

Title: Creating a UN Trust Fund to Actualize Restorative Justice for Rwandan Genocide

Survivors: Implementing General Assembly Resolutions Calling for Assistance to Survivors of the 1994 Genocide in Rwanda

Actualizing the Rights of Rwandan Genocide Survivors

Noam Schimmel, May 2012

Eighteen years after the Rwandan genocide Rwandan genocide survivors are still suffering on a massive scale from the consequences of the genocide. Extreme poverty, grossly inadequate housing, insufficient healthcare, and lack of educational opportunity are severely harming their capacity to rehabilitate their lives and rebuild their communities. Consequently, the human rights of genocide survivors continue to be violated.¹

Organizations with the financial and human resources to respond effectively to the needs of Rwandan genocide survivors and to proactively assist them to realize their human rights have neglected to do so. With few exceptions, this neglect has been comprehensive, manifested by the gamut of United Nations agencies operating in Rwanda including UNICEF and UNDP, by bilateral aid agencies such as the US Agency for International Development, and by large international development NGOs such as Oxfam who – by their inaction in the face of the need of survivors - contribute to their marginalization and increase their vulnerability.

¹See the annual reports of SURF Survivor's Fund outlining the human rights challenges facing Rwandan genocide survivors. 2007 Annual Report: Pages 8-10. <http://www.survivors-fund.org.uk/resources/reports/ar2007/access-to-medical-healthcare.php>
And <http://www.survivors-fund.org.uk/resources/reports/ar2007/shelter.php>. 2008 Annual Report: <http://www.survivors-fund.org.uk/resources/reports/ar2008/livelihood.php>
Also see SURF's Strategic Plan: <http://survivors-fund.org.uk/wp-content/uploads/2012/01/SURF-Strategic-Plan-2012-2014-rev.Jan12.pdf>
Pages 9-11.

As we approach the twentieth anniversary of the genocide in the next two years it is imperative that we take stock of this situation and develop a plan of action to address the needs of Rwandan genocide survivors and realize their human rights without further delay.² A fundamental prerequisite for doing so is developing a reliable funding stream for restorative justice programs for Rwandan genocide survivors. I propose that this take the form of a dedicated, voluntary UN Trust Fund.

UN Trust Funds

UN Trust Funds provide support to diverse needs – from those of indigenous peoples to women suffering from abuse and individuals who have become victims of sex trafficking. UN Trust Funds are little talked about and many play a niche role in the UN system. A UN Trust Fund for Rwandan genocide survivors would provide a much needed address for a focused, coherent, and ongoing financial commitment within the UN to the wellbeing and rights of Rwandan genocide survivors.

Because the UN Trust Fund system is not a well known part of the UN system it is helpful to review the existing Trust Funds whose names indicate their financial and programming commitments. Trust Funds vary widely in the degree of their specificity thematically and by country or region – with some trust funds focused on specific nations recovering from disaster and humanitarian conflicts and crises and others addressing broad issues that transcend particular countries and regions and are global challenges.

² For more on the current conditions of Rwandan genocide survivors see, Redress Report. African Rights and Redress. (2008) *Survivors and Post-Genocide Justice in Rwanda: Their Experiences, Perspectives and Hopes*.

Available: <http://www.redress.org/downloads/country-reports/08-12-08%20Rwanda%20Genocide%20Report%20REDRESS%20-%20Press%20Statement.pdf>

The following is a partial listing of UN Trust Funds. Although Rwanda has a national trust fund contributing to Rwanda's development efforts implemented through the UNDP program that fund has seriously neglected genocide survivors and based on its record cannot serve as a reliable source of funding and support for the needs of genocide survivors.

UN Trust Fund to End Violence Against Women

The UN Trust Fund for Human Security

The UN Trust Fund on Indigenous Issues

UN Voluntary Trust Fund for Victims of Human Trafficking

UN Trust Fund on Family Activities

UN Voluntary Trust Fund on Contemporary Forms of Slavery

UN Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia.

