CHAPTER 5

Rwanda Case Study

The year 2014, 20 years after the Rwandan genocide against the Tutsi, marked a milestone for genocide survivors in Rwanda in which despite years of social, economic, and political marginalization increased efforts to secure their human rights were taking shape. These coalesced around a grassroots effort to envision, advocate for, and strive to implement a program of reparative justice in accordance with international human rights law. The effort began in a formal way in 2011 and has continued to expand since then but had been discussed in some form or another since shortly after the 1994 genocide against the Tutsi.

The ‘Task Force to Remember Survivors 20’ was launched in early 2014 to advance commemoration of the Rwandan genocide against the Tutsi and coordinate the campaign for reparative justice and communicate

1 SURF ‘Right to Reparation for Survivors’ Discussion Paper, “Recommendations for Reparation for Survivors of the 1994 Genocide Against Tutsi”. October 2012. http://survivors-fund.org.uk/wp-content/uploads/2012/11/Right-to-reparation-Final.pdf

“Interviews were carried out with survivors, Rwandan government officials, and representatives of national and international human rights organizations between 2008 and 2012” on the issue of reparations. Workshops and seminars were held as well including a conference on August 17, 2011, in Kigali and two workshops on March 20 and 21, also in Kigali. P. 4.

2 For a discussion of early efforts to advance reparative justice in Rwanda from 1995 to 2003, see Heidy Rombouts, Victim Organisations and the Politics of Reparations: A Case-Study on Rwanda Intersentia (2004).
the needs of genocide survivors. Its membership consisted of the following organizations which reflect the organized survivor community in Rwanda:

- **AVEGA**—Association of Widowed Survivors of the Rwandan Genocide. AVEGA is comprised of approximately 20,000 widows and 70,000 of their dependents, mainly orphans.
- **IBUKA**—Umbrella organization coordinating the activities of survivor advocacy and service organizations.
- **AERG**—National Student Association of Genocide Survivors.
- **GAERG**—National Graduate Student Association of Genocide Survivors.
- **Kanyarwanda**—Rwandan human rights organization; it manages the Centre for Rehabilitation of Victims of Torture and Repression, which provides services to genocide survivors, among others.
- **Barakabaho Foundation**—provides homes for orphaned survivors of the genocide.
- **SURF**—Survivor’s Fund—the main international organization advocating for the human rights of genocide survivors and providing a range of social programs to meet their needs. SURF works closely with the aforementioned grassroots, community-based survivor advocacy/service provision NGOs. It is a major funder of their projects and a conduit for development aid from diverse development agencies, such as Britain’s Department for International Development, among others.

According to SURF the Task Force collectively represents over 300,000 survivors.4

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3 For commentary on the distinctive needs of women regarding reparative justice see Ruth Rubio-Marin and Pablo de Greiff, “Women and Reparations” *International Journal of Transitional Justice*, (2007). See also Ruth Rubio-Marin, *The Gender of Reparations: Unsettling Sexual Hierarchies while Redressing Human Rights Violations* (Cambridge University Press 2011).

4 See also Samuel Totten, ‘The Plight and Fate of Females During and Following the Rwandan Genocide,’ in *Plight and Fate of Women During and Following Genocide*, ed. Samuel Totten (Transaction Publishers 2012).

David Russell, ‘Twenty Years On’ (2014).

[http://survivors-fund.org.uk/news/twenty-years-on/](http://survivors-fund.org.uk/news/twenty-years-on/)
In describing the Task Force, Jean Pierre Dusingizemungu, President of IBUKA, has said, “We are coming together as survivors’ organizations to raise awareness of the incredible challenges that remain for survivors today. Two decades after the genocide, for tens of thousands of genocide survivors in Rwanda, its consequences still very much endure.” The Task Force has outlined the needs of survivors including addressing “extreme poverty, terminal illness, disability, homelessness, unemployment and trauma. For survivors that have no family, and are now elderly, and without reparation, these effects are compounded.” One of the key aims of the Task Force is the creation of a trust fund that will contribute to the realization of a program of reparative justice—either through financial compensation, provision of social support services, or a combination of the two.

A preliminary dialogue among various stakeholders under the auspices and direction of the International Organization of Migration (IOM), survivor organizations, the Rwandan government, and international governments and aid agencies resulted in a rough draft of a research paper synthesizing the results of an initial study envisioning a reparative justice program for Rwandan genocide survivors. It examines why a program of reparative justice for Rwandan genocide survivors is needed, what it could consist of, modes of implementation, and potential beneficiaries. The coalition of survivor organizations, with SURF as the coordinating agency, has released a response to this report. This process was initiated by a formal request from the UN International Criminal Tribunal for Rwanda in 2013 to study how a program of reparative justice for genocide survivors in Rwanda could be developed and implemented.

5 http://survivors-fund.org.uk/wp-content/uploads/2011/08/SURF-Annual-Report-2013-14.pdf
24.
6 Ibid.
7 The IOM has undertaken similar studies in Colombia, the former Yugoslavia, and Sierra Leone and has particular expertise in this area. The report I refer to was tentatively titled, ‘Rwanda Reparations Assessment Study Realizing the Right to Reparations of the 1994 Genocide Against the Tutsi – Draft 01 for Circulation and Review.’ Peter Van der Auweraert, October, 2014. The report is available through SURF Survivor’s Fund.
8 Albert Gaseke in ‘Pan-African Reparation Perspectives’ Special Bulletin on Reparation for Victims of International Crimes in Africa (2014).
Sam Munderere, ‘Momentum’ (2014).
http://survivors-fund.org.uk/news/who-we-are/momentum/
Frustration has mounted among survivors for years that their right to reparative justice was being downplayed, sidelined, and ignored by a wide range of actors: the Rwandan government, global governments, the United Nations, bilateral and multilateral aid agencies, and development NGOs.

For the past twenty years survivors and survivor organizations have continuously called on the government of Rwanda as well as the international community to provide adequate reparation to survivors. However, their calls remained mostly unheard, instead, emphasis was placed on the prosecution of the perpetrators before traditional ‘gacaca’ (community) courts and the ICTR. Indeed, survivors have essentially been asking the Rwandan government to ensure that its policies better reflect Rwanda’s very own Constitution, which states, “The State shall, within the limits of its capacity, take special measures for the welfare of survivors of genocide who were rendered destitute by the genocide committed in Rwanda from October 1st, 1990 to December 31st, 1994.” Clearly either the Rwandan government considers to define ‘the limits of its capacity’ differently from the understanding of survivors who expect that it can do more, and do better, or the executive and legislative branches of the Rwandan government are in contempt of Rwanda’s Constitution, and need to be held to account by Rwanda’s judiciary.

But it is not only Rwanda’s Constitution upon which survivors base their case for reparative justice. A Compensation Law for genocide survivors was actually approved by Rwanda’s Council of Ministers and would have aided survivors considerably had it been implemented. But it was withdrawn by the Ministry of Justice in 2002 before it reached Parliament for debate. Thus a definition of who merits compensation and to what extent has never been legally defined in Rwanda, and, consequently, never implemented. As Jean-Paul Mugiraneza writes,

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9 Ibid.
10 Constitution of Rwanda.
http://www.ilo.org/wcmsp5/groups/public/%2D%2D-ed_protect/%2D%2D-protrav/%2D%2D-ilo_aids/documents/legaldocument/wcms_127576.pdf
Article 14, P 4.
11 David Russell, ‘Fund for Survivors’ (2013).
http://survivors-fund.org.uk/news/survivors-rights/fund-for-survivors
In theory, the Rwandan legal framework explicitly provides for genocide survivors to receive compensation. 50% of judgments made by the specialized chambers for prosecuting genocide suspects have awarded financial compensation to victims. However, although enforced on a criminal level they have yet to be enforced with regard to financial compensation. In some cases the Rwandan government itself has been mandated to pay indemnities to victims. But the Minister of Justice ordered the suspension of ‘all cases in which the Rwandan government is called upon to intervene.’ In 2001, a bill calling for the creation of a compensation fund was formulated, but it never materialized. We could interpret this in two ways: either as a demonstration of the practical difficulties of reparations, or as a political decision not to take that route.12

The reality is that it was and remains a political decision and it is at odds with the international human rights of Rwandan genocide survivors and the international legal obligations of the Rwandan state. The Rwandan government has not respected and enforced the rulings of traditional Rwandan courts and gacaca community-based courts ordering genocide perpetrators and in some cases the government itself to provide compensation and reparation to surviving victims.

Given the Rwandan government’s well-documented development achievements in the areas of healthcare provision, its major advances in reducing poverty and improving food security and agricultural productivity, its increase in school provision for Rwandan children and youth, and its expansion of electricity and other essential infrastructure across the country including improved housing, it is highly unlikely that the government lacks the human and administrative resources to implement a program of reparative justice.13 Just in the area of health alone the Rwandan

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12 Jean Paul Mugiraneza, ‘Rwanda Genocide: Why Compensation Would Help the Healing’ The Guardian March 4, 2014.

https://www.theguardian.com/global-development-professionals-network/2014/mar/04/rwanda-genocide-victims-compensation

13 On Rwanda’s healthcare provision system and its massive expansion, see Neil Emery, ‘Rwanda’s Historic Health Recovery: What the US Might Learn,’ The Atlantic Monthly, February 20, 2013.

