

## Article

### The Role of Women Entrepreneurs in Rebuilding a Nation: the Rwandan Model

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*The women of Rwanda have shown, for the first time in history, what can happen when women, and the full measure of their talents, are included in peace building.*

—Ambassador Swanee Hunt<sup>1</sup>

#### INTRODUCTION

Twenty-five years ago, Rwanda experienced an unprecedented human rights atrocity. In just one hundred days in the spring and early summer of 1994, over 800,000 Rwandans were killed by their fellow countrymen and women.<sup>2</sup> The dead totaled nearly eleven percent of the country's population.<sup>3</sup> What was horrifically unique about the Rwandan genocide was the number of *citizen* killers.<sup>4</sup> These individuals used rudimentary means to slaughter their neighbors and fellow community members. Families, friendships, communities, and an entire

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1. *Two Decades After the Genocide: How Women Rebuilt Rwanda*, INCLUSIVE SECURITY, <https://www.inclusivesecurity.org/how-women-rebuilt-rwanda/> (last visited Apr. 7, 2019).

2. Aneta Wierzynska, Note, *Consolidating Democracy Through Transitional Justice: Rwanda's Gacaca Courts*, 79 N.Y.U. L. REV. 1934, 1934 n.2 (2004).

3. Mark A. Drumbl, *Punishment, Postgenocide: From Guilt to Shame to Civis in Rwanda*, 75 N.Y.U. L. REV. 1221, 1223 (2000).

4. The term "citizen killer" as applied here refers to non-military perpetrators of a coordinated killing. See generally MAHMOOD MAMDANI, *WHEN VICTIMS BECOME KILLERS: COLONIALISM, NATIVISM, AND THE GENOCIDE IN RWANDA* (2001).

country, were torn apart within the course of three months. And with a fifty percent drop in GDP in 1994, the country's economy also was in shambles.<sup>5</sup> After the genocide, the task of rebuilding community trust and economic stability was beyond daunting.

Amazingly, Rwanda now has one of the fastest-growing economies in Africa, and has sustained peace since the genocide.<sup>6</sup> Rwandan women played a key role in this remarkable turnaround because women have had an outsized impact on the reestablishment of the rule of law, particularly as it relates to adjudicating war crimes, and the creation of an inclusive legal regime that empowers them.<sup>7</sup> The convergence of these two forces produced a fertile entrepreneurial environment, which helped women move out of poverty, improve the health and education outcomes of their families, and forge sustainable peace.

This Article contributes to the literature by analyzing the normative shifts within the country's institutions, both pre- and post-genocide, and observes the role of women in restructuring the institutions as a major factor in the success that Rwanda enjoys today. By prioritizing gender equality in the recreation of its legal and economic structures, Rwanda is able to leverage the talents and capabilities of its entire population, and provides a model that can be applied to a number of other countries.

This Article proceeds as follows. Part I details the historical underpinnings of the Rwandan genocide and humanitarian crisis. Part II addresses the efforts to establish the rule of law in the aftermath of such a tragedy and describes the novel use of an indigenous forum for conflict resolution, *gacaca*, and the impact that this type of judicial experiment had on women in particular. Part III analyzes how Rwanda created a legal environment that empowers women. Part IV analyzes how the combination of reestablishing the rule of law through *gacaca* and

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5. WORLD BANK, RWANDA POVERTY NOTE, REBUILDING AN EQUITABLE SOCIETY: POVERTY AND POVERTY REDUCTION AFTER THE GENOCIDE (1998), <http://documents.worldbank.org/curated/en/255161467998828941/pdf/100631WP-P124629-PUBLIC-Box393238B-Rwanda-Poverty-Assessment-Final.pdf>.

6. *Top 10 Fastest Growing Economies in Africa 2018*, IT NEWS AFR. (May 4, 2018), <http://www.itnewsafrika.com/2018/05/top-10-fastest-growing-economies-in-africa-2018>.

7. This Article adopts Nalia Kabeer's definition of "empowerment," which she defines as "the expansion in people's ability to make strategic life choices in a context where this ability was previously denied." Naila Kabeer, *Resources, Agency, Achievements: Reflections on the Measurements of Women's Empowerment*, 30 DEV. & CHANGE 435, 437 (1999).

an empowering legal environment helped sparked an economic rebirth within Rwanda, and promoted peace. While some details of Rwandan society post-genocide may be unique, this Part also outlines how the lessons from Rwanda can be applied more broadly and make a contribution to our understanding of how women influence peace, transitional justice, and entrepreneurship.

## I. HISTORY OF THE RWANDAN GENOCIDE

In order to appreciate the importance of entrepreneurship in peace-building and economic development, it is important to understand the relevant culture and history of a region. Rwanda has a particularly unique history that informs the often-fraught relationships among its citizens. This Part details the history of ethnic conflict prior to the genocide, as well as the events of the genocide of 1994 in Rwanda.

### A. ETHNIC VIOLENCE PRE-GENOCIDE

Rwanda is a small, densely populated, and landlocked country in Central Africa.<sup>8</sup> Rwanda moved to the center of the world stage in 1994 because of the horrific level of violence that occurred during the genocide. The events of 1994, however, did not mark the first outbreak of ethnic violence among Rwandans. Rather, acute ethnic tension preceded the 1994 genocide and dates back at least to the colonial period in the early 1900s. From 1919 until 1962, Rwanda was a Belgium colony, acquired from Germany after World War I.<sup>9</sup> Despite the fact that there were many commonalities among the people of Rwanda, including language and religion, the Belgian colonialists imposed clear racial boundaries between the country's two ethnic groups, the Hutu and Tutsi.<sup>10</sup>

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8. CIA, *Africa: Rwanda*, WORLD FACTBOOK, [https://www.cia.gov/library/publications/the-world-factbook/geos/print\\_rw.html](https://www.cia.gov/library/publications/the-world-factbook/geos/print_rw.html) (last visited Apr. 7, 2019).

9. See, e.g., JEAN-PIERRE CHRÉTIEN, *THE GREAT LAKES OF AFRICA: TWO THOUSAND YEARS OF HISTORY* 281–88 (Scott Straus trans., 2003). Prior to colonial rule, Rwanda had a monarchy. However, when the Germans colonized in the late nineteenth century, they instilled a colonial policy of indirect rule, allowing the Rwandan monarchy to transition slowly. GÉRARD PRUNIER, *THE RWANDA CRISIS: HISTORY OF A GENOCIDE* 25–26 (1998).

10. See PRUNIER, *supra* note 9, at 25; Lars Waldorf, *Mass Justice for Mass Atrocity: Rethinking Local Justice as Transitional Justice*, 79 TEMP. L. REV. 1, 26 (2006). Waldorf points out that both Hutu and Tutsi speak the same

The Belgian colonialists institutionalized the differences between the ethnicities, and even established racial identity cards.<sup>11</sup> In the eyes of the colonialists, the Tutsi were the pastoralist cattle-owners<sup>12</sup> who held power over the Hutu cultivators.<sup>13</sup> The Belgian colonialists viewed the Tutsi as “racially superior” because of their similarities to tribes from Ethiopia,<sup>14</sup> and installed the Tutsi in power.<sup>15</sup> This meant removing any Hutu from positions of power, and prohibiting them from participating in higher education.<sup>16</sup> Thus, the Tutsi were anointed by the Belgian colonialists as the ruling class, and essentially remained in power until 1959.<sup>17</sup>

In the 1950s, colonial rule across the globe faded.<sup>18</sup> The United Nations began pressuring the colonial administrators in Rwanda to allow Hutu to participate in the administration and in education.<sup>19</sup> The Rwandan ruler, Mutara III Rudahigwa, who

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language, share the same culture, practice the same religion and live amongst each other. As such, Hutu and Tutsi alike have somewhat “fluid identities based largely on socio-political status and economic activity.”

11. See Drumbl, *supra* note 3, at 1244 (“Ultimately, it was this *construction* of ethnicity that lay at the root of the violence.”) (emphasis added); Waldorf, *supra* note 10, at 26.

12. ALISON DES FORGES, *LEAVE NONE TO TELL THE STORY: GENOCIDE IN RWANDA* 32 (1999). The term “Tutsi” originally meant someone rich in cattle and referred simply to an elite person, rather than to a particular ethnicity. Similarly, “Hutu” originally meant subordinate or follower.

13. *Id.*

14. See MAMDANI, *supra* note 4, at 80.

15. See PRUNIER, *supra* note 9, at 6. Prunier writes that the Tutsi were extremely tall and thin, often displayed a sharp angular face, and seemed vastly different from the Hutu who resembled the neighboring Uganda and Tanzanian natives. However, the Tutsi and Hutu often intermarried so the physical differences became less stark than the early colonialists described.

16. DES FORGES, *supra* note 12, at 35. Des Forges notes that the Belgian colonialists also removed women from either ethnicity from positions of power. She also points out that the only Hutu who were excused from the “laboring masses” were those engaged in religious study.

17. Waldorf, *supra* note 10, at 27; see also PRUNIER, *supra* note 9, at 27 (noting that toward the end of Belgian rule, in 1959, 43 out of 45 chiefs were Tutsi, and 549 out of 559 subchiefs were Tutsi, replacing many Hutu chiefs and subchiefs). Prunier also explains that prior to colonial rule, there were typically three chiefs on each hill, one of whom was the Chief of the Land and was often a Hutu. In 1929, the three chiefs were merged into a single position which was almost always occupied by a Tutsi. *Id.*

18. Office of the Historian, *Decolonization of Asia and Africa, 1945–1960*, U.S. DEPT STATE, <https://history.state.gov/milestones/1945-1952/asia-and-africa> (last visited Apr. 7, 2019).

19. DES FORGES, *supra* note 12, at 38; see also PRUNIER, *supra* note 9, at 33. The number of Tutsi students to Hutu students in the Rwanda college in 1945 was 46 to 3. In 1954, it was 63 to 19. In 1959, however, the number was

had been the chief administrator since 1931, died suddenly in 1959, leaving his younger half-brother, Kigeli V Ndahindurwa, in charge.<sup>20</sup> The new leadership was more conservative Tutsi and did not prioritize any Hutu-Tutsi political alliances. This shift sparked violence among the Tutsi and Hutu, and the Belgian administration had to step in to restore order.<sup>21</sup> The violence of 1959 sparked the beginning of what was deemed the “peasant uprising” of the Hutu. In 1960 and 1961, the Hutu party won the first elections and voted to end all ties with the Rwanda monarchy, thereby establishing a republic in January 1961, with Belgium colonialists officially leaving the country in 1962.<sup>22</sup>

The “Peasant Uprising” from 1959-62 resulted in many Tutsi leaving Rwanda or being killed.<sup>23</sup> Many of the Tutsi refugees attacked the Hutu government periodically, and ethnic violence continued sporadically. In 1973, Hutu General Juvénal Habyarimana, in an effort to restore order and national unity, took over the country in a bloodless coup by the military.<sup>24</sup> Habyarimana made Rwanda a one-party state and all Rwandans were automatic members of the party.<sup>25</sup>

In 1990, the Rwandan Patriotic Front (“RPF”), a rebel group comprised of Rwandan Tutsi living in Uganda, attacked the Rwandan government and sparked a four-year civil war.<sup>26</sup> Then President Habyarimana attempted, with Hutu extremists, to solidify the Hutu population under the extreme ideological principle of Hutu Power.<sup>27</sup> Operating under this principle, the government provoked Tutsi killings in 1991, 1992, and 1993.<sup>28</sup>

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279 to 143.

