Impartiality”*. Most of peacekeepers, by deliberate posture or innocent ignorance, make simple confusion but with great consequences between impartiality and neutrality. Impartiality simply means not taking a side between parties to the conflict peacekeepers, supposed to play a role of good referee. The impartial referee does not let the game goes on with punishing the players committing faults. He has to be impartial referee but not a neutral one. To be neutral is to let game goes one; be passive; inactive, indifferent to what is going in the field, with wrongly fear to be called one-sided referee. With such referee behave, the game will not be able to continue, and if it can, it will not result in fair outcome. On battle field where parties commit international crimes, and threat to the live are imminent, neutrality can leading to grave violations of the international law, including genocide; extend mass killings; tortures; sexual abuse as tool of warfare; and, in presence of peacekeepers, invested with clear mandate and required power, neutrality cannot fit as right response to the right situation. *Impartiality* will be rather appropriate but in *proportional* manner as per IHL and IHRL provisions; using all necessary measures, including show or use of force. The inability or unwillingness to distinct neutrality from impartiality usually cost massive lives of civilians, which has been the case with UNAMIR three decades ago and with MONUSCO from two decades to date.

However, the UN Fundamental Principles and other success factors could be determining in Protection of Civilians, they have intrinsically their own challenges. More initiatives are required to fill the gap, not by replacing the existing guidelines, rather by complementing. The proposed compliments were the outcome of a “High-Level International Conference on Protection of

civilians” held in Kigali – Rwanda, from 28th -29th May 2015. The theme of the conference was ***“Protection of civilians through Peacekeeping: From Mandate Design to Implementation”***. The purpose was to obtain a deeper understanding on how UN peacekeepers can effectively implement the Protection of Civilians (PoC) mandate in armed conflict”. The conference brought together Troops and Police Contributing Countries (T/PCCs); Financial Contributing Countries (FCCs) to UN peace operations; UN professionals, Scholars, and other stakeholders. The Kigali principles intent was not to replace the UN Principles on protection of civilians, rather to compliment them, for effectiveness; and required rapid and timely appropriate and proportional intervention. It is for the mission to respond to the critical issues which are not well addressed in traditional UN Fundamental Principles on protection of civilians setting. The UN fundamental principles on protection of civilians are clear enough but challenged from its inherent design. International Forum Challenges of Peace Operations (2014, pp. XVIII-XXI) designing mandates and capabilities for future peace operations, recommends that:

“The new policy should be widely disseminated to Member States, in particular to TCCs and PCCs, and countries that contribute non-uniformed personnel, should straighten their cooperation, so that they can better prepare, plan and train their forces in line with the policy. Security Council mandates should require missions to systematically include relevant monitoring and evaluation planning in order to better determine whether the missions are meeting the benchmarks set”.

The mission should consider the protection of civilians as core business, with readiness, ability and willingness to intervene timely, appropriately and proportionally, aiming at saving people, in IHL and IHRL compliance based. While serving and representing the New Zealand in UNSC, the Ambassador Colin Keating (2004, p.505) testifies:

“I was surprised to learn that the previous instability in Rwanda has involved mass murder of Tutsi civilians that seemed to verge on genocide. Moreover, it was clear that the ethnic complexity of the situation had been significantly underestimated in the reporting to the security Council. It seemed beyond doubt that Tutsi had been ethnically cleansed in recent years”.

The conference resulted with a design of 18 Kigali Principles to address issues related to protection of civilians under imminent threats.

The principles were to be submitted to the entire UN Members for endorsement and ratification by relevant domestic organs. But so far only a total of 47 UN Member States as of July 2018 have endorsed them across the globe, including however, a good number of powerful countries: US; UK; France; Australia; Canada and good number of African countries. The next step could be the UN to integrate them in UN peacekeeping doctrine, policy and training manual as compliment to the existing fundamental peacekeeping guiding on protection of civilians, as complementarity for the effectiveness and compliance of peacekeeping missions.

The conference goal was to address the growing concern that peacekeeping missions have missed opportunities to protect civilians. Keeping people safe from harm should be the minimum standard to expect from a UN Peacekeeping mission. The rationale of Kigali Principles is to better protect civilians by complementing the existing UN Guidelines on Protection of Civilians. Safeguarding the civilians, including women, young and elders and other vulnerable must be essential. It must be the heart of the mission, the core business of peacekeeping, the central purpose of peace support operations.

The conference aimed to respond to the issue of peacekeeping capability by enhancing pre-deployment training; and partnering troop contributing countries with funders for effective implementation of the mandate for timely effective and compliance intervention; to match the troop capability with host challenges for better protection of civilians at all levels of operations, including strategic level at UN headquarters in New York, and operational and tactical level in mission area in general and on the ground in particular.

The main concern of the conference was to respond to the question of how better can invest the sector commander with power, appropriate trained and well equipped on the ground, at tactic level, can effectively and timely, respond to the imminent threat to the lives of people, then report later. The traditional practice is that the mission on the ground monitor and reports the incidence to New York and wait for the instruction. In meantime during the process, a number of civilians may already lose their lives. Some of the concerns were based on the *(1) Poor personnel training, (2) Inadequate equipment and (3) Ideological debates* on the mandate.

In some cases, the deployment is too slow against the emergency of the situation. In others, there is vague mandates and unclear Rules of Engagement (RoE). In others, there is inability of the peacekeepers; unwillingness of the host; and lack of proper communication between the UN headquarters and TCCs / PCCs deployed in the mission to agree on all it takes for the mission to overcome challenges in compliance manner and effective implementation of the mandate.

After assessing the concerns raised from the effective and compliance of traditional peacekeeping settings of UN Fundamental Principles, the conference led to the pledge of 18 Kigali Principles on protection of civilian outcome. Paul Kame, President of Rwanda, says:

“When lives are at stake, nothing matters more than saving them. Protection of civilians should be the central purpose of peacekeeping”.

The mismatching of the level of threat situation on ground and the resource allocated of the UN peacekeeping mission, in particular at sector and tactic level, the bureaucracy and disconnection of the UN headquarters, the strategic level of the mission, with the mission ground, contribute largely to the failure of the mission.

Although it is established that protection of civilians is the primary responsibility of the State, once the State has given up part of its sovereignty and give consent to the external forces under UN leadership, either by inability or unwillingness to protect its own people, UN should take full responsibility to protect civilians, as the central purpose and core business in the host country, with all necessary measures, including show or use of force invested at all levels of the mission, including the sector commander on mission ground. To achieve its overall aim and goal of preventing; restoring, keep and maintain peace, UN peacekeeping mission protection of civilian must be clearly the central purpose while designing the mandate, allocate required resources with fully political engagement.

For the Peacekeeping mission to succeed, it requires the consent of the host country; to operate impartially and proportionally while using force, as also last resort. It needs also fully understanding of the legitimacy the mission and its mandate; the credibility of the mission gained

from its effectiveness and timely intervention to protect civilians, resulting to the local and national ownership of the mission by the host. Provide consent by parties to the conflict allows peacekeeping mission to operate with necessary freedom of action to carry out its mandate. Bellamy J. Alex and Williams D Paul (2012, p. 110) present three main lesson learned for the UN Missions:

“(1) When peacekeepers are deployed without the general consensus of the UNSC, the mission is likely to fail. Peacekeeping mission must be deployed with clear mandates and clear support from the UN members, backed up by commitment of adequate resources. (2) Knowing clearly the nature of the area of operations”.

Peacekeeping missions face some challenges required to be addressed:

Challenges #1 linked to Lack of Consent: Without consent, the success of the mission is likely to fail. Consent is not a static factor, it is dynamic. It can be given but can also be withdrawn by the host country, if the expectations are not met. A party that has given its consent to the deployment of peacekeeping operation may subsequently seek to restrict the operation’s freedom of action, resulting in a facto withdrawal of consent, if the concerns persist. With no consent, UN peacekeeping operation may be at the risk of being treated as party to the conflict, therefore, operate at high risk of peacekeepers personnel. Lack of consent leads to the absence of mission credibility; ownership of State and its people; and intrinsically, irrelevance of the mission. Without consent, there is no trust between UN mission and the host county, which may be harm the entire mission and make the lives of peacekeepers in danger. When the consent by parties to the conflict is given under the international pressure and not from the political will of the State, consent become uncertain and unreliable. Diehl Paul (1994, p.9), notes that:

“It might be noted that while permission may be easily granted as a part of the deployment of peacekeeping troops, that permission does not constitute an indefinite legal right for the operation; it may be withdrawn at any time by the host state”.

Consent can be withdrawn even when the mission is in middle of deployment duration, and subsequently operates.

Challenges # 2: Inability or Lack of Political Will: When State becomes itself Involved and responsible for complicity; Fully Instigator; Planner; Implementor and Perpetrator of international crimes: When the State has such posture breaching the international Law provision related to the IHL and IHRL, and that the world requires a deployment of UN peacekeeping mission, the resistance of the State to provide consent will benchmark its collaboration with mission, and will determine the level of the risk to the lives of peacekeepers. However, in case of breaching the international law by committing international crimes, including genocide, State sovereignty becomes obviously irrelevant. Chiyuki Aoi and John Karlsrud (2017, p. 17) say that:

“Consent is no longer a principle as the Security Council has authorized the peacekeeping operations to act against these actors, including by using force. The Security Council has made the consent obsolete because it has authorized an enforcement action against identified aggressors, rather than a peacekeeping action”.

Challenges # 1 linked to the Credibility factor of the mission: The credibility of the Peacekeeping mission is tested from the matching of expectations of the parties with the ability and willingness of the UN mission. Credibility is the outcome reflection of how the host and other parties to conflict relate with peacekeeping operations, its compliance and level of

accountability in protection of civilians and the interests of the host. To achieve such complex combination of expectations from different parties, sometimes in opposite stands, is requires a good assessment and analysis of the situation, prior to the deployment, and strong political will and ability of the UN. The success and the failure of the mission will depend largely to those practical layers of evaluation, which may not always objectives.

Challenges linked to the Credibility factor of the mission: This challenge goes with over expectations, of the host, disconnected with what really the mission can practically offer. Goals and objectives of the mission must be achievable, but unrealistic expectations cannot. If parties believe that the tasks cannot be achieved in the current situation, then the UN peace support operations to can offer become irrelevant; and the inherent consequences can be great. MONUSCO failure is a clear testimony on how and why a mission can be predictable fail. UNAMIR failure was immediate consequence of the commitment of the UN strategic decision makers. Nothing happened by surprise, it was totally predictable. When the demands and expectations are higher and beyond what the mission can deliver, compliance will be limited to the wishes, nothing tangible leading to the right response will happen. The unwillingness of the UN mission to achieve its goal is in totally mismatching with the expectation level of people on the ground, which undermined deeply the credibility, trust and local ownership of the mission. Once credibility and trust of the mission are lost, they are very difficult to recover. When the outcome does not meet the expectation, the mission is likely to damage the entire mission image.

The trust on the mission will depend on the credibility it has built all long way. Credibility goes with the expectations. In order to be credible, a UN peacekeeping operation must be effective in restoring, keeping and maintaining peace and security. UN peacekeeping operation must: (1)

Deploy as rapidly as possible, (2) With required resources and equipment allocated, and (3) Well trained to maintain a confident momentum posture up to the task, all together, used to meet the expectation and gain the local and national ownership. Compliance and accountability mechanism will contribute largely to the building of trust and credibility in peacekeeping mission. The more the mission is credible, the less likelihood to fail.

Challenges linked to the Impartiality: Deliberate Confusion between Impartiality and Neutrality factor in the mission: The other aspect of mission success is the implementation, not of the neutrality, rather, of the Impartiality, one of UN peacekeeping fundamental on protection of civilians. The impartiality means not taking a side, not being indifferent and passive. When lives of people are at risk, neutrality is not an option. When there are imminent or existing threats neutrality leads to loss of lives, with no fear of accountability on compliance. The 1994 genocide against Tutsi in presence of UNAMIR and killings in eastern DRC in presence of MONUSCO are clear testimonies in this case. While in one hand impartiality means that UN peacekeeping operations must implement their mandate without favour or prejudice to any party and must use ‘all necessary measure, to protect people; on the other hand neutrality means for a peacekeeper to stay away from what is happening, even when lives of people are in danger, taking protection of civilians as not his core business, or central purpose of his presence in host country; with no idea at what extent his indifference may undermine the credibility level of the entire mission. Impartiality is crucial to maintaining the consent and cooperation with the parties to conflict. It means that peacekeeping mission should be treating all parties equally (prohibited to take side). Mandate must be applied fairly to all parties and must be seen as such.

It is very difficult to maintain impartiality when parties and stakeholders have different agenda behind and push to their implementation, sometimes different from people expectations. When pressure comes from different actors and undermine conflict resolution process and breach in course of peace support operations, actors miss the opportunity to handle the real issues from its root causes, conduct the operations out of the real context, with no ability to deter the conflict from ground assessment and misleading the initial aim by looking as like taking a side.

Challenge linked to No-use of Force Factor in the mission: The principle of the No Use of Force, except in Self-Defense and Defense of Mandate is another level of engagement of the UN in mission. The use of force can only happen as last resort. When it is used, due to the protection of civilians under imminent or existing threat, it should not be used abusively. It should be limited to the need, proportionally and impartially. But the question lies on the very limited to the self-defense and defense the mandate. What does mean defense of the mandate? What about if protection of civilians is not explicitly specified in the mandate design? Would the mission ignore people whom it acquires from them the consent to come in for their protection? At this stage, it will look like a contradiction or opposed interests between the presence of the peacekeeping mission in the host country and the expectations of the same host while welcoming the mission in the country. How the UNAMIR under Chapter VI mandate, unproportionally equipped and very light force; and MONUSCO under Chapter VII, with heavy budget, big force and over equipped, may have almost similar outcomes? If MONUSCO has to exit today, what will be its credits to go with back home and how it will be ranked in terms of efficiency, compliance and accountability against UNAMIR results?

Let assume that UNAMIR was reluctant to use force for various reasons, including operating under Chapter VI, no response to the cable sent by the Force Commander, Lt Gen Romeo Dallaire, yet the situation on the ground is explosive and the threat to the lives of Tutsi is imminent and started to be implemented, yet any UN Resolution for the deployment of peacekeeping mission includes to use all necessary measures when it is required, why then the Force Commander did not attempt to disobey the UN Headquarters, save people you can afford to do, and face the Court Martial later, but proud and honored for putting people at the centre and intervening timely; powerfully, proportionally and impartially by using appropriate coercive measures, even operating under Chapter VI. This is not to ignore the risk for the Force Commander to engage its forces into warfare with a risk of putting your force in danger; but facing the failure of not saving lives and facing the court marital for not being neutral on violating the international law before criminal committing international crimes, including genocide against Tutsi, are two different offences to be guilt on. Such situation portraits well the relevance of the 18 Kigali Principles in Protection of Civilians.

Challenge linked to Local and National ownership factor in the mission: Local and National ownership are also one of the three success factors. Local Ownership and National are clear demonstration of the level of credibility the mission benefits from the feeling of people, that the mission is meeting the expectations of the host.

If the mission is imposed to the country and out-passes the consent as mandatory step prio to the deployment, it will be difficult to own the peacekeeping mission, therefore if it is the case, it may operate in hostile environment, which may put in danger the lives of peacekeepers, and lead the mission to failure. Ownership of the host will come as consequence, as feedback or likelihood to

happen, from the ability and willingness of the peacekeeping mandate design, the expression of the UNSC to respond appropriately to assessed issues. Haward Adelman and Astri Suhrhe. (2004, pp. 487-488). In The International Peace Academy, testify that:

“In a low-priority case like Rwanda, the Council was evidently reluctant to engage itself until there were clear sign that the parties themselves were willing to settle, rather than undertake preventive and mediation measures under Chapter VI”.

The ultimate aim of the use of force is to influence and deter spoilers working against the peace process or seeking to harm civilians. There are also other factors which lead to the success of mission. One of them is the **legitimacy**. At strategic level, the legitimacy is drawn from the UNSC Resolution, from which an achievable mission mandate is designed. When peacekeepers are inadequate equipped or operate under unclear or vague mandate, the mission is likely to fail. When the mission, through appropriate assessment; monitoring; evaluation, intervention and reporting, it will be difficulty in most cases to respond efficiently and timely, aiming to protect civilians as core business, with commitment, compliance and accountability.

A comparative analysis of UN Peacekeeping in the region, between **UNAMIR**, United Nations Multidimensional Integrated Stabilization Mission in the Central Africa Republic (**MINUSCA**) and **MONUSCO**, will lighten how and why the mission can succeed or fail. Some of the factors may be similar and summarized on any of UN peacekeeping mission. Mission Mandate must be kept under continuous review and adapted as circumstances change and new context for consideration happens. Mission failure arises because in most cases the initial task has been overtaken by events, inability and unwillingness to cope with a set of factors, for which it was not designed for, in previous underscore. Some may be the (1) Matching mission mandate with

the situation on ground in host; (2) Training peacekeepers, and (3) Provide adequate equipment against the task, in addition to the political will; are key factors to the success of the mission.

Looking at **UNAMIR** first, the mission was adopted under UNSC Resolution 872, on 5 October, 1993, aiming to assist, observe and report on the implementation of Peace Agreement signed in Arusha – Tanzania.

In 1996, the UN Peacekeeping, Department of Public Information indicated the following:

“As of 30 November 1994, UNAMIR was composed by 5,442 military personnel and 80 civilian police officers. UN Secretary-General estimated that the deployment of approximately 5,500 troops for a six-month period would cost about \$115 million”.

The Peace negotiations started on 16 March 1993 and were concluded by a signed comprehensive Arusha Peace Accord on 4 August 1993, which should be implemented by establishing a Broad-Based Transitional Government. However, there was strong resistance from Rwanda Government of the time to implement the Peace Accord by forming a of the broad-based transitional Government and the Transitional National Assembly on power sharing basis, which will have the mandate to organize elections. That resistance was interpreted as prelude to put in practice the large scale of massacres against Tutsi accused of being in complicity with the RPF / RPF.

Based on the assessment findings that the situation in Rwanda was so alarming and that the threat to the lives of the ethnic targeted people was imminent and take effective action to halt the continuing massacres and prevent upcoming genocide against Tutsi. The security situation in Rwanda was deteriorating daily but Tutsi were left behind on the mercy of killers, by the world organization with purpose to assure global peace and security as it is stipulated on the Article 1 of its Charter. The question is how the international community, and the UNSC in particular, did not see this tragedy coming? How did not timely changed the UNAMIR mandate to Chapter VII; re-equip and reinforce its mission protect civilians, encounter the mass killing and halt the upcoming genocide against Tutsi? The Arusha Peace Agreement was successfully signed but its implementation was totally failed.

The UNAMIR mandate meant the following:

“To maintain security in Rwanda and assist with humanitarian efforts. Dallaire took command of UNAMIR with a lightly armed force of approximately 2,500 troops, It was given a mandate to oversee the peace agreement ending a civil war. The mission was established to monitor cease-fire, security situation, process of repatriation of refugees, to assist with mine clearance, the coordination of humanitarian assistance and to contribute to the security of the city of Kigali. During genocide against Tutsi, the UNSC resolution was to reduce the size of the UNAMIR), an already understrength force by 90 percent”.

The UNAMIR was expected to exit after facilitating to form a Broad-Based Transitional Government, with a mandate to organize later the election of the Government of Unity, expected to take place between October and December 1995.

Genocide against was long time planned project. It would not otherwise be implemented spontaneously due to the short of President Juvenal Habyarimana. Within few minutes after its crash, genocide machinery against Tutsi started with devastating high speed in country wide. In some few hours, the UNAMIR Force Commander, Maj General Roméo Dallaire sent a cable to New York reporting with strong evidence that massacres countrywide against Tutsi was in preparation and requested the following: ‘Give me the means, I can do more’, but it looked like no body at UNSC was interested on the cry from a small and African country in agony.

Despite of Maj General Dallaire cable, the UNSC took opposed decision to reduce the existing the UNAMIR mission (1994 UNSC Resolution 912). By the UNSC Resolution 912 of 21 April 1994, the UNAMIR was downsized reduced strength from 2,548 to 270. By July 1994, the RPF/RPA stopped the genocide against Tutsi; took control of the country, established a broad-based Government on 19 July 1994 and UNAMIR mission exited on March 1996. Tin addition, there was a clear manifestation of resistance from the international community to officially acknowledge the genocide against Tutsi. As of September 1996, the UN Peacekeeping, Department of Public Information, indicated that:

“During the early weeks of slaughter, international leaders did not use the word ‘genocide,’ as if avoiding the term could eliminate the obligation to confront the crime”.

The international community understood the gravity of massive tall of killings against Tutsi, which it did not predicted, prevented or halt. It created a jurisprudence on how the dedicated international organization, the UN, deals with international situation in different ways, depending

of continent or countries, where there is no longer equal rights as solely proclaimed in UN Charter.

That omission; passivity; inability, indifference or lack of UNSC political will through timely and effectively military intervention, including show or use of force, deeply re-designed the world geo-politics, questioned the relevance of the UN and re-portraited its compliance and accountability readiness or willingness to deliver, in this divided world layers, assessed through the systemic and holistic analysis perspective.

In humiliating and unhuman attitude, the world leaders decided to evacuate their nationals from this bunning part of the world, Rwanda, leaving Tutsi behind, paying not to be killed, but how to be killed, by machetes or by gun shoot, under the mercy of killers. The killer machinery power took advantage of the hesitation of the UN intervention to polish and implement its inhuman plan. In only 100 days, more than one million of Tutsi were killed, day and night, across the whole country. The most important international law crimes, in terms of the gravity level, was committed in presence of UNAMIR, a failure of UN peacekeeping mission dedicated to peace and security, and supporter to the re-establishment of law and order.

While Tutsi at Ecole Technique Officielle (ETO) of Kicukiro cried to the UN Peacekeepers (Belgium Contingent): ***“Do Not Abandon Us!”*** in hands of killers, Human Rights Watch indicates that:

“UNAMIR officers in charge of security and their superiors in New York feared that taking in Tutsi would discredit the ‘neutrality’ of the UN, particularly since the interim government identified all Tutsi as the enemies of the country”.

Despite the cry out of victims at ETO Kicukiro, as the Belgian contingent was called to withdraw, jumping into their jeeps and pulled out the gate, leaving Tutsi behind for unescaped death, with no hope and no rescue, young and old, women and babies, under UN flag.

Although unfortunate, most of peacekeepers concur with UNAMIR while confronting similar situation where people who in first place supposed to be the core business of their presence in the mission, become the least of their business. Unable or unwilling Peacekeeping missions hide themselves wrongly behind the neutrality between belligerents. Such attitude refers to false interpretation of UN Fundamental Principle in peacekeeping. Neutrality is not one of these principles. This is a misinterpretation and deliberate confusion between **Impartiality**, in addition to **Consent** and **Non-use of force**, except in self-defense and defense of the mandate composing the three fundamental principles, which is totally different from the Neutrality and not be part of the UN fundamental principles. Neutrality means passivity even in imminent threat of lives of people you were called to protect in host country. Neutrality is close to indifference, to not care, to ignore the situation a peacekeeper had a moral obligation and authority to take part. While the impartiality requires to not take side, but in a situation of imminent threat, to take action, timely and proportionally, even if it is needed to use coercive measures, including show or use of force. What happened at ETO Kicukiro was an abusive and violation of UN Fundamental Principles, it was neutrality, interpreted wrongly and deliberately as impartiality, it was nothing to do with the image of the UN, it was rather act of cowardice, close to injustice, discrimination and even racism of UNAMIR, a failure of the International Community as whole. Tutsi population were not parties to the conflict, they were victims. Protecting them was not violation of impartiality principle in international law, it was saving the lives of innocent people. Linking Tutsi to the

RPF/RPA, was simply a wrong pretext, it a buying a genocidaire government ideology by the UNAMIR.

In addition to the three fundamental principles, there are also other three success factors, including **Legitimacy**, which UNAMIR by being deployed and invested with power by the UNSC Resolution 872 of 5 October 1993 and defined mandate; **Credibility**, which was lost by applying neutrality, instead of impartiality, which painted UNAMIR as failure mission instead of keeping good image by applying neutrality instead, and finally the Local and **National Ownership**, which cannot happen when the mission is not credible.

Human Rights Watch (HRW) recalls an incident in which a person connected with UNAMIR commented and quoted: *“If you wanted to do some good, you just had to do it and not ask New York”*. That statement questions unfortunately the relevance of the UNSC in time the international community intervention is needed the most. It also shows that if the UNAMIR has applied, it would save thousands of lives, not only in ETO Kicukiro but also in others places in and outside of Kigali. *More than two thousand Tutsi were killed that afternoon, within hours of the departure of the Belgium peacekeepers troops, indicates HRW. Groups like HRW and Oxfam and clergy provided ample evidence to Washington officials to confirm that a genocide against Tutsi had begun.*

Though there were a number of meetings in New York at UN Headquarters on how UNAMIR could contributing in obtaining ceasefire from parties to conflict, *“There was no suggestion that UNAMIR was ‘morally and legally binding’ to use all available means to halt genocide”, HRW indicates.*

What the UN did not do or did not want to know before the deployment of the mission, it was first to assess the situation, plan and deploy accordingly. The situation was explosive and uncontrolled while the mission was light in personnel and equipment and the mandate inadequate and inappropriate. It was meant intrinsically to fail in first place. Clapham Christopher (2000, p.35) indicates that:

“The UNAMIR suddenly found itself in a situation in which that mission was completely redundant”.