UN Democracy Fund

UN Development Group Iraq Trust Fund

UN Development Group Haiti Reconstruction Fund

The budgets of UN Trust Funds vary widely in size but they can be substantial enough to make a very real difference in the lives of beneficiaries. The UN Trust Fund to End Violence Against Women, for example, received 17 million dollars in 2012. The UN Secretary General's UNiTE to End Violence Against Women campaign has pledged to raise \$100 million for the Trust Fund's annual grant making by 2015.³

In part, Trust Funds have been created precisely because there are always populations which for a variety of reasons receive insufficient attention from development and humanitarian aid organizations and programs. These humanitarian and development 'blindspots' receive the attention of UN member states when the UN makes the formal effort to create a Trust Fund to

³ <http://www.trust.org/trustlaw/blogs/trustlaw-scrapbook/un-trust-fund-to-end-violence-against-women-gets-17-mln/>

rectify this lack of adequate attention and aid disadvantaged populations. The creation of a UN Trust Fund highlights an urgent human rights and/or humanitarian need and provides a centralized address for donors who wish to contribute to efforts to address this particular need.

A Dedicated UN Trust Fund for Rwandan Genocide Survivors

A UN Trust Fund for Rwandan genocide survivors would not replace the responsibility of the whole range of humanitarian and development aid organizations working in Rwanda to systematically address the needs of Rwandan genocide survivors. It can, however, provide crucial funding to expand the relatively few projects currently directed towards meeting their unique needs and vulnerabilities, develop expertise, and contribute to coordinating programs effectively.

Contribution to this Trust Fund would be voluntary, as is contribution to all UN Trust Funds. Contributing to it would not imply any admission of guilt in relation to complicity in the genocide nor would it absolve donors of any moral and legal responsibility they may have in relation to failing to respect the 1948 Genocide Convention. It would, however, allow all UN member states to act in a humanitarian capacity and recognize the gap between resolutions of the UN General Assembly⁴ calling for UN agencies and member states to support survivors with the failure to put these resolutions into effect.

⁴The United Nations General Assembly adopted resolution 59/137 on December 4, 2004 calling for support for Rwandan genocide survivors. (UN Documentation, <http://www.un.org/depts/dhl/resguide/r59.htm>, 2004). It adopted a similar proposal at the 69th plenary meeting on December 23, 2005, resolution, 60/225, entitled, “Assistance to Survivors of the 1994 Genocide in Rwanda, Particularly Orphans, Widows, and Victims of Sexual Violence” in which it stated that it recognized,

the numerous difficulties faced by survivors of the 1994 genocide in Rwanda, particularly the orphans, widows and victims of sexual violence, who are poorer and more vulnerable as a result of the genocide, especially the many victims of sexual violence who have contracted HIV and have since either died or become seriously ill with AIDS.

(http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/59/137&Lang=E)

More recently, on December 22, 2009 the General Assembly issued a third call to support Rwandan genocide survivors, “to encourage relevant United Nations agencies, funds and programmes to provide

The Trust Fund for Victims of the International Criminal Court provides a strong foundation for envisioning what type of projects a UN Trust Fund for Rwandan genocide survivors would fund. In the past three years the UN Trust Fund For Victims at the ICC has funded a range of projects for victims of crimes against humanity, in particular the crime against humanity of extermination. Projects include psychological counseling, healthcare support, agricultural training, vocational training, education, savings schemes, day care, protection for individuals at risk, and empowerment programs for the disabled. These are exactly the type of programs that Rwandan genocide survivors urgently need to enable their rehabilitation and actualization of their human rights.⁵

Although the Trust Fund for Victims of the International Criminal Court can disburse funds for survivors of mass atrocity it cannot be used for victims of conflicts that took place before the court's establishment. Consequently, Rwandan genocide survivors cannot access it. Although the UN International Criminal Tribunal for Rwanda originally had provisions for restorative justice the United Nations has restricted its remit to retributive justice and prohibited it from engaging in efforts to implement restorative justice. This leaves Rwandan genocide survivors with no address for redress.

Assessing United Nations Efforts to Assist Rwandan Genocide Survivors

The need for a UN Trust Fund is evident from the recent report submitted to the General Assembly by the Secretary General which illustrates – unwittingly perhaps to its authors – the failure of the UN to respect its own resolutions about providing assistance to Rwandan genocide survivors. Pursuant to resolution 64/226 a reported entitled ‘Assistance to Survivors of the 1994

assistance in the areas of education, medical care, skills training and microcredit programmes aimed at promoting self-sufficiency”. (<http://www.unhcr.org/refworld/pdfid/4bb472a72.pdf>)

⁵ Trust Fund for Victims of the UN International Criminal Court.
<http://www.trustfundforvictims.org/projects>

Genocide in Rwanda, Particularly Orphans, Widows, and Victims of Sexual Violence’ claims to provide a status report and analysis of ‘current challenges to the delivery of relief and rehabilitation assistance by the United Nations and its partners to survivors of the 1994 genocide in Rwanda.’⁶

It speaks broadly about Rwanda’s reconstruction, economic growth, and improvements in various development indicators. But it fails to account for how UN agencies are meeting the mandate set by General Assembly resolutions over the past ten years which urged “relevant agencies, funds, and programmes of the United Nations system to provide assistance to survivors of the 1994 genocide in Rwanda, particularly in the areas of education for orphans, medical care and treatment for victims of sexual violence, including HIV-positive victims, trauma and psychological counseling, skills training and micro-credit programmes...” amongst other programs.