20. DES FORGES, *supra* note 12, at 38–39.

21. *Id.*

22. *Id.*

23. *Id.* at 40. Waldorf, *supra* note 10, at 30 (“Hutu political elites whipped up violence against Tutsi minority . . . in four distinct periods (1959-64, 73, 90-93, and the 1994 genocide).”).

24. DES FORGES, *supra* note 12, at 41.

25. Waldorf, *supra* note 10, at 30 n.157.

26. Outreach Programme on the Rwanda Genocide and the U.N., Rwanda: A Brief History of the Country, <https://www.un.org/en/preventgenocide/rwanda/historical-background.shtml> (last visited May 30, 2019).

27. DES FORGES, *supra* note 12, 41.

28. The Hutu Power bloc used radical propaganda to dehumanize the Tutsi. The Kinyarwanda word “inyenzi” was invoked in reference to Tutsi and literally translates to “cockroach.” The term was first used in the 1960s to describe the Tutsi invading after the peasant uprising, and was revived in the 1990s to refer to members of the RPF and the Tutsi in general. DES FORGES, *supra* note 12, at

## B. THE GENOCIDE

On April 6, 1994, a plane carrying President Habyarimana and members of his staff, as well as the President of Burundi, was shot down over Kigali, triggering the 1994 genocide.<sup>29</sup> Hutu extremists quickly took over the government and military, and began the systemic killing spree that lasted until July 1994.<sup>30</sup> Fueled by government propaganda promulgating racial stereotypes of the Tutsi, citizens turned on each other in acts of inhumane brutality, resulting in the death of over 800,000 people, mostly Tutsi.<sup>31</sup> The wide-scale participation of citizens made the Rwandan genocide depressingly unique, and created a deep fissure within communities and among neighbors.

Communities were devastated because not only were neighbors turning against neighbors, but the violence was intensely “personal” in that it often involved the use of machetes, or *panga*, or large clubs studded with nails, *masu*.<sup>32</sup> Despite this time-consuming and emotional method of killing, the death rate in Rwanda rose at a rate nearly “three times the rate of the Jewish dead during the Holocaust.”<sup>33</sup> According to Professor Mark A. Drumbl, the reason was simple: “[s]o many people were killed principally because there were so many killers.”<sup>34</sup>

In July 1994, the RPF managed to wrest control from the Hutu regime and regain control of Kigali, Rwanda’s capital.<sup>35</sup>

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51; Waldorf, *supra* note 10, at 30; see also George B.N. Ayittey, *The Non-Sustainability of Rwanda’s Economic Miracle*, 7 J. MGMT. & SUSTAINABILITY 88 (2017) (detailing the history of the master-client relationship among the ethnicities in Rwanda).

29. Maya Goldstein Bolocan, *Rwandan Gacaca: An Experiment in Transitional Justice*, 2004 J. DISP. RESOL. 355, 368 (2005).

30. Drumbl, *supra* note 3, at 1224.

31. *Id.* at 1222 n.1. Drumbl undertakes an extensive literature review in order to test the veracity of the number of deaths resulting from the genocide. He notes that 800,000 killed is the most often-reported number, citing Letter from Kofi A. Annan, U.N. Secretary-General, to the President of the U.N. During the 1994 Genocide of Rwanda 3, U.N. Doc S.1999/1257 (Dec. 16, 1999), yet the numbers vary somewhat. See DES FORGES, *supra* note 12, at 16 (assessing the death number as “at least a half-million”); PHILIP GOUREVITCH, WE WISH TO INFORM YOU THAT TOMORROW WE WILL BE KILLED WITH OUR FAMILIES: STORIES FROM RWANDA 3 (1998) (noting that “Rwandans often speak of a million deaths, and they may be right”).

32. Drumbl, *supra* note 3, at 1245–46.

33. *Id.* at 1246.

34. *Id.*; see also GOUREVITCH, *supra* note 31, at 307 (stating that one of the general assumptions among Hutu was that they were to “kill or be killed”).

35. *Rwandan Genocide*, HISTORY, <https://www.history.com/topics/africa/>

Paul Kagame, featured in *Sweet Dreams*, led the RPF charge in 1994 and has remained in a position of power as a member of the RPF government ever since.<sup>36</sup> Under the RPF-led government, eventually headed by Kagame in 2003,<sup>37</sup> the government has adopted a unification policy that refers to Rwandans as “One Rwanda” in an attempt to eliminate distinctions between Hutu and Tutsi.<sup>38</sup>

Of the many documentaries, books, and first-hand accounts of the genocide, what is clear is that no one living in Rwanda was unscathed by the violence that took place in 1994.<sup>39</sup> The children of the genocide are now adults, and reckon with immeasurable mental and physical scars. Many have parents who remain in jail. Thus, the critical role of community-building remains a priority, despite the fact that Rwanda has experienced relative peace since 1994.

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rwandan-genocide (last updated Oct. 1, 2018).

36. See generally COLIN M. WAUGH, PAUL KAGAME AND RWANDA: POWER, GENOCIDE AND THE RWANDAN PATRIOTIC FRONT (2004). Kagame was the head of the RPF when it was able to recapture Rwanda and put an end to the genocide. After that point, he served as Vice President and Minister of Defense from 1994 until 2000, under President Pasteur Bizimungu. However, many Rwandans assumed that Kagame was the *de facto* leader of the country. Kagame was selected by government ministers to lead the country when Bizimungu resigned in 2000. In 2003, Kagame was elected via national election after the passage of the Rwandan constitution. Helen C. Epstein, *America's Secret Role in the Rwandan Genocide*, GUARDIAN (Sept. 12, 2017, 1:00 EDT), <https://www.theguardian.com/news/2017/sep/12/americas-secret-role-in-the-rwandan-genocide>.

37. WAUGH, *supra* note 36, at 149.

38. See, e.g., *id.* at 160–63.

39. One of the most impressive documentaries about Rwanda and its potential for success is found in the documentary *Sweet Dreams*, which provides a sweeping view into the lives of women in post-genocide Rwanda as they navigate their roles in both business and culture. The women depicted have already broken cultural barriers by forming the first Rwandan, all-women drum troupe, comprised of women from all ethnicities. The members of the drum troupe then embark on an entrepreneurial experiment: to open the first ice cream shop in Rwanda. The film follows the story of the surprisingly steep learning curve one must master in order to create the perfect twist of soft service ice cream. But the twists (or lack thereof) represent a poignant metaphor for the struggle and determination of female entrepreneurs in Rwanda. It is a story of women breaking norms, taking risks previously unimaginable, and enduring countless setbacks and obstacles. SWEET DREAMS (Rob Fruchtman & Lisa Fruchtman 2012).

## II. REESTABLISHING THE RULE OF LAW: THE ROLES OF THE INTERNATIONAL COMMUNITY AND WOMEN WITHIN RWANDA

In the wake of the genocide, only fifty attorneys and a handful of judges remained in the country.<sup>40</sup> The international community recognized the need to establish an institution that would promote justice and peace within Rwanda. In November 1994, merely a few months after the termination of the genocide, the United Nations created the International Criminal Tribunal for Rwanda (“ICTR”), aimed at prosecuting perpetrators of war crimes during the genocide.<sup>41</sup> Yet to many Rwandans, the ICTR was woefully inadequate. The glaring inadequacies of the ICTR to promote local peace and justice resulted in the newfound use of a local justice forum among communities in Rwanda, called *gacaca*. This Part details the creation of the ICTR, the failings of the international tribunal, and the re-emergence of the local system of justice, *gacaca*, among Rwandans to restore a sense of trust within communities.

### A. POST-GENOCIDE INSTITUTIONAL JUSTICE: ICTR

#### 1. Establishment of the ICTR

On November 8, 1994, the UN Security Council passed Security Council Resolution 955 under Chapter VII of the UN Charter, thereby creating the ICTR.<sup>42</sup> Resolution 955 explicitly stated that the ICTR was created for the “sole purpose of prosecuting persons responsible for the genocide and other serious violations of international humanitarian law.”<sup>43</sup> The ICTR was established to send a message that the international community would not tolerate such atrocious human rights violations,<sup>44</sup> and to “contribute to the process of national reconciliation and to the restoration and maintenance of

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40. Erin Daly, *Between Punitive and Reconstructive Justice: The Gacaca Courts in Rwanda*, 34 N.Y.U. J. INT'L L. & POL. 355, 368 (2002).

41. S.C. Res. 955 (Nov. 8, 1994).

42. *Id.* at 2.

43. *Id.*

44. See, e.g., Jason Strain & Elizabeth Keyes, *Accountability in the Aftermath of Rwanda's Genocide*, in ACCOUNTABILITY FOR ATROCITIES: NATIONAL AND INTERNATIONAL RESPONSES 87, 98–99 (Jane E. Stromseth ed., 2003).

peace.”<sup>45</sup>

Much has been written about the international judicial response to mass atrocity, particularly since the Nuremberg Trials after World War II.<sup>46</sup> The ICTR was, similarly, an international criminal tribunal, but was different in that it was considered an international-national, or *hybrid*, tribunal. The International Criminal Tribunal for Yugoslavia (“ICTY”) was established in 1993 and is often considered the “sister” tribunal to the ICTR as the other hybrid tribunal.<sup>47</sup>

The Rwandan government passed the Organic Law of 1996 (“Organic Law”) in order to organize perpetrators into various categories.<sup>48</sup> Given that the ICTR was a hybrid tribunal, the perpetrators tried by the ICTR were Rwandans that fell under Category 1 offenders, as determined by the Organic Law. The Organic Law defined “genocide” and “crimes against humanity” in accordance with international treaties that Rwanda ratified.<sup>49</sup>

The Organic Law organized individuals into four categories. Category 1 suspects were those who: a) planned, organized, incited, supervised acts during the genocide; b) were leaders (national, local, religious, etc.) that committed or encouraged others to commit crimes of genocide; c) were “notorious murderers” as defined by the zeal in his or her killings or

45. S.C. Res. 955, *supra* note 41, at 2.

46. See, e.g., MARTHA MINOW, BETWEEN VENGEANCE AND FORGIVENESS: FACING HISTORY AFTER GENOCIDE AND MASS VIOLENCE 1 (1998); CARLOS SANTIAGO NINO, RADICAL EVIL ON TRIAL, at vii (1996) (reflecting a theoretical and moral debate about the use of punishment against what is often deemed the Kantian “radical evil”); Antonio Cassese, *On the Current Trends Towards Criminal Prosecution and Punishment of Breaches of International Humanitarian Law*, 9 EUR. J. INT’L L. 2 (1998); Drumbl, *supra* note 3, at 1228–29; Goldstein Bolocan, *supra* note 29, at 357.