Yet the situation on the ground shown that it may explode at any time the conditions allow. Any interested analysis will predict that mass killing of Tutsi was in preparation; Interahamwe were recruited and trained; machetes were distributed; targeted people addressed were identified; list of victims was completed and distributed; Tutsi, targeted people policy and politics were well known by the killers. In only 100 days, more than million of Tutsi were be killed, including babies, women and elders, in presence of UNAMIR. The mandate was a result of a deliberate underestimated of the situation by UNSC. The force was not prepared enough and the equipment was inadequate and inappropriate. UNAMIR Force Commander, Lt Gen Dallaire, at a time, has informed the UNSC on the development of the situation, which was volatile; unpredictable; uncontrollable and explosive.

The degradation of peace and security in Rwanda; the propaganda; indoctrination and radicalization and mobilization of the Forces Armées Rwandaises (FAR) and Interahamwe, young and old, the distribution of machetes built on heat message against Tutsi, the killing machinery well designed and strongly prepared, abstraction and lack of political to put in place

the Transitional Government, were among many others, clear indication that Tutsi, as ethnic targeted people, will be soon exterminated. Instead of reinforcing UNAMIR, it was downsized.

Instead of changing the UN mandate, from Chapter VI to Chapter VII for the use of force and reinforce the light existing force on the ground to the heavy one unable to contain the situation aiming to save lives in danger, the UNSC chose to take distance, remained neutral instead of impartial and passive. In contrast of UNSC passivity and indifference, with its lack of compliance and accountability concern on the mission against the situation on the ground, the genocidaire government in place, was extremely busy, taking advantage to be better prepared to exterminate Tutsi of all age in very short time. The UN headquarters has all possible scenarios to save Rwanda of its cruel ghost plan. It could change the mandate from chapter VI to chapter VII; reinforce existing military contingents in place; reequip the mission and prevent or stop the genocide against Tutsi at early phase of volatile situation, either by simply show force for persuasive measures or if necessary, by use of force as last resort.

The mission failed even to serve its own peacekeepers (Ten peacekeepers from Belgium Contingent were disarmed and killed on the spot by the genocidaires), while the use of force as one of UN Peacekeeping fundamental principles, was ‘Self-defense and defense of the mandate’

Though he had very limited force and with no mandate to use force, Lt Gen Romeo Dallaire taking at the centre and aiming to save people, could disobey the UNSC. He would use all necessary measures to protect victims he could. Rwanda was left on its own, the international

community was silent, the world just witnessed the killing of young and old, women and men, babies and elders, with no any other offense than to be born Tutsi.

He could violate the mandate and accept to face the Court Martial later, by using the show of force first, but if the persuasion does not deter the conflict and prevent or stop violence, then use all necessary means, including force he had at time, to protect targeted people and save lives he could. If one officer from Senegalese Contingent, Captain Mbaye Diagne, a simple Junior Peacekeeper Observer Officer, by its own initiative up to pay the tribute of his highest price of his own life did, then a General Force Commandant, could do better.

The mission had consent of the two parties in conflict. Although UNAMIR had headquarters in Kigali, the Force Commandant used to visit the RPF / RPA politico-military movement leadership in the territory under its control. Rwanda is also a small country, with people speak the same language and share the same culture, it was a very convenient environment a peacekeeping mission can operate in with no particular challenge to gather intelligence information needed. UNAMIR can then easily confirm that genocide was prepared long way before the shoot of former president Juvenal Habyarimana. The resistance of the State leadership to implement the Arusha Agreement and put in place the transitional government was clear indication that the Arusha Accord, although signed by both parties, were rejected by the government and that peace and security as per the agreement were not yet to be implemented. At the UN level, the P5 were disconnected with the reality on ground, and the wrong assessment and political issues determining the unwillingness of the UNSC to invest in bringing peace in meaningless small African country cost millions lives in only hundred days, for only born Tutsi.

International fundamental human rights were violated and most international crimes, including genocide against Tutsi was committed with complaisance presence of a UN mission on the ground, and yet human rights complaisance policies are the cornerstone of the UN architecture. The P5 were have not the same concern in the counsel but they were not divided enough to antagonists the opinion on saving or not Tutsi read to pay their preference death, being shouted by gun or killed by machetes. Bellamy J. Alex and Williams D Paul (2012, pp. 118-129) explain:

When peacekeepers are deployed without the general consensus of the UNSC, the mission is likely to fail. Peacekeeping mission must be deployed with clear mandates and backed up by commitment of adequate resources, knowing clearly the nature of the area of operations. If the necessary resources are not provided, and the necessary political, military and moral judgments are not made, then the job simply cannot be done. In the case of 1994 genocide against Tutsi in Rwanda, operational problems were rooted in deeper political problems in UNSC. It was forced on trying to keep peace when there was no peace to keep.

Ibrahim A. Gambari (2004. pp.518-520), An African Perspective, in The UN Security Council - From the Cold War to the 21st Century, testifies:

“The tragedy in Rwanda illustrates an enormous contrast between the will of the international community as a whole to act promptly and massively to prevent or halt genocide”.

In addition, Bellamy J. Alex and Williams D Paul, (2012, p.110) present, Boutros Ghali, at the time UN Secretary General, confession statement regarding the responsibility of the UN during the 1994 genocide against Tutsi:

“We must all recognize that in this respect we have failed in our response to the agony of Rwanda. Our readiness and capacity for action has been demonstrated to be inadequate at best, and deplorable at worst, owing to the lack of collective political will”.

The failure was UN in this critical time in Rwanda, was the failure of the international community as whole, to respond timely and appropriately. It fails to intervene not only to protect human just by being human as per international fundamental inherent human rights, but also by making a strong jurisprudence that in conditions where certain people across the globe are in danger, international politics can overlap the international politics. It solely says that the universality of the international law depends on who it is applied to and when it is confronted with the reality on the ground. It is to confirm the portraited image of the international law, that in some cases, the double-standards are justified, and that compliance and accountability are just guiding doctrine but not legal binding international policy. It is also means that the UN Charter provision on equal rights, some people are equal less than others. Maj Gen (Rtd) Gordon R., (2022, p.14) notes that:

“The League of Nations, the predecessor of the UN, was established in aftermath of the first World War. Its primary goal included preventing future wars”.

The bitter question after 1994 genocide against Tutsi was still in line with UN Charter purpose of maintaining and restoring global peace and security. The world organization should line

experience from the failure of the UNAMIR and perish million innocent lives in 20th century. To avoid repetition of the same complaisance in future, the UN should re-examine its relevance and avoid any future undertaking behave leading to jeopardizing the international law by international politics in critical international human rights of imminent threats during armed conflict in future. The

International Law provides rights and obligations, clearly defines the responsibilities of parties in conflict. It specifies conditions and context of apprehending international crimes, including genocide; war crimes, crimes against humanity and act of aggression, by coercive measures, including show or use of force.

The International Politics have overridden the International Law in many cases. The prelude of 1994 genocide against Tutsi was there it happens to be translated into action soon. The international law must take supremacy to national laws when they are in contradiction, opposing each other. Sovereignty should not matter when the government, which has primarily responsibility to protect its people, is unable or unwilling to protect civilian, or even at worst, become itself the perpetrator.

The death of former Presider Juvenal Habyarimana was not the root causes of genocide against Tutsi in 1994. It was only a trigger, a reason why to start the killing long term prepared ahead. The genocide against Tutsi was not due on the spontaneous impulsion of people after the shoot of former President Juvenal Habyarimana plane. It was long term well meticulously prepared project by apparently those who were no longer sharing thought with president Habyarimana on how the country should be governed, extremely opposed to the outcome of the Arusha Peace Agreement. The president has become hostage of its own political system and exclusive of mode

of governance. It looked as his close family and friend extremely were aggressively opposed literally to the idea of sharing power with the Rwanda Patriotic Front (FPR) and Rwanda Patriotic Army (RPA), and its entire 8 Points Program in general. The UNSC was not that engaged in conflict resolution process, the root causes were either not fully known or ignored by the world politico-military leaders, conflict not well assessed, its implication from systemic and holistic analysis lens, and its uncontrolled and unaddressed dynamics over time

The situation on the ground was explosive. The peacekeeping mission deployed was inadequate, the equipment was inappropriate and the UN chapter VI mandate on which the mission designed was not matching with the situation on the ground.

The force Commandant alert to the UN headquarters in New York pleading for reinforcement and change of the mandate from Chapter VI to Chapter VII was totally ignored. The existing equipment was defensive instead of offensive; no capacity of show or use of force. The mission was unable to protect people and the host country had no political will to protect its people, rather was transformed into the perpetrator position against its own people.

The passivity, indifference and inaction of the UN to intervene was interpreted and perceived by the perpetrators as green card to the extermination of Tutsi considered as undesired and dangerous people to the politico-economic stability of the country. The international law was tested, Global Politics prevailed, and the world looked like living in jungle where there is no more humanity, governed and regulated by domestic rules of law and international law. The ICRC report (2007, p.722-723), indicates that:

“The fact that IHL has the risk of politicized interpretations and implementation of its rules has increased. States have, on occasion, denied the applicability of IHL to certain situations even though the facts on the ground clearly indicated that an armed conflict was taking place. It is a basic principle of IHL that persons engaged in armed conflict must at all times distinguish between civilians and combatants and between civilian objects and military objectives. The principle of distinction is a cornerstone of IHL.”

In 1999, for the first time, the UN issued a landmark report recognizing and accepting the responsibility on the failings of UN peacekeepers to stand aside, which led to genocide against Tutsi in Rwanda and in Srebrenica respectively. Bellamy J. Alex and Williams D Paul. (2012, p. 108) indicates again that: *“A rate that of killing of genocide against Tutsi was higher than that of the Nazi Holocaust”*. They also expressed that, Bellamy J. Alex and Williams D Paul. (2012, pp. 111-115), expressed also that:

The failure by the UN to prevent, and subsequently to stop the genocide against Tutsi in Rwanda was a failure by the UN as a whole. The fundamental failure was the lack of resources and political commitment. There was a persistent lack of political will of Member States to act, or to activate enough assertiveness – to get the necessary troops for the UNAMIR. Although suffered from a chronic lack of resources and political priority, it must also be said that serious mistakes were made with those resources which were at the disposal of the UN.

In any UN Resolution on peacekeeping, it is rightly said that the mission can use all *‘necessary measures’* when necessary to deter the situation and stop committing international crimes. That power cannot be used better way than mainly in protection of civilian matter and international

fundamental rights. The use of force should not be a myth or a white elephant. It is a way to protect international fundamental rights and means fight against international crimes.

The UN Multidimensional Integrated Stabilization Mission in the Central African Republic (**MINUSCA**) is also one of the three UN peacekeeping missions in continuing human rights compliance and accountability using comparative, systemic and holistic analysis approach.

MINUSCA operates under UNSC Resolution 2149 adopted in 2014 with VII Chapter mandate. Initially, on 15 September 2014, MINUSCA. On 24 January 2020, the UN on United Nations Multidimensional Integrated Stabilization Mission in The Central African Republic, recalls that:

“MINUSCA stated with a force Comprised of 10,000 military personnel, including 240 military observers and 200 staff officers and 1,800 police personnel, including 1400 formed police unit personnel and 400 individual police officers, and 20 corrections officers”. The renewal of the mandate 2759 of 2024 extended its operation with protection of civilians up to November 2025, with a force size of 14,400 Military, 3,020 Police and 108 Corrections service personnel”.

The Central African Republic (CAR) has witnessed security instability and cumulated fights for decades. From December 2012, the country witnessed a resurgence of violence due to series of attacks by Muslim SELEKA rebel coalition. The Christian Anti-Baraka movement took up arms, and the clash took off more than two millions lives and resulted on approximately 650,000 Internal Displaced People (IDPs), including 232 in Capital city alone. Others took refuge in neighboring countries, including DRC; Republic of Congo, Cameroon and Tchad. The retaliation of the conflict with its new dynamics of dividing the country was ethnic and religious

based, intensified the spiral violence and uncontrollable situation, which led to the UNSC intervention under Resolution 2127 in December 2013, an African Union (AU), led International Support Mission to the CAR (MISCA), which has been changed into MINUSCA with new mandate and new tasks, including (1) To preserve territorial integrity; (2) Safeguarding State institutions; (3) Support State authority over the entire territory; (4) To enhance planning capacity, technical assistance and logistic for redeployment CAR forces and joint operations with MINUSCA to restore peace, security and rule of law, to promote and protect human rights; by monitoring, investigating and reporting IHL and IHRL crimes; and secure supportive environment for Transitional Government with task to serve as foundation to build on basic State institutions for national election.

Although UNSC has such number of objectives, protection of civilians is its core business, having however in mind that protecting people is the primary responsibility of the State. If CAR cannot play fully that function, it is not due to lack of political will, rather the lack of capacity, the inability, which was the driving force of the State to provide its '*consent*', which is one of the three UN peacekeeping fundamental principles on protection of civilians in welcoming the UN peacekeeping support to enable the mission to keep and maintain peace in the country. The UN peacekeeping mission comes in as complementary and support to the State, either unable or unwilling to be at the task. MINUSCA plays that role in coordination with State authorities, which own the UN mission. '*National and local ownership*' are one of the other additional success factors and key ingredients to UN peacekeeping fundamental principles on protection of civilians provided in international law.

MINUSCA role is also to support the State to deter the CAR conflict and support the it to respond right to the right cause, to the imminent or existing threat, to monitor and report on IHL

and IHRL crimes committed; in compliance and accountability manner; mixing flexibility and robust posture, by show or '*use of force*', which is equally one of the three UN peacekeeping fundamental principles on protection of civilians, to mitigate any risk of fueling conflict by its presence, rather to deter, prevent and respond to imminent or existing threat to people, in addition to MINUSCA 'self-defense and defense of the mandate', timely and efficiently, using comprehensive; systemic, integrated and holistic approach. Another important contribution of the MINUSCA is to assist the State to have peace by peaceful means by encouraging dialogue, bringing on board all national political stakeholders and provide good office for organizing free and fair republican election, in participatory inclusion manner.

Before the mission exit, MINUSCA has also the mandate to build and enhance local capacity through Security Sector Reform (SSR) by providing strategic and tactical training, enhance judicial system capacity to fight against impunity and restore rule of law; encourage human rights compliance and accountability; organizing broad Disarmament; Demobilization, Reintegration (DDR) to prevent any possible resurgence of armed conflict, and contribution of national and international humanitarian patterning to fragile State governance, without creating precedent, prejudice or undermine peacebuilding process, within the relevant but limited mission scope and resources capacity.

However, MINUSCA, as some of other UN peacekeeping mission, is reluctant to use force for fear to lose its impartiality between parties to conflict. Again here there is a confusion between impartiality and neutrality for a mission operating in volatile and violent armed conflict, in a complexity environment, in which choice between saving lives of people and maintain '*credibility*', which also one of addition of success factors to the UN peacekeeping mission fundamental principles on protection of civilians, of the mission, is quite challenging situation,

like the one discussed previously in case of UNAMIR. One thing to remember for a peacekeeper, it is that if the core business of his presence in a host country which decided to lose a part of its sovereignty by providing its consent for mission to operate within its territory, is to save lives against imminent or existing threats, therefore it is allowed to use coercive measures, including show or use of force, to achieve its goals. In this case, MINUSCA under chapter VII mandate, is invested with power, after assessing carefully, is allowed to show or use force, impartially and proportionally, when necessary, as last resort. The use of force to save lives should not be considered as act of undermining the credibility of the mission. The choice of strategic, operational or tactic level will be, either to lose credibility by failure to use its mandate core business by passivity to save lives of people at risk, which will completely lead to the failure of the entire mission, or loose the consent within the mission operation by a part to the conflict which decided to commit international crimes against people as whole it supposed to fight for their lives and defend its international rights, within compliance and accountability guidance. This is not to say that, loosing part or whole consent of one of parties is not a risk on lives of peacekeepers themselves, but that it is honored and justified sacrifice as it is unfortunately the constraining nature of the mission.

To summarize legal, moral and socio-politico-military responsibilities of the UN peacekeeping mission in CAR, it is to refer to its legal mandate and moral responsibility to protect civilians and restore peace and security, coordinate and facilitate humanitarian assistance, promotion and protection of human rights in existing politico-military crisis; support to fight against impunity and rebuild justice mechanism, implementation of ceasefire leading to Peace Agreement, reestablishment of rule of law system and national reconciliation with consideration of people grievances; assist on DDR process; promote the SSR process, and prevention to resurgence in

future and accompany the Central African Republic to create conducive environment for smoothly transit from peacekeeping to lasting peace and peacebuilding process before the exit of the mission. At the same occasion of 24 January 2020, During the ceremony of remarkable keynote of MINUSCA Chief for the overall mission in general and Rwanda contingent in particular to hold medal for the contribution to peace in CAR, it was recorded the following:

“Rwanda is small size but a giant of peacekeeping’. Rwanda promptly answered the UN call for peacekeeping in CAR, sending military and police contingents to MINUSCA right from the mission’s inception. No fewer than 6,650 daughters and sons of Rwanda had put their skills and professionalism to service, sometimes at the risk of their lives. They have manned security posts in the 3rd and 5th districts of Bangui to prevent inter-communal clashes; conducted patrols to eliminate criminality and protect civilians, as part of the Bangui Joint Task Force; and carried out civic and community work, caring the values of the UN in a highly perilous context; and have earned the respect of brothers in arms, Central African counterparts and the civilian population. A culture of hard work and discipline has enabled to deter violence and killings among CAR communities while applying the principle of impartiality”.

It is based on that sacrifice of Rwandan military contingent, that MINUSCA held a medal parade in Bangui to Rwanda Contingent for its contribution to peacekeeping in CAR. The MINUSCA analysis confirm that impartiality has nothing to do with neutrality, although some contingents from different countries do in the way to avoid any risk to the lives of their own peacekeepers, when people are under or imminent threats, in particular, when the mission is under Chapter VII, with capacity to use force.

The success or the failure of peacekeeping mission may depend on three main players: (1) the UNSC which decide from inception to the implantation through a resolution, design the mandate, deploys and fund the mission; (2) the host country which welcome the mission by its consent, and (3) the countries which provide troops. Talking one of peacekeepers but limited on expertise in the domain, explained that MINUSCA is operating under Chapter VI but only Rwanda contingent from overall mission is under Chapter VII.

He was wrong and right. Wrong in the sense that there is no way that in the same mission and same mandate, different contingents operate under different mandates. Right in the way that, although the overall mission operates under the same mission, each specific contingent from a specific country follows, not only the UN mandate and RoE but also policies and instructions from their own authority back home. The added value of Rwanda Contingent in MINUSCA, comes not either from UN, nor from the host country different from other contingents, but from Rwanda Policy in Peacekeeping mission is that its central role and core business, is to protect civilians, and that it has to use all necessary measures, including show or use of force. Due to the fact Rwanda contingent keeps that doctrine in heart and mind. A traditional unknown wiser says: ***‘Peacekeeping is not military business, but only military can do’***. In contemporary settings, this is from the old school. Today business is integrated, composed by military, police and civilian component. It is no longer only about shooting. It is for a peacekeeper to put his mind and heart, both together, to achieve his central purpose of his presence in the host country, the protection of civilian, a core business, to consider in all thinking; monitoring, intervening and reporting. Assessing imminent or existing threats leads to the required action to the right moment for the

right purpose, saving lives. It is in that way. A successful peacekeeping mission will be asked to stay a little longer, even when exit time is a bit closer.

In the continuing comparative analysis of the three peacekeeping missions operating on the continent, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (**MONUSCO**) is one of them, after discussing on UNAMIR and MINUSCA, in continuing human rights compliance and accountability comparative, systemic and holistic analysis approach based.

The Democratic Republic of the Congo (DRC) is a huge country of four times of France, size of 2,345,000 square kilometers. It is situated at the middle of Africa with a population of more than 112 million of people, more than 250 ethnics groups and more than 242 languages, including Kinyarwanda speaking. It has four official languages, including French, Lingala, Tshiluba and Swahili. It is very reach country with variety of minerals, including gold; diamond; cobalt; copper; coltan, and vast forest. It touches the Atlantic Ocean on its western edge, and has some lakes within and at its coasts. It is bordered by nine neighboring countries, including Burundi, Rwanda and Uganda at its east part. The DRC is by definition a State with delimited territory; a population politically organized, regulated and governed, recognized by the international law.

However, the DRC still lacks the criterion of being a nation, still missing a key ingredient, the will of living together and the exclusion and discrimination leading to the threats to the lives of some ethnic groups, particularly of Tutsi Kinyarwanda speaking in North and South Kivu Provinces both bordering Rwanda, and pastoralist Hema ethnic in Ituri Province, on the north-eastern DRC, bordering Uganda. The exclusion of those ethnic has been a key root causes of armed groups and instability, only claiming to be recognized as Congolese, with rights and

obligations like any other Congolese, pushed out the country, to live as stateless people, as per definition in international law.

Identity and resources are ranked to be the most key root factors of armed conflict in Africa. DRC conflict for decades has been one of the theatre venues for the same causes. The M23, the most active and committed to its cause among more than two hundreds armed group operating in eastern DRC claims to engage in fighting against as response to the exclusion of their siblings and families for their inherent fundamental rights, a compliance human rights violated by DRC, international crime punishable by the international law.

To respond to the daily and permanent deterioration of the situation as contribution remedy to improve the lives of people in Eastern DRC, the UN decided to deploy a peacekeeping mission in DRC, lasted of two decades by now and heaviest budgeted mission in Africa.

What is happening in Eastern Democratic Republic of the Congo (DRC) for the last two decades is a result of the exclusion of Tutsi on the basis of Congolese Government, claiming to be marginalized and killed, not for what they did but only for who they are and how they look like physically. Others argue that it is a pretext for neighboring countries, including Uganda, but most Rwanda, for DRC minerals. But the real question and proper response to the conflict should be: Why the international community does not assist the DRC to respond appropriately to the main claim with historical and political facts, which exclusion in part and in full of Tutsi ethnic group identified themselves as Congolese like anyone else in DRC, in way to avoid Rwanda the said pretext to support the M23 for hide agenda economic and mineral reason. Why DRC with support of MONUSCO cannot fight and disarm the FDRL to address Rwanda insecurity claim and expose Rwanda in the face of the international community that bradding security issue is no

longer valid Rwanda can sale for so called presence in DRC or support to M23. Although pointing finger to Rwanda still marked by the DRC and its alliance, there may also be a complicity of some other powerful stakeholders, including countries and international institutions, who are not working in finding solutions, but rather, fueling the conflict for their own interests. If such analysis happens to be valid, it will easily explain why the presence of the MONUSCO, heavy in personnel and budget with mandate of Chapter VII but curiously failing to respond officially and timely to the conflict in DRC, will explain all and will take the DRC for other decades in future for the same causes. There is not only inability to eradicate the FDRL as the DRC integrating them in its national army and engaging them in fight instead, which explains also the lack of political will, but there also powerful stakeholders hidden behind the curtain, fueling the conflict than contributing to resolve it. DRC lacks proper and engaged leadership to respond effectively and time the conflict, and some of its leaders lay their capacity to remain on power, by maintaining insecurity; instability; impunity and lack of law and order; promoting corruption; discrimination, favoritism and nepotism; and advancing personal interests over national aspirations.

MONUSCO was created on 1st July 2010, taking over from the United Nations Organization Mission (MONUC) under the UNSC Resolution 1925, took place in 1999, with mandate of protection of civilians under imminent of threats to life; support to the Congolese Government for Disarmament; Demobilization, Reintegration and Repatriation (DDRR) process on voluntary basis and promotion of the Security Sector Reform (SSR), and finally to prepare nationals to take over from the exit of the UN mission. The MONUSCO mandate was renewed in December 2024

under Resolution 2765 for one more year. The mission was authorized to use force to effectively protect civilians and preventing attacks.

MONUC was mandated to proactively contribute to the: Pacification and general improvement of security; Providing support for conflict resolution; Improving border security through regional Joint Verification Mechanism (JVM), and effective patrolling and monitoring of the arms embargo; Self-protection and protection of MONUC equipment; Contributing to the protection of civilians under imminent threat of physical violence. Taking over from MONUC, MONUSCO's aimed to contribute on mainly to the (1) Protection of civilians and (2) Support for the electoral process that led to the organization of the December 31, 2018 elections and a peaceful transfer of power.

“The Security Council, by its Resolution 1925 renamed MONUC the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) to reflect the new phase reached in the country. MONUSCO aims to protect civilians, support the Congolese government in stabilization and peace consolidation, and protect humanitarian personnel and human rights defenders.”.

MONUSCO was mandated to use force aiming at protection of civilians; humanitarian and human rights personnel under imminent threat to their lives; to support DRC Government on its peace stabilization and consolidation.

In December 2024. the DRC get new support of MONUSCO mandated with **‘Robust Posture’**, aiming at Protecting civilians that include supporting Disarmament, Demobilization and Reintegration, (DDR), Assisting and Support of Security Sector Reform (SSR). The new brigade was tasked to carrying out offensive operations, in a robust manner to disrupt armed

groups, including the M23, operations. The echoed calls from Human Rights Watch and various humanitarian organizations to Robust Brigade were not followed by direct effect, as only M23 was the only real target, although it was meant to eradicate all armed groups, including the FDLR, Wazalendo, and more others, leaving behind and continuing desolation and atrocities among Congolese, in particular Tutsi Congolese.

“There have been numerous cases of sexual misconduct by UN peacekeeping forces in the Congo. This has been acknowledged by the UN itself (such as the letter of 24 March 2005 from the Secretary-General to the President of the General Assembly)”.