On Rwanda’s eyecare provision see,
Verity Bowman, ‘Rwanda Becomes First Poor Country to Provide Eye Care for All’ The Guardian, January 31, 2018.

https://www.theguardian.com/global-development/2018/jan/31/rwanda-becomes-first-poor-country-to-provide-eye-care-for-all
government, in partnership with international organizations and aid agencies, has achieved stunning reductions in infant and maternal mortality

On Rwanda’s dramatic healthcare improvements including doubling of life expectancy since 1995, lowering of premature mortality rates, and improvements in a range of health indicators see,

Partners in Health Rwanda, https://www.pih.org/country/rwanda

On Rwanda’s dramatic improvements in human development see, “Rwanda is the world’s most improved country in the UNDP Human Development Index.”

http://infinitepotentials.org/wp-content/uploads/IPC-Datashots-2015-Week-10-Rwanda-is-the-world%E2%80%99s-most-improved-country-in-the-UNDP-Human-Development-Index.pdf

Rwanda United Nations Development Assistance Plan UNDAP—2013–2018. http://countryoffice.unfpa.org/rwanda/drive/RWANDA-UNDAP.PDF

Millennium Development Goals: Rwanda Final Progress Report: 2013. March 31, 2015. http://www.rw.undp.org/content/rwanda/en/home/presscenter/articles/2015/03/31/millennium-development-goals-rwanda-final-progress-report-2013.html

Regarding poverty in Rwanda, according to the US Agency for International Development, USAID, “between 2006 and 2011—just 5 years—poverty dropped markedly from 56.7% (2006) to 44.9% (2011) of the population, child mortality was reduced by 50%, and free public education was expanded to all students at both the primary and secondary levels.”

http://www.usaid.gov/history-usaidrwanda

On the subject of Rwanda’s efforts to improve food security see:

Feike Sibjesma, ‘Wiping Out Hunger in Africa Could Cost 5 Billion Dollars What Are We Waiting For?’ The Guardian, July 15, 2019.

https://www.theguardian.com/global-development/2019/jul/15/wiping-out-hunger-africa-could-cost-5bn-what-are-we-waiting-for

On Rwanda’s conservation and environmental achievements see,

Lawrence Caramel, ‘Rwanda Makes Saving Its Forests a National Priority’ The Guardian February 22, 2011.

https://www.theguardian.com/world/2011/feb/22/rwanda-forests-national-priority

Emile Clavel, ‘Think You Can’t Live Without Plastic Bags? Consider This: Rwanda Did It’ The Guardian February 15, 2014.

https://www.theguardian.com/commentisfree/2014/feb/15/rwanda-banned-plastic-bags-so-can-we

AFP via the Guardian, ‘Black Rhinos Return to Rwanda Ten Years After Disappearance’ The Guardian, May 3, 2017.

https://www.theguardian.com/world/2017/may/03/black-rhinos-return-to-rwanda-10-years-after-disappearance

For more on the Rwandan government’s lack of adequate fulfillment of survivor rights to reparative justice see, as noted earlier, Lars Waldorf, ‘Reparations for Victims of Genocide, War Crimes, and Crimes Against Humanity,’ ed. Carla Ferstman, Marian Goetz, and Alan Stephens (Leiden: Brill, 2009). 518–523.
and morbidity, a doubling of life expectancy since 1995, and major reductions in transmission of malaria.\textsuperscript{14}

While the Rwandan government has not acted in a sufficiently proactive and supportive way to address the unique needs and vulnerabilities of genocide survivors during the coronavirus crisis, its overall public health response in Rwanda has been of an exceptionally high quality. Although as of July 2020 it had received little attention in the media and development sector, Rwanda’s response to the COVID-19 coronavirus is a model of excellence in public health, outstanding both in a comparative African context and globally. The Rwandan government has been very effective in reducing transmission of the disease and keeping its fatality rate extremely low. Its record in this regard is better than the United States and Canada, the UK, Australia, and most member states of the European Union, including Spain, Italy, the Netherlands, Sweden, France, and its former colonizers, Germany and Belgium. Given Rwanda’s extremely limited financial resources and nascent health sector this is an extraordinary achievement. For this reason, while the European Union is accepting visitors from Rwanda in July of 2020 it will not accept travelers from the United States, where the American government’s response has been a catastrophic failure in utter contrast to that of the Rwandan government’s public health and public health communication competence, professionalism, coordination, execution, and scientific and medical integrity. As of July 3, 2020 Rwanda has recorded three deaths from the coronavirus; the United States has recorded over 129,000 deaths.\textsuperscript{15} When there is a will in Rwanda, there is a way.

Indeed the Rwandan state has a highly organized and efficient bureaucracy and service provision infrastructure. By 2015, Rwanda had created and implemented a system of basic universal health insurance available to all citizens, Mutelle de Sante. Rwanda achieved this, although a far wealthier country, the United States, still has not.

\textsuperscript{14} Agnes Binagwaho et al., ‘Rwanda 20 Years On: Investing in Life’ The Lancet July 26, 2014.
\textsuperscript{15} Johns Hopkins Coronavirus Resource Center, https://www.coronavirus.jhu.edu/map/htm and Matina Stevis-Gridneff, ‘E.U. Formalizes Reopening, Barring Travelers from US,’ The New York Times, June 30, 2020.
This is a key example of the Rwandan government’s strong capacity for delivering social services. Its achievements in nature conservation at Akagera National Park and Rwanda’s other national parks and nature reserves and in expansion of educational opportunity to primary and secondary school age children are similarly dramatic and exemplary—particularly given the enormous deficit in human and financial resources and infrastructure resulting from the genocide.\(^\text{16}\)

Survivors have also been frustrated for many years with the way in which their rights and needs have been marginalized by many development and humanitarian aid NGOs as well as UN agencies in Rwanda. There have been important and commendable exceptions among some NGOs, such as Send-A-Cow, Catholic Relief Services, and CAFOD (the Catholic Agency for Overseas Development), which historically deliberately included genocide survivors in their projects and have shown awareness of and sensitivity to their needs. But they are outliers and very exceptional; in no way do they reflect the policies and practices of most development NGOs working in Rwanda and in some respects they could still do more for survivors to better reflect the ongoing needs of survivors and their unfulfilled human rights. CAFOD is the only major development agency that has worked in Rwanda whose programs explicitly have historically given priority to genocide survivors, and it should be commended for this exceptional commitment. (It no longer works in Rwanda.)

CARE supported projects with genocide survivors, such as the Nkunabana Initiative for Psychosocial Support for orphans and the Community Support and Mentoring for Orphans and Vulnerable Children (COSMO) program in the past as did Christian Aid, which funded Ibuka, an umbrella organization of Rwandan NGOs that focus on the needs of genocide survivors. But these programming commitments stopped over a decade ago, and they were never major and sustained programming commitments.\(^\text{17}\)

They have not formed part of a dependable, substantial, coordinated program of explicit support for genocide survivors in recognition of their right to reparative justice.

In its 2014 ‘Oxfam in Rwanda’ paper Oxfam states that its aim is “to empower the poorest and most vulnerable by enabling them to be part of the decisions which affect their lives, for sustainable growth and

\(^{16}\) Ibid., supra note 11 in this chapter.

\(^{17}\) See Schimmel, Development in Practice supra note 21 in Chap. 1.
development.”

It explains that Oxfam networks with civil society, the private sector, and the government to advance knowledge and skills and support these development goals. However, beyond this boiler-plate development rhetoric which typifies development NGOs in Rwanda, there is no evidence in its development programming that Oxfam is explicitly advancing IHRL on reparative justice for genocide survivors. Doing so would entail ensuring that the UN General Assembly Resolutions and the UN Basic Principles on Remedy and Reparations inform Oxfam’s programming in Rwanda. Genocide survivors and their grassroots community-based organizations should have a role in impacting the content and delivery of Oxfam NGO programming in Rwanda and Oxfam needs to provide them with opportunities to communicate their needs and participate in program development and implementation.

CARE has a program in Rwanda dedicated to ‘Governance, Advocacy and Civil Society Strengthening.’ Though it purportedly addresses the most disadvantaged Rwandans, it does not directly address the right to reparative justice of genocide survivors. The program illustrates, however, how NGOs in Rwanda can channel their programming more effectively to advance reparative justice. It shows how NGOs have power and influence how development and transitional justice programs are created and whose human rights they respect and fulfill. “CARE Rwanda’s Governance, Civil Society and Advocacy strategy strives to facilitate broad participation in policy development and ensure that government policies and practices are pro-poor.” But being pro-poor necessitates advancing the rights and welfare of genocide survivors, and recognizing and responding to their distinctive needs, experiences, and vulnerabilities.

