

GENOCIDE, THE UNITED NATIONS, AND THE DEATH OF ABSOLUTE RIGHTS

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Abstract: This Book Review uses Michael Barnett's argument that the United Nations (UN) refrained from intervening to stop the Rwandan genocide out of considered self-interest as a case-study through which to examine whether absolute rights exist in practice. The UN's actions in Rwanda represent a staggering failure to protect absolute rights, namely, the Rwandan people's right to freedom from genocide. The Rwandan case-study demonstrates that absolute rights, which have an impressive pedigree in legal and philosophical scholarship, are nothing more than a theoretical ideal—they are non-existent in practice. Nonetheless, there are hopeful signs, such as the international community's 1999 intervention in Kosovo, that absolute rights need not be "dead" as a useful concept. In order to maintain relevance as practical, as opposed to normative, ideals, absolute rights must be given greater priority in policymaking, allowing the existing, powerful regime of human rights law to prevent future absolute rights catastrophes.

INTRODUCTION

In 1994, the most clear-cut case of genocide since the Holocaust took place in Rwanda, in which some 800,000 people were killed in a span of roughly 100 days.¹ After decades of conflict between the country's majority Hutu and minority Tutsi populations, the early 1990s in Rwanda witnessed an ongoing civil war, an economic crisis, and the

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¹ MICHAEL BARNETT, EYEWITNESS TO A GENOCIDE: THE UNITED NATIONS AND RWANDA 1 (2002); SAMANTHA POWER, A PROBLEM FROM HELL: AMERICA AND THE AGE OF GENOCIDE 362 (2002). Of the six genocides Power chronicles in the twentieth century, none caused more deaths than the Holocaust, in which it is estimated that six million Jews were lost. *See, e.g.*, Max Frankel, *150th Anniversary: 1851–2001; Turning Away from the Holocaust*, N.Y. TIMES, Nov. 14, 2001, at H9.

growing pains of multi-party democratization after nearly twenty years of single-party rule by the Hutu.² The establishment of a Tutsi-led opposition party led first to civil unrest, and then to spontaneous massacres by Hutu extremists bent on creating an ethnically pure Rwanda.³ The death of Hutu president Juvénal Habyarimana by plane crash on the evening of April 6, 1994 provided the spark that ignited this tinder box of tension and conflict; within hours, the Hutu Presidential Guard, the *Interahamwe*, set up roadblocks and began targeting and killing Tutsi and politically moderate Hutu by the thousands.⁴ After two weeks of civilian massacre, the United Nations Security Council, which had established a peacekeeping force in Rwanda in 1993, withdrew all but a nominal presence of its forces from Rwanda, allowing the genocide to proceed unchecked.⁵

In *Eyewitness to a Genocide: The United Nations and Rwanda*, Michael Barnett, a political officer at the United States (U.S.) Mission to the United Nations from 1993–94, reconstructs the history of the Rwandan genocide as it was experienced by decision makers in the UN.⁶ In a search for moral accountability, Barnett investigates a communication breakdown between the UN's force on the ground in Rwanda (UNAMIR), the UN Secretariat, and the Security Council, which led to the peacekeeping force's withdrawal at the moment it was urgently needed and its failure to return until the fighting had ended.⁷

² BARNETT, *supra* note 1, at 54–56. Barnett criticizes the widespread perception among policymakers and the media during the genocide that conflict between Hutu and Tutsi was an inevitable result of a centuries-old tribal conflict, proffering instead the view that ethnic tensions were largely the result of Belgium's colonial practice of conferring political and economic power on the minority Tutsi because of their Caucasoid physical features. *Id.* at 50–51; see also JONATHAN GLOVER, HUMANITY: A MORAL HISTORY OF THE TWENTIETH CENTURY 121 (1999).

³ BARNETT, *supra* note 1, at 54.

⁴ See *id.* at 97. By that time, the now-infamous *Milles Collines* Radio, which broadcast hate speech, incitements to attack civilians, and the names and addresses of Tutsi and politically moderate Hutu, had been established by the far-right Committee for the Defense of the Republic party. *Id.* at 54; see also PHILLIP GOUREVITCH, WE WISH TO INFORM YOU THAT TOMORROW WE WILL BE KILLED WITH OUR FAMILIES: STORIES FROM RWANDA 99–100 (1998).

⁵ BARNETT, *supra* note 1, at 127. The United Nations Assistance Mission for Rwanda (UNAMIR) was established on October 5, 1993 by Security Council Resolution 872, to facilitate the implementation of a cease-fire between the warring factions. *Id.* at 72.

⁶ *Id.* at ix, 4–5.

⁷ See *id.* at 109. Barnett argues that the Secretariat failed to convey to the Security Council two crucial pieces of information it received from its force commander, Roméo Dallaire. *Id.* First was a characterization of the events on the ground as ethnic cleansing and genocide, rather than simply the chaos of civil war. BARNETT, *supra* note 1, at 109. Second was Dallaire's consistent pleading for troop reinforcements; all that was necessary

Barnett concludes that the UN bears some moral responsibility for the Rwandan genocide.⁸ His provocative explanation for the Secretariat's troubling behavior has grave implications for the modern notion of human rights—that the Secretariat understood perfectly the implications of the terrible information it received from the ground and decided to withdraw the bulk of its troops anyway.⁹ Specifically, Barnett suggests that the Secretariat was mindful of the cost of another failed attempt at peace enforcement so soon after the UN's very public failure in Somalia and consequently withheld information from the Security Council, denying it the moral ammunition to organize a more concerted effort to stop the massacre.¹⁰ The Secre-

to stop the mounting violence, he argued, was a little saber rattling, as demonstrated by the cessation of violence in Kigali every time foreign troops protected their nationals during evacuations. *See id.* at 109–10.

⁸ *Id.* at 155, 174. Barnett's conclusion is based not on the UN's failure to *predict* the Rwandan genocide, but rather its failure to *interrupt* the genocide once it had started. *Id.* at 155. Barnett's appraisal is more generous in its acquittal of the UN for failing to prevent the genocide than the UN has been toward itself. *See* UNITED NATIONS, SECURITY COUNCIL, REPORT OF THE INDEPENDENT INQUIRY INTO THE ACTIONS OF THE UNITED NATIONS DURING THE 1994 GENOCIDE IN RWANDA, U.N. Doc. S/1999/1257 (1999) [hereinafter UN REPORT]. Barnett focuses on the UN, and not member states, because of its ability, and responsibility, to disseminate information that would have given member states the moral and political opportunity to act. BARNETT, *supra* note 1, at 174. Nonetheless, Barnett reserves harsh criticism for member states, particularly the U.S. and France. *Id.* at 171–72; *see also* POWER, *supra* note 1, at 382 (focusing on the role of the United States in thwarting the Security Council's ability to stop the Rwandan massacre).