The incapacity of MONUSCO to contribute to DRC State initiative and other national and international stakeholders to bring, keep and maintaining peace and security for more than two decades, with clear mandate of Chapter VII and heavy resources located to the mission, is clear demonstration that the failure of MONUSCO is not based on the inability but on the unwillingness of the State itself and the peacekeeping mission in place, in addition to the complicity of other powerful stakeholders. Suppose Rwanda was wept out on world map or not existed among DRC neighboring countries, will DRC be different today and its people having better life? The root causes of DRC conflict are elsewhere, more are internal, others external, and not necessary from its borders. Lots of stakeholders, with invisible hands but playing a big role in DRC crisis, including powerful countries driven by their own interests, not of DRC people at all. Wrong assessment leads to wrong analysis, finally to unfruitful remedy. If you do not know the real symptoms, you cannot have a right cure! And ***‘If all you see is the nail, all you need is the hammer’!*** Sometimes international politics override international law in this most divided and complex world.

The success of UN Peacekeeping Mission will depend largely on deliberate effort to identify and analyzes the root causes and parties to conflict, other stakeholders; dynamics of the conflict and its ramifications, timings and context, etc. Although most of conflicts have similarities, each conflict however has its own particularities.

MONUSCO has all required for the success of the mission, including the volume of human resource in all components, the mandate operating under Chapter VII allowing the use of force, and heavy budget. It has been in place and fully operating for more than two decades by now, however, the expected results are not significant. People are being killed, girls and women still raped, instability and insecurity still in place in presence by MONUSCO. Not having political will from the State to protect its own people, rather keep discriminating some of them, including Tutsi Congolese; inability or indifference of UN peacekeeping mission (MONUSCO); and the dynamics of the conflict which extends to Eastern DRC neighboring countries, particularly Rwanda, presence of SADC and Burundi forces; are not taken into consideration while looking at appropriate conflict resolutions.

The mismanagement of the armed conflict consequences is numerous and generates a situation resulting on displacing people within their countries; a thousands of refugees; increases number of armed groups, including genocidaires spreading hate messages and threatening insecurity to neighboring countries.

A combination of all those factors creates a number of ingredients to spread the seeds of making more complex the conflict; fueling it; attracts more stakeholders involvements and direct

implications to the DRC and the region; and decrease possibilities leading to lasting peace and security.

“The United Nations Peacekeeping Fact Sheet, indicates that MONUSCO, as of February 2025 composed by 16,316 uniformed personnel including military and police, and 13,794 civilian personnel, which makes MONUSCO to be a heaviest human personnel volume comparing to the rest of UN missions across the globe. The Secretary General report of 1st July 2024 to 30th June 2025 reveals that: “MONUSCO has an annual budget of around \$1.13 billion”, which make it the most expensive UN peacekeeping mission”, but unfortunately with less result. After more than two decades on the ground, no tangible result recorded to date”.

The failure of the mission therefore lies not either on the inability to achieve its goal, rather on unwillingness of the mission, the host country and the UNSC to enforce the mandate; to abide on complaisance and accountability UN policies. The reluctance of the mission to be up to the task matches with the engagement of the UN to achieve its objectives aiming to contribute to peace and security in DRC, regardless the expectations of DRC people. Such unexpected failure of MONUSCO in particular, and of UN and collective international community in general, reminds three decades ago the one by UNAMIR, with difference that MONUSCO has everything needed for a committed and own mission to succeed, from the budget and personnel aspects to the required mandate in a situation of threats to lives of people.

Military peacekeeping process must base on political choice to overcome challenges for expected results. Security address must match in balance with justice demand under the requirements of

the international law for lasting peace and security. The consent permitted by the host can be withdrawn overtime when circumstances change or lose its credibility. When it happens and people do not longer believe in UN mission, peacekeepers operate in hostile environment, which put themselves at risk of their own lives, a situation Cruz, former MONUSCO Force Commandant, in his report to the UN known as Cruz Report on Security of Peacekeepers, called Chapter VI Syndrome.

The comparative approach between the selected three African peacekeeping missions lies more on the similarities and differences; causes of success and failures; relevance and legitimacy; credibility and ownership; human rights compliance and accountability, in majority of UN peacekeeping missions and other peace support operations approach.

Peacekeeping mission is an important way of peace support operations to respond to armed conflict issues, by keeping and maintaining peace and security. While deployed under a mandated chapter to address issues, its responsibility is to defend the mandate, including protection of civilians, in most systemic and holistic way; led by IHL and IHRL compliance and accountability UN policy. Peacekeeping is not meant for replacing State in its primary responsibility of protecting its own people, rather it is an international community commitment of complementarity, to protect international, natural and inherent rights, including self-determination and right to life on one hand; and fight against international crimes, including genocide, war crimes, crimes against humanity and act of aggression, on the other hand.

2.4. HUMAN RIGHTS COMPLIANCE PROVISIONS AND IMPLEMENTATION

This section intends to explore Compliance and Accountability of a UN peacekeeping mission on ‘*use*’ or ‘*no use*’ of force on protection of civilians in imminent or existing threats on lives of people in regard to the human rights perspective. It will discuss the ramification and implication of the coercive measures, including the use of force on one hand or the neutrality, passivity or indifference leading to inaction on the other hand of key players, including national and international actors, when lives of people are in danger. It will investigate the level of the expectations of the host grounded at local and national prospectus from which the consent was deliberately given against the contribution of the peacekeeping mission, from which its credibility and relevance were built on, both formulated on related international law instruments, International Humanitarian Law (IHL) or Law of Armed Conflict and International Human Rights Law (IHRL) provisions. It will inform the misinterpretation of the international law, principles and practices on use of force to the expense of lives of people at risk, hiding behind vague and unclear mandate against the situation on the ground, or a deliberate incoherence and inadequate mandate response from peacekeeping mission at the sector command tactic level and millions of miles away from UN headquarters in New York. Peacekeeping missions are not meant to replace the domestic responsibility to protect civilians. However, peacekeeping is one of various forms of UN Peace Support Operations (PSO) to respond to the issues of peace and security when a State is unable or unwilling to do so. On its article 1, paragraphs 1 and 2, the UN Charter indicates that its purpose is the following:

(1) To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats and other breaches to the

peace, by peaceful means, and in conformity with the principles of justice and international law; (2) To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.

The UN Charter has built its legitimacy and credibility on Universal Fundamental Human Rights, which are the rights of every human being, only by being human being. They are not selective, rather equal, natural and inherent, intitled to every human being, regardless the race, sex, religion, country or region of origin, as per Universal Declaration of Human Rights (UDHR) of 1948. Fundamental Human Rights are indisputable; inalienable; immutable, absolute and inherent by nature. No sovereign argument can question the rights of world citizen such category of rights, which are of jus cogens domain where, no derogation is allowed in International Law. Peter Uvin (2005, pp. 9-21) considers that:

Every individual possesses certain natural rights simply by the nature of being an individual. These rights are inalienable and must be respected by the States. The major breakthrough in 1948 declaration was that these rights were understood to be universal and bind, that is, applicable to all human beings by virtual of humanity. The universal nature of these rights is beyond question. Human rights and fundamental freedoms are birthright of all people. As matter of fact, if not 'jus cogens', implying that they are applicable even to States that have not ratified the related relevant treaties.

The Universal Declaration of Human Rights (UDHR) has solely laid the foundation of International Human Rights, which all nations and every culture across the globe, find protection. It is the foundation and pillar on which the international Human Rights Law (IHRL) is built. It is inherent ipso

facto to all, only by being human being. The UNHR, Office of the High Commission, considers that:

“The UDHR has inspired international human rights treaties. A great number of regional human rights conventions, domestic human rights bills, and constitutional provisions, together constitute a comprehensive legally binding system for the promotion and protection of human rights. The core principles of the UDHR, such as Universality, Interdependence and Indivisibility, Equality and Non-Discrimination, and that human rights simultaneously entail both rights and obligations from duty bearers and rights owners, have been reiterated in numerous international human rights conventions, declarations, and resolutions”.

The UDHR and IHRL are the foundation and pillars from which human rights obligations and rights are built. The inherent nature of such rights leads to the incontestable factor of their legal binding character. They lay down the universal norms from which every human being is bound. By ratifying treaties on human rights, States become parties and require compliance and accountability on their implementation while fulfilling their obligations. The United Nations and Human Rights (1945-1995, p.3) stipulates that:

“In 1945, when the Charter of the UN was drafted in San Francisco, States laid the conceptual and legal foundations for the future development of international measures to protect human rights. The Article 1 of the Charter establishes respect for human rights, and the Articles 55 and 56 pledge Member States and the UN itself to promote universal respect for, and observance of, human rights”.

When engaged in armed conflict, parties are bound by the IHL and IHRL, branches of the International Law. Even in chaos, violence and war, people are legally protected and any offense or violation of the international crimes, cannot remain unaddressed. No impunity is tolerated and perpetrators of crimes must be accountable from legal compliance provisions. IHL is the body of rules governing States in armed conflict, and IHRL is the one in both situation, time of war and time of peace. And both, branches of the International Law. The sources of international law include agreements between States, Customary Law, General Principles and Soft Law”. Professor Christopher Greenwood underlines the sources of International Law from which IHL and IHRL belongs:

“Article 38 (1) of the Charter of the International Court of Justice (ICJ) lists four sources of international law: Treaties and conventions between States; Customary International Law derived from the general practice of States accepted as law, General Principles of International Law, and ‘Court decisions, Teaching and Writings of the most prominent scholars and Soft Law’”.

Apart the hard law, exists also the soft law, which are however not legally binding, but indeed constituting also sources of the international law. Among them are the international agreements principles or declarations, including UN General Assembly Resolutions.

The sources of the international law include agreements between States in form of treaty or convention; Customary Law, General Principles, with legal binding character, as stipulated in Article 38 of the Statute of the International Court of Justice (ICJ). The IHL is a branch of the International Law, which regulates the States, International Organizations or Individuals with legal personalities operating beyond a State during armed conflict. The IHL is applied to both,

intra and inter-States in armed conflict. The IHL and IHRL are both linked to the same scope, in regard to the compliance and accountability on the protection of civilians.

The first treaty on the protection of military victims of warfare was drawn up and signed in 1864 in Geneva. The International Committee of the Red Cross (ICRC), a custody and promoter of the IHL, considers that any person who is not or no longer active in fight, should be protected under the law. A distinction must be made between IHL, which regulates the conduct of parties engaged in an armed conflict (jus in bello), and public international law, as set out in the Charter of the United Nations, which regulates whether a State may lawfully resort to armed force against another state (jus ad bellum). The IHL scope does not cover the space of whether the commencement of an armed conflict was legitimate or not, but rather seeks to regulate the behavior of parties once it has started.

The world does not leave in legal vacuum, even in jungle where violence reigns, in a situation where there is no more rule of law minimum practice, the law is provided and justice is still needed to avoid the impunity. Human rights law instruments to bind States against no compliance on protection of civilians in regards to committing international crimes are in place.

In 1948, the United Nations General Assembly (UNGA) adopted the Universal Declaration of Human Rights (UDHR). It has over time been widely accepted as the fundamental norms of human rights that everyone should respect and protect. Countries agreed on a comprehensive list of inalienable human rights., a milestone that would profoundly influence the development of International Human Rights Law. In December 1966, the UNGA adopted two international treaties that would further

shape international human rights. In 1981: African Charter on Human and Peoples' Rights (entered into force, 1986).

The UN Member States concur on the relevance of Human Rights and obligations, and must therefore refrained to their violation in any case. Close to total number of UN members have ratified most of international human rights treaties, including the Universal Declaration of Human Rights on protection of civilians, which lays its foundation.

The regional organizations, including the AU, EU or the Inter-American Human Rights System (IAHRS), which is the framework for human rights in South America, have based their relevance on the UN Charter and UDHR, making their own and specific policies on human rights Compliance and Accountability. The UN indicates that the UN human rights is built on the ***“Universal Declaration of Human Rights proclaimed in 1948, under the UNGA Resolution 217 A, advocating for the rights to life for all people; regardless race; color; religion, gender or any other status”***. The UDHR has paved the way and become the foundation of many other related Human Rights treaties, based on equal rights before the law. On regional organization side, taking example of the African Union (AU) human Rights Compliance and Accountability, it indicated that:

“The AU promotes human rights compliance through several instruments, including the African Charter on Human and Peoples' Rights, the African Court on Human and Peoples' Rights, and the Human Rights Strategy for Africa, aiming to strengthen the continental human rights system. Member states should ensure that the Strategy is implemented in a way that enhances compliance to the continental and regional instruments. This includes the ratification, domestication, and popularization of human rights norms and mechanisms, as well as the implementation of decisions of

AU organs and institutions. The Protocol Relating to the Establishment of the Peace and Security Council of the African Union, in its article 4(c), implores AU Member States to respect the rule of law, fundamental human rights and freedoms, the sanctity of human life and International Humanitarian Law”.

The AU and UN human rights Compliance Policies are defined and known by various regional organizations, which have also their contextualized own. They all point to the compliance and built their accountability system. They demonstrate the need of the ability and willingness of member States for the effective implementation of complying on protection of human being, simply by being human being. States need to establish clear mandate and responsibilities of relevant institutions, mainstream human rights at all levels and in different sectors of State life. They need to design the way of assessing, monitoring and reporting on the applicability of policies, for effective human rights compliance and accountability in general, and protection of civilians in particular.

The National Human Rights Institutions (NHRIs) are key tool for the implementation of human rights policy and play a central role for the dissemination and popularization of the policy among the relevant stakeholders. They designing mechanism to monitor; assess; evaluate, and report any in compliance human rights and obligations issues through information gathering and control mechanism; with transparency and impartial evidence.

Compliance requires accountability on action or no action, timely delivery or passive attitude, while people are under imminent threats on their lives. The continent has its international legal instruments on compliance, including the African Charter on Human and Peoples’ Rights and other relevant human rights instruments. The AU holds Member States accountable for the

domestication of key decisions on human rights legal instruments implementation, for which they ratified to ensure good performance measurement and capacity to track progress on the elimination of harmful practices, aiming human rights compliance with data evidence.

Accountability aims to enhance compliance check mechanism for human rights zero-tolerance policy. It is about being responsible or hold accountable for ownership and imperative actions or inactions in service delivery guidance and mechanism on human rights situation, timely and contextually. The AU encourages domestic decision makers to design implementation mechanism control, to establish the level of responsibility and determine accountability of action or inaction, with appropriate and timely remedy.

States members are required to build advocacy for international human rights instruments for domestic endorsement and ratification; to mainstream human rights at all levels of their administration; governance system and on crosscutting sectors of operation; plead for everyone to become change agent and promoter of positive practice of human rights values, with no derogation or State reservation to be allowed, and address all challenges leading to zero tolerance on human rights compliance policy and practices.

Peacekeeping on protection of civilians compliance and accountability mechanism are built on IHL and IHRL provisions. Belligerents in armed conflicts are not free from accountability in relation to the human rights issues. They are accountable of their actions or none action when lives of people are in danger. The international fundamental rights are equally applied to all and the international crimes are prohibited to anyone, with no derogation. The international crimes include Genocide, War crimes, Crimes against humanity and crimes of aggression, while other human rights ordinary crimes are under domestic legal competences.

The International Association of Professionals in humanitarian Assistance and Protection (PHAP) defines International Human Rights Law in the following way:

“International Human Rights Law governs the obligations of States towards citizens and other individuals within their jurisdiction. Human rights thus cannot be taken away by States and apply at all times (although specific derogations and limitations are permitted to certain rights and freedoms)”.

The IHRL takes foundation from international law legal instruments, including the Universal Declaration of Human Rights, other Treaties, Conventions and Additional Protocols. The International Humanitarian Law Centre considers that:

“The International Human Rights Laws is the body of international law that promotes and protects human rights at the international and domestic levels. The International human rights law includes obligation which States are bound to respect. When they ratify international human rights treaties, governments commit to put in place domestic measures and legislation compatible with their treaty obligations”.

The human ordinary crimes are investigated and prosecuted under relevant domestic organs, while the international crimes are of the international concern, with scope close to jus cogens peremptory norms. The IHRL are treated to a bigger spectrum of human right and should not be appear on culture specific relativism range. The Fundamental rights are not relevant to some people, but not to others. They cover all rights related to any human being by the fact of just being human being. They are natural and inherent to human being. They override differences and specificities of mode of life of some people from a particular part of the world. They are not based on culture; country of origin; sex; race or religion. They are universal. The cultural

relativism is applied to other laws, rather than those inherent and natural to any human being. Natural and inherent human rights are universal equal and indisputable rights. Paul Gordon Lauren (2011, p.195)) describes that:

“The activists saw in the language of the Charter and the momentum that created it unprecedented opportunities to advance international human rights and threw themselves into action”.

Member States need to anchor UN and AU to advance human rights agenda following assessment, monitoring and evaluation mechanisms standards to achieve expected human rights responses in implementing policies and international law instruments.

At global level, IHRL lays down obligations which States are bound to respect. United Nations Human Rights, Office of the High Commission, considers that:

Through ratification of International Human Rights Treaties, Governments undertake commitment to put into place domestic measures and legislation compatible with their treaty obligations and duties, to ensure that the IHRL standards are indeed respected, implemented, and enforced at the local level.

The International Human Rights Law (IHRL) and the International Humanitarian Law (IHL) have similarities and differences. They are both focus on protection of people for their lives; health, dignity. But they are different in the way that the IHL is applied in armed conflict, while the IHRL is relevant in both, time of war and time of peace. Each State must comply with both legal bodies. The IHL, which is Law of Armed Conflict, regulates armed conflict operations, while the IHRL complements the IHL in time of war but also remain relevant in time of peace.

No derogation is legitimate on human fundamental rights; including right of life; inhuman treatment; slavery; torture, religion, etc. No derogation is permitted, except in emergency case, when threats to the life of people is imminent or existing. The International Humanitarian Law, as of Article 5 of the Fourth Geneva Convention provisions allows State derogation to waive temporary some of the humanitarian obligations to justify tolerated derogation measures. The International Committee of the Red Cross (ICRC) says that:

“Unlike IHL, some human rights treaties permit governments to derogate from certain obligations during public emergencies that threaten the life of the nation. Derogation must, however, be necessary and proportional to the crisis, and must not be introduced on a discriminatory basis and must not contravene other rules of international law”.

The ICRC defines the International Human Rights Law (IHRL) as set of international rules, established by treaty or custom, on the basis of which individuals and groups can expect and/or claim certain rights that must be respected and protected by their States. The ICRC Manuel underlines that, the legal instruments from which the IHL took place, is the Geneva Conventions and the Additional Protocols:

“The IHL is contained in the four Geneva Conventions of 1949. More recently they have been supplemented by three further agreements: the 1977 Additional Protocols I and II, relating to the protection of victims of armed conflicts, and the 2005 Additional Protocol III, relating to the adoption of an additional distinctive emblem. Many provisions of IHL are now accepted as customary law that all States are bound”.

Close to the IHRL, the ICRC considers the IHL, as a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating in the hostilities; promotes the protection and the treatment in human way and in all circumstances the civilians with no distinction; in acceptable means and methods of warfare. The IHL stipulates that it is *'forbidden to kill or wound an enemy who surrenders or is unable to fight, defending himself or no longer take part in hostilities.* The personnel and infrastructure, including schools; hospital, ambulances, which are of collective interests and not linked to the military activities, must not be targeted by any party to the conflict.

The universality of human rights entitled to human being by the fact of being human being must be equal. It is inherent by nature. The universality must not reduce the uniqueness and culture specificity, which determine the human rights provisions for a given society different from the defenders of the universalism consideration, but fundamental rights are equal to all and no derogation is permitted at any circumstances. Cultures may vary from one region to another, from one community to another. Michael Freeman (2011, pp. 5-6) observes:

“The concept of human rights raises difficulties. Article 1 of Universal Declaration stipulates that states are equal in rights. Article 18 says that everyone has rights to freedom of religion. How should we define the right to freedom of religion of those whose religion denies that all human beings are equal in rights? How can we make sense of human rights if the implementation of some human rights requires the violation of others? How the protection of human rights of one person may require the violation of the human rights of another?”

The universality of the International Human Rights Law only means that it is applied to all and equally, with no consideration of culture specificities and differences, and that no derogation is permitted when it comes to international fundamental, inherent and natural rights.

Some other human rights, although very important, can be subjected to the contextualization and be relevant in some places and not in others. For some, marriage of people of same sex is a right, for other it is prohibited. While such marriage is legal and legitimate, it is at the same time forbidden and shameful. While the culture relativism is relevant and valid for other rights than fundamental rights which are unquestionable and undiscussable. It has scope only on rights which are cultural, contextual and historical based. What is culturally true in certain community may be considered wrong in some others practice. A marriage celebrated and blessed by a competent religious authority (Church Pastor or Catholic Priest) is considered as official and legal binding by national public authority in Canada, while it will need to be officiated by a competent public officer and recorded in official national marital records. One from Canada may feel persecuted when it considered as no officially married, while he or she feels that, his/her human rights have been violated. Culture relativism is applied in both, domestic and international law.

In both cases, it is about cultural settings and choice of mode of life with no discrimination or any other form of undermining other's mode of life. It is not from imposing a way of living, unless it damages other's style of living are contrary to national constitution and other laws, and to some extent to international law. Culture relativism has no link with universal and fundamental human rights. It is contextual and local mode of life concern. It is specific community based. It does not contradict universal legal binding style of living.

The same can be related to the religious choice. Although belonging to a religion of choice it is even a fundamental right, but let assume that it was an ordinary human right, in the world from which Christianity, Islam or Hindu is imposed as unique religious or a God from which everyone should worship! Imposing some human rights from one context or culture may appear like violation human rights to others with different mode of life in particular community or region. In some place, it is prohibited to talk about gender. In others, there is transgender social settings and no one is allowed to question it. In others, it is forbidden to include the concept in their social living system. Imposing a mode of life and make a law with legal bidding may be considered by some as dichotomic to the democracy and violation of human rights by itself. The school of that thought consider that Culture Relativism is not in contradiction with the International Law principles.

There is no, apart fundamental human rights for all human being, a set of rules, required to all cultures across the globe. it depends! No culture is less good than the other; no region is superior to the others to impose the way of living, unless it falls in UN Fundamental Rights, close to jus cogens peremptory norms. No culture is more correct than the other. As long as a culture determining a certain mode of life of a specific community without undermining the other or with no negative implications to people belonging to it, the cultural relativism consider it as their own human rights. Opposing to that understanding, it is itself a violation of human rights. After all, who has the capacity or the power to determine what is wrong or right to a certain specific culture against the other? How is it morally right to enforce your own cultural living to another, different to yours? How a certain culture of a particular part of the world, would have power to impose and enforce a legal binding rule to other's living style, when it is not violating universal human rights and fundamental rights category or domestic legislation. The implementation of

human rights from other regions may be perceived as human rights violations. They are culturally based. They are Customary Law. Law Teacher, Universalism and Cultural Relativism in Human Rights, considers that:

“Universal Declaration of Human Rights, adopted and proclaimed by the UNGA on December 10, 1948 is a milestone document in the history of human rights. And the debate, which arose along with the internationalization of human rights, is whether all human rights are universal, or there are certain rights and freedoms, which can be avoided for the cultural features. It was proclaimed in the Purposes of UN Charter that human rights and fundamental freedoms are for all without distinction as to race, sex, language, or religion.”

The theory of relativism considers that cultural values practices and mode of organized community can contribute in forming the international customary law unless they are in contradiction with the IHRL or breaches the fundamental human rights. If the harmonized community life system is not opposing the provisions of the IHRL, the custodian of the international fundamental rights, then cultural relativism, instead of contradicting the international law, becomes one of its pillars and sources.

The cultural relativism and universalism debate complement each other, not contradict each other. Cultures share similarities but also have differences. No culture is exactly like the other. What is right or wrong in one place may be the other way round for the other. Differences should not determine the measurement rate of culture standards on what is wrong or right. No single culture is superior or inferior to the other. The difference of the level of development can determine the level of living of people but does not measure human rights standards.

Cultural relativism defenders attempt to arguing that every community has its own norms and code of conduct, most of time unwritten but strong in the particular context. The assumption is that other categories of human rights, apart fundamental rights, are culturally based. Otherwise, human rights for a region, could be considered as human rights violation by others, which me be counter-productive in terms of human rights compliance.

Some understand, practice and enforce human rights legal binding with deliberate stereotype lenses, resulting on dividing people on the law and rights basis. Cultural relativism advocates for the contextualizing other human rights in different regions, considering the principle of sovereignty in international law, which involved the consensus in harmony of the society and human rights practices. Double standards treatment impacts the legitimacy and credibility of human rights considerations, and therefore makes irrelevant compliance and accountability on the enforcement of imposed particular human rights laws. The discussion does not focus on universal human rights concern. It is based on other than fundamental rights. Regions are heterogenous but not necessarily opposed. Human rights are about equal rights and obligation when it comes to international fundamental law. No different layers encountering the equality of human being in international law.

Culture relativism is not opposed to natural and inherent laws, applied with no distinction to all people equally. It only indicates that the marriage of people of the same sex; the maturity age of the marriage; death penalty or the abortion, may be considered as cultural and community people centered. It is not inherent; it is about choice No constraint to a region by another region. No contradiction deducted unless they are in contradiction with the international law in general and fundamental human rights, in particular.

Cultural diversity and universal human rights are mutually reinforcing. They are not necessarily confronting and opposing each other. There are strong facts that fundamental human right, as per International Declaration of Human Rights, indisputable and inalienable to human being but there is also evidence however, that uniqueness of culture can determine relevance of specific mode of life with no contradiction with the international law. Differences do not mean necessarily contradiction, competition or opposition. They may complement each other instead. Culture relativism is not empty concept. It is reality not made by individual choice but by specific community believes.

The international human rights law concerns international fundamental rights, which include right of life with no distinction of race, religious, sex, on one hand; and international crimes, including genocide; war crimes, crimes against humanity and crime of aggression, on the other hand. Such rights and crimes are universal and are equally applied to every human being just as human being.

