

canadiana oenipontana 11

Ursula Mathis-Moser (dir.)

Responsibility to Protect
Peacekeeping, Diplomacy, Media, and
Literature Responding to Humanitarian Challenges

La responsabilité de protéger
Peacekeeping, diplomatie, littérature et médias
répondant aux défis humanitaires

innsbruck university press

SERIES

canadiana oenipontana 11

Series Editor: Ursula Mathis-Moser



Supported by Zentrum für Kanadastudien der Universität Innsbruck, Hypo Tirol Bank,
Philologisch-Kulturwissenschaftliche Fakultät der Universität Innsbruck

© *innsbruck* university press, 2012
Universität Innsbruck
1st edition
All rights reserved
Coverdesign: Ivan Leuzzi
Layout: Carmen Drolshagen
www.uibk.ac.at/iup
ISBN 978-3-902719-77-5

Ursula Mathis-Moser (dir.)

Responsibility to Protect
Peacekeeping, Diplomacy, Media, and
Literature Responding to Humanitarian Challenges

La responsabilité de protéger
***Peacekeeping*, diplomatie, littérature et médias**
répondant aux défis humanitaires

Contents – Table des matières

Preface – Préface	9
<i>Ursula Mathis-Moser</i>	
The Responsibility to Protect	15
<i>Thomas Spielbüchler</i>	
The Opening of the Symposium	17
<i>John Barrett</i>	
Peacekeeping and Diplomacy	
<i>Peacekeeping</i> et diplomatie	21
<i>Ramesh Thakur</i>	
The Responsibility to Protect: Retrospect and Prospect	23
<i>Jean-François Thibault</i>	
La responsabilité de protéger: une dette pour la communauté internationale?	35
<i>James V. Arbuckle</i>	
R2P vs. Domestic Jurisdiction: The Last Refuge of Scoundrels	53
<i>Franz Eder</i>	
“Spirits that I’ve cited, my commands now ignore”: R2P and International Society	77
<i>Noemi Gal-Or</i>	
The Responsibility to Protect and International Trusteeship: <i>Plus ça change plus c’est la même chose?</i>	95
<i>George Melnyk</i>	
Canada and Afghanistan: Peacemaking as Counterinsurgency Warfare – A Conflict in Terms	115
<i>Thomas Starlinger</i>	
The Comprehensive Approach – A Way to Operationalize It in (Post-)Conflict Scenarios	133

<i>Deborah Goodwin</i> Finding New Ways: Protection and Stabilization Issues	159
Literature and Media Littérature et médias	173
<i>Piet Defraeye</i> Twice at Peril ... The Rwandan Genocide in Cultural Discourse: A Survey with Special Focus on Gil Courtemanche's <i>Un dimanche à la piscine à Kigali</i>	175
<i>Hans-Jürgen Lüsebrink</i> Fictionnaliser la responsabilité civique – approches théoriques, défis interculturels, écritures transculturelles	205
<i>Maria-Benedita Basto</i> La politique de la littérature ou des lettres pour transformer: production de savoirs démocratiques et subversion des identités politiques en Afrique subsaharienne	219
<i>Charles Djungu-Simba K.</i> Impact des cultures littéraires locales dans le processus de résolution des conflits dans la région des Grands Lacs d'Afrique (Burundi, République démocratique du Congo et Rwanda)	233
<i>Yves Chemla</i> Haïti, de la mise en scène littéraire à la déconstruction des paradigmes	241
<i>Susanne Kirchhoff</i> Whose Truth? Framing Processes in War Reporting	261
Young Researchers' Forum Forum des jeunes chercheurs	287
<i>Adrian Knapp</i> "[U]sing doom and horror to reaffirm life": Guilt and Victimhood in Uwem Akpan's "My Parents' Bedroom"	289
<i>Nicoletta Dolce</i> <i>Territoires occupés</i> de Christiane Frenette: le courage et l'aporie de témoigner dans les rues du monde	307

Nathan Hauthaler
On the Responsibility to Protect and Its Emancipation from Humanitarian
Intervention 315

Johannes Langer
The Responsibility to Protect and the Case of Darfur: An Inadequate Concept 335

Beate Wegscheider
The United Nations Conflict Management in Sudan 355



Preface – Préface

Ursula Mathis-Moser
University of Innsbruck

Over the past three years, the concept of the Responsibility to Protect – more crucial on the scene of world politics than ever before – has become one of the central research focuses of the Canadian Studies Centre at the University of Innsbruck. Two international conferences were dedicated to this subject within two years. In November 2009, the Canadian Studies Centre – in cooperation with Thomas Spielbüchler and the Africa Focus of the Institute of Contemporary History – organized an interdisciplinary symposium on the topic of “Responsibility to Protect: A Canadian Heritage. Peacekeeping, Diplomacy, Media, and Literature Responding to Humanitarian Challenges”. Two years later, in December 2011, this time in collaboration with Peter Hilpold and the Faculty of Law, the CSC hosted the international follow-up conference “Die Schutzverantwortung – *Responsibility to Protect*: Ein Paradigmenwechsel in der Entwicklung des Internationalen Rechts”. While the proceedings from the latter are in preparation, it is our pleasure to present the results of the 2009 symposium in this volume of the University of Innsbruck’s *canadiana oenipontana* publication series.

There is no need to go into detail at this point as far as the concept of R2P is concerned. R2P, a “Canadian invention” – as suggested by the title of the 2009 symposium – which is intended to counteract the international community’s powerlessness and failure to act in the face of crises and humanitarian catastrophes, will be presented and discussed both by Thomas Spielbüchler and Ambassador John Barrett in their respective introductions and by the authors of the individual contributions to this volume. To better understand the title of the book, however, it seems necessary to quickly recall the general assumptions of the 2009 symposium: The organizers wished to make clear that though originally established in peacekeeping, the concept of R2P also involves other areas of operation such as diplomacy, media, and literature. Their specific contributions could possibly be defined as “need to debate” (diplomacy), “necessity to inform” (media), and “courage to transcend” (literature). The Responsibility to Protect confronts diplomacy with completely new challenges. It is diplomacy’s duty not only to take up the task of preventing the escalation of conflicts, but also to define the narrow path between the necessity or illegitimacy of an intervention and to elaborate reliable guidelines. On the other hand, responsibility without information does not work. Information is necessary for the analysis of a situation and hence the basis for all further decisions. Information, and in particular journalistic information, can contribute to raising public awareness,

just as paucity of information, information blackouts, disinformation or the monopolization of information can obscure the individual's and the community's capacity to act. Literature, finally, plays an important role in creating public awareness and in helping people to come to terms with past traumas. In many cases, pain, distress, torture, the menace of death, flight, and migration trigger off the creative process of writing which in turn may provide the distance necessary to cope with trauma. At the same time the possibilities of literature go far beyond mere documentary writing as literature develops its own strategies and scenarios, and projects its own visions of how to solve and to avoid conflicts.

The present volume reflects these assumptions by assembling eight contributions under the heading "Peacekeeping and Diplomacy", six under that of "Literature and Media", and five under that of "Young Researchers' Forum". It has been the organizers' particular intention to bring together renowned representatives of the four fields mentioned and at the same time offer a forum for junior scientists and researchers to engage in a multidisciplinary dialogue with them.

The starting point of the volume is Ramesh Thakur's (Australian National University) "Retrospect and Prospect" perception of R2P in the year 2009 – Ramesh Thakur, former Assistant Secretary-General of the United Nations, having been, in 2001, one of the principal instigators of the concept. His contribution is followed by that of Jean-François Thibault (Université de Moncton) who considers R2P in the light of state sovereignty and suggests that R2P does not so much rest on the suspension of state independence as it does on the vulnerability of persons and groups for whose protection states should be responsible. James V. Arbuckle, a former officer of the Canadian Army, opens a series of more critical contributions questioning the effectiveness of R2P and pleading in favor of diplomatic sanctions as defined in Article 41 of the Charter of the United Nations. It is in this vein that Franz Eder (University of Innsbruck) draws the reader's attention to the fact that R2P is strongly compromised by the loopholes it leaves open for the Great Powers, and he suggests that the role of the Security Council should be strengthened instead. Noemi Gal-Or (Kwantlen Polytechnic University), for her part, analyzes the international trusteeship regime and the prospects of its adaptation to contemporary R2P situations, whereas George Melnyk (University of Calgary) studies the controversial role the "peacemaker" and "peacebuilder" Canada has played in the Afghanistan War. With Thomas Starlinger and Deborah Goodwin post-conflict scenarios and stabilization issues are brought into focus. Thomas Starlinger, Brigadier of the Austrian Armed Forces, describes what he considers a "comprehensive approach" to post-conflict situations, paying equal attention to issues of civil security, governance, economy, infrastructure, and social system. Deborah Goodwin (Royal Military Academy Sandhurst) pleads for training "soldier-diplomats" and developing so-called "soft" and communication skills. The contributions to the Young Researchers' Forum by Nathan Hauthaler (Karl-

Franzens University Graz), Johannes Langer (University of Vienna) and Beate Wegscheider (University of Vienna) are dedicated to the “emancipation” of R2P from the doctrine of humanitarian intervention and to two case studies of Darfur and the Sudan.

The section “Literature and Media” addresses the central issue of how literary and cultural productions react to situations of humanitarian distress, quoting examples from countries as distant as Haiti or Rwanda. Piet Defraeye (University of Alberta), in his study of the cultural productions following the Rwandan genocide in 1994, places particular emphasis on the different functions of literature as testimonial writing, as a historical account and a therapeutic method, while steadily reflecting on the question of where reality ends and fiction begins, and of how extreme situations can be represented discursively. Hans-Jürgen Lüsebrink (Saarland University) chooses a theoretical approach in order to situate the role played by literature with regard to the intercultural challenges that derive from European Enlightenment and “occidental” values. In a similar way Marie-Benedita Basto (Sorbonne) develops an analytical framework to better locate the links between literature and democracy and to better understand the capacity of literature to render thinkable collective experiences and political transformation. Charles Djungu-Simba K. (Université Pédagogique Nationale Kinshasa) focuses on the African Great Lakes region and argues that local literary production can contribute to the promotion of peace, while Yves Chemla (Université Paris-Descartes) examines the situation of writing in Haiti in the face of the dictator and literary deconstruction as a response to a situation of distress. Susanne Kirchhoff (University of Salzburg) concludes the presentations in this section with a paper on “Framing Processes in War Reporting”, where she takes up the idea of the “necessity to inform” in R2P situations, but also that of the necessity to observe carefully the mechanisms of how information is produced. The “literary” contributions to the Young Researchers’ Forum by Adrian Knapp (University of Innsbruck) and Nicoletta Dolce (Université de Montréal) finally address two case studies on texts by Uwem Akpan and Christiane Frenette.

Finally, I would like to express my gratitude to those who supported the publication of this volume. My special thanks go to the Canadian Government, to the Dean of the Faculty of Languages and Literatures, Waltraud Fritsch-Rössler, and to the former Vice-Rector for research and acting Rector, Tilmann Märk, for their generous financial support. I am particularly grateful to Kathrin Oberhofer and Gilberte Tschirner for proof-reading and corrections, and to Kristina Leitner and Carmen Drolshagen for layouting and formatting the book. I would equally like to thank Ivan Leuzzi for designing the cover and Birgit Holzner, the managing director of *iup*, for the editorial supervision of the project. Without their help and their advice the publication of this book would not have been possible.

February 28th, 2012

Au cours des trois dernières années, le concept de la responsabilité de protéger – concept plus important que jamais sur la scène internationale – est devenu, au Centre d'études canadiennes de l'Université d'Innsbruck, l'un des principaux intérêts de recherche. En deux ans deux conférences internationales ont été consacrées à ce sujet. En novembre 2009, le Centre d'études canadiennes, en collaboration avec Thomas Spielbüchler et le Pôle Africain de l'Institut d'histoire contemporaine, a organisé un colloque international et interdisciplinaire ayant pour sujet "La responsabilité de protéger: un héritage canadien. Peacekeeping, diplomatie, médias et littérature face aux défis humanitaires". Deux ans plus tard, en décembre 2011, cette fois en collaboration avec Peter Hilpold et la Faculté de droit, le Centre d'études canadiennes hébergea la conférence internationale "Die Schutzverantwortung – Responsibility to Protect : Ein Paradigmenwechsel in der Entwicklung des Internationalen Rechts". Si les actes de 2011 sont encore en voie de préparation, c'est avec plaisir que nous présentons ici, dans ce volume de la série canadienne oenipontana de l'Université d'Innsbruck, les résultats du symposium de 2009.

Il n'est pas besoin d'entrer ici dans les détails en ce qui concerne le concept de R2P. La responsabilité de protéger, une "invention canadienne" – comme le suggère le titre du symposium de 2009 – censée combattre l'impuissance et la passivité de la communauté internationale en cas de crises et de catastrophes humanitaires, sera amplement discutée dans les introductions respectives de Thomas Spielbüchler et de l'Ambassadeur John Barrett ainsi que dans les articles réunis dans ce volume. Pour mieux comprendre le titre de l'ouvrage, il nous paraît utile par contre de rappeler rapidement les prémisses générales du symposium de 2009: les organisateurs du colloque désiraient souligner le fait que le concept de R2P, bien que se référant au Peacekeeping à l'origine, met également à contribution d'autres secteurs comme la diplomatie, les médias et la littérature. Leurs contributions respectives pourraient être décrites comme "nécessité de négocier" (diplomatie), "obligation d'informer" (médias) et "courage de dépasser" (littérature). La responsabilité de protéger est un défi complètement nouveau pour la diplomatie car sa tâche est, non seulement de prévenir ou d'empêcher l'escalade de conflits, mais aussi de définir le chemin étroit entre la nécessité et l'illégalité d'une intervention et d'élaborer des directives irréfutables. D'autre part, il n'y a pas de responsabilité sans information. L'information est nécessaire pour l'analyse d'une situation de crise et, par conséquent, la base de toute décision ultérieure. En même temps, l'information, et tout particulièrement l'information journalistique, peut contribuer à une meilleure prise de conscience du public. Le manque d'information, par contre, le black-out, la désinformation ou la monopolisation de l'information tendent à obscurcir la capacité d'action individuelle et collective. La littérature, en fin de compte, joue également un rôle important en ce qui concerne la prise de conscience du public et permet aux hommes, depuis toujours, de dépasser les expériences traumatisantes. Très souvent, ce sont la douleur, le chagrin, la torture, la menace de mort, la fuite et la migration

qui déclenchent le processus de l'écriture, permettant de prendre les distances nécessaires pour surmonter les traumatismes. Ce faisant, les possibilités de la littérature vont bien au-delà d'une écriture documentaire: la littérature développe aussi ses propres stratégies et scénarios et invente des perspectives pour réduire ou régler des conflits.

Le présent ouvrage, regroupement de huit contributions sous l'étiquette de "Peacekeeping et diplomatie", six sous celui de "Littérature et médias" et cinq à l'enseigne de "Forum des jeunes chercheurs" est le reflet fidèle de ces considérations. Et l'intention des organisateurs du colloque de 2009 a également été de réunir des chercheurs reconnus dans les quatre secteurs mentionnés et, dans le même temps, de permettre à la relève scientifique de s'engager dans un dialogue multidisciplinaire avec eux.

Le point de départ du présent ouvrage est la perception "Retrospect et Prospect" de R2P, en 2009, par Ramesh Thakur (Austrian National University), ancien Secrétaire Général Adjoint des Nations Unies et l'un des principaux instigateurs du concept en 2001. Sa contribution est suivie par celle de Jean-François Thibault (Université de Moncton) qui examine le concept sous le jour de la souveraineté des États et soutient qu'il focalise moins sur la suppression de cette dernière que sur la vulnérabilité des individus et groupes d'individus dont la protection incomberait aux États respectifs. James V. Arbuckle, ancien officier de l'Armée canadienne, est le premier à jeter un regard plutôt critique sur la responsabilité de protéger en questionnant son efficacité et en plaidant en faveur de sanctions diplomatiques telles qu'elles ont été définies par l'Article 41 de la Charte des Nations Unies. C'est dans la même veine que Franz Eder (Université d'Innsbruck) critique les portes de sortie dont profitent les grandes puissances et qu'il suggère qu'on fortifie et consolide en revanche le rôle joué par le Conseil de Sécurité. Noemi Gal-Or (Kwantlen Polytechnic University), pour sa part, analyse le système international de tutelle et discute la réforme et l'adaptation de ce dernier à des situations actuelles de R2P. Georges Melnyk (Université de Calgary) en fin de compte étudie le rôle controversé du Canada, nation réputée de "peacemaking" et "peacebuilding", dans la guerre d'Afghanistan. C'est avec les articles de Thomas Starlinger et de Deborah Goodwin que sont mis en avant des scénarios de post-conflit et des préoccupations de stabilisation. Thomas Starlinger, général de brigade des forces de l'Armée autrichienne, présente ce qu'il considère comme une "approche compréhensive" de situations de post-conflit, en tenant compte des quatre champs d'action: la sécurité civile, la gouvernance, l'économie et l'infrastructure, et le système social. Deborah Goodwin (Royal Military Academy Sandhurst) se prononce en faveur d'une formation de "soldats-diplomates" et d'une mise en place renforcée de soi-disant "soft skills" et facultés de communication. Les contributions de Nathan Hauthaler (Karl-Franzens Universität de Graz), Johannes Langer (Université de Vienne) et Beate Wegscheider (Université de Vienne) ont pour objet "l'émancipation" de R2P

face à la doctrine de l'intervention humanitaire ainsi que des analyses de deux cas d'urgence représentés par le Darfour et le Soudan.

La section "Littérature et médias" thématise la manière dont des productions littéraires et culturelles réagissent à des situations de détresse, citant des exemples de pays aussi éloignés que Haïti et le Rwanda. Dans son étude des créations culturelles engendrées par le génocide rwandais de 1994, Piet Defraeye (Université d'Alberta) met l'accent sur les fonctions de la littérature comme écriture de témoignage, écriture à effet thérapeutique et comme récit historique, tout en réfléchissant sur la question de la représentabilité discursive de situations extrêmes et sur la démarcation entre réalité et fiction. Hans-Jürgen Lüsebrink (Université du Sarre) choisit une approche théorique pour situer le rôle de la littérature en vue des défis interculturels issus des Lumières et des valeurs "occidentales". De même, Maria-Benedita Basto (Sorbonne) développe des instruments analytiques pour mieux expliquer les liens réunissant littérature et démocratie et pour mieux comprendre la capacité de la littérature de rendre imaginables expériences collectives et transformations politiques. Charles Djungu-Simba K. (Université Pédagogique Nationale Kinshasa) s'intéresse à la région des Grands Lacs d'Afrique en soulignant que la production littéraire locale peut contribuer à la promotion de la paix alors que Yves Chemla (Université Paris-Descartes) examine la situation de l'écrivain (haïtien) face au dictateur et la déconstruction littéraire comme réponse à une situation de détresse. La contribution de Susanne Kirchhoff (Université de Salzbourg) clôt cette section avec "Framing Processes in War Reporting" où l'auteur reprend l'idée de "l'obligation d'informer" dans des situations de R2P tout en soulignant la nécessité d'observer attentivement les mécanismes de production d'information. Finalement les contributions "littéraires" au Forum des jeunes chercheurs par Adrian Knapp (Université d'Innsbruck) et Nicoletta Dolce (Université de Montréal) présentent deux études de cas de textes écrits par Uwen Akpan et par Christiane Frenette.

Ceci dit, le moment est venu de remercier ceux et celles qui ont cautionné cette publication. Je remercie le Gouvernement du Canada, la doyenne de la Faculté de langues et littératures, Waltraud Fritsch-Rössler, et l'ancien Vice-président de recherche et actuellement Président de l'Université d'Innsbruck, Tilmann Märk, pour leur généreux support financier. Un grand merci à Kathrin Oberhofer et Gilberte Tschirner pour les corrections, et à Kristina Leitner et Carmen Drolshagen pour le travail de mise en page et de rédaction. J'aimerais également remercier Ivan Leuzzi pour la conception de la couverture, et Birgit Holzner, directrice générale de l'iup, pour la supervision du projet. Sans leur soutien et leur conseil la publication de cet ouvrage n'aurait pas été possible.

28 février 2012

The Responsibility to Protect

*Thomas Spielbüchler
Johannes Kepler University Linz*

The slogan “never again” was meant to represent more than empty words after the horror of the Holocaust; it was a solemn promise to ensure that the international community would never again allow mass atrocity crimes to be committed under the shield of state sovereignty. Nevertheless, many decades were to pass by before this moral obligation was installed in International Law – decades that were marked by conflicts and humanitarian disasters.

In 1999, when addressing the General Assembly, UN-Secretary General Kofi Annan focused on the prospects for human security and intervention in the next century, posing the all-important question of how to deal with the dilemma of sovereignty and humanitarian intervention. He mentioned this quandary again in the UN Millennium Report a year later: “[...] if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica – to gross and systematic violations of human rights that offend every precept of our common humanity?”

At the UN Millennium Summit, the Canadian Prime Minister Jean Chrétien announced the formation of an international *ad-hoc* commission to deal with that dilemma: the International Commission on Intervention and State Sovereignty (ICISS). The body was co-chaired by Gareth Evans and Mohamed Sahnoun. Ramesh Thakur, keynoter of the symposium in Innsbruck, was a member of this high profiled commission.

In December 2001, the ICISS released its final report titled *The Responsibility to Protect*. Kofi Annan welcomed the commission’s work, describing its title as a restatement of the core issue at the heart of the debate on intervention. He stated that sovereignty implies responsibility as well as power; among those responsibilities, Annan identifies none as more important than the obligation to protect citizens from violence and war. Four and a half years later, in September 2005, the concept of Responsibility to Protect (R2P) was integrated in the Outcome Document of the 2005 World Summit. R2P became part of International Law and was reaffirmed by a Security Council Resolution in April 2006.

R2P is intended to successfully counteract the international community’s failure when it is necessary to act in the face of crises and humanitarian catastrophes.

It is often understood as a tool for Peace Enforcement (humanitarian military intervention), but it also involves other, non-military spheres where all tasks of Peace Support Operations have to be performed. Nevertheless, its principle contains a number of serious questions rooted in the dichotomy of sovereignty and intervention.

The symposium in Innsbruck addressed several of the problems that arise when the principle of R2P has to be put into action. Sovereignty implies responsibility – who then must stand in if the task is not performed by a state? What about external interests in the case of an intervention? Would the UN Charter not have been a sufficient basis in order to perform R2P? How does R2P fit into post-conflict scenarios? What can be the role of media or literature in the case of mass atrocity crimes and humanitarian disasters? In addition to these general questions, case-studies are discussed to reveal different problems: the lack of political will and the difficulty of interpreting a given situation analytically. All participants in Innsbruck agreed on the general idea and necessity of R2P, while fascinating discussions emerged over the benefits of the given concept and defined routines.

In 2011 the world witnessed about 180 violent conflicts, among them twenty wars according to the definition of the Heidelberg Institute for International Conflict Research. Most of those wars have been fought in Africa, the Middle East and Asia. Thousands of civilians have died and are still dying. When we talk about the concept of R2P, we have to ask ourselves: Do we take that responsibility seriously – and if not, why? Nearly everyone would agree that the concept of R2P is very straightforward. But if R2P becomes the basis of a humanitarian intervention, things are no longer quite so simple. This problem was one of the core themes in the discussion of case studies in Innsbruck.

February 2012

The Opening of the Symposium

November 11-14, 2009

John Barrett
Ambassador of Canada to Austria

I am very pleased to have the opportunity to address you at this Opening Ceremony of the International and Interdisciplinary Symposium on “Responsibility to Protect: A Canadian Heritage”. I congratulate all of you – organizers, sponsors, distinguished guests, participants and audience – for focusing on such an important topic.

It is a topic – as I will describe in a moment – that unites the interests and efforts of both our countries – Austria and Canada. And I am very pleased that the Canadian Studies Centre of the University of Innsbruck has put together such a robust, interesting, timely and – one is sure – fruitful conference that will help to advance internationally the commitment of all nations in their Responsibility to Protect.

I regret not being with you in person. I am in Doha, Qatar, as Head of Canada’s Delegation to the Review Conference of States Parties to the UN Convention Against Corruption. Here we are working hard to negotiate a review mechanism that will support implementation of the Convention’s requirements and greater accountability for compliance with these requirements. In a way, you could see the UN Convention Against Corruption as a distant cousin of the Responsibility to Protect. In this case, we are dealing with the protection of citizens against corruption by helping to enhance norms, standards, laws, capacities, and accountabilities in countries to defeat this malignancy.

Allow me to take a few minutes of your time to offer some views from a Canadian perspective on your conference’s theme. To start with, a bit of background. The Responsibility to Protect addresses the question of how to protect civilians from genocide, ethnic cleansing, war crimes, and crimes against humanity. It specifies that individual states have the primary responsibility to protect their populations. It further accords a residual responsibility for the international community to respond when an individual state fails to exercise its primary responsibility to protect its own people.

In September 2005, after a concerted campaign spearheaded by Canada and other like-minded nations, the Responsibility to Protect – the R2P concept – was

given global endorsement by leaders at the UN World Summit. The World Summit consensus on R2P was further endorsed by the Security Council in April 2006 in Security Council Resolution 1674 on the “Protection of Civilians in Armed Conflict”. I believe we are now at a very interesting and important time in the evolution of the R2P concept. For three reasons.

First, the UN Secretary General issued a report on R2P in January 2009 which emphasized the importance of its three pillars – that is, prevention, capacity-building, and response. This report was the basis of a General Assembly Open Debate on R2P held in late July 2009. The debate was the first concerted intergovernmental discussion on R2P since the 2005 Summit and consequently attracted major interest. There was strong cross-regional support for international action to prevent and respond to mass atrocities; almost universal reaffirmation of the 2005 commitments; and a readiness to move away from philosophical debates on sovereignty and non-intervention, in favour of practical, action-oriented efforts to implement the R2P commitments that leaders endorsed in 2005. The debate coincided with the 15th anniversary of the Rwandan genocide and the 30th anniversary of the end of the Khmer Rouge genocide in Cambodia.

The Secretary General’s report of January 2009 focuses first on prevention and suggests ways to implement and operationalize prevention. Canada believes this is key to ensuring that genocide and incitement to genocide do not occur. We can do more to monitor situations where civilians may be at serious risk of armed attack and to ensure that practical actions and protection strategies are employed where they are effective and most needed. This involves strengthening existing mechanisms within the UN – such as the Office of the Special Advisor to the Secretary General on the Prevention of Genocide, and the role of the Special Advisor to the Secretary General on Responsibility to Protect – so that we can develop early warning mechanisms and monitor situations where civilians may be at serious risk. We must continue to work towards ensuring that issues on the protection of civilians are translated into clear and achievable operational guidance for military and civilian actors. Those entrusted with the responsibility of protection must have the knowledge and training required to effectively fulfil this role.

This brings me to my second point. Under Austria’s leadership, there is a debate taking place today – November 11th, 2009 – in the Security Council on the “Protection of Civilians in Armed Conflict”. This debate is coming on the 10th anniversary of UN Security Council Resolution 1265 (1999) which set out the first normative framework for the protection of civilians in armed conflict. Austria’s stated intention in this debate is to take stock of progress over the past ten years and identify and agree concrete means to improve compliance by parties to conflict with the norms and standards of Resolution 1265. The debate will seek to reinvigorate the Security Council’s commitment to protection of civilians in armed conflict and

will be chaired by Austria's Foreign Minister, Michael Spindelegger. The themes proposed by Austria are how to strengthen rule of law, enhance compliance, and ensure accountability; how to improve implementation of protection mandates by peacekeeping missions; how to enhance provision of information and reporting to the Security Council on the protection of civilians in armed conflicts.

Why is this pertinent to this conference's theme, Responsibility to Protect? In the last decade, ten United Nations peacekeeping missions have explicitly been mandated to protect civilians under imminent threat of physical violence. The first was the UN peacekeeping operation in Sierra Leone in 1999. It has been recognized by many – not least the UN Department of Peacekeeping Operations – that modern peacekeeping missions are multidimensional. They address the full spectrum of peace-building activities – from providing secure environments to monitoring human rights and rebuilding the capacity of the state. Such mandates also require that the peacekeeping mission put an emphasis on the physical protection of civilians. However, as yet, there is no unified interpretation of the concept of protection of civilians in UN peacekeeping operations. Clearly, this must be addressed as a matter of priority.

There are some states which seek to divide the concept of Responsibility to Protect from the protection of civilians in armed conflict. In my personal view, I don't believe that these two concepts – responsibility to protect and protection of civilians in armed conflict – are separate. What unifies them is that they both address the security of the individual citizen. They seek to defend the human rights that all individuals possess. They find their basis in the body of international humanitarian law that now exists. And underpinning that law is an International Criminal Court.

My third point concerns the timeliness and importance of this conference on "Responsibility to Protect: A Canadian Heritage". It is too much to make R2P solely a Canadian invention. But it is true that R2P can be considered an aspect of Canada's heritage in international relations, particularly in our long history of contributing to UN peacekeeping, to the development of international law, to the defence of universal human rights, and to the dignity and protection of the individual. Not only is this the 20th anniversary of the fall of the Berlin Wall. Not only is it the 10th anniversary of the first UN Security Council Resolution on the protection of civilians in armed conflict. Today – November 11th, 2009 – is also the day on which the First World War ended. For Canada and other countries who lost men and women in that war and since, it is a day on which we remember those who died, civilians as well as soldiers. That is the meaning of the red poppy I am wearing in my lapel.

Judging from the organisation of the symposium, its themes and participants, this promises to be a first-rate gathering of experts and practitioners on all aspects of R2P. For reasons I have stated, your conference could not be more timely. It is the

moment when – as the UN Ambassadors of Austria and Canada have stated – we need to invigorate the Security Council’s commitment to the protection of civilians in armed conflict and to R2P. I am convinced that the Innsbruck International and Interdisciplinary Symposium will make its mark as an important, thoughtful, and practical stimulus to that reinvigoration.

Let me add a special “Danke schön” to the symposium organizers. First and foremost to Professor Ursula Moser, the Director of the Canadian Studies Centre, and her team; to co-organizer Professor Thomas Spielbüchler of the Institute of Contemporary History; to the University of Innsbruck; and to all sponsors supporting this event. I wish all of you – organizers, participants and audience alike – a very successful conference. And I look forward to hearing what you have discussed and what conclusions you have reached.