47. See GOUREVITCH, *supra* note 31, at 252 (noting that at least one Rwandan government official claimed that the U.N. simply replaced every instance of “Yugoslavia” with “Rwanda” in creating the ICTR); Int’l Crim. Trib. for the Former Yugoslavia, About the ICTY, <http://www.icty.org/en/about> (last visited Apr. 7, 2019).

48. ORGANIC LAW NO. 08/1996 OF 1996 ON THE ORGANIZATION OF PROSECUTIONS FOR OFFENSES CONSTITUTING THE CRIME OF GENOCIDE OR CRIMES AGAINST HUMANITY COMMITTED SINCE 1 OCTOBER 1990, OFFICIAL GAZETTE NO. 17 OF 1/9/1996 (Rwanda).

49. *Id.* art. 1; see also G.A. Res. 2391 (XXIII), Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity (Nov. 11, 1970), *acceded to by* Rwanda, Apr. 16, 1975; Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287, *succeeded to by* Rwanda, Mar. 21, 1964; International Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, 78 U.N.T.S. 277, *acceded to by* Rwanda, Apr. 16, 1975.

“excessive wickedness” in which the killings were carried out; or d) were any person committing acts of sexual torture.<sup>50</sup> Category 2 crimes included those whose “acts of criminal participation place them among the perpetrators, conspirators or accomplices of intentional homicide or of serious assault against the person, causing death.”<sup>51</sup> Category 3 was comprised of persons committing “serious assaults,” and Category 4 consisted of those who committed offenses against property.<sup>52</sup>

The ICTR had jurisdiction only over criminals whose acts constituted Category 1 crimes. Given the number of perpetrators, jurisdiction over Category 1 crimes was split between the ICTR and national courts, with an “unofficial division,” which directed that the ICTR was to hear the cases of “suspects considered among the most important planners and perpetrators of the genocide.”<sup>53</sup> Rwanda would adjudicate crimes of lesser categories.

The ICTR was the first international criminal court to issue a verdict based upon charges related to genocide.<sup>54</sup> In total, 93 individuals were indicted by the ICTR.<sup>55</sup> Of those, 62 received sentences; 14 were acquitted; 10 were referred to national jurisdictions for trial; 3 remained fugitives; 2 died prior to judgment; and 2 indictments were withdrawn prior to trial.<sup>56</sup> The Tribunal was officially closed on December 31, 2015, possibly due to the establishment of the International Criminal Court.<sup>57</sup>

## 2. The ICTR and Women’s Rights

As noted above in the classifications of Category 1 crimes,

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50. ORGANIC LAW NO. 08/1996 OF 1996, *supra* note 48, art. 2.

51. *Id.*

52. *Id.* Eventually, Categories 2 and 3 were combined under the modifications to the *Gacaca* Law of 2001, detailed in Section II.B, *infra*.

53. Phil Clark, *Hybridity, Holism, and Traditional Justice: The Case of the Gacaca Courts in Post-Genocide Rwanda*, 39 GEO. WASH. INT’L L. REV. 765, 791 (2007).

54. Goldstein Bolocan, *supra* note 29, at 370.

55. U.N. Int’l Residual Mechanism for Crim. Tribunals, The ICTR in Brief, <http://unictr.irmct.org/en/tribunal> (last visited Apr. 7, 2019).

56. *Id.*

57. Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 90 (entered into force July 1, 2002); *Rwanda: International Tribunal Closing Its Doors*, HUM. RTS. WATCH (Dec. 23, 2015, 2:50 AM EST), <https://www.hrw.org/news/2015/12/23/rwanda-international-tribunal-closing-its-doors>.

rape was included among the “most serious” of crimes.<sup>58</sup> This was a major victory for advocates of women’s rights because the ICTR was the first international war crimes tribunal to consider rape as an act offensive enough that was considered a Category 1 genocide crime.<sup>59</sup> The categorization was also important because of the rampant use of rape as a tool of the genocide.<sup>60</sup> It was estimated that as many as 500,000 women were raped during the genocide.<sup>61</sup> This is significant because, as detailed in Section III, women made up nearly seventy percent of the population after the genocide, and the vast majority of survivors had to struggle not only with the psychological pain of living through the genocide, but also the pain of experiencing horrific sexual violence.<sup>62</sup>

### 3. Rwandan Opposition to the ICTR

Although Rwanda initially requested the establishment of an international tribunal,<sup>63</sup> it quickly withdrew its support for the creation of the ICTR. Rwanda had the opportunity to participate in the Security Council’s deliberations on the creation of the ICTR.<sup>64</sup> Representing a major stain against the Tribunal, Rwanda was the sole dissenting vote in the creation of the ICTR.<sup>65</sup>

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58. ORGANIC LAW NO. 08/1996 OF 1996 ON THE ORGANIZATION OF PROSECUTIONS FOR OFFENSES CONSTITUTING THE CRIME OF GENOCIDE OR CRIMES AGAINST HUMANITY COMMITTED SINCE 1 OCTOBER 1990, OFFICIAL GAZETTE NO. 17 OF 1/9/1996 (Rwanda).

59. Brittany A. Olwine, Note, *One Step Forward, But Two Steps Back: Why Gacaca In Rwanda is Jeopardizing the Good Effect of Akayesu on Women’s Rights*, 17 WM. & MARY J. WOMEN & L. 639, 640 (2011) (noting that genocidal rape was first recognized in international humanitarian law by the ICTR in 1998); see also Stephanie K. Wood, *A Woman Scorned for the Least Condemned War Crime: Precedent and Problems with Prosecuting Rape as a Serious War Crime in the International Criminal Tribunal for Rwanda*, 13 COLUM. J. GENDER & L. 274, 275 (2004).

60. Emily Amick, *Trying International Crimes on Local Lawns: The Adjudication of Genocide Sexual Violence in Rwanda’s Gacaca Courts*, 20 COLUM. J. GENDER & L. 1, 14–15 (2011).

61. *Id.* at 7.

62. *Id.* at 10, 18.

63. VICTOR PESKIN, INTERNATIONAL JUSTICE IN RWANDA AND THE BALKANS: VIRTUAL TRIALS AND THE STRUGGLE FOR STATE COOPERATION 159 (2008).

64. U.N. SCOR, 49th Sess., 3453d mtg. at 1, U.N. Doc. S/PV.3453 (Nov. 8, 1994).

65. *Id.* at 2.

The Rwandan delegation to the UN opposed the creation of the ICTR for three major reasons. First, Rwanda opposed the lack of the death penalty for the worst offenders, who were to be adjudicated in the Tribunal, when lower-level offenders would be subject to the death penalty under Rwandan law.<sup>66</sup> During deliberations at the UN, the Rwandan representative was emphatic that the lack of capital punishment for the worst offenders—the ones who planned and organized the genocide—was “not conducive to national reconciliation in Rwanda.”<sup>67</sup> Because it was assumed that the *most* culpable offenders were to be tried at the ICTR, seemingly “less-culpable” but still Category 1 offenders then were to be tried by the national Rwandan courts.<sup>68</sup> A conviction in the Rwandan courts of a Category 1 crime carried a capital sentence, whereas the ICTR did not have the death penalty as an option for sentencing. This greatly troubled Rwandans seeking retributive justice after the genocide.<sup>69</sup>

Second, Rwanda opposed the temporal and geographical jurisdiction restrictions on the ICTR, which limited it to acts occurring within Rwanda during the 1994 calendar year, thereby excluding from jurisdiction any genocidal planning efforts occurring outside of Rwanda or prior to 1994.<sup>70</sup> In addition, with the ICTR’s temporal jurisdiction reaching into *December* 1994, the ICTR had jurisdiction over post-genocide killings of Hutu genocidaires at the hands of the RPF soldiers.<sup>71</sup> Prosecuting RPF soldiers was in line with international humanitarian goals, but was an affront to the efforts of Rwandans to move forward under the new regime headed by those aligned with the RPF and Kagame.

Finally, Rwanda opposed the tribunal because it was sited outside of Rwanda.<sup>72</sup> This was a major obstacle toward a sense of justice within the Rwandan borders. Given that the genocide

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66. *Id.* at 15.

67. *Id.*

68. See ORGANIC LAW NO. 08/1996 OF 1996 ON THE ORGANIZATION OF PROSECUTIONS FOR OFFENSES CONSTITUTING THE CRIME OF GENOCIDE OR CRIMES AGAINST HUMANITY COMMITTED SINCE 1 OCTOBER 1990, OFFICIAL GAZETTE NO. 17 OF 1/9/1996 (Rwanda).

69. U.N. SCOR, 49th Sess., 3453d mtg., *supra* note 64, at 15.

70. Irene C. Lu, Note, *Curtain Call at Closing: The Multi-Dimensional Legacy of the International Criminal Tribunal for Rwanda*, 34 U. PA. J. INT’L L. 859, 867–68 (2013).

71. PESKIN, *supra* note 63, at 162.

72. Lu, *supra* note 70, at 868–69.

was so personal to so many, justice was demanded both at home, in a literal sense, and on personal and community levels, rather than simply a national level. In other words, the ICTR did not represent local justice, though it may be argued that it was never intended to do so. The ICTR was an international response, and represented the efforts and interests of the international community. The creation of ICTR was a historic achievement in many ways, but it fell short of instilling a sense of local justice among Rwandans.

## B. GACACA

Where the ICTR fell short, Rwanda needed other ways to ensure justice, accountability, and healing. Rwanda had an established national justice system and courts, but many of the buildings were destroyed and those involved in the system were killed during the genocide.<sup>73</sup> Therefore, the justice system was quickly overrun with genocidaire suspects, leaving communities to figure out on their own how to live amoun each other again. Rwandans, therefore, turned to a historical method of conflict resolution, in the form of *gacaca*.

*Gacaca* is a Kinyarwandan<sup>74</sup> word meaning “lawn” or “grass.”<sup>75</sup> It represents a gathering of members of the community on a lawn or grassy square in the center of town. Its purpose is to handle conflict among citizens. It has a long history within Rwanda, and gained an elevated status after the genocide, as this Section explores.

### 1. Pre-Genocide Use of *Gacaca*

Although there has not been much written about *gacaca* before Belgian rule in 1919, there is evidence of *gacaca* existing in the early twentieth century as an informal method of conflict resolution among Rwandans.<sup>76</sup> The *gacaca* hearings at that time typically involved disputes over livestock or property.<sup>77</sup> In other

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73. *See id.* at 872.