Cultural relativism is another side of the coin of human rights universality. It is another reality to be taken into account, when it comes to compliance and accountability in terms of assessing the breach, using historical and contextual of human rights lenses. No human rights of some people are set for violating human rights of others. Specificity is particularity of generality. It is a real concept; it is a reality issue. No one, group of people, country or region is invested with power to rank people on who is entitled of fundamental rights and who is not; to grade rights of some over of others. Universal rights are not submitted to a vote or consensus on who should have and who should not, they are inherent and naturally equal.

The assumption that human rights are limited to natural, inherent and indisputable rights to all human beings, simply because they are human beings is at some extent misconception of what the reality offers in practice. People are equal before the international law, but ‘some people are equal than others’. In addition, not all human rights are ranked universal. Some are regional and community level. Human rights may be regional and cultural based; specific, explicit and written, others are imbedded in culture and oral. They may share similarities but also contrasted by differences. Again, it depends!

The world has been experiencing a double standards treatment the Collective West has built over the Global South, which antagonizes human rights of some over others for global citizens which aspire equal rights, as promoted and protected by the UN Charter, on its article 1. The United Nations Peace, Dignity and Equality on Health Planet considers that:

“The most important debate is between the universalist position that all people have identical rights and the cultural relativist claim that rights exist only in the context of particular communities”.

However, the culture relativism is to be considered in certain situation, the fundamental human rights are not disputable. That understanding of human rights diversity does not question in any way the universality of fundamental rights, and the fight against the international crimes. And for any situation where domestic law or community rules and regulations are in opposition with the international legal provisions, the international law takes primacy and override other subsequent rules at domestic and community level. Jack Donnelly, in Robert Thurman (1996, p. 89), on

universal rights, in Religious Diversity and Human Rights, critics of non-western conceptions of Human Rights, argues that:

“Non-western culture has the basic conception of human rights, defined as rights one because one is a human being. These are rights which derive from the inherent dignity of human being, which are naturally inhering in the human person”.

And Law Teacher, in Universalism and Cultural Relativism in Human Rights, adds that:

“Universalism holds that each human being possesses certain inalienable rights simply because he or she is a human, regardless the national background, religious or political views, gender or age”.

The Universal Human Rights are equally and applicable to all human rights. They are indisputable; unquestionable; inherent and natural to all human being, just because they are human being. They are universal ipso facto. They do not require consent for their application within borders limits of a sovereign country. They are of juris cogens domain and no derogation is permitted.

The fundamental human rights are Universal while other human rights are Culture Relativism. Instead of considering the two types of human rights contradictory, opposed and clashing, they complement each other, no culture is superior to another, no culture is good than the other from different regions. Each culture is specific and unique. No one should see what is right in a particular region as wrong because it is different. It depends! It is advisable to use different lenses, when it comes to make certain considerations in human rights matters. At continent and region level on human rights compliance and accountability, it indicates that:

The AU Human Rights compliance policy is materialized from the application of its African Charter on Human and Peoples' Rights, the African Court on Human; the Protocol in its Article 4(c) imploring AU Member States to respect fundamental human rights and sanctity human life. Relating to the Establishment of the Peace and Security Council aiming to strengthen the continental human rights system; and the Constitutive Act of the African Union, in its Article 3(h) providing a clear mandate to AU organs to promote and protect human rights on the continent. The compliance and accountability of its policies are promoted through AU mode of governance, including transparency, justice, democracy; efficiency; responsiveness, responsibility and integrity.

Member states ensure that their legal system, including policies and strategy implementation aiming to enhance compliance through ratification and domestication of the international human rights instruments, norms and mechanisms.

“In accordance with Articles 30 and 45 of the African Charter, the African Commission is an autonomous treaty organ with the mandate of promoting human and peoples’ rights and ensuring the protection of human and peoples’ rights in Africa”.

For the African Union and the Commission, accountability is about delivering on this mandate, with effective utilization of resources and achieving aspirations of an integrated African continent. The purpose of the Accountability Frameworks is to ensure that good performance measurement and monitoring practices are in place to track progress on the elimination of harmful practices by AU Member States. Accountability needs to be interpreted as a continuous,

consistent and transparent process in creating better conditions, efficient processes, quality and timely services and delivery mechanisms. Accountability is about compliance. It is a key principle of governance, important for Member States. As part of the accountability process, ownership and reporting on the discharge of obligations, commitments and responsibilities is imperative. It is meant to develop the ability to perform duties more effectively in protecting civilians and to be accountable in implementing a zero-tolerance policy both in the region and across the continent. African Charter expresses that:

Member States must timely report on the progress and challenges on the elimination of harmful practices; advocacy campaign for the ratification of the instruments, the removal of the reservations and the production of timely reporting; use data for evidence of good practices; monitoring and evaluation; and develop the scorecard to show country progress and gaps on the elimination of harmful practices and culture of accountability, which culminate of compliance policy implementation. The African Charter does not contain a derogation clause.

On the global level, the UN considers that the Universal Declaration of Human Rights builds the foundation of other international legal instruments of human Rights as it follows:

“The Universal Declaration of Human Rights is a milestone document in the history of human rights. The UN's human rights policy, rooted in the Universal Declaration of Human Rights (UDHR), emphasizes the protection and promotion of fundamental human rights, advocating for the rights to life, liberty, and security, as well as freedom of expression and education, for all people, regardless of any status, and with businesses also having a responsibility to respect human rights”.

The Universal Human Rights were designed on equal rights foundation. The challenges on the international arena are centered to the capacity of the international community, through relevant international institutions including international courts, to impose compliance and accountability on human rights implementation. International Human Rights Law is a conceptual branch of the International Customary Law, rooted and prejudiced by international politics. The UN International Human Rights Law, on Instruments and Mechanisms, say that:

In the immediate post-WWII years of human rights standard-setting, human rights norms and treaties were presumed to apply only to States. As the dominant actors in global politics, states were the presumed duty bearers, with primary responsibility for protecting and fulfilling international human rights norms. The term “human rights violation,” likewise, was reserved to describe abuses committed by states. By the 1970s, human rights practitioners commonly observed that States were not the only actors who dirtied their hands in torture, disappearance, assassination, and enslavement.

Rebel forces and individual or terrorist groups may also violate fundamental human rights be held accountable. The IHRL regulates human rights issues, but also complement the IHL operating in armed conflict. Even during violence time, actors do not operate in legal vacuum. The IHL aims to protect civilians and people who or no longer take part in hostilities. However, exist international legal instrument under IHL, it has been seen observed that their implementation, compliance and accountability, meet in practice number of challenges.

The ICRC Manual (p.15): it is indicated that the Universal codification began in the nineteenth century. Since then, the States have agreed to a series of practical rules, based on the bitter experience of modern warfare. These rules strike a careful balance between humanitarian

concerns and the military requirements of States dictated by the violence situation on the ground. Some of IHL crimes are not difficult to establish. They include murder, torture, arbitrary arrest and detention, extrajudicial executions, rape and sexual assaults, displacement and deportation of civilian population, deliberate military attacks or threats of attacks on civilians and civilian areas, use of civilians as human shields, destruction and robbery of personal property, as well as attacks on hospitals, medical personnel, etc. They are different from the international crimes, including genocide; war crimes, crimes against humanity and crimes of aggression, which are challenging; complex and difficult to establish, investigate and prosecute.

The challenges of non-compliance and non-Accountability of the IHL can be identified at different levels: (1) “The lack of Political Will” of players to implement laws and regulations as per Geneva Convention and additional Protocol. (2) In addition, the lack of political will at domestic level, inability to intervene appropriately and timely. (3) Lack of required training at operational and tactical level. With no relevant pre-requisites in IHL, the lack of adequate training and proper equipment of officers may undermine human rights compliance and accountability mechanism, leading to the breach of the international law, sometimes by ignorance. In the absence of rule of law, in volatile armed conflict situation, peace, security and injustice are the first victims. Socio-political environment or failed State becomes the platform of anarchy system and unlawful acts, including killings; torturing; hate speeches; corruption; favoritism; nepotism; ethnic discrimination, and more other crimes. It is a State unable or unwilling to investigate, deter and prevent conflict and insecurity, promote and keep justice; avoid impunity and other crimes.

2.5. JUS COGENS NORMS COMPLIANCE: RIGHTS AND OBLIGATIONS

The Jus Cogens norms are fundamental principle in International Law that gives the obligatory power to all States to intervene in case of international crimes committed or going to happen, regardless the sovereignty right of the State perpetrator of the crimes. Sovereignty is a State right in international law. But that right must not be misused in persecuting people the State has the obligation to protect. State sovereignty right goes hand and hand with its obligation to protect people, under UN compliance and accountability policy, and international law provisions. In case of international crimes, including genocide, no derogation is allowed. Jus cogens is peremptory norms of general international law. The Article 53 of the 1969 Vienna Convention on the Law of Treaties (VCLT) provides a treaty-based definition of jus cogens as the following:

“Jus cogens is peremptory norm of general international law, a norm accepted and recognized by the international community of States as a whole and as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character”.

Elgaronline (2020) considers that:

“‘Modification’ in this case means the creation of a new norm of ordinary international law, which, if valid, would have served as a reason for legal decision makers to depart from an existing jus cogens norm, wholly or partly”.

No State will enter into treaty or any practice of the international customary law, which is or may be in contradiction with the existing norm of Jus Cogens domain. This simply means that Jus Cogens principle is legal binding in the way that 'any treaty contradicting the jus cogens norm is considered *'void ab initio'*, from the beginning. Any treaty contracting with jus cogens is void. That makes a difference with the R2P doctrine, which is a politico-moral obligation, limited to the doctrine and not invested with legal binding character.

Jus cogens principle makes State sovereignty obsolete in three cases: (1) When the State is found itself perpetrator international crimes; (2) Unwilling; or (3) Unable to avert international crimes. Protection of civilians is primary responsibility of the State. How can a State be perpetrator of international crimes against its own people, and at the same time claim the sovereignty right? In case of lack of ability, political will or both, the State Sovereignty can no longer be a State Rights to limit the obligation of the international community to use all necessary means to stop international crimes and deter the root causes, through coercive measures, including the show or use of force. No State will give up its sovereignty right but no country should behave with no protection obligation of its people, in respect to relevant international law instruments and international law principles, including jus cogens peremptory norm. Rwanda could not claim its sovereignty when it prepares and commit genocide against Tutsi in 1994; DRC cannot refer to the international law on violation of its sovereignty when it denies national identity, discrimination and self-determination against part of its own people in Eastern Congo. The use of force to stop international crimes by the international community does not require the consent of the State perpetrator of the crimes. Jus cogens calls for the intervention to stop international crimes regardless the State sovereignty, and overrides the domestic legislation for the required

response. The situation on the ground should dictate the level of response. However, jus cogens has its own limits by its nature. It is just a norm, not legal binding, to respond to compliance and accountability requirements check in its implementation. The political failure of the UN on genocide perpetrated by the Rwanda government against Tutsi in 1994 has no legal argument to back for justification. With no UN Resolution and no required mandate, the international community has no legal basis to hide on behind, in existence of jus cogens peremptory norm, which was sufficient to base on an international intervention to save lives of people under threats, stop genocide or deter conflict before it erupts to international crimes. The United Nations considers that Jus Cogens are legal binding and considered as the highest level of international law from which no derogation is permitted. No State cannot claim its sovereignty international law right that violate or create agreement in conflict with Jus Cogens. They are binding all States with no derogation. The jus cogens principles has supremacy over treaties and conventions of the same character. Therefore, the United Nations considers is that:

The principle of jus cogens is legal binding in international law. It refers to peremptory norms of general international law, which cannot be violated by any treaty or other agreement. A rule of customary international law not of a peremptory character ceases to exist if and to the extent that it conflicts with a new peremptory norm of general international law. Jus cogens peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character. Peremptory norms of general international law give rise to obligations owed to the international community as a whole (obligations erga omnes), in which all States have a legal

interest. Any State is entitled to invoke the responsibility of another State for a breach of a peremptory norm of general international law, in accordance with the rules on the responsibility of States for internationally wrongful acts. A rule of customary international law does not come into existence if it conflicts with a peremptory norm of general international law.

Jus cogens does not applied in some circumstances and particular time. It is not selective on States, not valid one time and not the other, when it comes to the violation of the fundamental rights or committing international crimes. The UN believes that:

Jus cogens apply to all States regardless of whether they have ratified a specific treaty or convention, which appears to be in contradiction with them. No treaty or agreement can be valid if it violates a jus cogens norm. Peremptory norms of general international law reflect and protect fundamental values of the international community, are hierarchically superior to other rules of international law and are universally applicable. A treaty is void in whole, and no separation of the provisions of the treaty is permitted if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. The provisions of such a treaty have no legal force. If a new peremptory norm of general international law emerges, any existing treaty which is in conflict with that norm becomes void and terminates. The parties to such a treaty are released from any obligation further to perform the treaty. A reservation to a treaty provision that reflects a peremptory norm of general international law does not affect the binding nature of that norm, which shall continue to apply as such. A

reservation cannot exclude or modify the legal effect of a treaty in a manner contrary to a peremptory norm of general international law.

Jus cogens is legal binding and has no derogation. It bounds States and gives authority, prerogative, rights and obligation to the international community to intervene, using all necessary means, and over other laws of the same character, when lives of people are in danger, when threats are imminent, and when international crimes are being committed, regardless State sovereignty right. If Lt General Dallaire on time of genocide against Tutsi was aware and was committed to save lives, not all more than millions of Tutsi were lost lives. He would not wait for the feedback of the alarming cable sent to the UN Headquarters in New York with no feedback for changing the mandate to Chapter VII or reinforcing the minimum troop under his command, before saving at least few lives he could. He would not feel judicially disobedient Force Commander either when he applies jus cogens peremptory norm of general international law; nor committed and engaged morally to save lives, applying the protection of fundamental rights, including self-determination, or stopping international crimes, including genocide. In worst case, He could morally intervene and face later militarily court martial, for operating out of the mandate. Professor Shoji Matsumoto (2020), on the **Jus Cogens and the Right to Self-Determination**, says that:

The right to self-determination was posited as one possible jus cogens norm. However, more than fifty years after jus cogens emerged in 1969, a standard test for identifying a norm as jus cogens has yet to be adopted. In 2019, the International Law Commission (ILC) adopted the Draft Conclusions on jus cogens, together with the list of possible jus cogens norms. Norms of jus cogens, or peremptory norms of general international

law, are usually said to stand at the top of international normative hierarchy. They are conceived as reflecting and protecting fundamental values of the international community.

Unfortunately, some have to date consider wrongly Jus cogens in international law as ‘slippery ground’, due to its ambiguity and weakness lies on State sovereign immunity, which sovereignty should not be a legitimate and valid right, from which Lt Gen Romeo Dallaire hidden himself behind, in case of violation of fundamental rights and international crimes.

Jus cogens is contrasted with ‘jus dispositivum, which refers to rules or norms that are not absolute, that can be altered or derogated. Jus cogens, in opposite, are peremptory norms from which no derogation is permitted, even by agreement from which a treaty can derogate. Jus dispositivum is consent based, Jus cogens is not. It is peremptory norm instead and no derogation is legitimately allowed.

The relevance of jus cogens is based on the situation where the international law focuses on justice and values other than individual selfish political interests of States. Norms of jus cogens are peremptory. They are the highest-ranking binding norms of treaty, from which no derogations are permitted in customary law. Prof Shoji Matsumoto adds that:

“A treaty in conflict with a norm of jus cogens is void ab initio (from beginning or from inception) at the time of its conclusion on the basis of the Vienna Convention on the Law of Treaties adopted in the UN Conference on the Law of Treaties in 1969”.

Jus cogens norm has faded into near irrelevance due to domestic political ideological motives, while it is in absolute domain and binding by essence. It does not require pre-State consent or

submitted to the inviolable of State sovereign immunity. Article 53 of the Vienna Treaty Convention provides that a treaty is void if, at the time of its conclusion, it conflicts with a norm of jus cogens. A treaty is void if it conflicts with jus cogens that emerged after the conclusion of the treaty. In addition, the Article 64 prescribes that if a norm of jus cogens emerges, any existing treaty which is in conflict with that norm becomes void and terminates.

Jus cogens have no derogation. They are not for the peremptory domain, and therefore not eligible for the norms of jus cogens. The derogability clause in Article 4 (1) of the ICCPR is exposed to the risk of abuse for political motive. Jus cogens are of the absolute international human rights, while other human rights, are derogable in time of public emergency, which make them to be considered as relative human rights, from which derogation is permitted. Jus Cogens is a fundamental Principle of International Law, with capacity to override others as by essence, described as inherent for human rights protection. It is peremptory norm and has the power to weave State sovereignty in case of breach of fundamental human rights, including Genocide; War crimes, Crimes against Humanity and Crime of aggression.

State sovereignty and none interference in internal affairs of a country principles are for the country safeguard pillars for the country independent legitimacy in the international law. It is one of State fundamental rights. It is self-determination of people in global affairs. The right of State to live in peace, security and development is natural and undiscussable. However, beside the rights, there are also State obligations from which it requires compliance and accountability on their implementations. Whatever independent a State could be, it is part of the international players and what affects individual State may affect the entire globe, as per systemic approach analysis. The lack of protection of people by a State, leads to death within the country and to the

refugee status of people across the globe. It creates instability and insecurity and other negative implications in and outside of the country. The warfare in Eastern DRC by hundreds of rebel movements, some allies to the Government others opposed to it, and also the tension between the DRC and its neighbor Rwanda, are that line, if the conflict analysis dig a bit more into the root causes, involvement of stakeholders both from within and outside of the country; and the dynamics of the conflict.

It gives to the international community the right to override state sovereignty as well as the obligation to intervene with use of force in a given alleged country on perpetrating international. Jus cogens does not require the consent for the international community military intervention.

Jus cogens and Responsibility to Protect (R2P) share similarities and differences. The relationship lies on the protection of civilians, advancing the intervention of the international community to prevent and avert threats on lives of people, basing on international fundamental human rights and fight against international crimes. Dissimilarities are found on the capacity to make impact. While the R2P is just a doctrine with simply moral authority but no legal obligation, therefore with no compliance and accountability responsibilities of no military intervention although it was required; jus cogens does not require the consent of the country when there are sufficient facts that international crimes are being committed or are about to happen. Jus cogens is invested with legal binding power and must be considered as such.

Jus cogens is peremptory norm and super norm. The term of jus cogens is invoked when it comes to establish state responsibilities in international fundamental human rights or international crimes being committed requiring appropriate response. Jus cogens expresses the idea of the existence of a '*lex superior derogat legi inferiori*' (principle

that a higher law takes precedence over a lower law). The intention is that jus cogens overrides other ordinary laws in hierarchy of classification. It expresses the capacity of its application with no derogation.

Jus cogens norm is invested with non-derogability character and has restricted conditions for its modification. A norm is qualified to fall in jus cogens category only when (1) It cannot be overridden by any other norm; (2) When it is hierarchically superior to other rules of international law; (3) When it is universally applicable, and (4) When it reflects and protects fundamental values of the international community.

For 'The Legal UN', to identify jus cogens peremptory norm of general international law, it requires to establish that the norm meets two important criterions: (1) It is a norm of general international law; (2) It is accepted and recognized by the international community of States. There must be evidence that such a norm is accepted and recognized as one from which no derogation is permitted and which can only be modified by a subsequent norm of general international law having the same character. The International Law Commission (ILC) says that "there is not as yet any generally accepted criterion by which to identify a general rule of international law as having the character of jus cogens." The basis of a peremptory norm is: (1) Customary law, (2) Treaty provisions, and (3) General Principles of International Law. Although there is no exhaustive list of jus cogens peremptory norms in general international, some of them are the following: Slavery; Genocide; Crimes against humanity; War crimes; Crimes of aggression; Ethnic cleansing; Prohibition of self-determination, etc. The Legal UN argues that:

For jus cogens and peremptory norm consideration, a treaty is void and no separation of the provisions of the treaty is permitted if, at the time of its conclusion, it conflicts

with a peremptory norm of general international law, which makes the provisions of such a treaty having no legal force. In case of a new peremptory norm of general international law emerges, any existing treaty which is in conflict with that norm becomes void and terminates.

A state has right to make reservation on any treaty it is required to endorse and ratify. However, when it comes to jus cogens norm, a reservation to a treaty provision that reflects a peremptory norm of general international law does not affect the binding nature of that norm of jus cogens, which shall continue to apply anyway. A reservation cannot exclude or modify the legal effect of a treaty in a way to dilute or oppose a peremptory norm of general international law. In addition, the Legal UN considers that:

Any State is entitled to invoke the responsibility of another State for a breach of a peremptory norm of general international law in accordance with the rules on the responsibility of States for internationally wrongful acts. A treaty or any other norm is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law and no separation of the provisions of the treaty is permitted. The provisions of such a treaty have no legal force. In case of a new peremptory norm of general international law emerges, any existing treaty which is in conflict with that norm becomes void and terminates. The parties to such a treaty are released from any obligation further to perform the treaty”.

In case of **Reservation** of the State to a treaty provision that reflects a peremptory norm, it does not affect the binding nature of that norm. A reservation cannot exclude or modify the legal effect of a treaty in a manner contrary to a peremptory norm. The Legal UN also explains that:

Peremptory norms of general international law give rise to obligations owed to the international community as a whole (Obligations erga omnes, which means a legal obligation that a State owes to the international community as whole), in which all States have a legal interest. This simply means that a State can raise a claim against another State that breaches such an obligation of the highest importance, often associated with fundamental principles like genocide; slavery, aggression, etc. Any State is entitled to invoke the responsibility of another State for a breach of a peremptory norm of general international law, in accordance with the rules on the responsibility of States for internationally wrongful acts.

For a serious breaches of peremptory norms like the case of 1994 Genocide against Tutsi in Rwanda, the Legal UN explains that:

“States shall cooperate to bring to an end through lawful means any serious breach by a State of an obligation arising under a peremptory norm of general international law. No State shall recognize as lawful a situation created by a serious breach by a State of an obligation arising under a peremptory norm of general international law, nor render aid or assistance in maintaining that situation. A breach of an obligation arising under a peremptory norm of general international law is serious if it involves a gross or systematic failure by the responsible State to fulfil that obligation”.

Elgar online (2020) on Monograph Chapter justifies the supremacy of Jus Cogens validated the following:

(1) No norm of ordinary international law will offer any valid excuse for not complying with jus cogens; (2) No international lawmaker has competence to modify any jus

cogens norm by other means than the creation of a new norm having the same character; and (3) No action will serve to modify a jus cogens norm except the creation of a new norm having the same character. A rule of jus cogens is an overriding rule depriving any act or situation which is in conflict with it of legality. Courts have emphasised the non-derogability of jus cogens norms in several cases involving rules of customary international law.

The supremacy of jus cogens in conflict with the UNSC Resolutions is not questionable. Jus cogens is a peremptory norm hierarchy superior than any UNSC Resolution. Where there is conflict between the two, the jus cogens shall prevail. When it comes to jus cogens norm, no derogation and no reservation are permitted. Any contrary to jus cogens in the same matter, it is null and void. No reservation can exclude or modify the legal force of a treaty contrary to jus cogens peremptory norm of general international law. No State or international organization have power to modify a norm of jus cogens nature by the creation of new norm having the same character. The Articles 53 and 64, respectively explain that: *“If, at the time of its conclusion, a treaty is in conflict with a jus cogens norm, that treaty is void. If a new jus cogens norm emerges, then any existing treaty in conflict with that norm becomes void and terminates”*.

By the fact that a treaty is void, it implies its restriction to the validity of its legal status. The principle of equality and non-discrimination based on race; ethnicity, religion or sex, to name few; are of peremptory norm of jus cogens. States responsibility is to avoid or eliminate any regulations of a discriminatory nature and ensure the effective equality before the law is ensured. The Habyarimana regime ethnic ID and discrimination ending up with 1994 genocide against

Tusti and the killings of discriminated Rwandaphone in DRC, illustrate both, practice of international crimes of jus cogens domain. Some of criticism on jus cogens is that it has a posture of super norm or super law, overriding other norms and does not consider the State sovereignty when it comes to grave breach of the international law or in the situation where State commits international crimes. It is considered as no-limits norm, open ended concept, based on 'opinio juris' (State belief that a practice is legally binding, which means it has a legal obligation to act in certain way) in international customary law. It is relevant norm invested with legal bidding power but lies on political will manifested by State consent and challenged by the vagueness of international community. The challenge lies on the nature of jus cogens as presented by the Legal UN that:

Jus cogens refers to certain overriding, peremptory norms that States cannot opt out of. No state will agree to bind itself to an inflexible set of universal principles whose scope is yet to be determined by the practice of other states. Further, even if States were able to agree on a list of norms qualifying for peremptory status, that list would still be only a theoretical one so long as courts or authoritative international bodies remain reluctant to apply that list of norms in a concrete and predictable fashion. Because abstract norms cannot on their own create justiciable rights, jus cogens will likely remain doomed to languish in well-intentioned irrelevance. The Inter-American Commission on Human Rights ("IACHR") has described jus cogens norms as part of a "superior order of legal norms hierarchy on humanity considerations. The absolute of jus cogens creates septic attitude of State in regard to its sovereignty. Jus cogens has scope of overriding other laws and has supremacy over domestic law.

Due to the fact that the international community does not have its own army and has to depend from the individual sovereign States, Jus cogens suffers from the rejection of the States from which it depends. It creates a general skepticism feeling. The Legal UN emphasizes that:

The concept of jus cogens norms suffers from a severe definitional and authoritative vacuum. States are imbued with sovereignty that is virtually inviolable; obligations are legally binding on sovereign States only if they agree, and any law purporting to bind states cannot do so if it would infringe upon that State's sovereignty.