November 11th, 2009

Peacekeeping and Diplomacy
Peacekeeping et diplomatie

The Responsibility to Protect: Retrospect and Prospect

Ramesh Thakur
Australian National University

Résumé

La 'responsabilité de protéger' – qui mobilise en dernier recours la conscience mondiale dans le but de prévenir et de mettre fin aux meurtres de masse – illustre clairement la manière dont les Nations Unies ont créé l'espace requis pour la mise en place d'agendas normatifs et de politiques efficaces. Telle qu'elle est formulée par la Commission internationale de l'intervention et de la souveraineté des États (CIISE), la responsabilité de protéger redéfinit la souveraineté comme responsabilité plutôt que comme privilège et place cette responsabilité tout d'abord dans les mains de l'État. Si, et seulement si l'État refuse ou se montre incapable d'honorer cette responsabilité, ou s'il est lui-même l'auteur d'atrocités, la responsabilité de protéger les victimes de crimes d'atrocité est transférée à la communauté internationale, agissant idéalement à travers le Conseil de Sécurité. Cet essai replace la responsabilité de protéger dans le contexte du 'challenge d'intervention humanitaire' des années 1990, et retrace l'évolution de la notion de 'challenge' à celle de 'responsabilité de protéger', jusqu'à l'adoption de cette dernière par les leaders mondiaux en 2005. L'article présente le débat à l'Assemblée Générale des Nations Unies en juillet 2009 et vise en tout premier lieu à esquisser l'agenda jusqu'ici inachevé d'opérationnalisation de la norme.

The Responsibility to Protect (R2P) – the mobilizer of last resort of the world's conscience to avert, prevent, and stop mass killings – is a clear illustration of how the United Nations has provided the essential space in which powerful normative and policy agenda can be articulated. As formulated by the International Commission on Intervention and State Sovereignty (ICISS), R2P redefines sovereignty as responsibility rather than a privilege, and locates the responsibility in the first instance with the state. If, but only if, the state is unwilling or unable to honor this responsibility, or is itself the perpetrator of atrocities, does the residual responsibility to protect victims of atrocity crimes shift to the international community of states, ideally acting through the Security Council. In an interview with *Time* magazine, Liberia's President Ellen Johnson Sirleaf, Africa's first elected woman president, said, "Look at how we have gone from [...] non-interference in our internal affairs to respect for the principle of the responsibility to protect."¹

¹ "Look Across Africa and See the Major Changes that Are Happening", in: *Time*, 13 July 2009, <http://www.time.com/magazine/article/0,9171,1908312,00.html>, accessed 17 September 2010.

Is R2P well-meaning enough to be attractive for its promise of making a difference, yet so vague as to be potentially threatening by being open to abuse? Is it in danger of falling prey to the fatal organizational paradox syndrome, where the effort to preserve the fragile diplomatic consensus in the international community is privileged over the call to protect vulnerable populations that led to the consensus being forged in the first place? That is, can the global consensus on R2P, necessary for the world to be able to translate it from noble principle to actual deeds, be stopped from fraying only at the cost of the integrity of R2P that neuters the will to act? Alternatively, is R2P a norm in search of a self-justifying crisis?

Faced with such tensions and competing imperatives, will the R2P centre hold? Revulsion at the murder of large numbers of civilians in a range of atrocity crimes – the drowning of the ceremony of innocence – has led to a softening of support for the norms and institutions that shield the perpetrators of atrocity crimes from international criminal accountability. The failure to act can indeed be interpreted as the best lacking the courage of their conviction while the worst engage in mass murder with passionate intensity. ‘Mobilizing political will’ is a more prosaic way of saying that the best need to rediscover and act on their convictions. Darfur is the current poster child for collective helplessness from the sidelines that translates as institutionalized international indifference.

Traditional warfare is the use of force by rival armies of enemy states fighting over a clash of interests: us against them. Collective security rests on the use of force by the international community of states to defeat or punish an aggressor from within the community, whoever that may be: all against one. Peacekeeping involves the insertion of neutral and lightly armed third-party soldiers as a physical buffer between enemy combatants who have agreed to a ceasefire: us as a buffer between formerly fighting enemies. R2P refers to the use of military force by outsiders for the protection of victims of mass atrocities inside sovereign territorial jurisdictions: us against perpetrators, as protectors of victims of mass atrocities.

I will first situate R2P in the context of the so-called ‘challenge of humanitarian intervention’ in the 1990s and trace the displacement of the challenge with the responsibility to protect and its adoption by world leaders in 2005, then bring it up to date with the debate in the UN General Assembly in July 2009, before outlining, as the main aim of this paper, the unfinished agenda of operationalizing the norm.

From the 1990s’ Challenge of Humanitarian Intervention to the 2005 World Summit

The 2001 ICISS report consolidated a number of disparate trends and borrowed language first developed by Francis M. Deng and Roberta Cohen by the end of

the 1980s to help address the problem of internally displaced persons (IDPs). The attributes and exercise of sovereignty have softened significantly since 1945. Until the First World War, the use of force, both domestically and internationally, was an acknowledged attribute of state sovereignty and war itself was an accepted institution of the Westphalian system, with distinctive rules, etiquette, norms, and stable patterns of practices to govern armed conflicts. Today there exist numerous and significant restrictions on the authority of states to use force either domestically or internationally. A further challenge to the Westphalian order came with the adoption of new standards of conduct for states in the protection and advancement of international human rights. Over time, the chief threats to international security have come from violent eruptions of crises within states, including civil wars, while the goals of promoting human rights and democratic governance, protecting civilian victims of humanitarian atrocities, and punishing governmental perpetrators of mass crimes have become more important.

The proliferation of complex humanitarian emergencies after the end of the Cold War and the inappropriateness of the classical tenets of UN peacekeeping for dealing with them highlighted the inherent tension between the neutrality and impartiality of traditional peacekeeping and the partial consequences of peace enforcement. Finally, under the impact of globalization, national frontiers are becoming less relevant in determining the flow of ideas, information, goods, services, capital, labor, and technology. The cumulative effect of these changes has posed significant conceptual, policy, and operational challenges to the notion of state sovereignty that is considerably less sacrosanct today than in 1945.

Paragraphs 138–40 of the 2005 World Summit’s Outcome Document mark a clear, unambiguous acceptance by all UN members of individual state responsibility to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. Member states further declared that they “are prepared to take collective action, *in timely and decisive manner*, through the Security Council [...] and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations”².

The Status of R2P in 2009

In January 2009 Ban Ki-moon published his own report on implementing R2P. While not adding much to the substance of what was said in 2001, it does flesh out in greater and clearer detail many of the ideas of the ICISS report. It notes

² “2005 World Summit Outcome”, UNGA Res. 60/1, 15 September 2005, paragraphs 138–140.

explicitly that all peoples inside a state's territorial jurisdiction, not just citizens but also non-national residents and visitors, must be protected by a state. It clarifies and elaborates certain points, for example that just because force is the last resort, this does not mean we have to go through a sequential or graduated set of responses before responding robustly to an urgent crisis. Building on the 2005 document, the report is effective in packaging R2P in the language of three pillars: the state's own responsibility to protect all peoples on its territory, the responsibility of international assistance to help build a state's capacity to deliver on its responsibility, and the international responsibility to protect.

Mercifully, the report does not retreat from the necessity for outside military action in some circumstances. But it does dilute what was the central defining feature of R2P. R2P's added value is that it crystallized an emerging new norm of using international force to prevent and halt mass killings by reconceptualizing sovereignty as responsibility. It aims to convert a shocked international conscience into timely and decisive collective action. The use of force by the UN against a state's consent will always be controversial and contested. That is no reason to hand over control of the pace, direction and substance of the agenda of our shared, solemn responsibility to the R2P skeptics. How do we build *international* capacity and will to protect at-risk populations when state authorities are complicit either through incapacity or, more culpably, through direct complicity?

The General Assembly held a well-attended debate on R2P in July 2009. It was called for by the president of the Assembly, Father Miguel D'Escoto Brockmann of Nicaragua, who described R2P as "redecorated colonialism". He cited the case of Iraq as an example of R2P being abused – even though it took place more than two years before R2P was adopted. Ed Luck emphasized that R2P seeks to "discourage unilateralism, military adventurism and an over-dependence on military responses to humanitarian need"³.

The debate was addressed by 94 speakers, almost two-thirds of them from Africa, Asia, and Latin America. Almost all reaffirmed the 2005 consensus on R2P, expressed opposition to any effort to reopen it and insisted that its scope be restricted to the four crimes of genocide, crimes against humanity, war crimes, and ethnic cleansing. Africans noted that R2P attempted to strike a balance between non-interference and non-indifference. Most affirmed that should other measures prove inadequate, timely and decisive coercive action, including the use of force, is warranted to save lives. Few speakers rejected the use of force in any circumstance. Only Cuba, Nicaragua, Sudan, and Venezuela sought to roll

³ Edward Luck cited in [UN News Centre], "Assembly President Warns on Doctrine to Intervene on War Crimes, Atrocities", 23 July 2009, in: <http://www.un.org/apps/news/story.asp?NewsID=31562&Cr=right+to+protect&Cr1>, accessed 12 September 2011.

back the 2005 consensus. Even some countries whose responses to R2P in 2001 had ranged from ambivalence to hostility – Nigeria, South Africa, India, Indonesia, Japan – spoke in support of R2P. Pro-R2P interventions by East Timor and Rwanda were especially poignant. The latter said that “the 2005 World Summit Outcome, coupled with the Secretary-General’s report and today’s debate, made it much less likely that such horrific events [as the 1994 Rwandan genocide] would be repeated anywhere in the future”⁴.

An Unfinished Journey

Yet challenges remain. The first danger is that of rollback: a shamefaced edging back from the agreed-upon norm of 2005, a form of buyer’s remorse. Continued advocacy and activism is required to remain steadfast and hold all governments’ feet to the fire of individual and collective responsibility to protect at-risk populations. Better that serially abusive regimes live with the fear of international intervention than letting their people live in fear of being visited by death and disappearance squads.

An opposite danger comes from the aggressive humanitarian warriors who gave ‘humanitarian intervention’ such a bad name in the first place. The weight of developing countries’ historical baggage is too heavy to sustain the continued use of that language.

Another danger from over-enthusiastic supporters is misuse of the concept in non-R2P contexts like non-proliferation, HIV/AIDS, or climate change.

The original ICISS report failed to make a forceful distinction between state incapacity on the one hand, and state complicity through unwillingness or perpetration on the other. The relationship between R2P and the protection of civilians in armed conflict could also do with theoretical and conceptual clarification.

The protection of victims from mass atrocities requires different guidelines and rules of engagement than traditional warfare, collective security, and peace operations, as well as different relationships to civil authorities and humanitarian actors. These need to be identified, articulated, and incorporated into officer training manuals and courses.

Each context requires its own specific protection actions. The UN can provide the normative mandate at the global level and the forces necessary for intervention.

⁴ GA/63/10849, 24 July 2009, <http://www.un.org/News/Press/docs/2009/ga10849.doc.htm>, accessed 28 August 2012.

Action is undertaken by UN agencies acting collaboratively with local actors who can be brought together in a distinct protection cluster to assess needs and priorities for each vulnerable group requiring protection and identifying, in advance, the custom-tailored responses for prevention and rebuilding.

The map lines that delineate statehood can become blurred by the bloodlines of nationhood. In launching military action against Georgia in 2008, Russia invoked R2P to camouflage highly traditional geopolitical calculations in defense of its interests in South Ossetia. Unilateral intervention by a 'kin state' can lead to conflict within and between states. Whose responsibility is it to protect such persons?

The question is conceptually linked to that of protecting one's citizens abroad. With increased volumes of international travel, growing numbers of people risk being caught in foreign danger zones. Can a state be said to have a duty to protect its nationals abroad?

The contemporary international system exhibits systemic risks and vulnerabilities, both horizontally from one sector to another (the subprime crisis, mortgage meltdown, and individual banks' crisis led inexorably to a global financial crisis), and vertically from firms and nations to the world. Sovereignty becomes a risk multiplier. Systemic resilience lies in supranational regulatory/surveillance mechanisms, coordinating mechanisms, and sanctioning mechanism sans sovereignty. In other words, sovereignty entails both the globalization and domestication of responsibility.

Yet another item on the research agenda would be to examine past cases of iconic examples of horrific atrocities and genocidal killings, including the Holocaust, Bangladesh, Cambodia, Rwanda, and the Balkans. Conversely, there are some iconic cases of 'bad' interventions, such as in Chile, that could also be studied with respect to what difference, if any, R2P would or might have made.

The protection of civilians and the prosecution of perpetrators are two sides of the same coin. The problem is mass atrocities. The interrelated twin tasks are to protect the victims and punish the perpetrators by building domestic and international institutional capacity and political will. Both require substantial derogations of sovereignty. How can the generals and presidents responsible for mass atrocities be brought to justice?

There is renewed interest in regional peacekeeping by organizations such as NATO, the African Union, or ECOWAS. Kofi Annan called for an "interlocking system that guarantees greater coordination in both policy and action" with

partnerships that “build on the comparative strengths of each organisation”⁵. Regional peacekeeping offers a solution to the UN’s lack of capacity against growing demand. Regional actors have a bigger stake in neighborhood security and stability; are less riven by heterogeneity of forces in skills, equipment, and doctrines; are more sensitive to local mores and nuances; and are better placed to receive and recognize early warning signals of imminent flare-ups. Against this is the risk of regional actors pursuing vested interests instead of the regional public good. They are vulnerable to cross-infection by regional rivalry. They also lack institutional policies on the protection of civilians in armed conflict and knowledge of and training in the relevant principles of international humanitarian law. There is a real risk that regional peace operations will neither be aware of nor be able to adhere to international standards like R2P and IHL (International Humanitarian Law). This could result in a debilitating fragmentation of multilateral responses to conflict.

Test Cases

This extensive research agenda will help to build a case load of R2P-type situations as a guide for future deliberations, evidence-based analyses and robust action. In the meantime, it is in the field with actual test cases that the rubber has already hit the road.

In 2008, with Myanmar’s deadly Cyclone Nargis, principles, politics, and practicality converged in counseling caution in invoking R2P. There is little *moral* or *conceptual* difference between large numbers of people being killed by soldiers firing into crowds or the government blocking help being delivered to the victims of natural disasters. *Politically*, however, we cannot ignore the significance of the non-inclusion of natural and environmental disasters in the 2005 Outcome Document. To attempt to reintroduce it by the back door today would strengthen suspicion of Western motivations and cynicism towards Western tactics. *Practically*, there is no humanitarian crisis so grave that it cannot be made worse by military intervention. The only way to get aid quickly to where it was most needed was with the cooperation of the authorities. If they refused, militarily overstretched Western powers had neither the capacity nor the stomach to start another war in the jungles of Southeast Asia. A war of liberation or humanitarian assistance can quickly morph into a war of foreign occupation in the eyes of the local people.

⁵ Joint statement by participants in the sixth high-level meeting between the United Nations and Regional and other Intergovernmental Organizations, United Nations Headquarters, New York, 25-26 July 2005.

A related danger is seeking remedy in R2P when better or more appropriate tools and instruments are available for dealing with the crisis at hand. With Israel's military offensive on Hamas-ruled Gaza, there were issues of *international and UN Charter law* involved: the well established rights to self-defense against armed attack and to resist foreign occupation, the validity of these justifications for the resort to violence by Israel and Palestinians and the limits to the exercise of these rights. There were issues of *international humanitarian law*: Regardless of whether the use of force itself is lawful or not, the conduct of hostilities is still governed by the Geneva laws with respect to proportionality, necessity, and distinction between combatants and civilians. There were charges and counter-charges of the possible commission of *war crimes*. In the midst of all this, the invocation of R2P did not seem to be the most pressing or relevant contribution.

The Goldstone Report called on both Palestinian and Israeli authorities to conduct investigations in good faith in conformity with international standards. It asked the Security Council to monitor these and to refer them to the ICC only if credible inquiries were not carried out within six months. Both recommendations are in line with what European and US governments advocate regularly elsewhere. Failure to follow them in Gaza will undermine broader international legal principles and also the UN's ability to press for justice in places such as Kenya, the Congo, and Darfur.

The debate over Gaza also raises the question of occupying powers' responsibility to protect all peoples living under their occupation, be they Palestinians or Iraqis or Afghans.

In May 2009 there was debate over the relevance and applicability of R2P to Sri Lanka in the closing stages of the government's successful military campaign against the Tamil Tigers, a guerrilla army that had fought a brutal war against the legitimate state for 26 years, killed up to 80,000 people, and assassinated an Indian prime minister as well as a Sri Lankan president. Civilians were held against their will by the Tigers, not the army. Many who tried to flee were shot by the Tigers. Tellingly, there were no reports of civilians trying to flee from the Sri Lankan forces to the Tigers. It is the Tigers who fought for a solely military solution to the three-decade conflict, spurning the few opportunities that were presented for a political settlement through dialogue and negotiations; who insisted on being the sole representative of the Tamil population and cause, liquidating all rival challengers; and who lost international goodwill after 9/11 as the global tolerance for terrorism as a tactic collapsed, regardless of the justice of the cause.

Given the Tigers' nature and record, it was not unreasonable for the government to build the capacity and demonstrate the determination to defeat the Tigers as part of its responsibility to protect. Moreover, large numbers of civilians were put in harm's way when the Tigers used them as human shields against attacks by

the security forces. To refrain from attacking the Tigers would have created the moral hazard of validating the tactic of taking civilians hostage as human shields.

These considerations help to explain the outcome of the Human Rights Council deliberations in May 2009. Western countries had tabled a censorious resolution calling for unfettered access to 270,000 civilians detained in government-run camps and an investigation of alleged war crimes by both sides. China, Cuba, Egypt, and India were among 29 developing countries who supported a Sri Lanka-sponsored resolution describing the conflict as a domestic matter that did not warrant 'outside interference', praising the defeat of the Tigers, condemning the rebels for using civilians as human shields, and accepting the government's argument that aid groups should be given access to the detainees only 'as may be appropriate'. While Colombo was jubilant, Western diplomats and human rights officials were said to be shocked by the outcome at the end of the acrimonious two-day special session.

Where R2P does apply to the government is in its preventive and rebuilding components. The fact remains that the Tigers were the after-product of systematic and institutionalized discrimination by the Sinhalese majority against the Tamil minority that quickly degenerated into oppression and then killings. Calls for equal treatment when ignored escalated into demands for autonomy and finally, for a homeland. A military victory, while necessary, will not guarantee a peaceful future for a united Sri Lanka. The best time for the state to adopt measures of accommodation and power sharing within a federal framework is in the flush of military victory, when no one can accuse it of weakness. Conversely, should there be vulgar triumphalism, gloating, and an atavistic return to oppression and killings, Sri Lanka will suffer a reprise of the brutal civil war.

Conclusion

Fortunately, atrocity crimes on the scale of the Holocaust, the Cambodian killing fields, and the Rwanda genocide are rare in human history. This is why R2P in its intervention avatar will be needed but rarely, *in extremis*. But when such horrific events do occur, standing on the sidelines leaves an indelible stain on our collective conscience. R2P is much more fundamentally about building state capacity than undermining state sovereignty. The scope for military intervention under its provenance is narrow and tight. The instruments for implementing its prevention and reconstruction responsibilities on a broad front are plentiful.

In the meantime, there actually has been an example of a successful road testing of R2P. According to Kofi Annan, "I saw the crisis in the R2P prism with a Kenyan government unable to contain the situation or protect its people [...]. I knew that if

the international community did not intervene, things would go hopelessly wrong. The problem is when we say ‘intervention’, people think military, when in fact that’s a last resort. Kenya is a successful example of R2P at work”⁶.

One possible means of entrenching the norm in public and policy discourse would be to cite paragraphs 138 and 139 of the *Outcome Document* in the preambular paragraphs of all relevant Security Council resolutions creating or renewing UN peace operations, while the operative paragraphs could contain the protection of civilians in armed conflict as part of the mandate of UN missions. Such repeated recitations by the world’s supreme executive authority would help to create new political facts on the moral ground. It could also generate the sort of norm entrapment that is familiar from the human rights literature. Every time that a state protests that R2P is not applicable to it, that critics have misunderstood the facts or not taken due account of the context, it acknowledges and reinforces the global norm even while questioning its applicability in the specific case at hand. Similarly, much as imitation is the sincerest form of flattery, Russia’s misleading invocation of the norm in 2008 in Georgia was a tribute to the moral power of R2P.

History proves that, sovereignty and the norm of non-intervention notwithstanding, regional and global powers have intervened, repeatedly, in the affairs of weaker states. R2P offers developing countries better protection through agreed and negotiated-in-advance rules and roadmaps for when outside intervention is justified and how it may be done under UN authority rather than unilaterally. It is rooted in human solidarity, not in exceptionalism of the virtuous West against the evil rest.

Westerners do, however, need to recognize and accommodate developing country sensitivities. Their viewpoints rarely get an airing in the dominant Western mainstream media, let alone a respectful hearing with the possibility of their being right. The crisis over ‘humanitarian intervention’ arose because too many developing countries concluded that, intoxicated by its triumph in the Cold War, a newly aggressive West was trying to ram its values, priorities, and agenda down their throats. Even today, differences within both camps notwithstanding, the global North/South divide is the most significant point of contention for ‘the international community’. With regard to the use of force, for example, advocates of the right to non-UN authorized humanitarian intervention in essence insisted that the internal use of force by the rest would be held to international scrutiny, but the international use of force by the West could be free of UN control.

The nature of armed conflict has changed. Until the Second World War, war was fought between huge mechanized armies as an institution of the states system,

⁶ Kofi Annan in an interview with Roger Cohen, “How Kofi Annan Rescued Kenya”, in: *New York Review of Books* 55, 13 (14 August 2008), 52.

with distinctive rules, etiquette, norms, and stable patterns of practices. Today's wars are mostly fought in poor countries with small arms and light weapons, between weak government forces and ill-trained rebels. Disease and malnutrition resulting from warfare kill far more people today than missiles, bombs, and bullets.

First, for most Westerners 'war' has become a remote abstraction far removed from their daily experience. Not so for many developing countries, especially in Africa. Second, the majority of armed conflicts involve challenges to national integration or to the government's authority. Westerners are incapable of comprehending the framework within which their developing country counterparts must cope with such challenges; most developing country leaders can empathize with one another on this point. Third, while to Western minds intervening to stop the bloodletting is restoring order around the periphery, to developing countries international intervention is a direct threat to territorial integrity. Related to this, finally, is the terrible moral hazard of encouraging ethnonational groups everywhere to demand independence and back it with violence that provokes state retaliation, which then promotes external intervention.

It seems reasonable to conclude that the developing countries were reassured by the refusal of most countries to broaden the 2005 crimes to cover natural disasters in Myanmar in 2008 and the broad support of Sri Lanka's right to defend the state against a violent secession by terrorist means in 2009. Had these cases gone in the opposite direction, the tenor and outcome of the July 2009 General Assembly debate might well have been totally different.

The 2005 Outcome Document meets the minimum requirement of the call to action of classical humanitarian intervention while protecting the bottom line interests of the weaker developing countries and thereby assuaging their legitimate concerns. It navigates the treacherous shoals between the Scylla of callous indifference to the plight of victims and the Charybdis of self-righteous interference in others' internal affairs. As argued by Mohamed Sahnoun, co-chair of ICISS, in many ways R2P is a distinctly African contribution to global human rights.⁷ Developing countries, not Western ones, are the likely targets of international military interventions. Therefore, if they are the principal beneficiaries and victims of putting R2P into practice, they should be the lead debaters on its merits and dangers. Contrary to what many developing country governments might claim, many traditional cultures stress the symbiotic link between duties owed by kings to subjects and loyalty of citizens to sovereigns, a point made by civil society representatives who accordingly conclude that, far from abridging it, R2P *enhances* sovereignty.

⁷ Mohamed Sahnoun, "Africa: Uphold Continent's Contribution to Human Rights, Urges Top Diplomat", in: *allAfrica.com*, 21 July 2009, <http://allafrica.com/stories/printable/200907210549.html>, accessed 21 July 2009.

La responsabilité de protéger: une dette pour la communauté internationale?

Jean-François Thibault
Université de Moncton

Abstract

The responsibility to protect is a principle that holds a central place in the assessment of the challenges to state sovereignty, which is brought on by armed interventions for human protection purposes. For many, the principle marks an important doctrinal transformation involving a new interpretation of the elements supporting state independence. This independence ceases to be interpreted as a guarantee of sovereign impunity and is rather perceived in terms of accountability, for which the international community is ultimately responsible. But, what exactly does this principle of responsibility mean? This paper aims to show that it does not so much rest on the suspension of state independence, strictly speaking, as it does on the vulnerability of persons and groups for whose protection states should be responsible. Basically, it is this vulnerability that should justify an international fallback responsibility, which would then offer itself as the international community's willingness to commit to a person or a group threatened by the very existence of the state. The principle could then appear as a default principle, which is to say a type of debt incurred by the international community towards threatened populations. A debt taken on by the states participating in common in the political and historical life of the international community to which they belong and that – precisely through this requirement of protection rather than because of a shared identity – would thus be constituted.

Entre la fuite devant la responsabilité des conséquences et l'inflation d'une responsabilité infinie, il faut trouver la juste mesure.

Paul Ricœur¹

Introduction

L'intervention à des fins de protection humaine a toujours constitué un problème controversé en matière de droit, d'éthique et de politique internationale. Comprise comme une action armée visant à prévenir ou à mettre un terme à des violations graves des droits de la personne, sans obtenir au préalable la permission des autorités compétentes sur le territoire duquel cette action est entreprise, l'intervention a généralement été considérée comme contrevenant aux normes établies du droit international. Tout au long de la guerre froide, la plupart des observateurs, chercheurs et analystes, comme la plupart des États d'ailleurs,

¹ Paul Ricœur, "Le concept de responsabilité. Essai d'analyse sémantique", in: Paul Ricœur, *Le juste*, Paris, Éditions Esprit, 1995, 68 (41-70).

semblaient s'accorder pour en condamner la pratique, même si une minorité associait toujours de telles interventions à une doctrine qui aurait bénéficié d'un certain statut avant que les rédacteurs de la Charte des Nations Unies n'en écartent explicitement la possibilité en 1945.

Couramment considéré comme un principe impératif du droit international, accepté et reconnu en tant que tel par les États et n'autorisant donc guère d'exceptions, l'article 2 § 4 de la Charte restreindra en effet les prérogatives des États en matière d'emploi de la force armée. Seules deux possibilités furent alors prévues et encadrent depuis les modalités d'un emploi licite de la force: d'un côté, l'autorisation d'entreprendre une action jugée nécessaire pour le "maintien" ou le "rétablissement" de la paix et de la sécurité internationales dont le Conseil de sécurité peut se prévaloir en vertu des articles 24, 39 et 42 et, de l'autre côté, le "droit naturel de légitime défense [...] en cas d'agression armée" auquel l'article 51 autorise les États dans l'attente d'une saisie du dossier par le Conseil de sécurité.

Bien que certaines propositions visant notamment l'insertion d'une clause additionnelle portant sur les cas de "violation manifeste des libertés essentielles et des droits de l'homme" aient été discutées lors de la Conférence de San Francisco en 1945,² le recours aux mesures coercitives motivées par de telles considérations n'a finalement pas été retenu comme pouvant faire l'objet d'une dérogation supplémentaire. L'article 2 § 7 insistera au contraire sur l'importance du principe de non-intervention de l'Organisation internationale "dans les affaires qui relèvent essentiellement de la compétence nationale d'un État". Ce principe, qui sera fréquemment réaffirmé au cours des années, notamment dans diverses Résolutions de l'Assemblée générale et jugements prononcés par la Cour internationale de justice, sera en effet considéré comme un corollaire indispensable de l'égalité souveraine des États (article 2 § 1) et, par conséquent, comme un élément tout à fait essentiel au maintien de la paix et de la sécurité internationales qui constitue le "but premier" des Nations Unies (article 1 § 1); lequel but disposerait, dans son rapport aux articles 2 § 4 et 2 § 7 notamment, d'une priorité lexicale sur le "respect des droits de l'homme et des libertés fondamentales pour tous" évoqué quant à lui dans l'article 1 § 3 de la Charte.

Soixante ans plus tard cependant, au terme du Sommet mondial tenu en septembre 2005, l'Assemblée générale adoptera un document dont l'un des paragraphes stipulait que les États membres ont le devoir de protéger les personnes et les groupes menacés de crimes de masse – c'est-à-dire de génocide, de nettoyage ethnique, de crimes de guerre ou de crimes contre l'humanité – lorsque l'État chargé d'assurer leur protection ne peut pas ou ne veut pas mettre fin à la menace,

² Thomas M. Franck, *Recourse to Force. State Action Against Threats and Armed Attacks*, Cambridge, Cambridge University Press, 2002, 18.

ou lorsqu'il apparaît comme constituant lui-même la source de cette menace.³ Élaboré par la Commission internationale de l'intervention et de la souveraineté des États (CIISE), ce 'devoir' – je parlerai plutôt d'un principe ici – de responsabilité de protéger réintroduisait dans les débats sur l'intervention l'idée qu'il pourrait devenir licite de réagir, en usant au besoin de la force armée, face à des situations où la protection des personnes et des groupes menacés apparaîtrait comme une "impérieuse nécessité"⁴. Jouissant d'un remarquable succès d'estime malgré un incontestable scepticisme quant à son opportunité et l'absence d'un consensus clair quant à sa signification, le principe sera néanmoins fréquemment invoqué lorsque surviendront ensuite des situations de crises humanitaires. Pensons, pour ne mentionner que ces exemples, aux cas du Darfour, de la Birmanie, du Liban, du Kenya, du Zimbabwe ou de la Guinée. Pourtant, malgré la place qu'occupe désormais le principe dans l'espace public, la question demeure qui consiste à déterminer à quoi correspond au juste cette responsabilité de protéger qu'aurait la communauté internationale et de quelle rationalité relèverait au fond une telle responsabilité.

Ce sont à ces questions – qui m'apparaissent tout à la fois cruciales, mais philosophiquement très complexes et assez difficiles à démêler – que je souhaite modestement entreprendre de répondre. Mon objectif principal sera de montrer qu'il est possible de donner une représentation cohérente et convaincante du bien-fondé de cette responsabilité. Plus spécifiquement peut-être, mon objectif consistera à donner une représentation cohérente et convaincante de ce qu'il semble raisonnable d'attendre, comme principe de protection des personnes et des groupes menacés, de la part d'un ordre international que l'on estimerait digne de ce nom.⁵ Un peu plus abstraitement cette fois, il s'agira d'exposer la manière dont on peut poser la question de la protection des personnes et des groupes menacés comme un idéal – c'est-à-dire comme un objectif ou un but à promouvoir sur un mode téléologique plutôt que comme une contrainte ou une limite à respecter sur un mode déontologique;⁶ un idéal qui serait susceptible

³ "Document final du Sommet mondial de 2005", NU A/60/L.1, 20 septembre 2005, para. 138-139.

⁴ Commission internationale de l'intervention et de la souveraineté des États (CIISE), *La responsabilité de protéger*, Ottawa, Centre de recherche pour le développement international, 2001, para. 4.1.

