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Maintaining Power by Manipulating Memory in Rwanda

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ARTICLE
MAINTAINING POWER BY MANIPULATING
MEMORY IN RWANDA

*Thomas Kelley**

*“Who controls the past controls the future: who
controls the present controls the past.”¹*

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1. GEORGE ORWELL, 1984 35 (1949).

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I. INTRODUCTION

Rwanda’s president, Paul Kagame, is among the world’s most polarizing political figures.² To some, he is a heroic military leader who stopped Rwanda’s 1994 genocide, then transformed himself into a politician and guided his people toward peace and prosperity.³ To

2. See Jeffrey Gettleman, *The Global Elite’s Favorite Strongman*, N.Y. TIMES (Sep. 4, 2013), <http://www.nytimes.com/2013/09/08/magazine/paul-kagame-rwanda.html?mcubz=3> [https://perma.cc/24W6-UEBR] (archived Oct. 26, 2017); see also *infra* notes 110-21 and accompanying text.

3. See PATRICIA CRISAFULLI & ANDREA REDMOND, RWANDA, INC.: HOW A DEVASTATED NATION BECAME AN ECONOMIC MODEL FOR THE DEVELOPING WORLD 92 (2012) (arguing Paul Kagame has the attributes of a successful corporate CEO, that he runs Rwanda like a business, and that the country’s success is due to his leadership); see also STEPHEN KINZER, A THOUSAND HILLS: RWANDA’S REBIRTH AND THE MAN WHO DREAMED IT 337 (2008) (arguing that Kagame is the “man of the hour in modern Africa”); Philip Gourevitch, *Letter from the Congo: Continental Shift*, NEW YORKER (Aug. 4, 1997), at 42 (praising Kagame as a new type of African leader); *infra* notes 113-16 and accompanying text.

others, he is a bloodthirsty dictator who deploys his army to pillage neighboring countries and his security forces to intimidate, imprison, or assassinate all who question his rule.⁴ This article will not resolve the question of whether Paul Kagame is a savior or a villain. It is possible, of course, that he is both. It will, however, confirm that the Kagame regime is engaged in a comprehensive, sophisticated effort to reprogram Rwandans' collective memory and thereby legitimize its increasingly dictatorial rule.

The US government and its people should care about what happens in Rwanda. The obligation is based partly on history. In 1994, US actions and inactions exacerbated a slaughter that killed an estimated 800,000 human beings.⁵ The US obligation is also based on contemporary geopolitics. At present, the United States gives Rwanda approximately US\$200 million in aid every year, making us by far its largest bilateral donor.⁶ If our money is going to Rwanda, and if the Rwandan government is oppressing its own people, we are at least indirectly complicit.

Legal scholars and human rights activists who have written about political oppression in contemporary Rwanda tend to focus on what Americans would consider "First Amendment" concerns, particularly the Kagame regime's aggressive silencing of perceived political opponents.⁷ This paper argues that this "freedom of expression" lens is

4. See Briefing, *Paul Kagame, feted and feared*, THE ECONOMIST (July 15, 2017), <https://www.economist.com/news/briefing/21724982-rwanda-more-prosperous-country-ever-it-also-repressed-one-paul-kagame> [<https://perma.cc/CK97-CCX8>] (archived Oct. 26, 2017); see also Howard W. French, *The Case Against Rwanda's President Paul Kagame*, NEWSWEEK (Jan. 14, 2013), <http://www.newsweek.com/case-against-rwandas-president-paul-kagame-63167> [<https://perma.cc/FA8P-W42N>] (archived Oct. 26, 2017) (quoting the Rwanda scholar Filip Reyntjens as claiming President Kagame is "probably the worst war criminal in office today"); *infra* notes 119-26.

5. See *infra* notes 91-96 (discussing the US's role in facilitating the Rwandan genocide; see also *infra* note 78 (discussing disagreement about the exact number of dead).

6. See *Compare your country: Aid statistics by donor, recipient and sector*, ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD), <http://www2.compareyourcountry.org/aid-statistics?cr=302&lg=en&page=1> [<https://perma.cc/XF6V-6RY2>] (last visited Oct. 26, 2017) (showing the US as Rwanda's largest governmental donor at almost \$200 million per year).

7. See, e.g., Jennifer M. Allen & George H. Norris, *Is Genocide Different?: Dealing with Hate Speech in a Post-Genocide Society*, 7 J. OF INT'L L. & INT'L REL. 146, 147 (2011); Yakare-Oule (Nani) Jansen, *Denying Genocide or Denying Free Speech? A Case Study of the Application of Rwanda's Genocide Denial Laws*, 12 NW. J. INT'L HUM. RTS. 191, 191 (2014); Joseph Sebarenzi, *Justice and Human Rights for All Rwandans*, in REMAKING RWANDA: STATE

too narrow to understand fully what is taking place in Rwanda today. Instead, the paper borrows theoretical concepts from historiography and memory studies, and argues that Rwanda's government is surpassing mere suppression of speech and instead is engaging in a tightly managed effort to establish and enforce a fanciful version of history that legitimizes the Kagame regime's increasingly autocratic rule. The regime, to the extent it admits its actions, justifies them as necessary to maintain stability and avoid a repeat of the country's horrific genocide.⁸ But abundant evidence indicates that President Kagame is tailoring memory and history not to maintain stability, but to keep himself and his ruling coterie in power.

The Rwandan government's program of "memory entrepreneurship"⁹ relies partly on law as a tool for political oppression, but understanding the full scope of the oppression requires explorations beyond the realm of law. Part II of the paper will begin with history, providing an overview of Rwanda that focuses particular attention on the years leading up to the 1994 genocide. Part III will introduce helpful theoretical concepts from historiography and memory studies, and then will deploy those concepts in examining competing versions of Rwanda's history: the self-serving narrative insisted upon by the Kagame regime, and the narrative generally agreed upon by historians and other scholars. Part IV turns back to law, describing the legal (and in some cases, extralegal) methods Rwanda's government uses to enforce its self-justifying, ahistorical narrative. Part V concludes by positing that the Rwandan government's efforts to control history and memory are a symptom of creeping dictatorship. Even allowing for the fact that strong leadership is needed in a country that suffered a horrific genocide less than a generation ago, its actions

BUILDING AND HUMAN RIGHTS AFTER MASS VIOLENCE 343-49 (Scott Straus & Lars Waldorf eds., 2011).

8. See AMNESTY INTERNATIONAL, RWANDA: JUSTICE IN JEOPARDY: THE FIRST INSTANCE TRIAL OF VICTOIRE INGABIRE 9 (2013); see also Allen & Norris, *supra* note 7, at 147 (arguing that the government restricts speech to avoid reigniting the conflict); Scott Straus & Lars Waldorf, *Introduction: Seeing Like a Post-Conflict State*, in REMAKING RWANDA, *supra* note 7, at 8 (arguing the regime's central justification is that the prior social order produced the genocide, so radical social change is needed to prevent a future reoccurrence); Laura Seay, *Is Rwanda's Authoritarian State Sustainable?*, WASHINGTON POST (June 3, 2016), <https://www.washingtonpost.com/news/monkey-cage/wp/2016/06/03/is-rwandas-authoritarian-state-sustainable/> [<https://perma.cc/F3GV-P5NM>] (archived Oct. 26, 2017) (similar).

9. See generally *infra* note 139 and accompanying text (explaining the term "memory entrepreneurship").

appear to be more geared toward maintaining power than maintaining peace.

II. RWANDA, ITS GENOCIDE, AND THE RISE OF PRESIDENT PAUL KAGAME

Most non-specialists know one thing about Rwanda, which is that in 1994 it experienced genocide. Later sections of this paper will closely analyze competing historical narratives about what caused the genocide and exactly what happened once it began. In the meantime, this section provides an overview relying on facts that are, at least for the most part, uncontested.

Rwanda is a small, beautiful, hilly, landlocked, densely populated¹⁰ country in east Africa.¹¹ Its economy relies on agricultural production and animal husbandry,¹² though the government would like to shift over time toward an “information economy.”¹³ The country is populated by three “ethnic” groups: Hutu (85% of the population), Tutsi (14% of the population), and Twa (1% of the population).¹⁴

10. See John W. Bruce, *Return of Land in Post-Conflict Rwanda: International Standards, Improvisation, and the Role of International Humanitarian Organizations*, in LAND AND POST-CONFLICT PEACEBUILDING 121, 122 (Jon Unruh & Rhodri C. Williams eds., 2013) (arguing Rwanda has one of the highest ratios of people to arable land in the world); Catharine Newbury, *High Modernism at the Ground Level: The Imidugudu Policy in Rwanda*, in REMAKING RWANDA, *supra* note 7, at 223-24 [hereinafter Newbury, *High Modernism*] (arguing Rwanda has one of the highest population densities and lowest rates of urbanization in Africa); David Newbury & Catharine Newbury, *Bringing the Peasants Back in: Agrarian Themes in the Construction and Corrosion of Statist Historiography in Rwanda*, 105 AM. HIST. REV. 832, 837 (2000) [hereinafter Newbury & Newbury, *Bringing the Peasants Back In*] (arguing Rwanda is a tiny, densely packed country of 10,000 square miles – about the size of Vermont – with a current population of 7.5 million compared to Vermont’s 600,000).

11. See Composition of Macro Geographical (Continental) Regions, Geographical Sub-Regions, and Selected Economic and Other Groupings, UNITED NATIONS, <http://millenniumindicators.un.org/unsd/methods/m49/m49regin.htm> [https://perma.cc/JXH4-AGDF] (last visited Oct. 26, 2017).

12. See Newbury, *High Modernism*, *supra* note 10, at 223 (arguing most Rwandans rely on agricultural production for their survival).

13. See generally KIGALI, REPUBLIC OF RWANDA MINISTRY OF FINANCE AND ECONOMIC PLANNING, RWANDA VISION 2020 (July 2000); An Ansoms, *Rwanda’s Post-Genocide Economic Reconstruction: The Mismatch Between Elite Ambitions and Rural Realities*, in REMAKING RWANDA, *supra* note 7, at 240 [hereinafter Ansoms, *Reconstruction*] (arguing Rwanda’s government plans to transform from a “low human development” country to medium, as defined by the United Nations Human Development Index).

14. See David Newbury, *Understanding Genocide*, 41 AFR. STUD. REV. 73, 78 (1998). David and Catharine Newbury argue the Twa, sometimes referred to as “pygmy,” are often overlooked in political analysis due to their low numbers and are “usually relegated to the status

However, as discussed in Part III.B and C, there is controversy over whether those groups are indeed different ethnicities since they speak a single language,¹⁵ Kinyarwanda, and historically lived together, frequently intermarried, and worshiped the same gods.¹⁶

Germany was Rwanda's first colonial ruler but its influence on the country was limited and its tenure brief.¹⁷ After Germany's loss in World War I, The League of Nations assigned Belgium as Rwanda's European protector.¹⁸ Belgium settled in as a typical colonial ruler, imposing harsh policies similar to those implemented by other colonizing powers across Africa. They forced farmers to grow cash crops such as coffee,¹⁹ which made those farmers vulnerable to

of exotic appendages to Rwandan society." Newbury & Newbury, *Bringing the Peasants Back In*, *supra* note 10, at 840.

15. Language is an area of political contestation in Rwanda. French was Rwanda's colonial language and until recently was the primary language of higher education and government. See Chris McGreal, *Why Rwanda said adieu to French*, THE GUARDIAN (Jan. 16, 2009), <https://www.theguardian.com/education/2009/jan/16/rwanda-english-genocide> [<https://perma.cc/XP2L-JMLE>] (archived Oct. 26, 2017). But in 2009, the Kagame regime announced an abrupt switch to English. Its purported reason was that English would facilitate economic integration with Rwanda's English-speaking East African neighbors. *Id.* Others saw politics in the switch: Rwanda holds France partly responsible for the 1994 genocide and has taken steps to distance itself, including moving away from the French language. *Id.*; see also *infra* notes 48-49, 83-90 and accompanying text (discussing France's role in facilitating the genocide). Also, Paul Kagame and his ruling coterie grew up in exile in English-speaking countries, see *infra* note 85 and accompanying text, and their command of French is limited. *Id.* The disruptive effect of the switch was mitigated by the fact that all Rwandans speak Kinyarwanda and government business is often conducted in that language. See PHILIP GOUREVITCH, WE WISH TO INFORM YOU THAT TOMORROW WE WILL BE KILLED WITH OUR FAMILIES 55 (1998) [hereinafter GOUREVITCH, WE WISH TO INFORM YOU].

16. See Newbury, *Understanding Genocide*, *supra* note 14, at 78.

17. The Berlin Conference of 1884-1885, which carved up Africa and awarded it to various European powers, assigned Rwanda and Burundi (then a single entity known as Ruanda-Urundi and part of German East Africa) to Germany. See GOUREVITCH, WE WISH TO INFORM YOU, *supra* note 15, at 57. However, because present-day Rwanda was remote and inaccessible, Germans did not actually arrive on the scene until 1897. *Id.* at 54. In 1922, after Germany's loss in World War I, a League of Nations mandate assigned the territory to Belgium, which ruled in various forms until independence in 1961. *Id.* at 54, 61; Jean-Marie Kamatali, *State Building in Rwanda*, in RECONSTRUCTING THE AUTHORITARIAN STATE IN AFRICA 162 (George Klay Kieh, Jr. & Pita Ogaba eds., 2014).

18. GOUREVITCH, WE WISH TO INFORM YOU, *supra* note 15, at 54, 61.

19. See Newbury & Newbury, *Bringing the Peasants Back In*, *supra* note 10, at 862 (arguing that by the end of the 1950s coffee represented more than 70% of the export earnings of Ruanda-Urundi); see also Newbury, *High Modernism*, *supra* note 10, at 226 (arguing Belgian colonists pushed coffee production and generally "intruded in rural production").

famine.²⁰ They compelled their subjects to engage in burdensome forced labor, which placed further strain on household livelihoods.²¹ They implemented a typical divide and conquer strategy by which they selected a minority group – in this case the Tutsi people – and favored them with education and official government positions while using them to rule over the majority – in this case mostly Hutu people.²²

Part III of this paper will discuss disagreements over whether the Tutsi and Hutu people are in fact distinct ethnic groups, but the Belgians assumed they were and they favored the Tutsi for reasons that strike modern ears as disturbingly racist.²³ The Tutsis, at least to Belgians eyes, were taller and had somewhat lighter skin, higher foreheads, thinner faces, and more aquiline noses.²⁴ In other words, their features were closer to those of Europeans, which, the Belgians assumed, meant they had some northern blood running in their veins and, concomitantly, were superior to the supposedly darker, rounder, more compact Hutu.²⁵ Beginning in the 1930s, the Belgians required

20. See Ansoms, *Reconstruction*, *supra* note 13, at 244 (arguing the Belgians imposed crops and that monocropping prevented farmers from diversifying to spread the risk of crop failure and uncontrollable market fluctuations); Thomas Kelley, *Squeezing Parakeets Into Pigeon Holes: The Effects of Globalization and State Legal Reform in Niger on Indigenous Zarma Law*, 34 N.Y.U. J. INT'L L. & POL. 635, 651, n.73 (2002) (arguing that French-imposed cash cropping schemes led to famine in times of drought).

21. GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 15, at 57 (arguing that the Belgians imposed forced labor, mostly on Hutu subjects). There is now a rich English-language literature chronicling the Rwandan genocide. Philip Gourevitch, who was among the first American journalists to write about the genocide and its aftermath, is criticized by some scholars for getting parts of the story – including parts of Rwanda's history – wrong. See, e.g., Jens Meierhenrich, *Topographies of Remembering and Forgetting: The Transformation of "Lieux de Memoire" in Rwanda*, in *REMAKING RWANDA*, *supra* note 7, at 288 (arguing Gourevitch is a mere "casual observer of things Rwandan"). He also has been publicly chastised for glossing over allegations that the Kagame regime has committed war crimes and crimes against humanity. See, e.g., Jason Stearns & Federico Borello, *Bad Karma: Accountability for Rwandan Crimes in the Congo*, in *REMAKING RWANDA*, *supra* note 7, at 155 [hereinafter Stearns & Borello, *Bad Karma*] (arguing Gourevitch's later writings on Rwanda unfairly stereotype Hutu refugees in the Democratic Republic of Congo as collectively guilty of genocide). Still, Gourevitch's book is, to my mind, the most thoroughly descriptive and engaging journalistic account of the genocide.

22. See GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 15, at 51, 55-56.

23. *Id.* at 55-56 (describing the racial and racist nature of European hypotheses about the origins of Hutus and Tutsis).

24. Newbury & Newbury, *Bringing the Peasants Back In*, *supra* note 10, at 838-39.

25. See *id.* at 839 (arguing that Europeans incorrectly considered the Hutu to be "short, sturdy, and dark," in comparison to Tutsi); see also David Newbury, *Canonical Conventions in Rwanda: Four Myths of Recent Historiography in Central Africa*, 39 HIST. IN AFR. 41, 50 (2012) [hereinafter Newbury, *Canonical Conventions*] (describing the racist "Hamitic

all Rwandans to obtain identity cards that, among other things, specified their ethnicity.²⁶ These cards were still in use when the 1994 genocide began and, tragically, helped make the slaughter more targeted and efficient.²⁷

In the 1950s, winds of change²⁸ blew across the African continent, including Rwanda. For political and social reasons too complicated to parse here, Rwanda's Hutu majority began in the late 1940s demanding full representation in governance, and the Belgian colonial regime, along with the Catholic church that helped rule the country,²⁹ switched allegiance and began backing Hutu aspirations.³⁰ As Rwandan Hutus asserted control, the Tutsi minority suffered systematic violence and deprivation.³¹ Between 1959 and 1961, on the eve of Rwandan independence, Hutus engaged in widespread attacks against Tutsi people that killed many and destroyed countless homes.³² As a result, an estimated 250,000 Tutsis fled into exile, mostly to neighboring countries.³³ This Tutsi diaspora played an important role in more recent Rwandan history, partly because Paul Kagame's family was among the many who sought refuge in neighboring Uganda.³⁴

Hypothesis" and arguing that Tutsis invoked it in support of their superiority while Hutus invoked it to show that they had prior claims to the land).