⁹ BARNETT, *supra* note 1, at 118. Barnett candidly admits that there is not enough evidence to prove his argument definitively; thus, he proffers the possibility that the Secretariat misread the complex series of events in Rwanda and subsequently gave insufficient weight to what appear in hindsight to be clear indicia of catastrophe. *See id.* at 111–12. Barnett's principled evaluation of the UN's actions in context, rather than in hindsight, makes this a conclusion of some appeal: for years the UN had dealt with a Rwanda torn by civil war and acted within the constraints of a mandate that was not to exceed helping the fighting parties maintain a cease-fire. *See id.* at 112. Ethnic violence was a hallmark of the country since the 1960s and, to an extent, had desensitized UN officials to what otherwise would have been seen as genocidal killings. *Id.* at 112–13. In short, to UN policymakers unfamiliar with the nuances of Rwandan politics, an ancient tribal hatred had simply resurfaced and the Hutu and Tutsi were “at it again.” *See id.*

¹⁰ *See* BARNETT, *supra* note 1, at 123–24, 174. The UN as peacekeeper came under heavy criticism after the October 3–4, 1993 incident in which a failed raid by U.S. Army Rangers on Somali warlord Mohamed Farah Aideed in Mogadishu led to the deaths of eighteen U.S. soldiers, one of whom was dragged through the streets by an angry mob. *Id.* at 34–37. The U.S. blamed the UN for the incident, and relations between the two became “positively poisonous.” *Id.* at 163. Somalia represents the nadir of a critical era for the UN as an institution, one in which its peacekeeping function dramatically increased to meet the needs created by globalization in the early post-Cold War era. *Id.* at 24, 29. Lukewarm successes and outright failures in this new role had led to criticism by member states and even an internal fear for the body's continued existence. *Id.* at 37, 163.

tariat, Barnett argues, essentially weighed the options—ending a genocide by giving the Security Council information that could lead to action or saving the UN from potential self-destruction by sitting out the politically untenable conflict in Rwanda—and chose what it perceived to be the imperative.¹¹

This Book Review uses Barnett's argument that the UN refrained from intervening in Rwanda out of self-interest as a case-study through which to examine whether absolute rights exist in contemporary international practice. Absolute rights are the bedrock of liberal political theory and the cornerstone of the human rights movement.¹² They are fundamental guarantees of basic human rights that may never be transgressed—a "floor" for all human behavior.¹³ Thus, evidence of their erosion or outright disappearance threatens the very existence of a protective human rights regime.¹⁴ Barnett's disquieting hypothesis provides such evidence. If the UN, that great hope for humanity to rise from the ashes of the Holocaust and World War II, was willing to sacrifice its obligations to protect absolute rights out of a calculated interest in self-preservation, what can be expected from the rest of the world's polities? And if states and intergovernmental institutions can so easily abandon their duties to protect absolute rights, where does that leave the human rights movement as it enters the twenty-first century?

Part I of this analysis briefly introduces the theoretical underpinnings of absolute rights in philosophical and legal discourse. Part II identifies, through an extended syllogism, the UN's failure to intervene in Rwanda as a case in which absolute rights were not protected. Part III examines the implications of this failure to bridge theory and practice for the modern human rights movement by placing the Rwandan case-study into context. Part III also responds to the assertion that human rights law's chief benefits are its indirect protections by arguing that the moral urgency presented by absolute rights viola-

¹¹ See BARNETT, *supra* note 1, at 118. Barnett supports this troubling possibility with evidence of behavior by the Secretariat that indicated its opposition to increased intervention and the Secretariat's motive of institutional self-preservation to hide the truth. See *id.* at 118–22. In particular, Barnett accuses the Secretary-General, Boutros Boutros-Ghali, of failing to make either the moral case for intervention, as he had made to halt the 1992 famine in Somalia, or the logistical case that proponents of an increased UNAMIR force in the Security Council required for action. *Id.* at 119–20.

¹² See discussion *infra* Part I.

¹³ See discussion *infra* Part I.

¹⁴ See discussion *infra* Part I.

tions requires a continuing effort for their immediate and direct protection.¹⁵

I. THE PHILOSOPHICAL AND LEGAL THEORY BEHIND ABSOLUTE RIGHTS

Barnett's account of the UN raises the notion of absolute rights, also referred to in the international law context as non-derogable rights.¹⁶ Either moniker embodies the well-defined philosophical and legal ideal that some rights are so fundamental that they must never be compromised, regardless of context.¹⁷ A necessary corollary to the notion of absolute rights is that they must be protected in order to have practical, in addition to normative, value.¹⁸ In the case of the UN and Rwanda, such protection entailed a positive duty to prevent rights violations, rather than a negative duty to refrain from violating rights.¹⁹

A. *Philosophical Theory of Absolute Rights*

Much has been written from a philosophical perspective on the notion of absolute rights, which find their roots in natural law.²⁰ Two distinct schools of thought dominate political ethics on the subject.²¹ The classical liberal ethics, usually attributed to Immanuel Kant and echoed most prominently in the writings of the modern scholar John

¹⁵ See Douglass Cassel, *Does International Human Rights Law Make a Difference?*, 2 CHI. J. INT'L L. 121, 122 (2001).

¹⁶ See, e.g., Fionnuala Ni Aolain, *The Emergence of Diversity: Differences in Human Rights Jurisprudence*, 19 FORDHAM INT'L L.J. 101, 102 (1995) (defining non-derogable rights as "those specially protected rights under treaty law that cannot be limited or suspended, notwithstanding any political crisis that the state faces"). Non-derogable rights' power as a practical legal mechanism exists in their status as inalienable norms of international law. See Theodoor C. van Boven, *Distinguishing Criteria of Human Rights*, in THE INTERNATIONAL DIMENSIONS OF HUMAN RIGHTS 43, 45 (Karel Vasak ed., Phillip Alston trans., 1982). In other words, even in times of emergency, non-derogable rights may not be suspended. See *id.* at 48.

¹⁷ See discussion *infra* Part II. A–B.