74. CIA, *supra* note 8.

75. Q&A: *Justice in Rwanda*, BBC NEWS (June 18, 2002, 10:31 GMT), <http://news.bbc.co.uk/2/hi/africa/2051526.stm>.

76. Filip Reyntjens, *Le gacaca ou la justice du gazon au Rwanda*, 40 POLITIQUE AFRICAINE 31, 32 (1990).

77. *See* Goldstein Bolocan, *supra* note 29, at 377. While most disputes were civil in nature, as opposed to criminal, there were some instances wherein a

words, *gacaca* was an indigenous judicial forum used to resolve minor disputes within rural communities.<sup>78</sup> Male heads of household participated while women were excluded entirely from participating.<sup>79</sup> The aim of *gacaca* was to engender reconciliation among neighbors rather than retribution or punishment, and that aim became very important and notable when *gacaca* was used for more complex controversies later.<sup>80</sup>

In the early twentieth century, *gacaca* was gradually used to handle more complex issues within communities and its importance within Rwandan society increased.<sup>81</sup> In 1943, it was officially recognized by the Belgian administration as a legitimate judicial system that operated concurrent with the national judicial system.<sup>82</sup> At that time, *gacaca* judges, typically Tutsi, were politically appointed.<sup>83</sup> This meant that the previous iteration of *gacaca*, which was very informal and consisted of male elders presiding over conflicts, had given way to a slightly more formal concept whereby elected officials could call parties to a *gacaca* hearing.<sup>84</sup> Community participation was encouraged but was still limited to men.<sup>85</sup>

In general, as compared to the national courts, *gacaca* in the pre-genocide era remained a more informal, local level of conflict resolution aimed at restoring individuals and integrating them into the (often, rural) community. This changed somewhat after

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minor criminal offense would be handled via *gacaca*, with the result being some sort of civil settlement rather than a criminal sanction.

78. *Id.* at 376.

79. *Id.* Unless a woman was a party to the conflict, there was no female participation allowed.

80. *Id.* Goldstein Bolocan emphasizes that “[g]acaca embodies restorative justice principles because it does not seek to achieve justice by punishing the perpetrator, but to restore social order by finding communal, compromised solutions, and by reintegrating the offender within the community”; see also Clark, *supra* note 53, at 778–79 (noting that despite the goals of restorative justice, there often were cases wherein retribution was demanded, often “with the process culminating in sharing beer, wine or food—usually provided by the guilty party—to symbolize reconciliation of the parties”).

81. See Clark, *supra* note 53, at 779.

82. *Id.* *Gacaca* and the national court system began to develop different types of plaintiffs. Citing Reyntjens, Clark notes that rural claimants typically sought out *gacaca* to handle disputes and conflicts, whereas more urban dwellers used the national courts, often because the cases were more complex. Reyntjens cites that from 1986 to 1987, in the more rural area of Butare, almost ninety-three percent of the cases were heard by *gacaca* courts rather than the more formal national courts. Reyntjens, *supra* note 76, at 38.

83. Clark, *supra* note 53, at 779.

84. *Id.* at 780.

85. *Id.* at 779.

the genocide, as detailed below.

## 2. Post-Genocide Use of *Gacaca*

In the months after the genocide, there were approximately 125,000 genocide suspects arrested and held in jails meant to hold only 15,000 inmates.<sup>86</sup> The cost of housing 120,000 inmates ran up to \$20 million USD.<sup>87</sup> Rwanda received international aid to defray those costs, but it was clear that this cost was unsustainable, and that Rwanda had to establish a method to process the inmates within the country.<sup>88</sup> After the Organic Law passed in 1996, suspects were organized according to category of crime.<sup>89</sup> Category 1 criminals were referred to the ICTR as well as the national courts.<sup>90</sup> Rwanda had to figure out how to process the majority of criminals, ranging from Category 2 to Category 4.

According to then Vice President Paul Kagame, the *gacaca* system represented “the only way forward.”<sup>91</sup> Using *gacaca* as an option for handling genocide suspects was not immediately welcomed by the Rwandan government.<sup>92</sup> Instead, the Rwandan government first focused on setting up a robust national court system with help from international lawyers and non-governmental organizations.<sup>93</sup> However, many provincial prefects in the Rwandan government continually encouraged the use *gacaca*.<sup>94</sup>

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86. Drumbl, *supra* note 3, at 1286.

87. See Clark, *supra* note 53, at 776.

88. See Wierzyńska, *supra* note 2, at 1955.

89. ORGANIC LAW NO. 08/1996 OF 1996 ON THE ORGANIZATION OF PROSECUTIONS FOR OFFENSES CONSTITUTING THE CRIME OF GENOCIDE OR CRIMES AGAINST HUMANITY COMMITTED SINCE 1 OCTOBER 1990, OFFICIAL GAZETTE NO. 17 OF 1/9/1996 (Rwanda).

90. See Section II.A., *supra*, and accompanying notes.

91. Goldstein Bolocan, *supra* note 29, at 355.

92. *Id.*; see also Clark, *supra* note 53, at 780–81. Clark details that at an international conference in Kigali in 1995, the government debated having an amnesty program for genocide suspects, as well as perhaps using *gacaca*. The amnesty program was rejected out of fear that genocide victims and survivors may exact vigilante justice. The government also rejected using *gacaca* at that time because the use of *gacaca* would go against Rwandan law requiring formal process for serious crimes including murder. Also considered was a truth and reconciliation model used in South Africa. This was also rejected for lack of appropriate punishment for those involved in the genocide.

93. Clark, *supra* note 53, at 782.

94. *Id.* at 782–83. According to Clark, the “most notable among the [prefects] was Protais Musoni, then Prefect of Kibungo . . . who was described

In February 1999, after an intensive study of *gacaca* and debate that include the UN Office of the High Commissioner for Human Rights, the UN Special Rapporteur declared that *gacaca* would be useful for “purposes of testifying in connection with reconciliation” but that it would not be “competent to hear crimes against humanity.”<sup>95</sup> Nevertheless, despite the limitations of *gacaca* that the UN described, then President Pasteur Bizimungu ordered the National Unity and Reconciliation Commission (“NURC”) to undertake a national analysis of popular support for the use of *gacaca*.<sup>96</sup> The result of the NURC study was the proposal and creation of the *Gacaca* Law.<sup>97</sup>

The *Gacaca* Law gave jurisdiction to *gacaca* courts over Category 2–4 offenses, though the offense categories were changed after 2004 to combine Categories 2 and 3.<sup>98</sup> This meant that *gacaca* courts heard crimes of murder, assault, and property offenses. Under the *Gacaca* Law and its subsequent modifications, *gacaca* morphed into a more formal system, inclusive of sentencing guidelines.<sup>99</sup> *Gacaca* jurisdictions were separated into cellules and could be appealed to a larger appellate level.<sup>100</sup> Sentences usually included both prison time

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as the ‘father of *gacaca*.’”

95. Michel Moussalli (Special Representative), *Report on the Situation of Human Rights in Rwanda*, ¶ 51, U.N. Doc. E/CN.4/1999/33 (Feb. 8, 1999).

96. NAT'L UNITY AND RECONCILIATION COMM'N, NATION-WIDE GRASSROOTS CONSULTATIONS REPORT: UNITY AND RECONCILIATION INITIATIVES IN RWANDA 3 (2001).

97. See, e.g., LAW NO. 25/2012 OF 15/06/2012 TERMINATING THE NATIONAL SERVICE IN CHARGE OF FOLLOW-UP, SUPERVISION AND COORDINATION OF THE ACTIVITIES OF GACACA JURISDICTIONS, OFFICIAL GAZETTE NO. SPECIAL OF 15/06/2012 (Rwanda); ORGANIC LAW NO. 16/2004 OF 19/6/2004 ESTABLISHING THE ORGANIZATION, COMPETENCE AND FUNCTIONING OF GACACA COURTS CHARGED WITH PROSECUTING AND TRYING THE PERPETRATORS OF THE CRIME OF GENOCIDE AND OTHER CRIMES AGAINST HUMANITY, COMMITTED BETWEEN 1 OCTOBER 1993 AND 31 DECEMBER 1994, OFFICIAL GAZETTE YEAR 43, NO. SPECIAL OF 19/6/2004 (Rwanda); ORGANIC LAW NO. 40/2000 OF 26/1/2001 SETTING UP GACACA JURISDICTIONS AND ORGANIZING PROSECUTIONS FOR OFFENCES CONSTITUTING THE CRIME OF GENOCIDE OR CRIMES AGAINST HUMANITY COMMITTED BETWEEN 1 OCTOBER 1993 AND 31 DECEMBER 1994, art. 13 (Rwanda).

98. Clark, *supra* note 53, at 789–90 (explaining that the *Gacaca* Law has been modified a number of times since its original passage, and that the most important modification occurred in 2004, when the law combined Categories 2 and 3 into a single Category 2 crime).

99. *Id.* at 794.

100. Allison Corey & Sandra F. Joireman, *Retributive Justice: The Gacaca Courts in Rwanda*, 103(410) AFR. AFF. 73, 83 n.29 (2004).

and community service.<sup>101</sup> *Gacaca* judges were able to summon witnesses, issue search warrants, and impose punishments according to the sentencing guidelines. One interesting feature of *gacaca* sentences was that suspects could reduce their sentences if they admitted guilt.<sup>102</sup>

On balance however, *gacaca*, while modified greatly in its formalized version, retained many of its important defining characteristics. As Clark explains, the “spirit of *gacaca* emphasizes that the community should play a central role in all aspects of the process and that the objectives of *gacaca* should not be pursued through the agency of national or local elites but through communal engagement in a public setting.”<sup>103</sup> Therefore, the nine<sup>104</sup> judges or *inyangamugayo* who make up each court are not trained lawyers or judges, but respected individuals elected by the community.<sup>105</sup>

On every *gacaca* court, women have been elected as judges, which is a marked improvement from the pre-genocide situation in which women were not allowed to serve as judges, or participate at all, in many cases.<sup>106</sup> Additionally, *gacaca* courts which are led by women have been proven more effective than those led by men.<sup>107</sup>

Furthermore, *gacaca* remains a process that focuses on both individual and community rehabilitation and restoration. For example, in post-genocide Rwanda, entire villages attend *gacaca* trials.<sup>108</sup> This public process helps “bring the facts of the

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101. *Id.*

102. *Id.*

103. Clark, *supra* note 53, at 800.

104. Sarel Kandell Kromer, *The Rwandan Reconciliation*, WASH. POST (Oct. 16, 2005), <http://www.washingtonpost.com/wp-dyn/content/article/2005/10/15/AR2005101500108.html>.

105. Clark, *supra* note 53, at 786.

106. JOHN MUTAMBA & JEANNE IZABILIZA, THE ROLE OF WOMEN IN RECONCILIATION AND PEACE BUILDING IN RWANDA: TEN YEARS AFTER GENOCIDE 1994-2004 12 (2005), <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan031033.pdf>. East African Community Secretariat, *Gender and Community Development Analysis in Rwanda* 32 (2009), [http://cleancookstoves.org/resources\\_files/gender-and-community.pdf](http://cleancookstoves.org/resources_files/gender-and-community.pdf).

107. *Id.* at 32.