The international precepts of jus cogens have been invoked to delegitimize aspects of domestic law found to be in violation of jus cogens norms. It emphasizes and determines the limits of immunity with respect to gross human rights violations by State officials. It leaves a little space to State in regards to its sovereignty. Jus cogens is understood by some of a myth, which may rarely bind actors. It threatens state sovereignty, which makes the norm not likely to happen as no State will ever, by its own, to be supportive of the norm which may turned being a threat to its own sovereignty. When jus cogens comes into conflict with normal rules, it prevails. Jus cogens tackles international crimes but faces strong challenges. One of the most encounters of Jus Cogens, it is its incapacity to upload the high standards guidelines leading to the international human rights compliance and accountability regardless the domestic sovereign immunity.

2.6. R2P AND STATE SOVEREIGNTY: RELEVANCE AND LIMITS

The Responsibility to Protect (R2P) is an international norm adopted by States in 2005 during UN World Summit intending to prevent and halt committing international crimes, including genocide; war crimes, crimes against humanity and ethnic cleansing. The concept of the R2P considers that State has primary responsibility to protect its people, it is accountable for the compliance. However, in case it fails to fulfil its obligation, the international community collectively has moral authority to take action in a timely and decisive manner, to stop or prevent the international crimes being committed or going to happen, in accordance with UN Charter.

R2P is different from Jus cogens all have some similarities of their purpose to protect people. However, they are different in the sense jus cogens norms are fundamental principles and binding all States and that no derogation is permitted in international law while R2P is a concept with moral authority that emphasizes the international community has the obligation to intervene with all necessary measures when there is threat to the lives of people or international crimes being committed, including genocide, war crimes, crimes against humanity and ethnic cleansing, either by the fact that the State is unable or unwilling to protect its people. Jus cogens are binding and no-negotiable, R2P requires the consent. They are both norms of the international Law, but different from their own specific scopes. While Jus cogens is non-derogable fundamental human right principle oriented, R2P focuses on the responsibility of the international community to intervene in a situation where the State is unable or unwilling to prevent or stop international crimes, based on moral responsibility and consent required. They are also different from their responsibility nature. Erika de Wet, on Jus cogens, considers that:

Jus cogens norms create obligations erga omnes, which means all states have a legal interest in their observance. They must be respected by all, regardless of whether they are party to a specific treaty or agreement, on one hand, while R2P acknowledging the state's primary responsibility to protect its citizens, recognizes that the international community has a responsibility to act when that state fails, either by inability or unwillingness to fulfill its responsibility, on the other hand. Jus cogens norms represent the most fundamental rules of international law, while R2P is a principle that focuses on the international community's duty to prevent and react to mass atrocities. Jus cogens norms are non-derogable, meaning they cannot be violated by treaties or agreements. R2P, while creating a duty to intervene, does not necessarily imply the use of force, but rather the need for international cooperation and collective action.

The aim of this study is to explore possible venue and investigate on expected challenges of the R2P doctrine implementation in violent conflict across the globe, from which the threats of lives of people are imminent or where international crimes are already being committed. The discussion will examine the double standards in divided globe between the collective West and global South makes the universal human rights relevant for some and irrelevant for others or at least not considered at certain degree not that equal to every human being just because of being human being. Fundamental human rights are inherent, natural, indisputable, equal to every human being, but it has been observed that for some they are equal than to others. Fundamental human rights are ipso facto equal as per universal declaration of human rights and must be treated as such. The study will try to dig a bit deeper and look at what it is commonly known as

universal human rights, including right of life; self-determination; human dignity, are not meant to some and not to others, and that are not on cultural relativism domain.

The R2P does not require explicitly the consent for international community intervention, rather the authorization from the UNSC, but also requires the consensus, and subject to States objections. It may involve settlement of disputes by peaceful means, diplomatic and economic pressure, but also the use of force as last resort.

In 2005, UN members endorsed the R2P doctrine after experiencing the 1994 genocide against Tutsi in Rwanda and in former Yugoslavia. The dilemma emerged on how to reconcile on one hand, the inner Fundamental Sovereignty Right of the state or no-interference in internal State affairs; or non-aggression principle in international law on one hand, and the responsibility of the international community to intervene diplomatically but also coercively by using force against the inability or unwillingness of State to protect its own people, on the other hand. The R2P built its relevance on that gap by filling it with moral obligation of the international community to take over and shift responsibilities when the State fails, from domestic authority to international community, for the purpose of saving lives in the context of not only the inability or unwillingness but also and mainly in the case where the State is itself alleged perpetrator against its own people, supposed to protect by all means and in all circumstances. State has not only rights, including sovereignty, but has also obligations from which it has responsibility to comply and being accountable. States are subject to the international law.

Dixon considers that a subject of international law is (1) “an individual, body or entity; (2) recognized or accepted; (3) as being capable of possessing and exercising; (4) rights and duties;

(5) under international law with international legal personality. A Dutch Jurist Hugo Grotius (2009, p.p. 151-152) in Barash P. David and Webel P. Charles, Peace and Conflict Studies also made a major contribution to the international law by considering the relationship of sovereign rulers to each other by indicating that no sovereign State could be subjected to legal control by another State. But at the same time, no State can stand out on its sovereignty right to resist on international community intervention when it is unable or unwilling to play its primary responsibility of protecting its own people, or in worst case, when it is itself involved in mass killing of a discriminated part of its own people, as it was the case in 1994 genocide against Tutsi. It was from that background, in 2007 that the UN Secretary General Ban Ki-moon has made significance step to introduce and sale the idea of Responsibility to Protect to the UN. During the period covering 2010-2019, the United Nations General Assembly (UNGA) held a some of informal interactive sessions discussing on the idea of intervening when there is clear indication that international crimes are going to happen or being committed somewhere across the globe. It was at that occasion the R2P got supported and endorsed by a number of UN Member States, considering the R2P as an international norm and doctrine. The Global Centre for the Responsibility to Protect considers that:

“The R2P seeks to ensure that the international community never again fails to halt the mass atrocity crimes of genocide, war crimes, ethnic cleansing and crimes against humanity”.

The 1994 Genocide against Tutsi in Rwanda and the former Yugoslavia are considered as wake up call for the international community to reconsider the way of seeing and treating the situation of international crimes committed or prepared to be committed in any part of the world. ***‘Never***

again’ should no longer be a slogan but a ringing call in the mind of the global leadership to deploy a show or use of force, if necessary to prevent or halt the danger on lives of people. Nothing, at 20th century, could lead to the international crimes, including genocide; and nothing could refrain the international community to intervene appropriately and timely, regardless the sovereignty of perpetrator State, to prevent before the crime happens or to stop genocide against Tutsi, almost half a century later after the proclamation, officially and solely, the United Nations Charter! ‘Never again doctrine’ should be a meaningful message that no State should ever breach again without facing consequences; no ever again the international community should afford to let this happen ever again across the globe. Since the Protection of Civilians (PoC) lies primarily on Government responsibility, the international community, must revisit the PoC doctrine of whether the State sovereignty right could still be to date an handicap to the international military intervention when international crimes are going to happen or being committed by the Government itself against its own people it supposed to protect.

Should the entire international community stay silence and passive when the cleansing of people is occurring within national borders, either by inability or by lack of political will, the consent of the State perpetrator should no longer be a coercive requirement for an international campaign prevent or stop genocide; war crimes, crimes against humanity or ethnic cleansing. It is from that background that, the world leaders adhered to the ‘Responsibility to Protect’ doctrine, *‘as set of principles designed to protect civilians from international crimes’*.

When the state fails to protect its citizens, by inability or/and lack of political will, it gives the legitimacy to the international community, to literally ignore State sovereignty for possible show or use coercive measures, including military intervention if needed, if necessary, as last resort.

The emerging R2P norm aims to protect civilians by all means, regardless State sovereignty restrictions, rather by legitimizing the collective action to intervene as per the UN Charter, Chapter VII, Article 39, to maintaining global peace and security. Since the end of cold more than half of century ago, the risk of inter-States had significantly reduced, which had given the impression that the world has become more stable and peaceful. The perceived peaceful means has brought up a new paradigm shifted that violence had zeroed rather to more intra-states armed conflict, with less and controlled escalation leading to international crimes. The case of 1994 genocide against Tutsi and former Yugoslavia crisis in Balkans and beyond have reshaped the new understanding of genocide and ethnic cleansing can make heavy impact beyond the national borders, the continent and the entire world in general and redesign the global system traditionally recognized and explained in international law. The toll of death in Rwanda and in Bosnia alone questioned the relevance of the UN Charter, the international law and the reliability of global peace and security. To address them requires particularly domestic solutions to internal problem, but also by international stakeholder players, in apparent world stability.

When internal violence broke out, including international crimes, the consequences surpass usual national borders with ramification to the rest of the world as per systemic approach analysis of the entire globe. In that sense, there is no heaven place to hide in behind. As the consequences go beyond the domestic scope, the collective solution is also required as per the UN Charter purpose is described, instead of fueling the conflict with uncontrolled results, unable to question the relevance of the international regulations, in situation where the international politics can override the international law. The world is today so divided that political alliances have took over the primacy of human fundamental rights and the supremacy of the international law over domestic political interests and domestic regulations and State sovereignty in case of State

perpetrators of international crimes. The R2P comes in as not to disclaim the right of sovereignty of countries but as to give power, right and moral obligations to the international community to question the relevance of sovereignty when the State is unable or unwilling to protect its people, or mostly when the State is involved or a planner and implementor of international crimes against one part of its own people, experienced in 1994 genocide against Tutsi in Rwanda, or to the DRC people of Kinyarwanda language, denied of their natural rights of Congolese identity. Dews Fred (2013), says:

“In 1999 the failure of the United Nations Security Council (UNSC) to authorize action to halt ‘ethnic cleansing’ in Kosovo provoked NATO to initiate an aerial bombardment on its own. This deeply divided the international community, pitting those who denounced the intervention as illegal against others who argued that legality mattered less than the moral imperative to save lives. This deadlock implied a pair of unpalatable choices: either states could passively stand by and let mass killing happen in order to strictly preserve the letter of international law, or they could circumvent the UN Charter and unilaterally carry out an act of war on humanitarian grounds, as the alternative principle of the Responsibility to Protect, focusing not on the legal of outsiders to intervene but on the responsibility of all States to protect people at risk.

The Rwanda and Kosovo situation created a dilemma in international community legal obligations and political interests orientation, and were consequently confronted by the two opposite opinions: (1) To preserve and observe State sovereignty right, even when the failure of State for its primary responsibility to protect its people were established within its own scope of action, the national borders, or (2) The moral responsibility and political obligations of the

international community to intervene up to coercive measures, including military campaign, to save lives, with no risk of blame of interference in internal affairs. The R2P was introduced in international law and political sphere as response to the dilemma by choosing solely the option of saving lives in all circumstances and by all means.

The R2P norms aims at ensure that what happened in Rwanda and former Yugoslavia in 1994, does not happen again. It simply means that the world should never look again behind and with no right answer to the question of why underestimated the situation, why the indifference and passivity the world had stay in darkness time of people, why the world remained silence, inactive and inactive to the cry of women and babies, elders and young people, under the machetes of killers; celebrating daily of how many lives taken away in competition mood. Dews considers that ***“By accepting a collective responsibility to protect, the international community issued a solemn pledge that it cannot lightly ignore”***.

The international crimes include: genocide, war crimes; crimes against humanity, ethnic cleansing, as per the 1948 Convention on the Prevention and Punishment of the Crime of Genocide; the 1949 Geneva Conventions and their 1977 Additional Protocols, and the 1998 Rome Statute of the International Criminal Court (ICC). Other human rights abuses are in category of domestic criminal courts competencies in time of peace and time of war.

It is only when the State is unable or unwilling to protect its people that the international community is engaged to halt international crimes, after deep and thorough systemic and holistic analysis of the situation on the ground. Dews says that:

“To constitute genocide, there must be a proven intent on the part of perpetrators to physically destroy a national, ethnic, racial or religious group. Victims of this crime are deliberately targeted”.

The R2P is a doctrine, not a formal treaty or convention with legal binding character with formal and legal obligations. It is human right doctrine oriented and UN Charter base. It is politically motivated when State fails to protect its own people but not enforceable legal principle. It is in category of soft law, aiming to influence States behavior on moral obligation to intervene in a situation where the lives of people are in danger. It leads to political decision of global leadership, including the United Nations Security Council, having justification in UN Charter, in case of genocide and other international crimes, committed by the State. One of the qualifications of genocide is the extermination of a targeted particular group for belonging on certain identity as per IHL or the Geneva Conventions and other relevant treaties.

The relevance and aim of the R2P are not questionable. It is fully legitimate when lives of people are in danger. What it is lacking, it is the commitment and ownership of stakeholders, members of the international community, advancing their own individual interests, rather than the collective initiatives to prevent or stop international crimes to happen. The indifference and passivity of the international community to intervene appropriately and timely contradict the claim of the collective West of being custodian of democracy and supremacy in the implementation of the international law while promoting and applying the double standards against the Global South.

How would you establish the difference between Israel, from the Collective West, on total destruction of Gaza and its people; and Iran, from the Global South, planning to wipe Israel on the map? The double standards on the West recognizes Israel the right to defend itself; and on the Global South the whole Gaza portrayed terrorists, with deliberate violation of self-determination principle of people in international law? How could assess the weight of lives during genocide against Tutsi in Rwanda and the ones perishing in Ukraine, basing on the enthusiasm of the international community to intervene, in one way or another, on protection of people. In such unbalance treatment of people, the moral R2P doctrine loses its moral test, the main ingredient for the essence of the doctrine, relevance and capacity, to impact on protection of fundamental human rights and against the international crimes.

The R2P was meant to fill the gap, uploading the moral obligations to save lives under imminent threats, but it confronts resistance at many occasions, which reduce its relevance and capacity to achieve its aim. The death toll and killing speed of the Tutsi in 1994 genocide against Tutsi remains a wake-up call to the international community for undersong, ratifying and implementing of the R2P in any party of the world experiencing similar situation, enforcing 'never again' world moral obligation. What is the policy in place, clear strategy and guidelines for the Responsibility to Protect to intervene, mitigate, reduce or stop international crimes?

There is inconsistency of R2P application. The implication of lack legal binding character is to lose its credibility and ownership in its implementation. It cannot enforce compliance. It is political oriented, not legal power to request accountability. The success of the R2P will depend

on the universality and legal Character to engage UN members to respond appropriately and timely to prevent international crimes to happen; to halt violence and deter conflict to escalate.

The R2P was supposed to be covering crimes occurring anywhere in the world by State, regardless the race, religion, or level of development. No abuse of power should be tolerated whether by any from the Collective West or Global South. Dews in its commentary on ‘What is the Responsibility to Protect’ considers that:

“Once a norm has gained not only formal acceptance but widespread usage, it can become part of “customary international law”.

In the same direction, Francis Deng, the former UN Special Adviser on the Prevention of Genocide and the former representative of the Secretary-General on internally displaced persons, developed the concept of ***‘sovereignty as responsibility’***. Sovereignty should not be only a right for the State, it bears equally the obligation and responsibility to ensure that people under its jurisdiction are protected, and peace and security are kept and maintained.

In 2009, UN identified three problems to address and three pillars strategy for the implementation of the R2P: (1) Fear undermines potential supporters of the R2P to the abstinence and resistance to engage itself; (2) Incapacity to make pressure or to investigate on the accountability by the international community if States fail to intervene; and (3) Adequate approach to be used to blame on the incapacity or unwilling to intervene when international crimes are being committed. The alternative framework produced by the Asia Pacific Centre and Global Centre for the R2P against committing international crimes are also centered on four

levels: (1) Domestic laws; (2) Bilateral; (3) Regional, and (4) Multilateral. At all levels however, it requires not only the capacity but also the: (1) Ownership; (2) Commitment, and (3) Political will for (1) Timely; (2) Adequately, and (3) Proportionally for successful intervention on protection of people against the international crimes across the globe. The general understanding is that the Pillar 3 which requires use of force (use of all necessary means) may empirically backfire as to think that consequences of intervention may return back soon or later to the one who intervened in similar or related circumstances.

The United Nations Secretary General (UNSG) proposed in the implementation of R2P in 2009 report that the R2P be understood in three pillars: Pillars 1: The Protection Responsibilities of the State; Pillars 2: International Assistance and Capacity Building; and Pillar 3: Timely and Decisive Response by the International Community through the UN (UN Citation (2022)). In 2005, States agreed on the Responsibility to Protect against the international crimes. They agreed and affirmed that the international community has the responsibility to protect people through the UN channel when it happens that keeping and maintaining peace by peaceful means has proved its incapacity. The real danger is to use the R2P subjectively and on interests behind of individual or collective members of the UN, The UNSC (Citation 2011) says the following:

“The only time that the R2P has ever been referenced in a Security Council resolution authorizing the use of force to protect civilians was in response to atrocity crimes in Libya”

It has been observed that the assassinated President Mohammed Kaddafi was not representing a danger either to his people nor to the peace and security of the globe. The intervention in Libya

has been a failure and that the world should learn from. The one in Iraq and Afghanistan was the same. However, no accountability was requested, not that it could be imperative but simply the illegal invasion was done by a powerful country, the United States, from a powerful alliance of Collective West, against underdeveloped countries, from the Global South. The situation today in those countries have been deteriorating to date, and has made the international law irrelevant, victim of the double standard consideration even from the UNSC itself, the most important organ of the UN, ironically custody of peace and security across the globe. There was no evidence of biologic weapons in Iraq to explain why the invasion of the United States (US) in 2003 or of NATO led coalition in 2011, supposed aiming to protect civilians from Muammar Gaddafi's regime in Libya to justify military campaign led by the US. However, although the international law was violated, no accountability was requested by the United Nations representing the international community. Thinking in more holistic and systemic manner, the R2P doctrine was wrongly and deliberately applied on the double standards ground, with affected the credibility and legitimacy of the international institutions, including the United Nations.

Some analysts consider that the world is today under Collective West dictate, that the right or wrong is no longer prescribed by the international law, but through an ad hoc framework, determined by the West, depending on the interest behind. The anarchy is slowly becoming the normal world management, taking over law and order, people dreamed to have and live in from the eve of the universal UN Charter existence. Rebecca Barber (2023), in Williams, Paul, and Alex Bellamy. "Principles, Politics and Prudence: Libya, the Responsibility to Protect, and the Use of Military Force. *Global Governance: A Review of Multilateralism and International*

Organizations, in 2012 reflected on the Three Pillars of the R2P and a Possible Alternative Approach that:

“It is difficult to conceive of circumstances in which the R2P would again be invoked in connection with the use of force. That is not to say that the possibility of military intervention should be dissociated from the R2P altogether, but rather to posit that the 3-pillar strategy has inadvertently given it undue prominence. Pillar 1 describes the ‘protection responsibilities of the State’, while Pillars 2 and 3 are envisaged as responsibilities of the international community. The Secretary-General’s 2009 report describes Pillar 2 as ‘the commitment of the international community’ to assist States to meet their obligations under Pillar 1; and Pillar 3 as comprising collective actions. The report notes that such a response includes measures under Chapters VI, VII and VIII of the UN Charter, when state fails or unable to protect its own people (UNSG).

The idea is that if the Pillar 1 fails, which calls for every State has to take the Responsibility to Protect its own people international crimes, shift to Pillar 2, which considers that the wider international community has the responsibility to encourage and assist individual States in meeting that primary responsibility, and that when it does not materialize it, by inability or unwillingness, then the responsibility moves to the next step, which is Pillar 3, which requesting the international community to take over from the State, the obligation to protect people through appropriate and timely collective action. Rebecca Barber considers that:

One significant implication of this international community-centric conceptualization of R2P is that it takes the onus off States. In a real-world scenario where the United

Nations Security Council is unlikely to authorize any sort of intervention to curb atrocities, the more pertinent question is not what the international community can do, but what each individual State can do.

Unfortunately, the concept of '*International community*' itself is vague and empty shell. It is legally no responsible to anything, no compliance and accountability of its action or no-action, in line of protection of civilians. It changes the meaning and content depending on who is using it and for which interests behind. In general and theoretical understanding, any country, big or small; rich or power, weak or powerful, belongs to the same international community. However, powerful country has plundered it for their own interests, but on behalf of each individual supposed member of the international community. It is politically right but legally wrong.

When a State fails, unable or unwilling to protect people, it challenges the international community to disregard State inner sovereignty right and takes responsibilities to intervene under the R2P norm.

The UN Charter, Article 1 Paragraph 2, stipulates ipso facto the equality between countries, members of United Nations, and provides friendly relations among nations based on respect of the *principle of equal rights and self-determination of peoples; and* Paragraph 3 presents the objective to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character by promoting and encouraging respect for human rights and for fundamental freedoms *for all without distinction as to race, sex, language, or religion*. While the Article 2 Paragraph 1 considers the *principle of the sovereign equality of all its members*". The UN Charter does not promote in anyway the double standards, although politics are interests based, and that the politics override the law, when armed conflict arises, and

that the Collective West takes side, with no necessary legal basis. In that case, Israel should have the right to defend itself, and not for Palestine. What is limiting the UN to support the self-determination of Palestinians? Will it be legally correct that President Putin be under IIC arrest warrant of what it is happening in Ukraine and leave Prime Minister Netanyahu free from what is happening in Gaza, or Former President George Bush On what happen in Iraq? If “*All countries are equal but some are equal than others*” is not legally true, it is however true in political sense.

The R2P as an emerging norm; a mode of state behavior on human rights perspective. It is not a legal binding principal but a political moral and human rights responsibility oriented. Bellamy Alex (2009, pp. 2-3) says:

“The UNSC unanimously reaffirmed the R2P and indicated its readiness to adopt appropriate measures where necessary (UNSC Resolution 1674, 28 April 2006)”.

In a situation of state alleged of international crimes, the ‘*no country can interfere in the domestic affairs of another principle*’, does no longer have legitimacy ground facing the R2P doctrine in case of breach of UN fundamental rights. When the International Community takes its responsibility by intervening to prevent international crimes to happen or stop them when they occur at large scale, it is not about the violation of sovereignty of a State, it is rather an obligation for the international community to protect people against the State unable or unwilling to fulfill its primary responsibility. It gives the UN legitimacy to use all necessary means to protect civilians.

No legal obligation to enforce the doctrine of R2P by States or the international community to comply, otherwise face the consequences. The doctrine is more political decision than legal obligation. One may decide to intervene in a particular conflict, support Israel to defend itself, and not to intervene for Palestine on self-determination by recognize it as a State. It is political decision with no legal basis in international law. There is no legal justification for nuclear proliferation world policy, allowing only the Collective West members to detain nuclear weapon and apply the policy only to the Global South. The double standards rule does not lead to world peace and security, it leads only to the permanent instability situation leading one day to the end of the planet through another world war, people thought that it will never happen again.

The challenge on the R2P on compliance capacity and accountability possibility when lies on its nature as simply a moral norm and doctrine, rather than a legal binding in international law. It depends on the will and interests of powerful country to apply the R2P to concerned state committing international crimes. No consequences resulted on inaction, indifference or passivity on mobilizing and implementing R2P, even lives of people are in danger. It is thoroughly voluntary and morally obligation.

R2P norm is human rights based with no legal binding obligation. It is limited by its nature of being just a doctrine rely on moral voluntary obligation basis, with no compliance and accountability capacity. It is not a fundamental moral obligation in international customary law across borders; culture, and race for generations. The nature of the R2P as norm and moral lies on voluntary basis. It is not legal binding. It presents an intrinsic weakness and its implantation is

challenged by the political will of actors who may not have interests in military intervention to prevent or stop the international crimes.

To review the R2P implementation on the contribution of maintaining peace and security, there should be listed the guiding criteria of UNSC and steps to follow for compliance and accountability on the use of force. This will serve not only when and how to use force but also when and how the use of force is considered as obviously an abusive human rights violation. The world should have a pace for evaluation mode and mechanism system to determine whether the situation requires prevention or intervention response to maintain or keep global peace and security with no fear of what could be appear as national sovereignty principles violation in regard to the international law.

The lack of legal binding makes the R2P in weak position when it comes to the implementation through dissuasive measures by show force to prevent violence or de-escalate conflict, or through the use force to stop committing international crimes and save lives of people. The fact that the R2P has no legal bidding power, its obligation is also limited, therefore no compliance and accountability are bidding individual State or the international community as whole have not taken action in a situation where lives of people were in danger.

2.7. UNIVERSAL JURISDICTION AND ICC: RESPONSE TO IMPUNITY

This section aims to investigate on how the Universal Jurisdiction and the International Criminal Court (ICC) exercise their powers, within their limited international justice mechanism scopes, to respond appropriately, timely and efficiently, but not selectively within their scope, with purpose to provide equal justice by equal rights. They are designed to make the perpetrators of the crimes accountable when there is a breach of the international law. Cornell Law School considers that the International Criminal Law is:

“The field of International Law, which is a legal basis to trial international crimes through international courts, include the International Court of Justice, Universal Jurisdiction and International Criminal Court”.

The section will discuss the relevance and effectiveness of the two international courts of justice, including the Universal Jurisdiction (UJ) and the ICC). It intends to demonstrate the legal basis, mandates and limits of both courts and their implementations challenges, including their compliance and accountability capacity. The courts perspectives are human rights based, with similar mandate; the response to the impunity by making accountable the perpetrators of the crimes, committed whether within national territory, when the crimes involve international actors and/or when the crimes have the implication beyond national borders, either because of the inability or unwillingness of the domestic jurisdictions of the domestic jurisdictions to provide justice to the victims. Other similarities are that their aims, purpose and mandate of both courts are not always achieved as expected, due to the various factors, including lack of the impartiality, therefore of trust, which undermine the image and legitimacy of the courts.