26. GOUREVITCH, WE WISH TO INFORM YOU, *supra* note 15, at 56-57.

27. See GOUREVITCH, WE WISH TO INFORM YOU, *supra* note 15, at 223 (arguing that identity cards had served as "death tickets" during the genocide); Linda Melvern, *The Past is Prologue: Planning the 1994 Rwandan Genocide*, in AFTER GENOCIDE: TRANSITIONAL JUSTICE, POST-CONFLICT RECONSTRUCTION AND RECONCILIATION IN RWANDA AND BEYOND 22 (Philip Clark & Zachary D. Kaufman eds., 2008).

28. In 1960, British Prime Minister Harold Macmillan delivered his now famous "Wind of Change" speech in Cape Town, South Africa. See Frank Myers, *Harold Macmillan's "Winds of Change" Speech: A Case Study in Rhetoric of Policy Change*, 3 RHETORIC AND PUB. AFF. 555 (Winter 2000). He acknowledged that African nationalist aspirations were legitimate and that independence for African countries was inevitable. See *id.*; see generally Ritchie Owendale, *Macmillan and the Winds of Change in Africa, 1957-1960*, 38 THE HIST. J. 455 (June 1995).

29. GOUREVITCH, WE WISH TO INFORM YOU, *supra* note 15, at 56.

30. See generally Newbury & Newbury, *Bringing the Peasants Back In*, *supra* note 10, at 839 (describing the Hutu political emergence in the 1950s).

31. Catherine Newbury & David Newbury, *A Catholic Mass in Kigali: Contested Views of the Genocide and Ethnicity in Rwanda*, 33 CAN. J. AFR. STUD. 292, 297-99 (1999) [hereinafter Newbury & Newbury, *A Catholic Mass*] (discussing ethnicity-based attacks on Tutsis and limits on Tutsi admission to schools and government jobs).

32. GOUREVITCH, WE WISH TO INFORM YOU, *supra* note 15, at 59-60.

33. *Id.*

34. *Id.* at 211.

After gaining independence in 1961, Rwanda settled into a sustained period of Hutu rule and Tutsi deprivation. In 1973, the army chief of staff, a Hutu named Juvenal Habyarimana, launched a successful coup d'état against the sitting president, also a Hutu, and ruled until April 6, 1994, the day the genocide began.³⁵ Habyarimana began as a comparative moderate in the matter of Hutu/Tutsi relations, but over time his regime became increasingly dominated by a group of hardliners associated with his wife, Agethe Habyarimana, and her clan from Rwanda's northwestern region.³⁶ Those hardliners were known as the *akuzu* ("little house" in Kinyarwanda)³⁷ and it was they who resisted reconciliation and power sharing with the Tutsi and who meticulously planned the genocide.³⁸

While Habyarimana was ruling Rwanda, Paul Kagame was gaining experience and influence in neighboring Uganda.³⁹ His professional and personal trajectory was fascinating and complicated, but for purposes of this overview it must suffice to say that he joined the Ugandan military, rose through the ranks, and eventually became its chief of military intelligence.⁴⁰ At the same time Kagame was serving the Ugandan army, he and a small group of Tutsi associates began laying plans to create their own army,⁴¹ one they planned to incubate from within the Ugandan army and then use to invade Rwanda, topple Habyarimana's regime, make Rwanda safe for Tutsis, and permit the refugees' return to their homeland.⁴² This shadow military force eventually became associated with a Uganda-based political movement known as the Rwandan Patriotic Front ("RPF").⁴³

By the late 1980s, the RPF army was in the process of splitting off from the Ugandan military in preparation for invading Rwanda.⁴⁴ In 1990, Kagame's friend and RPF comrade in arms, Fred Rwigyema, led approximately 4,000 mostly Tutsi troops over the Ugandan border into northern Rwanda, marking the beginning of what some refer to as

35. *Id.* at 26.

36. *Id.* at 76-77.

37. *Id.* at 81.

38. *Id.*

39. *Id.* at 211, 213-14.

40. *Id.*

41. KINZER, *supra* note 3, at 47-52.

42. *Id.* at 48-50.

43. *Id.* at 50-51.

44. *Id.* at 55.

the Rwandan Civil War.⁴⁵ Rwigyema was killed soon after the start of the RPF advance⁴⁶ and his troops performed poorly.⁴⁷ Although Rwanda's Hutu army, the *Forces Armées Rwandaises* ("FAR"), never enjoyed a reputation for battlefield prowess,⁴⁸ French troops⁴⁹ bolstered the FAR by directly engaging and repelling the advancing Tutsis.⁵⁰

Upon Rwigyema's death, Kagame took over control of the RPF army.⁵¹ He led its withdrawal into the remote and rugged Virunga Mountains in Rwanda's extreme northwest and began a process of rigorous retraining and refitting.⁵² When the RPF army emerged from the mountains in early 1991 and began a series of hit and run attacks inside of Rwanda, it proved disciplined and fierce⁵³ and made rapid progress against the FAR. By all accounts, Kagame was an extremely effective leader of his troops and a masterly military tactician and strategist.⁵⁴

By the early 1990s, pressure was mounting on President Habyarimana to democratize Rwanda and to treat Tutsis – including

45. See GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 15, at 217 (noting that Kagame was not present at the outbreak of hostilities because he was receiving military training at Fort Leavenworth, Kansas).

46. *See id.*; KINZER, *supra* note 3, at 67.

47. *See* KINZER, *supra* note 3, at 67, 78.

48. *See* KINZER, *supra* note 3, at 77-78, 117 (arguing Rwanda's national army was "notoriously inept"); DANIELA KROSLAK, *THE ROLE OF FRANCE IN THE RWANDAN GENOCIDE* 131 (2007) (arguing the French, who knew the Hutu army well, believe it "sclerotic" and incapable of winning the war on its own); Newbury & Newbury, *A Catholic Mass*, *supra* note 31, at 304 (similar).

49. *See generally infra* notes 83-90 and accompanying text (describing France's support for the genocidal Habyarimana regime).

50. *See* KROSLAK, *supra* note 48, at 125 (referring to unproven rumors that French troops were directly involved in the war effort); *see also* GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 15, at 89 (arguing that "hundreds of superbly equipped French paratroopers" kept the RPF from advancing); KINZER, *supra* note 3, at 77-78 (arguing the RPF's defeat in 1990 was because "France had come to its client's rescue").

51. GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 15, at 217.

52. *See id.* at 89 (arguing Kagame and the RPF trained his force into "a fierce and fiercely disciplined" guerilla army); KINZER, *supra* note 3, at 80-81 (arguing the RPF licked its wounds and reconstituted itself in the mountains).

53. *See* KINZER, *supra* note 3, at 172 (arguing the RPF army was cohesive and disciplined).

54. *See id.* at 78, 97 (arguing Kagame was known to be a clear strategic thinker, brave fighter, and strict disciplinarian and that his first year leading the RPF army was a "resounding success"); *see also* GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 15, at 218 (arguing that many consider Kagame's 1994 military campaign a "work of plain genius").

diaspora Tutsis – fairly. Part of that pressure resulted from world events.⁵⁵ The United States and its allies had recently won the Cold War and new rules of the international game dictated that countries receiving aid, including Rwanda, would have to move rapidly toward democratic governance.⁵⁶ Pressure also resulted from the fact that Kagame and the RPF continued to demonstrate prowess on the battlefield.⁵⁷

In 1992, Kagame agreed to a ceasefire and committed to participating in negotiations to end the conflict.⁵⁸ The talks took place primarily in Arusha, Tanzania, and resulted in a complicated power sharing agreement that became known as the Arusha Accords.⁵⁹ For purposes of this overview, it must suffice to say that President Habyarimana reluctantly agreed to various compromises, but that he was consistently opposed and undermined by the *akazu*⁶⁰ hardliners associated with his wife, Madam Agethe Habyarimana.⁶¹ When it appeared that the Arusha process might actually succeed, they began planning⁶² their own final solution to what they viewed as Rwanda's Tutsi problem.⁶³ They stockpiled weapons⁶⁴ and organized and trained local militias,⁶⁵ including the infamous *interahamwe*, who were the

55. See Newbury, *Understanding Genocide*, *supra* note 14, at 89 (arguing that pressure from inside and outside Rwanda compelled President Habyarimana to democratize).

56. GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 15, at 82; Newbury, *Understanding Genocide*, *supra* note 14, at 80.

57. See KINZNER, *supra* note 3, at 103-04 (discussing the RPF's military success and Paul Kagame's threat of further military action to strengthen his hand in the Arusha negotiations).

58. KINZNER, *supra* note 3, at 103.

59. GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 15, at 99; Newbury, *Understanding Genocide*, *supra* note 14, at 89-90 (arguing that the Arusha Accords did not really require democratization and instead merely committed to power sharing among Hutu and Tutsi political elites).

60. GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 14, at 99; Newbury, *Understanding Genocide*, *supra* note 14, at 79, 89.

61. See POWER, *A PROBLEM FROM HELL*, *supra* note 57, at 337; see also GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 15, at 80-82 (arguing the *akazu* "tightened its grip on the machinery of state" in reaction President Habyarimana's agreement to democratize); KINZNER, *supra* note 3, at 92 (arguing Habyarimana was simultaneously pressured by France to democratize and the *akazu* to crack down); Newbury & Newbury, *A Catholic Mass*, *supra* note 31, at 294-96 (similar).

62. Newbury & Newbury, *A Catholic Mass*, *supra* note 31, at 294-96.

63. GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 15, at 94 (arguing by 1994 Hutus were using the term "final solution"); KINZNER, *supra* note 3, at 104, 109 (same).

64. See POWER, *A PROBLEM FROM HELL*, *supra* note 57, at 337 (arguing the hardliners stockpiled more than a half million machetes, one for every third Hutu adult male in Rwanda).

65. GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 15, at 93.

most prominent of the militias that carried out a great deal of the killing.⁶⁶ They compiled lists of prominent Tutsis and politically moderate Hutus who would be the first to die.⁶⁷ And they implemented a comprehensive media strategy, relying primarily on radio and newspapers, to dehumanize Tutsis and prepare Hutu civilians for the work of exterminating their neighbors.⁶⁸

On April 6, 1994, a missile felled an airplane carrying President Habyarimana and his Burundian counterpart, Cyprien Ntaryamira, as it was returning to Kigali after a round of consultations in Tanzania.⁶⁹ Nobody has proved who shot down the plane.⁷⁰ Many, including the present-day Rwandan government, claim that Hutu *akazu* hardliners ordered the downing knowing it would furnish an excuse to implement the final solution.⁷¹ Others blame Paul Kagame and the RPF.⁷² What no one disputes is that the genocide began within minutes of the plane's impact.⁷³

66. *Id.* at 93 (arguing the *interahamwe* were “first among [the] militias”); Newbury, *Understanding Genocide*, *supra* note 14, at 91-92 (describing the recruitment and actions of local militias).

67. See MICHAEL N. BARNETT, EYEWITNESS TO A GENOCIDE: THE UNITED NATIONS AND RWANDA 77-78 (2002) (arguing the hardliners stockpiled weapons, made lists, and organized death squads); GOUREVITCH, WE WISH TO INFORM YOU, *supra* note 15, at 93, 114 (referring to kill lists drawn up by the *interahamwe* militias and the Presidential Guard); Samantha Power, *Bystanders to Genocide*, THE ATLANTIC (Sept. 2001) [hereinafter Power, *Bystanders to Genocide*], <http://www.theatlantic.com/magazine/archive/2001/09/bystanders-to-genocide/304571/> [<https://perma.cc/88JG-NQKP>] (last visited Oct. 26, 2017) (arguing Hutu hardliners had prepared kill lists and that Radio Mille Collines broadcast names, addresses, and license-plate numbers of those who would be targeted first).

68. See Allen & Norris, *supra* note 7, at 149; see also GOUREVITCH, WE WISH TO INFORM YOU, *supra* note 15, at 85-88, 95 (describing the *akazu*'s use of media to dehumanize Tutsis); KINZER, *supra* note 3, at 109-110 (arguing the *akazu* used radio broadcasts, particularly by Radio-Television Libre de Mille Collines (RTL) to stir hatred and instruct on how to kill with homemade weapons); Newbury & Newbury, *A Catholic Mass*, *supra* note 31, at 295 (similar).

69. See KINZER, *supra* note 3, at 137-38; Newbury, *Understanding Genocide*, *supra* note 14, at 79.

70. See Lars Waldorf, *Instrumentalizing Genocide: The RPF's Campaign Against Genocide Ideology*, in REMAKING RWANDA, *supra* note 7, at 50-51 [hereinafter Waldorf, *Instrumentalizing Genocide*] (describing recent conflicting accounts of who was responsible).

71. See GOUREVITCH, WE WISH TO INFORM YOU, *supra* note 15, at 113 (arguing *akazu* hardliners were the most likely culprits); KINZER, *supra* note 3, at 139.

72. See KINZER, *supra* note 3, at 139; see also Waldorf, *Instrumentalizing Genocide*, *supra* note 70, at 50 (arguing that French anti-terrorist Judge Jean-Louis Bruguiere charged Kagame and his top military advisors with bringing down the plane).

73. See Newbury, *Understanding Genocide*, *supra* note 14, at 80; see also GOUREVITCH, WE WISH TO INFORM YOU, *supra* note 15, at 113 (arguing “the organizers of the genocide were

The killing began in Kigali as the *akazu* and their collaborators hunted down and slaughtered the individuals on their carefully prepared lists.⁷⁴ Among the first to die was Agathe Uwilingiyimana, the politically moderate Hutu prime minister⁷⁵ who would have, had she lived, been sworn in as the head of state after Habyarimana's death.⁷⁶

The slaughter spread to the countryside, often organized and led by the *interahamwe* militias.⁷⁷ Over a period of one hundred days, an estimated 800,000⁷⁸ Tutsi and politically moderate Hutu⁷⁹ were murdered. Much of the killing was retail: there was little reported use of machine guns or bombs; most victims were chopped or bludgeoned to death by neighbors and acquaintances.⁸⁰ The slaughter stopped only

primed to exploit [Habyarimana's] death instantaneously"); KINZER, *supra* note 3, at 138 (arguing that *interahamwe* had established roadblocks within an hour after the plane crash).

74. See generally *supra* note 67 and accompanying text (describing the compilation of kill lists); see also Leslie Haskell & Lars Waldorf, *The Impunity Gap of the International Criminal Tribunal for Rwanda: Causes and Consequences*, 34 HASTINGS INT'L & COMP. L. REV. 49, 49 (2011) [hereinafter Haskell & Waldorf, *The Impunity Gap*] (arguing the brutal killing was led by the *akazu* and carried out by the national army, local militia groups, and ordinary citizens urged to kill by the government).

75. See GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 15, at 114; Newbury, *Understanding Genocide*, *supra* note 14, at 80.

76. See KINZER, *supra* note 3, at 140; see also SUSAN THOMSON, *WHISPERING TRUTH TO POWER: EVERYDAY RESISTANCE TO RECONCILIATION IN POSTGENOCIDE RWANDA* 48 (2013) [hereinafter THOMSON, *WHISPERING*] (arguing the Hutu hardliners considered any Hutu who did not support the killing of Tutsis as "moderate"); Newbury, *Understanding Genocide*, *supra* note 13, at 80 (arguing the hardliners first targeted politically moderate Hutus).

77. See Newbury, *Understanding Genocide*, *supra* note 14, at 78, 81 (arguing the killing began in the capital and then "was directed throughout the country").

78. The butcher's bill has never been definitively settled. Most published estimates claim 800,000 deaths. See GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 15, at 133 (arguing 800,000 is the "best estimate"); Phil Clark & Zachary D. Kaufman, *After Genocide*, in *AFTER A GENOCIDE*, *supra* note 27, at xii (same). Some put the number of dead closer to 500,000. See Haskell & Waldorf, *The Impunity Gap*, *supra* note 74, at 49 (arguing the genocide killed "more than a half million people"). Still others claim the correct number is more than a million. See POWER, *A PROBLEM FROM HELL*, *supra* note 57, at 385 (quoting from a US official's journal); Jeffrey Gettleman, *In Africa, Benjamin Netanyahu Looks for Friends, and U.N. Votes, for Israel*, N.Y. TIMES (July 6, 2016), <http://www.nytimes.com/2016/07/07/world/africa/israel-african-netanyahu-uganda-kenya-rwanda.html?emc=eta1> [<https://perma.cc/A9AV-LSBP>] (archived Oct. 26, 2017).

79. See generally *supra* note 76 and accompanying text; see also Timothy Longman, *The Undemocratic Nature of Transition in Rwanda*, in *REMAKING RWANDA*, *supra* note 7, at 27 (arguing that the genocide perpetrators were worried about the moderating influence of civil society and so targeted Hutus and Tutsis associated with those organizations).

80. See GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 15, at 115 (arguing neighbors killed neighbors, doctors killed patients, and schoolteachers killed pupils); KINZER,

when the RPF army – led by Paul Kagame – defeated the Hutu regime and its army and either killed, captured or drove into exile the *genocidaires*.⁸¹

Later sections of this paper will discuss the fact that the international community gives Paul Kagame wide latitude, continuing to support his government in spite of strong evidence of its human rights abuses.⁸² Its blind support is rooted in its well-founded shame at abetting the genocide.

Above all, the French were despicable. Fearing a general loss of influence in Africa⁸³ and more specifically the spread of Anglo-American influence on the continent⁸⁴ (Kagame and most members of the RPF had grown up in exile in Uganda and spoke English rather than French),⁸⁵ France armed,⁸⁶ funded and trained the *genocidaires*.⁸⁷ Worse yet, it continued to protect and support the Hutu rump regime

supra note 3, at 164 (arguing soldiers and militiamen “cut” people they had known for years including neighbors and coworkers); POWER, A PROBLEM FROM HELL, *supra* note 57, at 334 (arguing that once the killing spread beyond Kigali it was carried out with knives, machetes, and clubs).

81. *Timeline: 100 days of genocide*, BBC NEWS, (last updated Apr. 6, 2004, 8:42 GMT), <http://news.bbc.co.uk/2/hi/africa/3580247.stm> [<https://perma.cc/A3DN-2VRW>] (last visited Oct. 26, 2017).

82. *See generally infra* notes 127-143 and accompanying text.

83. *See* GOUREVITCH, WE WISH TO INFORM YOU, *supra* note 15, at 90 (arguing France viewed francophone Africa as “a virtual extension of the motherland”); KINZER, *supra* note 3, at 94-96 (similar); KROSLAK, *supra* note 48, at 56 (arguing that France believed its influence in francophone Africa helped ensure its position on the world stage).