108. See, e.g., Jacqueline Lewis, *Mass Graves and a Thousand Hills: University Student Perspectives on the Gacaca Courts in Post-Genocide Rwanda*, 10 INQUIRY J., Spring 2010 (providing student perspectives on *gacaca* courts used in post-genocide Rwanda); *Rwanda's Grass Courts*, N.Y. TIMES (July 10, 2004), <https://www.nytimes.com/2004/07/10/opinion/rwanda-s-grass-courts.html> (indicating that *gacaca* courts have been used for hundreds of entire villages in post-genocide Rwanda).

genocide into the open,” thereby offering victims the closure necessary to recover.<sup>109</sup> “The reparative function of *gacaca*’s ‘truth-telling’ should not be underestimated.”<sup>110</sup> As Ambassador Swanee Hunt summarized in 2014, “By 2012, nearly two million people had been before these courts, often assembled under a shade tree; that transitional justice process has been key to stabilizing Rwandan society.”<sup>111</sup>

One theme of this Article is that the judicial entrepreneurship evidenced by *gacaca* instilled a pervasive entrepreneurship mindset within Rwanda, and the women of Rwanda in particular. The goals of collective decision-making and the focus on local community-building bled into business decisions and formation, as detailed below.

### III. MAKING WAY FOR FEMALE ENTREPRENEURS: CREATING AN ENVIRONMENT TO EMPOWER WOMEN IN RWANDA

“Necessity is the mother of all invention” is a well-worn adage that accurately reflects the Rwandan experience. From the macro perspective, peace in Rwanda “is not a matter of choice but of survival.”<sup>112</sup> Necessity brought on by the near obliteration of a generation, an ethnic group, and law and order has driven intense creativity, as exemplified by the evolved and novel use of *gacaca* courts.<sup>113</sup> “The unifying experience of truth-telling and holding perpetrators to account through an interactive sociolegal process of justice helped to compel cohabitation and non-violent

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109. Cori Wielenga & Geoff Harris, *Building Peace and Security after Genocide: The Contribution of the Gacaca Courts of Rwanda*, 20 AFR. SECURITY REV. 15, 23 (2011); see also Charlotte Clapham, *Gacaca: A Successful Experiment in Restorative Justice?* (July 30, 2012) (unpublished essay, University of Sheffield) (on file with E-International Relations Students), <http://www.e-ir.info/2012/07/30/gacaca-a-successful-experiment-in-restorative-justice-2/> (citing Wielenga & Harris, *supra* note 109, and providing more detail).

110. Clapham, *supra* note 109.

111. Swanee Hunt, *The Rise of Rwanda’s Women: Rebuilding and Reuniting a Nation*, FOREIGN AFF. (June 2014), <https://www.foreignaffairs.com/articles/rwanda/2014-03-30/rise-rwandas-women>.

112. MUTAMBA & IZABILIZA, *supra* note 106, at 12.

113. Though this Article elides the positives, Rwanda, especially its leadership under President Kagame, still has serious issues, especially those related to freedom of speech, political pluralism, and extrajudicial killings of petty criminals. See HUMAN RIGHTS WATCH, WORLD REPORT 2018: EVENTS OF 2017, *Rwanda*, 453–59 (2018), [https://www.hrw.org/sites/default/files/world\\_report\\_download/201801world\\_report\\_web.pdf](https://www.hrw.org/sites/default/files/world_report_download/201801world_report_web.pdf).

coexistence.”<sup>114</sup>

Furthermore, Rwanda is one of the first countries to aggressively change its laws in order to increase gender parity in major national institutions. For example, half of the country’s highest court is comprised of women, which supports the claim that women have helped reestablish the rule of law.<sup>115</sup>

As explained by Kagame in 1999:

It is imperative to our lawmakers, policy makers and implementers to have an objective and correct analysis of the gender question in order to design corrective policies and programs. The question of gender equality in our society needs a clear and critical evaluation in order to come up with concrete strategies to map the future development in which men and women are true partners and beneficiaries. My understanding of gender is that it is an issue of good governance, good economic management and respect of human rights.<sup>116</sup>

The following Part details how, by necessity, women challenged traditional gender roles and improved their legal status after the genocide. This Part also explores how a more equitable legal regime has contributed to economic development, which in turn has had profound impacts on peace-building.

#### A. WOMEN AND THE RWANDAN CONSTITUTION<sup>116</sup>

Prior to the genocide, Rwandan law greatly restricted the legal and economic agency of women.<sup>117</sup> Traditionally, women’s roles were limited to those of wife and mother,<sup>118</sup> and in essence,

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114. Janet McKnight, *The Anatomy of Mass Accountability: Confronting Ideology and Legitimacy in Rwanda’s Gacaca Courts*, 1 CONFLICT TRENDS 35, 41 (2014).

115. Hunt, *supra* note 111. Rwanda ranks tenth in the world for the number of women in its constitutional court. World Bank, *Women, Business and the Law* (2016), <http://pubdocs.worldbank.org/en/810421519921949813/WomenBusiness-and-the-Law-2016.pdf>.

116. MUTAMBA & IZABILIZA, *supra* note 106, at 9.

117. See Jennie E. Burnet, *Women Have Found Respect: Gender Quotas, Symbolic Representation, and Female Empowerment in Rwanda*, 7 POL. & GENDER 303 (2011).

118. BINAIFER NOWROJEE, SHATTERED LIVES: SEXUAL VIOLENCE DURING THE RWANDAN GENOCIDE AND ITS AFTERMATH (1996), <https://www.hrw.org/>

women had the legal status of minors.<sup>119</sup> Women were not allowed to work,<sup>120</sup> access credit,<sup>121</sup> or enter into contracts without their husband's permission.<sup>122</sup> They were not allowed assert their legal rights, if any, in court.<sup>123</sup> And they were silenced when it came to political participation.

During the genocide, women had to step into traditional male roles in order to produce income for their families and manage the household. However, many women were stripped of their power as “[t]hey endured systematic rape and torture, witnessed unspeakable cruelty, and lost livelihoods and property.”<sup>124</sup> As a result, women survivors in particular had deep and profound emotional and physical scars that reinforced patriarchal norms.<sup>125</sup>

After the genocide and the death, escape, or incarceration of countless men, women made up roughly 60-70 percent of the Rwandan population.<sup>126</sup> They were thus presented with a wide

sites/default/files/reports/1996\_Rwanda\_%20Shattered%20Lives.pdf (“Within Rwandan society, women have traditionally been regarded and treated as dependents of their male relatives. Throughout their lives, women are expected to be managed and protected by their fathers, their husbands and their male children.”).

119. See Lisa A. Doan, *Rwandan Women and the 1994 Genocide: The Effect on their Social and Political Roles* 4 (Nov. 15, 2010) (unpublished M.A. thesis, Georgetown University) (on file with Georgetown Libraries), [https://repository.library.georgetown.edu/bitstream/handle/10822/558113/Doan\\_georgetown\\_0076M\\_10933.pdf](https://repository.library.georgetown.edu/bitstream/handle/10822/558113/Doan_georgetown_0076M_10933.pdf) (noting that a Rwandan woman's role was defined by her male relatives, so she was “similar to a child in the eyes of society”); *id.* at 10 (stating that “[m]arried Rwandan women were treated as dependents, like children.”).

120. NOWROJEE, *supra* note 118 (noting that under Article 213 of the 1988 Family Code, a woman was not allowed to engage in commercial activity or employment without authorization from her husband).

121. *Id.* (“nor were [women] eligible for credit or loans. Women were often required to obtain their husband's authorization in order to qualify for credit.”).

122. Doan, *supra* note 119, at 10 (“Married women had the legal right to vote but needed their husbands' permission to participate in business or any legal court actions. Women could have their own bank accounts but their husbands could withdraw money without their permission. Men could even deny their wives access to their own bank accounts.”).

123. NOWROJEE, *supra* note 118 (noting that under the Civil Code, a woman must obtain her husband's authorization for any legal matter in which she must appear).

124. Elizabeth Powley, *Rwanda: The Impact of Women Legislators on Policy Outcomes Affecting Children and Families* 2 (UNICEF, Background Paper, Dec. 2006), [https://www.unicef.org/policyanalysis/files/Rwanda\\_the\\_impact\\_of\\_women\\_legislators.pdf](https://www.unicef.org/policyanalysis/files/Rwanda_the_impact_of_women_legislators.pdf).

125. *Id.*

126. Gregory Warner, *It's the No. 1 Country For Women In Politics—But Not in Daily Life*, NPR: GOATS & SODA (July 29, 2016), <https://www.npr.org/>

variety of challenges ranging from caring for the country's 500,000 orphans, to addressing the wounds of trauma, to rebuilding decimated communities, and to supporting their families economically.<sup>127</sup> Many women took on the roles of heads of households and filled leadership positions at all levels of government.<sup>128</sup> As stated by humanitarian Elizabeth Powley, “[t]he genocide forced women to think of themselves differently and in many cases develop skills they would not otherwise have acquired.”<sup>129</sup>

The genocide allowed women to transform the legal landscape, and their rights, within Rwanda. This arc of progress was helped, in part, by President Kagame, although his motivations for doing so remain subject to much debate.<sup>130</sup> While his and the RPF's motives have been questioned, the Kagame-led government pushed for gender equality.<sup>131</sup> The first major move, in this regard, came from the drafting of the new Rwandan constitution in 2003.<sup>132</sup>

The constitution included a robust equal protection clause.<sup>133</sup> More surprisingly, it also contained a controversial quota that required that women make up at least thirty percent

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sections/goatsandsoda/2016/07/29/487360094/invisibilia-no-one-thought-this-all-womans-debate-team-could-crush-it.

127. Powley, *supra* note 124, at 2.

128. Burnet, *supra* note 117, at 311.

129. Powley, *supra* note 124, at 3.

130. See Ari Berman, *Dictator in Disguise*, HARV. POL. REV. (Apr. 22, 2016), <http://harvardpolitics.com/world/your-friendly-neighborhood-dictator/>.

131. Several scholars argue that the RPF's women-friendly policies are merely a political tactic to retain power and promote a positive image internationally. Jennie E. Burnet, *Gender Balance and the Meanings of Women in Governance in Post-Genocide Rwanda*, 107(428) AFR. AFF. 361 (2008); Filip Reyntjens, *Constructing the Truth, Dealing with Dissent, Domesticating the World: Governance in Post-Genocide Rwanda*, 110(438) AFR. AFF. 1 (2010); see also Alexandra Topping, *Rwanda's Women Make Strides Towards Equality 20 Years After the Genocide*, GUARDIAN (Apr. 7, 2014, 5:13 AM), <https://www.theguardian.com/global-development/2014/apr/07/rwanda-women-empowered-impoverished> (“Behind closed doors, fearful critics of President Paul Kagame's regime claim the apparent empowerment of women is little more than a PR exercise.”).