⁵ Il s'agit là de la tâche modeste que pourra revendiquer un philosophe politique qui ne souhaiterait pas s'enfoncer "dans un écheveau babélien d'affirmations et de contre-affirmations dogmatiques". Cf. Philip Pettit, *Républicanisme. Une théorie de la liberté et du gouvernement*, Paris, Gallimard, 2004, 21-22.

⁶ En ce sens, l'on pourra qualifier ce principe de rhétorique puisqu'il ne correspondrait pas automatiquement à une norme, à une obligation ou à un impératif catégorique que l'on se devrait, sur un mode déontologique, d'inconditionnellement respecter mais plutôt à une convergence d'ordre téléologique qui, précisément, ne serait rien d'autre à ce stade qu'une invitation "à une conduite raisonnable dans les relations interétatiques". Cf. Agnès Lejbowicz, *Philosophie du droit international. L'impossible capture de l'humanité*, Paris, Presses universitaires de France, 1999, 64.

d'orienter l'ordre international en fonction des enjeux politiques réels que cet ordre soulève aujourd'hui. Un idéal qui témoignerait, pour reprendre les termes de Paul Ricoeur qui éclaire ma réflexion ici, d'une juste mesure "[e]ntre la fuite devant la responsabilité des conséquences et l'inflation d'une responsabilité infinie"⁷.

Pour ce faire, il me faudra déplacer l'angle d'analyse conventionnel – qui repose sur la logique de l'imputation d'un tort ou d'une faute à un agent – de manière à mettre en lumière que le principe de responsabilité ne reposerait pas tant sur la suspension du principe de non-intervention dont jouirait un État, qui serait ainsi sanctionné pour avoir commis un crime grave, que sur la vulnérabilité d'une personne ou d'un groupe dont l'État se devrait précisément d'assurer la défense et la sécurité. Mon hypothèse – dont le caractère est d'inspiration néo-républicaine et tourne autour de la question consistant à déterminer sur un mode conséquentialiste comment le gouvernement peut-il cesser d'être une structure susceptible d'abuser arbitrairement du pouvoir coercitif dont il dispose – est que c'est au fond cette vulnérabilité des personnes et des groupes qui commanderait subsidiairement une responsabilité internationale; laquelle responsabilité s'offrirait ainsi en tant qu'aptitude de la collectivité que forment les États à pouvoir s'engager envers une population que le cours des choses institué par l'existence même de ces derniers menacerait. Ce seraient donc les nuisances attachées à l'exercice arbitraire par un État du pouvoir dont il dispose – nuisances dont la nature est collective puisqu'elles sont liées aux dispositions institutionnelles caractéristiques du monde commun des États et de l'ordre international qu'ils ont institué – qui fonderaient une responsabilité de protection par la communauté internationale.

L'analyse fera ainsi apparaître le principe de responsabilité de protéger comme un principe par défaut, comme une forme de dette (un mélange de gage, de don et de promesse) qui aurait été contracté, à l'origine, par la communauté que forment les États envers les personnes et les groupes qui demeureraient vulnérables aux actions (ou, le cas échéant, aux inactions) de l'un d'entre eux. Une dette qui prendrait plus spécifiquement la forme d'une charge ou d'une tâche partagée par ces États participant à la vie politique et historique de la communauté internationale. Communauté qui, à travers cette valeur que représentent la défense et la sécurité des populations plutôt sur la base d'une identité politique substantielle sur laquelle tous devraient pouvoir d'abord s'accorder, se révélerait par cette disposition à répondre, dont elle serait comptable. Cette disposition à répondre serait ainsi constitutive de ce qu'on qualifie aujourd'hui de responsabilité de la communauté internationale.

⁷ Ricoeur 1995, 68.

L'idée de la responsabilité de protéger

L'émergence du principe de responsabilité de protéger en 2001 marque le point charnière d'une période particulièrement active en matière d'intervention armée à des fins de protection humaine. Du Kurdistan irakien au Timor oriental, en passant par l'Albanie, le Burundi, la Somalie, la Côte d'Ivoire, le Rwanda, le Libéria, l'Angola, la République démocratique du Congo, Haïti, la Sierra Leone, la Bosnie, la Croatie et le Kosovo, rarement dans son histoire ladite communauté internationale aura-t-elle consacré autant d'énergie et de ressources avec l'intention de "sauver des étrangers"⁸. Or, rétrospectivement, le constat s'impose que ce sont précisément les limites auxquelles sera finalement confronté cet activisme humanitaire – limites dont témoignent de façon contrastée les controverses soulevées par l'échec tragique du Rwanda et le succès ambigu du Kosovo – qui contribueront pour une part importante à relancer le thème de l'intervention armée et, plus concrètement, la nécessité de trouver une manière de réconcilier de telles interventions avec les paramètres constitutifs de l'ordre international tels qu'ils sont notamment exposés dans les articles 1 et 2 de la Charte.

Ramenée à l'essentiel, l'interrogation soulevée par le Rwanda et le Kosovo concernait au fond les conséquences de l'inanité d'un système de sécurité collective qui ne serait attaché qu'à la seule protection des États et demeurerait de ce fait largement impuissant à faire face à la résurgence – ou du moins à l'attention accrue que l'on accordera à ces phénomènes durant les années quatre-vingt-dix – du désordre provoqué par l'existence d'États fragiles, du trouble soulevé par ces formes dégénérées de violence de masse frappant spécifiquement les civils et de l'embarras suscité par ces crises humanitaires extrêmes touchant directement les personnes et les groupes. Sur la forme cette fois, les débats alimentés par ces événements jetèrent une lumière crue sur l'absence d'un cadre conceptuel cohérent permettant de concevoir l'intervention armée à des fins de protection humaine ainsi que sur les tensions – et sans doute même la profonde absurdité – auxquelles pouvait vraisemblablement conduire une interprétation trop rigoriste des principes de souveraineté et de non-intervention que l'on opposait à la question de la défense, de la protection et de l'application des droits de la personne. Réfléchissant au dilemme cornélien dans lequel cette situation nous plaçait, le Secrétaire général de l'époque, Kofi Annan, avancera que si la Charte reconnaît et protège certes l'autonomie des communautés politiques (des peuples ou des nations) et donc la souveraineté des États que celles-ci se sont données pour agir, "[s]on intention n'a cependant jamais été [...] de donner licence aux gouvernements de fouler aux pieds les droits fondamentaux et la dignité de

⁸ L'expression est empruntée à Nicholas J. Wheeler, *Saving Strangers. Humanitarian Intervention in International Society*, Oxford, Oxford University Press, 2000.

l'homme"⁹. Dans ces circonstances, écrira-t-il un peu plus tard, il nous faudrait pouvoir attentivement relire la Charte de manière à bien comprendre "que son but est de protéger les individus, non pas ceux qui les tourmentent"¹⁰.

C'est pour répondre au défi alors lancé à la communauté internationale par K. Annan pour dépasser ce dilemme,¹¹ que le gouvernement canadien annonce en septembre 2000 l'établissement d'une Commission internationale mandatée pour réfléchir à la question de l'intervention à des fins humanitaires et de la souveraineté des États. C'est dans le rapport que cette Commission soumet à la discussion publique fin 2001 qu'est développé le principe de responsabilité de protéger.¹² L'idée fondamentale exposée dans le rapport consiste à établir que lorsqu'une population

[...] souffre gravement des conséquences d'une guerre civile, d'une insurrection, de la répression exercée par l'État ou de l'échec de ses politiques, et lorsque l'État en question n'est pas disposé ou apte à mettre un terme à ces souffrances ou à les éviter, la responsabilité internationale de protéger prend le pas sur le principe de non-intervention.¹³

Pour les commissaires, le principe de responsabilité de protéger modifierait en profondeur la perspective dans laquelle se posait jusqu'alors la question des interventions armées engagées à des fins de protection. Elle mettait d'abord l'accent sur les populations menacées qui devraient être secourues; elle déplaçait ensuite le fardeau de la preuve de l'État qui intervient ou pourrait intervenir, vers l'État qui devrait, en premier lieu, assumer ses responsabilités en matière de protection des populations menacées; elle inscrivait enfin la responsabilité subsidiaire de la communauté internationale dans un large spectre d'action comportant trois éléments. En amont, la responsabilité visait la prévention des conflits et crises

⁹ Kofi Annan, "Réflexions sur l'intervention (35e Conférence annuelle de la Fondation Ditchley)", in: *La question de l'intervention. Déclarations du Secrétaire général*, New York, Département de l'information des Nations Unies, 1999, 6.

¹⁰ Kofi Annan, "Deux concepts de la souveraineté", in: *Le Monde*, 22 septembre 1999, 20.

¹¹ Plus spécifiquement, Kofi Annan posait la question suivante: "[S]i l'intervention humanitaire constitue effectivement une atteinte inadmissible à la souveraineté, comment devons-nous réagir face à des situations comme celles dont nous avons été témoins au Rwanda ou à Srebrenica et devant des violations flagrantes, massives et systématiques des droits de l'homme, qui vont à l'encontre de tous les principes sur lesquels est fondée notre condition d'êtres humains?" (Kofi Annan, "Nous les peuples: le rôle des Nations Unies au XXI^{ème} siècle", Rapport du Secrétaire général, NU A/54/2000, 3 avril 2000, para. 217).

¹² Notons que l'idée avait été originairement avancée par Francis M. Deng dans le cadre de ses travaux sur le sort réservé aux personnes déplacées et aux réfugiés internes. Cf. Francis M. Deng, "Frontiers of Sovereignty: A Framework of Protection, Assistance, and Development for the Internally Displaced", in: *Leiden Journal of International Law* 8, 2 (1995), 249-286; Francis M. Deng – Donald Rothchild et al., *Sovereignty as Responsibility. Conflict Management in Africa*, Washington (DC), The Brookings Institution, 1996. Cf. aussi Bruce W. Jentleson, *Coercive Prevention: Normative, Political, and Policy Dilemmas*, Washington (DC), United States Institute of Peace, 2000, 18-23.

¹³ CIISE 2001, xi.

qui pourraient mettre en danger les populations; en aval, la responsabilité portait sur l'assistance post-intervention à accorder aux populations touchées pour leur permettre de reconstruire leur communauté une fois un terme mis aux exactions. Entre la prévention et l'assistance, la responsabilité de protéger exprimait enfin l'ambition qu'avait la communauté internationale de réagir en cas de besoin, quitte, dans les cas extrêmes et lorsque toutes les autres mesures dissuasives ou contraignantes auraient été épuisées, à user de la force armée dans un but de protection.

En optant pour un tel élargissement du spectre d'action de la responsabilité de la communauté internationale, les membres de la Commission souhaitaient parvenir à modifier les termes des interrogations soulevées par les cas du Rwanda et du Kosovo et, ce faisant, à doter la communauté internationale des moyens permettant de relever le défi que représentait la défense, la protection et l'application des droits de la personne. Plus spécifiquement, grâce à l'élaboration de critères spécifiques, les commissaires souhaitaient neutraliser ou dépolitiser la question de l'intervention à des fins de protection de manière à la soustraire aux passions et aux polémiques qu'elle soulève généralement et ainsi renforcer la primauté du droit international – qui serait réconcilié avec nos intuitions morales les mieux ancrées cette fois – sur la politique des États. Pour Kofi Annan, le rapport serait ainsi parvenu à définitivement “écarter les dernières excuses permettant à la communauté internationale de ne rien faire, lorsque faire quelque chose permettrait de sauver des vies”¹⁴.

Au-delà de l'appréciation des éléments de cette responsabilité et de l'attention qui sera tout particulièrement accordée au thème de l'usage de la force armée qui demeurerait incontestablement le plus controversé, la principale et la plus significative contribution du rapport aura vraisemblablement été d'ordre conceptuel: elle concernait l'interprétation particulière, foncièrement normative, qui est alors proposée du concept de souveraineté. Pour les membres de la Commission, la signification traditionnelle de ce concept – que l'on pourra définir ici comme l'autorité suprême des organes de l'État et la capacité exclusive pour les autorités publiques de définir et d'exercer leurs compétences législative, exécutive et judiciaire sur un territoire déterminé et une population donnée – correspondrait à une conception ossifiée qui, au nom de l'autonomie des États et de la satisfaction des intérêts individuels, motivait en fait ce qui ne serait rien d'autre qu'un véritable “contrat d'indifférence mutuelle” entre eux.¹⁵

¹⁴ Kofi Annan, “Discours prononcé à l'occasion de la tenue d'un séminaire de l'International Peace Academy sur la responsabilité de protéger”, Press Release, NU SG/SM/8125, 15 février 2002.

¹⁵ Norman Geras, *The Contract of Mutual Indifference: Political Philosophy after the Holocaust*, London, Verso, 1998.

Or, en s'attachant à une telle conception étroite de la souveraineté condamnant pour ainsi dire par défaut toute velléité d'interférence extérieure, nous perdriions finalement de vue qu'il existe également une autre dimension de la souveraineté. Une dimension normative liée notamment aux finalités de la communauté politique qui s'est créée, pour reprendre la formule de Michael Walzer, dans "des processus continus d'association et de réciprocité", un processus dont l'État assumerait finalement "la permanence contre tout empiètement extérieur"¹⁶. En effet, si ce droit dont dispose l'État n'est rien d'autre que l'expression de la maîtrise de soi dont une communauté politique entend se prévaloir, il faut en conclure que l'État qui revendique un tel droit à l'autodétermination repose lui-même sur une présomption de consentement des personnes qui le composent; consentement qui est accordé en vue, assurément, de les protéger plutôt que de les tourmenter.

Dès lors, si la souveraineté comprend effectivement un droit, elle comporterait également une responsabilité pour l'État; responsabilité consistant, au minimum pourrions-nous être raisonnablement amené à penser, à assurer la défense et la sécurité des populations dont cet État a en premier lieu la charge puisqu'il s'agirait là de sa principale vocation. Une vocation dont il n'aurait cependant pas l'exclusivité, avanceront les membres de la Commission puisque si l'État n'est pas en mesure de satisfaire ces réquisits, c'est-à-dire si pour une raison ou pour une autre il ne parvient pas à assurer la défense et la sécurité des populations placées sous sa responsabilité, son propre droit, que les principes d'égalité souveraine et de non-intervention garantissent dans l'espace international, pourrait bien perdre l'essentiel de sa raison d'être. En effet, ce droit dont jouit un État repose sur les ressources de la reconnaissance réciproque que se témoignent les communautés politiques en se considérant comme des agents autonomes – agents dont l'État est l'expression et la référence – disposant de la possibilité de se déterminer librement.

Ainsi les principes d'égalité souveraine et de non-intervention enchâssés dans l'article 2 de la Charte ainsi que dans de nombreux autres instruments doivent-ils être considérés comme véritablement constitutifs de la forme de vie propre à la communauté que ces derniers forment, toute imparfaite que cette communauté puisse par ailleurs apparaître. Formant en quelque sorte une structure de réciprocité constitutive des privilèges qui sont conjointement les leurs, ces principes seraient cependant conditionnels, tributaires en fait d'une 'structure constitutionnelle' qui confère non seulement leur statut aux États, mais définit également, et notamment en référence aux droits de la personne, les paramètres d'une action

¹⁶ Michael Walzer, *Guerres justes et injustes. Argumentation morale avec exemples historiques*, Paris, Belin, 1999, 96-97.

considérée comme légitime.¹⁷ Ainsi ne pourraient-ils guère être considérés auto-référentiellement comme exprimant des attributs absolus ou des prérogatives discrétionnaires de l'État. Ils apparaissent tout au contraire, et très précisément au double sens d'un droit et d'une responsabilité, contraignant pour l'ensemble des États s'accomplissant et se réalisant sur cette scène internationale; laquelle s'offre ainsi comme le monde commun ou la scène propre d'une communauté pratique, c'est-à-dire une communauté sans véritable finalité déterminée, au sein duquel des États possédant des identités et des intérêts différents participent néanmoins conjointement au maintien des règles, des normes et des arrangements facilitant leur coexistence mutuelle tout en circonscrivant par ailleurs "la façon dont chacun peut poursuivre ses propres fins"¹⁸.

La responsabilité de protéger comme un idéal

C'est précisément à la lumière de cette représentation de la communauté internationale qu'il convient, me semble-t-il, d'interpréter l'insertion, après d'âpres discussions, des importants paragraphes 138 et 139 dans le Document final adopté en septembre 2005 par l'Assemblée Générale des Nations Unies. Tranchant littéralement dans le gras des ambitieux éléments que contenait le rapport de 2001 et restreignant les comportements répréhensibles visés par ce 'devoir' de protection qui concerne désormais spécifiquement les crimes de masse, l'Assemblée générale réitérera d'une part les responsabilités qui incombent à chaque État en matière de protection des populations (§ 138) et, d'autre part, celle de la communauté internationale qui se montre disposée, dans le cadre des Nations Unies, à mener "une action résolue" s'il advient que les autorités publiques compétentes "n'assurent manifestement pas la protection de leurs populations" (§ 139).

L'on a depuis passablement spéculé sur la nature limitative de ces paragraphes et sur l'apparent repli que la formulation retenue signifierait par rapport aux principes évoqués par la Commission en 2001 ou même eu égard à l'interprétation qui en sera donnée dans le rapport du Groupe de personnalités de haut niveau sur les menaces, les défis et le changement¹⁹ ainsi que dans le rapport du Secrétaire général sur les progrès accomplis dans l'application de la Déclaration

¹⁷ Christian Reus-Smit, *The Moral Purpose of the State. Culture, Social Identity, and Institutional Rationality in International Relations*, Princeton, Princeton University Press, 1999, 30, ainsi que Christian Reus-Smit, "Human Rights and the Social Construction of Sovereignty", in: *Review of International Studies* 27, 4 (2001), 519-538.

¹⁸ Terry Nardin, *Law, Morality and the Relations of States*, Princeton, Princeton University Press, 1983, 9. Notons que Nardin parle plutôt d'association que de communauté.

¹⁹ Rapport du Groupe de personnalités de haut niveau sur les menaces, les défis et le changement, "Un monde plus sûr: notre affaire à tous", NU A/59/565, 2 décembre 2004, para. 202-203.

du Millénaire²⁰. L'un et l'autre parleront en effet d'une norme créant une "obligation collective", ce que le Document final rejettera très clairement. De ce fait, il semble tout aussi clair que l'insertion du principe de responsabilité dans le Document final n'offre en pratique aucune réelle assurance qui aurait comme effet de garantir aux populations menacées une protection de la part de la communauté internationale. Tout au plus pourrait-on penser que la communauté internationale réitère ici qu'elle se réserve la possibilité – une liberté ou une permissivité plutôt qu'un droit à proprement parler²¹ – d'intervenir, par l'intermédiaire du Conseil de sécurité, si elle le juge nécessaire, tout en conservant cependant la latitude de décider de ne rien faire si elle le juge plus prudent.

Le principe demeure donc foncièrement imparfait dans la mesure où même si l'on admet que les prétentions d'un État contrevenant à ses responsabilités de protection sont limitées, la responsabilité collective qui en découle ne correspond pas plus à une obligation concrète d'agir pour la communauté internationale qu'à une obligation tangible d'être secourues pour les populations qui seraient directement menacées. C'est que le fossé entre imputation et obligation, entre la suspension du principe de non-intervention dans le cas où les autorités publiques compétentes ne remplissent pas leurs obligations de protection (imputation) et la responsabilité de protéger subsidiaire qui serait celle de la communauté internationale (obligation) n'apparaît définitivement pas comblé ici. Compris ainsi, le principe de responsabilité de protéger ne fixe donc lui-même aucun objectif substantiel spécifique. Mais il permet en revanche, et cela me semble tout à fait significatif, que la vulnérabilité des personnes et des groupes cesse, comme l'écrira Michel Foucault, d'être "un reste muet de la politique"²². Car, au-delà de sa fonction répressive qui soulève vraisemblablement encore beaucoup de résistance, non sans raison d'ailleurs, le principe de responsabilité exprime également une fonction constitutive en ce qu'il permet à la communauté internationale de se confectionner "un monde d'expériences sociales"²³.

²⁰ Rapport du Secrétaire général sur les progrès accomplis dans l'application de la Déclaration du Millénaire, "Dans une liberté plus grande. Développement, sécurité et respect des droits de l'homme pour tous", NU A/59/2005, 24 mars 2005, para. 132, 135.

²¹ David Rodin, "The Responsibility to Protect and the Logic of Rights", in: Oliver Jütersonke – Keith Krause (eds.), *From Rights to Responsibilities. Rethinking Intervention for Humanitarian Purposes*, Programme for Strategic and International Security Studies 7, Genève 2006, 58.

²² Michel Foucault, "Face aux gouvernements, les droits de l'homme", in: Michel Foucault, *Dits et écrits* IV (1980-1988), Paris, Gallimard, 1994, 708 (707-708).

²³ Barry Barnes, "On Authority and Its Relationship to Power", in: John Law (éd.), *Power Action and Belief. A New Sociology of Knowledge?*, London, Routledge & Kegan Paul, 1986, 193. J'aborde plus largement cette question dans Jean-François Thibault, "L'idée de société et l'étude des relations internationales", in: Lawrence Olivier – Guy Bédard – Jean-François Thibault (éds.), *Épistémologie de la science politique*, Sillery, Presses de l'Université du Québec, 1998, 135-156.

Ainsi, plutôt que de regretter l'apparente indétermination dans laquelle nous maintiendrait le principe de responsabilité ainsi apprécié à l'aune d'une lecture juridico-morale (imputation d'un tort ou d'une faute à un agent libre et autonome considéré comme l'auteur de ses actes) ou, encore, de tenter de combler, à partir d'une même lecture mais du côté de la sanction cette fois, le fossé entre la responsabilité de l'État et celle de la communauté internationale qui devrait punir les coupables, j'aimerais tenter de montrer que l'insertion du principe dans le Document final de septembre 2005 devrait nous inciter à en faire une lecture politique. Ainsi le principe ne devrait pas être strictement apprécié – et critiqué – à la lumière de la seule validité empirique de l'obligation de protéger une population menacée par l'action ou l'inaction d'un État à qui l'on en imputerait alors les conséquences, mais il devrait plutôt être interprété comme un engagement de la communauté internationale qui se montre disposée à répondre dans une situation "d'impérieuse nécessité", c'est-à-dire lorsque le seul réel moyen permettant de protéger une population des menaces pesant sur elle et ainsi de sauver des vies dépendrait d'étrangers venant à son secours.²⁴

Sans doute n'est-il pas interdit, si l'on y songe précisément en termes d'engagement et de disposition, de penser que cette indétermination entourant le principe de responsabilité tel qu'il est inséré dans le Document final ne relèverait pas à proprement parler d'une faille logique. Ne pourrait-elle pas, au contraire, relever d'un souhait ou d'une aspiration – que l'Assemblée générale estime être de grande importance – impliquant que le principe "ait un sens non pour le droit international en soi", mais d'abord et avant tout pour la détermination des conditions normatives encadrant la vie des États et éclairant le monde commun qui est le leur.²⁵ En effet, les conditions, les modalités et le bien fondé de l'emploi de la force armée ont de tout temps donné lieu à d'importants débats relatifs aux principes, aux critères et aux arrangements institutionnels qui devraient guider nos pratiques en tant que membres d'une communauté politique. À cet égard, l'utilité que représente la force armée est dans la plupart des cas largement fonction de la légitimité qui entoure son emploi et cette légitimité – qui s'offre comme la recherche de ce qui peut raisonnablement être accepté par une communauté politique "en tant que consensus tolérable sur la base duquel une action pourra être engagée"²⁶ – s'inscrit elle-même dans un cadre normatif où les valeurs fondamentales de la communauté en question sont conventionnellement définies.

Ainsi, avant que d'être un outil dotant la communauté internationale des moyens opérationnels d'intervenir à des fins de protection humaine, le principe de responsabilité s'offrait d'abord comme un idéal, comme un bien public global, que

²⁴ Wheeler 2000, 34.

²⁵ Cf. Lejbowicz 1999, 52.

²⁶ Ian Clark, *Legitimacy in International Society*, Oxford, Oxford University Press, 2005, 3.

chaque État pourrait avoir des raisons de vouloir indépendamment de ce à quoi il accorderait par ailleurs une quelconque importance et chercheraient isolément à satisfaire. L'indétermination correspondrait dès lors à l'improvisation à laquelle a jusqu'à présent donné lieu le principe de responsabilité de protéger; lequel demeurerait de l'ordre d'un principe en formation – soit de ce que les juristes qualifient de *lex ferenda* par contraste avec le droit positif (*lex lata*) – reflétant un processus en cours dont l'évolution tortueuse témoignerait des hésitations, des contradictions et des conflits d'interprétation qui naissent de ce qu'il s'agit fondamentalement pour les États de revoir, de manière assez radicale d'ailleurs, la façon dont chacun d'eux sera dorénavant légitimé de conduire ses affaires et de poursuivre les fins qui sont les siennes.

Dans ces circonstances, le fait d'identifier une forme d'action étatique comme constituant un usage arbitraire du pouvoir dont dispose un État demeurerait une question politique. Pour ainsi dire par définition, une telle question ne pourra être tranchée sur la base de critères prédéterminés du type de ceux que la Commission de 2001 avait précisément cherché à développer. Inspirés par une argumentation morale associée aux doctrines de la guerre juste visant à définir les conditions de légitimité de l'emploi de la force armée, de tels critères définissant notamment un seuil ou une limite ne parviendront guère à épuiser le *factum* de la vie politique et à constituer un guide pour l'action susceptible de conduire à une décision qui fasse réellement consensus. Car ces critères ne permettent simplement pas, en eux-mêmes, d'ouvrir un horizon stable et autonome de revendication de protection, c'est-à-dire un horizon interprétatif qui soit affranchi de la réalité politique – et notamment de l'intérêt des acteurs politiques – et qui puisse contraindre à agir de manière décisive.²⁷ Tout au contraire, de tels critères risquent fort de nous faire constamment osciller entre ces pôles que sont l'utopie et l'apologie, l'utopie quant aux paramètres de la protection qui demeureraient au bout du compte normativement instables et l'apologie quant à la pratique de l'intervention à des fins de protection qui resterait quant à elle entièrement soumise aux aléas de la politique de puissance.²⁸

²⁷ J'aborde ces questions dans: "L'intervention humanitaire armée. Du Kosovo à la responsabilité de protéger: le défi des critères", in: *Annuaire français de relations internationales* 10 (2009), 751-762; "La Responsabilité de protéger et le problème de l'autorité appropriée", in: Jocelyn Coulon (éd.), *Guide du maintien de la paix 2008*, Montréal, Athéna Éditions/Cepes, 2007, 103-117; "Military Intervention and the Indeterminacy of the Responsibility to Protect", in: *Human Security Journal* 7 (2008), 8-13 (Guest Editorial).

²⁸ Sur cette oscillation qui serait au cœur du droit international, cf. Martti Koskenniemi, "Entre utopie et apologie: la politique du droit international", in: Martti Koskenniemi, *La politique du droit international*, Paris, Pedone, 2007, 51-96.

Une dette pour la communauté internationale

Formuler autrement, il me semble qu'il faille bel et bien combattre ici la propension que nous avons de réfléchir en termes de stricte causalité et, partant, résister à la tentation de concevoir le principe de responsabilité sur un mode purement causal. Tel qu'il est ici entendu, le principe ne cause pas la protection; la relation entre ce principe et la communauté internationale, dont ce serait la responsabilité subsidiaire d'intervenir le cas échéant, n'est vraisemblablement pas non plus de l'ordre d'une cause qui produirait un effet. C'est d'ailleurs cela que plusieurs critiquent à propos du principe en notant qu'il ne crée précisément aucune obligation tangible. Or, ces critiques ne semblent cependant pas vouloir discerner que le véritable enjeu se situe possiblement ailleurs, soit dans le fait que le principe pourrait plutôt agir comme un facteur inhibant, comme un standard de jugement fondamental; lequel représenterait déjà *en soi* l'amorce d'un processus d'engagement et de savoir partagé envers la valeur que représente la protection.

Certes, ce processus demeure embryonnaire ici et il devra être accompagné d'institutions ou d'arrangements appropriés et légitimes qui viseront sa réalisation, mais cela ne saurait cependant signifier qu'un tel principe doive quant à lui être strictement défini par rapport à ces institutions ou ces arrangements créés pour assurer sa mise en œuvre. Au contraire, cette responsabilité apparaîtra précisément de l'ordre de ce que le philosophe Philip Pettit qualifiait, en s'intéressant à la notion de liberté comme non-domination, de réalité institutionnelle, c'est-à-dire une réalité constituée par les arrangements institutionnels l'instaurant, plutôt que causée par ceux-ci.²⁹ Pensons, pour ne mentionner que cet exemple, à la Cour pénale internationale (CPI) qui, sans elle-même établir causalement une quelconque forme de protection et sans non plus conduire à proprement parler à cette protection, constitue néanmoins une façon de réaliser cette protection en contribuant à définir une structure d'interpellation servant à refermer un peu plus l'espace d'impunité et, de ce fait, à réduire l'écart entre l'idéal normatif et la réalité historique.

En effet, en établissant une procédure d'étude d'incidences (obligation de chercher à savoir) et en s'offrant comme un lieu où peuvent être adressés (et sanctionnés) les torts graves, subis ou appréhendés, par des personnes ou des groupes qui auraient de ce fait "cessé d'appartenir à une communauté [politique] tout court"³⁰ (dernier recours), la CPI vient soutenir la formation de ce "monde d'expériences sociales" qu'inaugure le principe de responsabilité pour la communauté internationale; laquelle communauté apparaît ici comme le destinataire privilégié –

²⁹ Cf. Pettit 2004, 145-146.

³⁰ La formule est celle qu'utilise Hannah Arendt pour qualifier plus spécifiquement la situation des sans-droits. Cf. Hannah Arendt, *Les origines du totalitarisme*, Paris, Gallimard, 2002, 598.

mais sans doute pas exclusif – de ces requêtes qui peuvent être adressées à la CPI. Un destinataire privilégié dont la responsabilité doit être ici entendue en son sens politique puisque les torts subis ou appréhendés visent, en le contestant et en le niant, le monde commun dont elle témoigne. De ce fait, le principe de responsabilité viserait au fond à renouer le lien de confiance qui doit exister entre un État et la population dont il a comme vocation principale d'assurer la défense et la sécurité ainsi qu'entre l'État lui-même comme agent collectif et responsable et la communauté internationale; laquelle incarnerait non seulement les modalités d'un monde qui est commun aux États et que l'humanité a pour ainsi dire en partage, mais aussi les conditions de possibilité de toute responsabilité.