Both courts share almost the same scope from the International Humanitarian Law (IHL) or Law of Armed Conflict, and the International Human Rights Law (IHRL). The IHL protects persons who are not or are no longer participating in hostilities in time of war; while the IHRL is applicable during the time of war and time of peace. The IHRL complements the IHL. They are both bodies of the International Law. They are meant to bring justice to the victims of people, by complementing domestic legal systems, where the protection of civilians is first on the responsibility of the State. The two courts relevance is built on the situation where the State is unable or unwilling to play its role, which calls to the international community the Responsibility to Protect (R2P) to fill the gap.

The two courts aim to provide justice for the crimes committed at domestic level but with incapacity for national authorities to investigate and prosecute alleged perpetrators for the international crimes or crimes with international implications. The Universal Jurisdiction and the International Criminal Court are meant to fill the gap in the international law for the crimes committed at domestic level in three main conditions: (1) The crimes are of the UN fundamental human rights domain; (2) States are unable or unwilling to give justice to the victims, and (3) The crimes have made impact beyond national borders.

The two jurisdictions share similarities as well as differences. The similarities are essentially based on their ultimate goal: to halt the impunity and provide justice for the crimes either crossed the national borders or have impact at regional or international level, having the international character. The difference lies on the fact that the universal jurisdiction is from the individual State initiative, while the ICC comes from the Rome Statute treaty, endorsed and ratified by a

number of States from the Globe, through consent. The ICC is invested by the power to investigate and prosecute the international crimes on behalf of the international community.

The universal jurisdictions and the International Criminal Court are both governed by the International Criminal Law, a body of the International Law aiming to regulate international crimes and other violations having international character. Based on the IHL, the Rome Statute considers war crimes in four categories:

(1) Grave breach of the 1949 Geneva Conventions, including killings; torture; mutilation; and other inhuman treatment of prisoners of war; Great suffering or injury of people; Extensive destruction of property not linked to military activities or civilian objects; Hospitals; Monuments, and (2) Employing poison or poisoned weapons.

On one hand, the *Universal Jurisdiction* is an international jurisdiction exercised at domestic level, with power to investigate and prosecute of criminal justice, linked to the alleged person nationality or in the territory of jurisdiction the crime was perpetrated. It is an exceptional court. The purpose of the Universal Jurisdiction is to prevent the alleged perpetrator to find a hidden place to live in impunity across the globe. The justification of Universal Jurisdiction relevance lies on serious crimes transcending national borders with possibility to not face justice and for grave violations of international Humanitarian Law.

The Universal Jurisdictions of concern are the crimes of grave violations with capacity to affect not only the individual State from which the crimes were committed but beyond national borders and to the international community as whole.

The rationale of universal jurisdiction is to avoid impunity and to prevent those who committed serious crimes from finding a safe haven in third countries. The ‘Medecin sans frontiere’ reflects on international criminal law on the following:

“The treaty basis for the assertion of universal jurisdiction was first introduced by the four Geneva Conventions of 1949 for the protection of war victims in relation to those violations of the Conventions defined as grave breaches. Under the relevant article of each Convention (Arts 49, 50, 129 and 146, respectively), States are required to search for alleged offenders regardless of their nationality, and either bring them before their own courts or hand them over for trial by another State Party”. Additional Protocol I of 1977 to the Geneva Conventions of 1949 extends the principle of universal jurisdiction to grave breaches relating to the conduct of hostilities. It also qualifies all grave breaches as war crimes (Art. 85).

The Universal Jurisdiction investigate and prosecute the alleged breach of the IHL concerns even if States have no links with the accused or of the acts committed, before any court, in any country at any time as per international customary law. The extraterritorial universal jurisdiction is competent to investigate and prosecute the alleged crimes perpetrators in the presence or in the absence of a link between the crime committed and the prosecuting State for the benefit of individual State or the international community as whole. The universal jurisdiction doctrine is built on the fact that international crimes are so serious that, all States have right and obligation to give justice across national borders or in extraterritorial jurisdiction form as exceptional court. The perpetrator of serious crimes must be accountable of its acts and should not be find place to hide across the globe. The universal jurisdiction does not applied to all international

crimes, rather specific category crimes of international crimes, including genocide; war crimes or crimes against humanity, to the person of any nationality outside of the territory jurisdiction of State and to stateless person, including piracy in the international sea.

Universal jurisdiction refers to the idea that a domestic court in a certain given State decide to investigate and prosecute on serious crimes committed beyond national boundaries, harming individual countries and/or the international community as whole. The universal jurisdiction is generally invoked when there is inability or lack of political will of the State to investigate and prosecute international crimes within domestic jurisdiction. The international crimes are beyond national scope and of serious gravity. Perpetrators of international crimes should not find hidden place across the globe. Universal jurisdiction intends to deter; mitigate, investigate and prosecute serious crimes to alleged of serious IHL violation or serious breach of the international law. The International Law recognizes the privilege and the right to universal jurisdiction to trial for alleged serious crimes with purpose to prevent the impunity for international crimes committed across the globe. There are two different schools of thought on how countries consider the universal jurisdictions.

Some reflect the universal jurisdiction in absolute way. For those, the jurisdiction is applied only in limited link between the prosecuting State exercising the universal jurisdiction and the crime itself. The trial of Pinochet by the Spain courts illustrates this understanding. The Pinochet case of 1998 was not decided on grounds of universal jurisdiction, but rather on the 1984 United Nations Convention against Torture and Cruel treatment and Inhuman Punishment. In the same line, alleged suspected from Syria have been convicted by German universal jurisdiction for grave crimes against human rights committed in their own country of origin. The cases were

related to crimes against humanity as a whole, committed in Chile. Colin Riegels (1997), in University of Oxford, says that:

A State claims universal jurisdiction if its courts adjudicate certain crimes wherever and by whomever they have been committed. Syrian citizens have been convicted by German courts of crimes against humanity and war crimes they committed in Syria. A court in Germany convicted a senior Assad government official for a crime against humanity and sentenced him to life in prison for activities overseeing detention centers in Syria, where the government interrogated and tortured suspected antigovernment activists. The case was unique, not just for the profile of the defendant, but for the fact that the crime had no nexus to Germany.

The universal jurisdiction mechanism gives to the State the authority to prosecute serious crimes, even when there is no strong connection to the alleged perpetrator across national borders.

Other school of thought consider the universal jurisdiction in more restricted. For the universal jurisdiction to be exercised, it must require a very close connection between the prosecutor State and the crime committed. In this case, the victim could be the State citizen. This approach has justification on providing justice on international crimes committed of victim of prosecutor country of origin. That connection makes the jurisdiction more relevant, and therefore becomes more popular and justified. Seiderman (2001, pp. 105-106) notes that:

Normally, jurisdiction to prosecute an international crime would, in the first instance, vest with the State upon whose territory the subject offense had occurred. However, certain non-territorial States maintaining varying degrees of connection with the

offense might also have the capacity to assume jurisdiction. Such States could include those of which the accused is national (based on the active personality principle), the State of which the victim is a national (the passive personality principle).

State with universal jurisdiction would like to enforce its power in another State for the international crimes committed in its countries or linked to the county of jurisdiction.

International Justice Resource Centre, says that:

“Spanish courts have made use of universal jurisdiction to try individuals from around the globe. Spanish government restricted its courts’ ability to hear such cases by narrowing the legal basis for exercising universal jurisdiction to those cases that are not already before another competent jurisdiction and that involve Spanish victims, perpetrators located in Spain, or Spanish interests”.

Belgium and Spain are the most known countries exercising that type of jurisdiction. Kenya is one of the few African countries using the power of that jurisdiction. O’Donnell (2008, pp. 381-382) considers that:

‘In parem non habet’ imperium’, which means ‘an equal has no power over an equal’, refers to equal right of sovereign States. States traditionally were regarded as judicially equal; one sovereign monarch could not be subject to the jurisdiction of another sovereign monarch in violation of the principle of sovereign equality.

On the other hand, the *International Criminal Court (ICC)* is another jurisdiction aiming to prevent the impunity against the alleged perpetrators of the international crimes, including (1)

Genocide; (2) War crimes, and (3) Crimes against humanity. The ICC is an international judicial jurisdiction aiming to investigate and prosecute international crimes, established from the Rome Statute Treaty, adopted on 17 July 1998 and entered into force on 01 July 2002.

The Rome Statute, on its Articles 27 and 98, provides that the ICC shall apply equal right to all persons without any discrepancy, based on the race, religion or sex. The International Criminal Court (ICC) has jurisdiction over the most serious crimes of international fundamental human rights concern. It sets out international crimes falling into the jurisdiction of the ICC, including genocide War Crimes, Crimes against humanity and crimes of aggression. States are individually requested to sign, endorse and ratify the Rome Statute. The ICC is invested with the power to investigate and prosecute crimes committed and exercises its powers equally, impartially and with no any form of discrimination based on the race, sex, religion, etc. A selective court will undermine its legitimacy and credibility. The lack of trust in the court may validate the incapacity and inability to demonstrate its relevance. Forsythe (2000, p. 103) remands that:

“The ICC was the outcome of July 17 1998 Diplomatic Conference meeting in Rome, which approved the statute of a permanent criminal court. Subject matter jurisdiction covers “genocide; war crimes, crimes against humanity and crime of aggression. The court does not function unless a State in question is unable or unwilling to investigate and prosecute one or more of those crimes”.

The receivability of the cases by the ICC are brought in three ways: (1) On the request of the State for the crimes committed by its citizens; (2) By the initiative of the court itself for the crimes committed with international character, and (3) Although the ICC is not a UN court, the

UNSC however have the capacity to refer cases to the ICC. When it is the case of a State against another the State, the competent court is the International Court of Justice (ICJ), not the ICC. The relevance of the court is limited to the complementarity function over the domestic jurisdiction with purpose to prevent the impunity. The court does not have any mandate to replace national judicial institutions. Diakonia International Humanitarian Law Centre says that:

“As of February 2024, 124 states are parties to the statute of the court, including all the countries of South America, nearly all of Europe, most of Oceania and roughly half of Africa. Burundi and the Philippines later withdrew from the court, effective 27 October 2017 and 17 March 2019, respectively”.

The ICC is permanent court under Rome Statute aiming to investigate, prosecute and trial the alleged perpetrator of the crimes. The ICC was not created to replace domestic judicial system. It was made to compliment national criminal courts or to intervene when the state has no political will or ability to prosecute international crimes. The ICC: Understanding International Criminal Court (pp.1-3) considers that:

“The ICC is a permanent international court established to investigate, prosecute and try individuals accused of committing the most serious crimes of concern to the international community as a whole, namely the crime of genocide, crimes against humanity and war crimes. The ICC is not a substitute for national courts. It is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes. The ICC can only intervene where a State is unable or unwilling genuinely to carry out the investigation and prosecute the perpetrators.”

It is primarily responsibility of the State to investigate and prosecute crimes committed within national authority. But when the State cannot, either from its inability or unwillingness, the ICC comes in to fill the gap and enforce, as complementary court on behalf of the international community as whole. The ICC has no power or mandate to replace domestic judicial authority or domestic legal mechanism. The Rome Statute indicates that the Court is complementary to national criminal jurisdictions (Rome Statute, Article 17 (1), (b)). It exercises its jurisdiction only in cases where (1) The accused is a national of a state party (nationality aspect), and (2) In country where the crime was committed (territory based) regardless of the nationality of the accused. Since the primary responsibility to prosecute crimes and give justice to people is for the nation, and that the ICC has not been created to replace domestic courts, rather to complement them, the case shall be admissible only if the decision resulted from the inability or unwillingness of the State to prosecute. The ICC. Understanding International Criminal Court (p.5) clarifies that:

“The ICC prosecutes individual who is alleged to have committed crimes within its jurisdiction”.

The mandate of the Court is to try individuals rather than States, and to hold persons responsible and accountable for the most serious crimes of the international community concern as whole. The ICC can only intervene where a State has no political will or with incapacity to investigate and prosecute perpetrators of the international crimes. Otherwise, it is a responsibility for a State to investigate, prosecute or extradite the alleged perpetrator of the international crimes for investigation and prosecution. It is not for the ICC to extend and shift this national responsibility scope to international space. It is a complementary to the domestic jurisdictions and last resort

court with purpose to prevent impunity in case the concerned State is genuinely unable or unwilling to investigate and prosecute a suspect of international crimes and of international community concern. The Rome Statute (1999), stipulates that:

The ICC will prosecute international crimes if and when national criminal systems fail. The principle of complementarity, as provided in article 17 of the Rome Statute, is the decisive basis of the entire International Criminal Court system. It shall be a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern, as referred to in Rome Statute, and shall be complementary to national criminal jurisdictions. In the case of article 13, paragraph (a) and (c), the Court may exercise its jurisdiction if one or more of the following States are Parties to this Statute or have accepted the jurisdiction of the Court in accordance with paragraph 3: (a) The State on the territory of which the conduct in question occurred or, if the crime was committed on board a vessel or aircraft, the State of registration of that vessel or aircraft; (b) The State of which the person accused of the crime is a national. If the acceptance of a State, which is not a Party to this Statute, is required under paragraph 2, that State may, by declaration lodged with the Registrar, accept the exercise of jurisdiction by the Court with respect to the crime in question.

The Rome Statute is a legal instrument, which governs the International Criminal Court (ICC), under the International Criminal Law, a branch of the international law. The ICL regulates international courts aiming to prosecute alleged perpetrators of international crimes. The ICC has mandate to investigate and prosecute international crimes but not to enforce sentences, only

States members can do. The ICC can only retain prisoners for short term, waiting for volunteer States offer for permanent penitential facilities. When a perpetrator committed a crime in a given foreign country that is a Member State of ICC but comes from a country that is not a Member States of the ICC, Article 12 will be applied to sue the suspect based on the application of the Territorial Principle considering the country in which the crime was committed.

For the ICC to refer a case, there are some conditions based on territorial State or State of nationality of the perpetrator, in case the country he/she is coming from or the country in which he/she committed the crime is different and may or may not be a Member State of the ICC. But the question is: why they plead to send cases of people from other countries when themselves they are not signatories of Rome Statute (Case of Bashir, US did not veto it, instead, pleaded for it). Although the UNSC can refer cases to the ICC, three of its P5 are not have not signed or ratified the Rome Statute, and some of them have been openly opposed to the Court. The Security Council can defer the case to the ICC, when justice, may cause more damage, fuel the conflict leading to violent and deadly situation, or harm security and reconciliation process, or any other condition it feels necessary. In that case, the UNSC refers cases as an institution not as individual States capacity in UNSC. In that case, the initiative is from the institution as whole not as individual countries within the institution. However individual countries may take the opportunity to advance their own interests, using the ICC legal institution of international community, but for individual interests and politically motivated. But the UNSC have the capacity to make the good use of the ICC, on behalf of the entire UNSC, by refer or differ cases to and from the ICC. Janis (1999, pp. 122-124) emphasizes UNSC power in the following:

“As of 2006, just over 100 States have ratified the Rome Statute, which confers jurisdiction on the ICC to investigate and prosecute. Based on Article 16 of Rome Statute, the Security Council plays a big role to refer or to defer cases to the ICC: When the Security Council assesses that the current situation is not good timing for the ICC to initiate action and that the causes of deferring the case may be based on the assessment of the current situation by the Security Council when realizing that bringing the perpetrator to justice may fuel more human rights violations and harm more people, it may defer the case for 12 months renewable. Unfortunately, time is important to privilege peace over justice, if the justice will provoke, for example, civil war, or increase and/or extend the deadly conflict. This provision is to allow for diplomacy to de-escalate, manage or resolve conflict”.

For a country to ratify a treaty means to delegate its sovereign power. In case of the Rome Statute, it is to delegate, not simply the authority, but much more, the power, to the ICC, an international court, to act on behalf of the State, to investigate and prosecute grave crimes committed on their state territory. The challenge comes on the reluctant, resistance or even a refusal of powerful countries of developed and powerful countries, some of them call themselves custodian of human rights, to endorse, ratify and support international human rights instruments, tools of international justice, with fear to put themselves under international judicial jurisdictions, by weaving their sovereignties. United States; Russia; Turkey, Ukraine are not parties of Rome Statute. However, some of Collective West countries no parties to the Rome Statutes, call sometimes for the ICC to issue arrest warrant, investigate and prosecute people

from other countries, particularly from the global South, or other countries, on hidden agenda politically motivated basis.

They two courts share some challenges on the incapacity to provide justice; fulfill their aim and demonstrate compliance and accountability practices within their scope. It undermines its relevance and legitimacy; and leads to the lack of trust in international legal system. The two courts are today questionable. They haven't so far, some decades later, be able to stand on equal right before the law, regardless race; nationality; religion, etc. They are seen as meant for the Collective West against the global South, a legal tool manipulated for political purpose.

There is a general unanimity that in Global South understanding, such international courts are designed with the purpose to make possible through the legal system what is no longer politically acceptable, particularly the neo-colonialism and dependency of super-powers over weak States. Some consider that only the Global South countries are targeted by those international courts. The courts which initially aimed to make justice, turned unfortunately to be the tools of domination of some over others in international law, leading deliberately to the inequalities and disparities in international legal system and breaching international legal system provisions.

The interference of politics over the law undermines the international law, making the entire world in uncertainty of global peace. There is no credible international system of compliance and accountability mechanism; a double-checking system to avoid double standards risk; monitor; control and evaluation verifiable operations bidding system.

The risk of sliding on taking side is very high. The International courts are not subjected to controllable and verifiable measures in case of promoting impunity and injustice or in holding people accountable in equal and right manner for the crimes committed, regardless political considerations.

The two international courts share some challenges based on their failure to demonstrate the ability to consider people equal before the law laying justice on political motive; facing double standards practice criticism against their aim and scope; and incapacity of traceability between their compliance and accountability mechanism and the trust built on their capacity to bring the perpetrator of international crimes against fundamental human rights of the victims making the courts selective and irrelevant.

In special way, the *Universal Jurisdiction* is built on States willing to waive their sovereignty right and power to another State to interfere on their domestic jurisdiction with purpose to bring justice perpetrators by inability to have them access or when the States themselves are unwilling to bring them to justice. The challenges of the universal jurisdictions to fulfill its aims are linked to various factors, including the following:

Challenge #1: Universal Jurisdiction over Powerful Countries: In theoretical sense, all UN member States are equal before the law, and no nation has right to breach the international law on State sovereignty right basis. However, in practice, ‘some States are more equal than others.’

Theoretically, any sovereign State has right to exercise Universal Jurisdiction within its national boundaries. But some can do, others cannot; some may investigate and prosecute cases linked to

other States, others may only be investigated and prosecuted; not because some may have legal right to do and others not, but only because some are more powerful than others.

Spain exercised the universal jurisdiction over Pinochet case; but Belgium, having the same jurisdiction, fails to exercise its judicial power over US Generals alleged perpetrators for international crimes committed in Iraq and Afghanistan. Belgium was threatened by the US that if it does so, the North Atlantic Treaty Organization (NATO) headquarters will be removed from its capital. Since Belgium could not afford the relocation of NATO headquarters to another member State, it gave up justice process, encountering the US threat. International political pressure overlapped the international legal mechanism in place, established within the International Law provisions.

Challenge #2: Universal Jurisdiction over State Sovereignty: No State will give up its international sovereignty right for another State to interfere into its internal affairs. Spain wanted to prosecute Rwanda for the Spanish religious killed during 1994 Genocide against Tutsi. ISS/PSC REPORT, Peace and Security Council (PSC) stands with Rwanda on Universal Jurisdiction, as of July 2015, explains that:

The PSC turned it into a continental issue, throwing the full weight of the AU behind Rwanda in the process. The communiqué was clearly designed to send the strongest possible message to Britain and Spain. Before 2014, Spain had a broad interpretation of universal jurisdiction, allowing it to prosecute crimes linked to genocide; war crimes and crimes against humanity, regardless of where they were committed or the nationality of the perpetrator. Spain's ability to exercise universal jurisdiction over Spanish religious killed in Rwanda ended with the passage Organic Law 1/2014, which

restricted the scope of universal jurisdiction and introduced connecting link for prosecuting crimes committed abroad.

No legal power Spain had over Rwanda Sovereignty, apart political sanction and arrest warrant to some Rwanda political and military officials using its politicized and debatable universal jurisdiction competence. The Universal Jurisdiction has been criticized over years as an interference with other States sovereignty. It has been considered as political tool to manipulate legal matters against Global South countries. The concept of universal jurisdiction is by essence linked to the States sovereignty. The Britannica, on Adolf Eichmann, a Germany military official kidnapped to face universal jurisdiction justice, says:

“Eichmann, an official in the German Reich, who was implicated in the Holocaust was kidnapped from Argentina and brought to trial in Israel. While States like Argentina objected to the violation of its territorial sovereignty and the manner of securing the presence of Eichmann in Israel, there were no objections to the grounds on which Israel asserted jurisdiction, which included universal jurisdiction”.

The universal jurisdiction is based on two important factors: (1) the power to make the law (prescriptive jurisdiction) and the capacity to apply the law (enforcement jurisdiction). To ensure effective enforcement of the collective interests, a mechanism that concerns the world community can only be achieved through universality or international law prescription. The AU Executive Council as of June 2008 on Universal Jurisdiction considers that:

“The international law provides that certain offences may be punished by any State because the offenders are common enemies of all mankind and (as such) all nations

have an equal interest in their apprehension and punishment. The exercise of jurisdiction by States on grounds of universality of interest has been likened to the principle of ‘actio popularis’, which gave every member of the public the right to take legal action in defence of public interest, whether or not one was affected. No case law exists in which pure universal jurisdiction has formed the basis of jurisdiction”.

The grave breach of the international law is not sufficient factor for a universal jurisdiction to receive the case and exercise legal authority over another sovereign State. It requires also a territorial jurisdiction link, regardless of its nationality of alleged perpetrator of the crime. The UK Parliament asserted on the House of the Lord judgement on the universal jurisdiction of Pinochet case in 1998 that:

“The decision of the House of Lords of the United Kingdom in the case of Pinochet was focused on the obligations of Chile, Spain and the United Kingdom under the Torture Convention rather than on whether the Convention provided for universal jurisdiction for acts of torture”.

The ICRC, International Humanitarian Law custodian, on the case of Mr Yerodia Ndombasi, considers that:

“The Democratic Republic of the Congo challenged the legality of an international arrest warrant issued by a Belgian court for the arrest of Mr Yerodia Ndombasi for crimes against humanity. Belgium had asserted universal jurisdiction concerning the Punishment of Serious Violations of International Humanitarian Law’. DRC claimed before the International Court that the universal jurisdiction asserted by Belgium was

a violation of the sovereignty of the DRC. Even with the best of intentions, universal jurisdiction can be used imprudently, creating unnecessary frictions between States, potential abuses of legal processes, and undue harassment of individuals prosecuted or pursued for prosecution under this theory”.

The possibility of abuse in exercising universal jurisdiction; the double standards practices, the subjectivity on case receivability, and the rate on investigation and prosecution bias process, is very high. one State would bring a claim of wrongful act on universal jurisdiction exercise base, but the capacity of the court to investigate and prosecute with no political interference is very low. The universal jurisdiction has failed to prove its objectivity stand by providing an appropriate remedy; which portrays the court, by some, discriminatory; illegitimate; ineffective and irrelevant, and for others, a useless court, meant to fuel conflict than to bring justice. The intent of the analysis of universal jurisdiction relevance is not to discredit the Court or undermine its impact, it is rather to identify the gap and how to fill it within the international law provisions.

While for the International Criminal Court on the other hand, there are also challenges, some related to the incapacity to demonstrate compliance and accountability practices, others to the counterproductive role of assuring justice on the sphere where domestic jurisdictions cannot. The court has been under criticism that it has scored sufficient factors proving its one sided operations, making it a bias justice institution since its inception.

Building simply on the power of the Prosecutor, it has been demonstrated that he/she plays a central figure and invested with overpower of making decisions on receivability of the case; whether or not to initiate an investigation, allocate the resources; decides on who or not should be prosecuted, or whether or not to terminate an investigation. The ICC Judges can hear cases

exclusively upon the Prosecutor's submission. The whole jurisdiction mechanism with its complexity to deliver impartial and equal justice to all on behalf of the international community is centered and dependent on single person, subject to possible subjectivity and other weaknesses, which may lead to questioning its independency; effectiveness; impartiality; compliance and accountability against the aim and scope of the court. Vipal (2009), says that:

“Treating others fairly and having things run orderly in society is only part of what justice means”. Laws are created in order to install justice, law and order. There is a growing impression from Africa that ICC is one sided court. With heavy budget, the result is too little”.

While the ICC, s supranational and multilateral agreement court, was established to fill the gap of inability and/or unwillingness of domestic jurisdictions to investigate and prosecutes crimes of international community concern, some States decided to not join the international court for fear to reduced their sovereignty capacity beyond national borders for less or bias result. In addition, some consider also that the distance between the court location and the victims impacts the ownership of the court by the victims. It is for many a foreign court which cannot apprehend fully the investigation and prosecution of the perpetrators of the crimes far from the victims, witnesses and disconnected from the reality on the ground. Skinnider (2007, p. 19) says that:

State where the crimes were committed helps to be clause to the victims, to the witnesses, to the community directly or indirectly, partial or totally affected by these crimes, but also even to the perpetrators, having at least moral support of their beloved one, but also having opportunity to repent and to ask forgiveness from the victims. The only difficulty at this stage could be that victims and witnesses may be vulnerable, at

the risk of reprisal from the side of perpetrators, where it is very difficult for the State to ensure security at personal and individual basis.