Like Oxfam and CARE, World Vision—which we discussed earlier acts as an agent of the Rwandan government in various policy areas, including

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18 Oxfam in Rwanda, May 2014. http://www.oxfam.org.uk/~/media/Files/OGB/What%20we%20do/Countries%20we%20work%20in/New%20brand%20PDFs/rwandaNEW.ashx
19 Ibid.
20 Ibid.
21 The same would apply to other NGOs working in Rwanda.
22 CARE Rwanda Country Snapshot Sheet. http://www.care.org/sites/default/files/documents/rwanda-fact-sheet-2011.pdf
See also Paul Gready, Fighting for Human Rights, (Routledge 2004) for an explanation for how NGOs are increasingly subcontracting the responsibilities, policies, and programs of government. 116
water provision—also neglects genocide survivors in its Rwandan programs and does not address their right to reparative justice. It does however ask readers of its website to pray for them and notes uncritically and with no acknowledgment of survivor perspectives on ‘peace and reconciliation’ programs—which are often critical—its extensive investment in advancing ‘peace and reconciliation.’

World Vision conceptualizes ‘peace and reconciliation’ largely as emotional and interpersonal concepts, unrelated to structural and systemic injustices which genocide survivors face and which reflect their lack of access to reparative justice. Other large international NGOs, such as Save the Children, reflect the same lack of respect for and concern with reparative justice for genocide survivors. Notably, Save the Children’s ‘Theory of Change’\textsuperscript{23} neglects any mention of the impact of the genocide on Save the Children’s programs in Rwanda, and the rights and needs of genocide survivors, their families, and children.

Development NGOs need to both correct their current post-genocide human rights failures vis-à-vis genocide survivors and advance their social and moral responsibilities as NGOs and take an intentional and proactive approach to assessing their own roles in the marginalization and discrimination Tutsis in Rwanda faced in the decades in which development NGOs were functioning in Rwanda prior to the 1994 genocide against the Tutsi in which many of their programs reflected the racism of the Hutu suprema-
cist regime ruling the country. Once they have honestly and objectively assessed this—and ideally with the incorporation of independent scholars—they need to make their own efforts at repair for the human rights damage caused to Tutsis by their immoral and possibly illegal collaboration with a racist regime, as discussed earlier and as is comprehensively illustrated and analyzed in Peter Uvin’s book, \textit{Aiding Violence: The Development Enterprise in Rwanda}.\textsuperscript{24}

\textsuperscript{23} ‘Theory of Change in Rwanda’ (Save the Children), https://rwanda.savethechildren.net/what-we-do/theory-change-rwanda, accessed 15 March 2019; also their files on their programming in Rwanda at the same web address; Save the Children, ‘Rwanda Country Office Annual Report 2017’ (Save the Children, Kigali), https://rwanda.savethechildren.net/sites/rwanda.savethechildren.net/files/library/Rwanda%20CO%20Annual%20Report2017_.pdf, accessed 22 March 2019; Save the Children, ‘Rising to the Challenge: Save the Children Annual Report 2016’ (Save the Children International, London) https://www.savethechildren.net/sites/default/files/libraries/Save%20the%20Children%20Annual%20Report%202016.pdf, accessed 22 March 2019.

\textsuperscript{24} Uvin ibid., supra note 11 in Chap. 1.
Uvin notes that it was only two years before the genocide that development NGOs in Rwanda bothered to address anti-Tutsi racism in the country, which they had been complicit with for years up until that point because in order to gain unfettered permission to work in the country they chose to acquiesce to and abide by the racist rule of the Hutu supremacist regime rather than to challenge it. Uvin characterizes these last ditch efforts just prior to the genocide as fundamentally desultory, insufficient, and indicative of the depth of the development sector’s disregard for the terrible price the Tutsi population was paying and would pay for the Faustian pact development NGOs made with the Rwandan government for the freedom to operate in the country and pursue a prejudicial and discriminatory national development plan which systematically excluded vast sections of Rwanda’s Tutsi population.

It was only at the very end, in 1992–1993, that part of the aid system tentatively enlarged its mandate to include political factors, human rights, racism, and democracy on its agenda. … In 1993, a few Belgian NGOs, with funding from the Belgian bilateral agency, created human rights programs, while the Belgian NGO community co-financed the major human rights NGO study of 1993. Oxfam funded a set of reconciliation workshops with church organs. … The US and Swiss bilateral aid agencies set aside money for democracy and human rights. This was too little too late, though, and had little or no impact on the forces of violence and radicalism.25

Today, tragically, as in the early 1990s, the development aid sector in Rwanda continues to discriminate against, neglect, and marginalize Tutsis—but this time, it is a specific subset of the Tutsi population against which they practice this marginalization, the genocide survivors.

This attempt to promote peaceful coexistence in Rwanda in the early 1990s was a fig leaf for the discriminatory role the development sector played as accomplices to the racist anti-Tutsi ideology of the Hutu regime. As Uvin writes, incorporating the findings of other scholars as well,

From the 1970s onwards, in line with the great capacity of the Habyarimana regime to play the development game, the policy increasingly became to allow NGOs, all of them funded from abroad, to take up part of the slack, within tight political constraints, while taking much of the credit through a discourse of self-help. Hence, NGOs were allowed to flourish, provided

25 Uvin ibid., supra note 11 in Chap. 1, 176.
they were willing to ‘… program and coordinate … development actions within the framework of the national development priorities’ (Goodring 1985, 13) and abstain from politics. All of this forced most NGOs into defining themselves along the restrictive lines of the development ideology to which the government, the donors, and in all likelihood, most of their personnel adhered.  

This was quantifiable and readily acknowledged. “In a survey of ninety-one NGOs in the late 1980s, 73 percent said they had close relationships with government ministries, 71 percent with communal authorities, 56 percent with prefectoral authorities.” The government and the international NGO sector were inextricably bound. Consequently, international NGOs in Rwanda—many of whom had been operating in Rwanda for decades prior to the genocide—have a huge moral debt of remorse, apology and repentance, and repair toward Rwanda’s genocide survivors. Uvin summarizes this NGO complicity with Rwandan government human rights violations in the years leading up to 1994 in a restrained but morally damning conclusion which implicates some of the international development NGOs discussed in this book such as Oxfam and CARE. (Save the Children and World Vision did not work in Rwanda prior to 1994.)

With a few courageous exceptions in the 1990s, foreign NGOs largely took the same position as the official aid system. … Like elsewhere, international NGOs adhered to the common view that ‘development and human rights work constitute two distinct areas, where development is devoted to the promotion of economic growth and the satisfaction of basic needs, while human rights work exposes abuses of power.’ (Tomasevski, 1989, 113–114)

Oxfam itself, just two years after the genocide, acknowledged the role of discriminatory national development policies as a major form of structural violence contributing to the physical violence of massacres prior to the genocide and to the genocide itself. “Poverty, the politics of exclusion, the denial of basic rights and economic exclusion are all facets of a problem that has frequently erupted into bloody conflict, culminating most recently in Rwanda’s genocide and Burundi’s continuing crisis.” But Oxfam did

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26 Uvin ibid., supra note 11 in Chap. 1, 176.
27 Ibid., 177.
28 Ibid., 178.
29 Ibid., 4. Uvin quoting an Oxfam report from 1996.
not acknowledge its own role in contributing to this very structural violence which was a significant precipitating factor in enabling the genocide against the Tutsi.

Beyond the responsibilities of development NGOs to empower survivors and to respect, protect, and fulfill the human rights of genocide survivors, what is the current Rwandan government doing to respect, protect, and fulfill their human rights and what has it done historically? FARG, the Government of Rwanda Assistance Fund for Survivors, is the government agency created in 1998 in Rwanda mandated with survivor support in the areas of education, health services, housing, and other essential needs. Every year since its creation, the Rwandan government provides 5% of its budget for the FARG.30 These programs are provided as social services provision, not as a form of reparative justice reflecting international human rights law. Furthermore, as we will soon see, they are incomplete and inadequate in both scale and scope.

Unfortunately, the 5% figure was and remains arbitrary. It was insufficient from the beginning and remains so. Survivors were not and are not prioritized in the Rwandan national budget in accordance with their level of vulnerability and disadvantage and their rights under international human rights law. Further, due to inefficiency, mismanagement, under-spending, theft, and corruption much of this 5% never actually reached and still does not reach survivors in the first place, so the figure is misleading. Development NGOs working in Rwanda have contributed very little to FARG’s work—despite the fact that they were and are extremely well placed to be both implementing partners to FARG and providing supplementary funding and service provision for the well-documented gaps in FARG’s programs for survivors. This seems to be a function both of Rwandan government priorities that have limited NGO engagement with survivors, and the willingness of international NGOs to marginalize genocide survivors in their provisions and programs.