Les crimes de masse visés par le principe de responsabilité de protéger sont en effet essentiellement dirigés contre cette communauté internationale – expression encore floue de notre commune humanité – plutôt que contre un individu en particulier.³¹ Dès lors, chaque État partagerait donc, conjointement avec les autres États, la responsabilité de ce qui survient dans l'un ou l'autre d'entre eux. Cela, en vertu du fait que tous sont impliqués dans l'organisation de ce monde commun et que tous seraient donc également compromis dans la possibilité qui subsiste que de tels crimes soient encore susceptibles de s'y produire.³² La responsabilité prendrait ainsi appui sur les significations intersubjectives³³ associées à ce monde d'expériences sociales et au sein desquels l'autre vulnérable apparaît en lien étroit avec notre propre vulnérabilité, son tourment impliquant pour ainsi dire le nôtre.³⁴ Il ne s'agit cependant pas ici simplement d'éprouver de la sollicitude face à une personne ou un groupe dont la fragilité et la souffrance sont données en spectacle pour forcer l'émotion et motiver l'aide et la bienveillance, souvent dans l'urgence et sans trop réfléchir, afin de panser des plaies qui n'engageraient cependant pas notre responsabilité. Souvent impuissante à modifier les conditions de cette

³¹ Ainsi William A. Schabas écrit que le crime de génocide serait "directed against the entire international community rather than the individual". Cf. William A. Schabas, *Genocide in International Law. The Crime of Crimes*, Cambridge, Cambridge University Press, 2009, 8.

³² Terry Nardin écrit ainsi: "[T]he responsibility to protect includes responsibility to help change the conditions that allowed crimes against humanity to be committed in the first place". Cf. Terry Nardin, "Introduction", in: Terry Nardin – Melissa Williams (éds.), *Humanitarian Intervention*, New York, New York University Press, 2006, 20-21.

³³ Les significations intersubjectives ne sont pas la propriété d'un seul agent "car elles sont enracinées dans la pratique sociale". Elles fournissent notamment un "langage commun" aux agents pour parler de la réalité dans laquelle ils sont et une "compréhension commune" du cadre normatif et des valeurs qui guident leurs pratiques. Cf. Charles Taylor, "L'interprétation et les sciences de l'homme", in: Charles Taylor, *La liberté des modernes*, Paris, Presses universitaires de France, 1997, 140. – Ces significations sont étroitement liées à la fonction constitutive du droit international qui s'inscrit dans un contexte plus large sur lequel on consultera Yasuaki Onuma, "International Law in and with International Politics: The Functions of International Law", in: *European Journal of International Law* 14, 1 (2003), 134-136 (105-139).

³⁴ François Ost, "Élargir la communauté politique: par les droits ou par les responsabilités? Réflexions sur les enjeux éthiques de la crise écologique", in: Thomas Berns (éd.), *Le droit saisi par le collectif*, Bruxelles, Bruylant, 2004, 254.

fragilité et de cette souffrance, une telle “responsabilité sollicitude”³⁵ n’est pas véritablement en mesure de dépasser le stade de l’assistance ponctuelle et de s’offrir comme un mode d’expression du lien politique. Bien plus fondamentalement, ce dont il s’agit ici c’est précisément de rompre notre indifférence mutuelle – c’est-à-dire cette obligeance complaisante face à la souffrance de l’autre qui le maintient à distance en tant que victime qui nous demeurerait étrangère – en s’ouvrant à cette vulnérabilité qui nous est commune pour mieux être à même de nous mettre à la place de l’autre et ainsi éprouver cette responsabilité que nous partagerions précisément en commun.

La question qui se pose alors consiste à déterminer s’il est réellement possible d’envisager une responsabilité commune partagée entre ‘pairs parfaits’, c’est-à-dire entre des agents se trouvant dans une situation de symétrie parfaite telle celle qui existe à première vue entre États souverains. Notons que c’est là l’argument privilégié des sceptiques qui insistent pour faire des frontières de l’État l’horizon indépassable de toute réflexion éthique et, partant, pour nier qu’un État puisse légitimement entretenir des fins substantielles dépassant l’observation des principes exposés dans l’article 2 de la Charte. Or, dans sa réflexion sur le “principe de responsabilité”, Hans Jonas évoque l’idée d’une responsabilité de compagnonnage pour mettre en évidence le caractère horizontal et spécifique d’une forme de responsabilité telle celle qui existe entre compagnons de cordée ou entre égaux indépendants engagés dans une entreprise collective et qui interviendrait uniquement “si l’un d’eux est dans la détresse ou s’il a besoin d’une aide particulière”³⁶. Par opposition à une responsabilité de type vertical, soit celle qu’ont les parents envers les enfants, cette responsabilité entre égaux serait non-hiérarchique et, par définition, non-réciproque, plus faible et, selon toute vraisemblance, également bien moins inconditionnelle. En fait, cette responsabilité entre égaux serait spécifique plutôt que globale et elle serait étroitement liée à la détermination, à l’apprentissage et au maintien des règles, des normes et des arrangements facilitant la coexistence mutuelle; autrement dit, elle n’aurait justement de compte à rendre qu’envers ce monde commun qu’il conviendrait pour ces États de collectivement préserver.

Ainsi, il ne faudrait pas tant mesurer le principe de responsabilité de protéger sur le mode *ex post* de l’imputation de ce qui a été fait, que sur un mode prospectif consistant à déterminer *ex ante* ce qu’il serait raisonnable d’attendre de la part de la communauté internationale lorsqu’une population est menacée. À cet égard, le principe ne se révélera que dans l’action de protection qui sera entreprise de

³⁵ Michel Métayer, “Vers une pragmatique de la responsabilité morale”, in: *Lien social et politiques* 46 (2001), 21-22 (19-30).

³⁶ Hans Jonas, *Le principe responsabilité. Une éthique pour la civilisation technologique*, Paris, Cerf, 1995, 135.

concert au sein du monde commun. Or, me semble-t-il, tout se passe comme si la communauté internationale exprimait justement, par l'entremise de ce principe, sa conviction d'avoir à assumer une charge et d'être disposée à répondre du fait de la dette qu'elle aurait contractée en organisant la scène internationale telle qu'elle l'est. Ce faisant, le principe de responsabilité révèle une posture politique, plutôt qu'une intention morale ou qu'une contrainte légale, car il s'agirait en somme pour la communauté internationale d'exprimer d'abord la dette contractée à l'origine envers les personnes et les groupes.

Entendu comme une dette, le principe permettrait aux États de nouer un lien politique nouveau, irréductible aux liens d'appartenance qui sur la scène internationale demeurent tenus, mais relançant cependant à nouveaux frais – et c'est précisément là que réside selon moi l'importance cruciale de ce principe – l'interrogation portant sur des bornes de ce monde commun au sein duquel il s'agit pour la communauté internationale d'assumer ses responsabilités. Laquelle communauté est d'ailleurs, ici, à la croisée des chemins puisqu'il s'agit en fait pour elle de poursuivre une démarche qui, un peu à la manière dont la démocratie est une histoire plutôt que de n'avoir qu'une histoire, apparaît largement indissociable d'un effort "d'exploration et d'expérimentation, de compréhension et d'élaboration d'elle-même"³⁷. C'est dire qu'au fond, à travers l'affirmation d'une telle responsabilité de protéger et des polémiques que suscite ce mécanisme d'affectation d'une valeur à la conduite d'un agent étatique dont les actes seraient soumis à l'appréciation (aux anticipations, aux attentes, aux présomptions) de la communauté à laquelle il participe,³⁸ c'est précisément cette communauté qui s'imagine, se conçoit et se met en scène, non pas comme une unité homogène cependant, mais comme l'exposition à ce qui précisément la conteste et la nie.³⁹ Dans cette expérience qui demeure inachevée mais où se joue une redéfinition des paramètres autour desquels s'organise la coexistence, la communauté internationale institue les conditions de son intelligibilité "en se donnant à travers mille signes quasi-représentation d'elle-même"⁴⁰.

Conclusion

En relançant la question du bien fondé de l'emploi de la force armée à des fins de protection humaine, le principe de responsabilité de protéger signale me semble-t-il bien autre chose qu'un simple exercice de sémantique politique dont

³⁷ Pierre Rosanvallon, *Pour une histoire conceptuelle du politique*, Paris, Seuil, 2003, 17.

³⁸ Cf. Jean-Louis Genard, *La grammaire de la responsabilité*, Paris, Cerf, 1999, 15.

³⁹ Cf. Roberto Esposito, *Communitas. Origine et destin de la communauté*, Paris, Presses universitaires de France, 2000, 149.

⁴⁰ Cf. Claude Lefort, *Essais sur le politique. XIX^e-XX^e siècles*, Paris, Seuil, 1986, 282.

l'intérêt aurait consisté à désamorcer les craintes de ceux qui estiment que la question est dangereuse. Certes, il s'agissait de proposer un nouveau vocabulaire possiblement moins chargé politiquement. Mais le principe n'en inaugure pas moins un nouvel horizon d'attente normatif qui, en rompant avec un état de fait particulier, ébranle ce quasi-déterminisme lié aux rapports de puissance qui dominait jusqu'à tout récemment de larges pans de la scène internationale.

Sans doute convient-il dans ce contexte de ne pas perdre de vue qu'il s'agit là des premiers balbutiements d'un projet et non de sa fin. Or, pour ceux qui comme moi estiment que l'enjeu de la protection des populations menacées est important et qu'il importe de parer aux crimes de masses toujours susceptibles de survenir, le principe de responsabilité de protéger a au moins le mérite de secouer le désolant fatalisme qui entoure les désolantes justifications de notre impuissance collective. Pour reprendre une formule chère à Hannah Arendt,⁴¹ un tel principe nous force au moins à penser un peu plus lucidement ce que nous faisons ou ne faisons pas.

⁴¹ "Ce que je propose est donc très simple: rien de plus que penser ce que nous faisons". Cf. Hannah Arendt, *Condition de l'homme moderne*, Paris, Calmann Lévy, 1961, 38.

R2P vs. Domestic Jurisdiction: The Last Refuge of Scoundrels

James V. Arbuckle
Former Officer of the Canadian Army

Résumé

La Commission internationale de l'intervention et de la souveraineté des États (CIISE) a publié son rapport en décembre 2001. Aujourd'hui connu sous le nom de 'responsabilité de protéger', ce document est devenu une politique des Nations Unies après avoir été accepté dans le rapport du panel sur les Opérations de Paix des Nations Unies et ce par presque tous les États membres de l'ONU. Cette politique repose largement sur l'action militaire en accordance avec l'article 42 de la Charte. Cependant, il semble évident que le Conseil de Sécurité n'autorisera que très rarement l'intervention armée dans un État membre, les principes de consentement des 'hôtes' et du respect de leur 'souveraineté' restant aussi forts que par le passé. Cet article avance que les sanctions diplomatiques telles que définies dans l'article 41 de la Charte pourraient contourner l'issue du consentement et être appliquées sans effets collatéraux préjudiciables, dont la crainte est un autre facteur inhibiteur majeur. Les sanctions de l'article 41 de la Charte ont un seuil d'action plus bas, elles peuvent être appliquées à différents niveaux, séparément ou combinées, avec peu de risques et à bas coût, et enfin elles portent la promesse d'une intervention effective. Ainsi, un État délinquant, suite à un procès en bonne et due forme – mené de façon appropriée par le Conseil de Sécurité mais aussi bien par l'organisation régionale, idéalement par les deux entités de concert – pourrait être banni de toute interaction non-matérielle d'ordre international et régional, notamment de tout événement interactif culturel, athlétique et militaire. Ces 'sanctions diplomatiques non-matérielles' devraient être bien plus effectives que les promesses offertes par la 'responsabilité de protéger', promesses largement creuses d'intervention militaire dans un but de prévention et de protection des populations.

Patriotism is the last refuge of a scoundrel.
Samuel Johnson

*Civilization is in part the establishment of order and
custom limiting the use of the weak by the strong.*
Will Durant

Introduction

The responsibility for the conduct of states towards their people has long been a subject of controversy. "None of any outsider's business", said Hitler in 1933 to the League of Nations and Stalin in 1948 to the drafters of the Universal Declaration of Human Rights. Indeed, as Mary Anne Glendon has written of the birthing of the Universal Declaration of Human Rights (UDHR) "international lawyers regarded

a state's treatment of its own citizens, with rare exceptions, as the state's own business"¹. "The Soviet delegation (to the Human Rights Commission)", she writes, "could not accept any of the group's proposals since they constituted 'an attempted gross infringement' of the (UN) Charter's protection of every state's domestic jurisdiction."² Glendon adds that the major hurdle for approval of UDHR was not its content, "but its potential for legitimating outside interference in a country's internal affairs". However, with the adoption of the UDHR by the General Assembly of the United Nations on 10 December 1948, the concept of the relationship of a state to its people, and its responsibility for them, was changed forever.

The Organization for Co-operation and Security in Europe was born of the Helsinki Final Act of 1975, which entailed a 'comprehensive view of security'. This has meant (at least in Europe) that human rights are enshrined in a peace treaty and given equal weight, in considerations of international peace and security, alongside the more traditional military and political factors. Thus, "human rights, a long-standing taboo in East-West relations, became by virtue of the Final Act a legitimate subject of dialogue"³; the peace agenda would never be the same. As a consequence, in 1991 the Prime Minister of Canada, Brian Mulroney, was able to address the United Nations General Assembly in these terms:

Just a few days ago, Iraq blocked a UN arms inspection on grounds of national sovereignty. In the past year, countries have blocked food delivery to starving people, again on grounds of national sovereignty. Some Security Council members have opposed intervention in Yugoslavia, where many innocent people have been dying, on the grounds of national sovereignty. Quite frankly, such invocations of national sovereignty are as out-of-date and as offensive to me as the police declining to stop family violence simply because a man's home is supposed to be his castle.

Then in September 1999 the Secretary-General of the UN, Kofi Annan, noted that "[s]tate sovereignty in its most basic sense is being redefined [...]. States are now widely understood to be instruments at the service of their peoples, and not vice-versa"⁴. These terms of expression had never been – could never have been – used before in international discourse. It was in this fundamentally altered

¹ Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*, New York, Random House, 2001, 9.

² Glendon 2001, 95. *The Charter of the United Nations*, Article 2.7, provides that "nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state [...]".

³ The Secretariat of the Organization for Security and Co-operation in Europe, *The OSCE Handbook*, Vienna, OSCE Press and Public Information Section, ³1999, 11. The CSCE became the OSCE on 1 January 1995.

⁴ "Secretary General Presents His Annual Report to the General Assembly", General Assembly, 20 September 1999, in: http://www.un.org/News/press/docs/1999/statements_search_full.asp?statID=28, accessed 25 September 2011.

climate of the perception of states and their relations to their peoples that the International Commission on Intervention and State Sovereignty (ICISS) released their report⁵ in December 2001. Now generally referred to as *The Responsibility to Protect (R2P)*, the document became UN policy when it was embraced by the Report of the Panel on United Nations Peace Operations,⁶ and the ‘new norm’ was endorsed by 150 members of the General Assembly in September 2005.⁷

Despite these brave words, the sad fact is that the UN, and most regional organizations, are not yet prepared to move beyond an innate and overriding concern for the sovereignty of member states. Weight is added to this reluctance to intervene internally in the affairs of states by a traditional and equally weighted concern for consent, especially of the ‘hosts’, to a peace operation or an intervention of any kind. Indeed, the issues of consent, domestic jurisdiction, and sovereignty have fused into an almost immutable inertia of rest. This tendency to inaction is exacerbated by another tradition, which is that international and regional organizations do not criticize their members. According to Madeleine Albright, the response of the Burmese government to the tragedy of Cyclone Nargis and the world’s apparent acceptance of the Burmese rulers’ failure to protect their own people, “illustrate[s] three grim realities today: totalitarian governments are alive and well; their neighbors are reluctant to pressure them to change; and the notion of national sovereignty as sacred is gaining ground [...]”⁸.

Nations are rightly wary of the unintended consequences of well-meant actions: Those contemplating a non-consensual intervention are often vividly reminded that an invasion may well precipitate the final collapse of a fragile or a faltering state. The situation in Iraq today is not the first recent demonstration that a society without a tradition of democratic government will likely have a very low and extremely fragile indigenous capacity for governance. They may more readily resort to guns than ballots, the responsibility to rebuild might well be enormous in scope, and the rebuilding may be violent from the outset and greatly protracted. M. Albright asserts that such interventions – especially in Haiti and in the Balkans – would seem impossible in today’s climate. She also blames the clumsiness and apparent failure of the US intervention in Iraq for the resurgence of sovereignty as an impediment to intervention. Altogether the factors mentioned have resulted

⁵ Gareth Evans – Mohamed Sahnoun, *Report of the International Commission on Intervention and State Sovereignty*, Ottawa, The International Development Research Centre, 2001, in: <http://www.idrc.ca>, no longer available.

⁶ *Report of the Panel on United Nations Peace Operations*, in: http://www.un.org/peace/reports/peace_operations/docs/summary.htm, accessed 25 September 2011.

⁷ Samantha Power, *Chasing the Flame: Sergio Vieira de Mello and the Fight to Save the World*, London, Allen Lane, 2008, 365.

⁸ Madeleine K. Albright, “The End of Intervention”, in: *The New York Times*, 11 June 2008, <http://www.nytimes.com/2008/06/11/opinion/11albright.html>, accessed 25 September 2011.

in what can today only be called 'Failure to Protect'. Domestic jurisdiction has become, to paraphrase Dr. Johnson, the last refuge of the modern scoundrel.

A system which aims to maintain international peace and security will resemble a system which aims to maintain law and order. The forces of law and order normally consist of three pillars: crime prevention, law enforcement, and a judicial system, and these will be provided under the laws of the land. The maintenance of international peace and security also consists of three pillars: conflict prevention, peace enforcement, and a judicial system, and these are provided under the Charter of the United Nations. However, the issues of consent, state sovereignty, and domestic jurisdiction have overlain the issues of the preservation of international peace and security to the extent that the United Nations is too often forced to negotiate issues of malfeasance with the malefactors. There is not a justice system anywhere else in the world that negotiates with suspected criminals how – or if – the laws will be enforced. The last refuge of scoundrels is well defended, but under the right conditions it might be breached. In this paper I will discuss these and related issues in the course of three thumb-nail sketches, in which the consent issue will be a central theme:

- Rwanda 1994: Failure to Protect
- Darfur 2006-2007: Sovereignty vs. Protection
- Zimbabwe Today: Failure to Prevent.

Later in the paper I will discuss alternatives to military intervention and review the prospects for and the potential modalities of sanctions under Article 41 of the Charter. As background for this I will summarize the diplomatic activities in the lead-up to the 1936 and 1980 Olympic Games, and the Anti-Apartheid Campaign against the government of South Africa, which lasted from about 1960 to 1990. I will then suggest how similar interventions not involving the use of armed forces might be invoked in the cases of Sudan and Zimbabwe. In December 2001 the then Secretary-General of the United Nations, Kofi Annan, said in his Nobel Lecture,

In this new century, we must start from the understanding that peace belongs not only to the States or peoples, but to each and every member of those communities. The sovereignty of States must no longer be used as a shield for gross violations of human rights.⁹

It is the intention of this paper to examine why this is not effective international policy today, and to suggest how it might become so.

⁹ Kofi Annan, "Nobel Lecture", in: http://www.nobelprize.org/nobel_prizes/peace/laureates/2001/annan-lecture.html, accessed 25 September 2011.

Keeping the Peace

The Consent Issue

As Ingrid Lehmann puts it, “in the new, complex operations, consent implies popular support *or acquiescence*, even in non-democratic or transitional societies”¹⁰. She distinguishes between at least three areas in which consent – i.e. general support for a peacekeeping operation – should exist: in the countries in which the UN force is deployed; in the troop-contributing countries; and in the countries that pay the largest share of the bill for peacekeeping. It is the first aspect of consent, that of the hosts, with which we will principally be concerned, although the consent of the potential troop contributors has become important as well.

The issue of consent as a factor in launching and maintaining an intervention arose with the first peacekeeping operation of the United Nations Emergency Force. This Force was confronted with all aspects of the consent issue mentioned above (though the issue was first and foremost the consent of the ‘hosts’), and the quick-fix solutions that were applied to the problems at the time almost inadvertently became doctrine. The jumble of ad hoc doctrines which thus arose contributed much to the failure to prevent and to protect in Rwanda in 1994 – a failure which is being repeated today in Darfur and in Zimbabwe. However, in the latter two cases, there has been added the issue of Security Council consent, as China has continually threatened to use her veto in matters affecting her clients, which include Rwanda, Sudan, and Zimbabwe.

Rwanda 1994 – Failure to Protect

*You should make every effort not to compromise your impartiality or
to act beyond your mandate [...]*
Department of Peacekeeping Operations Direction to Commander,
UNAMIR, April 1994

The entire and entirely disgraceful story of the genocide in Rwanda need not be retold here. Equally, the shifting mandates, structures, and (in)effectiveness of the UN forces in Rwanda – the scene of one of the sorriest chapters in the life of the UN – have been adequately and eloquently described elsewhere. “After Rwanda”, wrote Stephen Lewis, “the world doesn’t look the same.”¹¹ After laying the blame for inaction squarely at the feet of France, the United States, Belgium, and the Catholic

¹⁰ Ingrid A. Lehmann, “Peacekeeping, Public Perceptions, and the Need for Consent”, in: *Canadian Defence Quarterly* 25, 2 (December 1995), 18 (17-19) (italics added).

¹¹ Stephen Lewis, “After Rwanda, the World Doesn’t Look the Same”, in: *The New York Times*, 10 July 2000, <http://www.nytimes.com/2000/07/10/opinion/10iht-edlewis.t.html>, accessed 7 February 2010.

Church, Lewis adds that, “[i]f there is one exemplary human being in all of this, it’s General [Romeo] Dallaire”, the Canadian UN Force Commander in Rwanda.

Nevertheless, one aspect of the events in Rwanda and around the world in 1994 still has not been fully explored, and that is the small family of issues surrounding the question of consent to the operation, and the specific role played by the Permanent Representative of Rwanda from his country’s seat on the UN Security Council. For this purpose, we can take up the story with the inception of United Nations Assistance Mission for Rwanda (UNAMIR) II, the successor to what was actually the second UN mission to Rwanda in two years. UNAMIR itself was created on 5 October 1993 (UNSCR 872 [1993]), from the original United Nations Observer Mission Uganda-Rwanda (UNOMUR). Following the shattering events of early 1994, which culminated in the withdrawal of the Belgian Contingent on 19 April, the UN polled 42 prospective troop contributors, with not one positive response. In Bosnia a year later, Richard Holbrooke encountered the same reluctance of potential troop contributors, especially the US, and observed that these were the scars left by Vietnam and Somalia, which he called the Vietmalia Syndrome.¹² These instances showed, neither for the first nor the last time, but decisive in these cases, the importance of the consent of the troop contributors.

With the strength of UNAMIR sharply reduced and no prospect of reinforcements, on 21 April the Security Council adopted Resolution 912 (1994), reducing UNAMIR’s strength from 2359 to 270. Such a force, really merely a ‘presence’, was inadequate to deal with the severe humanitarian situation which was now reaching crisis proportions. Therefore on 13 May the Security Council adopted Resolution 918 (1994), expanding the Force again to 5500 military personnel, and UNAMIR II was born. There were two ancillary aspects to this UNSCR which were to be of greater importance, especially for the consent issue: UNSCR 918 authorized UNAMIR II as a Chapter VI peacekeeping operation, which means that after and despite hundreds of thousands of murders of Rwandans and of ten Belgian UN soldiers, this was still to be a traditional consensual peacekeeping operation. The SCR also strongly urged all parties to cease any incitements, especially through the mass media, to violence or ethnic hatred. That these two points of the mandate might be in conflict seems to have occurred to no one at the time.

As early as April 1993 a report by the “Special Rapporteur on extrajudicial, summary or arbitrary executions” noted the “pernicious role” of Radio Rwanda “in instigating several massacres”¹³. Shortly thereafter, in the summer of 1993, Radio

¹² Richard Holbrooke, *To End a War*, New York–Toronto, Random House, 1999, 217.

¹³ Ingrid Lehmann, *Peacekeeping and Public Information: Caught in the Crossfire*, London, Frank Cass, 1999, 95.

Rwanda helped to found the soon-to-be-infamous radio station Radio-Télévision Libre des Mille Collines (RTLM), otherwise known as Radio Mille Collines.¹⁴ RTLM was quickly at work, spreading disinformation, calling for the murder of Tutsis and moderate Hutus, threatening Belgian peacekeepers, and launching personal attacks on the UN Force Commander.

Dallaire, then Force Commander, has stated that he should have been given the capacity to jam RTLM and to thus prevent it from further incitements. Ingrid Lehmann quotes a Canadian historian, Frank Chalk, as saying that Dallaire was denied this capacity by both the UN and by the Canadian Government.¹⁵ In fact, Dallaire informed the Canadian National Defence Headquarters, around May of 1994 and shortly after the birth of UNAMIR II, that he would make this request to the UN. At that time, the HQ installations and operating personnel for UNAMIR were drawn from 1 Canadian Signals Regiment of Kingston, Ontario. A sub-unit of that Regiment that had not been deployed was 2 Electronic Warfare Squadron, which had exactly the capability Dallaire needed. RTLM could be denied any transmission capacity, bloodlessly and without any risk. The Joint Staff of the Canadian National Defence HQ reviewed the request positively, but under the rules as they were then played, Canada could only act on a request from the UN. Such a request was never made.

The arguments against jamming hate radio were, in essence, that it was politically dangerous, that it was inappropriate for the United Nations to conduct what might be considered political censorship (as though RTML's message would be allowed in any normal society, and forgetting altogether that the Security Council had in its resolution urged all parties to refrain from just such traffic), and that it would be better for the UN to establish its own station with its own message (which it did not do until February 1995, nearly nine months after Dallaire's request for jammers had been jammed by the UN). Besides this, there was that inherited conservatism arising from the fact that this was still a Chapter VI – consensual – peacekeeping operation. That the Canadian squadron, which probably would have been made available upon a UN request, is titled an Electronic Warfare Squadron (the Russian equivalent unit title is Radio Electronic Combat) doubtless also caused much unease among peacekeeping theologians. The consent issue was still a *sine qua non*, even if there was no one of whom to request consent except the perpetrators themselves. Nevertheless, the matter of consent was not, even when set against successful incitement to genocide and to the murder of UN peacekeepers, one that the UN was prepared to set aside.

¹⁴ Lehmann 1999, 95.

¹⁵ Lehmann 1999, 95.

There is one more factor contributing to the world's inertia in 1994: the presence of Rwanda on the Security Council in the first half of that year. When on 13 May 1994 the Secretary-General made his recommendations to the Security Council, which *inter alia* recommended the deployment of UNAMIR II with a troop strength of 5500, the draft finally accepted as UNSCR 918(1994) on 17 May included an arms embargo on Rwanda, which Rwanda voted against.¹⁶ This raises the issue of the continuing membership in such a body of such a clearly conflicted party as the 'government' of a failed or a faltering state. Rwanda was represented on the Security Council by the Habyarimana government from January 1994, and their Delegate was present at all Security Council deliberations from that point. As the Independent Inquiry noted:

In effect, one of the parties to the Arusha Peace Accords had full access to the discussions of the Security Council and had the opportunity to try to influence the decision-making in the Council on its own behalf. That a party to the conflict on the agenda of the Council, which was the host country of a peacekeeping operation, later subject to an arms embargo imposed by the body of which it was a member, shows the damaging effect of Rwanda's membership on the Council.

The damage was evident in the actions of the Rwandan representatives on the Security Council during this period. Both Secretariat officials and representatives of Members of the Council at the time have told the Inquiry that the Rwandan presence hampered the quality of the information that the Secretariat felt it possible to provide to the Council and the nature of the discussion in that body.¹⁷

In fact, as the Independent Inquiry noted in its conclusions, Article 27 (3) of the Charter stipulates that "a party to a dispute shall refrain from voting" in the Council. Therefore Rwanda should not have voted on these issues at all. Further, the Inquiry recommended that consideration be given to "suspending the participation of [...] a member state on the Council in exceptional circumstances such as that related to Rwanda" and that these difficulties "should also be borne in mind when electing new non-permanent members to the Council"¹⁸.

The age of intrastate conflicts brought increased concern for domestic jurisdiction and its partner issue, state sovereignty. The increasing incidence of state failure, along with the frequency of the state as the malefactor, merely tightened the inertia of the international community and its members. Clearly, the restricting factors of consent, by the 'hosts' as well as by the troop contributors, and the involvement of a party to the conflict in the process of the conflict management, were major causes of the failure to protect in Rwanda. We will now see what progress has

¹⁶ *Report of the Independent Inquiry into the Actions of the UN during the 1994 Genocide in Rwanda*, S/1999/1257 (English), 16 December 1999, 24.

¹⁷ *Report of the Independent Inquiry 1999*, 50.

¹⁸ *Report of the Independent Inquiry 1999*, 58.

been made since by considering the responses, international and regional, to events in Darfur since 2006: Will it be never again, or yet again?

Darfur 2006-2008: Sovereignty vs. Protection

*This is the greatest concentration of human suffering in the world
and an outrage that affronts the world's moral values.*
Penny Lawrence, Oxfam¹⁹

In Sudan, it has of course been ‘yet again’ – in the five years from 2003 to 2008 at least 300,000 died and more than 2.75 million were forcibly displaced. In Sudan and in the Darfur region of Sudan we have seen most clearly the ongoing struggle between national sovereignty, domestic jurisdiction and ‘host’ consent on the one hand, and a clear case of the responsibility to protect on the other. The conflict has spread into neighboring Chad and the Central African Republic, especially the former, where the Janjaweed have pursued refugees from Darfur well beyond the international border. Meanwhile, the Sudanese government has successfully fended off international action in a case which entirely justifies the full weight of the international community’s responsibilities.

In a special article written for the *Washington Post* and appearing on 26 January 2007, Lee Feinstein, the author of *Darfur and Beyond: What is Needed to Prevent Atrocities*, observed that

[m]ore than a year ago the United Nations adopted the “responsibility to protect.” The General Assembly’s endorsement of this revolutionary principle removes blind reverence for national sovereignty as an excuse to look the other way when innocents are being wiped out. In elevating this principle, the nations of the world said that they prioritize the right of people to live over the right of states to do as they please. The question now is whether this pledge was humanitarian hypocrisy, or did they have something in mind?²⁰

Feinstein concluded that “[u]niversal adoption of the responsibility to protect has begun to remove the classical excuses for doing nothing in the face of mass atrocities. What is needed now is the capacity and the political will to back it up.”²¹ United Nations peacekeeping operations in Sudan commenced on 24 March 2005 with the creation of UNMIS, actually a peace enforcement operation acting under Chapter VII of the Charter. Despite opposition by the Sudanese government, downplaying the seriousness of the situation and citing the need to respect their

¹⁹ “Oxfam Appeals for Aid for Darfur”, BBC News, 16 April 2007, in: <http://news.bbc.co.uk/2/hi/6559333.stm>, accessed 9 February 2010.