84. GOUREVITCH, WE WISH TO INFORM YOU, *supra* note 15, at 90; KINZER, *supra* note 3, at 130; Linda Melvern, *France and Genocide: The Murky Truth*, THE TIMES (LONDON), Aug. 8, 2008, at 25 (arguing that “[o]nce Rwanda was ‘lost’ to Anglophone influence, [French leaders believed] French credibility in Africa would never recover.”).

85. GOUREVITCH, WE WISH TO INFORM YOU, *supra* note 15, at 90 (arguing “the fact that the RPF had emerged out of Anglophone Uganda inspired the ancient French tribal phobia of the Anglo-Saxon menace”).

86. *See* KROSLAK, *supra* note 48, at 140-42; *see also* GOUREVITCH, WE WISH TO INFORM YOU, *supra* note 15, at 104 (arguing France continued to deliver arms to the Hutu government in Kigali even after the Arusha Accords had declared Kigali a weapons-free zone); KINZER, *supra* note 3, at 94 (arguing France during the early 1990s sold the Rwandan government more than \$20 million in arms and helped it buy five times that amount, including helicopters, tanks, and missiles, from dealers in Egypt and South Africa).

87. *See* KROSLAK, *supra* note 48, at 99, 146-47 (arguing that the French government “stood full square behind the Habyarimana regime” by equipping and training the Hutu army, police, Presidential Guard and militias); *see also* BARNETT, *supra* note 67, at 88 (arguing France was closely tied to the Hutu hardliners and supported them with training and equipment); GOUREVITCH, WE WISH TO INFORM YOU, *supra* note 15, at 155 (referring to France’s “blatant complicity in the preparation and implementation of the butchery”).

long after it was apparent that it was perpetrating genocide.⁸⁸ Ultimately, many of the *genocidaires* who made it to the safety of French lines were escorted over the border into Zaire (now the Democratic Republic of Congo), some in ranks and carrying their weapons,⁸⁹ where they wreaked havoc on Rwanda and the rest of the region for years to come.⁹⁰

The French were not the only perfidious actors from the international community. Americans were almost as bad. The United States had recently experienced a military debacle in Mogadishu, Somalia, and President Clinton and his administration wanted nothing to do with chaotic African conflicts.⁹¹ Thus, not only did the US decline to use its military might to stop the slaughter,⁹² it aggressively employed its political and economic power to prevent the United Nations and other international bodies from taking decisive action.⁹³

88. See KINZER, *supra* note 3, at 165, 174 (arguing that three months into the genocide French President Mitterrand was still supplying weapons and field support to the Hutu army and was determined to prevent an RPF victory); see also GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 15, at 89 (arguing the French continued huge arms shipments to Rwanda right through the killings in 1994).

89. See GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 15, at 161; KINZER, *supra* note 3, at 184; Newbury, *Understanding Genocide*, *supra* note 14, at 82.

90. See Allen & Norris, *supra* note 7, at 150; see also KINZER *supra* note 3, at 188 (describing the ex-FAR's rearming in Zaire and laying plans retake Rwanda); Newbury, *Understanding Genocide*, *supra* note 14, at 83 (arguing that by permitting the FAR to escape to Zaire, the French "set the stage for further violence in the region"); Filip Reyntjens, *Waging (Civil) War Abroad: Rwanda and the DRC*, in *REMAKING RWANDA* *supra* note 7, at 133 (arguing the FAR who made it over the border into DRC planned to invade Rwanda and finish the genocide); Philip Gourevitch, *The Life After: Fifteen Years After the Genocide the Reconciliation Defies Expectations*, *NEW YORKER* (May 4, 2009), at ¶ 45 [hereinafter Gourevitch, *The Life After*] (describing the post-genocide "war of infiltration" the ex-FAR fought against Rwanda from its base in eastern Zaire).

91. See POWER, *A PROBLEM FROM HELL*, *supra* note 57, at 357 (arguing that policy makers in the Clinton administration drew an analogy to Somalia, not the Holocaust); Newbury & Newbury, *A Catholic Mass*, *supra* note 31, at 312; Power, *Bystanders to Genocide*, *supra* note 67, at 8.

92. Power, *Bystanders to Genocide*, *supra* note 67, at 8 (arguing that the US even refused to use its AWACS planes to jam the hate-spewing radio broadcasts on the ridiculous grounds that it would be too expensive and might violate international law).

93. See POWER, *A PROBLEM FROM HELL*, *supra* note 57, at 346, 359 (arguing the Clinton administration blocked the U.N. Security Council from using the term "genocide" and obfuscated the fact of genocide by promoting the notion that the conflict was caused by "ancient tribal hatreds"). France also did its part to discourage United Nations action, partly by advising the famously Francophile U.N. Secretary General, Boutros Boutros Ghali, to portray the conflict as typical African chaos. See BARNETT, *supra* note 67, at 121; KINZER, *supra* note 3, at 118 (arguing Ghali was Francophile and easily influenced by French diplomats).

The Clinton administration's embarrassing and intellectually dishonest⁹⁴ reluctance to get involved was highlighted in an infamous news conference in which a State Department spokesperson, under orders not to admit that genocide was taking place in Rwanda⁹⁵ (which might have obligated the United States to take action), declared absurdly that there was no proof of genocide but that "acts of genocide may have occurred."⁹⁶

When the genocide and the war finally ended, the RPF, with Paul Kagame at its head, took possession of a country in blood-soaked ruins.⁹⁷ Rwanda's economy, infrastructure, and institutions were devastated.⁹⁸ The judiciary, for example, could not function because its personnel were dead or in exile and because its facilities had been stripped right down to the light bulbs.⁹⁹

The RPF got to work and over the following decades made extraordinary advances in rebuilding Rwanda.¹⁰⁰ Many of the new government's policies have been controversial, including the use of neo-traditional *gacaca* courts to try genocide perpetrators and clear the enormous backlog of accused, and the forced resettlement of peasant farmers in accordance with the country's *imidugudu* ("villagization")

94. See POWER, *A PROBLEM FROM HELL*, *supra* note 57, at 354 (arguing by the second day of the killing the US possessed sufficient intelligence to clearly demonstrate a genocide was taking place).

95. See GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 15, at 153 (arguing "Washington didn't want to act. So Washington pretended that it wasn't a genocide"); KINZER, *supra* note 3, at 170 (arguing President Clinton's administration was under orders not to use the word "genocide" because it would create a moral, if not legal, responsibility to intervene); Power, *Bystanders to Genocide*, *supra* note 67, at 14 (arguing the administration avoided using the "g-word" because it would harm its credibility if admitted a genocide was taking place but did nothing);

96. KINZER, *supra* note 3, at 171; Power, *Bystanders to Genocide*, *supra* note 67, at 15 (arguing that the spokesperson's responses were a "semantic dance").

97. Gourevitch, *The Life After*, *supra* note 90, at 37 (arguing post-genocide Rwanda was "blood-sodden and pillaged").

98. See KINZER, *supra* note 3, at 177 (arguing that after the genocide Rwanda was "shattered morally, politically, socially, and economically"); Gourevitch, *The Life After*, *supra* note 90, at 37 (arguing the country's infrastructure was trashed, its economy gutted and its court system vitiated).

99. GOUREVITCH, *WE WISH TO INFORM YOU*, *supra* note 15, at 229; Allen & Norris, *supra* note 7, at 155.

100. See KINZER, *supra* note 3, at 1-2, 230 (describing Rwanda's remarkable post-genocide recovery); see also Ansoms, *Reconstruction*, *supra* note 13, at 241 (arguing Rwanda's post-genocide economic recovery has been "exceptional"); Gourevitch, *The Life After*, *supra* note 90, at 37 (arguing per-capita gross domestic product nearly tripled in the fifteen years after the genocide).

policy, purportedly aimed at stimulating more efficient agricultural production.¹⁰¹ But the country's overall economic and social progress has been exemplary¹⁰² when measured by widely accepted development indicators such as those that make up the UN Development Index.¹⁰³ Among many other improvements, Rwanda has vastly increased child and adult literacy, made education more widely available to girls and women, reduced infant and maternal mortality, improved access to health care and health insurance, made it easier to establish new businesses, significantly improved transportation and communication infrastructures, and expanded the economy at an impressive average of 9% per year over the past two decades.¹⁰⁴ At the same time, Rwanda has made impressive strides in battling corruption.¹⁰⁵

Not all of Rwanda's development-related news is positive. Critics argue that much of the country's economic growth has redounded to the benefit of an elite, urban, Anglophone, Tutsi community and that the government has made comparatively little progress fighting rural poverty.¹⁰⁶ Others accuse Rwanda of gaming the development

101. See generally *infra* notes 329-44 and accompanying text; HUMAN RIGHTS WATCH, WORLD REPORT 2001: RWANDA (2001).

102. See THOMSON, WHISPERING, *supra* note 76, at 12 (listing the Kagame regime's many achievements); Jansen, *supra* note 7, at 191 (arguing Rwanda's previous ten years of GDP growth averaged 7.4%, nearly double the regional average).

103. See World Bank, *Main Report*, (2014), <http://documents.worldbank.org/curated/en/2014/06/19712279/rwanda-country-partnership-strategy-period-fy2014-18-vol-2-3-accelerating-economic-growth> [https://perma.cc/4VJY-5FMD] (last visited Oct. 26, 2017); see also Jansen, *supra* note 7, at 1 (arguing Rwanda was the only country in sub-Saharan Africa on pace to meet its Millennium Challenge Goals by 2015).

104. See Gourevitch, *The Life After*, *supra* note 90, at 37 (arguing there have been vast improvements in access to health insurance, education, and more); United Nations Development Programme, *Rwanda Final MDG Progress Report: 2013* (Dec. 2014), <http://www.rw.undp.org/content/rwanda/en/home/library/mdg/-millenium-development-goals-rwanda-2015.html> [https://perma.cc/7GPN-DQ7C] (last visited Oct. 26, 2017). But see Ansoms, *Reconstruction*, *supra* note 13, at 241-42 (arguing that Rwanda's economic growth has not been accompanied by significant poverty reduction, and that much of the economic growth has benefitted only elites).

105. Marie Chêne, *Help-Desk Answer: Anti-Corruption Progress in Georgia, Liberia, Rwanda*, World Bank Grp., (2014), <http://documents.worldbank.org/curated/en/2014/06/19712279/rwanda-country-partnership-strategy-period-fy2014-18-vol-2-3-accelerating-economic-growth> [https://perma.cc/6SHN-NXST] (last visited Oct. 26, 2017).

106. See An Ansoms, *Re-Engineering Rural Society: The Visions and Ambitions of the Rwandan Elite*, 108 AFR. AFF. 289, 292 (2009) [hereinafter Ansoms, *Re-Engineering Rural Society*] (arguing Rwandan elite seek to artificially upgrade rural life, "while hiding the extent of poverty and inequality"); An Ansoms, *Resurrection After Civil War and Genocide: Growth,*

numbers: reverse engineering how NGOs measure development progress and implementing programs to boost their numbers, not address real problems.¹⁰⁷ Some even question Rwanda's vaunted fight against corruption, pointing out that the regime sometimes uses corruption charges to punish political dissenters.¹⁰⁸ Still, Rwanda's progress since the genocide has been impressive.

All of this progress took place under Paul Kagame's leadership. Although he initially assumed the role of vice president in Rwanda's post-genocide government, ceding the presidency to a Hutu named Pasteur Bizimungu, no one ever doubted that Kagame was in charge.¹⁰⁹ When Bizimungu broke with Kagame over what he perceived to be excessive suppression of political expression in the country, Kagame's loyalists attacked him on grounds of corruption, leading to his resignation in 2000.¹¹⁰

Kagame ascended to the presidency, and, after winning two highly questionable elections along the way,¹¹¹ has been in that office ever since. Although Rwanda's constitution until recently limited the president to two consecutive seven-year terms, which would have meant the end of Kagame's presidency in 2017, in 2015 he and his

Poverty and Inequality in Post-Conflict Rwanda, 17 EUR. J. DEV. RES. 495, 500 (2005) (arguing there has been an "enormous shift of income from poor to rich").

107. See Filip Reyntjens, *Lies, Damned Lies and Statistics: Poverty Reduction Rwandan-Style and How the Aid Community Loves It*, AFRICAN ARGUMENTS (Nov. 3, 2015), <http://africanarguments.org/2015/11/03/lies-damned-lies-and-statistics-poverty-reduction-rwandan-style-and-how-the-aid-community-loves-it/> [https://perma.cc/GWH2-RNW8] (archived Oct. 26, 2017) (arguing Rwanda manipulates statistics to exaggerate its progress in alleviating poverty and thereby blunt criticism about its poor human rights record); see also Nicolas Germain, *Rwanda Accused of Manipulating Poverty Statistics*, FRANCE 24 (Nov. 2, 2015), <http://www.france24.com/en/20151102-rwanda-accused-manipulating-poverty-statistics> [https://perma.cc/WKR9-REJD] (archived Oct. 26, 2017) (similar).

108. See generally *infra* notes 110, 243 and accompanying text.

109. See Longman, *supra* note 79, at 32 (arguing that when Paul Kagame occupied the offices of vice president and minister of defense, he "maintained real control" of the government).

110. Chris McGreal, *Tutsi Soldier to Lead Rwanda*, THE GUARDIAN (Mar. 24, 2000), <https://www.theguardian.com/world/2000/mar/25/chris-mcgreal> [https://perma.cc/JU5L-4FY6] (archived Oct. 26, 2017) ("Gen Kagame's allies were quick to hit back at Mr Bizimungu by saying he had resigned because he too faced a corruption investigation.").

111. See Rachel Haymen, *Funding Fraud? Donors and Democracy in Rwanda*, in REMAKING RWANDA, *supra* note 7, at 118 (arguing that the RPF fraudulently fixes the results of Rwandan elections); see generally Longman, *supra* note 79, at 26-27 (arguing Rwanda has made the post-genocide transition under Kagame from one type of authoritarian regime to another).

regime carefully stage-managed a public outcry demanding that he extend his leadership.¹¹² On cue, Rwanda's people voted overwhelmingly in favor of a referendum to extend the president's term.¹¹³ Rwanda's legislature in turn approved the constitutional amendment.¹¹⁴ The change virtually guarantees that Kagame will remain president far into the future.

Today, Paul Kagame is among the world's most polarizing political figures.¹¹⁵ Some commentators celebrate him as a visionary leader who is brilliant, disciplined, acetic, incorruptible, and who demands efficiency and performance by everyone who works for him.¹¹⁶ He pals around with Fortune 500 CEOs, is supported by high-profile private foundations,¹¹⁷ and is a frequent and much sought-after participant in international think-fests such as the World Economic Forum in Davos, Switzerland.¹¹⁸

112. See Briefing, *supra* note 4; see also Phil Clark, *Rwanda: Kagame Third Term - Popular Support but a Wary Ruling Party*, HUFFINGTON POST BLOG (Dec. 3, 2015), http://www.huffingtonpost.co.uk/dr-phil-clark/rwanda-kagame-third-term-_b_8703166.html [https://perma.cc/RQ3A-CHS9] (archived Oct. 26, 2017) (arguing the petition was "government-orchestrated" and that rural Rwandans reported being cajoled by local authorities to sign the pro-Kagame petition multiple times); Claudine Vidal, *How Paul Kagame Made Himself Rwanda's President for Life*, RAND DAILY MAIL (Jan. 19, 2016), <http://www.rdm.co.za/politics/2016/01/19/how-paul-kagame-made-himself-rwanda-president-for-life> [https://perma.cc/GUT2-UC4L] (archived Oct. 26, 2017) (arguing the government's "orderly and sophisticated" campaign to extend Kagame's presidency "culminated with the production of a 'spontaneous' mass petition," as the "final step of a meticulously prepared political process...").

113. *RWANDA: Successful Referendum*, 52 AFR. RES. BULL.: POL. SOC. CULTURAL SERIES 20815B-20816B (2016) [hereinafter *Successful Referendum*].

114. *Id.*

115. See generally Jeffrey Gettleman, *The Global Elite's Favorite Strongman*, N.Y. TIMES (Sept. 4, 2013), <http://www.nytimes.com/2013/09/08/magazine/paul-kagame-rwanda.html?mcubz=3> [https://perma.cc/QT79-8YGB] (archived Oct. 26, 2017).

116. See CRISAFULLI & REDMOND, *supra* note 3, at 92 (arguing Paul Kagame has the attributes of a successful corporate CEO, that he runs Rwanda like a business, and that the country's success is due to his leadership); see also KINZER, *supra* note 3, at 337 (arguing that Kagame is the "man of the hour in modern Africa"); Gourevitch, *Letter from the Congo*, *supra* note 3, at 42 (praising Kagame as a new type of African leader).

117. See generally Eugenia Zorbas, *Aid Dependence and Policy Independence: Explaining the Rwandan Paradox*, in *REMAKING RWANDA*, *supra* note 7, at 108 (arguing that donors view Kagame as a trustworthy partner and the RPF as indispensable to Rwandan development).

118. Gourevitch, *The Life After*, *supra* note 90, at 47; Anjan Sundaram, *Rwanda: The Darling Tyrant*, POLITICO (March/Apr. 2014), <http://www.politico.com/magazine/story/2014/02/rwanda-paul-kagame-america-darling-tyrant-103963> [https://perma.cc/RS3Y-7DRX] (archived Nov. 6, 2017) [hereinafter Sundaram, *Darling Tyrant*] (arguing Kagame is a dictator but "has a great many friends" including Bill Clinton, Tony Blair, and Bill Gates).

And yet, others claim he is among the most prominent unindicted war criminals in the world.¹¹⁹ Not only has he waged unimaginably bloody¹²⁰ proxy wars¹²¹ in neighboring Congo,¹²² and allegedly subsidized Rwanda's economic miracle by illicitly extracting vast mineral wealth from that country,¹²³ he has also engaged in violent suppression of political dissent inside and outside of Rwanda.¹²⁴ As described in more detail in later parts of this paper, the list of jailed, disappeared, and assassinated political opponents and independent journalists is long and growing. His harshest critics claim that Rwanda is being run for the economic benefit of a small, elite group of Anglophone, diaspora Tutsis¹²⁵ and that anyone who objects, including Tutsi genocide survivors, risks immediate, brutal punishment or worse.¹²⁶

119. See French, *supra* note 4 (quoting the Rwanda scholar Filip Reyntjens as claiming President Kagame is “probably the worst war criminal in office today”).