¹⁸ See James Nickel, *How Human Rights Generate Duties to Protect and Provide*, 15 HUM. RTS. Q. 77, 80 (1993). Professor Nickel has differentiated between the positive and negative duties of third parties where individuals' rights are concerned. *Id.* For instance, the right to freedom from torture includes both a duty not to torture individuals (negative) and the duty to protect individuals from torture (positive). *Id.*

¹⁹ See *id.*

²⁰ See Richard Tuck, *The Dangers of Natural Rights*, 20 HARV. J.L. & PUB. POL'Y 683, 683, 686–87 (1997).

²¹ *Id.* at 683.

Rawles, argue that certain rights are above compromise and hence can never be bargained away even on behalf of pressing diplomatic or political interests.²² Such rights are, as political theorist Isaiah Berlin put it, "absolute barriers to the imposition of one man's will on another."²³ The opposing, utilitarian viewpoint is credited to legal theorist Jeremy Bentham and expressed in the contemporary writings of Professor Sandel.²⁴ Utilitarianism stands for the proposition that nothing is absolute, which tends to undermine the existence of fundamental rights.²⁵ Under this theory, if the greater good can be achieved by sacrificing the rights of one to benefit many, then the social utility of that action demands such a sacrifice.²⁶

B. *Legal Theory of Absolute Rights*

In the context of human rights law, absolute or non-derogable rights have been labeled *jus cogens* norms, fundamental rights, supra-positive rights, elementary rights, and basic rights.²⁷ One commentator has defined these rights as the foundation of the international communityrights so certain that they need not be accepted by subjects of law to retain their power.²⁸ A number of legal instruments expressly recognize this exaltation of certain human rights to absolute status.²⁹ For instance, the International Covenant on Civil and Political Rights is one of many human rights treaties that enumerates non-derogable rights, including the right to freedom from torture and slavery, and the right to be recognized as a person before the law.³⁰

²² See generally IMMANUEL KANT, GROUNDWORK OF THE METAPHYSICS OF MORALS (1785); JOHN RAWLS, A THEORY OF JUSTICE (1971).

²³ ISAIAH BERLIN, *Two Concepts of Liberty*, in FOUR ESSAYS ON LIBERTY 118, 166 (1969).

²⁴ See generally JEREMY BENTHAM, AN INTRODUCTION TO THE PRINCIPLES OF MORALS AND LEGISLATION (1789); MICHAEL J. SANDEL, LIBERALISM AND THE LIMITS OF JUSTICE (1982).

²⁵ See Tuck, *supra* note 20, at 683.

²⁶ See *id.*

²⁷ Van Boven, *supra* note 16, at 43; Theodor Meron, *On a Hierarchy of International Human Rights*, 80 AM. J. INT'L L. 1, 22 (1986). *Jus cogens*, or peremptory norms of international law, are defined in Article 53 of the Vienna Convention on the Law of Treaties as "accepted and recognized by the international community of States as a whole as [norms] from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character." Vienna Convention on the Law of Treaties, *opened for signature* May 23, 1969, art. 53, 1155 U.N.T.S. 331, 344 (entered into force Jan. 27, 1980).

²⁸ Van Boven, *supra* note 16, at 43.

²⁹ *Id.*

³⁰ *Id.* at 45; International Covenant on Civil and Political Rights, *opened for signature* Dec. 16, 1966, art. 4, 999 U.N.T.S. 171, 174 (entered into force Mar. 23, 1976).

An important debate exists in the human rights community over whether the enumeration and protection of absolute rights fragments the power of human rights law.³¹ Professor Meron argues that such a distinction necessarily leaves behind a class of inferior, second-class rights, which apparently may be compromised if the competing imperative is great enough.³² This Book Review's practical answer to the "second-class rights" argument is that the moral urgency of preventing absolute rights violations such as the Rwandan genocide warrants their separate classification, if fundamental stature can result in their protection, regardless of the effects on human rights theory.³³

II. THE NON-EXISTENCE OF ABSOLUTE RIGHTS IN THE UN'S RESPONSE TO THE RWANDAN GENOCIDE

If the theoretical ideal of absolute or non-derogable rights is that certain human rights are above compromise, then the practical manifestation of that ideal is the moral imperative that absolute rights should always be protected.³⁴ The UN's failure to protect the Rwandan people from genocide, according to Barnett's argument, was based on a conscious determination by the Secretariat to put institutional interests above humanitarian ones.³⁵ If this argument is correct, the UN's behavior would represent a classic utilitarian action that implicitly rejects absolute rights.³⁶

Assuming *a priori* the veracity of Barnett's argument, the UN's behavior can be evaluated in the form of a five-part syllogism:³⁷ *if* A) genocide violates an absolute right, *and* B) it is the UN's duty to pre-

³¹ See Meron, *supra* note 27, at 21–22.

³² See *id.*

³³ See *id.* That this response to the "second-class rights" theory is essentially a utilitarian argument is not lost on this author. See *id.* Yet Professor Meron's theoretical "split" in the human rights community by the creation of second-class rights does not necessarily extend beyond the page. See *id.* From the mere existence and enumeration of fundamental rights, it need not follow that non-fundamental rights are less enthusiastically supported by human rights advocates or more enthusiastically abrogated by rights violators. See Meron, *supra* note 27, at 21. Indeed, Professor Meron himself ultimately subscribes to the moral principle that certain, but not all, rights are beyond compromise: he argues for the careful expansion of non-derogable rights to a more concrete class. See *id.*

³⁴ See Nickel, *supra* note 18, at 80. Berlin, in his description of the natural law tradition, suggests this bridge from theory to practice: "[In order to preserve one's liberty, one] must establish a society in which there must be some frontiers of freedom which nobody should be permitted to cross Genuine belief in the inviolability of a minimum extent of individual liberty entails some such absolute stand." BERLIN, *supra* note 23, at 164–65.

³⁵ See *supra* note 9.

³⁶ See *supra* note 9.

³⁷ See *supra* note 9.

vent such a violation, *and C*) there were available legal mechanisms by which the UN could have acted, *and D*) the UN, aware of the situation, did not act to protect the absolute right, choosing instead another course of action, *then E*) the UN's behavior is evidence of a failure to protect absolute rights.³⁸

A. Does Genocide Violate an Absolute Right?

Genocide is the most heinous crime that can be committed against a human population.³⁹ In the famous words of the UN General Assembly, genocide "shocks the conscience of mankind."⁴⁰ A mandate for its prevention and punishment has been enshrined in a widely-ratified multilateral treaty.⁴¹ Genocide's status as a *jus cogen*, or customary norm of international law from which no derogation is permitted under any circumstances, is broadly accepted.⁴²

Commentators have suggested that any list of absolute rights should be short and relatively abstract.⁴³ It nearly goes without saying that the right of a people to be free from wholesale slaughter would top any such list.⁴⁴ Given the near-universal consensus that the taking of innocent life is a moral wrong, genocide stands alone as a wrong

³⁸ See discussion *infra* Parts II.A-D.