²⁰ Lee Feinstein, “Beyond Words: Building Will and Capacity to Prevent More Darfurs”, in: *The Washington Post*, 26 January 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/01/25/AR20070125012501250.html>, accessed 8 February 2010.

²¹ Feinstein 2007.

sovereignty, in August of that year UNMIS' mandate was expanded to include security in Darfur and on the borders with Chad and the Central African Republic. Very little concrete action was taken by the Force, as Sudan continued to resist the implementation of the mandate, contested the scope of the emergency, and debated the role and the equipment of the UN Force.

In 2007 the initiative seemed still to rest with the Sudanese government, which continued to withhold its consent on major issues of the operations of the Force, and to insist on their domestic jurisdiction over events in Darfur. In addition, the Sudanese government continued to commit and to support acts of violence in Darfur and in the border regions. These acts included shipment of military supplies and equipment in Sudanese Air Force aircraft disguised as A.U. and UN planes, aerial attacks on farming villages, and attacks on international aid workers and peacekeepers. Throughout 2008 the Sudanese government continued to exercise what it perceives to be its sovereign right to obstruct and to oppose the deployment of UNAMID, withholding its 'consent' to Force composition and structure and to the freedom of movement of the Force, and has continued to support and to sanction violence against civilians. Three men accused of humanitarian crimes have even been appointed to senior positions in the Sudanese government.

The Indictments: Peace without Justice?

On 27 February 2007, prosecutors of the International Criminal Court at the Hague, after 20 months of investigation, indicted two men suspected of atrocities in Darfur. One was the deputy minister of Sudan for humanitarian affairs, who had at the time of events for which he was to be held accountable, been in charge of Sudan's military, police and intelligence forces in Darfur. Indicted with him was the militia leader who had "led fighters in a brutal campaign of violence against civilians"²². The Sudanese minister of justice said that Sudan did not recognize the court's jurisdiction, would not hand over anyone, and would conduct its own trials as it considered appropriate.²³

In June of 2008, the ICC indicted the president of Sudan, Omar al-Bashir, charging him with war crimes, crimes against humanity, and genocide (the latter charge was dropped from a revised indictment due to lack of evidence, but may be reinstated if evidence becomes available later). Almost immediately there were calls for the Security Council to defer the indictments, which upon majority vote it may do for renewable periods of one year. It was argued that the point had been made, but that a deferral would somehow facilitate a solution to the conflict.

²² Marlise Simons, "Two Face Trials at the Hague over Darfur Atrocities", in: *The New York Times*, 28 February 2007, <http://www.nytimes.com/2007/02/28/world/africa>, accessed 31 January 2010.

²³ Simons 2007.

Others supporting the deferral feared that a fragile cooperation would break down utterly, and that the violence and threats to the peacekeepers and international workers would increase to the point that they would face unacceptable dangers, and would have to cease their operations.

Nevertheless, on 4 March 2009 the ICC issued an arrest warrant, intended to execute the indictment of al-Bashir from the previous year. From that moment, all 108 states signatory to the Rome Treaty (by which the ICC was founded) were bound to assist in bringing him to justice. Within hours of the indictment, at least 13 of the main (and mainly western) relief NGOs were ordered to leave the country within 24 hours. Those agencies employed 6,500 workers, and served a population estimated at 4.7 million persons. Overall, it was said that about 50% of all aid deliveries in Sudan were affected. It seemed, at close range, that the worst fears of those counseling a deferral, had been realized.²⁴

Today in the Sudan, peacekeepers and aid workers continue to be targeted and intimidated: On 10 March 2009, four peacekeepers were wounded and on 12 March 2009 three MSF staff were kidnapped; the number of violent assaults on peacekeepers in the first two months of 2009 exceeded those for all of 2008. Those agencies which have been forced to withdraw lost all their equipment, as computers, essential data, and communications equipment were seized – clearly with the goal not only of driving out the internationals, but further making it very difficult for them to return. As described in *The Economist*, those who seek deferral on the grounds that this will “upset the ‘peace process’ in Darfur [...] would have a reasonable point, if there were indeed a genuine peace process under way which the indictment would jeopardise”²⁵. Clearly, there is no such thing in Sudan today. Just what climate of cooperation and progress are the deferral advocates hoping for from the Sudanese government under this leadership? The ‘Last Refuge of the Scoundrel’ has been under much pressure in Sudan, but has not yet yielded, as the international community continues to bargain with the perpetrators of misdeeds to cease their behavior and to allow the peace to be enforced. The regional community remains largely passive in their observance of conduct which,

²⁴ We have however heard before that the arrest of a top dog might jeopardize the peace process, especially in the cases of S. Milosevic, R. Karadzic, and R. Mladic. In 1998 the US dropped well developed plans to seize the latter two, citing fears of a bloodbath and a renewal of Serb aggressions. Then as now, we were clearly addressing ourselves to ruthless criminals who had never shown the slightest desire or intention to cooperate with any international organization, and had never for one moment entered in good faith into any negotiations. And as for deferrals, Karadzic and Mladic were indicted in July 1995 for just those war crimes and crimes against humanity now charged upon al-Bashir, plus, in the cases of Karadzic and Mladic, kidnapping and holding hostage UN peacekeepers. Warrants for their arrest were issued almost immediately, yet Karadzic remained at large until 2008 and Mladic until 2011.

²⁵ “Compounding the Crime” (Editorial), in: *The Economist*, 12 March 2009, <http://www.economist.com/node/13278209>, accessed 25 September 2011.

as they may be on the verge of realizing, shames them just as it does all those who profess a responsibility to protect.

Zimbabwe Today – The Failure to Prevent

What has sustainable development to do with human rights?
Boniface Chidyausiku, Zimbabwean Ambassador to the UN

Zimbabwe, once one of the wealthiest and most productive states in Africa, is now an utterly failed state. In 2003 their own social welfare ministry admitted that 63% of the rural and 53% of the urban populations could not meet basic food and non-food requirements. Since then, malnutrition among children has risen by 35%, the number of those without health care has increased by 35%, H.I.V./AIDS affects nearly one fifth of the population, unemployment stands at more than 80%, and life expectancy is 36.²⁶ Nearly a fourth of the population (some 13 million before 2003) has fled the country, and more than 1,000 join them each day: It is called 'Mugabe's Tsunami', and it has unleashed a wave of xenophobic violence which has finally gained the attention of the South African government. Inflation in Zimbabwe is 100,000% and rising. Typically, R. Mugabe, who has ruled the country since 1980, blames colonialism, sanctions, and racism, but it is he and his government of thugs who have brought these disasters on their people – white *and* black. His seizing of white-owned commercial firms and farms, his expulsion of 750,000 slum dwellers from cities to suffer unrelieved exposure and malnutrition, and his extraordinarily brutal suppression of dissent, which includes legal political opposition parties and trade unions, have made him one of the world's leading lords of misrule.²⁷ What is to be done? More sanctions will only further damage people whose capacity for suffering cannot have much further to go. African leaders have so far refused to criticize Mugabe. In neighboring countries, streets, theaters and stadiums still bear his name, and among those who have not had to suffer under him there is a not-so-sneaking admiration for his dispossession of the largely white farmers and entrepreneurs who contributed so much to the prosperity which, along with three million people, has now fled.

Recently, an avenue of diplomatic intervention by the EU has been recalled: In June 2000 the EU signed the Cotonou Agreement with the African, Caribbean, and Pacific (ACP) states which relates to democratic principles which are the basis for European relations with African states. Signatories to the Agreement are 26 EU and 69 ACP countries, including South Africa, Sudan, and Zimbabwe. Acting under Article 8 of the accord, the EU in 2002 imposed sanctions on the

²⁶ "The Agonies of Zimbabwe" (Editorial), in: *The New York Times*, 9 December 2006, <http://www.nytimes.com/2006/12/09/opinion/09sat4.html>, accessed 25 September 2011.

²⁷ Cf. also Douglas Rogers, "Zimbabwe's Accidental Triumph", in: *The New York Times*, 15 April 2010, <http://nytimes.com/2010/04/15/opinion/15rogers>, accessed 25 September 2011.

Zimbabwean government which included restrictions on travel and freezing of their assets. And then, on 19 April 2008, while the Security Council was in session in New York, the Chinese freighter *An Yue Jiang* arrived and anchored off Durban to await a berth. The ship, which had left China on 15 March and without the necessary permits to enter its port of destination, was said to contain three million rounds of AK 47 ammunition, 1500 rocket-propelled grenades and 3000 rounds of mortar ammunition and mortars, all addressed to Zimbabwe. A South African government spokesman stated that it would be “very difficult”²⁸ for South Africa to intervene in the shipment. It was almost immediately made clear that in fact the logistics branch of the South-African state-owned armaments firm, Armscor, was preparing to transship the weapons and ammunition, that the Defense Secretary had issued a conveyance permit for transit of the items through South Africa, and that a government inspector had been dispatched to Durban to conduct safety checks on the cargo as soon as the ship docked. Questioned about the South African Development Community’s policies discouraging shipment of armaments to conflict areas,²⁹ a South African government spokesman replied that he could take no account of “allegations”³⁰. However, Durban dockworkers refused to handle the cargo of the *An Yue Jiang*, the High Court overruled the Government’s permission for the transshipment and the *An Yue Jiang* upped anchor and sailed away. It was later reported that *An Yue Jiang* was allowed to land in Angola, and that the arms were subsequently transferred to Zimbabwe. The neighbors far and wide who have done nothing to prevent this situation from arising, and still less to protect Zimbabweans from the meltdown, have by their inaction given new meaning to the term ‘helpless’: having been of absolutely no help at all. As this ignoble story unfolds, one can only hope that Zimbabweans will not have to depend on the international ‘community’ to exercise that third element of R2P: the responsibility to rebuild.

Zimbabwe is in free fall. Every indicator is terrible and worse is surely in store. Sanctions as usual have not worked, and quiet diplomacy – Morgan Tsvangirai has called it “quiet approval”³¹ – merely plays into the hands of a brutal dictatorship. The quiescence of the African Union and of the S.A.D.C. discredits both a regional and a sub-regional organization, which together ought to be the best hope for the continent with the worst human rights record in the world. Their tolerance is turned

²⁸ Celia W. Dugger, “Zimbabwe Arms Shipped by China Spark an Uproar”, in: *The New York Times*, 19 April 2008, <http://www.nytimes.com/2008/04/19/world/africa/19zimbabwe.html>, accessed 19 April 2008.

²⁹ The question referred to the *Protocol on Control of Firearms, Ammunition and Other Related Materials*, cf. <http://www.sadc.int/english/documents/legal/protocols/firearms.php#1>. Nine African nations, including South Africa and Zimbabwe, are members of the SADC and signatories to this protocol.

³⁰ Sam Dole, “Armscor in Role in Arms for Zimbabwe”, in: *Mail and Guardian online*, 18 April 2008, <http://www.armsdeal-vpo.co.za/articles13/zimbabwe.html>, accessed 25 September 2011.

³¹ Douglas Rogers, *The Last Resort*, New York, Harmony Books, 2009, 184.

into tacit support for odium. *Ad hominem* responses to criticism, blaming all the country's ills on history, as if all the problems of Zimbabwe arose elsewhere and long ago, are a revealing self-commentary on nearly thirty years of post-colonial independence. So far into this sad and sadly familiar tale, the prevention tool box seems almost empty. Clearly, more, and more direct, pressure from international and from regional organizations is needed. The rewards of office, the international loans, and the tolerance of the neighbors must be ended. There is almost nothing which might be done which would be worse than doing nothing.

Measures Not Involving the Use of Force

The preventive and protective measures discussed thus far have been those described under Article 33 of Chapter VI of the Charter, which prescribes that the parties to a dispute shall seek a solution by “peaceful means of their choice”. Failing that, in accordance with Chapter VII, Article 42, the Security Council may take military action to maintain or to restore international peace and security. Indeed, it is principally military action which is envisioned in R2P; Chapter VII of the document, “The Operational Dimension”³², speaks of little else. Yet it is just these measures that are so expensive, intrusive, risky, and contentious that it is small wonder they are so rarely either timely or effective – or used at all. The three cases cited in the first part of this paper show how this has been the case in the 20th century, and how little has changed since.

Despite the ‘endorsement’ by the General Assembly in 2005, it is quite unrealistic to expect that the United Nations will ever exercise a quasi-imperial power over ‘dominions’, the sort of power, for example, which the United States government might exert over several states – and did in Arkansas in 1957 and in Alabama

³² The R2P report states, under the heading, “The Meaning of Intervention”, that “[t]he kind of intervention with which we are concerned in this report is action taken against a state or its leaders, without its or their consent, for purposes which are claimed to be humanitarian or protective. By far the most controversial form of such intervention is military, and a great part of our report necessarily focuses on that” (paragraph 1.38). Thomas Weiss, who was the research director for the International Commissioners, has described R2P in the newsletter of the Academic Council on the United Nations as “[...] a worthwhile effort to take a snapshot of issues surrounding non-consensual international military action to foster human values”. Cf. Thomas Weiss, “Teaching and Researching the Responsibility to Protect”, in: *ACUNS Informational Memorandum* 60 (Summer 2004), 3. Chapter VII of the R2P is entitled “The Operational Dimension”; its headings are: Planning for Military Intervention; Carrying Out Military Intervention; Following Up Military Intervention; A Doctrine for Human Protection Operations. At least one of the Commissioners of the R2P is seeking to distance himself and the report from its military denotations, criticizing “those who play into the hands of the ideological critics [...] by being far too ready to think of R2P situations only in military terms” (cf. Gareth Evans, “Gareth Evans Offers Five Thoughts for Policy Makers on R2P”, 13 April 2007, in: <http://www.responsibilitytoprotect.org/index.php/eupdate/932>, accessed 26 September 2011).

in 1963.³³ Who can imagine the Security Council finding the governance of a member so objectionable that it would ever use military force to effect regime change, or even modification? What international instrument or body might under any circumstances authorize such measures? Clearly, the United Nations will never act as did the Americans (with their small array) in Iraq in 1999 and in 2002. *Prescriptive* the policy might be; *descriptive* it clearly is not; *normative* some might wish it to be – but who, especially among the P5, genuinely hopes for this to be?

Fortunately, there is another way. Article 41 of Chapter VII of the Charter provides that

[t]he Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic radio and other means of communication, and the severance of diplomatic relations.

Since Article 42, on the use of armed force, begins by stating that those military measures may be taken “should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate”, it is especially surprising that R2P only superficially discusses action under Article 41. The introduction (Chapter I, paragraph 1.37) states that “[b]y far the most controversial form of such intervention is military, and a great part of our report necessarily focuses on that”. Chapter III, paragraph 3.3 describes briefly non-military preventive measures, and Chapter IV expands slightly on these, especially in paragraph 4.9. However, Chapter VII, “The Operational Dimension”, is, as I have already said, almost entirely about military intervention (there is no *direct* reference in the Report to any Articles of the Charter). The drafters of the R2P are indeed backing away from the apparent harshness and thus the impracticability of the measures they seem to have advocated: Gareth Evans, in an interview with the German *Stiftung Entwicklung und Frieden* [“Development and Peace Foundation”] has expressed his regret that “[t]here will always be those who, for cynical reasons of their own, will want to caricature R2P as being only about military intervention, as indistinguishable in that respect from ‘humanitarian intervention’”³⁴.

The issue of sanctions has received much attention lately. Interdiction of supplies and of transportation generally just does not work, especially on governments whose disregard for their people is the source of the conflict such measures are intended to ameliorate. Material sanctions too often only increase the misery of

³³ In both cases, the federal government forced a defiant state government to accede to school integration. In Arkansas, federal armed forces were deployed; in Alabama, federal marshals were sent in.

³⁴ Gareth Evans, “The Responsibility to Protect (R2P)”, in: *SEF News* (May 2008), <http://www.gevans.org/opeds/oped91.html>, accessed 26 September 2011.

the huddled masses. There have been discussions of making sanctions ‘smarter’, to target governments and not people – the Oil-for-Food Program was an attempt to do just that. Oil-for-Food probably achieved about what was expected of it, but it is unlikely that a similar program of managing sanctions will ever again be attempted.

However, *diplomatic sanctions*, as provided for in Article 41 of the Charter, could be applied without injurious collateral effects. An offending government should, upon due process, most suitably by the Security Council, but also by the regional organization, ideally by both in concert, be banned from all non-material international and regional interactivity. This could include exclusion from the Bretton Woods institutions, as well as from all military, athletic, and cultural associations and activities. Patrons should be held responsible for the actions of their clients. The offending state, client, and/or patron should be diplomatically, culturally, and militarily sealed, and anyone who dealt with them in any of these milieus should themselves be subject to sanction. There are several advantages to such non-material, diplomatic sanctions:

- They are precise and intelligent sanctions, which do not materially affect the peoples’ health or welfare, but will have their effects on the targeted governments.
- They can be enacted by the Security Council, by regional, or by non-governmental organizations. Sanctions can be effected by governments or by NGOs, acting in company or unilaterally. They can also be enacted by completely unofficial organizations, such as athletic unions and associations, as well as by individual protestors. These may act in concert or wholly independently. Inaction at one or more levels does not mean no action at all.
- They are an ideal intersection of Track I (official) and Track II (unofficial) diplomacy although, as will be seen, Track II diplomacy is usually only effective as an adjunct to Track I measures.
- They reach the people no matter how their governments may try to obscure or distort the news, and scape-goating the outsiders usually will not work either.
- No blood is shed, no risks are run, there is generally little or no expense to those effecting the sanction. The unintended consequences are less likely to occur, especially since there has been no invasion; no foreign soldiers; no occupation.
- These sanctions would be contagious: Any violators of the sanctions would themselves be subject to the sanctions regime.

In the 20th century there were in fact several attempts at diplomatic sanctions. Three of the best known are the threatened boycott of the ‘Nazi Olympics’ of 1936, of the Moscow Olympics of 1980, and the campaign against apartheid in South Africa.

The general lesson from these cases is that, where official (Track I) and unofficial (Track II) diplomacy act in concert, success is possible; where they do not, Track II alone will usually fail. A massive international movement to boycott or relocate the 1936 Olympics was supported by no government in the world – in England, the most vociferous opponent of a boycott was Harold Abrams, the scion of a prominent Jewish family, a Gold Medalist at the 1924 Olympics (and, much later, portrayed as the hero of the movie *Chariots of Fire*); and the Games played on. The Moscow Olympic boycott was very emphatically directed and led by the government of President Jimmy Carter. The United Kingdom, France, and Greece, while officially supporting the boycott, allowed their nationals to compete as individuals; athletes from at least 15 boycotting nations, 170 of them from the UK, did so. President Carter announced that any US athletes attending the Moscow Olympics would have their passports seized – no US athletes attended. Officially, only 81 of 147 accredited nations attended the 1980 Olympics. In the case of the anti-apartheid campaign, the intersection of Track I and Track II diplomatic measures was almost seamless. All those organizations and peoples around the world stayed on message and remained determined on their goal for nearly three decades; for all that time, South African ostracism was complete and nearly unexceptional.

What does this mean for the two current crises, Darfur and Zimbabwe, which have been reviewed in the first part of this paper? On 11 April 2006 the US sent an envoy to Sudan to deliver a warning to that government that they would be held accountable for events in Darfur, and that the US was preparing for new sanctions. However, the *New York Times* in reporting this also noted that “the United Nations has proved more recalcitrant on cracking down [...] in part because China, which has extensive business ties to Sudan and generally dislikes the use of sanctions, has blocked multilateral action”³⁵. Sudan has for some years been supported by China, economically, materially, and by the threat of a Chinese veto in the Security Council of any more vigorous measures to compel the Sudanese government to end the violence, and to hold them responsible for their atrocious behavior in Darfur. “For the past two years”, wrote Helene Cooper in the *New York Times*, “China has protected the Sudanese government as the United States and Britain have pushed for United Nations Security Council sanctions against Sudan for the violence in Darfur.”³⁶ China, as was well known by then, has what might mildly be termed ‘extensive’ business interests in Sudan, including significant oil supplies and construction projects. Until that spring of 2006 little had happened to change any of that, but then a whole chain of events finally broke the inertia.

³⁵ Helene Cooper, “U.S. Sends (Another) Warning on Darfur”, in: *The New York Times*, 11 April 2007, <http://www.nytimes.com/2007/04/11/washington/11darfur.html>, accessed 26 September 2011.

³⁶ Helene Cooper, “Darfur Collides With Olympics, and China Yields”, in: *The New York Times*, 23 April 2007, <http://www.nytimes.com/2007/04/13/Washington/13dipl.html>, accessed 26 September 2011.

In March 2007, Mia Farrow initiated a campaign to link the Beijing Games with genocide in Darfur. She persuaded Steven Spielberg to write to the Chinese president, urging that China bear responsibility for the actions of their Sudanese clients. Farrow exerted similar pressure on several Olympic sponsors and various NGOs, and other organizations took up the cries. Then, in the first week in April, China dispatched a senior official who was to persuade the Sudanese government to accept the UN peacekeeping force, and who toured refugee camps in Darfur. "A classic study of how a pressure campaign, aimed to strike Beijing in a vulnerable spot at a vulnerable time, could accomplish what years of diplomacy could not", wrote one observer.³⁷ On 10 May more than 100 US legislators sent China's president a letter warning of disastrous consequences for China's Olympic Games if China did not do more to stop the carnage in Darfur. But this was still essentially Track II diplomacy pushing this envelope alone. Eric Reeves, the author of *A Long Day's Dying* (2007), asks: "Where has the traditional foreign-policy establishment been in pressuring China in relation to the Olympics about Sudan?"³⁸ And a spokesperson for Human Rights Watch has observed that "[p]rivate diplomacy alone does not work"³⁹. The Editorial Board of the *New York Times* has stated that

[...] the United States and its democratic allies have no choice but to hold China to account for how it treats its people. That honors their own core values. It also demonstrates that they will not sit idly by while China – one of five permanent members of the Security Council – mocks commitments it made in the Universal Declaration of Human Rights, the United Nations Charter, its bid to host the Olympics and even in its own Constitution. China must not be allowed to eradicate Tibet's religion and culture any more than Sudan should be able to get away with genocide in Darfur.⁴⁰

Nevertheless, it is still largely the case. Efforts to link the government of China to actions by the government of Sudan – letters to the Chinese government by Mia Farrow and Steven Spielberg⁴¹, the activist articles of Nicholas Kristoff of the *New York Times* – *might have* created the public pressure which *might have* had some effect on events in Sudan. But this was Track II diplomacy which, while laudable, is seldom effective in the absence of Track I actions, and it is these latter official, political, and international measures which were almost totally

³⁷ Cooper, <http://www.nytimes.com/2007/04/13/Washington/13dipl.html>, accessed 26 September 2011.

³⁸ Eric Reeves cited in Ian Greenberg, "Changing the Rules of the Games", <http://chinhdangvu.blogspot.com/2008/03/changing-rules-of-games.html>, accessed 26 September 2011.

³⁹ Cited in Greenberg, <http://chinhdangvu.blogspot.com/2008/03/changing-rules-of-games.html>, accessed 26 September 2011.

⁴⁰ Editorial Board, "Holding China Accountable on Tibet", in: *The New York Times*, 28 March 2008, <http://theboard.blogs.nytimes.com/2008/03/28/holding-china-accountable-on-tibet>, accessed 26 September 2011.

⁴¹ In February 2008 Spielberg resigned as advisor to the Chinese government on the opening and closing ceremonies.

lacking or were largely ineffective. Meanwhile, R. Mugabe ‘stole the spotlight’ in Europe and enjoyed the full support of his peers in the African Union; President Bashir continued to haggle and bicker with the UN over the role and structure of UNAMID, exercising full sovereign powers over matters which (he was allowed to assume) were essentially within the domestic jurisdiction of his government, and promoted three of his bloodiest henchmen to prominent posts in that government. South Africa was to host the football World Cup in 2010, and diplomatic sanctions against one or more African teams – such as Zimbabwe or Sudan – could have been devastating. South Africa, like China, has enormous influence in Africa; both could have been made to bear the responsibilities which accompany their influence. We had little confidence this might come to pass: By the time this article is published, the world was hailing the 2010 Football World Cup as being as big a success as the Beijing Olympics.

Conclusions

The promulgation of the doctrine of a responsibility to protect seems to portend a significant shift in the perception of the role of sovereignty, explicitly describing the responsibility of the international community to judge if and to act when sovereignty should be set aside on humanitarian grounds. Nevertheless, there has as yet been no operational manifestation of a paradigm shift in this regard, and no effective intervention has yet been mounted in, for example, Darfur. The Sudanese government has been left to dispute, to block, to refuse to consent to, any useful interventions. The same scenario is also being played out in Zimbabwe. One thing these failures to protect and to prevent have in common are the dispute of the evidential facts by the ‘hosts’, who are in clear point of fact the perpetrators of crimes against their own people. Another is the culpability of neighbors and patrons, as seen by their inability or their unwillingness to restrain the governments of Sudan and of Zimbabwe. The two emergencies’ final common denominator is that only the pressure of international public opinion on local and regional actors has any hope of creating the climate of consent necessary for an intervention. In both cases, external pressure on the lords of misrule has been the result of pressures on their patrons and neighbors, who in the two cases considered here are principally China and South Africa: China supports Zimbabwe and Sudan while South Africa shields them from criticism. Nevertheless, as Fred Hiatt has written in *Washington Post*:

[...] the United Nations has averted its gaze as Sudan’s government continues to ravage the people of Darfur. It has turned away as Zimbabwe’s rulers terrorize their own people. Now it is bowing to Burma’s sovereignty as that nation’s junta allows more than a million victims of Cyclone Nargis to face starvation, dehydration, cholera and other miseries rather than allow outsiders to offer aid on the scale that’s needed. [...] Yet when France reminded the United Nations of its ‘responsibility to protect’, China,

Russia and their ever-reliable voting partner, Thebo Mbeki's South Africa, slammed the door. So tons of aid float just offshore as Burma's generals sleep comfortably in their remote jungle capital and China's rulers can proudly, once again, take credit for defending the principle of national sovereignty.⁴²

If, however, the forceful preventive and protective interventions envisaged in the Responsibility to Protect are ever to be carried out, we would have to be prepared to act without the spontaneous consent of all the conflicted parties, especially when the 'host' government is a party to the conflict. Our prevention and protection toolboxes would have to have in them the means to create consent to the prevention of crimes against the people and, where prevention fails, to effect their protection, using all necessary means. This would be especially difficult where the greatest threat to the people comes from their own government, yet it is precisely where the 'hosts' are the perpetrators of crimes against their own peoples that the international and regional communities would have to be prepared to act forcibly and without the parties' consent. However, the record shows that, to the extent that R2P envisages non-consensual military interventions of the Article 42 type, we deceive ourselves and others in imagining that such global enforcements are the way ahead.

The risks, the costs, and the likelihood of unintended consequences remain as formidable checks to the development of the political will for forceful, non-consensual interventions. If that is what readers of R2P are looking for, and it seems that this is just what we are being encouraged to expect, then we are looking the wrong way. The decade now ending has been little different in this regard from those grisly nineties. Just as did UNPROFOR in 1992, peace forces today are deployed to Darfur lacking adequate funding, vital equipment, mobility, structure, and mandate, because the 'host' will not consent to them. And just as with UNPROFOR, there is today no peace to be kept in Darfur, and there is neither the means nor – more importantly – the will to create one. R2P is not a 'new norm'.

In its effects so far, R2P seems not to be a policy describing what *will be done*; rather it shows tyrants and dictators, and other monsters *what probably will not be done*: the principle of non-intervention *will not* yield to the international responsibility to protect; state sovereignty may *imply* responsibility of a government for the protection of its people *but that does not imply an accompanying accountability* for its failure to do so; state sovereignty is *not* being redefined in any operative sense.

We can take neither pride nor solace in the existence of a policy which proclaims responsibilities we cannot – or will not – honor. The most painful of our sins are

⁴² Fred Hiatt, "In Burma, a UN Promise Not Kept", in: *The Washington Post*, 12 May 2008, http://washingtonpost.com/wpdyn/content/article/2008/05/11/AR2008051101782_p, accessed 26 September 2011.

those of omission – the things we *didn't* do; the promises we *didn't* keep. In that sense, the very existence of R2P actually shames us all, for we have admitted that we *know* better, we maintain that we *have* learned, we *do* know what happened in Rwanda and in Bosnia over a decade ago. Nevertheless, right before our very wide-shut eyes, *never again* is becoming *yet again*.

Given these omissions, then, our only practicable course would seem to be not the hollow promise of military force under Article 42 of the Charter, but “measures not involving the use of force”, as prescribed in Article 41. This is unfortunately *not* what the drafters of R2P seemed to have had in mind, and they have us all looking in the wrong direction – military interventions in sovereign states are no more feasible now than they were in the last century. But aggressive diplomacy, especially non-material sanctions, may yet breach that last refuge of the scoundrel. Of course, these measures do take time – but over two years have already passed in trying to create the host’s consent to the peace force in Darfur, and that consent does not exist today. What might the situation be today if the anti-Beijing Olympic movement had been taken up by Track I diplomacy three or four years ago? And let just one African nation threaten to sanction Zimbabwe and/or Sudan for their egregious violations of human rights, and we would see a dramatic transformation of the African diplomatic landscape, led no doubt by the putative hosts of the 2010 Football World Cup.

Non-material diplomatic sanctions would deprive no one of the essentials for life, but would deprive outlaw governments of their voice and their self-serving defenses. No great all-inclusive momentum is needed to generate such sanctions: concerned nations, organizations, and individuals may join their individual consciences – or not – to express, often with deliberately painful effects on the target of their disapproval, that the conduct of a government is unacceptable to them. The more these voices are in concert, the better, but no one is prevented from expressing moral outrage by appropriate means. Individuals may first act alone, then in larger groups, and may eventually stimulate their and other governments to act – something like this process may now be occurring in the China-Sudan-Darfur triangle.

While it is clear that Track II diplomacy is really only effective when it sooner or later coincides with Track I measures, and that multi-lateral action is stronger than unilateral, the absence of action at one or more of these levels does not preclude action at one or more others. There is in this scenario no stalled Security Council, there is no *conditio sine qua non*. The Zimbabwe situation provides one good example of this: A local NGO has invoked the Cotonou EU-ACP agreement on human rights, calling for stronger action by the EU and the referral of the matter to the UN, thus a local recommendation for action jointly at the inter-regional and the international levels. And what is there to prevent the Secretary-General, acting

under Article 99 of the Charter, from taking this up? Specifically, then, the following measures should be immediately applied to the present governments of Sudan and Zimbabwe:

- acting under Article 41 of the Charter, the UN should impose diplomatic sanctions; these must be respected and enforced by all regional organizations, especially in these two cases, by the African Union;
- membership in the African Union and the United Nations should be suspended;
- all military transactions, arms, training, mentoring of security forces, visits, should be ceased;
- membership in all cultural, athletic, and travel associations should be suspended; and
- the sanctions thus imposed would be contagious, that is, any nation or agency transgressing the sanctions would themselves be subject to the sanctions regime.