The ICC has been repeatedly questioned on its independence; impartiality, integrity and relevance as an international judicial body. The double standards of the court is linked largely to the interference of powerful States over the court. The ICC needs a certain level of independence to deliver impartially and in conformity with international standards. It is unfortunate that there is a growing impression that some powerful actors use the international politics to shape the overlapping of the international law over domestic jurisdiction in the way to meet their own interests or a hidden agenda. When the international politics mismatch with the international law, justice at domestic level, powerful actors interest prevails. The overriding of the international politics to international law is high, but yet difficult to be revealed, proved or unfolded to the public for fear of backfire by superpowers, having the interests to remain in the statu-quo. And Hurrell (2000, pp. 327-328) argues that:

“There is a long tradition of viewing international politics and international law as separate arenas of social activities. Yet this notion of wholly separate realms or spheres of social activity is deeply misleading. The attempt to bring international law and international relations closer together has in large measure revolved around different ways of challenging this excessively stark divide”.

Some of ICC Compliance and Accountability concern are linked to the incapacity on exercising its authority, including (1) Receivability of the case when the domestic remedies were exhausted or were not been used with inability or unwillingness of national authority, (2) Investigation

process influenced by various stakeholders at different levels, and (3) Prosecution, taking into account making justice and preserving or pursuing unfolded interests in divided world.

Other challenges are linked to the nature of the court and the capacity for States or international institutions to refer or differ cases to the ICC: **(1) Challenge related to the State Sovereignty:** Difficulty for State to give up a part of its sovereignty for international treaty. **(2) State Officials Immunity:** It is not always easy for a State to waive the immunity of its domestic officials for the international community interests. **(3) Double standards of the court:** Inequal treatment and lack of impartiality as good referee which should not take a side between parties to the conflict seeking justice; which as result leads to the credibility, legitimacy and ownership of the court.

Challenge # One: Related to the Court Perceived Selective: To sign; endorse, ratify and implement the Rome Statute treaty requires State political will to waive a part of its sovereignty aiming to meet expected result. When part to the treaty realized a double standards treatment on the race, color, religious or any other form of discrimination basis; the court is likely to lose its credibility; legitimacy; ownership; relevance, and may fuel conflict, rather than contributing to lasting peace and security. Without impartiality of the court, its success remains uncertain and questionable. The ICC does not exercise in vacuum space. It is by nature a complementary court to the domestic jurisdiction for global interests. While dealing with Kenya case, the ICC has found itself with a situation where the country has already resolved the conflict through political compromise and domestic legal mechanism within its own boundaries. In other part of the world, including the case of Alassane Ouattara against Laurent Gbagbo in Ivory Coast, the ICC seemed to contribute to escalate the conflict, using an international judicial jurisdiction to fuel political

motive. Instead of providing justice to the victim, contribute to the de-escalation of conflict and reunite parties, the court took side and violated the impartiality, a fundamental principal of the international law. By doing that, the court undermined its own credibility to confirm the perception on the irrelevance and legitimacy of the court. In that sense, the court becomes counter-productive against its own aim, mission and scope. Bellamy A.J and Williams P. D (2012, p.31) which consider that *“All States are regarded as equal before the law”*, but it has unfortunately found that some are equal more than others. Law prescribes, politics implement.

The ICC will remain in difficult to gain and maintain its credibility unless it becomes change agent for equal justice and cope with human rights compliance policy within its mission and limited scope of its jurisdiction. Claire Klobucista and Mariel Ferragamo (2024) indicate that:

“Many African nations have accused the ICC of disproportionately focusing on the African continent. On more than two dozen cases, most have dealt with alleged crimes in African states”.

Challenge # Two: Related to the Power to Refer and Defer cases to the ICC: The International Criminal Law (ICL) requires States to comply with their obligations under legal binding mechanism. Like Criminal Law at domestic level, the ICL prohibits acts of human rights violations and sanctions international crimes. But although the UN seems to be a custodian of the international law, it is itself intrinsically an international political institution. It creates laws and international legal instruments used to make justice built and operates on behalf of Nations globally but politically motivated by P5 individually and collectively with veto power. Prime Minister of Israel, Benjamin Netanyahu is under ICC Arrest Warrant, but he travels freely with no fear to US and other countries across the world. In opposite, President of Russia, Vladimir

Putin, cannot for fear to be arrested in any of countries under US and EU influence. Again, the double standards is applied while the Collective West, claiming custodian of democracy and rule of law, uses international law for international political gain.

Another case linked to the power to refer or differ cases is the authority invested to the member State to by the Rome Statute to refer cases to the ICC, which raises high the risk of power to refer case of opponents to the ICC with no necessary justification. The record shows that it happened no long ago on former president of Ivory Coast, Laurent Gbagbo, alleged of crimes against humanity; by President Alassane Ouattara; arrested, charged, then found no guilty, and finally acquitted from all charges and released, more ten years later in prison by the ICC. The case of Gbagbo was an addition mile in the long process of ICC undermining its own image and portraits itself of one-sided international court.

Challenge # Three: Related to the involvement of the UNSC in Court Decision: If the International Criminal Court (ICC) is not a UN organ like the International Court of Justice (ICJ) is, why the Rome Statute invested the UNSC with power to refer or differ cases to the ICC? Why to Invest the UNSC with power to refer or differ cases when some of P5 members, have never signed, endorsed or ratify the Rome Statute, but do not even recognize its existence and relevance, including the United States?

US didn't sign the Rome Statute and Russia withdrew its signature from Rome Statute in 2016. ICC-CPI. Understanding the International Criminal Court (p.5) says that:

“When a State becomes a party to the Rome Statute, it agrees to submit itself to the jurisdiction of the ICC with respect to the crimes enumerated in the Statute. The Court

may exercise its jurisdiction in situations where the alleged perpetrator is a national of a State Party or where the crime was committed in the territory of a State Party. Also, a State not party to the Statute may decide to accept the jurisdiction of the ICC”.

The Rome Statute treaty includes potential source of its inner weaknesses. If the State does not recognize the jurisdiction, why should it accept then jurisdiction on some cases but not for the other. What was initially a legal system to bring justice become subject to political manipulation, and double standards treatment, arbitrary and impartial international judicial institution.

Challenge # Four: Related to States Sovereignty and its implications: If is true that most of the States have adhered to the idea of creating an international criminal court, some of them had resisted to waive their own sovereignty and immunity of their officials, which has weakened the ownership of the ICC, and its legitimacy, scope and relevance.

On September 2, 2020, Human Rights Watch discussed the US relations with the ICC and pointed out the following:

“The US is not a State party to the Rome Statute. US President Bill Clinton signed the Rome Statute in 2000 but did not submit the treaty to the Senate for ratification. In 2002, President George W. Bush administration effectively “unsigned” the treaty, sending a note to the UN Secretary General that the US no longer intended to ratify the treaty and that it did not have any obligations toward it. Under President Donald Trump’s administration, the US government has said that it will not cooperate with the ICC. He has threatened the ICC that it should not investigate the US or allied country citizens and to implement restrictive measures against any legal entities or individuals

who would assist the ICC in conducting activities that contradict the US interests. The ICC has no jurisdiction, no legitimacy, and no authority”.

Challenge # Five: Related to financial dependency: The court does not have capacity of free and independent trials when it is fully dependent financially to the donors. ICC. Understanding International Criminal Court (p.4) says:

“The Court is funded by contributions from the States Parties; Governments, international organizations, individuals, and other entities”.

The financial dependency affects the ICC to achieve impartial its aim. Donors will have hand on the court and justice to be delivered by the court. In theory, the ICC seems to have lots of power over the domestic law, as complementary system but seems to have lost its capacity to deliver justice with no political interference. In practice, the international court has little power due to the state sovereignty and financial dependency. Therefore, the court has little to offer, which makes the court unable to comply with international law principles, including impartiality, credibility and equal justice. In addition of budget dependency, there is also State sovereignty, which makes difficult the court to enforce its decisions, sometimes against the State it depends from financially. Frankie Wong (2019), through Access Accountability, presented some criticisms and shortcoming of the ICC, as the following:

“The court depends on willingness of the States. The ICC lacks the coercive power to enforce its decisions. The ICC suffers from pre-trial enforcement problem as it depends completely on member states to arrest; willing and able to transfer or extricate the suspects or defendants from their country (ICC’s request to arrest and surrender Sudan’s President Omar Bashar case for the crimes under Article 5), and obtaining

evidence which leads to the ICC human rights and justice compliance capacity. The Court has no enforcement mechanism of its own”.

It is difficult to make a clear cut line between the international law and international politics. As result, it appears unrealistic to believe in international courts impartiality and equal rights treatment. Their one-sided position dilutes their relevance and untrust in international institutions and international law. The court slides into partiality when it was a last resort to bring justice to the victims. What was meant to provide fair justice and prevent impunity becomes political platform to unjustified legal predominance of some over others. The outcome of double standard practice fuels conflicts than resolving them; rises more problems than settling them; opposes people; countries; blocs or alliances and becomes a determining factor to divide much deeper the world. It produces mixed feeling on whether the international law and international jurisdictions serve justice or if it is simply different layers to determine different interventions, serving the same interests. Unfortunately, the expectations on Universal Jurisdiction and International criminal Court are high, but the results are less. Politics overlap laws, and victims fall in that predictable trap, due to the lack of political will to make things right. Although the separation of the powers indicates the independence of judicial system, it should have within itself a compliance and accountability evaluation system, independent from politics influence. Some of States downplay the supremacy of the international law over national boundaries, and the requirements of the domestication of the international legal instruments through ratification and implementation.

CHAPTER THREE

QUALITATIVE RESEARCH METHODOLOGY APPLIED

Research design refers to the methodology adopted leading to the analysis of data from which a certain presumption can be confirmed or infirmed. The qualitative research adopted was mostly legal, political and social construct using systemic and holistic lenses. The research has embarked in the investigation to find answers to the concern drawn from the presumption on double standards practice in international law implementation on behalf of the international community, in part and in whole. Among many others, the research tools included the Desk Review and Informant Interview to double-check the veracity and relevance of the hypothesis assumptions against the problematical concern for the appropriate response.

3.1. Definition and Background

The qualitative research method does not link to the measurement; statistic, numbers or responding to the question of percentage, ***‘how much?’*** or ***‘how many?’***; rather to the opinion, feelings and answering to the question ***‘how’?***. How you see things, analysing their interaction and their impact to the part or entire phenomenon. It allows to construct a principle or behave based on the repetition; interference; resemblance or differences; complementarity, making general or specific correlation between variation aspects to interrogate or answer an inquiry; to explain or explore a predictable situation. Qualitative research does not necessarily comes to the conclusion and formulate an opinion, a phenomenon or a situation by answering the question by ‘yes’ or ‘no’. It digs a bit deeper from insight; feelings, experience, understanding of the

situation. The type of data in qualitative research expressed the meanings to understand, explore or describe the situation rather than the statistic to measure by numbers. However, despite the difference between the quantitative and qualitative research methodology, they share some similarities. Data collection is not only about the quantitative, it is also used in qualitative to gather information but in different ways, one in numbers another in words. They both do data analysis from which the statistic and the opinion can both explain the situation.

According to Juliet Corbin and Anselm Strauss (2008, pp. 12-13), in the Basic of Qualitative Research, respond to the question ‘**Why do Qualitative Research**’, that:

The most frequently given, and probably the most accurate, response is that the research question should dictate the methodological approach that is used to conduct the research. The qualitative research allows researchers to get at the inner experience of participants, to determine how meanings are formed through and in culture, and to discover rather than test variables. Committed qualitative researchers tend to frame their research questions in such a way that the only manner in which they can be answered is through qualitative research. They lean toward qualitative work because they are drawn to the fluid, evolving, and dynamic nature of this approach, in contrast to the more rigid and structured format of quantitative methods. They have a natural curiosity that leads them to study worlds that interest them and that they otherwise might not have access to. They to be of a certain type.

Although quantitative research is appropriate to certain studies involving numbers, statistics and measurements, it cannot however explains phenomena, relations and interactions linked to the

human being setup; and how the researcher is connected to the research study only by being human being. Normank Denzin and Yvonna S. Lincoln (2003, pp. 3-5), in the Landscape of Qualitative Research, consider that:

Research qualitative is a field of inquiry in its own right. It crosscuts disciplines, fields and subject matters. Qualitative research involves the studied use and collection of a variety of empirical materials; case study; personal experience; introspection; life story; interview; cultural texts, interactional, that describe routine and problematic moments and meaning ion individual lives. Accordingly, qualitative researchers deploy a wide range of interconnected interpretive practices, hoping always to get a better understanding of the subject matter at hand. It is understood, however, that each practice makes the world visible in different ways.

Again, Normank Denzin and Yvonna S. Lincoln (2003, pp. 57-58), in the Strategies of Qualitative Inquiries, argues that though the list is not exhaustive, qualitative research has specific number of characteristics, explaining its relevance in certain studies. They believe that:

(1) Qualitative design is holistic. It looks at the large picture, the whole picture, and begins with a search for understanding of the whole. Qualitative research is not constructed to prove something or control people; (2) Qualitative design looks at relationships within systems; (3) Qualitative design is focused on understanding given social settings, not necessarily making predictions about those settings; (4) it requires staying in the setting over time; (5) It requires time in analysis equal to the time in the field; (6) It sometimes requires that the researcher develop a model of what occurred in the social setting, using a model as tool for further work; (7) It

requires a researcher to become a research instrument, which means to have the ability to observe behavior and must sharpen the skills necessary for observation in interview; (8) It requires the construction of an authentic and compelling narrative of what occurred in the study and the various stories of the participants; (9) and it requires ongoing analysis of the data.

John w. Creswell (2013, p. 44 in Qualitative Inquiry Design, considers that qualitative design has its particular methodology, and thinks that:

“Qualitative research begins with assumption and the use of interpretive / theoretical frameworks that inform the study of research problems addressing the meaning individuals or groups ascribe a social or human problem. To study this problem, qualitative researchers use an emerging qualitative approach to inquiry, the collection of data in a natural setting, and that analysis that is both inductive and deductive.

However, the qualitative research design could be suitable in certain studies occurs, it counter some resistance. In different publication, entitled *‘Handbook of Qualitative Research’*, Normank Denzin and Yvonna S. Lincoln (2003, pp. 7-8) reflect on the challenges of the qualitative research design:

“The academic and disciplinary resistance to qualitative research illustrates the politics embedded in the field of discourse. Qualitative researchers are called journalists or soft scientists. Their work is termed unscientific, only exploratory or subjective. It is called criticism and not theory, or it is interpreted politically, as disguised version of marxism or secular humanism. Qualitative researchers stress the social constructed nature of

reality, the intimate relationship between the researcher and what is studied, and the situational constraints that shape inquiry. Such researchers emphasize the value-laden nature of inquiry. They seek answers to questions that stress 'how' social experience is created and given meaning. In contrast, quantitative research studies emphasize the measurement and analysis of causal relationships between variables, not process”.

Based on the literature review and the objectives of the study, the qualitative research used in this study was predominantly historical; legal; holistic, systemic and comparative approach. The research process was embarked in systemic investigation to find answers to the research questions as presented. The qualitative research methodology has contributed to enquiries which have led from philosophical assumptions to research results. It included the desk research; informant interview, using critical analysis lens to double check, confirm or inform the assumptions hypothesis against the problematical concern.

The study discussed the UN peacekeeping fundamental principle, including the use of force principle; the UNSC Mandate design and implementation, the IHL and IHRL compliance and accountability mechanism and the relevance of the related international law principles, doctrine and international jurisdiction of justice; to verify the validity and appropriate response in human rights concern. The study also identified the limit, resistance and challenges related to the capacity of the international law under influence of the international politics in IHL and IHRL compliance and accountability concern.

The empirical focus of the research will be identification of the gaps between the strategies; policies; principles; mechanisms of compliance and of the international jurisdictions and

institutions in international law; and their implementations in political environment, and how to fill them.

This study analyses the shift from the legal provisions to the political interests, an unfortunate reality the world is experiencing and questioning the equilibrium between equal justice and inherent rights in power relations; collective West on one side and Global South, on the other.

3.2. Research Purpose, Aim and Objectives

The Qualitative Research was adopted in this study to investigate the relations and causality between the provisions of the international law on human rights and justice, and their possible implementation. The qualitative design meant to make critical analysis on how the international law faces influence on how international jurisdictions, including universal jurisdiction and the International Criminal Court behave in divided world, separating the Collective West and the Global South. The study demonstrated when and how the use of force in UN peacekeeping mission, basing on subjective criterion, while the International Fundamental Rights are natural, inherent and equal to any human being, because of being human being, and the international crimes, including genocide, war crimes, crimes against humanity and crimes of aggressions must be treated in equal and impartial way, depending on which world side, the alleged perpetrator is identified or located.

The intent is to double check whether or not UN peacekeeping mission mandate and international jurisdiction were designed with purpose to protect international fundamental rights inherent to any human being just as human being, and prevent or punish international crimes in impartial way as proscribed by the international law.

One of the main purposes of this study is to examine the balance between the international law provisions and the enforcement capacity to implement them with no international politics interference, to not sliding on lack of trust and credibility on international jurisdictions. The risk is that victims will never have any other hope to have justice equally, if the last resort, which is the international sphere, is transformed into inability and lack of political will to assure the noble, moral and legal responsibility to fill the gap left by the domestic institutions of States.

This project will advance a debate between the international law relevance and the growing impression of political pre-dominance of the West over the South, and a wakeup call on the weakness of the international law to provide equal rights regardless the level of the power for some of others. The so-called democratic countries and its military arm, the North Atlantic Treaty Organization (NATO) and its support on Ukraine in war against Russia; on Israel in war against Gaza; Lebanon and Iran, and what happened in the past during the war imposed the aggression of the US and its allies against Afghanistan; Iraq; Libya, have not equally reinforce the capacity of the international law to regulate the world, rather, it is betrayed and weakened by the inability and lack of political will of superpowers to maintain global law and order.

3.3.Delimitations of the Research Thematic and Perspective

This research has discussed the scope of the project and relevance of compliance and accountability of international jurisdictions and institutions in regard to the growing concern on the incapacity to apply equal rights, facing the double standards in their policies and international legal instruments and other provisions implementation.

A qualitative research approach was proposed for this study, this thematic and field area is reliable and valid. Taking participants of all components from the trainings on peace support operations at the Rwanda Peace Academy, including on IHL, IHRL, UN Fundamental Principles on Protection of Civilians and in Understanding Conflict and Conflict Analysis at different occasions with different participants from each course, helped to have various opinions and concerns at individual and collective perspective.

The data collected in a qualitative study mean more than just words. It includes also attitudes, feelings; and other behaviors involved. It brings in vocal and facial expression; observation and significant feedback expressing the insights. It accommodates flexibility and rethinking. It considers assumptions, perceptions and positions.

3.4.Setting

The interview was submitted in the way that is not making the interviewees unwilling or uncomfortable about participation. It created an atmosphere that allows them to speak freely. The interviews were informal and open-ended, and carried out in a coded and most friendly and convening way.

3.5.Research Questions

Based on the research question, the study aims to confronting the internal law provisions and the implementation on political implications. It also lies on double standards of the powerful countries, weakening the international law principles enforcement. It investigates on the incapacity of equal rights compliance and accountability across the globe. The research question is as follow:

Why inherent, natural and fundamental human rights are violated in most of armed conflicts, yet the IHL and IHRL instruments haven been signed and ratified by most of States across the globe, without fear of no compliance and accountability consequences, and how it affects the international law relevance?

3.6.Research Sample Size

The focus group was military, police and civilian officers with, size number of 25 course participants, in Peace Support Operations (PSO)with emphasize on Use of Force as peacekeeping fundamental principles on protection of civilians; IHL; IHRL; R2P; ICC and Universal Jurisdiction, in 2025 at Rwanda Peace Academy, one of required trainings to the UN peacekeeping mission.

My sample selection faces constraints to consider wide range of participants from other countries, in region and above. It was limited to Rwandan officers, likely from all components, including military, police and civilians, having all participated in the same training.

There is no one set way of doing a qualitative research study. It depends. Multiple dimensions and factors involved give sometimes the right direction on the right perspective.

3.7.Data Collection

Due to the discussion approach with the focus group participants against the existing theory in the field, my research design was based on the collective interactive sessions combined with individual semi-structured interviews leading to both, inductive and deductive information for data collection.

The questionnaire used was a non-directive style of interviewing using open-ended questions allowing the participants, the freedom to respond the way they feel, with no constraint or expected result orientation; pacing and subject matter of the interview, but in more consistency way.

3.8.Data Analysis

Given that my research study was exploring with a combination of inductive and didactive legal reasoning had been applied on reflection; exchange and feedback based on existing literature and critical analysis to test the pertinency and accuracy of the findings for validation dictated by the situation shaping the real life based on the knowledge and experience shared through personal and collective authenticity discussion and reporting on the theme. The feedback gives meaning and essence on the verification of data analysis and relevance of the theme.

The qualitative data analysis and interpretation helped to confronting the relation between the theory and practice on compliance and accountability in international law.

3.9.Qualitative Research Strategy

The qualitative study was conducted using a questionnaire and unstructured interviewing through open-ended and semi structured questions basing on their expertise, field experience; general knowledge and their individual status positions.

3.10. Validation Strategies

The qualitative researchers utilize various validation strategies to make their studies credible and rigorous (Creswell & Miller, 2000). Credibility for this study was achieved using the researcher reflexivity, thick rich description, and peer debriefing.

The Stake's "critique checklist" helped to assess the quality of the report (1995, p.131): (1) Is the report easy to read?; (2) Does it fit together, each sentence contributing to the whole? ; (3) Does the report have a conceptual structure (for example, themes or issues?); (4) Is there a sense of story to the presentation?

3.11. Ethical Considerations

While designing in interview, exchange or applying a questionnaire using qualitative research, it is quite important to feel its relevance with them; to share the approach with participants; to be one of them; understand them; have conversation with them; by considering them; having conversation with them; sharing the vision and how to push toward it as integrated party of the process, with respect and consideration attitude and behavior.

During the process, a special attention was brought from the check list, on double-checking , step by step, whether or not there is any of potential risk of participants by embarking through it; if they have time for it or if they own various sequences for the entire course of actions as whole. The approach may not be applicable to another different qualitative research, but the rigor used in this experience maybe inspiring to a similar study. The idea was to eliminate, step by steps assumptions, relying on real and insights from knowledge and experience of subject matters. A

further polishing of the questionnaire to be submitted was made by sharing it with ones experienced on qualitative studies.

The study was conducted in the way anticipating any ethical concern and imbed preventive measures. Qualitative research involves individual and collective insights for the benefit of the individual and collective members of the society in part and in whole, in most systemic and holistic way. A trustworthy attitude was built between the participants and I in the process to make them comfortable and creates in them the feeling that they have been valued from the time they have been selected and participated in the journey. Participant consent was a requirement to endeavor in this process and could be withdrawn at any time and with no penalty. The contribution of insights was narrative and descriptive to maximized full expression of the participants, touching deeper his/her feelings and experience. The confidentiality and anonymity of the respondents were assured as pre-conditionality of participation.

CHAPTER FOUR

DATA PRESENTATION, ANALYSIS AND INTERPRETATION

The study aimed at exploring collected data, analyzing and confronting them against the existing literature in the field and the reality on the ground. It appeared that the international politics influence heavily the design and the implementation of international legal instruments. A number of cases both in United Nations and other international jurisdictions, including Universal Jurisdictions and International Criminal Court (ICC), have been discussed, one similar assumption was verified and confirmed that, they share similar aspect, an invisible hand that has significant influence on their behavior, a one-sided attitude and double-standards approach to deal with international legal matters powerful countries to the expense of international weak actors in divided globe, opposing the Collective West, which includes the European Union and the United States, with their military branch, the North Atlantic Treaty Organization (NATO) and the Global South, mostly today represented by the emerging political alliance, composed originally by Brazil; India; China and South Africa (BRICS), but now growing in number from other emerging countries rapidly and considerably.

The danger is that world leading States use the law for political motive. In such case, the law initially serving as regulatory tool, legitimate and accepted as such, will be a danger tool, when manipulated and used as stick to punish or sanction the weak for the resistance to a one sided and double standards political interests for some to the expense of others. On December 30, 2006, Saddam Hussein, was executed by hanging, resulted from the war by the US and Great Britain , for the biological weapons he never possessed. On October 2011, under no-fly zone instructions during the war imposed by the West, Muammar Gaddafi, President of Libya at the time, was

killed by US and France, both developed countries and members of the United Nations Security Council (UNSC), for grave crimes he never committed. Today, President Vladimir Putin of Russia, under International Criminal Court (ICC) arrest warrant for the alleged crimes committed during the war against Ukraine, can be arrested if travelling to western countries, whether or not members of Rome Statute, however, Benjamin Netanyahu, Prime Minister of Israel travels to US and fly through European air space with no fear of being arrested, despite the international crimes committed in Gaza. Double standards politics into regulations, which weakens the international law and results world jungle and anarchy where ‘some animals are more equal than others’.

The discussion enabled the understanding of the complexity and multidimensionality of law and politics relations on the ground of fundamental rights and international crimes, which have fragilized international jurisdictions and other institutions, including the UNSC, ICC; Universal Jurisdictions; International Law Principles; doctrines; norms, including Jus Cogens; Responsibility to Protect (R2P), the use of force; impartiality; credibility and trust; legitimacy and national ownership as fundamental principles in peacekeeping. The debate will result on bring the issue to the attention of the academia, practitioners; decision makers for the interests of the entire globe community and creates the curiosity for further researches in subject matters.

Compliance and Accountability are not only a tool to gorge the balance level between the international law provisions to regulate international affairs based on equal fundamental rights and political involvement based on hidden agenda, but they are also a way of required remedies, from which the violations of IHL and IHRL would be prevented.