³⁹ See UN REPORT, *supra* note 8, at 5.

⁴⁰ G.A. Res. 96(I), U.N. GAOR, 1st Sess., pt. 2, U.N. Doc. A/64/Add.1 (1947).

⁴¹ See Convention on the Prevention and Punishment of the Crime of Genocide, *opened for signature* Dec. 9, 1948, art. 1, 78 U.N.T.S. 277 (entered into force Jan. 12, 1951) [hereinafter Genocide Convention]. There are currently 134 state parties to the Genocide Convention. UNITED NATIONS TREATY COLLECTION: STATUS OF MULTILATERAL TREATIES DEPOSITED WITH THE SECRETARY GENERAL, available at <http://untreaty.un.org/ENGLISH/bible/englishinternationalbible/part1/chapterIV/treaty1.asp> (last visited Feb. 24, 2003). The Genocide Convention is one of the few human rights treaties to which the U.S. has given domestic force through enabling legislation. See Genocide Convention Implementation Act, 18 USC § 1091 (1987) (amended 1994); Kenneth Roth, *The Charade of US Ratification of International Human Rights Treaties*, 1 CHI. J. INT'L L. 347, 348-49 (2000).

⁴² See, e.g., James D. Fry, Note, *Terrorism as a Crime Against Humanity and Genocide: The Backdoor to Universal Jurisdiction*, 7 UCLA J. INT'L L. & FOREIGN AFF. 169, 187-88 (2002) (observing that the prohibition of genocide as a *jus cogen* under customary international law is unambiguous).

⁴³ See Steven Lukes, *Five Fables About Human Rights*, in ON HUMAN RIGHTS 19, 38 (Stephen Shute & Susan Hurley eds., 1993).

⁴⁴ See *id.* Despite a healthy ongoing discourse on the relative importance of individual rights versus group rights, see, e.g., Peter Rosenblum, *Teaching Human Rights: Ambivalent Activism, Multiple Discourses, and Lingering Dilemmas*, 15 HARV. HUM. RTS. J. 301, 306-07 (2002), a cogent argument could be made that the prohibition against the unique crime of genocide merely magnifies the protection of existing individual rights according to their status in relation to groups. See van Boven, *supra* note 16, at 54.

that actually multiplies a wrong, magnifying its infamy.⁴⁵ The essence of genocide's power is that it denies the very right to exist to entire groups of people based solely upon their identity, making it at once selective in practice and universal in scope.⁴⁶

Given genocide's legal and moral opprobrium, if freedom from it cannot be enumerated as an absolute right, then absolute rights do not exist.⁴⁷

B. *Is It the UN's Duty to Prevent Genocide?*

The existence of an absolute right begs the practical question, who will protect that right?⁴⁸ In the case of protecting the Rwandan people from genocide, Barnett argues that the UN, and not powerful member states, bears the responsibility.⁴⁹ Member states could at least conceivably have denied a duty to act on behalf of others whose suffering in a far away land had little to do with their immediate interests.⁵⁰ Yet such suffering fell directly under the purview of the United Nations.⁵¹ As the "bureaucratic arm of the world's transcendental values," the UN was in a position to frame the Rwandan crisis in a way that would have allowed the Security Council to vote for intervention.⁵² There is legal support for this policy argument. One of the UN's enumerated purposes is "[t]o achieve international co-operation in solving international problems of a[] . . . humanitarian character, and in promoting and encouraging respect for human rights."⁵³ The UN, the central actor in the international community's "moral division of labor," was thus ideally situated to appreciate and respond to the humanitarian catastrophe in Rwanda.⁵⁴

⁴⁵ See Michael J. Kelly, *Can Sovereigns Be Brought to Justice? The Crime of Genocide's Evolution and the Meaning of the Milosevic Trial*, 76 ST. JOHN'S L. REV. 257, 262–65 (2002).

⁴⁶ See *id.*

⁴⁷ See *id.*

⁴⁸ See *supra* text accompanying note 18.

⁴⁹ BARNETT, *supra* note 1, at 169–70. One need not condone the behavior of Western states in order to agree that the UN was in a position to facilitate and coordinate their actions. See *id.*

⁵⁰ See *id.* at 169–71.

⁵¹ See *id.*

⁵² See *id.* at 172–75.

⁵³ U.N. CHARTER art. 1, para. 3.

⁵⁴ See BARNETT, *supra* note 1, at 172.

From a historical perspective, the appropriateness of the UN's role as human rights protector is also clear.⁵⁵ The use of the term "human rights" in the UN Charter represented the first enumeration of that ideal in a major international treaty.⁵⁶ Also, the UN was the institutional force behind the creation of the Universal Declaration of Human Rights, the first instrument of international human rights law and one of the twentieth century's most important instruments of international law.⁵⁷ In the words of one of the field's most distinguished scholars, Professor Henkin,

[F]or all its inadequacies, the United Nations represents and concentrates international concern over human rights. It put human rights on the world agenda a half century ago and has kept it there. It developed the international law of human rights It concentrates the world's attention on human rights problems that cry for attention.⁵⁸

Given this rich history, it would be an irony indeed if the UN, the very embodiment of human rights since World War II, would one day abandon its responsibility to prevent the most egregious of human rights abuses in order to continue to exist for another day.⁵⁹ Such rationalization leads to a circular argument: the UN sat out the Rwandan genocide so it could prevent the next genocide, but if the next genocide also proved politically unapproachable, it would not interfere but instead wait for the *next* genocide⁶⁰

C. *Could the Absolute Right Have Been Protected Under Existing Norms of International Law?*

The UN could have acted to interrupt the genocide in one of two ways.⁶¹ The least dramatic, and most feasible (if politically delicate)

⁵⁵ See Louis Henkin, *Human Rights: Ideology and Aspiration, Reality and Prospect*, in *REALIZING HUMAN RIGHTS: MOVING FROM INSPIRATION TO IMPACT* 3, 16–18 (Samantha Power & Graham Allison eds., 2000) [hereinafter *REALIZING HUMAN RIGHTS*].

⁵⁶ *Id.* at 9; U.N. CHARTER arts. 55, 56.

⁵⁷ See Henkin, *supra* note 55, at 11, 12.