120. See Stearns & Borello, *Bad Karma*, *supra* note 21, at 154-55, 162 (arguing that the RPA and its allies massacred hundreds of thousands of Hutu refugees in Eastern Congo and arguably committed genocide); see also Reyntjens, *supra* note 90, at 135 (referring to a U.N. investigation concluding that the Rwandan Patriotic Army committed large-scale war crimes and crimes against humanity in Zaire/Congo).

121. See Reyntjens, *supra* note 90, at 141 (referring to the Congo conflicts as Rwandan proxy wars); and at 133 (arguing that Rwanda's invasions of Congo evinced a “profound disrespect for human life”).

122. See *id.* at 132 (arguing Rwanda has twice invaded Congo – in 1996 and 1998 – and that the second invasion was largely about “exploitation of natural resources”); see also French, *supra* note 4; Zorbas, *supra* note 117, at 112 (arguing that while donors looked the other way at domestic political suppression, they began in 2004 to withhold support due to Rwanda's military involvement in the Democratic Republic of the Congo).

123. See French, *supra* note 4 (arguing that the proceeds from pillaging the Congo have gone to the military and a small cadre of elite, urban Anglophone Tutsi returnees); Reyntjens, *supra* note 90, at 139-40 (arguing that Rwanda has pillaged vast mineral wealth from the areas it controlled in eastern Congo – including US\$80 to \$100 million in coltan alone, roughly the equivalent of Rwanda's annual defense budget – and that the regime used the money to buy “needed domestic elite loyalty”).

124. See generally *infra* Part IV (describing systematic oppression in contemporary Rwanda); Jansen, *supra* note 7, at 1 (arguing that Rwanda scores badly in measures of freedom of expression and democracy).

125. See JEAN HATZFELD, *THE ANTELOPE'S STRATEGY: LIVING IN RWANDA AFTER THE GENOCIDE 90* (Linda Coverdale trans., Farrar et al. eds., 2009); French, *supra* note 4; Longman, *supra* note 79, at 42.

126. See Siobhan O'Grady, *Former Rwandan Official Worries That Kagame's Administration is Backsliding Into Mass Murder*, FOREIGN POLICY (Sept. 29, 2014), <http://foreignpolicy.com/2014/09/29/former-rwandan-official-worries-that-kagames-adminis%C2%ADtration-is-back%C2%ADsliding-into-mass-murder/> [https://perma.cc/LTC7-HQSS] (archived Oct. 26, 2017) (arguing that a silence is settling over Rwanda as the Kagame regime assassinates ever more political opponents and critics); see also Daniel Donova,

III. MEMORY, HISTORY, AND POWER IN RWANDA

A. *Helpful Constructs from Memory Studies and Historiography*

Until recently, memory was thought of as an individual phenomenon and was considered the exclusive realm of psychologists, psychoanalysts, and philosophers.¹²⁷ But in the 1980s, memory studies, an interdisciplinary field that sprang from the social sciences,¹²⁸ began viewing society itself as a remembering entity.¹²⁹ Individuals within societies formulate their own memories and their own versions of history,¹³⁰ but societies also form “collective” or “national” memories through which nationally conscious individuals formulate a national identity.¹³¹

Collective (or national) memory can, but does not necessarily, grow organically from the recollections and discourses of a society’s individuals.¹³² Sometimes, entrenched elites within a given society exercise their power to craft a particular collective memory: they “instrumentalize” the past and enforce a version of memory and history

Kagame’s Iron Fist Stokes Fires in Rwanda, US NEWS (Jan. 10, 2014), <http://www.usnews.com/opinion/blogs/world-report/2014/01/10/kagames-iron-fist-could-rekindle-rwandan-civil-war> [<https://perma.cc/Z2P6-23XB>] (Archived Oct. 26, 2017) (arguing Kagame’s regime operates in a manner “much closer to a criminal organization than a state,” that anyone who contradicts the government is punished, and the press is run by the government); HUMAN RIGHTS WATCH, RWANDA: REPRESSION ACROSS BORDERS: ATTACKS AND THREATS AGAINST RWANDAN OPPONENTS AND CRITICS ABROAD (Jan. 28, 2014) <https://www.hrw.org/news/2014/01/28/rwanda-repression-across-borders> [<https://perma.cc/JW4R-WJ46>] (archived Oct. 26, 2017) (arguing that political opponents in Uganda, Kenya, South Africa, and various countries in Europe have been threatened or attacked and that exiled Rwandans believe “no one is out of reach” of the Kagame regime).

127. OLIVIER NYIRUBUGARA, COMPLEXITIES AND DANGERS OF REMEMBERING AND FORGETTING IN RWANDA 15 (2013).

128. See Jeffrey K. Olick & Joyce Robbins, *Social Memory Studies: From Collective Memory to the Historical Sociology of Mnemonic Practices*, 24 *Ann. Rev. Soc.* 105, 108 (1998); see also Jan-Werner Muller, *Introduction: The Power of Memory, the Memory of Power, and the Power Over Memory*, in *MEMORY AND POWER IN POST-WAR EUROPE: STUDIES IN THE PRESENCE OF THE PAST* 13 (Jan-Werner Muller ed., 2004) (arguing “[t]here has been an explosion of literature on memory in recent years”); Henry L. Roediger, III & James V. Wertsch, *Creating a New Discipline of Memory Studies*, in *MEMORY STUD.* 9-22 (2008) (discussing the rise of memory studies as a discipline).

129. NYIRUBUGARA, *supra* note 127, at 15.

130. Muller, *supra* note 128, at 3.

131. *Id.* at 3.

132. See René Lemarchand, *Genocide, Memory and Ethnic Reconciliation in Rwanda*, in *L’AFRIQUE DES GRANDS LACS: ANNUAIRE 2006-2007* 21, 28 (2007) (contrasting “historical memory” from “collective memory”).

that justifies their political domination.¹³³ In places like these, history and historiography become nationalist enterprises.¹³⁴ History teachers become tools of what in essence is state propaganda.¹³⁵

Controlling collective memory becomes particularly important to those who have prevailed in a civil war or other violent social conflicts.¹³⁶ Rwanda is a case in point. Shortly after taking power, the RPF “embarked on a campaign to re-educate Rwandans (and outsiders) about Rwanda’s past,” particularly the role that ethnicity played in the country’s distant past and in the 1994 genocide.¹³⁷ Not surprisingly, the new version both supports the Kagame government’s claim to legitimacy and absolves it of any responsibility for past wrongs.¹³⁸ Kagame, a former intelligence operative and thus a man who presumably understands how to mold a collective consciousness, has become a master of “memory entrepreneurship,” deft at manipulating the past for present political purposes.¹³⁹

This political manipulation is abhorrent to historians, including the esteemed American scholar David Newbury, who describe it as the

133. See NYIRUBUGARA, *supra* note 127, at 49; René Lemarchand, *The Politics of Memory in Post-Genocide Rwanda*, in *AFTER GENOCIDE*, *supra* note 27, at 64, 70-71 (referring to this phenomenon as “manipulated memory”); Olick & Robbins, *supra* note 128, at 110, 126; see also THOMSON, WHISPERING, *supra* note 75, at 53 (arguing “fabricating continuity with the past in order to socially engineer the future is a common strategy of political elites”); Berthold Molden, *Resistant Pasts Versus Mnemonic Hegemony: On the Power Relations of Collective Memory*, in *MEMORY STUD.*, *supra* note 128, at 125-35 (arguing that dominant groups within societies use their hegemonic power to impose historical interpretations that support their interests and compel the dominated groups to accept that the interests of the dominant are the natural state of the world); Moritz Schuberth, *The Politics of Knowledge Production in Post-Genocide Rwanda*, 35 *STRATEGIC REV. FOR S. AFR.* 78, 80 (2013) (arguing that fights over memory are often attempts to convince the public of a specific “truth” that supports a specific political and economic agenda).

134. See Olick & Robbins, *supra* note 127, at 126; see also THOMSON, WHISPERING, *supra* note 75, at 53 (arguing it is a common strategy of political elites to “fabricate continuity with the past to socially engineer a future” to its liking).

135. See Nancy Honicker, ‘Douce France’ . . . *Growing Rough Around the Edges?*, 29 *KENYON REV.* 81, 84 (2007).

136. Muller, *supra* note 128, at 3.

137. Lyndsay McLean Hilker, *Young Rwandans’ Narratives of the Past (and Present)*, in *REMAKING RWANDA*, *supra* note 7, at 316.

138. *Id.* at 318; Newbury, *Canonical Conventions*, *supra* note 25, at 61.

139. See Olick & Robbins, *supra* note 128, at 128; see also THOMSON, WHISPERING, *supra* note 76, at 53 (arguing the Kagame regime’s version of history is “strategically revisionist”); Newbury, *Canonical Conventions*, *supra* note 25, at 67 (arguing much of contemporary Rwandan history “does not seem to have resulted from analysis but from apparent political objectives”).

use of “deductive methods in which selective data are mobilized to support predetermined conclusions.”¹⁴⁰ History in Rwanda, he argues, “is being expostulated without reference even to the most elemental historical resources, or reference to alternative assessments”¹⁴¹ Certain elements of Rwanda’s new, official history are factual, but those facts often are cherry picked: bits of history are taken out of context and without nuance, then reassembled in ways that support the regime’s claim to power.¹⁴² Writing together, David and Catherine Newbury drolly refer to this brand of history as “truncated empiricism.”¹⁴³

The following sections describe the Kagame regime’s self-serving version of Rwanda’s history and show how it departs from the views of independent historians.

B. *The History of Rwanda According to the Kagame Regime*

1. Ethnicity and Political Power

According to the Kagame regime’s official version of history, Rwanda was a peaceful, harmonious, unified state before the arrival of European colonialists.¹⁴⁴ A Tutsi monarchy ruled,¹⁴⁵ mostly benevolently,¹⁴⁶ relying on a network of regional chiefs and sub-

140. Newbury, *Canonical Conventions*, *supra* note 25, at 61.

141. Newbury, *Canonical Conventions*, *supra* note 25, at 67, 72 (arguing that Rwanda should “make the study of history more historical”).

142. Lemarchand, *supra* note 132, at 65-67 (arguing the Rwandan government selects various shards of history to construct a “convenient reality” that supports its legitimacy).

143. Newbury & Newbury, *Bringing the Peasants Back In*, *supra* note 10, at 849.

144. NYIRUBUGARA, *supra* note 127, at 33; Sarah Warshauer Freedman, et. al., *Teaching History in Post-Genocide Rwanda*, in REMAKING RWANDA, *supra* note 7, at 297, 301; Susan Thomson, *Reeducation for Reconciliation: Participant Observations on Ingando*, in REMAKING RWANDA, *supra* note 7, at 332-33 [hereinafter Thomson, *Reeducation for Reconciliation*] (arguing the RPF claims in pre-colonial Rwanda all people lived “in peaceful harmony and work[ed] together for the good of the nation”) (quoting The National Unity and Reconciliation Commission, *The Rwandan Conflict: Origin, Development, Exit Strategies* (2004)).

145. See THOMSON, WHISPERING, *supra* note 76, at 17 (arguing that the Kagame regime’s official history begins with an already established Tutsi monarchy, glossing over the more nuanced, complicated history of interaction among various groups).

146. See NYIRUBUGARA, *supra* note 127, at 42 (arguing the RPF teaches young people that in pre-colonial Rwanda people were kind to one another and “the rich were keen to help the poor”); THOMSON, WHISPERING, *supra* note 76, at 50 (arguing the regime claims conflict between groups was rare in pre-colonial Rwanda).

chiefs.¹⁴⁷ The origins of this happy kingdom are vague, but they stretch back into the mists of time.¹⁴⁸

Importantly, the terms “Tutsi” and “Hutu” had different meanings in those happier days. They existed as concepts, but they described socio-economic classes, not distinct “tribes” or “ethnicities.”¹⁴⁹ Wealth was measured largely in cattle, and the minority Tutsi tended to be comparatively wealthy pastoralists, while the majority Hutu tended to be less well-off agriculturalists.¹⁵⁰ But there was fluidity between the socio-economic groups: if a Hutu man accumulated cattle and became wealthier, he and his family would ascend to the category Tutsi.¹⁵¹ Likewise, a Tutsi who lost his cattle and his wealth might descend to the category of Hutu.¹⁵² (The Twa, forest dwellers whom historians consider to be the area’s indigenous people, are for the most part left out of the official narrative.)¹⁵³ In sum, before colonial interference, the people of Rwanda were unified. They spoke the same language, worshiped the same gods, were economically interdependent, and were loyal to the same benevolent leader.¹⁵⁴ Conflict was rare, and when it happened it was rooted in regional or clan identities, not ethnicity.¹⁵⁵

2. Causes of the Genocide

The idea that Hutu and Tutsi people were separate “tribes” or “ethnicities” was a pernicious invention devised by German and

147. See THOMSON, WHISPERING, *supra* note 76, at 58.

148. See *id.* at 56 (arguing the Kagame regime sometimes invokes the ancient origins of the Nyiginya dynasty when in fact that history is better understood as lineages and clans interacting and vying for power); Newbury, *Understanding*, *supra* note 14, at 85 (arguing that the royal dynasty became dominant only in the last two hundred years and that to claim Rwanda as a “single political unit that goes far back in time” runs contrary to the historical record).

149. THOMSON, WHISPERING, *supra* note 76, at 50; see Newbury & Newbury, *A Catholic Mass*, *supra* note 31, at 313 (criticizing the RPF’s claims that ethnic identities in Rwanda are “simply products of external machinations”).

150. See THOMSON, WHISPERING, *supra* note 76, at 50 (arguing Rwanda’s official history maintains Tutsi and Hutu were based partly on occupations).

151. See *id.* (arguing the Kagame regime insists that the labels “Tutsi” and “Hutu” were based on poverty and wealth, not blood, and that wealth could cause one to shift from Twa or Hutu to Tutsi).

152. *Id.*

153. See *id.* at 17, 81 (arguing that an estimated 10,000 Twa were murdered during the genocide but never included in the RPF’s official history).

154. *Id.* at 50.

155. *Id.*

especially Belgian colonialists¹⁵⁶ to facilitate their domination and exploitation of Rwanda's territory and people.¹⁵⁷ The Belgians, in collusion with the White Fathers from the Catholic Church, taught Rwandans that Hutu and Tutsi were separate, competing tribes, and that they should hate one another.¹⁵⁸ Beginning in the 1930s, they reified this tribal distinction by issuing national identity cards that declared individuals' race and made it permanent.¹⁵⁹ They also perpetuated the false notion that Hutu and Tutsi people were the products of separate migrations, with the Tutsi people infiltrating from the region of the Nile in comparatively recent times.¹⁶⁰ During and after the Hutu Revolution in the late 1950s and early 1960s, they indoctrinated a political Hutu elite in their false, divisive history, encouraging them to hate and fear the Tutsi.¹⁶¹

This hateful, false, foreign history caused violent political competition between Hutus and Tutsis. It was used by Rwanda's post-independence Hutu leaders to divide the country, suppress Tutsis, and maintain their illegitimate rule.¹⁶² Ultimately, it created a mindset among Hutus that led inexorably to the 1994 genocide.¹⁶³ Colonialists had taught the Hutu to atavistically hate the Tutsi, making inevitable the political violence that lasted from the 1950s through the early 1990s, and culminating in the events of 1994.¹⁶⁴

3. Historical Narratives About the Genocide Itself

Once the genocide began, it was up to the RPF and the RPF alone to stop it.¹⁶⁵ They militarily defeated the genocidal Hutu regime, racing

156. *Id.*

157. See NYIRUBUGARA, *supra* note 127, at 33; THOMSON, WHISPERING, *supra* note 76, at 64-65; Thomson, *Reeducation for Reconciliation*, *supra* note 144, at 336.

158. See NYIRUBUGARA, *supra* note 127, at 33; THOMSON, WHISPERING, *supra* note 76, at 50; Thomson, *Reeducation for Reconciliation*, *supra* note 144, at 336.

159. GOUREVITCH, WE WISH TO INFORM YOU, *supra* note 15, at 56-57.

160. THOMSON, WHISPERING, *supra* note 76, at 50, 55.

161. See NYIRUBUGARA, *supra* note 127, at 33 (arguing the post-colonial Hutu presidents, Kayibanda and Habyarimana, continued to use ethnicity as a wedge to divide Rwanda and maintain power).

162. See *id.* at 33; THOMSON, WHISPERING, *supra* note 76, at 50-51;

163. THOMSON, WHISPERING, *supra* note 76, at 51.

164. *Id.*

165. See Victor Peskin, *Victor's Justice Revisited: Rwandan Patriotic Front Crimes and the Prosecutorial Endgame at the ICTR*, in REMAKING RWANDA, *supra* note 7, at 174 (arguing

through the country (sometimes being compelled to face off with the French)¹⁶⁶ to take possession of territory and stop the slaughter.¹⁶⁷ Although there may have been a few random revenge killings along the way carried out by distraught RPF soldiers, Kagame and his troops were scrupulous in abiding by the rules of warfare and avoiding civilian casualties.¹⁶⁸ The RPF's restraint and discipline was all the more impressive given that all Hutus, not just representatives of the government and military, were guilty of genocide.¹⁶⁹ Concomitantly, all victims and survivors were Tutsi.¹⁷⁰

Not surprisingly, this version of pre-colonial, colonial, and post-independence history of Rwanda supports the Kagame regime's claim to legitimacy as well as its need to intervene aggressively to reeducate the populace. If ethnicity is a mere colonial invention, as the government claims, it should be ignored and abolished.¹⁷¹ The fact that contemporary Rwanda is ruled almost entirely by an Anglophone Tutsi elite is of no particular consequence,¹⁷² because the label "Tutsi" lacks historical and political salience.¹⁷³ The government's arguably heavy-handed efforts to impose a Rwandan nationalism on its people¹⁷⁴ are in fact a return to a golden age before Europeans despoiled the country.¹⁷⁵

The government's historical narrative of the genocide similarly bolsters its claim to legitimate rule.¹⁷⁶ Kagame and his RPF troops had

Rwanda's government has claimed the status of "rescuer" of Tutsi victims of the genocide and likens calls for RPF prosecutions as genocide denial).

166. See generally *supra* note 50 and accompanying text.

167. See THOMSON, WHISPERING, *supra* note 76, at 84 (arguing the Rwandan government invokes the RPF's "heroic status" to justify its repressive rule).

168. See Peskin, *supra* note 165, at 175 (arguing the Rwandan government claims RPF troops acted correctly with the exception of a few aggrieved individuals); see also Haskell & Waldorf, *supra* note 74, at 53, 54-58 (arguing the government claims RPF crimes were isolated revenge killings by a small number of rogue soldiers and blocks all attempts to investigate further).