In this case neither country would have been allowed to participate in the 2010 Football World Cup. Any nation or association breaking these sanctions would themselves have been subject to the same sanctions. China and Angola would, had such sanctions been in place then, have been sanctioned identically for their support of the sanctioned governments. Sanctions having been emplaced by the Security Council, the Members have in accordance with Article 25 agreed “to accept and to carry out the decisions of the Security Council [...]”. This would thus be a specifically binding ruling. China could of course have exercised her veto, but this might have come at a high and inconvenient price to a Chinese government.

That Last Refuge of Scoundrels Must Become a Silent and Lonely Place in the World

On 10 December 2008, the world celebrated the sixtieth anniversary of the promulgation before the General Assembly of the United Nations of the Universal Declaration of Human Rights. In that same week, we could also have observed the seventh anniversary of the Report of the International Commission on Intervention and State Sovereignty – but we had nothing to celebrate. The stark fact we must instead confront is that, in those seven years and since, not one afflicted person of Myanmar, nor of Darfur, nor of Zimbabwe, has been helped by our new perception of an international responsibility to intervene in the affairs of any state. Little does it matter how dismal, how criminally negligent, those affairs may be: the inertia of domestic jurisdiction, of equal sovereignty of states, and the fear of unintended consequences will yet withstand whatever pressures we may imagine we may bring to bear. We are not superior to those who failed to intervene effectively in Rwanda or in Bosnia. Indeed, our omissions today are greater and more serious

for us than they were in those cases, *precisely because* we have admitted that we understand the need for and the problems of intervention, and we pretend to know fairly exactly what it is that we should do – but have once again, several times again, in fact neglected to do. Are our failures to protect fellow humans chronic? Is this the best we can do – is this the best we can be? Perhaps, if this is all too difficult, if the political will even for non-military intervention in such cases does not exist and cannot be created, if what is to be done is still to be essentially nothing, if peacekeeping missions are to be still-born or mere failures-in-progress, then perhaps we might just as well leave our world as Yeats described it:

Now days are dragon-ridden, the nightmare
 Rides upon sleep: a drunken soldiery
 Can leave the mother, murdered at her door,
 To crawl in her own blood, and go scot-free;
 The night can sweat with terror as before
 We pieced our thoughts into philosophy,
 And planned to bring the world under a rule [...].⁴³

We may not really have a policy, but clearly we do now have some choices to make.

⁴³ William Butler Yeats, "Nineteen Hundred and Nineteen", in: *The Collected Poems of W.B. Yeats*, Hertfordshire, Wordsworth Editions Ltd., 1994, 176.

“Spirits that I’ve cited, my commands now ignore”: R2P and International Society

Franz Eder
University of Innsbruck

Résumé

La responsabilité de protéger (R2P) est une idée noble. Développée dans le contexte des expériences épouvantables du Rwanda et de Srebrenica, la R2P a cherché à mettre définitivement fin aux massacres de masse et aux crimes contre l’humanité. Cependant, comme je vais tenter de le démontrer, le concept est limité par deux aspects importants. Premièrement, bien qu’elle soit décrite comme une ‘norme émergente’, la R2P a jusqu’à présent échoué à convaincre les États de changer leur comportement et de soumettre leurs intérêts nationaux à des intérêts humanitaires et globaux. De plus, ce concept repose sur la capacité des grandes puissances à intervenir; or, il manque précisément à ce concept la capacité de forcer ces mêmes grandes puissances à le faire lorsque cela est nécessaire. De ce fait, la R2P n’est pas, et ne sera jamais, efficace. Deuxièmement, et de manière plus importante, ce concept menace un pilier fondamental de la société internationale, celui de la souveraineté, et pourra porter atteinte à cette souveraineté en tant qu’institution. Un tel développement finira inéluctablement par déstabiliser le système de la Charte des Nations Unies et conduira à la mauvaise utilisation de la R2P comme un cache-misère pour les intérêts des grandes puissances. Pour toutes ces raisons, cette étude soutient qu’il est plus prudent de sacrifier la R2P en échange d’un renforcement du système des Nations Unies et de ses principes fondamentaux.

Introduction

In 2003, reports about deliberate mass killings, systemic sexual violence, and forced expulsions in Sudan once again triggered a hot debate in the scientific community about state sovereignty and the obligation of the international community to intervene in cases of crimes against humanity and genocide.¹ The concept behind this idea of sovereignty as a responsibility and hence the Responsibility to Protect (R2P) has been developed and discussed by political scientists, statesmen, and other experts in international law and politics for years. From Francis Deng’s writings about conflict management in Africa² to the report of the International Commission on Intervention and State Sovereignty (ICISS), the

¹ Cf. Alex De Waal, “Darfur and the Failure of the Responsibility to Protect”, in: *International Affairs* 83, 6 (2007), 1039-1054; Paul D. Williams – Alex J. Bellamy, “The Responsibility to Protect and the Crisis in Darfur”, in: *Security Dialogue* 36, 1 (2005), 27-47.

² Francis M. Deng et al., *Sovereignty as Responsibility: Conflict Management in Africa*, Washington (DC), Brookings Institution, 1996.

UN Secretary General's *High Level Panel on Threats, Challenges and Change*, and the *2005 World Summit Outcome Document*, the limitation of state sovereignty in favor of a responsibility to protect gained a foothold in the scientific discourse and in diplomatic circles.³ Some even described the concept as an "emerging norm"⁴, arguing that it has been widely accepted by the international community and its representatives. It was only a matter of time, so the hope of these proponents, until R2P would become a guiding principle in international relations.

In the course of this paper, I will first argue that R2P is neither an emerging norm, nor is it effective. Some components of this concept have already been incorporated into international customs, whereas others are not accepted (and will not be accepted) by states.⁵ R2P is not an instrument for convincing states to subordinate their national interest to a global one and it cannot force states to comply with its core obligations. Second, and more dangerous in character, by challenging sovereignty as an institution, R2P threatens a key pillar of international society and hence imperils its stability. The concept rests on the assumption that sovereignty expires in certain cases and is passed over to the international community. In the course of this paper I will therefore explain why the International Society approach (also known as the English School) provides a well-suited framework to support the thesis that the core idea of R2P threatens sovereignty as a key institution for co-existence in an anarchic environment. I will conclude by recommending that it would be more prudent to sacrifice the idea of R2P in exchange for strengthening the UN system and its core principles.

Redundant, Toothless

Implicit in many arguments for a right of humanitarian intervention is the suggestion that international law currently prevents interventions that should take place. This is simply not true. Interventions do not take place because states choose not to undertake them. On the contrary, states have frequently intervened for a great many reasons, some of them more humanitarian than others. For those who would seek

³ Cf. Amitai Etzioni, "Sovereignty as Responsibility", in: *Orbis* 50, 1 (2006), 71-85; Carsten Stahn, "Responsibility to Protect: Political Rhetoric or Emerging Legal Norm?", in: *The American Journal of International Law* 101, 1 (2007), 99-120.

⁴ Cf. Gareth Evans – Mohamed Sahnoun, "The Responsibility to Protect", in: *Foreign Affairs* 81, 6 (2002), 102 (99-110).

⁵ Cf. Andreas von Arnould, "Souveränität und *Responsibility to Protect*", in: *Die Friedens-Warte* 84, 1 (2009), 11-52; Christian Schaller, "Die völkerrechtliche Dimension der 'Responsibility to Protect'", in: *SWP-Aktuell* 46 (Juni 2008), 1-8; Stahn 2007; Theresa Reinold, "'Sovereignty as Responsibility?' Die USA, der konditionale Souveränitätsbegriff und das *jus ad bellum*", in: *Die Friedens-Warte* 84, 1 (2009), 101-123.

to establish a law or general ethical principle to govern humanitarian intervention, a central question must be whether it could work in practice.⁶

The history of R2P is a fascinating one. It is a wonderful example of how epistemic communities⁷ and norm entrepreneurs⁸ can shape the discourse and the way of thinking in international relations. Much has been written about R2P's origins and development and I will not trace its development in detail here.⁹ But I will outline the most basic principles of the concept in order to show that some parts of R2P are not that innovative, whereas others are not accepted. The concept, thus, is an object of scientific discourse rather than an emerging international norm.

At the centre of R2P rests the accountability of states to their citizens and the international community.¹⁰ States are not seen as institutions for their own sake, but rather “understood to be instruments at the service of their peoples”¹¹. Deduced from the political thinking of Hobbes and other contractarianists, states derive their *raison d'être* from the protection they can provide their citizens in exchange for the monopoly of power and sovereignty. As Berkowitz rightly states, Hobbes' political theory does not grant states unlimited sovereignty but “sets firm limits on it” by underlining “the individual's natural and inalienable right to preserve himself by all means necessary”¹². If states are not able or willing to fulfill their duty of protection in the first stance, the responsibility to protect must be executed by the international community. Hence, it is a two-stage process, where the primary responsibility rests with the state concerned, and only when it is unwilling or unable to act is the responsibility handed over to the international community. This argumentation is innovative because it shifts the focus, at least in a conceptual sense, from a right

⁶ Simon Chesterman, “Hard Cases Make Bad Law: Law, Ethics, and Politics in Humanitarian Intervention”, in: Anthony F. Lang (ed.), *Just Intervention*, Washington (DC), Georgetown, 2003, 54.

⁷ Emanuel Adler, *Communitarian International Relations: The Epistemic Foundations of International Relations*, London–New York, Routledge, 2005, 16-19.

⁸ Cf. Ramesh Thakur – Thomas G. Weiss, “R2P: From Idea to Norm – and Action?”, in: *Global Responsibility to Protect* 1, 1 (2009), 33-35 (22-53).

⁹ For a detailed analysis of R2P's origins and development cf., for example, Evans – Sahnoun 2002; Gareth Evans, “The Responsibility to Protect: An Idea Whose Time Has Come ... and Gone?”, in: *International Relations* 22, 3 (2008), 283-298; Alex J. Bellamy, “The Responsibility to Protect and the Problem of Military Intervention”, in: *International Affairs* 84, 4 (2008), 615-639; Alex J. Bellamy, “Whither the Responsibility to Protect? Humanitarian Intervention and the 2005 World Summit”, in: *Ethics & International Affairs* 20, 2 (2006), 143-169; Alex J. Bellamy, “Realizing the Responsibility to Protect”, in: *International Studies Perspectives* 10, 2 (2009a), 111-128; Alex J. Bellamy, *Responsibility to Protect: The Global Effort to End Mass Atrocities*, Cambridge–Malden, Polity Press, 2009b; Aidan Hehir, “The Responsibility to Protect: ‘Sound and Fury Signifying Nothing’?”, in: *International Relations* 24, 2 (2010), 221-223 (218-239).

¹⁰ Cf. Bellamy 2009b, 23.

¹¹ Kofi A. Annan, “Two Concepts of Sovereignty”, in: *The Economist*, 18 September 1999.

¹² Peter Berkowitz, “Leviathan Then and Now”, in: *Policy Review* 151 (2008), 18 (3-20).

to intervene to a responsibility (or obligation) to protect.¹³ As a consequence, R2P is more than just an instruction for military intervention. It is also (and as some of its proponents stress, mainly) an entire spectrum of intervention, from dialogue to mediation, peacekeeping, and sanctions. Military intervention is only the *ultima ratio*, when it becomes apparent that all other means are ineffective.¹⁴ Concerning the right authority to authorize such military interventions, the ICISS report underlines the role of the Security Council. However, it also discusses the authority of the General Assembly to act, its “Uniting for Peace Resolution” and Chapter VIII of the Charter (the role of regional organizations) as possible alternatives, should the Security Council be blocked by veto powers or be unwilling to act.¹⁵

This new line of thinking and the enhanced discussion about the intervention for humanitarian reasons is owed to globalization. It is the result of the “recognition of certain issues as transnational problems [...] [and the insight] that no state could isolate itself from potential problems”¹⁶, as Andrea Kathryn Talentino argues. For Mary Kaldor, R2P is the irrefutable proof of the “expression of an emerging global civil society [...] [that reflects] a growing consensus about the equality of human beings and the responsibility to prevent suffering whenever it takes place”¹⁷. These comments sound promising for R2P, but this optimism evaporates after taking a closer and more differentiated look at the concept.

First and foremost, the labeling of R2P as an “emerging norm”¹⁸ is contested by numerous authors. “How can a concept that is labelled as a ‘new approach’ and a ‘re-characterization’ of sovereignty in 2001 turn into an emerging legal norm within the course of four years, and into an organizing principle for peace and security in the UN system one year later?”¹⁹, asks Carsten Stahn, expressing the reservation held by many critics. Most of them contend that some parts of R2P are not “that novel, but grounded in established concepts of international law”²⁰, whereas others are not (yet) accepted by the international society of states.²¹ The

¹³ Cf. Evans – Sahnoun 2002, 101.

¹⁴ Cf. ICISS, “The Responsibility to Protect”, Ottawa, Report of the International Commission on Intervention and State Sovereignty, 2001, 29.

¹⁵ Cf. ICISS 2001, 53-54.

¹⁶ Andrea Kathryn Talentino, *Military Intervention after the Cold War: The Evolution of Theory and Practice*, Athens (OH), Ohio University Press, 2005, 35.

¹⁷ Mary Kaldor, “A Decade of Humanitarian Intervention: The Role of Global Civil Society”, in: Helmut Anheier – Marlies Glasius – Mary Kaldor (eds.), *Global Civil Society 2001*, Oxford, Oxford University Press, 2001, 110.

¹⁸ Evans – Sahnoun 2002, 101.

¹⁹ Stahn 2007, 101.

²⁰ Stahn 2007, 102.

²¹ Cf. Stahn 2007, 102; Arnauld 2009, 25; Schaller 2008, 6; Steven Haines, “The Influence of Operation Allied Force on the Development of the *jus ad bellum*”, in: *International Affairs* 85, 3 (2009),

UN-Charter, for example, clearly states in its preamble that it was created by “the people of the United Nations” to “save succeeding generations from the scourge of war”²² and to protect fundamental human rights. Furthermore, Chapter VII gives the UN-Security Council (UNSC) the authority to “determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken” (Art. 39). Such measures involve the use of force (Art. 42) and hence enable the UNSC to authorize interventions and take responsibility for international peace and stability, even in cases of severe human rights violations. The Security Council has already shown its readiness, at least in some cases, to use Art. 39 and Art. 42 in order to legitimize interventions because of possible spillover effects.²³ In addition, the idea of different parameters of intervention was already mentioned in the so-called *Agenda for Peace* of former UN Secretary General Boutros Boutros-Ghali.²⁴ Thus, parts of R2P only reaffirm already existing and accepted practices in international relations instead of introducing novel concepts.

On the other hand, some of its elements are not accepted by the society of states. Great powers as well as smaller states reject the possibility of military intervention on the basis of R2P. Their fear of the erosion of sovereignty in terms of territorial integrity and freedom of choice is significant.²⁵ Especially the obligation of states to intervene is encountered warily and sometimes even with hostility by great powers. This reluctance can be explained by referring to ‘Realism’ and regime-theory. In 1967, Hans Morgenthau criticized US foreign policy, and especially the war in Vietnam, in his article “To Intervene Or Not To Intervene”. Although he described intervention as such as an “ancient and well-established [...] instrument of foreign policy”²⁶, he advised policy makers to refrain from interventions for “abstract principles”²⁷. States, and especially the United States of America, should rather intervene

where our national interest requires it and where our power gives us a chance to succeed. The choice of these occasions will be determined not by sweeping ideological commitments nor by blind reliance upon American power but by a careful calculation of the interests involved and the power available.²⁸

486 (477-490).

²² *Charter of the United Nations*, Preamble.

²³ Cf. Arnould 2009, 15.

²⁴ Cf. Stahn 2007, 114.

²⁵ Cf. Edward C. Luck, “Sovereignty, Choice, and the Responsibility to Protect”, in: *Global Responsibility to Protect* 1, 1 (2009), 11 (10-21).

²⁶ Hans J. Morgenthau, “To Intervene Or Not To Intervene”, in: *Foreign Affairs* 45, 3 (1967), 425 (425-436).

²⁷ Morgenthau 1967, 430.

²⁸ Morgenthau 1967, 436.

Morgenthau's thinking is representative for the realist paradigm in IR and underlines that states are well advised to follow their national interests rather than global ones when trying to ensure their national security and overall survival.²⁹ This 'realist' reluctance to intervene without a vital national interest has been deeply rooted in US foreign policy since the Vietnam War. The tragic development of a once small and manageable conflict in South-East Asia into a full-scale war and finally into a disaster left its mark on US strategic thinking. Most prominently, the principles of former Secretary of Defense, Caspar Weinberger, and finally their refinement and implementation by former Chairman of the Joint Chiefs of Staff, Colin Powell, reflect the influence of Realist principles in the case of intervention. This so-called Weinberger-Powell doctrine states that "America should not send its combat forces on overseas missions unless doing so was vital to U.S. national interests, [...] the United States had clear intent of winning [...], 'clearly defined political objectives' [and the] support of the American public"³⁰. Even Alex J. Bellamy, an undoubted supporter of R2P, admits that "[w]hen a crisis gets to the point where only military intervention will do, it is in the hands of a combination of *Realpolitik* and the strength of individual leader's calculation of interests, values, costs and benefits"³¹. Therefore, it lends credence to Simon Chesterman's point that the non-intervention in Rwanda in 1994 was due to the unwillingness of states rather than legal hurdles.³²

Besides these realist restrictions, however, even if one argues that states should abandon their pursuit of selfish national interests for the sake of the common good (an assumption unimaginable for Realism), how can R2P ensure that those who are able to intervene fulfill their obligation to do so? From the regime theory's point of view, R2P as a regime lacks the incentives and sanction powers to reward states that abide by its rules and punish those that break them. As James Kurth rightly observed, today military interventions can only be undertaken by a handful of states with the necessary military, especially expeditionary capabilities.³³ If none of these states is willing to intervene, it seems absurd that other states punish them for their non-compliance. Apart from this, R2P does not clarify how non-compliance is handled.

Whereas great powers are unwilling in some cases to accept an obligation to intervene, smaller states perceive R2P as a potential threat to their territorial

²⁹ Cf. also Michael W. Doyle, *Ways of War and Peace: Realism, Liberalism, and Socialism*, New York-London, W. W. Norton & Company, 1997, 391-392.

³⁰ James Mann, *Rise of the Vulcans: The History of Bush's War Cabinet*, New York, Penguin Books, 2004, 19.

³¹ Bellamy 2009b, 3.

³² Cf. Chesterman, in: Lang 2003, 46.

³³ Cf. James Kurth, "Humanitarian Intervention After Iraq: Legal Ideals vs. Military Realities", in: *Orbis* 50, 1 (2006), 92 (87-101).

sovereignty. For them, it is evident that interventions will only apply to the core of weaker states in Africa, Asia, and the Middle East, and not the great powers themselves.³⁴ They fear that the Responsibility to Protect will become a license to intervene when great power interests demand it. A newspaper columnist in Colombo, Sri Lanka, even depicted R2P as “a license for the white man to himself intervene [sic] in the affairs of dark sovereign countries, whenever the white man thinks it fit to do so”³⁵.

By taking a closer look at the discussion and development of its core elements over time, the rejection of R2P by a majority of states in the international society can be substantiated. The report of the International Commission on Intervention and State Sovereignty was the most radical one concerning the limitation of sovereignty and the extension of rights for the international community to interfere in domestic matters of states. It not only outlined the responsibility of the international community to assume sovereignty over states unwilling or unable to protect their citizens; it went even further by not categorically excluding interventions without Security Council approval. This remarkable omission was, however, ‘rectified’ by the *High Level Panel on Threats Challenges and Change* and the Report “In Larger Freedom: Towards Development, Security and Human Rights for all” of the Secretary General due to the pressure of several actors. Whereas states like France, the UK or Canada vigorously advocated R2P, China and Russia tried to limit its outreach. Although they could identify with the rhetoric of intervention, they emphasized the role of the Security Council as the only legitimate body to authorize such interventions.³⁶ The US in contrast attempted to open a loophole by permitting intervention even without Security Council approval, in order to give themselves more flexibility. However, the US avoided speaking of an obligation to intervene, which would have constrained its freedom of choice and hence also its sovereignty.³⁷ The US instead stressed the possibility to do so only if intervention fits in with its strategic considerations.

R2P thus became entangled in great power rivalry. The US trying to free itself from the chains the UN system forces upon them, whereas Russia and China (as well as emerging powers like India) sought to strengthen these chains in order to tame ‘Gulliver’. For members of the Non-Aligned Movement (NAM), especially

³⁴ Cf. Chris Abott, “Rights and Responsibilities: The Dilemma of Humanitarian Intervention”, in: *Global Dialogue* 7, 1-2 (2005), 8 (1-17).

³⁵ Cited in Evans 2008, 289.

³⁶ Cf. Bellamy 2006, 151-152; Bellamy 2009a, 113. See also the comments of the former Russian Prime Minister and Foreign Minister Yevgeny M. Primakov, “U.N. Process, Not Humanitarian Intervention, is World’s Best Hope”, in: *New Perspectives Quarterly* (February 2004), www.digitainpq.org/archive/2012_spring/index.html, currently not available.

³⁷ Cf. Nicholas J. Wheeler – Frazer Egerton, “The Responsibility to Protect: ‘Precious Commitment’ or a Promise Unfulfilled?”, in: *Global Responsibility to Protect* 1, 1 (2009), 121-122 (114-132).

for states like Cuba, Pakistan, Iran or Algeria, R2P represented nothing more than *carte blanche* for intervention.³⁸ As a consequence of these objections, the use of force was depicted as an *ultima ratio* and the Security Council's authority to legitimize intervention was reaffirmed, although in a vague language so that unilateral intervention could not definitely be ruled out.³⁹ The 2005 World Summit Outcome Document, a General Assembly resolution, is the preliminary endpoint of R2P in the international arena. What remained in essence from the original ICISS concept is vague and does not codify an obligation to intervene.⁴⁰ States were able to downscale the ambitions of the original concept to the reaffirmation of already existing principles. The unwillingness to embrace R2P in its original sense is much to the regret of its proponents such as Gareth Evans when he speaks of "buyer's remorse"⁴¹ in the context of the R2P's evolution.

Against the backdrop of these developments, it is no surprise that the labeling of R2P as an (emerging) international norm is misleading, even if some proponents rename it to a "(contested) norm"⁴² or "a global norm in urgent need of implementation"⁴³. As Theresa Reinold argues, there is no consistent *opinion juris*, no common practice of state behavior and hence no emergence of a customary international law which would justify the labeling of R2P as a norm in international relations.⁴⁴ Furthermore, as shown above, R2P will not be able to prevent future Rwandas or Srebrenicas. States are not willing to intervene when their national interests are not affected. Hence, R2P, in the words of David Chandler, "demonstrates that while morality can work in the service of power the opposite relationship cannot apply"⁴⁵.

The concept, thus, is toothless and apparently redundant. However, as mentioned before, the erosion of sovereignty as an intrinsic element of R2P is a potentially explosive aspect that could jeopardize the common code of coexistence in the international society, and as a consequence, international peace and stability.

³⁸ Cf. Bellamy 2009a, 113; Reinold 2009, 106-107.

³⁹ Cf. Stahn 2007, 102-108.

⁴⁰ Cf. "2005 World Summit Outcome", UNGA Res. 60/1, 24 October 2005, Art. 138, 139.

⁴¹ Evans 2008, 288.

⁴² Wheeler – Egerton 2009, 123.

⁴³ Thakur – Weiss 2009, 25.

⁴⁴ Cf. Reinold 2009, 109.

⁴⁵ David Chandler, "The Responsibility to Protect? Imposing the 'Liberal Peace'", in: *International Peacekeeping* 11, 1 (2004), 76 (59-81).

Dangerous

Order and Justice

Although R2P seems to be an obsolete and inappropriate instrument, there are some elements which are both ‘novel’ and dangerous. In order to elaborate on this argument, I will refer to the *International Society Approach* (also known as the *English School*) and especially to the work of Hedley Bull, who provides valuable insights into the relationship of sovereignty, international order, peace, and human rights.

For Bull, international relations are not merely characterized by the existence of interdependent states that affect each other in some way or another (he calls this condition “system of states”). He contends that states in the system “form a society in the sense that they conceive themselves to be bound by a common set of rules in their relations with one another, and share in the working of common institutions”⁴⁶. This idea is massively influenced by Grotian thinking⁴⁷ and considers the structure of the international system not only as something that shapes and shoves the behavior of states (as Neorealists assume), but as something that is also shaped by states themselves.⁴⁸ In short, states tend to agree on fundamental principles of coexistence in order to codify their inter-state relations.

This raises the question of why states (as the main actors in international relations) obey such “common set of rules”. For Bull, these rules of inter-state relations serve the same purpose as rules in social life of human beings do – they provide greater predictability⁴⁹ and consequently lead to more security. Moreover, this predictability is the basis for international order, or in Bull’s words “a pattern of activity that sustains the elementary or primary goals of the society of states”⁵⁰. States, according to Bull, seek the preservation of the system and the society of states itself; they try to maintain their independence and uphold sovereignty; they strive for peace and the limitation of violence, as long as their security interests are best served.⁵¹ According to Buzan, sovereignty must even be seen as THE

⁴⁶ Hedley Bull, *The Anarchical Society: A Study of Order in World Politics*, Houndmills–New York, Palgrave, 2002a, 13.

⁴⁷ Cf. Hedley Bull, “The Importance of Grotius in the Study of International Relations”, in: Hedley Bull – Benedict Kingsbury – Adam Roberts (eds.), *Hugo Grotius and International Relations*, Oxford, Oxford University Press, 2002b, 71.

⁴⁸ Cf. Barry Buzan, *From International to World Society? English School Theory and the Social Structure of Globalization* 95, Cambridge, Cambridge University Press, 2004, 8.

⁴⁹ Cf. Bull 2002a, 7.

⁵⁰ Bull 2002a, 8.

⁵¹ Cf. Bull 2002a, 16-18.

key principle of the international society.⁵² If these common rules are obeyed, international order is in existence and states will profit from it.

However, this order of the international society (or society of states) often comes into conflict with the interests of single human beings and their world order.⁵³ Bull, for the time being, has a bias towards world order in contrast to international order. He notes that “world order is more fundamental and primordial than international order”⁵⁴ because states are only human artifacts and hence not necessarily permanent, whereas human beings are the ultimate units and indestructible. As a consequence, the question of priority between order and justice seems to be solved in favor of the latter, the revolutionary way.⁵⁵ According to Wheeler and Dunne, Bull’s solidarist conception “places the fights and duties of individuals at the centre of its ethical code”⁵⁶, which may lead, at least in some instances, to a challenge of the non-intervention principle as a constitutive norm of coexistence in international society.

However, Bull puts this “fundamental and primordial” role of world order into perspective when he argues that

[i]f international society were really to treat human justice as primary and coexistence as secondary [...] then in a situation in which there is no agreement as to what human rights or in what hierarchy or priorities they should be arranged, the result could only be to undermine international order.⁵⁷

Bull is right to point out that the pursuit of justice in this special case threatens the small area of consensus between states, resulting in more chaos and disorder and hence also in less justice. Order between states is the precondition for the achievement of all other values including justice – without order there can be no justice. In the end, Bull’s temporary preference for a solidarist conception (or the revolutionary way) is set aside in the favor of pluralism. This pluralism allows the maintenance of a minimum of inter-state order in spite of different concepts of justice. Because “cultural heterogeneity” is too diverse and hence the international society not solidarist enough, “Bull worried that particular states – setting themselves up as judges of what constituted universal human rights – would threaten the ethics

⁵² Buzan 2004, 52.

⁵³ Bull makes a clear distinction between international order (which comprises only states) and world order, which is characterised by “mankind as a whole”. Hence, world order aims primarily at the interests of human beings and not states (cf. Bull 2002a, 19-21).

⁵⁴ Bull 2002a, 21.

⁵⁵ For the clear distinction between the orthodox, revolutionary or progressivist cf. Bull 2002a, 90; Buzan 2004, 49.

⁵⁶ Nicholas J. Wheeler – Timothy Dunne, “Hedley Bull’s Pluralism of the Intellect and Solidarism of the Will”, in: *International Affairs* 72, 1 (1996), 95 (91-107).

⁵⁷ Bull 2002a, 85.

of coexistence”⁵⁸. In the end, although solidarism seems to be preferable from a moral point of view, the realist notion of pluralism triumphs because of the absence of universal or cosmopolitan conceptions of human rights and justice.⁵⁹

In addition to the preference of order over justice, a second element of Bull’s thinking has to be mentioned. When he speaks of situations when “there is no agreement”⁶⁰, Bull opens a back door for bringing order and justice together. Although he is convinced that international order per se does not protect human rights and only certain constellation in this order sometimes try to do so, great power consensus nevertheless can be reached on rare occasions and so justice can be pursued without jeopardizing international order.⁶¹ As long as great powers, responsible for managing order, agree on certain measures and in certain situations, international order is ensured and disorder not likely. Bull’s pragmatic approach to justice vs. order mirrors his desire for stability, which is characterized by his belief in the fundamental role of great powers and their responsibility and ability to maintain international order.⁶² Hence, the departure from sovereignty and non-intervention as fundamental principles of international order and stability in such cases has to be covered by great power consensus. To put it another way, a disorderly act in international relations becomes an orderly act so long as other great powers agree and so long as this compromise is acceptable to other actors in the systems who lend credence to great power status and management.⁶³

From the Responsibility to Protect to the Duty to Prevent

As mentioned above, the International Society Approach helps to understand why R2P is not only toothless and redundant, but first and foremost dangerous. By softening sovereignty as the key principle of international society in order to gain more justice without great power consensus, R2P endangers international order and stability. The enhanced risk of disorder will not contribute to more justice, but to more injustice. Taking a closer look at the world’s remaining superpower – the United States of America – and its attitude towards R2P corroborates this thesis. Since the end of the Cold War, and intensified by the terrorist attacks of 9/11, there seems to be a prevailing bipartisan consensus that due to the changing security environment and the increasing impracticality of international institutions and organizations for adapting to these new challenges, the United States have

⁵⁸ Wheeler – Dunne 1996, 100.

⁵⁹ Although Wheeler and Dunne contend that Bull identified “a ‘growing cosmopolitan moral awareness’, at least among the ‘advanced countries’”, such awareness cannot be detected in countries like Russia, China, or the post-colonial states (cf. Wheeler – Dunne 1996, 99).

⁶⁰ Bull 2002a, 85.