⁵⁸ *Id.* at 18.

⁵⁹ See BARNETT, *supra* note 1, at 169–70.

⁶⁰ See *id.*

⁶¹ A crucial factor in UNAMIR's ability to prevent the slaughter of innocents was its mandate under the UN Charter. *Id.* at 70. Authority under Chapter VI creates a traditional peacekeeping operation that derives its authority from the consent of the parties. See POWER, *supra* note 1, at 377. A Chapter VII deployment, however, does not require the parties' consent and operates as a peace enforcement mission. *Id.* at 377–78. The UN was

means at its disposal was forcefully presenting the moral argument for action to member states on the Security Council, which would have paved the way for more than a nominal force on the ground in Kigali.⁶² The presence of an adequately equipped UN force, rather than the actual use of force, was a proven deterrent to the Hutu *genocidaires*.⁶³ Yet at the moment reinforcements were most needed, the Security Council reduced UNAMIR from 2500 to a mere 270 troops, a force barely able to protect itself, let alone deter thousands of killers.⁶⁴ A larger contingent would have been consistent with the parties' requests for assistance in implementing the ceasefire of 1993, and thus would have fallen well within the Security Council's discretion under Chapter VI of the UN Charter.⁶⁵

There was ample opportunity for the UN to help establish a UNAMIR force large enough to deter the *genocidaires*, had the Secretariat chosen to act.⁶⁶ Members of the Secretariat could have actively supported the interventionists on the Security Council, rather than rationalizing inaction with disingenuous references to the fog of war.⁶⁷ Had the Secretariat chosen to emphasize the genocidal aspect of the

given the role of assigning an "international force" to implement and monitor the peace between Rwanda's warring parties in two 1993 protocols known as the Arusha Accords; thus, the UN had the parties' consent. See BARNETT, *supra* note 1, at 62. Under this framework, the UN gave UNAMIR its mandate in the form of Security Council Resolution 872, which fell within the boundaries of a Chapter VI peacekeeping operation. *Id.* at 72; POWER, *supra* note 1, at 377.

⁶² See BARNETT, *supra* note 1, at 126. Barnett concludes that while some technical limitations existed, the main forces leading to the Secretariat's decision not to pursue meaningful intervention were political. *Id.* at 168.

⁶³ See *id.* at 110, 126 (noting that in the first days and weeks of the genocide, killing in Kigali diminished because of the mere presence of foreign soldiers during the evacuation of embassies and nationals); UN REPORT, *supra* note 8, at 30. The UN Report characterizes the lack of resources for UNAMIR as the overriding failure of the UN to bring order to the failed Rwandan peace process. UN REPORT, *supra* note 8, at 30. The report continues: "The mission was smaller than the initial recommendations from the field suggested. It was slow in being set up, and was beset by debilitating administrative difficulties." *Id.* Also mentioned are a "lack of political leadership, lack of military capacity, severe problems of command and control and lack of coordination and discipline." *Id.*

⁶⁴ See *id.* at 7; POWER, *supra* note 1, at 369. The UN Report states that the larger, initially deployed force of 2500 troops should have been able to stop, or at the least limit, the massacres that took place after President Habyarimana's plane was downed. UN REPORT, *supra* note 8, at 30.

⁶⁵ See BARNETT, *supra* note 1, at 62. Articles 36 and 33 of the UN Charter provide the Security Council with the authority to "recommend appropriate procedures or methods of adjustment" of a dispute, "the continuation of which is likely to endanger the maintenance of international peace and security." U.N. CHARTER arts. 33, 36.

⁶⁶ BARNETT, *supra* note 1, at 120.

⁶⁷ *Id.*

Rwandan crisis, putting the real issue directly in front of policymakers, the moral imperative of intervention would have been clear and politically costly to oppose.⁶⁸ But by deigning to communicate the military options recommended by UNAMIR's force commander to the Security Council, and by characterizing events on the ground as simply another lapse into civil war, the Secretariat painted the UN's role as conditional interlocutor, not determined peace enforcer.⁶⁹ Instead of persistently presenting the case for intervention, as it had done during the Somali famine of 1991–92, the Secretariat, and particularly the Secretary-General, refused to put wind into the sails of those who were ready and willing to help.⁷⁰

If the mere presence of a sizable UNAMIR had failed to deter the *genocidaires*, the UN could (and should) have invoked its Chapter VII powers and used force to stop the massacre. The UN Charter states clearly that international law authorizes the use of force under two circumstances.⁷¹ Under Article 51, force may be employed in self-defense following an armed attack on one state by another, which was not the case in Rwanda.⁷² Under Article 42, however, force may be authorized by the Security Council to restore international peace and security.⁷³ As a tiny state in the strategically insignificant center of Africa, Rwanda may not have stood out as a threat to international security in the minds of UN member states.⁷⁴ Nonetheless, as the International Criminal Tribunal for the Former Yugoslavia case *Prosecutor v. Tadic* states in dictum, it has long been settled practice that under international law, internal armed conflicts such as the Rwandan genocide can qualify as “threats to the peace” that may trigger action un-

⁶⁸ *See id.*

⁶⁹ *See id.*

⁷⁰ *Id.* at 119–20.

⁷¹ *See* U.N. CHARTER arts. 42, 51.

⁷² *See id.* at art. 51.

⁷³ *Id.* at art. 42.

⁷⁴ *See* BARNETT, *supra* note 1, at 112. The benefits of hindsight, which Barnett scrupulously avoids, allow this determination to be called into serious question eight years after the fact. Conflict between Hutu and Tutsi continues in Burundi and has spread throughout central Africa, to include the Democratic Republic of the Congo, in a civil war that has claimed as many as three million lives. *Burundi's Civil War: The People Want Peace*, *ECONOMIST*, Sept. 28, 2002, at 44; *A Report from Congo: Africa's Great War*, *ECONOMIST*, July 6, 2002, at 43. These conflicts have unquestionably hindered economic development and stability in many nations of Central Africa in the years since the genocide. *See Burundi's Civil War; supra*, at 44; *A Report from Congo, supra*, at 43.

der Chapter VII of the UN Charter.⁷⁵ Thus a persuasive case could have been made to the Security Council for an increased mandate to match an increasingly desperate situation.⁷⁶