169. Helen Hintjens, *Reconstructing Political Identities in Rwanda*, in AFTER GENOCIDE, *supra* note 27, at 77, 87; Newbury & Newbury, *A Catholic Mass*, *supra* note 31, at 315.

170. See Nigel Eltringham, *The Past is Elsewhere: The Paradoxes of Proscribing Ethnicity in Post-Genocide Rwanda*, in REMAKING RWANDA, *supra* note 7, at 269, 270; see also THOMSON, WHISPERING, *supra* note 76, at 17 (arguing the government considers all Hutu to be violent killers who need to be reeducated on what it means to be Rwandan).

171. Newbury & Newbury, *A Catholic Mass*, *supra* note 31, at 294.

172. See generally *supra* note 123.

173. See generally *supra* notes 156-64 and accompanying text.

174. See generally *infra* Part IV.

175. Eltringham, *supra* note 170, at 270.

176. Newbury & Newbury, *A Catholic Mass*, *supra* note 31, at 293.

nothing to do with spurring the genocide, and once the killing began, he and his collaborators sprang into action and saved not just his people, but also his nation. This gives him and the RPF unquestioned moral authority to lead the country out of violence and madness and into a peaceful and prosperous future. Further, the fact that Rwanda's entire Hutu population was indoctrinated into the colonialists' evil, divisive, anti-nationalist worldview means that Kagame and his regime are justified in taking extreme measures and exercising tight control as they guide the population back toward the true path.

C. The History of Rwanda According to Historians

As the following discussion reveals, there is overlap between the Rwandan government's self-serving version of history and the version that historians generally agree upon. However, the historians' account includes context and nuance and that does not necessarily support the Kagame regime's claim to political legitimacy.

1. Ethnicity and Political Power

It is true, as claimed by Rwanda's government, that the terms Hutu and Tutsi held different meanings in pre-colonial Rwanda than they do today. It is false, however, to assert that those terms were unconnected to ethnic distinctions and that Europeans invented ethnic division in what today is Rwanda.

In fact, the meaning and political salience of ethnic identities in Rwanda have varied according to the historical epoch and the specific geographic, political, and social context.¹⁷⁷ In most of what now is Rwanda, for most of its history, region, clan and kinship were more important to peoples' identity than the ethnic labels "Hutu" and "Tutsi."¹⁷⁸ Two hundred or more years ago there were as many as fifty different political units in the territory we now call Rwanda, some with leaders we today would perceive as "Hutu," some "Tutsi."¹⁷⁹ They viewed themselves as distinct from one another, but their distinction sprang from their geographic location or their clan or lineage identities, not their ethnicity.¹⁸⁰

177. *Id.* at 313.

178. *Id.*

179. Newbury, *Understanding Genocide*, *supra* note 14, at 85.

180. *Id.* at 83-85.

The economies of certain of these small kingdoms, mainly those located in present-day Rwanda's eastern grasslands, were based on cattle herding.¹⁸¹ It became important for them to claim control over their grasslands, thus they became more stratified and militarized over time.¹⁸² By the mid-1700s, one such grassland group, the Nyiginya dynasty, began to assert broader control and to seek to centralize its authority.¹⁸³ Only then, as the emergent kingdom was asserting control and coherence did the notion arise of membership in a group called "Tutsi."¹⁸⁴ As the royal Nyiginya dynasty expanded and came into contact with others of different cultures, it reinforced its own identity as "Tutsi."¹⁸⁵ As this Tutsi identity coalesced, others continued to construct their own identities through their lineages and locales.¹⁸⁶ But as the Tutsi kingdom expanded its reach and thrust ever more groups into subservient political positions,¹⁸⁷ those subservient groups also began to form a common identity; in this instance, as "Hutu."¹⁸⁸

It is also true, as the Rwandan government claims, that the boundaries between the social and ethnic categories "Hutu" and "Tutsi" were historically porous and that individuals sometimes switched groups as a result of marriage or economic gain or loss.¹⁸⁹ But the historical record does not support the regime's claims that those categories were based merely on class distinction, that there was little or no conflict, and that Hutus and Tutsis lived in a more or less cooperative and symbiotic relationship where the wealthier and more powerful (i.e., Tutsi) looked out for the economically less powerful (Hutu).¹⁹⁰

181. *Id.* at 85.

182. *Id.*

183. *Id.* at 86.

184. *See id.* at 85-86; *see also* Newbury & Newbury, *A Catholic Mass*, *supra* note 31, at 313 (arguing that only with the emergence of the Nyiginya clan power structures did the label "Tutsi" gain salience, initially only because it was used by outsiders to describe them).

185. Newbury, *Understanding Genocide*, *supra* note 14, at 86.

186. *See* Newbury & Newbury, *A Catholic Mass*, *supra* note 31, at 313 (arguing that political groups in what today is northwestern Rwanda did not identify as "Hutu" until quite recently).

187. *See* Newbury, *Understanding Genocide*, *supra* note 14, at 87 (arguing in this new and evolving context, Tutsi culture came to be associated with upper class power and Hutu culture with lower class labor).

188. *Id.* at 86.

189. *Id.* at 84.

190. *See generally supra* notes 144-48 and accompanying text.

In fact, pre-colonial Rwanda was rife with political contestation and conflict.¹⁹¹ The mutual dependence and symbiosis that the current government ascribes to pre-colonial Rwanda was in reality a clientship relationship in which mainly-Tutsi overlords exploited the labor of their mainly-Hutu subjects.¹⁹² These arrangements were “voluntary” only in that the subjects were free to choose whether to lose their lives or give up their labor.¹⁹³

It is also historically false that the Europeans alone were responsible for the stark social stratification that existed during the colonial era. According to David Newbury, “[i]f external power altered the ethnic landscape, ethnic awareness was not the work of colonialists alone. The ruling classes were not passive onlookers; they willingly participated in the extension of ethnic distinctions and in deepening the meaning of such distinctions.”¹⁹⁴ In other words, colonial power altered ethnic conceptions and exacerbated rivalry and tension between ethnicities, but it simply is not true that ethnicity was a colonial fiction.¹⁹⁵

To summarize, ethnic distinctions existed before the colonialists arrived. The meaning of the terms Hutu and Tutsi evolved over time and became more significant and more reified after the Tutsi Nyiginya dynasty became the predominant political power in the 18th and 19th centuries. That kingdom developed an economic system that permitted elite, powerful Tutsi overlords to prosper from the labor of their mostly Hutu subjects. When Europeans arrived, they took these pre-existing ethnic categories and these pre-existing economic and social relationships and twisted them for their own benefit.

191. See Newbury, *Canonical Conventions*, *supra* note 25, at 58-59 (arguing that violence in Rwanda did not begin with colonial intervention); Newbury, *Understanding Genocide*, *supra* note 14, at 84.

192. See Newbury & Newbury, *Bringing the Peasants Back In*, *supra* note 10, at 860 (arguing that so-called “cattle clientship” between wealthy and poor Rwandans was uncommon and did not act as “social glue”).

193. See *id.*; see also NYIRUBUGARA, *supra* note 127, at 34-35 (arguing that if society was “harmonious” before the arrival of white colonialists, it was because everyone knew his or her place within a highly structured, hierarchical, essentially feudal social structure).

194. Newbury, *Understanding Genocide*, *supra* note 14, at 87.

195. See *id.* at 88; see also Freedman et. al., *supra* note 144, at 302 (arguing ethnic categories already existed in pre-colonial times and were already being used to divide the population).

2. Causes of the Genocide

According to the RPF's approved historical narrative, atavistic ethnic division and hatred – introduced by the Belgians and later and exploited by post-independence Hutu politicians – caused the 1994 genocide.¹⁹⁶ According to historians, the causes of the genocide were varied and complex.¹⁹⁷

The genocide was not, as the RPF claims, the culmination of an ongoing ethnic pogrom that had been slowly building since the 1950s.¹⁹⁸ Instead, Rwandan Hutu political leaders consciously manipulated ethnic division as a way to mobilize their supporters and maintain their positions of power and privilege.¹⁹⁹ The distinction between these narratives is important, because historians' version means that there was nothing inevitable about the genocide.²⁰⁰ For generations, ethnicity had been an ongoing feature of Rwandan society and politics,²⁰¹ “but it became politically meaningful as a result of leaders' responses to crisis, not as a cause of the crisis.”²⁰²

From the perspective of Hutu politicians in Rwanda, the 1980s was, indeed, a time of crisis. The country was reeling politically and economically and much of the population – including the Hutu population – was unhappy with President Habyarimana's rule.²⁰³ World coffee prices had plummeted, sending the economy into a tailspin.²⁰⁴ Externally imposed structural adjustment programs, in vogue after the fall of the Berlin Wall, exacerbated Rwanda's economic suffering.²⁰⁵ The downturn led to famine in parts of the country,²⁰⁶ as well as to a surfeit of unemployed, angry young men who

196. *See generally supra* notes 163-64 and accompanying text.

197. *See* Newbury & Newbury, *Bringing the Peasants Back In*, *supra* note 10, at 875 (arguing the genocide was caused by a combination of growing class consciousness and resentment of the rich, ecological factors, the role of churches and church leadership, rapid changes in the economy including a precipitous fall in the commodity price of coffee, a famine in southern Rwanda, and the abrupt withdrawal of the state from social services).

198. Newbury & Newbury, *A Catholic Mass*, *supra* note 31, at 295.

199. *Id.*

200. *Id.* at 296.

201. *See generally supra* notes 177-88 and accompanying text.

202. Newbury & Newbury, *A Catholic Mass*, *supra* note 31, at 295.

203. *Id.*

204. Newbury, *Understanding Genocide*, *supra* note 14, at 89.

205. *Id.*

206. *Id.*

were prevented from marrying by their lack of economic prospects.²⁰⁷ All of the resentment and social divisions that were festering during the 1980s – primarily divisions based on class and regional differences²⁰⁸ – might have been turned against the Habyarimana regime.²⁰⁹

Instead, when the RPF invaded northern Rwanda in 1990,²¹⁰ hardliners within the Hutu government succeeded in channeling citizens' frustration and anger toward what they claimed was the common enemy: the RPF and their supposed Tutsi collaborators within the country's borders.²¹¹ The Hutu hatemongers succeeded in portraying Tutsis as the common enemy and convincing much of the population that the RPF's mission – in alliance with all Rwandan Tutsis – was to reestablish the Tutsi monarchy that had lorded over Hutus for generations.²¹² No historians – at least no credible historians – argue that the RPF brought the genocide upon the Tutsi people by invading Rwanda, but a nuanced, multi-causal explanation of events includes the invasion's catalyzing effect and Hutus' collective memory of an oppressive Tutsi dynasty.

3. Historical Narratives About the Genocide Itself

The Kagame regime maintains that all of Rwanda's Hutus were perpetrators of the genocide and that they all were motivated by ethnic hatred.²¹³ Concomitantly, all genocide victims were Tutsi,²¹⁴ which is why the Kagame regime now insists that the genocide be referred to exclusively as “the genocide against the Tutsi.”²¹⁵

207. *Id.* at 91.

208. Newbury & Newbury, *A Catholic Mass*, *supra* note 31, at 300.

209. *See id.* at 315 (arguing one result of the 1990 RPF invasion was that Hutus who were unhappy with the Habyarimana regime and might have joined a moderate political coalition were instead convinced that Tutsis were the cause of their misfortune).

210. *See generally supra* Part II.

211. *See* Straus & Waldorf, *supra* note 8, at 8 (arguing the role the RPF's 1990 invasion of Rwanda played in exacerbating ethnic division and sparking the genocide).

212. *See* William F.S. Miles, *The Nazi Holocaust and the Rwandan Genocide*, Round Table, 5 J. OF GENOCIDE RSCH. 131, 140 (2003) (a roundtable discussion quoting Catherine and David Newbury as arguing that the RPF was associated in Rwandans' minds with the dynasty that had dominated Rwanda for several generations before the arrival of the Europeans); *see also supra* Part IV.C.1.

213. *See generally supra* notes 161-64 and accompanying text.

214. *See generally supra* note 170 and accompanying text.

215. *See, e.g.*, Tashobya, *infra* note 260 (using the term “genocide against the Tutsi”).

But scholars judge several aspects of the RPF's genocide narrative to be historically inaccurate. First, not all Hutus were killers. There are many credible accounts of Hutus opposing the genocide, sometimes by hiding and protecting those at risk.²¹⁶

Second, the many who did participate in the genocide had motivations far more complicated and varied than mere ethnic hatred.²¹⁷ Studies have determined that killers were motivated by a multiplicity factors including fear of retribution for not participating, greed, and a cultural propensity to follow orders.²¹⁸

Third, although it is undeniably true that the vast majority of victims were Tutsi, many Hutu (and Twa) also died. As described in Part II, the first victims were politically moderate opponents of the Habaryamana regime, many of whom were Hutu.²¹⁹ Also, many who died were the product of generations of intermixing and intermarrying, so it was not at all clear which ethnic pole they were associated with.²²⁰

The RPF's historical narrative also departs in significant respects from historians' regarding its army's conduct during and after the genocide. As recounted in the previous section, the RPF's version depicts its army as blameless heroes.²²¹ But while historians and other academics praise the skill and courage of the RPF army in confronting the genocide,²²² they also assert that the RPF's excesses and crimes are an essential part of the historical narrative.²²³ Although Rwandans are not permitted to discuss or in any way acknowledge it, academics agree overwhelmingly that in the run-up to the RPF's 1994 military victory, and in immediate aftermath, they killed an estimated 30,000 mostly-Hutu civilians in Rwanda.²²⁴ The Kagame regime consistently

216. Newbury & Newbury, *A Catholic Mass*, *supra* note 31, at 295.

217. *See id.* (arguing people participated in the genocide for numerous reasons including fear, greed, and a cultural propensity to follow orders).

218. *Id.*; *see generally* LEE ANN FUJII, *KILLING NEIGHBORS: WEBS OF VIOLENCE IN RWANDA* (2009) (arguing that genocide perpetrators' motivations were varied and complex).

219. Newbury & Newbury, *A Catholic Mass*, *supra* note 31, at 295.

220. *Id.*

221. *See supra* notes 164-167 and accompanying text.

222. *See supra* Part II.

223. *See* Haskell & Waldorf, *The Impunity Gap*, *supra* note 74, at 50 (arguing RPF crimes are wrongly left out of the story); THOMSON, *WHISPERING*, *supra* note 76, at 97 (same).

224. Haskell & Waldorf, *The Impunity Gap*, *supra* note 74, at 51. The scope of the unlawful killing has been verified by numerous credible sources. A team from the United Nations High Commission for Refugees traveled through Rwanda in September of 1994 and concluded that the RPF had murdered, massacred or caused the disappearance of as many as

dismisses these incidents as random killings by emotionally overwhelmed, ill-disciplined foot soldiers,²²⁵ but the renowned Rwanda expert, Allison Des Forges, and others, concluded that the widespread killings were too similar, and the army far too well disciplined,²²⁶ to explain them away as random acts of revenge.²²⁷

No one, at least no one credible, claims that the killings by the RPF army, even though on a significant scale, were the moral equivalent of the genocide perpetrated by the Hutu hardliners.²²⁸ Any claim of a “double genocide” should be firmly rejected.²²⁹ But in Rwanda, no one is permitted to discuss the RPF atrocities and, with the exception of a couple of minor show-trials, no one has been held to account.²³⁰

4. Summarizing the Conflicting Historical Narratives

In short, Rwanda’s current government insists on a version of pre-colonial history characterized by a lack of ethnic difference, harmonious, mutually beneficial economic relationships between social classes, and wise political leadership provided by a beneficent monarch. This version of history helps legitimize the Kagame regime

45,000 civilians including women, children, and the elderly. *Id.* at 52. The renowned Rwanda expert, Alison Des Forges, investigated the issue for Human Rights Watch and came to a similar conclusion. *Id.* A subsequent U.N.-appointed Commission of Experts found that RPF soldiers had committed breaches of international humanitarian law and crimes against humanity. *Id.* at 51.

225. *See id.* at 53 (arguing that the government dismisses these incidents as mere “revenge killings” and charges anyone who disagrees with “genocide denial”).

226. Peskin, *supra* note 164, at 174-5.

227. Haskell & Waldorf, *The Impunity Gap*, *supra* note 73, at 52; *see* Stearns & Borello, *Bad Karma*, *supra* note 20, at 164 (arguing much of the killing of Hutu civilians in the Congo happened after the RPF had taken control of the country and so cannot be explained as mere “collateral damage”).

228. *See* Waldorf, *Instrumentalizing Genocide*, *supra* note 69, at 50 (rejecting claims of dual genocide and moral equivalency).

229. *Id.*

There are much more serious allegations lodged against the RPF of war crimes, crimes against humanity, and even genocide, based on its military interventions in Zaire/Democratic Republic of Congo. *See generally* JASON K. STEARNS, *DANCING IN THE GLORY OF MONSTERS: THE COLLAPSE OF THE CONGO AND THE GREAT WAR OF AFRICA* (2011). An examination of those conflicts is beyond the scope of this paper.

230. HUMAN RIGHTS WATCH, *RWANDA: JUSTICE AFTER GENOCIDE – 20 YEARS ON* (2014); *see* Peskin, *supra* note 165, at 177-179 (discussing the RPF’s successful efforts to stage show trials in Rwanda and prevent the International Criminal Tribunal for Rwanda from investigating RPF crimes); Haskell & Waldorf, *The Impunity Gap*, *supra* note 74, at 51 (arguing that the ruling RPF instructed participants in Rwanda’s *gacaca* courts, which adjudicated genocide-related crimes, not to discuss any allegations against the RPF).

in several respects. It renders irrelevant the fact that contemporary Rwanda is being run by a small group of elite Tutsi because “Tutsi” (along with other ethnic signifiers), has no historical validity except as a term used by colonialists to divide Rwanda’s people. In addition, this version implies that it is historically appropriate – and essentially Rwandan – for the nation to be guided politically by a wise and benevolent autocrat: the king in pre-colonial days and Paul Kagame today. Historians and other scholars generally agree on a more complicated, dynamic, and nuanced version of pre-colonial history, one that includes ethnic difference and struggle and, crucially, economic exploitation by a powerful Tutsi monarchy.