The report cites a few programs meeting the needs of – at best – several thousand genocide survivors within a national community of approximately 350,000 survivors. If UN programs have only benefitted roughly 2,000 Rwandan genocide survivors that means that the UN is meeting less than 1% of the needs of survivors, excluding over 99% from any meaningful programs which the General Assembly has mandated United Nations agencies to provide. The UN is therefore in contempt of the very parameters it has set for meaningful assistance and rehabilitation of genocide survivors. The Secretary General’s office – instead of working to implement the General Assembly resolutions across the range of UN agencies working in Rwanda has – in issuing this report – facilitated the whitewashing of the UN’s failure to respect the General Assembly resolutions.

The report focuses on general comments about Rwanda’s economic performance, without reflecting on whether genocide survivors are experiencing reductions in poverty, have access to jobs, and have the economic resources needed to secure basic life needs such as shelter and

⁶ http://reliefweb.int/sites/reliefweb.int/files/reliefweb_pdf/node-465093.pdf

nutritious food. The section ‘Current challenges to development’ makes no mention of the needs, vulnerabilities, and situation of genocide survivors. The section, “United Nations Support” mentions United Nations support for the Gacaca community based transitional justice courts and states very generally that it “will continue to contribute to the work of documenting and honouring the memories of the genocide victims.” No details are provided to illustrate how this is being done, specific programming being supported, and the sum of expenditures dedicated to these efforts.

The section “United Nations Support” provides descriptions of small scale projects the United Nations is supporting to promote the welfare of genocide survivors. All of these projects are valuable and provide urgently needed resources and training. But, as discussed earlier, they are reaching a miniscule percentage of the Rwandan survivor population. Without expanding these projects on a far larger scale they have largely symbolic value and do not foster substantive, large scale, systemic change for the better for Rwandan genocide survivors.

These projects include programs funded by the United Nations Voluntary Fund for Victims of Torture which provide medical, legal, psychological, and social assistance to 1,000 victims of torture and members of their family in the Kigali and Bugesera regions who survived the genocide. These programs include anti-retrovirals which save the lives of survivors suffering from HIV and AIDS. The United Nations has also supported capacity building programs for the Association of Genocide Widows – AVEGA - which has enabled them to develop their skills at handicraft production which helps reduce poverty and promotes social cohesion. It also supports an AVEGA project to build the capacity of paralegals in property and inheritance rights, a subject of great importance to genocide survivors seeking to recover their property and land.

The ‘Conclusions and Recommendations’ section of the report calls for an extensive range of programs for genocide survivors within the context of Rwanda’s UN supported overall development plans. These include: rehabilitative programs to victims of sexual violence, trauma reduction and psychological support services, social services for the most vulnerable, housing,

income generating activities, and assistance to aging genocide survivors. But none of these can take place on a significant scale without a dedicated and reliable stream of funding devoted to these goals and there is currently no such source of funding.

Conclusion

Good intentions are not good enough. While the UN currently is funding programs which are qualitatively strong they are quantitatively wholly inadequate and are not reaching the overwhelming majority of Rwandan genocide survivors. There is no legitimate reason for this failure. UN agencies have a major role to play in the empowerment and protection of Rwandan genocide survivors. The international community needs a centralized address which ensures that the needs of genocide survivors do not get lost in general efforts to promote Rwanda's development without guaranteeing as a matter of paramount priority that genocide survivor's rights and needs are met and without further delay.

Bilateral and multi-lateral aid agencies, governments, foundations, and non-governmental organizations need not wait for a UN Trust Fund to be established. They can and should advocate for one and commit themselves to contributing to it. But they can and should immediately direct their own funding and programming to meet the needs of genocide survivors in Rwanda today and to transform vulnerability and disadvantage to security, rehabilitation, and empowerment.