D. *Did the UN, Aware of the Situation, Choose Another Imperative over the Protection of the Absolute Right?*

The UN's actual understanding of the Rwandan crisis and of the ramifications of its failure to intervene constitutes the weak link in the syllogism because it presents subjective questions that are impossible to conclusively answer eight years after the events in question.⁷⁷ Barnett, however, makes a compelling case that the Secretariat knowingly frustrated intervention, one that is supported by other accounts of the Rwandan genocide.⁷⁸ Barnett is quite clear in attributing the Secretariat's silence to a conscious attempt to prevent the self-destruction of the UN:

[T]he Secretariat gave a calculated and staged performance that was designed to discourage intervention. Its preferences were born not from cynical, immoral, or purely instrumental reasons. It rank-ordered its responsibilities and calculated the risks associated with different types of actions. There were peacekeepers to protect. Also to consider was an organization that might not survive another failure. Protecting the organization from further harm or exploitation was, from the Secretariat's view, ethical, legitimate, and desirable.⁷⁹

III. RWANDA IN CONTEXT

Part II of this Book Review depicts the UN Secretariat's actions as a quintessential example of utilitarianism over absolutism: it chose to refrain from intervening in Rwanda in order to protect the UN from

⁷⁵ See Prosecutor v. Tadic, 35 I.L.M. 32, *43 (Int'l Crim. Trib. for the Former Yugoslavia App. Chamber, No. IT-941-AR72, Oct. 2, 1995), available at <http://www.un.org/icty/tadic/appeal/decision-e/51002.htm> (last visited Feb. 25, 2003).

⁷⁶ See BARNETT, *supra* note 1, at 119; see also *infra* notes 104–107 and accompanying text.

⁷⁷ See BARNETT, *supra* note 1, at 111.

⁷⁸ José E. Alvarez, *Crimes of States/Crimes of Hate: Lessons from Rwanda*, 24 YALE J. INT'L L. 365, 440 (1999). See generally GOUREVITCH, *supra* note 4; UN REPORT, *supra* note 8.

⁷⁹ BARNETT, *supra* note 1, at 124.

self-destruction.⁸⁰ Genocide, the most horrific abuse of absolute rights, did not present an absolute imperative.⁸¹ Is this case-study unique, or is it an example of a wider failure to protect absolute rights?

As the headline of any newspaper demonstrates, absolute rights do not exist in practice; they are nothing more than a theoretical ideal.⁸² Violations of non-derogable rights are widespread and have been catalogued all over the world in 2003.⁸³ Slavery and the slave trade are alive and well in Africa and Southeast Asia.⁸⁴ State-sanctioned rape and other forms of torture are rampant in the developing and developed world.⁸⁵ Extra-judicial killings have become habit for many states' governments.⁸⁶ Genocide, the most terrible human rights violation of all, has claimed the lives of millions in the past thirty years.⁸⁷

The Rwandan case-study's place in this unhappy tradition is especially troubling because it presents a stark example of not merely a failure but a refusal to protect absolute rights because perceived imperatives were deemed more important.⁸⁸ This utilitarian type of decision-making is more dangerous to the modern notion of human rights than world leaders' apathy or political impotence to act.⁸⁹ It will

⁸⁰ See discussion *supra* Part II.

⁸¹ See discussion *supra* Part II.

⁸² See discussion *supra* Part I. The non-existence of absolute rights in practice is nothing new. Indeed, despite the current weakness in the absolute rights regime, more is currently being done to prevent human rights abuses than at any other time. Henkin, *supra* note 55, at 26–27.

⁸³ See generally HUM. RTS. WATCH, WORLD REPORT 2003, available at www.hrw.org/wr2k3 (last visited Jan. 27, 2003).

⁸⁴ See generally HUM. RTS. WATCH, MY GUN WAS AS TALL AS ME: CHILD SOLDIERS IN BURMA (2002) (likening forcible recruitment and severe mistreatment of child soldiers to slavery), available at <http://hrw.org/reports/2002/burma/> (last visited Jan. 30, 2003); Marc Lacey, *Panel Led by U.S. Criticizes Sudan's Government Over Slavery*, N.Y. TIMES, May 23, 2002, at A17 (describing the ongoing slave trade in Sudan).

⁸⁵ See AMNESTY INT'L, TAKE A STEP TO STAMP OUT TORTURE 26 (2000), available at www.amnesty.org (last visited Jan. 27, 2002).

⁸⁶ See HUM. RTS. WATCH, SYSTEMATIC INJUSTICE: TORTURE, "DISAPPEARANCE," AND EXTRAJUDICIAL EXECUTION IN MEXICO (1999), available at www.hrw.org/reports/1999/mexico/index.htm (last visited Jan. 27, 2003).

⁸⁷ See generally POWER, *supra* note 1. In addition to the roughly 800,000 lost in Rwanda, Power recounts the deaths of two million Cambodians from 1975–78; 100,000 Iraqi Kurds from 1987–88; and 200,000 Bosnians from 1992–95. *Id.* at 89–90, 172, 440. These figures do not include the substantial number of persons forcibly expelled from their homelands, which, in the case of the Kosovar Albanians, was as high as 1.3 million. *Id.* at 450.

⁸⁸ See BARNETT, *supra* note 1, at 127–28.

⁸⁹ See *id.*

allow policymakers to continue to demote absolute rights in the future through the considered balancing of priorities.⁹⁰ Such decision-making critically undermines absolute rights, which, by their very nature, must be paramount.⁹¹ If policy decisions continue to be made on the basis of the cold calculation practiced by the UN during the Rwandan genocide, absolute rights will be relegated to permanent theoretical status.⁹² Such a class of protections, which has rhetorical power but no practical usefulness, makes for fine intellectual scholarship and lofty debate, but does little to actually effectuate the goals of the human rights movement—to protect human rights.⁹³

Policymakers must give absolute rights a more prominent position on the diplomatic and political scales of decision-making if such rights are to retain their relevance in human rights discourse.⁹⁴ A number of considerations support this shift in priorities. First is the moral imperative posed by absolute rights violations, especially those committed on a massive scale, as in Rwanda.⁹⁵ Western states and intergovernmental organizations capable of preventing such catastrophes have a moral obligation to humanity to do so.⁹⁶ Second is enlightened self-interest by policymakers, in terms of the havoc massive rights violations invariably wreak on prospects for economic development, and on regional and global stability.⁹⁷ Third is the need to address society's broad acceptance of absolute rights as meaningful and enforceable protections. Each of the principal human rights treaties, so-described by the UN High Commissioner for Human Rights, has been ratified by over two-thirds of the world's nations.⁹⁸ Presumably,

⁹⁰ See *id.*

⁹¹ See discussion *supra* Part I.