It is time to review how to reposition the international law in relations to the international politics if the world leaders become concerned with global stability, with expected major legal implications to the world of peace, security and sustainability, looking at compliance and accountability tool and mechanism.

The analysis helped to identify the gaps and how better to fill them; contribute to the solutions through required remedies and recommendations, leading to advance the literature in matters; design new theoretical framework constructed on emerging practices built on the similar or related concerns. It wouldn't be possible to achieve that goal however, without using the qualitative approach which helped to understand the phenomenal; understand the reality on the ground against legal provisions in place, in most systemic and holistic way.

4.1 Introduction

The aim of the at demonstrating the unbalance between the intent of global regulation by the international law and intrinsic hidden agenda of international actors, including political decisions makers within superpower countries; institutions or individuals, creating double-standards where it was provided equal rights treatment, where the international inherent, natural and inner rights just for being human being, are not in consideration equally; where for some it is a fundamental right, but for others become relativized; irrelevant, unacceptable and simply denied. It meant to investigate how one-sided law actor become play a key role in making the law and when the conflict arise on its implementation, the dynamics, context and timing take another consideration, making the law relevant to some and irrelevant to others; where the Collective West become judge and party at the same time, and where the Global South pays illegal and unjustifiable price.

To achieve the goal, the qualitative research approach helped to investigate the situation, to verify the hypothesis, analyze the data collected from 25 respondents and interprets them, to achieve the research objectives, one to respond consequently to the research question and two, to open a new window for others to explore and inquire more, now and in future. It enabled to understand the responses from the participants, consider their feedback in oral; frustration and posture manner; put together as raw materials and built from assumptions; interconnection between factors a reasoning deduction; a verifiable and solid conclusion concord the hypothesis presented and answering the research question, that compliance and accountability of international jurisdictions are provided but that their implementations lacks the political will and remains utopic across the history to date. The literature review helped to understand the concept, contributed to confronting the legal provisions and political situation, and established the link between the research findings and inherent gaps to fill, from which future research could use as baselines to build on other prospects.

The purpose of this section was finally to present the purpose of this study and explain that the descriptive approach from the data collection from open-ended interviews of focus group discussions, built on literature review; analysis and interpretation led to coherent deductive manner to confirm assumptions with verifiable results, the whole idea was to bridge theory and practice in compliance and accountability of international jurisdictions under the international law in international politics ground, and finally drawn from the gaps how to fill them in most systemic and holistic way.

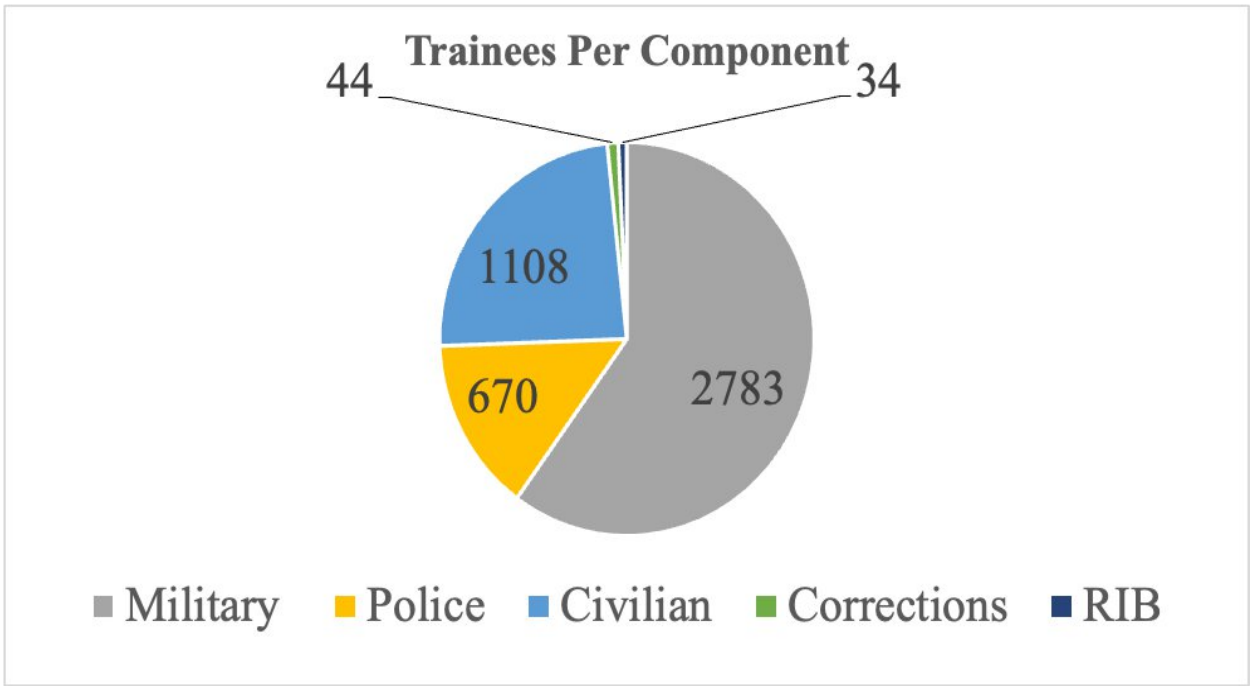
4.2 Demographic Characteristics of Respondents

The study focused on 25 respondents out of a population of between 20 and 30 participants, which represents 75% of participants, and from which their insights may portraits the image of the other peers in matters. The configuration of the training is based on AU/UN Peace Support Operation (PSO) centered mostly on Protection of Civilians (PoC) and related and relevant field including legal matters, designed on the short courses of duration of 1 to 3 weeks each and an average of 12 courses per year. The population comprises all components as per the design of the training at Rwanda Peace Academy (RPA), including offices between senior captains and Lt Colonel and their equivalents from Military, Police and Civilians, with highly gender consideration, mainly from the Eastern Africa Standby Force (EASF).

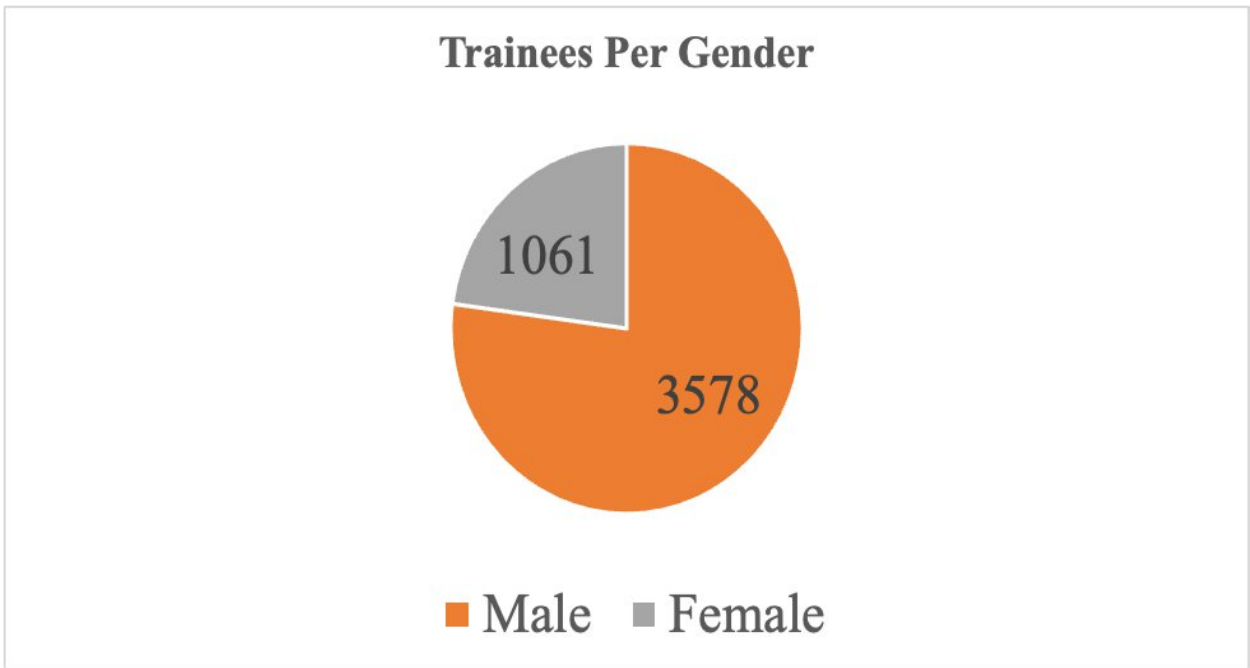
Although the research has not incorporated other potential appropriate respondents from the USHIRIKIANO IMARA EXERCISE, including Command Post Exercise (CPX) and Filed Training Exercise (FTX) composed by East African Community (EAC) composed by 8 partner States which are organized annually and, in all counties, using alphabetic order, have experienced in practice how Peace Support Operations (PSO) experiences political considerations on IHL and IHRL in the field and that compliance and accountability are not always taken into account in emergency security matters. The use of force, even when appropriate to save lives is not always committed; the jus cogens principles is ignored; the Responsibility to Protect (R2P) becomes hypothetical; the international courts, including the Universal Jurisdiction and International Criminal Court (ICC) not functioning rightly and timely.

Graphics 1 – 2: Drawn from Rwanda Peace Academy Profile, 2024

Graphic 1: Components of Participants from 2012 - 2024



Graphic 2: Gender Considerations from 2012



The RPA has experience of intensive trainings in PSO of 13 years. As of April 2025, the graphics reflect the RPA training data records of its achievement by conducting 171 courses, including Training of Trainers (ToTs), with average of 12 courses per year.

Some related and relevant courses conducted at the RPA to the research, which gives expertise in the fields of peace support operations to the participants are the following: Genocide, Mass Atrocity Crimes and Transitional Justice; Protection of Civilians in PSO Course; Prevention & Response to Conflict Related Sexual Violence in a Peacekeeping Theatre; Gender in Peace Support Operations; Security Sector Reform (SSR) Course: Level 1 and Level 2; Military Expert on Mission /Military Observers (MILOBS) Course; Peace Support Operations (PSO) Logistics Course; Transitional Justice and Peace building Course; Disarmament, Demobilization and Reintegration (DDR) Course; Gender, Leadership and Peace building Course; The International Humanitarian Law (IHL) Course; International Human Rights Law (IHRL); Rule of Law Course; Child Protection in Armed Conflict Course; Understanding Conflict & Conflict Analysis Course; Stabilization and Civil-Military Cooperation (CIMIC) Course; Peace Support Operations Civilian Foundation course; Personnel Safety and Security Course; Gender Based Violence Course; Integrated Crisis Management Course, among many others.

4.3 Data Collection Data and Research Findings Analysis

Out of 30 participants in a two-week course, 25 were taken randomly from one PSO course, with the following breakdown:

Respondents Per Component on one sampled Peace Support Operation (PSO) related to Human rights: **“Genocide, Mass Atrocity Crimes and Transitional Justice Courses”**

Table 1

Component	Respondents out of 30 Participants	Respondents	No Feedback
Military	8	7	1
Police	4	3	1
Civilian	18	15	3
Total	30	25	5

Presentation and interpretation of research findings Analysis

- Selected participants feedback rate: 98%
- Responses of 100% of Respondents from 98% of total selected Participants

Table 2:

On the question related to <i>“Peacekeeping capabilities on protection of civilians and human rights compliance”</i> :	
(1) How would assess the relevance of the suggested <i>“Kigali Principles on Protection of civilians”</i> you of MONUSCO in Democratic Republic of the Congo and MINUSCA in Central Africa Republic experience?	
(2) Why the ‘Use of Force’, even when the peacekeeping mission operates under Chapter Seven mandates, fails to bring and maintain peace and security (MONUSCO case)?	
94%	• Reflected that there is in most cases disparities, vague and unclear mandate compare to the situation on mission ground. • The UN Peacekeeping Guidelines on Protection and Human Rights does not include compliance and accountability on human rights in general and

	protection of civilians in particular. Case of UNAMIR in Rwanda • The West or the funders, have full control on the mission, yet some of them bear a hidden agenda to advance, which makes the international law irrelevant. Case of MONUSCO in DRC • The UN mission lacks well trained personnel, required equipment and flexibility to mission on ground to engage forces on protection of civilians when needed.
5%	• Believed that UN Peacekeeping mission are deployed without deeper assessment for better planning. • They do not trust the Collective West Political Will to resolve conflicts in Africa. • They believe that, the Collective West amplify conflicts in Africa for their own interests instead.
1%	• African leadership is in most cases corrupted that they do not protect human rights even when they are able in certain circumstances. • They advance the idea of ‘African solutions to African problems’ without equally leading towards that aim with required means, way and political will.

Table 3

On the question related to <i>“Double standards on equal fundamental rights”</i>: (1) Considering self-determination as inherent and natural rights, how do you reflect the case of Gaza in conflict with Israel? (2) The same question is applied on national identity and hate speech as mainly source of armed conflict in East Democratic Republic of the Congo? How the international law, through MONUSCO is it applied by the UN following its Experts reports? (3) How do you assess the relevance and the implementation of both, R2P doctrine and Jus Cogens principles in State sovereignty configuration?
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95%	The respondents consider the following: • The Collective West uses the double standards politics and instrumentalized the international law as way and means to advance their only interests. They call for international law instruments in a given situation but remain silence where the conditions do not meet their interests. Cases were given to illustrate their responses such as Genocide against Tutsi in Rwanda or Gaza situation where the West did not intervene or intervention in Libya and Iraq where the intervention had no ground justification. • They also consider that the Global South, despite external factors contributing to the chaos in Africa, there are equally endogenous causes in the dynamics of their failure to fight and maintain equal rights; peace, security and development. • They concluded with the following statement: The Global South lacks strong, visionary leadership and political will to reverse the curb, that they have chosen to lead with corruption and nepotism, and maintain the status quo. • Although at different layers of responsibility, they pointed out external and internal factors of the failures in all aspects of life, including rule of law; peace, security and sustainable Development.
4,5%	• They considered that the West has full responsibility of the failure of the Global South. • The West has always a hidden agenda. • African countries had only a false political autonomy and economic independence inheritance and law, peace and security capacity.

Table 4

On the question related to ***“Responsibility to Protect and Jus Cogens Principle”***:

- (1) If the R2P was initiated to address the mass killings after Genocide against Tutsi in Rwanda and what happened in the former Yugoslavia in the same period, was it applied

in Gaza or any other ethnic armed conflict across the world? (2) Jus cogens is a principle of international law requires the use of coercive measures in case of fundamental human rights violations, is there any case the international community has saved the lives of people based on the international law? (3) How do you assess the relevance and the implementation of both, R2P doctrine and Jus Cogens principles in State sovereignty configuration?	
98%	• Consider that R2P lacks binding character and for that effect, it cannot be timely, effective and efficient in protection of civilian matters. • Reflected on the State sovereignty power which dilutes the international community to overlap domestic decisions in use of jus cogens even when lives of people are in danger, which makes the international law weak in some situations. • Say that the interests of the West do not always match with the ones of the South.
1.5%	• Think that the failures of the South are external based, that the powerful States interests overlap the capacity of the poor countries to design their own destiny.
0.5%	• Consider that although the international community bears its own responsibility, African countries have full responsibility on their own failures, that they have poor management with high level of corruption and despotism culture, and most of them lack transformational visionary leadership. They lead in status quo mode since their independency, more than half of century. • They lack political will; cannot maintain rule and do not lead through international human rights compliance and accountability culture.

4.4 General Findings and Responses of the Respondents

The general feedback overview of the respondents is summarized in the following:

- The Collective West uses International Law in a situation where its interests are secured and violates deliberately the international law where it is in favor of the Global South. In most cases, the international law becomes irrelevant and inefficient, even in a situation of grave violation of fundamental human rights.
- UN Fundamental Principles are incomplete and inadequate. In addition to its guidelines, there is need of 18 Kigali Principles as complementarity to avoid loss of people lives, particularly when it comes to the use of force and impartiality principles.
- Countries must endorse and ratify the 18 Kigali Principles on Protection of Civilians. Mandate must be clear and appropriate
- Matching Mandates to the Realities: Gaps between mandate design and situation on the ground (e.g. Mission mandate on Chapter VI in hostile ground which needs chapter VII)
- Protection of Civilians must be at the centre of all UN peacekeeping mission to prevent atrocities and resurgence of violence which can put in danger the lives of people
- The international must play its primary role of protecting world by applying equally the law people, regardless the race, religion and gender.
- Collective West has the responsibility to assure world of peace, void the double-standards practices and selective justice enforcement: Universal Jurisdiction and ICC concerns.
- Human Rights Compliance and accountability concerns, Political interference, credibility and trust on international jurisdictions. Political alliance dictates Legal outcome.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

It is not always that peacekeeping mission mandates are designed in the way to protect civilians or defend IHL and IHRL. And when it happens, their implementors do not always concur with compliance and accountability policies, regulations and other related legal instruments. It is today difficult to establish the real equilibrium between the legal provisions and the outcome of their implementation on the ground, between theory and practice; between the Collective West and the global South in terms of fundamental rights equality.

Mandates are sometimes designed in unclear way to confuse the implementors and beneficiaries or/and in way that mandates chapters are not relevant to the situation on the ground, which makes peacekeepers at the risk and people's lives in host country highly in danger, motivated by a hidden political agenda or other considerations. The double standards and one-sided position of some stakeholders are results of deliberate decision for short, medium or long-term objectives, and not necessarily meant to give justice to the victims or keep and maintain lasting peace and security. Sometimes the mandate design is not supported by required resources, equipment and proper training equally to the challenges and situation on the ground.

The research findings reflected those gaps and the aim of the study was to demonstrate the structural and systemic conflict between the international law and international politics resulting

on incapacity of international jurisdictions to comply and be held accountable on their deliberate violation of IHL, IHRL and other relevant legal instruments implementations.

5.2 Summary

The purpose of this section was to conclude by raising the voice as wake up call to the academia; partitioners, and mostly to the decision makers on the danger of weakening the international law which is world regulation; possible consequences and make some recommendations aligned with the study's objectives and research questions. The study will bring some relevant recommendations and contribute to advance the discussion for further research. It meant to demonstrate the incapacity or the weaknesses of the international jurisdictions to translate the international regulations into practice in way for appropriate and equal compliance and accountability and eliminate the lack of credibility and impartiality causes from which the international law suffer. The idea was not to question the existence of some jurisdiction such as the Universal Jurisdiction and the International Criminal Court but to raise up their incapacity to achieve the original goal, which is to bring, not selective justice, but equal rights to the victims, regardless their race, religion or other considerations like gender.

The qualitative research helped to discussion and argue with different expert matters from the training of military, police and civilian officers; examine and discuss related and available literature review to respond to the research questions and verify the hypothesis presented at the standing point, and discourse the key findings in most systemic and holistic way.

5.3 Conclusion

The study aimed at exploring collected data, analyzing and confronting them against the existing literature in the field and the reality on the ground. It appeared that the international politics influence heavily the design and the implementation of international legal instruments. A number of cases both in United Nations and other international jurisdictions, including Universal Jurisdictions and International Criminal Court (ICC), have been discussed, one assumption was verified and confirmed that, they share similar aspect, an invisible hand that has significant implication on their one-sided attitude and double-standards behavior. The Collective West, which includes the European Union and the United States, seems to constitute a political bloc with its military arm, the North Atlantic Treaty Organization (NATO) and the Global South with emerging political alliance, originally started by Brazil; India; China and South Africa the (BRICS), but now growing in number from other emerging countries rapidly and considerably.

The issue is that the law which initially designed to serve as legal and regulatory tool, legitimate and accepted as such, becomes an apparatus to manipulate law and order, to be used as stick to punish or sanction the weak, for political interests of some, the Collective West, to the expense of others, the Global South.

On December 30, 2006, Saddam Hussein, was executed by hanging, resulted from the war imposed by the United States and Great Britain, for the biological weapons he never possessed. On October 2011, under no-fly zone instructions during the war imposed by the West, Muammar Gaddafi, President of Libya at the time, was killed by US and France, both developed countries and members of the United Nations Security Council (UNSC), for grave crimes he never committed. Today, President Vladimir Putin of Russia, under International Criminal Court (ICC)

arrest warrant for the alleged crimes committed during the war against Ukraine, can be arrested if travelling to western countries, by the court it does not recognize, but in similar situation, Benjamin Netanyahu, Prime Minister of Israel, travels to US and fly through European air space with no fear of international community and the ICC, despite the international crimes committed and keep committing in Gaza. The Double standards politics implications into international regulations implementation is weakening the international law and makes the disorder and anarchy be accepted as order and democracy effect in nowadays divided world, as to confirm that 'some animals are more equal than others'.

The discussion enabled the understanding of the complexity and multidimensionality of law and politics relations on the ground, manifested through the unfolded behavior of international jurisdictions and institutions and the application of the international law principles, norms and doctrine, including the UNSC, ICC; Universal Jurisdictions; International Law Principles; doctrines; norms, including Jus Cogens; Responsibility to Protect (R2P), the use of force; impartiality; credibility, sovereignty and trust; legitimacy and national ownership as fundamental principles in peacekeeping. The debate aimed at bringing the issue to the attention of the academia, practitioners; decision makers for the interests of the entire globe community and creates the curiosity for further research. The study confirmed the hypothesis international politics often overrides the international law. Compliance and Accountability on IHL and IHRL and other inherent, natural and fundamental rights, which were meant to be a tool to gorge the balance level between the international law provisions to regulate international affairs based on equal fundamental rights, and political involvement influenced by the hidden agenda, and find required remedies, are the first victims, although difficult to established for the risk to be portrayed as a danger to the new world order.

It is important and recommended to review how to reposition the international law as international regulations, equal and applied to all, regardless political consideration and other individual interests. It is undiscussable to establish responsibilities and be held accountable for incompiancy and violation of the international law, regardless the power of the country or alliance it belongs too for world peace and security. When the security becomes emergency over the human rights, the law through IHL and IHRL mechanism is not silence, there are legal provisions for that end.

5.4 Contributions to Knowledge

The study will contribute on advancing the new perspective of compliance and accountability factor to the existing framework, by confronting the existing theories of international law and practices in real life, particularly the IHL and IHRL in armed conflict; in post conflict environment and in peace support operations domain in general, using deductive; systemic and holistic lenses analysis. This approach is likely to be replicated in similar studies and result on the analogous effect.

The comparative insights was another way to check if the same causes led to the same or similar outcomes, which helped to understand better the correlation between international law and international politics and the discussion on double standards and one-sided; lack of impartiality, having impact on the credibility of international jurisdiction, therefore on international law, contributed to the existing literature in the field. The analysis has established the gap between the international legal provisions and the political implementations and practices, and inevitable way to fill it for global lasting peace and security.

5.5 Recommendations

The recommendations vary, depending on a number of factors, including context; timing; political and economic situation, will not be exhaustive in this study. However, despite differences, they also share some similarities, which are divided into three categories of recommendations:

(1) Policy: Compliance and Accountability relevance of international jurisdictions are not questionable and avoidable. The United Nations, the most important global Organization, source and implementor at the same time of the international law, must assure the equality of human fundamental rights, inherent and natural rights of human being, just for being human being, regardless the race, religious and gender. UN mandates for peacekeeping mission must be designed in accordance with the situation on the ground in host country, be implemented taking into account the central purpose of any UN peacekeeping mission, saving lives under imminent threat, at high risk, use force when necessary, proportionally and impartially as good referee; timely rapidly, appropriately with required capability and contextually.

(2) Practice: International crimes are indicated and listed by the international, that selective justice should not have no room in legal reasoning and interpretation. Avoid to confuse impartiality with neutrality, they do not mean the same in UN Fundamental Principles applied in volatile and violence conflict for a peacekeeper to respond on saving people responsibilities. IHL and IHRL Compliance and Accountability implementations could be measurable when the criteria have been pre-established in particular or in accordance with the international law principles, norms or doctrine, in general. No legal vacuum must be evoked in a situation where lives of people are in danger.

(3) Future Research: To reform the UNSC and veto power remains utopic and unrealistic as if the P5 consider themselves as custodians of global peace, international regulations and their implementations. Two things: one, whether the world accepted it as it is and that they have ability, political will; which means to have full responsibility and capacity to play such important role with no discrimination and regardless their own individual interests. Apply the law with no political considerations. Or two: to accept the UNSC reform by renouncing the veto power privilege and enlarging the institution, opening to other UN members in order to advance other opinions, particularly from the developing countries, including Africa, which have been so far excluded to date. Otherwise, the UNSC will always be considered by poor countries as political institution using international law as tool to dictate their agenda for their own interests. Compliance and Accountability policies must not be an option to implement, rather a legal and binding obligation. Fundamental equal rights must not be considered as rights to some and privilege to others. It is a legal and norm, and must be considered as world culture. International crimes must be punishable to all alleged perpetrators, regardless the race, religion or sex.

The list of recommendation is not exhausted, it cements the investigations of others which precedingly discussed the issues and serve as stone from which further research will build on.

5.6 Suggestion for Further Studies

Compliance and accountability is still challenging aspect in the implementation of legal instruments in international arena. The international law mechanism provides laws; principles; norms and doctrine, but their leading implementations, the Collective West, consider themselves as untouchable, the matters remain undiscussable; taboo; and indissociable, identified themselves as democracy, while other, the Global South, are less civilized; second citizens. They not allow to be evaluated on the compliance and accountability tools on the implementation of the international law; while the double standards become a mode of life; an accepted norm in nowadays.

The discussion aimed to be a starting point of further research or a contribution to the existing literature to investigate on the issue raised of lack of fundamental equal rights with no discrimination and avoid selective justice in case of international crimes regardless race; religious and sex.

This study may not be heard due to the resistance of world decision makers, but it could contribute to further research in the field.

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