132. CONSTITUTION OF THE REPUBLIC OF RWANDA, June 4, 2003, with Amendments Through Dec. 12, 2015.

133. CONSTITUTION OF THE REPUBLIC OF RWANDA, June 4, 2003, Amendment No. 3 of 13/8/2008, pmbl. ¶ 10 (“We, the People of Rwanda, . . . COMMITTED to building a State governed by the rule of law, based on the respect for human rights, freedom and on the principle of equality of all Rwandans before the law as well as equality between men and women”).

of all public decision-making bodies.<sup>134</sup> Women have consistently exceeded these quota requirements.<sup>135</sup> For example, in 2013, sixty-four percent of Rwanda's Parliament was comprised of women—the highest percentage in the world.<sup>136</sup>

Women have seized opportunities to lead and represent themselves at both the national and local levels of government.<sup>137</sup> As a result, they have been *less* reticent to speak in public, assert their rights, and pursue traditionally male-dominated roles.<sup>138</sup> As an ethnographic study by Professor Jennie Burnet shows, gender quotas embedded into the Rwandan constitution have “increased respect from family and community members, enhanced capacity to speak and be heard in public forums, greater autonomy in decision making in the family, and increased access to education.”<sup>139</sup>

#### B. LEGAL AND ECONOMIC FACTORS EMPOWERING WOMEN

The foundation supporting women's empowerment was also established by Rwanda's Vision 2020 development program and its offspring, the National Gender Policy. President Kagame launched Vision 2020 in 2000. Its main objectives involved transforming the country into a knowledge-based, middle-income country, thereby unifying the Rwandan people, reducing poverty, and improving health outcomes.<sup>140</sup> The National

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134. CONSTITUTION OF THE REPUBLIC OF RWANDA, June 4, 2003, with Amendments Through Dec. 12, 2015, art. 10 (“The State of Rwanda commits itself to upholding the following fundamental principles and ensuring their respect: . . . 4. building a State governed by the rule of law, a pluralistic democratic Government, equality of all Rwandans and between men and women which is affirmed by women occupying at least thirty percent (30%) of positions in decision-making organs.”).

135. See Powley, *supra* note 124, at 9.

136. Press Center, U.N. Rwanda, Women Secure 64 Per Cent of Seats in Rwandan Parliamentary Elections (Oct. 6, 2013), <http://www.rw.one.un.org/press-center/news/women-secure-64-cent-seats-rwandan-parliamentary-elections>.

137. INCLUSIVE SECURITY, *supra* note 1; Burnet, *supra* note 117, at 303.

138. This is true even in rural communities. As stated by Burnet, “[t]he large number of women in local government, coupled with the clear endorsement of women as political authorities by President Kagame, the RPF, and the central government, sent a clear message to rural citizens that women must be accepted as legitimate political agents or local government authorities.” Burnet, *supra* note 117, at 318.

139. *Id.* at 303.

140. REPUBLIC OF RWANDA, MINISTRY OF FIN. & ECON. PLAN., RWANDA VISION 2020 (July 2000), <https://www.sida.se/globalassets/global/countries-and-regions/africa/rwanda/d402331a.pdf>; see Sam Rugege, *Women and Poverty in*

Gender Policy was first adopted in 2004 and revised in 2010.<sup>141</sup> Generally, it gives guidance to the government to help it “integrate” gender issues into policies and programs. Specific policies include economic empowerment, health, and access to basic needs such as water and sanitation.<sup>142</sup> Its mission is to “contribute to the elimination of gender inequalities in all sectors of national life, in order to achieve the nation’s goal for sustainable development.”<sup>143</sup>

At the center of the women’s political movement is the Forum of Women Parliamentarians, most commonly known by its French acronym FFRP. FFRP is a bipartisan coalition of female lawmakers.<sup>144</sup> Their work is focused on “review[ing] existing laws and introduc[ing] amendments to change discriminatory statutes.”<sup>145</sup> The FFRP also helps train women’s groups and and advise them on relevant legal issues.<sup>146</sup>

As a result of FFRP, the National Gender Policy, and women’s activism, many laws improving women’s access to economic opportunities and freedom from violence have been passed.<sup>147</sup> As of 2017, Rwanda was ranked fourth in the world

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*Rwanda The Respective Roles of Courts and Policy* 13 (Oxford Hum. Rts. Hub, Working Paper No. 1, Jan. 2015), <https://ohrh.law.ox.ac.uk/wordpress/wp-content/uploads/2015/07/OxHRH-Working-Paper-Number-1-Rugege1.pdf> (“Vision 2020 is a long-term development framework that highlights Rwanda’s development goals between 2000 to 2020. As Rwanda’s development road map, it promotes gender equality as a cross-cutting theme and a pillar of development. Under Section 5.1, Vision 2020 recognises [sic] that women have less access to opportunities than men and are poorly represented in decision making, despite women representing the majority of Rwanda’s population and contributing more than men to agricultural production.” (citations omitted)).

141. REPUBLIC OF RWANDA MINISTRY OF GENDER & FAMILY PROMOTION, NATIONAL GENDER POLICY (2010), <http://menengage.org/resources/rwanda-gender-policy/>.

142. *Id.* at 7.

143. *Id.* at 19.

144. Powley, *supra* note 124, at 5.

145. *Id.*

146. *Id.*

147. See LAW NO. 22/99 OF 12/11/1999 TO SUPPLEMENT BOOK I OF THE CIVIL CODE AND TO INSTITUTE PART FIVE REGARDING MATRIMONIAL REGIMES, LIBERALITIES AND SUCCESSIONS, OFFICIAL GAZETTE NO. 22 OF 15/11/1999, art. 87 (Rwanda) (establishing Rwandan women’s right to inherit); Charles Ntampaka, *Family Law in Rwanda*, in THE INTERNATIONAL SURVEY OF FAMILY LAW 1995, 415, 423 (Andrew Bainham ed., 1997) (discussing the establishment of Rwandan women’s right to own bank accounts and participate in lawsuits); Immigration & Refugee Board of Canada, *Rwanda: Domestic Violence, Including Legislation, State Protection, Services and Legal Recourse Available to Victims (2011-September 2013)*, REFWORLD (Oct. 18, 2013), <http://www.refworld.org/docid/527b55984.html> (discussing a Rwandan law increasing

for the size of its gender gap according to the World Economic Forum.<sup>148</sup> Its outstanding rank was due in large part to the high female labor force participation (sixty-seven percent) and political representation.<sup>149</sup>

Starting with one of the highest priorities, the fundamental need for safety has been partially addressed by increasing the punishments for rape and by making spousal abuse and other forms of gender-based violence illegal.<sup>150</sup> Multiple governmental agencies have also been formed to advance the interests of women and prevent sexual violence.<sup>151</sup> Thus, while women are still victims of sexual assault, particularly inside their intimate relationships, the rates of sexual violence have decreased in the country.<sup>152</sup>

Beyond safety, economic opportunities have been improved for Rwandan women through changes in law. Women

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punishments for rape and making gender-based violence illegal).

148. WORLD ECON. FORUM, THE GLOBAL GENDER GAP REPORT 2017, at 284 (2017), [http://www3.weforum.org/docs/WEF\\_GGGR\\_2017.pdf](http://www3.weforum.org/docs/WEF_GGGR_2017.pdf).

149. *Id.*

150. Immigration & Refugee Board of Canada, *supra* note 147.

151. These include “Ministry for Gender and Family Promotion (MIGEPROF), the National Gender cluster, the National Women’s Council, and the establishment of Gender Desks within the Ministry of Defense and the National Police.” USAID, GENDER ANALYSIS FOR USAID/RWANDA VALUING OPEN AND INCLUSIVE CIVIC ENGAGEMENT PROJECT JANUARY 2015 (2015), <https://www.usaid.gov/sites/default/files/documents/1860/GA%20-%20VOICE%20project%20-%20FINAL%20Jan%2021%202015%20-%20Public%20Version%20%281%29.pdf>.

152. Burnet, *supra* note 117, at 320; *see* NAT’L INST. OF STATISTICS OF RWANDA, RWANDA DEMOGRAPHIC AND HEALTH SURVEY 2014-15, at 275 (2016), <https://dhsprogram.com/pubs/pdf/FR316/FR316.pdf> (finding that seventy-eight percent of women had not experienced sexual violence). There is some contrary evidence however that after the genocide, “the scarcity of men along with the deterioration of the quality of potential husbands caused by the genocide increased intimate partner violence in households that formed after the genocide.” GIULIA LA MATTINA, WHEN ALL THE GOOD MEN ARE GONE: SEX RATIO AND DOMESTIC VIOLENCE IN POST-GENOCIDE RWANDA 4 (2012), <https://www.bu.edu/econ/files/2012/11/dp223.pdf>.

now have the right to inherit,<sup>153</sup> own land,<sup>154</sup> keep their property separate from their spouses,<sup>155</sup> own bank accounts,<sup>156</sup> and participate in lawsuits.<sup>157</sup> They also have protection from gender-based employment discrimination.<sup>158</sup> Furthermore, with increased property rights, women can use collateral to meet financing requirements, and finance is more accessible through various governmental programs.<sup>159</sup>

In combination with increased legal rights and protections, the women of Rwanda were further empowered through the

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153. LAW NO. 22/99 OF 12/11/1999 TO SUPPLEMENT BOOK I OF THE CIVIL CODE AND TO INSTITUTE PART FIVE REGARDING MATRIMONIAL REGIMES, LIBERALITIES AND SUCCESSIONS, OFFICIAL GAZETTE NO. 22 OF 15/11/1999 (Rwanda); *see* Doan, *supra* note 119, at 83–84 (“In 1999 the Law on Matrimonial Regimes, Liberalities, and Successions was approved. The Rwandan inheritance law, as it was more widely known, is considered to be one of the most important achievements in gender equality since the genocide. The law disallowed sex discrimination in land inheritance and division. The historical significance of this law was the establishment of girls and women as legal heirs to property.”).

154. ORGANIC LAW NO. 08/2005 OF 14/07/2005 DETERMINING THE USE AND MANAGEMENT OF LAND IN RWANDA, art. 4, *amended by* LAW NO. 43/2013 OF 16/06/2013 GOVERNING LAND IN RWANDA, OFFICIAL GAZETTE NO. SPECIAL OF 16/6/2013, ART. 4 (Rwanda); *see* JOZEFINA CUTURA, VOICES OF WOMEN ENTREPRENEURS IN RWANDA 5 (Oct. 2008), *follow link to full report from* <http://documents.worldbank.org/curated/en/779801468107961596/Voices-of-women-entrepreneurs-in-Rwanda> (“Research shows that Rwanda fares better than its neighboring East African states in the number of women that own land and property in their own names.”).

155. ORGANIC LAW NO. 43/2013, *supra* note 154.

156. Ntampaka, *supra* note 148, at 423.

157. *Id.*

158. LAW NO. 51/2001 OF 30/12/2001 ESTABLISHING THE LABOUR CODE, art. 12 (Rwanda); (“Every discrimination, exclusion or preference notably based on race or ethnicity, colour, sex, religion, political opinion, which would result in destroying or impairing chances’ equality as far as employment or profession is concerned or in not being considered in the same way by tribunals is prohibited.”).