⁹² See BARNETT, *supra* note 1, at 127–28.

⁹³ See, e.g., HUM. RTS. WATCH, MISSION STATEMENT (affirming that the goal of Human Rights Watch, the largest human rights organization based in the United States, is to change states' policies and practices that abuse or degrade human rights), *available at* <http://www.hrw.org/about/whoware.html> (last visited Jan. 28, 2003).

⁹⁴ See POWER, *supra* note 1, at 508–10. Elevating a theoretical concept such as absolute rights to the fore of political decision-making invariably sacrifices other policy objectives, and can even, in the long-run, thwart the goals of human rights by promoting idealism over practical results. See Nicholas D. Kristof, *Mr. Bush's Liberal Problem*, N.Y. TIMES, Feb. 18, 2003, at A23. For this reason, this book review limits its call for creating policy absolutes to protecting against the most egregious human rights violations, those that should never, for any reason, be allowed: genocide, slavery, and torture (including rape). See *id.*

⁹⁵ See POWER, *supra* note 1, at 512.

⁹⁶ See *id.*

⁹⁷ See *id.*

⁹⁸ OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, STATUS OF RATIFICATIONS OF THE PRINCIPAL INTERNATIONAL HUMAN RIGHTS TREATIES AS OF 9

people in many countries support such legal instruments out of a not-unrealistic expectation that they will actually have binding force.⁹⁹ This existence and under-application of international human rights law leads to a paradox appraisal of the current human rights regime.¹⁰⁰ There is ample cause for frustration because the law is not applied. There is, however, cause for hope. Given such a theoretically powerful array of human rights protections, all that is needed to protect absolute rights is the political will to apply the many tools that are already in place.¹⁰¹

There is limited but hopeful evidence that a real commitment to absolute rights has begun to take root among policymakers at the national and international level. For instance, the drive toward holding absolute rights violators accountable has seen remarkable progress in the past ten years, with the creation of UN tribunals for Rwanda and the former Yugoslavia, a hybrid tribunal for East Timor, a Special Court for Sierre Leone, and a newly established International Criminal Court.¹⁰²

More promising still is a recent instance of preventative, rather than reactive, absolute rights protection. In 1999 NATO led a bombing campaign against targets in Kosovo, Montenegro, and Serbia to prevent the genocide against Bosnians in the early- to mid-1990s from being repeated against Kosovar Albanians.¹⁰³ In the scholarly debates that followed the air-strikes, which were launched without Security Council authorization, one prominent commentator proposed that NATO's action marked a new state practice in humanitarian interven-

DECEMBER (2002) (displaying ratification information for the International Covenant on Economic, Social and Cultural Rights (146 state parties); the International Covenant on Civil and Political Rights (149 state parties); the International Convention on the Elimination of All Forms of Racial Discrimination (165 state parties); the Convention on the Elimination of All Forms of Discrimination Against Women (170 state parties); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (132 state parties); and the Convention on the Rights of the Child (191 state parties)). available at <http://www.unhchr.ch/pdf/report.pdf> (last visited Jan. 28, 2003).

⁹⁹ See *id.*

¹⁰⁰ See *id.*

¹⁰¹ See *id.*

¹⁰² See Cassel, *supra* note 15, at 132–33; Barbara Crossette, *War Crimes Tribunal Becomes Reality. Without U.S. Role*, N.Y. TIMES, Apr. 12, 2002, at A3.

¹⁰³ See Ruth Wedgwood, *NATO's Campaign in Yugoslavia*, 93 AM. J. INT'L L. 828, 829 (1999). By the time the decision to use military force was made, the Serbs had already deported hundreds of thousands of ethnic Albanians from Kosovo and killed as many as ten thousand. *Id.*

tion beyond the traditional confines of international law.¹⁰⁴ According to this theory, NATO's air campaign could be the first step in the development of a new legal custom whereby Security Council authorization for military action would prove unnecessary in certain circumstances.¹⁰⁵ A humanitarian intervention argument that adheres more closely to the current confines of international law has been made by the Secretary General of the UN, Kofi Annan.¹⁰⁶ Ever since UN member states failed to speak with one voice during the Kosovo crisis, Annan has forcefully argued that traditional notions of state sovereignty should never again prevent the Security Council from voting to confront massive human rights violations, through force if necessary.¹⁰⁷ Human rights pundits naturally recoil at any suggestion that human rights should be protected by military intervention, which itself invariably entails many human rights violations.¹⁰⁸ However, while the means of intervention in Kosovo arguably should have been more sensitive to human rights concerns, its ends were undeniably humanitarian.¹⁰⁹

¹⁰⁴ See *id.* at 828. Professor Wedgwood suggests that although current international law only allows force to be employed in self-defense or with Security Council authorization, the Kosovo intervention may stand for the proposition that a limited, conditional right to humanitarian intervention exists when the Security Council does not explicitly oppose it (no vote was taken), and the intervening force is a respected multilateral organization (such as NATO). See *id.*

¹⁰⁵ See Wedgwood, *supra* note 103, at 828.

¹⁰⁶ See, e.g., Kofi Annan, *Human Rights and Humanitarian Intervention in the Twenty-First Century*, in REALIZING HUMAN RIGHTS, *supra* note 54, at 309, 315.

¹⁰⁷ See *id.* But see Franklin Foer, *Turtle Dove: How Kofi Annan Fooled the Bushies*, THE NEW REPUBLIC, Oct. 14, 2002, at 20 (arguing that Annan's skittish record as head of the UN Department of Peacekeeping Operations during the Rwandan genocide undermines his current campaign for the primacy of human rights over state sovereignty). Annan argues that humanitarian intervention should continue to take place under the traditional, UN-oriented view of international law. See Annan, *supra* note 106, at 315. Thus states would require Security Council authorization before using military force in times of humanitarian catastrophe. See *id.*; U.N. CHARTER art. 42. This is in marked contrast to Professor Wedgwood's progressive theory of humanitarian intervention. See *supra* notes 103, 104 and accompanying text. In either case, state sovereignty remains one of the thorniest obstacles to preventing massive rights violations. See *id.*

¹⁰⁸ See HUM. RTS. WATCH, CIVILIAN DEATHS IN THE NATO AIR CAMPAIGN (2000) (concluding that approximately 500 Yugoslav civilians were killed as a result of NATO bombing of Serbia, Montenegro, and Kosovo in 1999), available at www.hrw.org/reports/2000/nato/ (last visited Feb. 25, 2003); see also See Richard A. Falk, *Kosovo, World Order, and the Future of International Law*, 93 AM. J. INT'L L. 847, 848 (1999) (exploring the seemingly intractable collision that takes place in humanitarian intervention: the absolute of genocide prevention comes into conflict with the absolute that killing civilians during war is wrong).