While it is reasonable to critique this percentage of the annual budget devoted to FARG as being clearly inadequate at addressing the rights and needs of survivors in a way that was foreseeable and thus not an unintended error but a reflection of lack of adequate support for genocide survivors, it would be unfair to single out the Rwandan government for critique given the immense challenges it faced and faces and its

30 For critique of the FARG see Waldorf in “Reparations for Victims of Genocide,” ibid., supra note 13 in this chapter.
dependency on foreign aid due to the country’s poverty. Moreover, it has had to invest a great deal of resources in ensuring the physical security of Rwanda’s citizens and thus whatever weaknesses can be attributed to it vis-à-vis survivors must be placed in the context of a daunting post-genocide transition. This needs to be taken into account and acknowledged, although it does not detract from the validity of the empirically based argument that the Rwandan government needs to show far greater concern for survivors, respect for their human rights, and dedication to their fulfillment than it has until now.

That development NGOs have largely forsaken genocide survivors in Rwanda is not an accident or an oversight—they are well aware of their profound vulnerability and disadvantage—rather, it reflects indifference to advancing the rights and welfare of Rwandan genocide survivors and it is both morally and legally indefensible. It undermines the very principles of humanitarianism and development, advancement of women’s rights, and care for the most vulnerable and disadvantaged which are the purported core values of the major international NGOs working in Rwanda that we have already discussed, that is CARE, Oxfam, World Vision, Save the Children, and United Nations agencies.

It is helpful to consider both the Rwandan government’s definition of social protection and the stated mission of its social protection sector, which includes FARG. It is in relation to this definition and these aims—alongside those of international human rights laws pertaining particularly to social and economic rights—that FARG’s work and the rights and welfare of genocide survivors should be assessed. The Rwandan updated 2017 Social Protection Policy defines social protection as follows:

All public and private insurance and income transfer schemes as well as social care services that, together, ensure that all citizens, especially the most vulnerable and marginalized, have income security, a dignified standard of living, are protected against life-cycle and livelihood risks and that the rights of all citizens are upheld.31

31 UNICEF Social Protection Budget Brief, ‘Investing in Inclusiveness for Rwanda 2018/2019’.  
https://www.unicef.org/esaro/UNICEF-Rwanda-2018-Social-Protection-Budget-Brief.pdf  
Ministry of Local Government, National Social Protection Strategy, 2011, Kigali, Rwanda also available at www.MINALOC.gov.rw/fileadmin/documents/MINALOC_Documents/National_Social_Protection_Strategy.PDF
It defines the mission of the government’s social protection sector as ensuring that,

All Rwandan citizens have a dignified standard of living, are protected from social exclusion, neglect and abuse, and are supported to access employment and other livelihood opportunities.32

We will now turn to discuss how FARG fares at realizing these social protection aims.

FARG defines itself in English as The Fund for Support and Assistance to the Neediest Survivors of the Genocide Against the Tutsi and states its programs as being directed to the five following areas of social service provision: education, health, human rehabilitation, shelter, and income generating activities. One of the primary structural problems of the FARG is that it disburses funds to district (local) governments. This creates many opportunities for corruption, graft, and theft, as accountability has been and is weak once the funds leave the hands of FARG.33 FARG and the Rwandan government have been aware of this for many years. But they have not taken substantive action to address it. This passivity in the face of mismanagement, waste, graft, and corruption raises red flags because the Rwandan government normally has a very low tolerance for corruption and has put in place numerous mechanisms to root it out and punish those individuals and institutions engaged in it. It has a commendable record in Africa of relatively low corruption, particularly well compared with its East African neighbors such as Uganda, Tanzania, and Burundi although it still has extensive opportunity for improvement. Given the context of its history of genocide and total governmental, social, legal, and political collapse in 1994, its relatively low levels of corruption are an outstanding achievement.34

32 Ibid.
33 Innocent Kayitare, the vice-president of the parliamentary Committee on Unity, Human Rights, and the Fight Against Genocide, said that “he was suspicious about Kamonyi District which took 30 million Rwandan francs and Nyarugenge with 23 million Rwandan francs, but the money wasn’t deposited in any bank account but rather, according to district officials, immediately disbursed to survivors, yet without any proper reporting.”

David Russell, ‘FARG’ (2016).

https://survivors-fund.org.uk/news/farg-2/

34 Julius Bizimungu, ‘Rwanda Improves in Global Corruption Perception Index’ Rwanda New Times, January 30, 2019.

https://www.newtimes.co.rw/news/rwanda-improves-global-anti-corruption-index
FARG has also operated in a very slow way with a backlog of cases of thousands often lasting for years at a time. In 2016 it was only beginning to address housing shortages that were known already in the years 2010–2012. A 2012 study concluded that more than 12,600 houses needed repairs and over 3000 were in a critical state. In 2016, a survey conducted by the CNLG Rwandan government agency revealed that, “about 9,000 genocide survivors who completed secondary school are still waiting for support to go to university, while 2,105 student survivors who dropped out of primary school and 3,582 who didn’t complete secondary school, need special support.”

Although Rwandan genocide survivors have advanced considerably since the 1994 genocide, the latest data illustrates that large numbers are still suffering from wide-scale human rights violations which stem from the vulnerability and disadvantage caused to them by the genocide. The

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35 https://survivors-fund.org.uk/news/cnlg-survey/
36 Ibid.
37 See SURF Annual Report 2017/18; SURF Annual Report 2016/17; SURF Annual Report 2015/16; SURF Annual Report 2013/14; SURF Annual Report 2012/13; SURF Annual Report 2011/12; SURF Annual Report 2010;
SURF Annual Report 2009, https://survivors-fund.org.uk/news/kwibuka25-initiative-to-recoverassets/ <25 years later: Survivors Fund (SURF)—Survivors Fund>; REDRESS, ‘Right to Reparation for Survivors: Recommendations for Reparation for Survivors of the 1994 Genocide Against Tutsi’ (Discussion Paper, October 2012) https://redress.org/wp-content/uploads/2018/01/Oct-12-Right-to-Reparation-for-Survivors.pdf, accessed 22 March 2019. https://www.survivors-fund.org.uk/about/our-reports/annual-reports/

As stated earlier, the general situation remains substantially similar to that in 2008, with inadequate improvement in survivor access to housing, education, poverty reduction programs, and healthcare provision that addresses their unique needs, particularly in the areas of mental health and trauma support services where the failures are systemic, extensive, profound, and acute and they receive very little attention from FARG and the Rwandan government. There have been some achievements in scholarship provision for schooling—though much less so for university studies and still less so for vocational training and capacity building for income generation to reduce poverty. There has also been some improvement in FARG’s provision of houses for vulnerable genocide survivors, but this is far from complete and in the spring of 2019 FARG acknowledged that more than 35 billion Rwandan francs were needed to construct several thousand homes for genocide survivors who still lack adequate safe housing, 25 years after the genocide. By any reasonable standard—whether that of human rights, principles of humanitarianism, or development—FARG’s record is very weak and utterly at odds with its stated mission and legal obligations, both national and international.
gap between the services provided to survivors and their needs is staggering. As the 2013 Annual Report from SURF Survivor’s Fund states:

This year, the Government of Rwanda Assistance Fund for Survivors has been able to increase the number of young survivors it supports into university to nearly 5,000. However, there are a further 35,000 young survivors due to graduate from secondary school in the next three years; only a fraction will receive such support from FARG. With many of these young survivors caring for other orphans, the likelihood of them ever being able to secure employment to support their surrogate families without a university education becomes ever more remote as each year passes.38

Enabling merely one in six genocide survivors to study at university cannot be considered a success by any means, as it excluded over 80% of the survivor population in the need of scholarship assistance. The gaps between need and provision are large not only with regard to funding university education; they exist for orphans who are responsible for supporting surviving family members but do not have the means to do so, and thus fall into a poverty trap.

Over 50% of the 43,000 members of AERG [undergraduate student association of genocide survivors] were orphaned as a result of the genocide, and are living in orphan-headed households. They are responsible for caring and supporting their younger siblings, which exerts greater pressure upon them to become wage earners. As such, many of these younger survivors now face grave challenges in securing employment after completing secondary school, and even university education. For many, formal education can be of low quality, with limited opportunities for skills development. Therefore, young people are largely unready for the formal labour market. Existing programmes are largely inaccessible or ineffective, as they do not accommodate for the multifaceted needs of young survivors.39

In April of 2016 Jean de Dieu Mirindi, the National Coordinator of AERG—Student Genocide Survivors Association, said that almost 9000 secondary school students were still awaiting scholarships to study at university. Mirindi stated that 2105 dropped out of primary school while

38 SURF 2013 Annual Report.  
http://survivors-fund.org.uk/annual-reports/how-surf-is-run-2/  
39 SURF 2013 Annual Report, page 4.
3582 didn’t complete secondary school.\textsuperscript{40} These numbers reflect very poorly on the FARG. There have been some improvements in the last two years, with the latest data supplied by FARG indicating that by the first quarter of 2018/2019 over 882 students were enrolled in secondary schools and 11,923 in university.\textsuperscript{41} There are still many survivors, however, who lack funds to enroll in university.