Another vital – and self-serving – aspect of the government’s approved historical narrative is that the 1994 genocide was caused by atavistic ethnic hatred that the Belgian colonialists invented and inculcated in Rwanda’s people. The fact that Rwandans’ minds were polluted with hatred, and that the inevitable result was so catastrophic, justifies the current regime’s efforts to reeducate its population (using various heavy handed methods described in Part IV, below) about the true nature of Rwananness. Historians, in contrast, believe that there were multiple, complex causes of the genocide, including the fact that elite Hutu politicians exploited longstanding ethnic divisions as a means of redirecting Hutu citizens’ anger and frustration from the government and toward the Tutsis who had recently invaded the country’s north.

Finally, the current regime’s approved historical narrative depicts the RPF and Paul Kagame as blameless heroes who singlehandedly stopped the genocide. They halted the wanton killing by Rwanda’s Hutu citizens, all who were *genocidaire*, and they saved the remaining Tutsi citizens, all who were victims. Because the RPF and the RPF alone restored peace to Rwanda, it has the right and the moral authority to complete the country’s reconstruction.

While historians agree that the RPF was responsible for halting the carnage, they insist that the RPF committed war crimes and crimes against humanity during and after its successful military campaign. They also emphasize that the genocide is not properly described as “the genocide against the Tutsi,” as the government insists it be called,²³¹ because although the vast majority of those killed were Tutsi, many Hutu and Twa were also murdered.

231. *See infra* note 259.

IV. ENFORCING THE KAGAME REGIME'S FANCIFUL VERSION OF HISTORY

The following section describes the Rwandan government's multifaceted approach to inculcating and enforcing its versions of history and collective memory. As the discussion will reveal, President Kagame and his coterie employ the usual tools of repressive regimes: banning unwanted speech, stifling the press, and coopting and controlling civil society. But the government's efforts also include more sophisticated means of ensuring that only its preferred history is remembered: controlling academic discourse, employing "reeducation camps," and exercising tight control over public memorialization.

A. Laws Limiting Expression

Since taking control of Rwanda's government, the RPF has used restrictions on speech, particularly speech related to the 1994 genocide, as a tool to squelch all unwanted expression. In recent years it has honed these legal tools and intensified their use.

The first salvo was a 2001 law that proscribed acts of discrimination and "sectarianism" by prohibiting "the use of any speech, written statement or statement or action that divides people, that is likely to spark conflict among people, or that causes an uprising which might degenerate into strife among people based on discrimination."²³² Although the law did not explicitly say so, it was widely interpreted as criminalizing the use of the words "Hutu" and "Tutsi" except as narrowly approved by the government.²³³

Rwanda's 2003 Constitution committed the country to "fighting the ideology of genocide in all its manifestations"²³⁴ and criminalized "[r]evisionism, negationism, and trivialization of the genocide."²³⁵ As many commentators pointed out, this language was sweepingly broad and disturbingly vague.²³⁶

232. Law No 47/2001 Instituting Punishment for the Offences of Discrimination and Sectarianism, Official Gazette of Rwanda, Dec. 18, 2001.

233. Jansen, *supra* note 7, at 9.

During my visits to Rwanda I have observed that most people are reluctant to utter the terms "Hutu" and "Tutsi," even in private conversation.

234. CONSTITUTION May 26, 2003, art 9 (Rwanda).

235. *Id.*, art. 13.

236. Waldorf, *Instrumentalizing Genocide*, *supra* note 70, at 51 *see* Jansen, *supra* note 7, at 11 (arguing that none of the key constitutional terms are defined).

The 2003 Law Punishing Genocide attempted to clarify the constitutional language quoted in the previous paragraph, declaring that the proscriptions apply to “any person who will have publicly shown, by his or her words, writings, images, or by any other means, that he or she has negated the genocide, committed, rudely minimized it or attempted to justify or approve its grounds”²³⁷ Those convicted under the 2003 law were subject to twenty years’ imprisonment.²³⁸ If any Rwandan prosecutors were squeamish about punishing citizens based on such vaguely defined laws,²³⁹ they did not show it.²⁴⁰ According to Human Rights Watch, in a single year between mid-2007 and mid-2008, 243 people were charged with revisionism and negation, often for merely diverging from the government’s approved history of the genocide.²⁴¹

In more recent years, the government’s favored legal method for stifling unwanted expression has been to prosecute people – particularly Hutu people – with the even more vaporous charge of “genocide ideology.”²⁴² (In contrast, Tutsi people who stray from fold are usually charged with corruption.)²⁴³ Charges of genocide ideology began emerging in 2003, even though neither the 2003 Constitution, nor the 2003 Law Punishing Genocide mentioned the concept.²⁴⁴

In 2004, with many charges of genocide ideology already pending, the government ordered a Senate commission to examine genocide ideology’s causes and cures.²⁴⁵ In 2006, that commission issued its report and defined genocide ideology and revisionism in such

237. Law No. 33n bis/2003, Repressing the Crime of Genocide, Crimes Against Humanity and War Crimes, art. 4., Official Gazette of Rwanda, Nov 1, 2003 [hereinafter 2003 Genocide Law.]

238. *Id.*, art 4.

239. See Jansen, *supra* note 7, at 13 (arguing the terms of the 2003 Genocide Law – including “rudely minimize” – are extremely broad and pointing out that another section of the law also punishes “incitement” to commit such a crime, which can be applied whether or not any action follows the alleged incitement).

240. See THOMSON, WHISPERING, *supra* note 76, at 12-13 (arguing that the 2003 law was used to punish anyone who claimed that anyone other than Tutsi had died in the genocide and to anyone whom the government perceived as critical).

241. HUMAN RIGHTS WATCH, LAW AND REALITY: PROGRESS IN JUDICIAL REFORM IN RWANDA (July 2008), p. 40; Waldorf, *Instrumentalizing Genocide*, *supra* note 70, at 52.

242. Allen & Norris, *supra* note 7, at 147.

243. *Id.*

244. See Jansen, *supra* note 7, at 4 (arguing that Rwanda’s government began charging people with genocide ideology even before the law had been passed).

245. Waldorf, *Instrumentalizing Genocide*, *supra* note 70, at 54.

broad terms that practically any mention of ethnicity or any criticism of the government falls within its ambit and may be punished.²⁴⁶ A follow-on parliamentary commission investigating genocide ideology uncovered evidence of the crime in twenty-six schools across the country, resulting in the firing of dozens of teachers.²⁴⁷ In 2007, the government began in earnest charging citizens with genocide ideology, even though the appropriate legislation still did not exist.²⁴⁸

It was not until 2008 that the government got around to passing a law defining and punishing genocide ideology.²⁴⁹ According to that law, genocide ideology may be found:

in any behavior manifested by facts aimed at dehumanizing a person or a group of persons with the same characteristics in the following manner: 1) Threatening, intimidating, degrading through defamatory speeches, documents, or actions which aim at propounding wickedness or inciting hatred; 2) Marginalizing, laughing at one's misfortune, defaming, mocking, boasting, despising, degrading, creating confusion aimed at negating the genocide which occurred, stirring up ill feelings, taking revenge, altering testimony or evidence for the genocide which occurred; 3) Killing, planning to kill, or attempting to kill someone for the purposes of furthering genocide ideology.²⁵⁰

As critics have pointed out, this law on genocide ideology is not only sweeping and vague, but is almost completely disconnected from the crime of genocide.²⁵¹ It does not require proof that the accused intended to assist or facilitate genocide or possess knowledge that anyone else was planning genocide.²⁵² To date, no one knows what these terms mean, except that virtually anyone may be prosecuted for saying anything the government disagrees with.²⁵³

246. *Id.*

247. *Id.*; see HUMAN RIGHTS WATCH, LAW AND REALITY, *supra* note 241, at 38 (arguing a Rwandan government commission found "genocide ideology" in 26 of 32 schools it investigated).

248. Allen & Norris, *supra* note 7, at 148.

249. Law No. 18/2008, Relating to the Punishment of the Crime of Genocide Ideology, Official Gazette of Rwanda, October 15, 2008 [hereinafter 2008 Genocide Law].

250. *Id.*, art. 3.

251. HUMAN RIGHTS WATCH, LAW AND REALITY, *supra* note 241, at 42.

252. Waldorf, *Instrumentalizing Genocide*, *supra* note 70, at 56.

253. Jansen, *supra* note 7, at 5.

Prison terms under the 2008 law range up to fifty years.²⁵⁴ An offense that involves “documents, speeches, pictures, media or any other means” – meaning, in effect, any genocide ideology communicated by any media or any politician – are punished by a minimum of 20 years’ imprisonment.²⁵⁵ Children under the age of twelve can be held criminally responsible, and the children’s parents and teachers can also be prosecuted.²⁵⁶ Finally, the law makes clear that nongovernmental organizations may be charged, and that convictions can lead to dissolution, fines, and individual prosecutions.²⁵⁷

The government has made clear its intention to use its entire bureaucratic infrastructure, right down to the village level, to root out genocide ideology.²⁵⁸ Rwandan newspapers, all of which are controlled by the government,²⁵⁹ are replete with accounts of successful genocide ideology prosecutions and exhortations for citizens to be ever vigilant and report their suspicions of genocide ideology to government officials.²⁶⁰

As was true of the 2003 Genocide Law, prosecutors have pursued offenders with alacrity. According to a report by Amnesty International, in the two years after the passage of the 2008 Genocide Law, hundreds of people were prosecuted for genocide ideology or genocide revisionism.²⁶¹ Many of these prosecutions, particularly since

254. 2008 Genocide Law, arts. 4, 8.

255. *Id.*, art. 8.

256. *Id.*, art. 11.

257. *Id.*, art. 7; *see infra* Part IV.B.2 (discussing the government’s control of civil society).

258. Waldorf, *Instrumentalizing Genocide*, *supra* note 70, at 57.

259. *See infra* Part IV.B.1.

260. *See, e.g.*, Athan Tashobya, *Kwibuka 2015 Registered Highest Ever Cases of Genocide Denial*, *NEW TIMES* (July 11, 2015), <http://www.newtimes.co.rw/section/article/2015-07-11/190503/> [<https://perma.cc/3Q7R-CJF2>] (archived Oct. 26, 2017) (reporting and lauding a record number of genocide denial and revisionism charges lodged during annual genocide commemorations, from 86 in the previous year to 168 in the current year); *see also* *Nyamagabe Man Arrested Over Genocide Ideology*, *NEW TIMES* (June 30, 2015), <http://www.newtimes.co.rw/section/article/2015-06-30/190192/> [<https://perma.cc/5TBP-BQJX>] (archived Oct. 26, 2017) (reporting the arrest on charges of genocide ideology of a man who “uttered statements that undermine the [genocide] commemoration” and reporting that “[t]he Rwanda National Police has called on the public to remain vigilant and report any case of genocide ideology, denial or negation that may arise in their communities.”).

261. AMNESTY INTERNATIONAL, *SAFER TO STAY SILENT, THE CHILLING EFFECT OF RWANDA’S LAWS ON ‘GENOCIDE IDEOLOGY’ AND ‘SECTARIANISM’* 19 (2010); Jansen, *supra* note 7, at 4 (arguing one defendant was a radio presenter who was charged with genocide ideology for misspeaking while reading the news).

the run up to the 2010 election, were targeted at the government's political opponents.²⁶²

In more recent years, the government has continued to tinker with its genocide laws but the revisions have shed little light on the meaning of the key terms and citizens continue to face prosecution for utterances that have nothing to do with genocide other than that they diverge from the regime's preferred narrative.²⁶³ An update of the 2008 genocide law purportedly clarifies the crime of "negation" by adding that predicate acts must be public and deliberate.²⁶⁴ But "public acts" is defined as any act in "a place accessible" by two or more people, and "deliberate" is left undefined, which means little if anything has changed.²⁶⁵

In effect, the government uses the genocide ideology laws to target, punish, and silence anyone who diverges from the RPF's carefully constructed, self-justifying narrative.²⁶⁶ This includes prosecution and punishment for anyone who dares refer to ethnicity in public,²⁶⁷ in keeping with the RPF's contention that ethnic difference was a pernicious colonial invention.²⁶⁸ The laws are also consistently invoked to pursue anyone who in any way criticizes the regime or its policies.²⁶⁹ After all, if the Kagame regime is, as it claims, the only a bulwark against the resumption of genocide, then any thoughts or words that oppose the regime can be assumed to promote genocide.

B. Laws and Extralegal Means for Controlling Media, Civil Society, and Academic Inquiry

As revealed by the preceding discussion, the Rwandan government restricts unwanted expression by everyone within the country; however, it focuses particular attention on those who might authoritatively contradict its self-justifying historical narrative: the

262. See Jansen, *supra* note 7, at 19 (arguing that an opposition candidate for president, Agnes Uwimana-Nkusi, was prosecuted and jailed for saying that ethnic divisions led people to "kill each other," which is not a government approved version of the genocide); *Id.* at 19 (similar).

263. See generally, Jansen *supra* note 7, at 51-57.

264. Law No. 84/2013, Law on the Crime of Genocide Ideology and Other Related Offenses, Official Gazette of Rwanda, Sept. 9, 2013.

265. *Id.*

266. See Waldorf, *Instrumentalizing Genocide*, *supra* note 70, at 49-56.

267. Lemarchand, *supra* note 132, at 65.

268. See *supra* Part III.B.1.

269. Lemarchand, *supra* note 132, at 65.

press, civil society, and scholars. Partly by invoking the vague genocide denial laws described in the previous section, partly by applying other laws that restrict who is eligible to enter the field, and partly through extralegal bullying and intimidation,²⁷⁰ the government strictly enforces its version of events.²⁷¹

1. Control of Media

Take for example Rwanda's media. Until recently, any person or persons aspiring to open a media outlet had to demonstrate to the government, among other things, that they were in good standing in their home communities and that they had the financial resources in place to sustain the new venture.²⁷² The government employed these seemingly innocuous bureaucratic strictures to control who may enter into public discourse through media.²⁷³

The government also uses extralegal means to prevent the media from spreading ideas of which it disapproves. Anjan Sundaram's recently published book, *Bad News: Last Journalists in a Dictatorship*, claims the RPF tightly controls all of Rwanda's newspapers²⁷⁴ and places strict limits on what journalists are permitted to say.²⁷⁵ To

270. See Chris Huggins, *Shades of Grey: Post-Conflict Land Policy Reform in the Great Lakes Region*, in *THE STRUGGLE OVER LAND IN AFRICA: CONFLICTS, POLITICS & CHANGE* 39 (Ward Anseeuw & Chris Alden, eds.) (2010) (arguing The RPF has used cooptation, infiltration, and intimidation to control critical voices and has used legal action against the crime of "divisionism" to undermine the emergence of any credible opposition); see generally, AMNESTY INTERNATIONAL, *SAFER TO STAY SILENT*, *supra* note 261, at 26-29 (describing the government's persistent efforts to "chill" the media and civil society).

271. See Longman, *supra* note 79, at 35-37 (arguing the RPF uses vague laws and threats to stifle Rwanda's press).

272. ANJAN SUNDARAM, *BAD NEWS: LAST JOURNALISTS IN A DICTATORSHIP* 37 (2016) [hereinafter SUNDARAM, *BAD NEWS*].

273. *Id.* at 29.

274. See *id.* at 176 (arguing that the government stifles the Rwandan press while claiming to have an open and vibrant media); see Freedom House, *2014 Rwanda Report*, https://www.justice.gov/sites/default/files/eoir/pages/attachments/2015/04/09/fh-free-press_2014_rwanda.pdf [<https://perma.cc/4B2M-J66F>] (last visited Oct. 26, 2017) (arguing the Rwandan government controls all aspects of the media despite reforms announced in 2013); Human Rights Watch, *Rwanda 2014*, <https://www.hrw.org/world-report/2014/country-chapters/rwanda> [<https://perma.cc/RL4K-F75S>] (last visited Oct. 26, 2017) (arguing that in spite of recent reforms Rwanda's government forces its views on print media and intimidates and threatens journalists who stray from approved stories); Donova, *supra* note 141 (arguing the Rwandan press is "run by the government").

275. See SUNDARAM, *BAD NEWS*, *supra* note 272, at 1-2 (describing an instance where the government prevented journalists from reporting on a grenade explosion in Kigali).

maintain the appearance of a vibrant press, the government cultivates its own cadre of fawning journalists, referred to by the Kinyarwanda term *Intore*, who happily restrict their reporting to government-approved topics and who consistently pose softball questions to President Kagame and other government officials.²⁷⁶ Until recent years, foreign-funded media programs provided some independent voice within Rwanda, and were sometimes willing to critique the regime's excesses, but those programs have been "shut down or become toothless under government pressure."²⁷⁷

Under international pressure to ease restrictions on the media, the government took tentative steps in that direction starting in 2013.²⁷⁸ Among other things, it created a purportedly independent body to vet and, if deemed necessary, discipline media outlets.²⁷⁹ But all indications are that these reforms are window dressing and that the government continues to discipline journalists who stray from approved themes by, among other things, acknowledging that Hutus died during the genocide or alluding to ethnicity or discrimination in contemporary Rwanda.²⁸⁰

When all else fails, the government resorts to violence to prevent media diffusion of information that strays from its approved narrative. Critics and human rights organizations have chronicled many instances in which journalists have been beaten, arrested, disappeared, or killed when they contradicted or critiqued the government.²⁸¹ As

276. *Id.* at 7-8.