¹⁰⁹ See Peter Beinart, *A Separate Peace*, THE NEW REPUBLIC, Mar. 3, 2003, at 6 (describing America's post-Cold War "altruistic interventions" in Bosnia, Haiti, and Kosovo).

Although the willingness to use force exists as a last resort, it is important to note that the most effective prevention of absolute rights abuse does not require such drastic measures as military intervention.¹¹⁰ In extreme cases such as genocide or widespread enslavement, allowing a conflict to fester until the international community must intervene with force relegates policymakers to the most expensive, dangerous, and unpopular option.¹¹¹ Military intervention is merely a failure of prevention, as Rwanda demonstrates.¹¹² In smaller-scale instances of absolute rights abuse, such as torture during police interrogations, protecting absolute rights would simply require states and intergovernmental organizations to give effect to their rhetorical assertions of support for human rights ideals in their policymaking and rights enforcement.¹¹³

A renewed emphasis on enforcing absolute rights is needed to fill a conspicuous void in the daily functioning of human rights law.¹¹⁴ As one commentator in particular has observed, human rights law has largely failed to directly and proactively prevent rights violations, in-

¹¹⁰ Annan, *supra* note 106, at 314. Annan states:

The most effective interventions are not military. It is much better, from every point of view, if action can be taken to resolve or manage a conflict *before* it reaches the military stage. Sometimes this action may take the form of "carrots," such as economic advice and assistance; sometimes of "sticks," targeted sanctions.

Id.

¹¹¹ *See id.*

¹¹² *See id.* at 316.

¹¹³ *See* AMNESTY INT'L, *supra* note 85, at 87. A number of solutions to the violation of the absolute right to freedom from torture have been proposed, including immigration policies that prohibit deportation of those likely to suffer torture in their states of origin, the "mobilization of shame" against institutions and governments that regularly employ torture, and sensitive treatment and investigation of victims' claims of torture. *Id.* at 100, 107, 112. The first of these proposals is already required by international law for state parties to the Torture Convention. *See* Convention against Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment, *opened for signature* Dec. 10, 1984, art. 3, 27 I.L.M. 1027 (entered into force June 26, 1987). As is the case with many absolute rights, however, there is a yawning gap between the law as written and the law as enforced. *See generally* Kristen B. Rosati, *The United Nations Convention Against Torture: A Self-Executing Treaty that Prevents the Removal of Persons Ineligible for Asylum and Withholding of Removal*, 26 DENV. J. INT'L L. & POL'Y 533 (1998) (identifying the difficulty faced by appellant deportees when the Torture Convention is interpreted by U.S. courts as non-self executing, and hence, incapable on its own of preventing deportees' removal to countries that are likely to torture them).

¹¹⁴ *See* Cassel, *supra* note 15, at 132.

stead making advances indirectly and over time.¹¹⁵ By providing a common language, reinforcing the universality of human rights, and legitimizing claims of rights, human rights law has gradually contributed to the broad goals of human rights.¹¹⁶ These indirect advances approach the problem of human rights abuse peripherally, compared to the direct advance this Book Review supports: actually preventing the most serious rights abuse through considered policymaking.¹¹⁷ While indirect advances have doubtless contributed to the current human rights landscape, defending absolute rights must mean more than slowly incorporating human rights ideals into the collective conscience of the world's polities.¹¹⁸ In addition to touting international human rights law's indirect benefits, the indirect rights theory concedes that human rights law's *direct* impact has been limited to a few scattered successes.¹¹⁹ Even these triumphs have been largely reactive rather than proactive; they seek to punish rights violators rather than prevent abusive behavior in the first place.¹²⁰ Genocide is a representative example of that class of human rights violations whose moral urgency requires a plan of action until the great day when the indirect effects of human rights law have advanced to the stage where they can protect people in a crisis.¹²¹

CONCLUSION

The UN's failure to intervene in the Rwandan genocide of 1994, as portrayed by *Eyewitness to a Genocide*, is an illustrative example of a widespread failure to protect absolute rights.¹²² It evidences a yawning

¹¹⁵ See *id.* at 122. One of the most important indirect effects of human rights law is the development of customary international law through initially non-binding declarations of support for human rights. See, e.g., David A. Martin, *How Rhetoric Became Rights*, WASH. POST, Nov. 1, 1998, at C2 (arguing that the gradual development of the ideals expressed in the Universal Declaration of Human Rights into customary international law is one of the great triumphs of the human rights movement).

¹¹⁶ See Cassel, *supra* note 15, at 126–27. The language issue posed a significant barrier in Rwanda; there, as in other cases of genocide, avoidance of the term “genocide” allowed policymakers to sidestep the legal, moral, and political imperative to act. See POWER, *supra* note 1, at 359 (recounting a Defense Department discussion paper that warned against the use of the term: “Be careful. Legal at State was worried about this yesterday—genocide finding could commit [the U.S.] to actually ‘do something.’”).

¹¹⁷ See Cassel, *supra* note 15, at 126–27.

¹¹⁸ See *id.* at 123.

¹¹⁹ *Id.* at 132–33.

¹²⁰ See *id.*

¹²¹ See *id.*

¹²² See BARNETT, *supra* note 1, at 128.

gap between the theoretical notion of absolute rights and a sorely needed enforcement of rights protections in practice.¹²³ This Book Review responds to this divide by arguing that absolute rights should be elevated to the fore of decision-making and protected by enforcing existing legal norms.¹²⁴

It may be a tautology to announce that the way to enforce absolute rights is simply to apply existing laws.¹²⁵ But that tautology is sobering when accompanied by Rwanda's stark reminder that without enforcement, the fine tradition of legal and philosophical debate over absolute rights is only so much theory.¹²⁶ In order to prevent future human rights catastrophes like the Rwandan genocide, absolute rights must be accorded primacy by decision-makers. This would reflect their moral and practical importance, as well as their venerable status in the eyes of the citizens of the world.¹²⁷

¹²³ See Samantha Power & Graham Allison, *Introduction to REALIZING HUMAN RIGHTS*, *supra* note 55, at xv.

¹²⁴ See discussion *supra* Part III.

¹²⁵ See discussion *supra* Part III.

¹²⁶ See discussion *supra* Part II.A.

¹²⁷ See discussion *supra* Part III.