For several decades FARG failed to advance in any significant way substantive technical-vocational training programs for survivors to enable income generation. This should have been a primary concern of FARG from its inception, but FARG has only begun to address it programmatically more recently during the last five years, roughly. As David Russell, the former director of SURF, Survivor’s Fund, writes,

\begin{quote}
The issue of youth unemployment is particularly acute for young survivors (and second-generation survivors) due to the lack of contacts and collateral that they can access. Despite many survivors having had the opportunity to complete their secondary education through support from FARG, many do not have the skills to secure employment. Despite the focus on transitioning Rwanda from an agriculture-based to a knowledge-based economy, many of this group—as well as older widows—remain excluded from the job market and continue to rely on agriculture for their livelihoods.\textsuperscript{42}
\end{quote}

While FARG has announced support for small business development for survivors—such as a brick and tile furnace and a multi-purpose hall whose rental can generate income—and that is certainly a positive step—it has largely been too little too late. As has been the unfortunate hallmark of FARG, issues of quality of provision, accountability, and achieving benchmarks of success have been wide off the mark.

Albert Gasake writes,

\begin{quote}
Since its establishment, the Government has injected into FARG over 200 billion Rfrw at least in paper but where is the impact? Objectively speaking, very little impact if any at least as long as income generation and self-reliance
\end{quote}

\textsuperscript{40}https://survivors-fund.org.uk/news/farg-2/

\textsuperscript{41}Michel Nkurunziza, ‘Kwibuka 25: Farg Restores Hope For Young Genocide Survivors’ (2019). https://www.newtimes.co.rw/news/kwibuka25-farg-restores-hope-young-genocide-survivors

\textsuperscript{42}David Russell, ‘Economy’ (2018). https://survivors-fund.org.uk/news/economy/
of survivors is concerned. 21 years since the genocide survivors are getting poorer. Many survivors are still without a roof over their heads. Others especially the elderly are dying day by day due to genocide consequences, HIV/AIDS positive women raped during the genocide are dying due to lack of treatment and proper diet, many young survivors who dropped out of secondary schools in order to cater for their young siblings are unable to resume their studies. … Programmes such as the income generation projects are technically great if they are well designed and monitored. But in light of FARG’s weaknesses such programmes should be implemented by a separate institution such as micro-finances [microfinance organizations] that have necessary expertise in project management, monitoring and evaluation for low income communities.43

These criticisms are not outliers; they reflect mainstream concern among survivors about the efficacy of FARG. As a recent article from Hirondelle Foundation in the spring of 2019 states,

The Fund has also faced many criticisms: embezzlement, houses built in a shoddy way to last only 5 to 10 years, corruption in the selection of beneficiaries, even allowing former militiamen to benefit. In 2010, following an assessment, more than 17,000 cases of malpractice were detected and 47 dishonest entrepreneurs identified and brought to justice.44

Survivors continue to suffer from this neglect. FARG continues to lack sufficient regulatory oversight to limit and punish corruption and to maintain clear and high standards of accountability and efficacy.

Survivors fundamentally reject the notion that FARG replaces their right to reparative justice—a right they do not and will not relinquish, however much antagonism toward its respect and fulfillment they face. As Emmanuel Ruvugiro writes,

the challenges are not limited to the Fund’s operations. Already in 2009, the genocide survivors’ organization Ibuka (meaning, ‘remember in the Rwanda language’) denounced the fact that, instead of compensating victims, the State opted for the creation of the FARG for which “even the victims are condemned to pay for their own reparation,” according to Denis Bikesha,

43 Albert Gasake, ‘Blog Post at Justice-Survivors.com’ incorporating new from Rwanda NewTimes,(2015)https://justice-survivors.com/2015/05/08/rwanda-genocide-survivors-getting-poorer-as-farg-changes-strategy/
44 Ibid.
law professor at the University of Rwanda. ‘Reparation for victims must be understood as a right and not a favour,’ he says.

More recently, in December of 2018 in Rusizi, survivors challenged the state for failing to assist genocide survivors.

“We want our rights, not favours,” said Laurent Ndayambaje, local president of Ibuka. Although the FARG does good things for “our widows, orphans and all the vulnerable,” he says, its services are perceived as “a favour to ask for and a favour to grant.”

Human rights are—of course—not favors. And the fact that survivors feel humiliated in this way—made to beg—illustrates not just a failure to respect their human rights but also a failure of sensitivity, decency, care, compassion, and fundamental humanity in the face of their immense suffering, loss, and injustice. It is a violation of their dignity.

The director of FARG himself, Theophile Ruberangeyo, has acknowledged the tremendous inadequacies of FARG’s programming stating that FARG’s programs are “a drop in an ocean of problems” because the needs of survivors are so much greater than what FARG provides. What is striking is that even though the director of FARG himself acknowledges this neither the Rwandan government nor NGOs working in Rwanda have taken substantive and adequate measures to address this failure of policy, practice, and respect and fulfillment of human rights.

Ironically, despite their general resistance to doing substantive community development for and with genocide survivors in deference to Rwandan government policy that wants international NGOs not to explicitly address survivor disadvantage and marginalization but to focus instead only on general national development, NGOs working in Rwanda could do a far better job than FARG in developing and implementing these programs. Unfortunately, for reasons that are likely political and financial, FARG monopolizes survivor programming provision instead of contracting out to effective NGOs—both domestic survivor-led ones such as Avega, Ibuka, Aerg, and SURF and international ones such as Oxfam and CARE.

45 Ibid.

46 Emmanuel Sehene Ruvugiro, ‘Rwanda Reparations Fund Breaks Ground But Is Still Not Enough Say Victims’ (2019) Fondation Hirondelle. https://www.justiceinfo.net/en/reparations/40610-rwandan-reparations-fund-breaks-ground-but-is-still-not-enough-say-victims.html
that actually have the human resources, capacity, competence, training, and skills to provide these programs which FARG clearly lacks and which it has lacked since its creation. The end result is that FARG is negligent in its programming, neglectful of survivors, dysfunctional in its conduct, antagonistic toward those in government and Parliament who seek to hold it to high standards of conduct and effectiveness, and unaccountable to the individuals and communities it is supposed to serve and wasteful of limited and precious Rwandan national resources. In short, it is not fit for purpose and never has been. While it first and foremost fails survivors, it also fails Rwandans as a whole, and is ultimately to all their detriment even though it is survivors who suffer most from its dysfunction.

FARG takes a very narrow view of education; focusing on formal education for a small sub-section of young adult survivors, but neglecting to take into account that widows and older survivors who have lost land and property and are impoverished need to be able to access job training and skills development in order to improve themselves economically and increase their capacity for self-reliance. Because in Rwanda the male was and remains the traditional head of household responsible for earning an income and managing finances, widows are particularly bereft of a means by which to support themselves. Heidi Rombouts states that,

It is regrettable that the FARG education program does not provide training or education of adult women, even though increasing the professional skills of women in certain areas (for example, in the field of off-farm activities) could clearly strengthen their economic position. Including this type of training in the FARG educational program would make it more sensitive to the needs of many adult women—who are too old to go to secondary school—and widows.47

In this regard the FARG is exclusionary and in effect discriminates against survivors on the basis of both gender and age, which also potentially places FARG in violation of Rwanda’s Constitution. Instead, it has been left to AVEGA to offer such skills training programs with FARG offering very few of them to a small number of survivors and only in the last few years of 2017–2020. AVEGA has done so, and with substantial success, developing a multi-module program of training widows to develop marketable skills, build small businesses, and provide access to capital through

47 Rombouts, supra note 2 in Chap. 5 at 223–224.
microcredit. In addition to the positive economic impacts of these projects they also foster enhanced self-esteem, decrease social isolation, and enable survivors to support one another in ways that reduce their vulnerability. These psychosocial outcomes are no less valuable and significant than the increases in income that result. However, AVEGA lacks the resources to extend these projects nationally and their funding is constrained by limited financial support and a lack of long-term financial commitment.  

Survivor testimonies of the positive impact of these programs provide a dramatic and positive contrast with the description survivors provided of their lives prior to the AVEGA program. Here are the testimonies of several survivors, who all share similar testimony.

- “Before we couldn’t plan for the future: if I had something to eat this evening, it didn’t matter what I would eat tomorrow. We only managed to survive, many of us were traumatized, [...] we were really hopeless.”

- “Before [...] we used to live in isolation from others; we had no plans for the future. We used to cultivate enough so that we could survive but it was difficult to have decent clothes, a balanced meal, sugar, salt.”

- “We were hopeless because we had lost our families and everything else we had, like our houses. We didn’t interact with others...we were kind of traumatized.”

- “We were hopeless and we didn’t have plans for the future. Everyone was isolated in her own place and we didn’t have a social life at all.”