⁶¹ Cf. Bull 2002a, 85-92.

⁶² Cf. Bull 2002a, 93. Buzan 2004, 36, 55.

⁶³ Cf. Wheeler – Dunne 1996, 96-97.

to push for a re-evaluation of traditional concepts of international coexistence, first and foremost sovereignty.

A few months before the 2005 World Summit, US Congress established a bipartisan task force on the United Nations, headed by Newt Gingrich (former Speaker of the House, R) and George Mitchell (former Senate Majority Leader, D, and currently President Obama's special envoy to the Middle East). The aim of this task force was to evaluate the need for a UN reform from the perspective of US interests. Assisted by pundits like Wesley K. Clark (former Supreme Allied Commander Europe) or Anne-Marie Slaughter (former professor at the Woodrow Wilson School of Public and International Affairs, Princeton University and now Director of Policy Planning at the US State Department), the task force also dedicated its report among other strategic US interests to "Saving Lives, Safeguarding Human Rights, and Ending Genocide"⁶⁴. Concerning R2P, the report emphasized that governments are responsible for their citizens and have to prevent them even from "massive and sustained human rights violations". Furthermore, it came to the conclusion that there may be cases where the international community has to act "whether or not there has been a finding of genocide". Finally, the authors reaffirmed the commitment of the United States to act in cases where the Security Council is "unable to take effective action".⁶⁵

Only a few weeks after the report was published, John Bolton, then-Representative of the United States of America to the United Nations, submitted a letter to the President of the General Assembly with his comments on R2P. Similar to the findings of the task force's report, Bolton's comments are worth noting for three reasons. First, Bolton emphasized that the United States will not accept "an obligation to intervene under international law"⁶⁶. R2P in his eyes has more of a moral than a legal character. Second, "we should not preclude the possibility of action absent authorization by the Security Council"⁶⁷. For Bolton it was clear that there might be cases where states will have to refer to their inherent right for self-defense instead of turning to the United Nations. And finally, he proposed changing paragraph 118 of the draft Outcome Document in the following way:

We agree that each individual state is responsible for the protection of its populations from genocide, war crimes, ethnic cleansing, and crimes against humanity and other large-scale atrocities lies first and foremost with each individual State.⁶⁸ [author]

⁶⁴ Newt Gingrich – George Mitchell, "American Interests and UN Reform: Report of the Task Force on the United Nations", Washington (DC), United States Institute of Peace, 2005, 29-31.

⁶⁵ Cf. Gingrich – Mitchell 2005, 29-31.

⁶⁶ Gingrich – Mitchell 2005, 29-31.

⁶⁷ Gingrich – Mitchell 2005, 29-31.

⁶⁸ John R. Bolton, "Letter from Ambassador Bolton on Responsibility to Protect", 30 August 2005, in: <http://www.reformtheun.org/index.php?module=uploads&func=download&fileId=811>, accessed 25 August 2009.

By changing this sentence, Bolton and the US tried to include the phrase “other large-scale atrocities”, which is extremely vague and cannot be clearly defined. Such an amendment opens a back door for the misuse of R2P for other purposes. Furthermore, by reformulating the passage “the protection of populations” to “the protection of its populations” the paragraph gets an additional meaning. Not only the protection of populations from their government is possible, but the protection of its own population from other governments (something R2P was never made for) is also imaginable. In addition to the other two points mentioned, R2P becomes a dangerous weapon. If it is not used as an obligation but as a tool of choice and if it is also used without Security Council authorization, R2P morphs into an arbitrary tool for the promotion of national interests instead of the enforcement of justice and the prevention of genocide.

As the bipartisan report shows, such views are not to be found only on the margins of the political establishment but seem to be part of the mainstream thinking in US politics. Taking a closer look at the scientific discourse reinforces this impression. For example, Lee Feinstein and Anne-Marie Slaughter (who also contributed to the task force’s report) published an article in *Foreign Affairs* in 2004, entitled “A Duty to Prevent”. They argued that since the UN Charter was drafted in 1945, the security environment has changed dramatically and thus the principles of the UN System also have to be adapted. Like the responsibility to protect, they went on, states have a duty to prevent “governments that lack internal checks on their power from acquiring WMD or the means to deliver them”⁶⁹. Similar to their argument, Richard N. Haass (former Director of the Policy Planning at the State Department and Director of the Council on Foreign Relations) argued in the *DISAM Journal* in 2002/03 that “sovereignty does not grant governments a blank check to do whatever they like”⁷⁰. If they threaten other states or the international community by harboring terrorists or being “incapable of controlling terrorists operating from their territory”⁷¹ states have the right to act and protect their citizens even when they have to act alone. As Haass fiercely advocates, the right of the United States to self-defense in order to avert greater harm is “unquestioned”, a notion also shared by John Yoo.⁷²

By arguing this way, R2P, originally conceived to protect citizens from their own governments, provides the basis for a duty to prevent which enables states to protect their own citizens from so called ‘rogue states’. Furthermore, it also paves

⁶⁹ Lee Feinstein – Anne-Marie Slaughter, “A Duty to Prevent”, in: *Foreign Affairs* 83, 1 (2004), 142 (136-150).

⁷⁰ Richard N. Haass, “Defining U.S. Foreign Policy in a Post-Post-Cold War World”, in: *The DISAM Journal* 25, 1-2 (2002/2003), 35 (30-37).

⁷¹ Haass 2002/2003, 35.

⁷² Cf. Haass 2002/2003, 36; John Yoo, “International Law and the War in Iraq”, in: *The American Journal of International Law* 97, 3 (2003), 563-576.

the way to an obligation to control, which means that weak states will be the aim of intervention when powerful ones come to the conclusion that they pose a serious threat to international security or the intervener's safety.⁷³ As a consequence, R2P becomes a camouflage to justify interventions for the national interest.⁷⁴ Especially in times when moral discourses play a decisive part in convincing citizens and the international community that war is legitimate, R2P can be misused "as a substitute for legal [...] justification"⁷⁵. This potential misuse has been especially striking since 9/11. President Bush's 2002 State of the Union speech clearly demonstrated how this argument found its way into policy and some 'hawks' in the administration fully endorsed the liberal peace thesis, a baseline for R2P.⁷⁶ Particularly the Iraq war and its "ex post facto humanitarian justification"⁷⁷ reinforced the suspicions held by smaller states and parts of the international community that the principles of R2P are open to abuse.⁷⁸

Has the Obama administration changed the official view of the United States regarding this question? Susan E. Rice, the new US Permanent Representative to the United Nations, has a different approach to R2P than her predecessor Bolton. As a specialist on African affairs and after directly witnessing the genocide in Rwanda, Rice is an advocate of R2P in its original sense. She also criticized the misuse of R2P in case of the Iraq war. However, Rice is realistic enough to admit that political will and not R2P as such will determine whether states are willing to intervene or not.⁷⁹ Moreover, statements by President Obama on the US' willingness to attack terrorist safe-havens in Pakistan if this is necessary to protect American citizens do not support the thesis that change has also come to the

⁷³ Cf. Reinold 2009, 120.

⁷⁴ Cf. Noam Chomsky, "Humanitarian Imperialism: The New Doctrine of Imperial Right", in: *Monthly Review* 60, 4 (2008), monthlyreview.org/2008/09/01/humanitarian-imperialism-the-new-doctrine-of-imperial-right, accessed 15 July 2012.

⁷⁵ Simon Chesterman, "Just War or Just Peace after September 11: Axes of Evil and Wars against Terror in Iraq and Beyond", in: *New York University Journal of International Law and Politics* 37, 2 (2005), 285 (281-301); cf. Anthony Burke, "Just War or Ethical Peace? Moral Discourse of Strategic Violence after 9/11", in: *International Affairs* 80, 2 (2004), 330-331 (329-353); Chesterman, in: Lang 2003, 55.

⁷⁶ Cf. Chesterman, in: Lang 2003, 55; "Humanitarian Intervention: A Forum", in: *The Nation* (26 June 2003), 1; Chandler 2004, 73.

⁷⁷ S. Neil MacFarlane – Carolin J. Thielking – Thomas G. Weiss, "The Responsibility to Protect: Is Anyone Interested in Humanitarian Intervention?", in: *Third World Quarterly* 25, 5 (2004), 977 (977-992).

⁷⁸ Cf. Williams – Bellamy 2005, 36; Bellamy 2006, 169; Bellamy 2009a, 125; Tom J. Farer, "Humanitarian Intervention before and after 9/11: Legality and Legitimacy", in: J. L. Holzgrefe – Robert O. Keohane (eds.), *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas*, Cambridge, Cambridge University Press, 2005, 82; Hehir 2010, 221.

⁷⁹ Cf. U.S. Mission to the United Nations in New York, "Remarks by Ambassador Susan E. Rice, U.S. Permanent Representative to the United Nations, on the UN Security Council and the Responsibility to Protect, at the International Peace Institute Vienna Seminar, June 15, 2009", in: http://www.usunnewyork.usmission.gov/press_releases/20090615_126.html, accessed 27 August 2009.

thinking on R2P and its core principles. These statements instead lend credence to the notion that constraining the sovereignty of certain states of interest is still on the agenda.

The publication of the National Security Strategy 2010 (NSS 2010) enhances this impression. Although R2P is explicitly mentioned at the end of the document, it avoids labeling the concept as an obligation and instead emphasizes that the United States will use force even on a bilateral basis in order “to prevent and respond to genocide and mass atrocities”⁸⁰. The role of the Security Council as the sole authority to decide in such cases is not mentioned. Moreover, the leading theme of the strategy is the “emergence of new challenges and the shortcomings of the international system”⁸¹ in coping with it. As a consequence, the US should take over leadership and seek to “shape an international order capable of overcoming the challenges of the 21st century [...] instead of being shaped by it”⁸². Although this American-led transformation of the system should be embedded in a multilateral consensus and be in accordance with international institutions, the “United States must reserve the right to act unilaterally if necessary to defend our nation and our interests”⁸³.

The NSS 2010 is more mundane and less confrontational in rhetoric in comparison to the Bush Administration’s. However, the central conviction that traditional concepts of interstate co-existence have to change is basically still in place. Stephan Walt summarizes this similarity with the “Bush doctrine” with the words: “[T]he international order we seek will be a ‘rule-based international system that can advance our own interests by serving mutual interests’. Right, except that the United States will reserve the right to ignore the rules when it suits us.”⁸⁴ The United States’ approach towards redefining sovereignty gives birth to recurrent worries. The fear of the misuse of humanitarian interventions for national interests and of the selective interpretation of sovereignty was already aired a long time ago. In 1979, the French ambassador to the United Nations noticed in a debate about Vietnam’s intervention in Cambodia:

The notion that because a regime is detestable foreign intervention is justified and forcible overthrow is legitimate is extremely dangerous. That could ultimately jeopardize

⁸⁰ The President of the United States, “National Security Strategy”, Washington (DC), The White House, 2010, 48.

⁸¹ The President of the United States 2010, 3.

⁸² The President of the United States 2010, 3, 9.

⁸³ The President of the United States 2010, 22.

⁸⁴ Stephen M. Walt, “*Snoozing through the National Security Strategy*”, 28 May 2010, in: http://walt.foreignpolicy.com/posts/2010/05/28/snoozing_through_the_national_security_strategy, accessed 1 June 2010.

the very maintenance of international law and order and make the continued existence of various regimes dependent on the judgement of their neighbours.⁸⁵

The French representative hits the bull's eye. Sovereignty and non-intervention have long served as a protection for smaller states against the greediness of their powerful counterparts and thereby contributed to a stable international order. "Changing the normative yardstick governing intervention", as Mohammed Ayoub contends, "may end up doing more harm than good to international order in the long run"⁸⁶. R2P threatens sovereignty as a key pillar of international society and could contribute to the transition of the international society to an international system where states will be left with less predictability and more insecurity. Hence, more violence and less security will be the result.⁸⁷

Conclusion

Offences against human rights are a matter of international concern, but they do not trigger intervention except perhaps when outrageous conduct shocks the conscience of mankind. But the absence of a well-established doctrine of humanitarian intervention does not evaporate international concern, and now each state is quite legitimately exposed to the scrutiny and criticism of the international community on the relationship between government and governed within it.⁸⁸

Setting R2P aside does not necessarily mean to accept genocide and mass-killings in international politics. There are other ways and means beyond R2P to protect citizens from crimes against humanity, as long as states are willing and able to act.

Instead of eroding the UN system by inventing new loopholes for the use of force, states should seek to strengthen the system itself and the Security Council as the primary authority for peace and security in the international system. Whenever there is a case R2P was originally intended for, states should try to find a common solution within the Security Council. They should invest all possible means to convince Security Council members, especially the permanent five (P5), not to use a veto in order to block common decisions. It is often argued that the Russian

⁸⁵ United Nations Security Council, 2109th Meeting, S/PV.2109, 12 January 1979, 4, para. 36.

⁸⁶ Mohammed Ayoub, "Humanitarian Intervention and State Sovereignty", in: *The International Journal of Human Rights* 6, 1 (2002), 92 (81-102).

⁸⁷ Richard Falk, "Humanitarian Intervention: A Forum", in: *The Nation*, 14 July 2003, www.thenation.com/article/humanitarian-intervention-forum-0, accessed 15 July 2012; Caroline Thomas, "The Pragmatic Case Against Intervention", in: Ian Forbes – Mark Hoffmann (eds.), *Political Theory, International Relations, and the Ethics of Intervention*, Houndsmills–Basingstoke–London, St. Martin's Press, 1993, 92.

⁸⁸ R.J. Vincent, "Grotius, Human Rights, and Intervention", in: Bull – Kingsbury – Roberts (eds.) 2002, 255.

Federation or the People's Republic of China obstruct Security Council actions, for example in the case of Sudan. One has to admit that in certain situations, these countries have blocked a common position, but one also has to question the seriousness of states like the USA, France or the UK in promoting a common position. An impression that is frequently conveyed is that the endeavors for a Security Council resolution are not especially persuasive, so that a rejection by China or Russia (or both) is quite predictable. It is often easier for Western governments to blame nay-sayers than to risk the lives of their soldiers in hazardous interventions. I would argue that only in very rare cases would states like Russia or China veto a common approach by the Security Council if the effort of other members and a significant majority of the world community calls for common action. Moscow and Beijing in particular are interested in a functioning Security Council as a taming instrument or counterweight to Washington. By blocking this institution, they risk pushing the USA outside the UN System. This would not only weaken the United Nations but also their influence on the remaining superpower. On the other hand, the United States and 'Western' countries need Security Council authorization to bolster the legitimacy of possible interventions. The case of the 2003 Iraq intervention has shown how fateful an intervention without global support can be.

R2P is a noble idea. But instead of investing too much time and energy in promoting a concept which many believe is doomed to fail, states, norm entrepreneurs, and epistemic communities should try to strengthen the existing structure and emphasize the role of the Security Council as "the heart of the world's collective security system"⁸⁹. It is the only body that can lend not only credence to the legitimacy of interventions, but also legality.⁹⁰ If the international community is really willing to open a new chapter on the history of human coexistence, it should seek to strengthen its current system and order instead of eroding it. Security Council reform, the precondition for opening this new chapter, may also be demanding and even illusionary, as some fear.⁹¹ However, it is also more desirable than risking damaging a system that, though imperfect, has contributed to a relative stable international coexistence after the scourge of two world wars that "brought untold sorrow to mankind"⁹².

⁸⁹ Justin Morris – Nicholas J. Wheeler, "The Security Council's Crisis of Legitimacy and the Use of Force", in: *International Politics* 44, 2 (2007), 214 (214-231).

⁹⁰ Cf. Simon Chesterman, "Legality Versus Legitimacy: Humanitarian Intervention, the Security Council, and the Rule of Law", in: *Security Dialogue* 33, 3 (2002), 293-307.

⁹¹ Cf. Thomas G. Weiss, "The Illusion of UN Security Council Reform", in: *The Washington Quarterly* 26, 4 (2003), 147-161; Mark Imber, "The Reform of the UN Security Council", in: *International Relations* 20, 3 (2006), 328-334.

⁹² *Charter of the United Nations*, Preamble.

The Responsibility to Protect and International Trusteeship: *Plus ça change plus c'est la même chose?*

Noemi Gal-Or
Kwantlen Polytechnic University

Résumé

En 2005, l'Assemblée Générale des Nations Unies a endossé la 'responsabilité de protéger' comme l'obligation de la communauté internationale de protéger les populations contre les quatre catégories d'atrocités suivantes : génocide, crimes contre l'humanité, nettoyage ethnique et crimes de guerre. La R2P, qui succède au principe de 'sécurité des personnes' ('human security'), a une courte histoire de création de normes. Depuis son instauration en 2001¹, elle continue de provoquer des débats politiques et légaux, en particulier autour des devoirs légaux internationaux 'positifs' d'un État et de certains de ses moyens permettant de remplir ces devoirs (notamment les interventions militaires et humanitaires). C'est dans ce contexte qu'un rôle singulier est réservé à l'Organisation des Nations Unies (ONU), celui d'"agent" de la communauté internationale. Le présent article étudie les implications de la 'responsabilité de protéger' pour l'ONU et explore les arguments en faveur d'une réforme du Conseil de Tutelle des Nations Unies, qui serait reconsidéré dans le cadre des phases pré- et post- conflit de la R2P, ainsi que la praticabilité d'une telle réforme.

The Current State of the Art of R2P

Considered by some as an established norm² (albeit young and of disputed benefits), R2P has largely been accepted as representing an 'emerging' norm, although what this means exactly remains controversial. The main R2P foundational documents consist of the ICISS Report and paragraphs 138 and 139 of the R2P section in the World Summit Outcome. However, they convey two manifestly different versions of R2P, with the World Summit Outcome, which reflects the UN political consensus, narrowing the scope of R2P as developed in the ICISS Report from 'ideal' to 'real'. Since then, even that compromise has been faltering with some early proponents reconsidering their position and expressing

¹ International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect*, Ottawa, IDRC, 2001. See also the thorough discussion in Thomas Weiss – Don Hubert (eds.), *Bibliography, Background: Supplementary Volume to the Report of the International Commission on Intervention and State Sovereignty*, Ottawa, International Development Research Centre, 2001.

² Mary O'Connell, Session on "Implementation of International Systems of Human Rights Protection into National Legal Systems", 73rd International Law Association Conference, Rio de Janeiro, 17-21 August 2008.

reservations.³ Even the original developers of the norm have been divided, with co-chair Gareth Evans⁴ promoting the narrow UN version, and with Lloyd Axworthy and Allan Rock⁵ preferring a broader interpretation. This divergence has nourished a plethora of theoretical debates paralleled by extensive and intensive discussions surrounding the political and legal applicability of the concept.⁶

This paper analyses only the conceptual and legal – not the political or operational⁷ – aspects of R2P and employs the narrow World Summit Outcome interpretation. Accordingly, R2P denotes a responsibility to protect the individual and groups of individuals (not the state) against the ‘Four Crimes’ mentioned above.⁸ The responsibility falls first to the state where the atrocity takes place, and then by default to other states. It comprises the so-called “three ‘pillars’ of action”⁹: The first pillar represents a state’s responsibility to protect its people from the ‘Four Crimes’; the second pillar focuses on a state’s responsibility to come to the aid of another state at that state’s request (whether the request is made directly to the state in question or to any/all other states); and the third pillar mobilizes the collective responsibility of the international community of states to enforce

³ Cf., for instance, on “buyer’s remorse”, Gareth Evans, “The Responsibility to Protect in Environmental Emergencies”, 26 March 2009, in: <http://www.gevans.org/speeches/speech312.html>, accessed 3 June 2009.

⁴ Evans 2009. Evans’ publications represent the narrow (and dominant) approach to R2P. ICISS co-chair, he was first and former director of the International Crisis Group, and involved in the Global Center for the Responsibility to Protect and other relevant initiatives.

⁵ Lloyd Axworthy – Allan Rock, “R2P: A New and Unfinished Agenda”, in: *Global Responsibility to Protect* 1, 1 (2009), 54-69.

⁶ The abundance of what could be considered R2P-invoking cases (e.g. flooding in Myanmar, Tamil internal displacements, or the rounding up of Tamil civilians – to be distinguished from rebel combatants, IDP camps during the last couple of years of the civil war in Sri Lanka) has provided an insatiable impetus for relevant studies. Cf., for instance, the opinion of the ICISS co-chair Ramesh Thakur, which has provoked a surge of responses (Ramesh Thakur, “Should the UN Invoke the ‘Responsibility to Protect?’”, in: *The Globe and Mail*, 8 May 2008, A13).

⁷ Although critical to the development of the R2P concept, the political and operational aspects are secondary to the paper’s main argument. Recently, a new concept – the Will to Intervene (W2I) – has been devised as an operationalizing project towards the implementation of R2P (a move that can be partly explained by the disappointment of Canadian R2P advocates at the UN’s lack of attention to R2P). Cf. Montreal Institute for Genocide and Human Rights Studies (MIGS), *Mobilizing the Will to Intervene: Leadership and Actions to Prevent Mass Atrocities*, Montreal, Concordia University, 2009. The report makes recommendations regarding the introduction of normative change in the foreign policies of Canada and the United States via the institutionalization of a W2I in a formal and high-profile office within both governments.

⁸ Ulriksen duly observes that among these international crimes, three address political and military strategic pre-meditated crimes against civilians, while the fourth – war crime – belongs to a different and distinct category governed by international humanitarian law: “[A] private can initiate a war crime, but he cannot make a decision that starts a crime against humanity.” Cf. Ståle Ulriksen, “Power to Protect? The Evolution of Military Structures and Doctrine in Relation to the Responsibility to Prevent and Protect”, in: *NUPI Report. Responsibility to Protect* 7 (2008), <http://english.nupi.no/publikasjoner/>, accessed 5 June 2009.

⁹ Evans 2009.

protective humanitarian action. A three-pronged approach consisting of (peaceful) prevention, of reaction by peaceful or, if necessary, by military means, and of post-crisis/conflict rebuilding applies to the R2P second and third pillars. Pillar 3 requires UN authorization, Pillar 2 may require it.

R2P is Not Yet a Norm

That R2P is not yet a norm is evident from the many and varied views nourishing the R2P discourse. R2P has been referred to as “one responsibility, different interpretations”¹⁰; as an “unfinished business” that warrants “unbundling”, and which “has yet to be fulfilled as a firm international norm”¹¹; as “a concept, not yet a policy; an aspiration, not yet a reality”¹². According to G. Evans, “[...] there is an evident willingness of a number of states to deflate or undermine the new norm before it is fully consolidated and operational [...]”¹³. Evidently, at this stage of its development, R2P represents both an idea and a political campaign to bolster the enforcement of international human rights and humanitarian and criminal law by way of operationalizing¹⁴ and ‘tightening the grip’ of the international Rule of Law. This does not mean that R2P is inadequate or worthless; it simply means that R2P requires elucidation; its development, modesty and prudence.

R2P is Not a New Norm

Advocates point at the unique novelty of R2P as articulating an unprecedented positive duty (or “duty of solidarity”¹⁵) that is binding for the state and the international community. The “fresh conceptual template”¹⁶ heralds the dawn of a new generation of international law that denies the state and the international community the prerogative of choosing whether to actively engage in or refrain from acting in the protection of people against the ‘Four Crimes’. To be sure, the responsibility mandates a positive duty of commission applicable to the territorial state where the atrocities take place, any other state, and the entire community

¹⁰ Thelma Ekiyor, “The Responsibility to Protect (R2P): A Way Forward – or Rather Part of the Problem?”, in: *Foreign Voices* 1 (2008), 2 (2-5).

¹¹ Axworthy – Rock 2009, 64, 57, 56.

¹² UN Secretary-General Ban Ki-Moon cited in Erin Mooney, “The Guiding Principles and the Responsibility to Protect”, in: *Forced Migration Review – GP10* (2008), 13 (11-13), www.fmreview.org, accessed 5 June 2009.

¹³ Gareth Evans, “The Responsibility to Protect: An Idea Whose Time Has Come ... and Gone?”, 23 April 2008a, 4, in: www.crisisgroup.org, accessed 3 June 2009.

¹⁴ Cf. Ekiyor 2008, regarding the W2I.

¹⁵ Cf. Sabine von Schorlemer, “The Responsibility to Protect as an Element of Peace. Recommendations for Its Operationalisation”, in: *Policy Papers* 28 (December 2007), 2; Anne-Marie Slaughter, “Security, Solidarity, and Sovereignty: The Grand Themes of UN Reform”, in: *American Journal of International Law* 99 (2005), 619-631.

¹⁶ Ramesh Thakur, *The United Nations, Peace and Security: From Collective Security to the Responsibility to Protect*, Cambridge, Cambridge UP, 2006, 245.

of states. Critics, however, maintain that even the wider ICISS characterization of R2P “offers nothing new in international law”¹⁷ and that R2P’s first pillar has long been established in conventional law. According to them, this finds resonance in the International Court of Justice (ICJ) judgment in *Bosnia and Herzegovina vs. Serbia and Montenegro*:¹⁸

429. First, the Genocide Convention is not the only international instrument providing for an obligation on the States parties to it to take certain steps to prevent the acts it seeks to prohibit. Many other instruments include a similar obligation, in various forms: see, for example, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 (Article 2); the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents, of 14 December 1973 (Art. 4); the Convention on the Safety of United Nations and Associated Personnel of 9 December 1994 (Art. 11); the International Convention on the Suppression of Terrorist Bombings of 15 December 1997 (Art. 15). The content of the duty to prevent varies from one instrument to another, according to the wording of the relevant provisions, and depending on the nature of the acts to be prevented.

The decision of the Court does not, in this case, purport to establish a general jurisprudence applicable to all cases where a treaty instrument, or other binding legal norm, includes an obligation for States to prevent certain acts. Still less does the decision of the Court purport to find whether, apart from the texts applicable to specific fields, there is a general obligation on States to prevent the commission by other persons or entities of acts contrary to certain norms of general international law. [...]

430. Secondly, it is clear that the obligation in question is one of conduct and not one of result, in the sense that a State cannot be under an obligation to succeed, [...]: the obligation of States parties is rather to employ all means reasonably available to them, so as to prevent genocide so far as possible.¹⁹

Further confirmation is found in the Draft Articles on Responsibility of States for Internationally Wrongful Acts.²⁰ When conjointly read, Articles 41 and 42²¹ could be

¹⁷ Von Schorlemer 2007, 4.

¹⁸ International Court of Justice, *Bosnia and Herzegovina vs. Serbia and Montenegro*, Judgment of 26 February 2007, <http://www.icj-cij.org/docket/index.php?p1=3&p2=3&case=91&code=bhy&p3=4>, accessed 4 June, 2009.

¹⁹ International Court of Justice, Judgment of 26 February 2007.

²⁰ United Nations. International Law Commission, *Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries 2001*, A/56/10, in: *Yearbook of the International Law Commission 2001* II, 2, United Nations Publications (2001), available at [http://untreaty.un.org/ilc/publications/yearbooks/Ybkvolumes\(e\)/ILC_2001_v2_p2_e.pdf](http://untreaty.un.org/ilc/publications/yearbooks/Ybkvolumes(e)/ILC_2001_v2_p2_e.pdf). Note that the report’s terms of reference were expressly delimited to responsibility arising from “internationally wrongful acts” and as between and among states.

²¹ Along with the relevant commentaries, Chapter III of Part II on “Serious breaches of obligations under peremptory norms of general international law” sets out certain consequences of specific types of breaches of international law, identified by reference to two criteria: First, they involve breaches of obligations under peremptory norms of general international law; and secondly, the breaches concerned are in themselves serious in terms of their scale or character. Chapter III contains two articles, the first defining its scope of application (Article 40), the second spelling out the legal consequences entailed by the breaches coming within the scope of the chapter (Article 41).

interpreted as engaging R2P Pillars 2 and 3 in an *erga omnes* context, triggering universal jurisdiction as a corollary of the positive obligation of states in matters of serious breaches.

While, in the future, R2P may evolve into a broader, peremptory normative *jus cogens* and universal *erga omnes* norms that go beyond the ‘Four Crimes’, in its current narrow UN configuration R2P does not essentially represent a new idea.²² Consequently, R2P’s third pillar in particular makes the consideration of adjustments to the UN international trusteeship regime a palatable proposition.

Some Conceptual Comments on R2P

Before turning our attention to the role designed for the UN in fulfillment of R2P, we outline the main inconsistencies characteristic of the narrow R2P version. There are at least two likely schematic renditions of the World Summit Outcome R2P concept that are incongruent and irreconcilable with the ‘conscience-shocking’ characteristic of the ‘Four Crimes’:

Sketch A: Emergency Versus Non-Emergency R2P

Emergency	Non-Emergency
Prevention: too late?	Prevention
Reaction: regional or global	Rebuilding
Rebuilding	

Sketch B: R2P as a Category in Itself

	Military intervention
	Responsibility to Protect
Protection of civilians in armed conflict (international and non-international)	

There are several conceptual gaps specific to each sketch that require detailed attention. For instance, Sketch A does not distinguish between situations

²² Human security was also introduced as a new idea, although Article 7 of the 1945 UN Charter establishing the Economic and Social Council (ECOSOC) can be understood as generally embedding this idea. That the term ‘security’ has in the past two decades expanded to include more than military security is evidenced in the reception of ‘human security’, which expanded the spectrum of the security envelope. The difference between the ‘old’ security and the new human security concepts lies mainly in the ‘subject’ to be secured. While the former concentrates on the protection and defense of the state and the nation against foreign threats and dangers, the latter focuses on the protection of individuals and communities against any form of political and non-political violence and harm. Cf. Noemi Gal-Or, “Revisiting Ann Tickner”, in: *Journal of Human Security* 5, 2 (2009), 49 (48-56). The formative history of human security, which is instructive in analyzing the development of R2P, is a subject for another paper.

of peace and war. What then should be the threshold for identifying a non-emergency situation warranting preventive action? Is it sensible to presume that in an emergency situation, a conflict has already reached the point of crisis thus rendering prevention superfluous? By comparison, Sketch B does contextualize R2P in armed conflict and applies in situations “when prevention fails, crises and conflicts do break out, and reaction becomes necessary. But reaction does not have to mean military reaction”²³. Does this mean that conscience-shocking crises do not constitute an emergency? And what type of reaction can fill the non-emergency vs. emergency gap and be “more than just ‘peacekeeping plus’ [...] but [...] not traditional war fighting either”²⁴? Be it Sketch A or B, a major stumbling block in R2P conceptualization revolves around the notions of humanitarian versus military intervention, and the safeguarding of moral, political, and operational legitimacy.²⁵

The conceptual renditions above entail an obvious legal predicament: To which international legal regime does R2P belong? Grounded in the IHR paradigm²⁶ and accentuating the (state’s) duty as a component of responsibility, R2P has been running the risk – to its own detriment – of allowing “[h]umanitarian norms [to] justify too much [...] [f]ar from being a defense of the individual against the state, the human rights has become a standard part of the justification for the external use of force by the state against other states and individuals”²⁷. Furthermore, vagueness regarding its applicability in peace versus war sees R2P entangled in the tension

²³ Evans 2008a, 5.