159. E. AFRICAN CMTY. SECRETARIAT, GENDER AND COMMUNITY: DEVELOPMENT ANALYSIS IN RWANDA 14 (2009), [http://cleancookstoves.org/resources\\_files/gender-and-community.pdf](http://cleancookstoves.org/resources_files/gender-and-community.pdf) (“Mechanisms enabling women at the grassroots level to have access to credit and savings have been initiated. Examples include Communal credit funds for women at the grassroots level; the guarantee funds deposited in Central Bank of Rwanda to provide credit to medium-scale women entrepreneurs; the setting up of a bank for women with the support of the *Banques Populaires*; the putting in place of a Savings and Credit Cooperative Society due to women’s initiative.”); *see also* REPUBLIC OF RWANDA GENDER MONITORING OFFICE, GENDER AND ACCESS TO FINANCE (2017), [http://www.gmo.gov.rw/fileadmin/user\\_upload/profiles/Gender\\_and\\_Access\\_to\\_Finance\\_Booklet\\_GMO\\_March\\_2017.pdf](http://www.gmo.gov.rw/fileadmin/user_upload/profiles/Gender_and_Access_to_Finance_Booklet_GMO_March_2017.pdf) (detailing marked improvements between 2012 and 2017 for women’s access to finance).

economic realities post-genocide. Before the genocide, forty percent of the country's GDP was generated solely from agriculture.<sup>160</sup> Yet the genocide eviscerated much of the country's farming infrastructure, as well as its economy.<sup>161</sup> In 1994, the Rwandan GDP dropped fifty-eight percent.<sup>162</sup> Factoring in the death toll, two economists estimated that the Rwandan GDP per survivor decreased by fifty-three percent.<sup>163</sup> And, factoring in the number of surviving Rwandans who left the country after the genocide, the GDP per remaining Rwandans dropped an additional thirty-one percent.<sup>164</sup> Reestablishing a vibrant economy after the genocide was a critical yet daunting task, and one that fell upon survivors, particularly Rwandan women.

The economic challenges, the changing legal environment and other concerted efforts among governmental agencies and women-led civil society organizations have greatly increased the entrepreneurial activities of women.<sup>165</sup> Women now head almost fifty percent of enterprises nationwide and fifty-eight percent in the informal sector.<sup>166</sup> They also contribute to a large portion of the Rwandan GDP, which has been growing at a steady rate since the genocide, and the reduction of poverty, which was reduced by almost twenty percent from 2000 to 2013.<sup>167</sup>

Despite the positive changes to the legal environment, "the

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160. Luc Bonneux, *Rwanda: A Case of Demographic Entrapment*, 344 LANCET 1689 (1994). The Rwandan economy is still based primarily on agriculture production, including coffee and tea, and animal husbandry. Thomas Kelly, *Maintaining Power by Manipulating Memory in Rwanda*, 41 FORDHAM INT'L L. J. 79, 83 (2017).

161. Philip Gourevitch, *The Life After*, NEW YORKER (May 4, 2009), <https://www.newyorker.com/magazine/2009/05/04/the-life-after>.

162. Christian Almer & Roland Hodler, *The Economic Effects of Political Violence: Evidence from the Genocide in Rwanda* 3, 8 (Univ. of Bath Econ. Research Papers, No. 37/14, 2015), <http://www.bath.ac.uk/economics/research/working-papers/2015-papers/economic-effects-political-violence-rwanda.pdf>.

163. *Id.*

164. *Id.* See also Humerto Lopez & Quentin Wodon, *The Economic Impact of Armed Conflict in Rwanda* 14 J. AFR. ECONS. 586 (2005) (estimating that the Rwandan GDP per capita would be 25 to 30 percent higher in 2005 if the conflict had not occurred).

165. See CUTURA, *supra* note 154, at 5.

166. *Id.* at 9 ("The majority are engaged in the retail sector (eighty-two percent), with the rest focusing on services (sixteen to seventeen percent) and manufacturing (one to two percent) sectors.")

167. *Employment Rate, Higher For Women Than Men*, NAT'L INST. STAT. RWANDA (2012), <http://www.statistics.gov.rw/publication/employment-rate-higher-women-men-rwanda> (stating that women have a higher employment rate (85.2%) than men (83.2%)).

transformative potential of policies on gender equality [is still] limited by the deep-rooted social norms, gender roles, and cultural perceptions and practices within which gender inequalities are embedded.”<sup>168</sup> And many reports note that there is often a gap between the rights granted by the law and the implementation of those laws.<sup>169</sup> Much work still needs to be done among community service and governmental organizations to increase awareness of the new laws.<sup>170</sup>

Furthermore, upper and middle-income women are the chief beneficiaries of increased representation.<sup>171</sup> Rural women still remain at a distinct disadvantage. Women in Rwanda have less equal representation in management positions (roughly seventeen percent) and continue to earn less than their male counterparts.<sup>172</sup> However, it is indisputable that “with the disruption in gender relations, some women found the freedom to pursue careers or commercial activities.”<sup>173</sup>

#### IV. ALIGNING FOR PEACE

There is a great deal of evidence to suggest female representation supports sustainable peace.<sup>174</sup> Sustainable peace involves more than a lack of violence. It also encompasses notions of human rights, equality, and justice.<sup>175</sup> A study by Professors Mary Caprioli and Mark Boyer, for example, showed that for every five percent increase in women’s representation in parliament, a state is five times less likely to use violence to resolve conflict.<sup>176</sup> As one Rwandan woman stated:

I do what I do, knowing my rights. Someone given her rights knows that that country has peace. Without my

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168. USAID, *supra* note 151, at 6.

169. *Id.*

170. *Id.*

171. Burnet, *supra* note 117, at 305.

172. See CUTURA, *supra* note 155, at 6.

173. Burnet, *supra* note 117, at 312.

174. MARIE O'REILLY, WHY WOMEN? INCLUSIVE SECURITY AND PEACEFUL SOCIETIES 4 (Oct. 2015), <https://www.inclusivesecurity.org/wp-content/uploads/2017/06/Why-Women-Report-2017.pdf>.

175. CONNIE PECK, SUSTAINABLE PEACE: THE ROLE OF THE UN AND REGIONAL ORGANIZATIONS IN PREVENTING CONFLICT 3 (1998).

176. Mary Caprioli & Mark A. Boyer, *Gender, Violence, and International Crisis*, 45 J. CONFLICT RESOL. 503, 514 (2001).

rights, the country has no peace . . . .<sup>177</sup>

#### A. LESSONS FROM RWANDA: FACTORS UNDERPINNING PEACE

Without question, the factors contributing to lasting peace are complex, particularly in a country that has endured what Rwandan has. Female representation in government can facilitate sustainable peace,<sup>178</sup> and there also is a rich literature on how commerce can also support it.<sup>179</sup> Professors Tim Fort and Cynthia Schipani have isolated several of the elements of commerce that promote peace, including economic development, two-track diplomacy, supporting the rule of law, and encouraging community development.<sup>180</sup> In the subsections below, we tie these elements back to the impact of female entrepreneurs on peace in Rwanda.<sup>181</sup>

##### 1. Economic Development

Poverty is often at the heart of conflict.<sup>182</sup> Economic development, therefore, is essential for sustainable peace.<sup>183</sup> In Rwanda and around the world, female entrepreneurs<sup>184</sup> are

177. Paula C. Herring, *Business and Economic Empowerment: Stories from Women of Rwanda 75* (2016) (unpublished Ph.D. dissertation Fielding Graduate University) (on file with the author).

178. Caprioli & Boyer, *supra* note 176, at 514.

179. TIMOTHY L. FORT, *BUSINESS, INTEGRITY, AND PEACE: BEYOND GEOPOLITICAL AND DISCIPLINARY BOUNDARIES* (2007); Katharina Felgenhauer, *Peace Economics: Private Sector Business Involvement in Conflict Prevention*, 2 NEW SCH. ECON. REV. 38, 38 (2007).

180. TIMOTHY L. FORT & CYNTHIA A. SCHIPANI, *THE ROLE OF BUSINESS IN FOSTERING PEACEFUL SOCIETIES* 109 (2004) [hereinafter FORT & SCHIPANI, *THE ROLE OF BUSINESS*].

181. *Id.*

182. ANTHONY OBERSCHALL, *CONFLICT AND PEACE BUILDING IN DIVIDED SOCIETIES: RESPONSES TO ETHNIC VIOLENCE* (2007); Nat J. Colletta et al., *Security, Poverty Reduction & Sustainable Development: Challenges for the New Millennium* (World Bank: Social Dev. Dep't, Working Paper, Report No. 27093, 1999), <http://documents.worldbank.org/curated/en/684001468762371547/Security-Poverty-reduction-and-sustainable-development-challenges-for-the-new-millennium> (detailing the links between economic underdevelopment and violence).

183. Timothy L. Fort & Cindy A. Schipani, *The Role of the Corporation in Fostering Sustainable Peace*, 390 VAND. J. TRANSNAT'L L. 389, 409 (2002).

184. When we speak of "entrepreneurs" in this Article, we are referring to individuals who "create jobs and increase income among individuals as well as raising the standards of living among citizens." Sedina B. Misango & Orpha K. Ongiti, *Do Women Entrepreneurs Play a Role in Reducing Poverty? A Case in*

often at the forefront of helping reduce poverty.<sup>185</sup> They act as changemakers within their families, and they reinvest their earnings in their families' health, education, and nutrition at a rate much higher than men (ninety percent versus thirty to forty percent).<sup>186</sup> Women also "inspire others to become self-reliant and take up entrepreneurship."<sup>187</sup> And they contribute to the tax base, which in turn helps support the infrastructure essential for economic development.<sup>188</sup>

One feature of Rwandan business is the prevalence of cooperatives as a corporate governance structure. In Rwanda, women comprise fifty to sixty percent of cooperative members.<sup>189</sup> Because cooperatives are largely decentralized, they open the way for the inclusion of multiple perspectives and voices. "As of 2004, there were about 300 cooperatives in Rwanda, which receive support from government, including business ideas, premises, training, and advice on issues such as securing financing."<sup>190</sup> Cooperatives, by definition, are a form of business organization that represents true democratic ideals, and allow for broad participation and representation among members. In this way, the cooperative is a business form that embodies many of the same values as that of *gacaca*, and that may seem very familiar to the women of Rwanda. For example, cooperatives work on the theory of collective, or community, decision-making. Collective decision-making reflects the ideals of deliberative

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*Kenya*, 2 INT'L REV. MGMT. & BUS. RES. 87, 88 (2013; see also Elishiba Njambi Kimani & Donald Kisilu Kombo, *Gender and Poverty Reduction: A Kenyan Context*, 5 EDUC. RES. & REV. 24 (2010).

185. CUTURA, *supra* note 154, at 5; Misango & Ongiti, *supra* note 184; Mutambuka Deo et al., *The Contribution of Women Entrepreneurship in Family Socio-Economic Development in Rural Areas, Rwanda*, 7 INT'L J. INNOVATION, MGMT. & TECH. 256, 256 (2016) (finding that there is a "positive and strong relationship between women entrepreneurship and family socio-economic development.").

186. Jackie VanderBrug, *The Global Rise of Female Entrepreneurs*, HARV. BUS. REV. (Sept. 4, 2013), <https://hbr.org/2013/09/global-rise-of-female-entrepreneurs>.

187. Hina Shah & Punit Saurabh, *Women Entrepreneurs in Developing Nations: Growth and Replication Strategies and Their Impact on Poverty Alleviation*, 5 TECH. INNOVATION MGMT. REV. 34, 34 (2015).

188. FORT & SCHIPANI, THE ROLE OF BUSINESS, *supra* note 180, at 123. It should be mentioned, however, that high tax rates in Rwanda are often cited as a challenge to female entrepreneurs. See Simon Nsengimana et al., *The Sustainability of Businesses in Kigali, Rwanda: An Analysis of the Barriers Faced by Women Entrepreneurs*, 9 SUSTAINABILITY 1372 (2017).