277. Sundaram, *Darling Tyrant*, *supra* note 118, at ¶ 6.

278. HUMAN RIGHTS WATCH, RWANDA COUNTRY SUMMARY 2016 2 (2016).

279. *Id.*

280. See generally Anton Harbor, The Committee to Protect Journalists, *Legacy of Rwanda Genocide Includes Media Restrictions, Self-Censorship* (2014), <https://cpj.org/reports/2014/12/legacy-of-rwanda-genocide-includes-media-restricti.php> [<https://perma.cc/FSN3-7UE7>] (last visited Oct. 26, 2017) (arguing that in spite of some recent loosening, Rwandan media laws still threaten imprisonment for insulting "by words, gestures, threats, writings or drawings" the President, any government official, the police or ordinary citizens, and that journalists still must constantly calculate the "unstated, vague, and arbitrary" limits on what they can say). To take one recent example, in 2014, Stanley Gatera, editor of a privately owned newspaper, was arrested on charges of corruption. The government alleged he tried to extract a bribe from a tavern owner by threatening to write an article about the tavern owner's failure to observe the 20-year anniversary of the genocide. He claimed the arrest was in retaliation for speaking to international news sources about limits on freedom of expression in Rwanda. *Id.*

281. SUNDARAM, *BAD NEWS*, *supra* note 272, at 3-4, 181-192 (providing personal anecdotes and an annex listing dozens of Rwandan journalists who have been beaten, imprisoned, killed or have fled into exile); HUMAN RIGHTS WATCH, *WORLD REPORT 2015*:

commentators have remarked, it does not require many beatings or killings before would-be independent voices within the media learn their lesson and begin to engage in strict self-censorship.²⁸²

2. Control of Civil Society

The story is similar for Rwanda's civil society sector.²⁸³ The regime has suppressed, intimidated, or coopted organizations that might otherwise object to its official narrative.²⁸⁴ For example, in 2001, the government enacted legislation empowering itself to keep tabs on the management, finances, projects and outcomes of domestic and international NGOs that operate within the country.²⁸⁵ It uses these laws to control which civil society organizations exist and what they say.²⁸⁶ It often requires the organizations – particularly human rights organizations – to accept leadership that it has chosen.²⁸⁷ Those leaders then steer the organizations toward outcomes that the regime determines.²⁸⁸ It is also widely known that the government spies on and monitors the communication of civil society organizations, including international NGOs, and intervenes if it does not like what it hears.²⁸⁹

RWANDA, *supra* note 5 (arguing Rwanda's government continues to intimidate and threaten members of the press); HUMAN RIGHTS WATCH, *WORLD REPORT 2011: RWANDA* (2011) (arguing the Rwandan government was responsible for killing and arresting journalists). Sundaram, *Darling Tyrant*, *supra* note 117 (arguing that Kagame has been responsible for assassinating, imprisoning, sending into exile, or torturing of more than a dozen political dissidents and in recent years many well-known journalists, investigators, and political opponents have been "found dead in mysterious circumstances").

282. See THOMSON, *WHISPERING*, *supra* note 76, at 113.

283. See HUMAN RIGHTS WATCH, *RWANDA COUNTRY SUMMARY*, *supra* note 278, at 1-2; *see id.* at 13 (arguing the RFP "strictly controls civil society organizations and other forms of associational life, including churches and mosques").

284. Longman, *supra* note 79, at 27-28; *see* AMNESTY INTERNATIONAL, *SAFER TO STAY SILENT*, *supra* note 261, at 26-28 (describing the Rwandan government's efforts to coopt and silence human rights organizations).

285. Paul Gready, *Beyond "You're with Us or against Us": Civil Society and Policymaking in Post-Genocide Rwanda*, in *REMAKING RWANDA*, *supra* note 7, at 89.

286. *Id.* at 89-90.

287. Longman, *supra* note 79, at 27-28.

288. *See id.* at 275 (arguing the RPF has turned the civil society sector "corporatist," meaning NGOs receive and implement orders from the government); *see* Gready, *supra* note 285, at 90 (arguing the RPF has "thoroughly infiltrated the NGO sector in Rwanda and also has created "umbrella organizations" to keep tabs on NGOs activities).

289. *See* Thomson, *Reeducation for Reconciliation*, *supra* note 144, at 124 (arguing there is a dense network of government spies throughout Rwanda); SUNDARAM, *BAD NEWS*, *supra* note 172, at 159 (describing a journalist's discovery that a friend and colleague was spying on him for the Rwandan government); HUMAN RIGHTS WATCH, *WORLD REPORT 2015: RWANDA*

Where bureaucratic control and cooptation have been ineffective, the government brings violence and the threat of violence to bear.²⁹⁰ As is true of journalists, it does not require many acts of violence before civil society leaders receive the message and begin to engage in strict self-censorship.²⁹¹

In its efforts to restrict the press and civil society sector, the RPF has not limited itself to domestic organizations. Recently, it attacked the BBC, and barred it from broadcasting in Rwanda in Kinyarwanda after a documentary film repeated allegations concerning the RPF's involvement in human rights violations during and after the genocide.²⁹² Similarly, it accused international NGOs such as Human Rights Watch and CARE International of genocide ideology when they questioned aspects of the regime's preferred historical narrative.²⁹³

(2015) (arguing that the Rwandan government subjects NGOs to infiltration and intimidation). During a six-week stay in Rwanda during the summer of 2015, I had a tense and difficult exchange with Rwandan immigration officials. When I mentioned my experience to a European acquaintance who has worked for an international NGO in Rwanda for many years, he remarked that the government probably did not like what I was writing in my emails. When he saw my puzzled expression, he said he was surprised that I did not know that the government routinely monitors foreigners' communications. He recounted two recent instances in which European NGO employees whom he knew had been spirited out of the country by their embassies after it became known that the Rwandan government was going to arrest them for objectionable communications in their private emails. He added that it was common knowledge in the NGO community that the Rwandan government plants spies to keep tabs on foreigners' work. He casually mentioned that he and his co-workers knew that at least one Rwandan employee was reporting their activities to the government.

290. See Longman, *supra* note 79, at 30 (arguing the regime has assassinated or caused to disappear numerous civil society activists).

291. See THOMSON, *WHISPERING*, *supra* note 76, at 124.

292. See Dugald Baird, *BBC Should Face Criminal Action Over Rwanda Documentary, Says Inquiry*, THE GUARDIAN (Mar. 2, 2015), <https://www.theguardian.com/media/2015/mar/02/bbc-rwanda-documentary-inquiry> [<https://perma.cc/5XYC-6E7F>] (archived Nov. 6, 2017) (describing the government's concerted attack – including charges of minimizing and denying the genocide – on the BBC for airing a documentary that questioned several tenets of Rwanda's approved genocide history, including the claim that few Hutus were killed and repeating the claim that Kagame was responsible for the downing of the plane); see also Dugald Baird, *Rwanda Places Indefinite Ban on BBC Broadcasts Over Genocide Documentary*, THE GUARDIAN (June 1, 2015), <https://www.theguardian.com/media/2015/jun/01/rwanda-places-indefinite-ban-on-bbc-broadcasts-over-genocide-documentary> [<https://perma.cc/23KV-TSZ5>] (archived Oct. 26, 2017) (describing the “unanimous” decision by a Rwandan regulatory board to place an indefinite ban on the BBC's Kinyarwanda programming).

293. Straus & Waldorf, *supra* note 8, at 12-13. See Michele D. Wagner, *All the Bourgmestre's Men: Making Sense of Genocide in Rwanda*, 45 AFR. TODAY 25, 26 (1998) (arguing the author, who eventually became a human rights investigator for Human Rights Watch, was labeled a “genocide accomplice” for criticizing RPF retaliation killings).

3. Control of Academic Inquiry

The Kagame regime carefully monitors and restricts what scholars say about the country. As is true of the media and civil society sectors, the RPF creates its own, sympathetic version of academic inquiry, maintaining a stable of scholars who produce “research” that supports the government’s historical narrative and legitimacy.²⁹⁴ Relatedly, the government requires all incoming university students to attend reeducation camps so that they can be thoroughly indoctrinated before their studies begin.²⁹⁵

The government also aggressively restricts academic inquiry that might contradict its version of events.²⁹⁶ Susan Thomson, a Canadian political scientist and lawyer who now teaches at Colgate University in the United States, has chronicled the RPF’s tight monitoring and control of her doctoral fieldwork in Rwanda.²⁹⁷ When her findings strayed from government-approved themes, her government-assigned minders presented her the choice of abandoning her research or attending an RPF-controlled reeducation camp.²⁹⁸ She chose the camp, a Kafkaesque experience that she later described in a harrowing book chapter.²⁹⁹

294. See THOMSON, *WHISPERING*, *supra* note 76, at 22, 118 (arguing the government trains a cadre of Rwandan academics, many employed by the National Commission for the Fight Against Genocide (CNLG), to disseminate the approved version of history and attack anyone who diverges); see also Newbury, *Canonical Convention*, *supra* note 25, at 67-72 (arguing the government requires historians to restrict themselves to politically approved narratives and the manipulation is “received uncritically” by the academic community within Rwanda).

295. See *infra* Part IV.C.

296. Hintjens, *supra* note 169, at 88-89; see Freedman, et. al., *supra* note 144, at 297-308 (describing the RPF shutting down an NGO-sponsored program on teaching Rwandan history when the history teachers strayed from the RPF-approved script).

297. See THOMSON, *WHISPERING*, *supra* note 76, at 34-42 (arguing the RPF placed tight restrictions on her field research and both covertly and overtly monitored her work).

298. See *id.*

299. Thomson, *Reeducation for Reconciliation*, *supra* note 144, at 331-32. Not everyone agrees that Rwanda punishes foreign academics who criticize it. Many American and European academics claim that the regime monitors scholars and excludes them from the country if it dislikes their findings. See Danielle de Lame, et. al, *Truly Hostile Environment*, INYENYERI NEWS (Dec. 20, 2013), <http://www.inyenyerinews.org/human-rights/truly-hostile-environment/> [https://perma.cc/HJ2E-PEA3] (archived Nov. 6, 2017) (an open letter signed by eleven prominent US and European scholars arguing that Rwanda monitors foreign researchers and excludes those with which it disagrees); but see Phil Clark, *Must Academics Researching Authoritarian Regimes Self-Censor?*, TIMES HIGHER EDUC., (Nov. 28, 2013), <https://www.timeshighereducation.com/features/must-academics-researching-authoritarian-regimes-self-censor/2009275.article> [https://perma.cc/RR2A-BW9L] (archived Nov. 6, 2017)

C. Using Reeducation Camps to Teach the Government's Version of History

In 1995, shortly after the genocide, the RPF halted the teaching of history in Rwanda's schools, arguing that the pre-genocide history curriculum had portrayed Tutsis inaccurately and negatively and had contributed to the slaughter.³⁰⁰ However, as described in earlier sections of this paper, the RPF believes it to be vitally important to implant a new version of history that legitimized its own rule.³⁰¹ It therefore, in effect, transferred the task of teaching history to institutions that it could more tightly control; namely the state-controlled media³⁰² and government-run indoctrination camps.³⁰³

There are two general categories of such camps. Solidarity camps, or *ingando*, are primarily for politicians, civil society and church leaders, judges, and incoming university students.³⁰⁴ Reeducation camps, or *itorero* are for ex-combatants, ex-soldiers, confessed *genocidaires*, released prisoners, prostitutes, street children and other undesirables.³⁰⁵ The camps are organized by Rwanda's National Unity and Reconciliation Commission ("NURC") and its sub-body, the Program in Civic Education and Conflict Management and Peace Building, all staffed by Anglophone returnees.³⁰⁶ Camp sessions last anywhere from several days to several weeks,³⁰⁷ and they tend to include a large military presence.³⁰⁸

The camps' curriculum focuses on reeducating the population about the ethnic unity and peace that existed before colonialism, a time when Tutsi and Hutu lived "in peaceful harmony and worked together

(arguing that some academics exaggerate their peril for self-serving reasons and that the Rwandan government generally permits critical scholarship so long as researchers follow proper channels).

300. See Hilker, *supra* note 137, at 317.

301. See *supra* Part III.B.

302. See *supra* Part IV.B.1.

303. Schuberth, *supra* note 133, at 78, 83; THOMSON, WHISPERING, *supra* note 75, at 51 (arguing the government devotes huge resources to teaching its version of history through mandatory solidarity camps (*ingando*) that aim to reeducate the population).

304. Thomson, *Reeducation for Reconciliation*, *supra* note 144, at 333-334.

305. *Id.*; see Straus & Waldorf, *supra* note 8, at 8-9 (arguing there are two kinds of education camps in Rwanda).

306. THOMSON, WHISPERING, *supra* note 76, at 120.

307. *Id.* at 51, 120.

308. *Id.* at 120; SUNDARAM, BAD NEWS, *supra* note 272, at 23.

for the good of the nation.”³⁰⁹ A key part of that narrative is that all Tutsi are victims or survivors, whether they were in the country or not at the time of the genocide, and that all Hutu are perpetrators, whether or not they participated in the genocide.³¹⁰ Among non-RPF scholars who have studied the camps, there is broad consensus that their goal is to control public discourse and bolster the RPF’s claim to power, not to achieve unity and reconciliation.³¹¹

D. Diffusing the Kagame Regime’s Version of History by Tightly Controlling Public Remembrance

Tourists who visit Rwanda frequently visit the country’s grizzly genocide memorials.³¹² All of those I have seen include rooms – often inside of churches where massacres took place – displaying heaps of the victims’ tattered, bloody clothing, or stains on walls where children’s brains were smashed. They also feature the stacked bones of thousands, sometimes tens of thousands, of victims who were murdered nearby. At one particularly macabre site, the Murambi Memorial located near Butare in southern Rwanda, as many as 45,000 victims were slaughtered.³¹³ When the RPF took control and later turned the site into a memorial, it filled the compound’s numerous outbuildings with complete human remains preserved in lime.³¹⁴ Today, as tourists file through, they can see the horror on the victims’ faces and smell the lingering scent of human putrefaction.³¹⁵

As with much else that happens in Rwanda today, the Kagame regime carefully controls these memorials, and all other public forms

309. Thomson, *Reeducation for Reconciliation*, *supra* note 144, at 333 (quoting The National Unity and Reconciliation Commission, *The Rwandan Conflict: Origin, Development, Exit Strategies* (2004)); *see supra* Part III.B (describing the RPF’s preferred historical narrative).

310. Thomson, *Reeducation for Reconciliation*, *supra* note 144, at 333.

311. *See id.* at 332, 337.

312. *See* Mona Friedrich & Tony Johnston, *Beauty Versus Tragedy: Thanatourism and the Memorialization of the 1994 Rwandan Genocide*, *J. of Tourism & Cultural Change* 302, 303 (2013) (arguing Rwanda caters to “grief tourism”); Jens Meierhenrich, *supra* note 21, at 288 (arguing that the Nyamata Memorial, which includes stacks of bleached bones of genocide victims, is a “popular stop for visitors”).

313. *Murambi Genocide Memorial Centre*, WIKIPEDIA https://en.wikipedia.org/wiki/Murambi_Genocide_Memorial_Centre (last visited Feb. 12, 2017).

314. *Id.* (showing photographs of bleached corpses on display at the memorial).

315. I base this description on my own experience visiting Murambi during the summers of 2013 and 2015.

of remembrance,³¹⁶ to ensure that its historical narrative is paramount.³¹⁷ The message is one of emotion, not reason.³¹⁸ When one's mind is swimming at the horror of smashed, stacked, human remains – all caused, at least proximately, by the previous regime – it is hard to be critical of the RPF.³¹⁹ The loud and clear message is “see what might happen if you question our methods?”³²⁰ Or, more pointedly, “given the horror that you are witnessing, is it not understandable that we rule with a heavy hand?”³²¹ As much as memorializing the past, these public sites are designed to compel visitors to forget about the authoritarian present.³²² To the international community, rightly shamed for its inaction in 1994,³²³ the message is “how dare you criticize our human rights record when you stood by and allowed this to happen?”³²⁴

It bears mentioning that the regime's chosen mode of memorialization – the display of unburied, indistinguishable remains – is starkly out of step with Rwandan custom.³²⁵ Rwandans prefer to bury their dead near their homes as a way of maintaining contact with ancestors.³²⁶ Traditionally, the display of human remains was thought

316. THOMSON, *WHISPERING*, *supra* note 76, at 7, 153-154 (arguing the government requires citizens to participate in various state-sanctioned and led initiatives to commemorate the genocide and celebrate national unity and reconciliation); Lisa M. Moore, *(Re)Covering the Past, Remembering Trauma: The Politics of Commemoration at Sites of Atrocity*, 20 J. OF PUB. & INT'L AFF. 47, 54-56 (2009) (similar).

317. *See* Meierhenrich, *supra* note 21, at 288, 292 (arguing that memorials in Rwanda “service privileged memory; that is, memory that is officially sanctioned because it is in accordance with the post-genocide *raison d'état*”, and that private non-sanctioned memorials are left to wither); Friedrich & Johnston, *supra* note 312, at 313-314 (arguing the memorials aim to establish a clear narrative approved by the government, one which entirely excludes the memory of Hutu suffering and blames the genocide on colonists' machinations).

318. Meierhenrich, *supra* note 21, at 288.

319. *Id.* at 289.

320. *See* Thomson, *Reeducation for Reconciliation*, *supra* note 144, at 333 (arguing the memorial sites are meant to show the end result of ethnic division).

321. *See* SCOTT STRAUS, *REMAKING RWANDA: STATE BUILDING AND HUMAN RIGHTS AFTER MASS VIOLENCE* 292 (2011) (arguing the memorials “justify a repressive government by presenting a specter of past violence as a permanent future possibility”).

322. *Id.* at 307; Meierhenrich, *supra* note 21 at 289; *see* Rachel Ibreck, *The Politics of Mourning: Survivor Contributions to Memorials in Post-Genocide Rwanda*, *Memory Studies* 330-331 (2010) (arguing the RPF uses genocide memorials to construct political legitimacy, partly by “Tutsification of the genocide”).

323. *See supra* notes 82-96 and accompanying text.

324. Ibreck, *supra* note 322, at 172; Moore, *supra* note 316, at 55.

325. Meierhenrich, *supra* note 21, at 289; STRAUS, *supra* note 321, at 290.

326. Meierhenrich, *supra* note 21, at 290.

to conjure a deceased's spirit, which could cause danger in the temporal world.³²⁷ However, as culturally offensive as it may be to most Rwandans to stack human remains in memorials, it has been enormously successful as a strategy for marketing the genocide and controlling its historical narrative.³²⁸

E. Other Means of Controlling History and Memory

Some critics allege that other government policies, which at first blush might seem removed from the realm of collective memory and history, are in fact at least partially designed to limit public discourse to approved themes. Each of these government programs is worthy of independent exploration, but they receive only passing mention here.

First, some allege that Rwanda's *gacaca* courts were motivated in part by the regime's desire to mold public memory concerning the genocide.³²⁹ The *gacaca* courts, which have generated a bountiful scholarly literature that is well beyond the scope of this article, were advertised as a quasi-traditional, community based system of justice that the Kagame regime revived and adapted as a way of clearing the enormous backlog of Rwandan citizens (all Hutu, according to the RPF) rotting in jail after being accused of participating in the genocide.³³⁰ Some commentators praised *gacaca* as a reasonable response to an overwhelming challenge: a necessary if imperfect step on the path toward justice and reconciliation.³³¹ Others harshly criticized *gacaca* courts as lacking due process and enabling score settling at local levels.³³² And some pointed out that, although the *gacaca* courts were ostensibly community-based and community-run, in fact RPF central authorities tightly controlled their procedures and their outcomes so that they explored only regime-approved issues and

327. *Id.*

328. *Id.* at 289.