- “[...] some were hopeless and isolated from everyone. When you visited them, they could cry, because they were thinking a lot to what happened during the genocide and they were traumatized. They live

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48 Lorenzo Picco, Masters Thesis. “Transforming Lives: An Analysis of the Impact of AVEGA’s IGA Training Programme on Empowering Widows of the Genocide and Promoting Gender Equality in Rwanda’s Eastern Region.”

http://survivors-fund.org.uk/wp-content/uploads/2014/01/Lorenzo-Picco-Final-Dissertation.pdf, p. 142
in very old houses which were built very badly after the genocide and
did not have proper clothes to wear to go out. It was horrible.”

Social isolation, difficulties in finding appropriate shelter, lack of support,
inability to make plans for the future, and feelings of powerlessness, hope-
lessness, and destitution are a sampling of issues that affected these women,
and prevented them from living the kind of lives they wanted to live.

Furthermore, a large percentage of widows suffered severe sexual vio-
lence and rape with profoundly damaging consequences to their health.
Special programs directed toward female genocide survivors to provide for
their health needs with regard to HIV—because so many were deliberately
infected with the disease by genocidaires rapists—have mostly concluded
and now female survivors who are HIV positive access health services
through clinics that serve the Rwandan population as a whole. However,
they are still in need of extensive counseling and mental health services
to address the effects of sexual violence. While AVEGA offers these services
to some survivors, they lack the funding to offer it to all survivors who
need it, and they reach a miniscule percentage of the total survivor popula-
tion who have an international human right to such services.

Widowed genocide survivors have received paltry assistance from the
FARG, yet they remain among the most disadvantaged members of the
survivor community. AVEGA issued a report entitled, ‘Current State of
Care for Elderly Widowed Genocide Survivors in Rwanda’ based on a
national survey conducted in 2013 which found gross lapses in service
 provision of widowed genocide survivors, extremely high rates of poverty,
and ill health and social isolation. It called for the adoption of a “multi-
disciplinary care strategy. This will enable the provision of care for elderly
survivors in their own homes, independent living communities, or care
homes, depending on the level of care required by the individual.”

The survey targeted a group of 1462 widowed survivors. Around 60%
have no living relatives. Over 65% had some difficulty or needed help with
the most basic physical tasks of daily living, such as walking 100 meters.
89% reported health problems and chronic illness. Ninety per cent have

49 Ibid.
50 Ibid.
51 AVEGA Report, “Current State of Care for Elderly Widowed Genocide Survivors.”
Available from SURF Survivor’s Fund. Not publicly accessible online.
52 For more on the health situation of female genocide survivors see, Maggie Zraly et al.,
“Primary Mental Health Care for Survivors of Collective Sexual Violence in Rwanda,”
never attended school and suffer from illiteracy. Nearly 75% of respondents are in need of direct support and a regular carer. Sixty per cent stated that their houses needed rehabilitation. 98.2% were either very unsatisfied or satisfied with their lives.

Mental health has been particularly neglected by the FARG. Given the extent of psychological trauma, depression, stress disorders, anxiety, loneliness, and social isolation in the survivor community, this has been a failure to provide the most essential of needs. According to Heidi Rombouts, “psychological assistance [for widows of the genocide and women who were victims of sexual violence during the genocide] has been almost non-existent in post-genocide Rwanda.” 53 It is only the interventions of survivor NGOs—primarily AVEGA and SURF—since 2006, that has enabled basic mental health provision for genocide survivors, and yet they only reach a fraction of survivors in need of such support services. There is a higher incidence of poverty among older widowed survivors, than in the general population—87% of respondents had monthly household incomes below $14. This contributes to stress and mental health problems. The results of the study also demonstrate that elderly, widowed survivors of the Genocide are an especially vulnerable group whose needs are undergoing change, and that these needs are not being addressed. Governmental and non-governmental support to elderly genocide widows is largely uncoordinated. Local government tends to delegate responsibility for elderly survivors to survivor organizations, which do not have the funding or capacity to provide the support needed. 54 Young survivors suffer from substantial mental health problems as well.

In December of 2012 AERG published a research report on the impact of trauma on survivors of the genocide who are currently students. The research was based on interviews with 213 members of AERG across the country. 88% of respondents had symptoms of PTSD and 77% had symptoms of depression. The research determined that there is a strong correlation between legal and homeless problems on trauma. The principal recommendation of the report concluded that to resolve such cases of trauma amongst

Global Public Health: An International Journal for Research, Policy and Practice, 6 (2011).
See also Maggie Zraly, “Motherhood and Resilience Among Rwandan Genocide-Rape Survivor,” Ethnos, 41 (2013) and Maggie Zraly et al., “Don’t Let the Suffering Make You Fade Away: An Ethnographic Study of Resilience Among Survivors of Genocide-Rape in Southern Rwanda” Social Science and Medicine 70 (2010).
53 Rombouts, supra note 2 in Chap. 5, p 209.
54 AVEGA report, supra note 51 in this chapter.
student survivors, it is critical to address its root causes. By ensuring that student survivors have secure shelter, and have access to support and aid to resolve outstanding legal cases, it will strengthen the mental health of this vulnerable, and often marginalized, population.55

It is not only the studies of survivor organizations that reveal this troubling data; the research conducted by the Rwandan government itself confirms these findings.

The National Commission for the Fight Against Genocide (CNLG)—a government agency released a report in 2013: “The research draws on interviews with 122 orphaned youth survivors from each district in Rwanda as well as focus groups with organizations supporting survivors.” The results of the research revealed that psychological and social problems continue to affect youth survivors 19 years on. This is often related to continued traumatic memories and reminders of the genocide, social isolation and lack of family. They face complex issues connected to rural isolation, property, compensation, and lack of educational resources.56

Consequently, inadequacies of the FARG’s programs undermine the rights, health, and welfare of genocide survivors of all ages, young and old. As recently as late May of 2019, genocide survivors have been struggling to acquire medicines they need for their health, another burden being placed upon them. Some are incurring extra costs as they try to buy medicines that Rwanda’s various national health insurance schemes no longer provide them because their health insurance is provided by FARG which is updating and changing its insurance program, but has left genocide survivors vulnerable and with inadequate coverage for medicines while in the process of so doing.57 Lapses in coverage of many months at a time—over six months for some genocide survivors—are totally

55 David Russell, ‘AERG Research’ (2012). http://survivors-fund.org/news/aerg-research/
56 David Russell, ‘Challenges’ (2013). http://survivors-fund.org.uk/news/who-we-are/challenges-4
57 Arafat Mugabo, 
Rwanda Today (2019) ‘Beneficiaries of Genocide Assistance Fund Lack Medicine’ http://rwandatoday.africa/news/Beneficiaries-of-genocide-assistance-fund-lack-medicine/4383214-5129482-format-xhtml-11ihtet/index.html
unacceptable and put the health and welfare of survivors at risk.\textsuperscript{58} This example illustrates some of the structural problems and lack of reliability in FARG’s service delivery to survivors.

FARG itself is structured so as to exclude rather than include survivors in its organization and management. Board members are appointed by Rwanda’s prime minister and they have not historically and do not today include significant formal representation of genocide survivors and their organizations. Inevitably, this creates a gap between the Rwandan government and Rwandan genocide survivors, and it raises serious questions about government inclusion efforts. It is hard to envision how a program of reparative justice can be implemented in Rwanda if the Rwandan government itself has excluded genocide survivors from the main government agency responsible for provision of services to them.

Critique of the FARG stems not only from survivors and their organizations. The auditor of the Rwandan government has repeatedly leveled strong critique of how the FARG operates and its negative consequences on survivors and on the efficient and appropriate use of government funds.

The current audit of FARG identified errors in its database, and various cases of ghost beneficiaries. … The report also revealed poor coordination and potential mismanagement of several billions of Rwandan Francs (equivalent to several million British Pounds) earmarked for house building, and education, for needy survivors. … A sum amounting to seven billion Rwandan Francs was disbursed between June 2010 and June 2012 for the construction of 3,489 houses for vulnerable genocide survivors identified as homeless in 2010. More than half this sum remains unaccounted.\textsuperscript{59}

Despite having urgent needs for adequate housing, the FARG has failed to provide genocide survivors with such housing due to mismanagement. In 2011 the Auditor General affirmed that FARG had contracted housing developments for survivors that were of poor quality, too costly, and lacking in durability. He also noted large-scale theft and loss of building materials which were to be provided to survivors to enable them to construct homes and/or improve the safety and quality of their homes.\textsuperscript{60} Over 200

\textsuperscript{58} ‘FARG Beneficiaries Not Getting Benefits,’ https://www.youtube.com/watch?v=8E_tZPLxF6o

\textsuperscript{59} David Russell, ‘FARG Audit’ (2014). https://survivors-fund.org.uk/news/farg-audit/

\textsuperscript{60} Ibid.
million British pounds (over 260 million US dollars) have been budgeted for genocide survivors through FARG, but only a very small part of that sum has actually reached survivors in the form of quality programming and services.\footnote{Ibid.}

FARG has consistently failed to use the funds at its disposal for social services for survivors; instead redirecting funds back into the Rwandan national budget despite the fact that in doing so it was willfully neglecting its responsibilities to meet the needs of Rwandan survivors. According to Albert Gasake, who is a genocide survivor and a human rights lawyer who advocates for survivors with the Task Force to Remember Survivors and with SURF,

The 2012 FARG evaluation report identified that FARG has consistently recorded an underspend on its annual budget since its establishment in 1998, a sum which amounts to 50 billion Rwandan Francs (50 million pounds.) IBUKA, the umbrella association of survivors’ associations, called for an immediate enquiry into why this budget has not been utilized—a call that remains unheeded to date.\footnote{Ibid.}

50 million pounds is roughly 60 million US dollars. That sum, had it reached survivors, would have enabled a truly comprehensive program of reparative justice that would likely have met many of the requirements of international human rights law.