189. CUTURA, *supra* note 154, at 10.

190. *Id.*

democracy, in particular the ideals of reason-giving and accessibility.<sup>191</sup> Effective reason-giving involves appealing “to principles that individuals who are trying to find fair terms of cooperation cannot reasonably reject.”<sup>192</sup> Deliberating key decisions in an organization should start from a place of mutual respect; to achieve this, participants must be given an opportunity to understand both the issues and contents of arguments.<sup>193</sup>

## 2. Two-Track Diplomacy

Business also opens the way for two-track diplomacy, which is the “unofficial interaction among non-state actors with the goal of creating an environment in which political leaders are freer to reach accord.”<sup>194</sup> With two-track diplomacy, women entrepreneurs can act as ambassadors for their country and communities, thereby improving reputation and connecting with the global and national economy. Women entrepreneurs are given the opportunity to represent Rwanda to the world as business leaders. This is very important to Rwanda in particular, given that the country is often referenced in relation to the horrific acts of 1994. Thus, it is critical that women entrepreneurs assist in the re-branding and rebirth of Rwanda post-genocide.

## 3. Supporting the Rule of Law

Commerce also supports the rule of law.<sup>195</sup> Businesses consistently use legal regimes to enforce contracts and protect property rights. This reliance, reinforces the legal system, which in turn helps resolve conflicts without resorting to self-help and violence.<sup>196</sup> In Rwanda in particular, the increased representation of women on Abunzi courts, which deal with sector-level disputes, helps promote the rule of law as women

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191. AMY GUTMANN & DENNIS F. THOMPSON, WHY DELIBERATIVE DEMOCRACY, 3–7 (2014).

192. *Id.*

193. Thomas Christiano, *The Significance of Public Deliberation* 253, in DELIBERATIVE DEMOCRACY (James Bohman & William Rehg eds., 1997).

194. FORT & SCHIPANI, THE ROLE OF BUSINESS, *supra* note 180, at 30.

195. *Id.* at 125–27.

196. *See generally* JANE JACOBS, SYSTEMS OF SURVIVAL: A DIALOGUE ON THE MORAL FOUNDATIONS OF COMMERCE AND POLITICS (1992).

become more confident that their rights will be protected through the legal system.<sup>197</sup> In addition, as referenced above, women play a critical role in *gacaca* and more formalized courts.

#### 4. Building Community

Lastly, commerce helps build community.<sup>198</sup> Commerce helps identify shared interests and promote the more equitable distribution of scarce resources.<sup>199</sup> As the International Peace Institute writes: “entrepreneurs, keen to protect their businesses from the instability brought on by violence, can be convincing peace brokers.”<sup>200</sup> A study by Professor Tobias and others also demonstrates how in the Rwandan coffee sector, entrepreneurial activities improve understanding among people from different backgrounds.<sup>201</sup> Work in the coffee sector provided “new opportunities for people to cooperate across group boundaries in pursuit of a common and purely economic goal

197. Pamela Abbott & Dixon Malunda, *The Promise and the Reality: Women's Rights in Rwanda* 33–34 (Oxford Hum. Rts. Hub, Working Paper No. 5, Jan. 2015), <http://ohrh.law.ox.ac.uk/wordpress/wp-content/uploads/2014/04/OxHRH-Working-Paper-Series-No-5-Abbott-and-Malunda.pdf>. However, the Abunzi are not without their criticisms. Some argue that they are not properly equipped to handle the complexities of the legal system.

198. FORT & SCHIPANI, *THE ROLE OF BUSINESS*, *supra* note 180, at 127–29.

199. INT'L PEACE INST., *ENTREPRENEURSHIP FOR SUSTAINING PEACE* 1 (2017), [https://www.ipinst.org/wp-content/uploads/2017/06/1706\\_Entrepreneurship-for-Sustaining-Peace4print.pdf](https://www.ipinst.org/wp-content/uploads/2017/06/1706_Entrepreneurship-for-Sustaining-Peace4print.pdf); Phil Vernon, *Bread and Peace: Linking Economic Development with Peacebuilding*, 5 GREAT INSIGHTS (Feb. 2016), at 4, <https://ecdpm.org/wp-content/uploads/Great-Insights-Prosperity-Peace-Vol5-Issue1-February-2016-ECDPM.pdf>; Peace involves more than lack of violence. True peace is sustainable and encompasses notions of human rights, equality, and justice. *See generally* PECK, *supra* note 175.

200. INT'L PEACE INST., *supra* note 199, at 2; *see also* G.A. Res. 70/1, pmbll., ¶ 9 (Sept. 25, 2015) (stating that the U.N. 2030 Agenda for Sustainable Development is also designed to “strengthen universal peace” and one of its key goals is to “promote sustained, inclusive and sustainable economic growth, full, and productive employment and decent work for all.”).

201. Jutta M. Tobias et al., *Toward a Theory of Transformative Entrepreneurship: Poverty Reduction and Conflict Resolution in Rwanda's Entrepreneurial Coffee Sector*, 28 J. BUS. VENTURING 728 (2013). Another example would be the Cows for Peace program initiated in the Byumba province. This program supported community-led dairy operations. As reported by Mutamba and Izabiliza, “[c]ows are now used as instruments to promote peace and reconciliation among communities that were affected by the genocide. . . . Since every community member is a potential beneficiary direct or indirect, every body feels responsible for the security of the cow. Neighbours meet in the evening to talk and keep company in the home where the cow is kept (*Gutaramira inka*).” MUTAMBA & IZABILIZA, *supra* note 106, at 38.

that [was] not linked in any significant way to Rwanda's conflict-laden past."<sup>202</sup> Furthermore, as trust among members of a community rises, wages increase.<sup>203</sup> And this is a virtuous cycle because social trust further contributes to economic development.<sup>204</sup>

#### B. CHALLENGES THAT LIE AHEAD FOR RWANDA

While this Article has lauded the progress of Rwanda, and particularly Rwandan women, post-genocide, it would be remiss if it failed to point out that Rwanda still has much to overcome. In particular, part of the reason Rwanda has seemingly made such great strides is because there has been little room for dissent among the citizenry and media.<sup>205</sup> While some saw this as a necessary measure immediately following the genocide,<sup>206</sup> Kagame's regime has continued to stifle oppositional voices within Rwanda.<sup>207</sup> Kagame has been in power as President for fifteen years and was Vice President prior to becoming President in 2003. Under the constitution, Kagame should have only served two seven-year terms, which would have ended in 2017.<sup>208</sup> However, his party passed a constitutional amendment, with ninety-eight percent approval from voters, to allow Kagame to stay in office until 2034, should he so chose.<sup>209</sup> In other words,

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202. Tobias et al., *supra* note 201, at 28 (stating that these conditions satisfied Gordon Allport's theory of intragroup contact, which enables people to reduce pre-conceived judgments and lower negative perceptions of out-groups) (citing GORDON W. ALLPORT, *THE NATURE OF PREJUDICE* (1954)).

203. *Id.*

204. *Id.*; see also Christian Bjørnskov, *How Does Social Trust Affect Economic Growth?*, 78 S. ECON. J. 1346 (2012).

205. See, e.g., *Rwanda's Paul Kagame—Visionary or Tyrant?*, BBC News (Aug. 3, 2017), <https://www.bbc.com/news/10479882>; Jeffrey Gettleman, *The Global Elite's Favorite Strongman*, N.Y. TIMES (Sept. 4, 2013), <https://www.nytimes.com/2013/09/08/magazine/paul-kagame-rwanda.html>.

206. Anjum Sundaram, *Rwanda: The Darling Tyrant*, POLITICO (Mar.-Apr. 2014), <https://www.politico.com/magazine/story/2014/02/rwanda-paul-kagame-americas-darling-tyrant-103963>.

207. Kara Fox & Edward Kiernan, *She Wanted To Be President, But Ended Up Jailed Instead*, CNN (Aug. 28, 2018), <https://www.cnn.com/2018/08/28/africa/hfr-rwanda-diane-rwigara-asequals-intl/index.html> (detailing the fate of Diane Rwigara, who was a presidential hopeful and women's rights activist before she was imprisoned for allegedly forging the requisite signatures needed to qualify to run for office).

208. *Paul Kagame, Feted and Feared*, ECONOMIST (Jul. 15, 2017), <https://www.economist.com/briefing/2017/07/15/paul-kagame-feted-and-feared>.

209. *Id.*

Rwanda technically has not seen a peaceful transition of power since the genocide.

This failure to ensure a robust democratic transfer of power, combined with lingering poverty, shows that Rwanda still faces many obstacles in the future. Hopefully the country can rely upon its values embodied in *gacaca* and its entrepreneurial spirit, described above, to face these future challenges.

## CONCLUSION

Although the genocide occurred twenty-five years ago, Rwanda's journey towards reunification and prosperity provides many lessons for transitional justice and economic development today. In particular, it demonstrates the profound impact that women can have on a country and its economy, when they are given the freedom to speak and participate in government and business on equal footing as men.

Ambassador Swanee Hunt made the following observation that succinctly summarizes the Rwandan national sentiment after the genocide:

“When society requires to be rebuilt, there is no use in attempting to rebuild it on the old plan,” John Stuart Mill once wrote. After its time of horror, Rwandan society did indeed require to be rebuilt, and the country's new leaders seized the opportunity to scrap the old plan and follow a new one. Over the succeeding generation, they have not only begun to weave together the rent national fabric but also designed a new pattern for it, one in which women can fill the highest roles in all spheres of life.<sup>210</sup>

Indeed, without the “significant involvement of women,” Rwanda “would not have been able to overcome the horrors of its past.”<sup>211</sup> However, women in Rwanda still have a long way to go. They are still the primary caretakers of the country's children, disabled, and the imprisoned. They also continue to work longer and harder than men due to the disproportionate burdens in the household the two genders share.<sup>212</sup> Yet the values instilled in

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210. Hunt, *supra* note 111, at 156.

211. Jodi Enda, *Women Take Lead in Reconstruction of Rwanda*, GLOBAL POLY F. (Nov. 16, 2003), <http://www.globalpolicy.org/soecon/inequal/gender/2003/1116womenrwanda.htm>.

212. CUTURA, *supra* note 154 (“Men, on average, do 12.8 hours of productive work and 11.6 hours of household work (also known as ‘reproductive work’), for a total of 24.5 hours a week. Women, by contrast, do an average of 14.9 hours of

Rwandans as a whole, and women in particular, make clear that the elements for a lasting peace are there. The values of *gacaca*, of cooperative businesses and democratic ideals set the stage for a robust community and society. The women of Rwanda provide an imperfect yet informative model for the rest of the world to practice entrepreneurship as a way of achieving justice, economic stability, and peace.

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productive work and 29.6 hours of reproductive work per week, for a total of 44.4 hours a week. The 'double workday' of women reflects a continued imbalance in the burdens of unpaid care work carried out by women, coupled with the fact that women predominate in the agricultural and informal sectors.”).