329. Straus & Waldorf, *supra* note 8, at 9; NYIRUBUGARA, *supra* note 127, at 59.

330. Straus & Waldorf, *supra* note 8, at 9.

331. See Don Webster, *The Uneasy Relationship Between the ICTR and Gacaca*, in REMAKING RWANDA, *supra* note 6, at 187 (arguing that, at first, *gacaca* made sense as an expedient way to deal with the backlog of genocide accusations); HUMAN RIGHTS WATCH, RWANDA EVENTS OF 2009 (2010), <https://www.hrw.org/world-report/2010/country-chapters/rwanda> [<https://perma.cc/F7QF-AYBR>] (last visited Oct. 26, 2017) ("some Rwandans feel the *gacaca* process has helped reconciliation").

332. HUMAN RIGHTS WATCH, RWANDA EVENTS OF 2009, *supra* note 331.

established only regime-approved history.³³³ To take one example, the government placed few limits on the *gacaca* courts' ability to pursue alleged Hutu perpetrators, but it strictly forbade any discussion of alleged Tutsi violence.³³⁴

Similarly, commentators claim that Rwanda's ambitious programs of political decentralization and "villagization" are in fact thinly veiled mechanisms for controlling social – including historical – discourse down to the sub-village level. In recent years, Rwanda has redrawn its political boundaries, ostensibly with the purpose of devolving government to the grass roots and making local political leaders responsive to their communities.³³⁵ In fact, according to critics, the political reorganization has been used to extend the tentacles of the RPF-controlled central government down to the lowest levels of Rwandan society.³³⁶ This in turn has permitted the government to better control all public, and even private, discourse affecting public memory and history.³³⁷

Closely tied to political reorganization is the Kagame regime's program of "villagization," or *imidugudu*,³³⁸ which compels³³⁹ rural Rwandans, most of whom are subsistence farmers who traditionally live in scattered family compounds,³⁴⁰ to move into centrally planned villages. In the face of sustained criticism from the international donor

333. NYIRUBUGARA, *supra* note 127, at 59.

334. *Id.* at 59-60.

335. Bert Ingelaere, *The Ruler's Drum and the People's Shout: Accountability and Representation on Rwanda's Hills*, in REMAKING RWANDA, *supra* note 7, at 68.

336. *Id.*; THOMSON, WHISPERING, *supra* note 76, at 15-19; see SUNDARAM, BAD NEWS, *supra* note 272, at 56 (arguing the RPF has used political reorganization as means to replace local leaders with people loyal to the military, so now the military exercises tight control down to the grassroots); see also Huggins, *supra* note 270, at 39 (arguing ostensible efforts to involve local stakeholders are in fact "sensitization" meetings to publicize decisions that have already been made by the central government).

337. THOMSON, WHISPERING, *supra* note 76, at 19, 22.

338. See Ingelaere, *supra* note 335, at 69 (arguing political decentralization happened in tandem with "villagization").

339. See Bruce, *supra* note 10, at 130 (arguing the government claimed no one would be compelled to move into villages but in fact villagization was compulsory); Newbury, *High Modernism*, *supra* note 9, at 224, 234 (arguing villagization is based on top-down authority and involves substantial coercion).

340. Newbury, *High Modernism*, *supra* note 10, at 224; Ann-Sofie Isaksson, *Manipulating the Rural Landscape: Villagization and Income Generation in Rwanda*, Working Papers in Economics, no. 510, University of Gothenburg 1, 4 (June 2011).

community,³⁴¹ and in spite of the disastrous history in Africa and elsewhere of forced land relocation schemes,³⁴² the RPF has forged forward, insisting that “villagization” was a vital element of its plans to make Rwanda more economically efficient.³⁴³ Critics, however, claim that at least one purpose of “villagization” is to bring citizens into a collective space so that central authorities can more easily monitor what they say and do.³⁴⁴

F. Summary of the Kagame Regime’s Methods and Description of the Results

The Kagame regime in Rwanda has constructed a comprehensive legal and extralegal scaffolding that enables it to control public discourse and ensure that only its approved, self-justifying version of collective memory endures. It aggressively pursues and punishes all who express “genocide ideology” and defines that and similar crimes so loosely that it is free to silence anyone who dissents from the official narrative. It uses legal and extralegal means to control the media, civil society, and scholarly inquiry. It has removed the teaching of history from schools and transferred that function to government-controlled indoctrination camps and government-controlled media. It exercises tight control over public remembrance of the 1994 genocide and insists

341. See Bruce, *supra* note 10, at 130-131 (arguing NGOs began opposing villagization in 1998, soon after it began); Isaksson, *supra* note 340, at 5 (arguing Rwanda’s government remains committed to the program in spite of the withdrawal of external support).

342. Newbury, *High Modernism*, *supra* note 10, at 224; see Isaksson, *supra* note 340, at 1 (arguing that previous villagization schemes, including in Tanzania and Ethiopia, negatively impacted agricultural productivity).

343. Bruce, *supra* note 10, at 130; Isaksson, *supra* note 340, at 1, 5; Geoffrey Payne, *Land Issues in The Rwanda’s Post Conflict Law Reform*, in LOCAL CASE STUDIES IN AFRICAN LAND LAW 29 (Robert Home, ed. 2011).

344. See THOMSON, WHISPERING, *supra* note 76, at 121 (arguing the RPF uses the lowest levels of the state administrative structure, including *imidugudu* (villages), to monitor the individual and group activities of all Rwandans and control dissent). Some commentators even condemn Rwanda’s “clean up” initiatives as part of its comprehensive effort to impose the regime’s preferred narrative. Rwanda – its capital city in particular – is startlingly clean and orderly compared to most African cities. Critics claim, however, that the government creates this order by routinely arresting and indefinitely detaining street people and other “undesirables,” essentially warehousing them in so-called “transit centers,” lest they contradict the regime’s narrative about easing poverty in post-genocide Rwanda. *Rwanda: Locking Up the Poor: New Findings of Arbitrary Detention, Ill-Treatment in “Transit Centers,”* HUMAN RIGHTS WATCH (July 21, 2016), <https://www.hrw.org/news/2016/07/21/rwanda-locking-poor> [<https://perma.cc/QGC5-4XDW>] (archived Nov. 9, 2017).

upon grizzly, culturally inappropriate memorials that emphasize the horror that might ensue if anyone questions its authority. Finally, it has compelled its citizens to uproot their lives and move into newly formed villages, and has devolved its own power down to the sub-village level, arguably to enhance its ability to control public discourse.

Not surprisingly, these laws and policies have resulted in numerous high profile instances in which the government has silenced dissenters.³⁴⁵ The regime has pursued journalists, civil society actors and politicians for straying – even obliquely – from the government’s approved script.³⁴⁶

One infamous incident involved the 2010 arrest and imprisonment of Victoire Ingabire, an opposition politician who returned to Rwanda intending to run for president against Paul Kagame but who was quickly arrested and silenced.³⁴⁷ Although later convicted of numerous offenses including organizing an armed insurrection – convictions that human rights organizations claim were based on fatally flawed trials³⁴⁸ – her initial arrest was based on the fact that she contradicted the regime’s historical narrative by stating in a public address that Hutu citizens – not exclusively Tutsis – were killed during the 1994 genocide.³⁴⁹

At around the same time, the government arrested and convicted a journalist, Agnes Uwimana Nkusi for, among other things, writing about “ethnicism” and “regionalism” and claiming that they led Rwandans to end up “killing each other.”³⁵⁰ This statement offended the Kagame regime by implying that ethnicity is in fact a salient issue

345. See *supra* note 280.

346. See *infra* notes 346-358 and accompanying text.

347. See *Rwanda: Eight-Year Sentence for Opposition Leader: Victoire Ingabire Found Guilty of Two Charges in Flawed Trial*, HUMAN RIGHTS WATCH (Oct. 30, 2012), <https://www.hrw.org/news/2012/10/30/rwanda-eight-year-sentence-opposition-leader> [<https://perma.cc/X8FF-WX8G>] (archived Oct. 26, 2017).

348. See *id.*

349. AMNESTY INTERNATIONAL, JUSTICE IN JEOPARDY, *supra* note 8, at 6 (arguing Ingabire was arrested for “minimizing the Rwandan genocide” after she gave a speech addressing Rwanda’s problems with reconciliation and ethnic violence “issues that are rarely discussed openly in Rwanda”); see *Victoire Ingabire: Rwanda Leader’s Jail Term Raised*, BBC NEWS (Dec. 13, 2013), <http://www.bbc.com/news/world-africa-25371874> [<https://perma.cc/L7TH-E38C>] (archived Oct. 26, 2017).

350. *Le Ministère Public v. Uwimana Nkusi* (Apr. 4, 2012), Case No. RPA 0061/11/CS (Rwanda, Afr.), summary available at <https://globalfreedomofexpression.columbia.edu/cases/agnes-uwimana-nkusi-and-saidati-mukakibibi/> [<https://perma.cc/X5AM-T95F>] (last visited Nov. 9, 2017).

in Rwanda and, worse yet, that Tutsis – presumably RPF soldiers – had been involved in unjustified killings.³⁵¹ For those utterances she was convicted and sentenced to 10 years’ imprisonment and fined for “genocide minimization.”³⁵² For other related offenses, including writing that President Kagame’s policies favored his own clan, that high level jobs were reserved for only certain people (presumably meaning Anglophone Tutsis), and that the army was enriching itself through its proxy wars in the Democratic Republic of Congo,³⁵³ she was convicted of “threatening national security,” “divisionism,” and “defaming the President,” all of which added more fines and seven additional years to her sentence.³⁵⁴

In a further, almost comical, sign of the government’s determination to control public discourse, especially regarding topics related to the genocide, in 2012 it arrested a radio announcer and charged him with “genocide ideology” after he mistakenly mixed up the terms for “victims” and “survivors” when discussing the genocide.³⁵⁵ He spent three months in jail before being acquitted and released.³⁵⁶

Even in the face of condemnation by international human rights organizations, and even after vowing to reconsider some of the laws that restrict expression,³⁵⁷ the Rwandan government has continued to vigorously pursue and punish those who contradict its narrative. One recent example involved Kizito Mihigo, a well-known Rwandan singer who in 2014 was arrested, convicted and sentenced to ten years’ imprisonment based partly on a song he wrote in which “he prayed for

351. *Id.*

352. *Id.*

353. See United Nations General Assembly, Human Rights Council Working Group on Arbitrary Detentions, Opinions Adopted by the Working Group on Arbitrary Detention at Its Sixty-Fourth Sessions, 27-31 August 2012 (Nov. 22, 2012), <http://hrlibrary.umn.edu/wgad/25-2012.pdf> [<https://perma.cc/6EW5-ERN3>] (archived Oct. 26, 2017).

354. *Id.*; Committee to Protect Journalists, *supra* note 280.

355. See HUMAN RIGHTS WATCH, RWANDA: EIGHT-YEAR SENTENCE FOR OPPOSITION LEADER, *supra* note 347; see also HUMAN RIGHTS WATCH, LAW AND REALITY, *supra* note 241, at 40 (describing a Rwandan citizen who in 2007 challenged a tenet of the official “truth” about RPF war crimes and was sentenced to 20 years’ imprisonment for “gross minimization of the genocide”).

356. HUMAN RIGHTS WATCH, RWANDA: EIGHT-YEAR SENTENCE FOR OPPOSITION LEADER, *supra* note 347.

357. See AMNESTY INTERNATIONAL, JUSTICE IN JEOPARDY, *supra* note 8, at 8.

victims of the genocide as well as for victims of other violence.”³⁵⁸ Apparently, the government determined that the singer’s reference to “other violence” implied that Rwandans other than Tutsis had suffered.³⁵⁹

These are only a few high-profile examples of the Kagame regime’s legal and extralegal pursuit of perceived opponents, particularly those who openly question its carefully constructed self-justifying historical narrative.³⁶⁰ However, it should not be forgotten that the government carefully monitors and controls ordinary Rwandan citizens³⁶¹ and punishes those who stray from the party line.³⁶² Human rights organizations have documented countless arrests, prosecutions, disappearances, and assassinations – both inside and outside Rwanda – of Rwandan citizens from all strata of society that the government perceives as enemies.³⁶³ As others have pointed out, it does not take many assassinations, disappearances, or convictions before society at large gets the message that it is safer not to stray from the government’s approved narrative.³⁶⁴

358. HUMAN RIGHTS WATCH, RWANDA: EX-MILITARY OFFICERS CONVICTED OVER COMMENTS: INVESTIGATE ALLEGATIONS OF TORTURE, WITNESS TAMPERING (Apr. 1, 2016), <https://www.hrw.org/news/2016/04/01/rwanda-ex-military-officers-convicted-over-comments> [<https://perma.cc/UA8Y-YH9Q>] (archived Oct. 26, 2017).

359. *Id.*

360. See HUMAN RIGHTS WATCH, RWANDA: REPRESSION ACROSS BORDERS: ATTACKS AND THREATS AGAINST RWANDAN OPPONENTS AND CRITICS ABROAD (Jan. 28, 2014) <https://www.hrw.org/news/2014/01/28/rwanda-repression-across-borders> [<https://perma.cc/2XPC-BBA9>] (archived Oct. 26, 2017) (arguing that the RPF controlled government has engaged in “numerous cases of arbitrary arrests, detentions, prosecutions, killings, torture, enforced disappearances, threats, harassment, and intimidation against government opponents and critics”).

361. See *supra* note 259 and accompanying text (describing Rwandan newspaper articles lauding the increase in rural areas of accusations and prosecutions of genocide ideology).

362. *Id.*

363. See AMNESTY INT’L, 2014/15 RWANDA REPORT, <https://www.amnesty.org/en/countries/africa/rwanda/report-rwanda/> [<https://perma.cc/4U4P-V6QM>] (archived Nov. 6, 2017) (arguing Rwandan people are unable to express openly critical views on issues perceived as sensitive by the authorities); THOMSON, WHISPERING, *supra* note 76, at 49, 112 (arguing Rwanda employs “structural forms of violence to suppress and control ordinary Rwandans, and that they are severely punished if they fail or refuse to play their assigned roles).

364. Schuberth, *supra* note 133, at 84; Straus, *supra* note 347, at 60; Amnesty International, *Safer to Stay Silent*, *supra* note 285; SUNDARAM, BAD NEWS, *supra* note 272, at 17.

V. *CONCLUSION*

Rwanda is not the only country in the world that distorts history and manipulates collective memory. One need look no further than the United States, where legislators from Texas, Oklahoma and Georgia have passed laws in recent years that in effect require history teachers to emphasize American exceptionalism, patriotism, and respect for authority³⁶⁵ while deemphasizing the US's troubled racial history.³⁶⁶

Rwanda's manipulation of collective memory and history, however, is on a different scale. In the United States, attempts at ham-handed historical distortion tend to emanate from the boondocks. When regional political powers succeed in altering history textbooks, the national discourse, led by vocal cognoscenti and backed by a stalwart First Amendment and a vibrant independent press, hoots in derision and portrays the would-be "memory entrepreneurs" as ignorant yokels. In Rwanda, the manipulation of history and collective memory is carried on by a sophisticated and determined executive that is unchecked by other branches of government and that aggressively silences anyone who dares dissent.³⁶⁷

For the time being, Paul Kagame and his ruling coterie can take heart that their policy of memory entrepreneurship seems to be working. It is rare that anyone in Rwanda contradicts any aspect of the regime's ahistorical version collective memory.³⁶⁸ When Rwandans

365. Zoe Schlanger, *Revised AP U.S. History Standards Will Emphasize American Exceptionalism*, NEWSWEEK (July 29, 2015), <http://www.newsweek.com/revised-ap-history-standards-will-emphasize-american-exceptionalism-358210> [<https://perma.cc/R87C-XBBH>] (archived Oct. 26, 2017).

366. Zoe Schlanger, *Newly Revised AP US History Standards Will Take Softer Tone on Racial History of America*, NEWSWEEK (July 30, 2015), <http://www.newsweek.com/newly-revised-ap-us-history-standards-take-softer-tone-racial-history-america-358537> [<https://perma.cc/QSK4-QP9R>] (archived Oct. 26, 2017). Similarly, the State Education Board in Texas pushed through a sweeping revision of public schools' history curriculum to depict "America as a nation chosen by God as a beacon to the world, and free enterprise as the cornerstone of liberty and democracy." Chris McGreal, *Texas Schools Board Rewrites US History With Lessons Promoting God and Guns*, THE GUARDIAN (May 16, 2010), <http://www.theguardian.com/world/2010/may/16/texas-schools-rewrites-us-history> [<https://perma.cc/4W6E-HBBF>] (archived Oct. 26, 2017). The Texas history revisions included downplaying the civil rights movement and the US's history of slavery, "sidelining Thomas Jefferson, who favored separation of church and state," and suggesting that Joseph McCarthy's infamous anti-communist witch-hunt may have been justified. *Id.*

367. See *infra* Part IV.

368. I base this statement partly on the various articles and reports cited in the body of this paper, and partly on my own observation. I spent approximately six weeks in Rwanda in 2013

speaking of the past,³⁶⁹ they hew rigidly to the party line: pre-colonial Rwanda was a peaceful country in which ethnic divisions were absent; a wise monarch ruled benevolently; the Belgians introduced ethnic division and taught Rwandans to hate each other; the 1994 genocide was perpetrated exclusively by hate-filled Hutus against Tutsis; Paul Kagame and the RPF halted the genocide and are blameless for civilian killings; the Kagame regime has the moral authority to lead the country into the future.³⁷⁰

Rwandans' eerie consistency is a result of the government's comprehensive, mostly successful, legal and extralegal efforts to impose a single collective memory on them, one carefully constructed to legitimize Paul Kagame's increasingly autocratic rule.

and five in 2015 leading groups of American university students studying abroad. During my visits, I interacted regularly with Rwandan academics, governmental officials, and ordinary Rwandan citizens.

369. My American university students were struck by Rwandans' reluctance to talk openly with them. I assigned a research paper that required the students to interview Rwandans – mostly from the governmental or NGO sectors – about economic and social development in the country. Practically all of the would-be interviewees declined or dissembled. “I need clearance from superiors.” “I cannot speak to you unless you have government-approved research authorization.” Or they simply did not return the telephone calls.

370. *See supra* Part III.B.