It would be highly advisable for the Rwandan government to account for the aforementioned issues of waste, corruption, and mismanagement in relation to the FARG and to redress them. A process of accounting should also be undertaken by Rwanda’s ombudsman in partnership with the relevant Rwandan government agencies, FARG, and survivor NGOs to ascertain exactly what funding originally set aside for survivors via FARG actually reached survivors before being siphoned off for other government expenditures, lost, or stolen due to corruption. Those funds which did not reach survivors—and thus violated the Rwandan parliament’s intention when funding the FARG—should either be directed toward a trust fund for survivors or to direct provision of services for survivors via a rehabilitated FARG or other Rwandan government agencies and/or NGOs working in Rwanda.
Housing provision by FARG continues to be inadequate. As late as the end of December 2016 FARG was still in the planning stages of finding suitable housing for survivors which would not become available until well into 2017 or 2018. That there was finally a framework of housing provision for this particular group of survivors was a good thing of course, but it demonstrates that FARG has failed to work in a timely way, leaving thousands of survivors with inadequate and unsafe housing for many years on end.63 Despite these failures already in 2015 the government sought to wind down the FARG’s housing construction program, despite having the knowledge that its work was far from complete. It also called to cut back funding for secondary school education for survivors. Some Members of Parliament criticized FARG for its inadequate provision of housing for survivors, despite the claims of its Director General, Theophile Ruberangeyo,

Legislators said some houses that were built for the survivors were either poorly constructed, or contractors abandoned housing projects before completion. According to the AG’s report, Farg’s 2012/2013 Budget Framework had intended to renovate 3,306 housing units for Genocide survivors but only 350 (about 11 per cent of the entire projects) were renovated. In Huye District, End Construction Company, contracted to build 30 housing units, worth Rwf126 million, put up 25 shoddy units and FARG had to part with a certain percentage of the charges. The report also indicated that 4,000 survivors from seven districts did not get direct support from the Fund worth Rwf364 million, while, survivors’ income generating projects, worth Rwf8 million, were never executed at the sector level, especially in Rulindo and Ngoma districts.64

As of May 2019 FARG is in arrears on the construction of over 2000 homes for genocide survivors. According to the State Minister for Social Affairs, Dr. Alvera Mukabarama, the construction of 2000 needed houses would cost approximately 25 billion Rwandan francs but that more than 2000 houses are needed which would bring the cost to approximately 30 billion Rwandan francs, which would address the significant rise in

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63 Michel Nkurunziza, ‘FARG To Provide Shelter For 1, 836 Genocide Survivors’ Rwanda New Times (2016). https://survivors-fund.org.uk/news/shelter-2/

64 Athan Tashoby, ‘Genocide Survivors Housing Programme Draws to a Close’ Rwanda New Times (2015). https://survivors-fund.org.uk/news/housing/
construction costs as well as the need to furnish homes and insure that they are habitable and meet the basic needs of survivors by being equipped with water harvesting tanks, for examples. Survivors who are particularly disadvantaged are also to be provided with a cow to assist with income generation and food security. According to Emmanuel Munyangondo, the Director of Planning, Monitoring and Evaluation at FARG, FARG has thus far constructed 28,558 housing units and rehabilitated 4714 others.65

Some of the problems with FARG echo larger problems with Rwanda’s national social protection programs. Overall, these programs for a country with extremely limited economic resources and aid dependency show an unusually serious and intensive commendable commitment to social welfare, combating poverty, improving healthcare, housing, and educational opportunity, and raising both life expectancy and quality of life on the part of the Rwandan government. However, genocide survivors fall through a gap in service provision and social protection precisely because the general social protection programs are insufficient for their unique needs and deep forms of disadvantage.

A recent UNICEF report on social protection, ‘UNICEF Social Protection Budget Brief: 2018/2019 Investing in Inclusiveness in Rwanda’ highlights areas of strengths and weaknesses in Rwandan social protection. One area for improvement which impacts all social protection programs, including FARG as we have previously discussed, is under-spending of funds marked for social protection. The UNICEF Report states,

The budget execution rate by central government and districts, respectively, declined from 92.5 per cent and 99 per cent in 2014/2015 to 72.7 per cent and 86.3 per cent in 2017/2018. The decrease in the budget execution rate is concerning and could potentially negatively influence the nominal increase in allocated budget. Therefore, there is a need to improve budget planning and execution to ensure full execution of allocated budgets.66

But there are also areas of social protection expenditure achievement that ought to be recognized. Government expenditure for general social

65 Michael Nkurunziza, ‘FARG Needs RWF 30 Billion for Survivors’ Housing’ Rwanda New Times (2019) https://allafrica.com/stories/201905080698.html
66 ‘Social Protection Budget Brief: Investing for Inclusiveness in Rwanda’ 2018/2019 https://www.unicef.org/esaro/UNICEF-Rwanda-2018-Social-Protection-Budget-Brief.pdf
protection has increased substantially in the last five years, from 73.1 billion Rwandan Francs in 2015/2015 to 138.3 billion Rwandan Francs in 2018/2019. This is an increase of 89.3%—which is dramatic and significant. But when the data is disaggregated, we find that not enough of that expenditure reached survivors. UNICEF celebrates this increase in social protection funding and programs but notes that,

The increase in budget shows renewed commitment by the Government of Rwanda to strengthen social protection and promote inclusiveness. However, a further increase in public spending in social protection on the medium term is required for the government to achieve the expected level of scale-up and coverage of social protection services.67

Some social protection programs such as the ‘One Cow Per Poor Family Girinka Program’ have grown more than five-fold in expenditure, from a budget allocation of 4.6 billion Rwandan Francs in 2016/2017 to 26.3 billion Rwandan Francs in 2018/2019. However, thousands of impoverished survivors still lack cows—whether those provided via FARG or the Girinka program. They are falling through the cracks. In the same way, the massive increase in expenditure on health has little impact on survivors, who still lack virtually any mental health support services. So despite the Government of Rwanda increasing its overall national health expenditures from 5.6 billion Rwandan Francs in 2016/2017 to 36 billion Rwandan Francs,68 an increase of over six-fold, little of that reaches survivors.

In considering what types of programs of reparative justice might be most beneficial to genocide survivors it is valuable to turn to the recent and current programming of SURF and its partner agencies. These programs are provided not as a part of a formal program of reparative justice and in legal recognition of the human right to reparative justice. However, they address the exact same issues that such a reparative justice effort (were it to provide holistic social services, rather than direct financial compensation) would likely address. The Widowed Survivors Empowerment project69 run by AVEGA, for example, was funded by the UK Department for International Development. It was one of the largest reparative justice programs ever implemented in Rwanda both in funding level

67 Ibid.
68 Ibid.
69 SURF Annual Report, 2013–2014. See also earlier annual reports.
(approximately $1.5 million) and the number of survivors it has reached over the course of three years between April 2012 and March 2015 (24,536 survivors). It extended to 15 of Rwanda’s 30 provinces. It provided holistic support to widowed survivors in the form of job training and skills development, human rights education, legal assistance to secure stolen property and land, health support services, and grants to alleviate extreme poverty.\textsuperscript{70}

A similar project, but implemented on a smaller scale, is the Genocide Widows Empowerment Project. With a budget of approximately $800,000 between December 2012 and November 2015 the Genocide Widows Empowerment Project reached approximately 2500 widows in five Rwandan provinces who previously lacked support services.\textsuperscript{71} Like the AVEGA project, it included the same holistic wrap-around services as well as an emphasis on microcredit and small business development.\textsuperscript{72}

A smaller scale program to address the needs of survivor youth, the Youth Entrepreneurship Training program, has provided training in small business development. Other programs of assistance to survivors include a Community Counseling Initiative which provides trauma counseling in a group setting for women genocide survivors who were raped and are parents of children born of rape. A counseling and legal helpline has been set up by AERG to help student survivors of the genocide with both practical and psychological support. Launched in 2013 it has received over 246 calls, providing legal advice for survivors trying to reclaim stolen property or land and supportive listening and intervention, where appropriate, for individuals suffering from trauma.\textsuperscript{73} Recognizing that grants from FARG to student survivors of the genocide reach only a fraction of survivors in need of such support, the University Sponsorship Program provides essential funds for impoverished genocide survivors to attend university, providing tuition fees, school materials, and hardship assistance toward transport and accommodation costs. These three programs currently reach a small number of survivors and there is a need to scale them up extensively.

\textsuperscript{70} For a richly detailed study of AVEGA’s efforts to advance the rights and welfare of widowed genocide survivors see Picco, supra note 48 in this chapter.
\textsuperscript{71} SURF 2013–2014 Annual Report.  
https://survivors-fund.org.uk/about/our-reports/annual-reports/
\textsuperscript{72} Ibid.
\textsuperscript{73} Sam Munderere, http://survivors-fund.org.uk/news/uncategorized/helpline, June 26, 2014.
While most of the large international development NGOs working in Rwanda neglect genocide survivors, currently there is one outlier that should be recognized for its commitment to genocide survivors and that is ActionAid. ActionAid supports approximately 1000 genocide survivors, and their commitment to genocide survivors and programming for and with them illustrates that when there is a will on the part of international NGOs to advance reparative justice then there is a way. ActionAid’s programs include vocational training, women’s empowerment education, legal support, clean water provision, distribution of cows for income generation and nutritional support, psychological counseling, resources to combat domestic violence and advance women’s rights, and diverse income generation activities. The work that ActionAid does in Rwanda could be scaled up and adopted by other international development NGOs so that it would reach a much larger number of genocide survivors, as it is the responsibility of all the international development NGOs in Rwanda to advance the rights and welfare of genocide survivors, not only that of ActionAid.

In their response to the International Organization of Migration Report which endorses a program of reparative justice but does not make specific recommendations about how exactly it should be structured and how reparative justice should be actualized, survivor organizations have largely supported its findings and highlighted areas of convergence. They have offered the following framework, which could be used for financial compensation for survivors and/or provision of reparative social services, or some combination thereof, as a possible way forward for the implementation of reparative justice:

Over different consultations, survivors have expressed ideas in favor of comprehensive and independent reparation as opposed to a reparation programme directly funded and managed by the GoR. … A combination of a reparation fund and a reparation programme is viable in the context of Rwanda. As such, the best way to operationalize the right to reparation will be the establishment of a separate reparation fund in which the government commits a line budget to finance the fund, alongside the international community.

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74 ‘Liberata’s New Dawn After the 1994 Genocide Against the Tutsi,’ https://rwanda.actionaid.org/stories/2019/iberatas-new-dawn-after-1994-genocide-against-tutsi
75 Submission to the Ministry of Justice in Response to the Final Draft Report of the Rwanda Reparations Assessment Study ‘Realizing the Right to Reparations of Survivors of
In their response to the IOM report, survivors confirm what the preliminary report on reparative justice for Rwandan genocide survivors of the International Organization of Migration states, “For genocide survivors, reparation is the most tangible manifestation of the state and the international community’s efforts in acknowledging and repairing their lives.”

The key concerns which the survivor organizations raise in their response to the IOM Report are as follows:

- There is unanimous agreement across all stakeholders involved in the draft report that reparation is a right of survivors as enshrined in both national and international law. ... In summary, we commend the draft report.

- The draft report explicitly recognizes the past assistance efforts made by the Government of Rwanda to support the most vulnerable survivors, but that this assistance is separate from reparation. (Author’s italics.)

- That legally, morally, and psychologically there is a clear distinction between this assistance, and the reparation proposed in the draft report.

- That the responsibility for reparation lies principally with the State, and that the international community has an important contributory role to play in it.

- That survivors need to be formally represented at the very highest level, alongside other stakeholders, in any reparation mechanism.

The draft report first and foremost reflects the views of the survivors as expressed during the consultations. It also recognizes the urgency of the issue of reparation as set out in the October 2012 Discussion Paper, ‘Right to Reparation for Survivors.’

76 Albert Gasake, quoted by Sam Munderere, SURF Survivor’s Fund, https://survivors-fund.org.uk/awareness-raising/momentum/
• The draft report emphasizes outstanding Gacaca reparation judgments and judgments from ordinary courts, including judgments against the State. It is important to protect survivors who have engaged in or who might wish to engage in legal recourse regarding their land rights, or Gacaca enforcement, or other legal related issues. The enforcement of national court judgments and/or gacaca decisions is an important component of and serves to restore trust of survivors in the rule of law. Simply dismissing the judgments survivors have obtained, often as a result of a long and persistent struggle, risks undermining their faith in the rule of law, and indeed, any future reparation effort. Notwithstanding the need for immediate reparation, survivors wishing to have their decisions enforced should continue to be able to do so.\textsuperscript{77}

The survivor organizations further express concern that the IOM report does not show enough gender sensitivity, concern for survivor participation, and adequate attention to a reasonable minimum standard of financial resources required to deliver reparative justice that meets the criteria of international human rights law and makes a tangible, significant, and consequential impact on the lives and well-being of survivors.

The survivor organizations affirm, “We reiterate our firm belief that the primary responsibility to fund reparation lies with the GoR. This does not mean however that we do not recognize the invaluable assistance offered to the most vulnerable survivors over the last two decades. The international community bears its responsibility to provide reparations too.” They express particular concern that the most vulnerable genocide survivors, widows with no means of income and orphans similarly unable to provide for themselves economically, are assisted expeditiously and substantially to alleviate their poverty and its resulting disadvantages, including social marginalization and ill health.

Back in 2006, a Rwandan government official was frank about why the government would not support reparative justice for genocide survivors; it simply preferred to prioritize other populations and areas of government and wanted to spend aid on general national development, even if that

\textsuperscript{77} All bullet points from the Submission to the Ministry of Justice by Genocide Survivor Organizations—‘Task Force to Remember Survivors 20.’ SURF 2013–2014 Annual Report, p. 10.

https://survivors-fund.org.uk/about/our-reports/annual-reports/
came at the expense and marginalization of survivors. The Executive Secretary of the National Service of Gacaca (community court) Jurisdictions (SNJG in French) stated, “Compensation in a legal sense, we think it’s impossible for us. … We cannot commit ourselves on something we are not sure to achieve. Even our internal budget depends on outsiders for over 50 percent. … You’re not going to stop other lines of development of the country.”\textsuperscript{78} The logic here is morally, legally, and practically flawed and it lacks any empirical basis—but it accurately reflects the government’s reasoning—purported fears that reparative justice will somehow hinder Rwanda’s national development and be perceived as unfairly favoring survivors. As we saw earlier, reparative justice in the many countries where it has been undertaken—from Israel to Argentina and Chile ultimately contributes to the welfare of a disadvantaged population, empowering and reintegrating them into society, and advancing their human development and capacity to contribute to the country as a whole. There is no rational reason why it would be any different in Rwandan for genocide survivors, who are eager to rebuild their lives and contribute to Rwandan society but are hindered from so doing by a lack of reparative justice.

But there is a diversity within the government. Although those who would refuse genocide survivors reparative justice clearly dominate the government and their preferences reflect government policy, there are dissenting voices in government and these have waxed and waned and continue to be dynamic, with some government officials sympathetic to the rights and welfare of genocide survivors and awake to the legal, moral, and social costs of failing to advance reparative justice for them. The former head of the National Unity and Reconciliation Commission has stated,

\textsuperscript{78}Lars Waldorf, ‘Goats and Graves: Reparations in Rwanda’s Community Courts’ in \textit{Reparations for Victims of Genocide, War Crimes, and Crimes Against Humanity: Systems in Place And Systems In The Making} (eds) Carla Ferstman, Marian Goetz, Alan Stephens (Martinus Nijhoff 2009) 520.

\textsuperscript{79}Ibid.
While he is certainly right that to advance reconciliation and national unity reparative justice is a prerequisite, survivors have legal rights to reparative justice and merit much more than mere symbolic reparations—they merit substantive ones which can and should also incorporate symbolic measures, but not at the expense of real repair. Poverty is not alleviated with symbolic gestures, mental health is not sustained through statements of purported solidarity, shelter does not result from mere affirmations of the importance of housing for survivor dignity and stability, and justice and well-being cannot be attained without attending to the physical and psychological wounds of survivors.

While the survivor organizations have shown a pragmatic willingness to consider different forms of reparative justice, including ones that focus on provision of social services—rather than financial compensation to survivors—they emphasize that the majority of survivors when surveyed express a clear and strong preference for financial compensation as the primary means for them to actualize reparative justice. The survivor organizations also stress that while survivors expect and demand that Gacaca reparations rulings and those of Rwanda’s civil courts be respected and enforced, these should not and do not prejudice a survivor’s right to reparation provided by a national and/or international program of reparative justice, regardless of its means of organization and provision via financial compensation, provision of social services, or some combination thereof.80

80 Ibid.