²⁴ Gareth Evans, “Operationalising R2P in Coercive Peace Operations”, 5 September 2008b, 1, in: www.crisisgroup.org, accessed 3 June 2009. Ulriksen 2008 argues that human protection operations are better served by the US counterinsurgency doctrine COIN (in: *Counterinsurgency Field Manual, US Army Field Manual*, 3-24/Marine Corps Warfighting Publications 3-33.5, Chicago, University of Chicago Press, 2007) than by the ICISS recommendations (Ulriksen 2008, 32, 35.) However, practice on the ground, in particular the recent personnel change of US Commander of Operation in Afghanistan, suggest serious problems also concerning COIN implementation in this theater. Cf. Joshua Keating, “Change Comes to Afghanistan”, in: *Foreign Policy*, Foreign Policy Morning Brief, 12 May 2009, <http://blog.foreignpolicy.com/node/20609>, accessed 8 February 2012.

²⁵ An extensive summary of this problem is available in Evans 2009. Ulriksen highlights the gap between doctrinal prescriptions and political and military delivery – or rather non-delivery (in: Evans 2009). Cf. also Warren Hoge, “Intervention, Hailed as a Concept, Is Shunned in Practice”, in: *The New York Times*, 20 January 2008; Francis Abiew, “Humanitarian Intervention and the Responsibility to Protect: Redefining a Role for ‘Kind-Hearted Gunmen’”, in: *Criminal Justice Ethics* 29, 2 (August 2010), 93-109.

²⁶ A further conceptual question concerns the attempt to narrow the scope of R2P by rejecting the bundling of ‘everything’ in human rights under the R2P banner (Evans 2008a, 4). Are human rights divisible? Is there a ‘pick and choose’ option when protecting human rights?

²⁷ David W. Kennedy, “The International Human Rights Movement: Part of the Problem?” in: *European Human Rights Law Review* 6 (2001), 261 (245-267). This argument was validated when the R2P idea was hijacked in support of Russia’s incursion into Georgia in 2008.

between IHR and international humanitarian law (IHL).²⁸ All this casts doubt on the legitimacy of the R2P enterprise, including the role reserved for the UN.

The UN's Role in R2P

To set the scene for the paper's proposal for a "constructive adaptation"²⁹ of the international trusteeship system as a means to facilitate both acceptance and implementation of R2P, it seems necessary to briefly analyze the role assigned to the UN according to the narrow version of R2P.

World Summit Outcome Articles 138 and 139

Articulated in the World Summit Outcome, R2P identifies a duty writ large, detailed into several components bearing on the international community. Under the heading of "Responsibility to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity"³⁰ Article 138 re-affirms extant state responsibility incurred for international crimes (invoking extra-territorial universal jurisdiction as of a state's right):³¹

138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the *prevention* of such crimes, including their incitement, through appropriate and necessary means. *We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility* and support the United Nations in establishing an early warning capability.³² [emphasis added]

A deconstruction of Article 138 highlights aspects both included and excluded from the purported R2P:

²⁸ This tension is especially noticeable in the Global War of Terrorism context.

²⁹ ICISS 2001, para. 5.22.

³⁰ World Summit Outcome 2005, 31.

³¹ Especially regarding the crime of genocide, see the ICJ: "427. However, it is not the case that the obligation to prevent has no separate legal existence of its own; that it is, as it were, absorbed by the obligation to punish, which is therefore the only duty the performance of which may be subject to review by the Court. The obligation on each contracting State to prevent genocide is both normative and compelling. It is not merged in the duty to punish, nor can it be regarded as simply a component of that duty. It has its own scope, which extends beyond the particular case envisaged in Article VIII, namely reference to the competent organs of the United Nations, for them to take such action as they deem appropriate. Even if and when these organs have been called upon, this does not mean that the States parties to the Convention are relieved of the obligation to take such action as they can to prevent genocide from occurring, while respecting the United Nations Charter and any decisions that may have been taken by its competent organs" (International Court of Justice, Judgment of 26 February 2007, 180-181).

³² World Summit Outcome 2005, 31.

- Regarding the 'subject' of the duty: Responsibility also attaches to the 'international community' made up of the total sum of states. The use of the first person plural implies the organized international community, namely the UN (named therein), which in this case is the UNGA adopting the UN Secretary General's (UNSG) report.³³
- Regarding the nature of the duty: The 'Four Crimes' provide the substance of the duty. While eliciting the second pillar (the duty of other states), R2P's positive aspect is nevertheless restricted to encouragement and help to the territorial state tasked with the practical discharge of the duty. Amounting to 'soft' responsibility, little if anything new is added to the tool arsenal already available under the UN Charter (Chapters VI, VII, and VIII) and in international conventional and customary law regarding the 'Four Crimes'. The UN's role is confined to specific 'pre-preventive' action (early warning capacity building) leaving the 'activation' of R2P to the territorial state, and by default (due to indeterminate reference, e.g. "we accept", "will act in accordance"³⁴) – to the international community. Although focusing on both Pillars 2 and 3, Article 138 circumscribes the positive duty of R2P, namely the action, very narrowly.

Article 139 elucidates the spectrum of the responsibility identified in Article 138:

139. The international community, *through* the United Nations, *also* has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to *help to protect populations* from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, *we* are prepared to take collective action, in a timely and decisive manner, through the *Security Council*, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are *manifestly failing to protect their populations* from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.³⁵ [emphasis added]

Similar to Article 138, a careful reading of Article 139 elicits the following:

- Regarding the 'subject' of the duty: As in Article 138, the subjects shouldering the responsibility are the territorial state, the 'international community'

³³ Being an international organization, the UN is a non-State actor (NSA). The responsibility in international law of a NSA is an issue beyond the scope of this paper.

³⁴ World Summit Outcome 2005, 31.

³⁵ World Summit Outcome 2005, 31.

(including regional organizations), and the UNGA. Article 139 attaches the responsibility to the UN as an agent of the international community,³⁶ and in general terms delegates the performance of the corresponding duty to the UNSC as the sole executive organ. It nevertheless remains unclear whether the UNSC's role in R2P engages only Articles 41 and 42 regarding collective means 'not involving the use of armed forces' or those involving armed force, or both, namely peaceful and non-peaceful action. The specifications "also" (in the first sentence) and "in this context" (in the second sentence) allow for a flexible interpretation of the duty of performance: Does it refer to organs other than the UNSC, employing additional means other than in the context of those appropriate as per Chapters VI, VII and VIII? The task of further developing the concept of the R2P within the confines of the 'Four Crimes' is assigned to the UNGA. The reference to the Charter and international law may signal an invitation to construe the Charter resourcefully when challenged with matters of R2P. Against this backdrop, Article 139's silence regarding the practicability of establishing new UN capacities (suggested in Article 138)³⁷ is interpreted here as a 'niche' within which the usefulness of Chapters XII and XIII on the international trusteeship system and its council might be reconsidered.

- Regarding the nature of the duty: Article 139 focuses on the means to discharge the R2P obligation. It is a quintessential Pillar 3 provision. It also classifies the sequence of duty activities devised in R2P – from consensus-dependent preventive to coercive – as provided in UN Charter Chapters VI, VII, and VIII. In contra-distinction to the ICISS Report, the Article's emphasis on "manifest failure to protect their populations" demarcates the spectrum of means employed; however, it extends beyond the scope of Articles 41 and 42 of the Draft Articles of Responsibility, in which "[t]he legal duty of cooperation in order to end a *serious breach of the law is very close to the concept of the collective responsibility to protect*".³⁸ [emphasis added]

Although echoing extant law, Articles 138 and 139 jointly and prudently charter a new path in global governance. Instructing collective sanction against a state manifestly defaulting on its (as of yet indeterminate) international duty to protect

³⁶ World Summit Outcome 2005, 31. Here too, the UN's legal personality as a NSA raises issues of attribution of responsibility. For a relevant discussion of the meaning of 'obligation' of the members of the UN, but relevant also to the question of obligation of the UN as a NSA, cf. Robert Kolb, "Does Article 103 of the Charter of the United Nations Apply only to Decisions or also to Authorizations Adopted by the Security Council?", in: *ZaöRV* 64 (2004), 21-35.

³⁷ R2P according to the ICISS report raises additional regime transformation issues, e.g. regarding the UNSC veto arrangement and others, which for the time being have been superseded by the narrow version.

³⁸ *Draft Articles on Responsibility of States for Internationally Wrongful Acts* 2001, Article 41, Commentary (2), 114.

its own population, R2P exceeds prevalent international legal regimes (IHR, IHL³⁹, and international criminal law), thus triggering the alarm bells: Is R2P gnawing at the foundations of an international legal security (or peace) regime that has been reserved strictly to UN Charter Article 51 Chapter VII?⁴⁰ Given the opaque delineation of emergency and non-emergency (Sketch A),⁴¹ how can a potential conflict between R2P and self-defense be avoided?⁴² Is Article 139 collective action pre-conditioned by, and arising only pursuant to, unsuccessful Pillar 2 efforts? Can it also be mandated by skipping Pillar 2 and moving directly to Pillar 3 (Sketch B scenario)? Circumventing this debate, we prefer to turn our attention in another direction and show that a possible avenue for discharging R2P is already available within the UN itself. Before broaching this issue, some additional comments regarding R2P are warranted.

UN Adherence to R2P

As noted earlier, in essence, R2P does not represent a new idea. Therefore, it is interesting to briefly compare the UN's 'compliance' with the responsibility prior to R2P's ICISS articulation, and after, especially following the World Summit Outcome. An extensive literature chronicles UN's compliance effected in negotiations, military intervention, and rebuilding; either through direct UN involvement, by delegation to a regional entity, a 'coalition of willing', or to an individual state.⁴³ In some

³⁹ For an argument that IHL provides for a positive duty cf. Luigi Condorelli – Laurence Boisson de Chazournes, "Quelques remarques à propos de l'obligation des États de 'respecter et faire respecter' le droit international humanitaire 'en toutes circonstances'", in: Christophe Swinarski (ed.), *Studies and Essays on International Humanitarian Law and Red Cross Principles in Honour of Jean Pictet*, The Hague, Martin Nijhoff Publishers, 1984, 17-35. For an argument that positive primary and secondary obligations in both IHL and IHRL have long been recognised, cf. International Human Rights Law and Practice, *Final Report on the Impact of International Human Rights Law on General International Law: Draft Report*, 73rd International Law Association Conference, Rio de Janeiro, 17-21 August 2008, 14.

⁴⁰ Mary O'Connell, "The Responsibility to Protect (R2P): A Way Forward – or Rather Part of the Problem?", in: *Foreign Voices* 1 (2008), 5 (5-8); von Schorlemer observes the legal paradox resulting from the conflicting UN Charter Articles' 2(4) prohibition and the lack of duty to invoke Chapter VII provisions in matter of international crimes (von Schorlemer 2007, 3).

⁴¹ Cf. Ulriksen 2008.

⁴² The discussion on the cohesion (or lack thereof) governing the relationship between R2P and Chapter VII Article 51, and focusing on the correlate rights and obligations, is beyond the scope of this paper. Suffice it to note that it is material to the debate concerning humanitarian and military intervention and R2P.

⁴³ For accounts specifically addressing the 'overlap' between the two periods, i.e. prior to and after R2P, cf., for instance, Simon Chesterman, "Virtual Trusteeship", in: David M. Malone (ed.), *The UN Security Council. From the Cold War to the 21st Century*, Boulder (CO), Lynne Rienner Publishers, 2004, 219-236; Nicholas Wheeler, "Operationalising the Responsibility to Protect: The Continuing Debate over Where Authority Should Be Located for the Use of Force", in: *NUPI Report. Responsibility to Protect* 3 (2008) 3-27; Olivier Corten, "Human Rights and Collective Security: Is There an Emerging Right of Humanitarian Intervention?", in: Philip Alston – Euan MacDonald (eds.), *Human Rights, Intervention, and the Use of Force*, Oxford, Oxford UP, 2008, 87-138; Richard Caplan, *A New Trusteeship? The International Administration of War-Torn Territories*, New York, Routledge, 2006.

cases, UNSC authorization for R2P-like operations was granted *ex post facto*; in others, notably Kosovo, it was not provided, the UN denying the R2P qualification to NATO's operation.⁴⁴ While the UNSC (Chapters VI and VII) is the chief organ entrusted with addressing both prevention and reaction, other UN organs (Chapter III) have shouldered the burden, especially the ICJ concerning reaction (and by implication, rebuilding), and the ECOSOC by way of prevention and rebuilding. Throughout its history, and as the law regarding the 'Four Crimes' was developing, additional UN bodies have joined the task. They include among others the Human Rights Council charged with prevention,⁴⁵ the International Criminal Court and *ad hoc* tribunals, and various specialized UN agencies. Recently, the Peace-building Commission and Special Advisers to the Secretary-General were established to specifically address R2P, thus evidencing the implementation of Articles 138 and 139. In sum, although the UN is committed to R2P – just as it has been committed to responsibility from its outset – the organization often found itself unable to secure effective member cooperation and participation.

Against this backdrop, and in the face of numerous drawn-out situations begging R2P activation (recurrence of 'Four Crimes' catastrophes), two major governance approaches stand out. One attributes the UN's weakness to the inadequacy of its organs, including the UNSC-5 legitimacy deficit and the organization's inability to transform and adjust to 21st century global needs and norms;⁴⁶ the other to the global proliferation of institutions.⁴⁷ But are more and/or new institutions really required? The following discussion proposes a re-think of the original and abandoned concepts of an International Trusteeship System and Trusteeship Council, which, revamped, might prove adequate, even warranted, in R2P circumstances.

International Trusteeship Revisited

In the following section we first give a critical review of the international trusteeship regime and of the prospects of its adaptation to contemporary R2P situations; then we set out to explore the following issues: Is the under-utilized UN international

⁴⁴ The examples are too numerous to be addressed here. They are discussed extensively, for instance, in the International Crisis Group and NUP! publications as well as in many other sources.

⁴⁵ Von Schorlemer 2007, 2.

⁴⁶ Cf. John Trent, *Modernizing the United Nations System: Civil Society's Role in Moving from International Relations to Global Governance*, Opladen–Farmington Hill, Barbara Budrich Publishers, 2007, especially chapters 4 and 7.

⁴⁷ Cf. Daniel Drezner, "Institutional Proliferation and World Order: Is There Viscosity in Global Governance?", Working paper 24, Project on Globalization and the National Security State, Research Group in International Security, Université de Montréal/McGill, November 2007; *Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law*. Report of the Study Group of the International Law Commission Finalized by Martti Koskenniemi, A/CN.4/L.682, 13 April 2006.

trusteeship concept applicable to Pillars 2 and 3 and to the corresponding prevention and rebuilding actions? What are the prospects for revival and reform of UN Charter Chapter XII? Before turning to these questions, however, a brief comment concerning legitimacy and democracy – two concepts that have been absorbing much of the R2P debate – is warranted.

Legitimacy and Democracy

Legitimacy is invoked whenever an R2P intervention is being considered; the democratic nature of the policies, strategies, and tactics involved in the operationalization of R2P is a concern.⁴⁸ Underlying this worry is the suspicion that R2P represents the latest version of a hidden agenda by the North against the South; a 21st century model of neo-colonialism and neo-imperialism.⁴⁹ While past European expansionism continues to evoke troubling images even sixty years after World War Two and almost complete decolonization, the fading of Cold War hegemonic rivalries and the transformation of the world order (the rise of the so-called BRIC countries – Brazil, Russia, India, China – and the emergence of a G20) should militate against an automatic anti-international trusteeship reflex. Moreover, with almost universal UN membership, global commitment to the normative bedrock of the international community of states must be taken for granted.⁵⁰ Although not a democratic organization, the UN's normative output, evidenced in manifold instruments, parades democracy as a central foundational value echoing a global consensus that peace – the banner of both R2P preventive and rebuilding enterprises – requires democracy-promoting conditions.⁵¹ Therefore, a democratic conceptualization and implementation of R2P must be accepted as legitimate.

International Trusteeship

UN Charter Chapter III Article 7.1 on Organs lists the Trusteeship Council (UNTC) as one of the six main UN organs. This is of paramount importance, for unlike the numerous special agencies, committees, and other bodies established over time by the main UN organs, the UNTC, along with the UNSC, UNGA, and the UNSG, is a permanent and constitutional UN body. That the chief rationale underlying

⁴⁸ José Alvarez, "The Schizophrenias of R2P", in: Alston – MacDonald 2008, 275-284.

⁴⁹ Cf. von Schorlemer 2007, Evans' various publications, and Chesterman, in: Malone 2004, 219-233.

⁵⁰ Bardo Fassbender, "The United Nations Charter as a Constitution of the International Community", in: *Columbia Journal of Transnational Law* 36 (1998), 529-619.

⁵¹ The very existence of a UN Democracy Fund signifies the importance of democracy as a goal justifying special budgeting. Cf., for instance, the UN Secretary General's statement on the promotion of good governance and the rule of law through a Peacebuilding Fund designed to bolster democracy and the rule of law in post-conflict countries (Report of the Secretary-General on the Peacebuilding Fund, A/63/218–S/2008/522, 4 August 2008).

the International Trusteeship System and the Trusteeship Council is grounded in the historical circumstances prevailing at the time of the Charters' adoption (post World War II decolonization) does not alter this legal fact.⁵² Nor does it diminish the legal status of Article 7.1, in spite of the 1994 suspension of UNTC's operation.⁵³ Equally, there is no legal reason to deny the UNTC the prospect of reform that applies unchallenged to other UN organs. There is little reason to consider the UNTC's legitimacy deficit as more troubling than that of the UNSC⁵⁴ (the most powerful UN organ, which continues to expand its authoritative ambit⁵⁵ regardless of its lack of legitimacy).

The Objectives of the International Trusteeship System

The catalogue of "basic objectives" (Chapter XII Article 76) is as relevant today as it was in 1945. The first objective – the furtherance of international peace and security – figures prominently in both the narrow and wide R2P. The second objective – the promotion of political, economic, social, and educational advancement of the inhabitants of the trust territories, all listed in the UN Charter Chapter XII Article 76 – has been intrinsic to the conflict prevention, peacebuilding, and development agendas of the UN. That this promotion may lead to "self-governance or independence"⁵⁶ corresponds with the condition of people in FFS such as Somalia or Sudan, where the central government has lost

⁵² The problematic application of Chapter XII Article 77.1.a, which lists the type of territories to which the trusteeship system applies, mirrors much of this background and explains the reluctance to reactivate the international trusteeship system. Cf. Simon Chesterman, *You, the People. The United Nations, Transnational Administration, and State-Building*, Oxford, Oxford UP, 2004, especially 37-44.

⁵³ United Nations Trusteeship Council, Press release TR/2426, 20 October 2004.

⁵⁴ Cf., for instance, Chesterman, who notes that "[t]he power of the United Nations Security Council to administer territory is not mentioned in the United Nations Charter. Nor, however, is peacekeeping [...]. Here as in many other areas of the Council's activities, practice has led theory, and the Charter has been shown to be a flexible [...] instrument" (Chestermann 2004, 219). Regarding UN institutional change in general: "It seems probable that any institutional reforms will be incremental, driven by the exigencies of circumstance rather than doctrinal development" (Chestermann 2004, 222). Concerning the process of international legal change, cf. Alan Boyle – Christine Chinkin, *The Making of International Law*, Oxford, Oxford UP, 2007.

⁵⁵ By acquiring international legislative powers in addition to its executive powers, cf. Stefan Talmon, "The Security Council as World Legislature", in: *The American Journal of International Law* 99, 1 (2005), 175-193; Steven Ratner, "The Security Council and International Law", in: Malone 2004, 591-605.

⁵⁶ On the relevance of failed and fragile states to the R2P discourse, cf. ICISS 2001, para. 5.22-5.24; Noemi Gal-Or, "Suspending Sovereignty: Reassessing the Interlocking of Occupation, Failed and Fragile State, Responsibility to Protect, and International Trusteeship (Lessons from Lebanon)", in: *Israel Law Review* 41, 1 (2008), 1-30. Suspended sovereignty must be distinguished from the idea of divisible sovereignty as discussed in Rolf Schwarz – Oliver Juestersonke, "Divisible Sovereignty and the Reconstruction of Iraq", in: *Third World Quarterly* 26, 4-5 (2005), 649-665. For a discussion of relevant governance issues cf. Bernd Ladwig – Beate Rudolf, "International Legal and Moral Standards of Good Governance in Fragile States", in: Thomas Risse – Ursula Lehmkuhl (eds.), *Governance Without a State? Policies and Politics in Areas of Limited Statehood*, New York, Columbia UP, 2010, 199-231.

control over significant parts of the state or vanished altogether. Indeed, ICISS' insistence, implicit in the Summit Outcome, that "[...] the responsibility to protect is fundamentally a principle designed to respond to threats to human life, and *not a tool* for achieving political goals such as greater political autonomy, self-determination, or independence for particular groups within the country [...]"⁵⁷, was understandably designed to alleviate any misgivings concerning attempts at piercing the absoluteness of sovereignty. Nevertheless, while R2P is "not a tool" intended to change the political make up of a country, such outcomes may certainly come as a byproduct. UN Charter Article 76.b can be read as supplementing ICISS' assurances for it addresses the "inhabitants" and the "people" of the trust territories and specifies that trusteeship determinations should not be arbitrary but rather case-by-case "as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned [...] [and] the terms of each trusteeship agreement".

The third trusteeship objective reiterates the universality of human rights and fundamental freedom and recognizes "the *interdependence* of the peoples of the world"⁵⁸ (Article 76.c). This must be resonating with R2P protagonists advocating a shared global responsibility of the international community in a globalized world. The fourth and last basic objective emphasizes the (sovereign) equality of UN members and their nationals. It is meant to counter concerns regarding interference with sovereignty, not dissimilar to the ICISS assurances mentioned above.

Article 78 and Suspended Sovereignty

Transitional internationally administered territories (TIATs) have become a common and important UN practice for handling R2P-type challenges. These "virtual trusteeship"⁵⁹ or "new trusteeship"⁶⁰ systems are not, however, international trusteeships in the legal sense. States in the Balkans, Africa, East and South East Asia, and Afghanistan, have since the late 1980s submitted (willingly or otherwise) to TIAT operations⁶¹ authorized by the UNSC and administered by the UNSG. Although largely mirroring the provisions of Chapter XII Articles 75, 77.1.c and 77.2,⁶² and constituted in specific case-by-case agreements, TIATs

⁵⁷ Administration under UN Authority, ICISS 2001, para. 5. 23 [emphasis added].

⁵⁸ Emphasis added.

⁵⁹ Chesterman, in: Malone 2004, 219.

⁶⁰ Caplan 2006, title.

⁶¹ Cf., for instance, Caplan 2006; Wheeler 2008.

⁶² Chapter XII Article 75 reads: "The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories". Article 77.1.c. refers to "territories voluntarily placed under the system by

represent an innovative and *ad hoc* UN enterprise.⁶³ Since most of the world's territories have meanwhile become independent and are UN member states, TIAT operations have successfully circumnavigated the cardinal legal impediment to a 21st century application of Chapter XII Article 78 stipulation that “[t]he trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality”. Considering the far-reaching international law developments accrued since the adoption of the UN Charter, TIATs have attempted to bridge the gap between contemporaneous international relations and the legal standards governing them.⁶⁴ This always involves addressing issues of international recognition of state and government, and explicitly articulating the nexus of governance (control) and sovereignty.

Under certain circumstances, R2P may trigger certain legal consequences involving the recognition⁶⁵ of a government, a state, or both.⁶⁶ These are likely to arise where the *condition* of a state has unmistakably degenerated into political and legal decay, and its government been incapacitated to the degree of noncompliance with its duty of care owed to a significant part of its population or all of it (R2P first pillar). At this point, the state may be said to have reached a political “status” of FFS (failed or fragile states).⁶⁷ While state recognition remains immune to positive revocation by the international community and/or its members,⁶⁸ a legally surviving state may nevertheless be in a political condition where sovereignty lacks practical significance, hence is effectively suspended.⁶⁹ Not only is such state in breach of its R2P duty; often, the results entail a threat to international peace and security as demonstrated, for instance, in the cases of Somalia, Sudan, Lebanon, Pakistan, and Afghanistan, to name a few. The threat may be unintended or deliberate (where a government intentionally fails

states responsible for their administration”, and Article 77.2 subjects the placement of trust territories conditional on “subsequent agreement as to which territories in the foregoing categories [here – 77.1.c] will be brought under the trusteeship system and upon what terms”.

⁶³ Caplan 2006, 13; the disadvantages of this approach are discussed in the next section.

⁶⁴ Cf. Fassbender 1998.

⁶⁵ Malcolm Shaw, *International Law*, Cambridge, Cambridge UP, 2008, 444-486; Ian Brownlie, *Principles of Public International Law*, Oxford, Oxford UP, 2003.

⁶⁶ On TIAT's state-building, sovereignty, and autonomy type legal consequences cf. Caplan 2006, chapter 1.

⁶⁷ For a concise review of the FFS, cf. Derek Fraser, “Failed States: Why They Matter and What We Should Do About Them”, in: *International Insights*, CIIA/ICAI 5, 2 (2007), 1-6.

⁶⁸ A state may of course fall into demise or its identity may change due to various legal processes (for instance, cession, secession, dismemberment, union), cf. Fraser 2007.

⁶⁹ This is to be distinguished from UN Charter Chapter III Membership Article 5 stipulating conditions for suspension of UN membership. Suspended sovereignty must be distinguished from the idea of divisible sovereignty as discussed in Schwarz – Juestersonke 2005. For a discussion of relevant governance issues cf. Ladwig – Rudolf, in: Risse – Lehmkuhl 2010, 199-231.

to live up to its responsibility and is complicit in the breach, such as Sudan's Omar Bashir's government). Suspended sovereignty must not be understood as a "conditioning of sovereignty on state behavior"⁷⁰, nor is it suggested here that the combination of misuse/abuse of sovereignty and affront to international peace and security lead to "conditional sovereignty"⁷¹. Rather, the concept captures the fact that a sovereign state's jurisdiction has ceased to be operational. Accordingly, suspended sovereignty represents a condition originating from within the state and consequently, attaching only to its internal – not external⁷² – sovereignty.

Arguably, where a state's sovereignty becomes suspended in the FFS sense, its UN membership is in essence suspended as well, for there can be no effective representation of the state in the work of the organization. In addition, while "[...] a state is free not to exercise its constitutional right to participate in the work of the community organs"⁷³, such abstention must not (be allowed to) amount to an *obstruction* of the UN R2P and the pertinent work regarding the *jus cogens* and *erga omnes* invoking 'Four Crimes'. By the same token, an obstruction of UN work, even of R2P, must not be construed as recommending an automatic legal suspension of UN membership (Chapter II Article 5), a measure that runs counter to the purpose of R2P and the interest of human protection through state rehabilitation.⁷⁴ The practical suspension of a state's sovereignty through incapacitation may, depending on a case-by-case assessment, be interpreted as *qualifying* UN membership for the purpose of Chapter XII Article 78, and most likely also in accordance with Chapter VII Article 39 and Chapter XII Article 82.⁷⁵ Ascertaining a state of suspended sovereignty as well as expressly

⁷⁰ Slaughter 2005, 628.

⁷¹ Slaughter characterises the ICISS Report's handling of sovereignty as well as the approach of the High Panel Report, *A More Secure World: Our Shared Responsibility, Report of the High-Level Panel on Threats, Challenges and Change*, A/59/565 2 December 2004, as an attempt at redefining sovereignty (Slaughter 2005, 620, 628).

⁷² "Intervention suspends sovereignty claims to the extent that good governance – as well as peace and stability – cannot be promoted or restored unless the intervener has authority over a territory. But the suspension of the exercise of sovereignty is only *de facto* for the period of the intervention and follow-up, and not *de jure*" (ICISS 2001, para. 5.26). This interpretation of some FFS situations as well as Michael Doyle's "ad hoc semisovereignty mechanisms" (referring to the political nature of TIAT, not to that of the FFS; cited in Simon Chesterman, "Ownership in Theory and in Practice: Transfer of Authority in UN Statebuilding Operations", in: *Journal of Intervention and Statebuilding* 1, 1 [2007], 3-36), concern external suspension of sovereignty, which is different from the concept of suspended sovereignty discussed here. Cf. also regarding suspended sovereignty in situations of foreign occupation, Gal-Or 2008; and Chesterman 2007, 6, discussing UN sanctioned transitional administration as "a project undergirded by the realist foundation of military occupation".

⁷³ Which is interpreted as an aspect of a contractual relationship between the member state and the UN according to Fassbender 1998, 613.

⁷⁴ Wheeler interprets para. 138 of the World Summit Outcome as decidedly intended to bolster rather than weaken state sovereignty (Wheeler 2008, 10).

⁷⁵ Article 82: "There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to

acknowledging that the suspension is provisional are crucial conditions of this conceptual construction of sovereignty. Both should preferably also involve the International Court of Justice in addition to the UNCTC and UNSC. Consequently, the state would be incapacitated in “the exercise of *certain rights* of membership”⁷⁶ but not forfeit its UN membership *per se*.⁷⁷

Re-thinking UN membership by distinguishing between *de jure* versus *de facto* active and law-abiding membership⁷⁸ offers a fresh perspective. In line with UNSG’s idea of “filling a rule of law vacuum”⁷⁹ (at least concerning post-conflict R2P situations), it might guide a re-calibration of Article 78 to match contemporary conditions without challenging the principle of sovereignty.

*The Trusteeship Council, General Assembly, and Security Council:
Constitutionally Linked*

Chapters XII and XIII of the UN Charter stipulate the constitutional link between the three UN organs UNGA, UNSC, and UNCTC; a constellation which remains as attractive today as in the days of its origin. For one, it strikes a valuable labor-division balance between the three organs. Furthermore, the very structure and process of the UNCTC suggest a measure of democratic pluralism. Together, this ‘concoction’ might prove instrumental in alleviating some of the handicaps characteristic of the *ad hoc* TIAT approach and stemming from lack of

- advance preparation, readiness and institutional willingness to activate R2P,
- clarity of mandate,
- a set of basic standards to guide operations (for instance, regarding mix of civil-military and supervisory or executive authority, inter-organizational relationship), and
- a well-established consensus-building mechanism.⁸⁰

any special agreement or agreements made under Article 43.” Theoretically, a conjoined and updated construction of Article 78 applicable to the condition of FFS and Article 82 would be responsive to situations where an international trusteeship agreement depended on Chapter VII operationalization. This, however, is a subject beyond the scope of the paper.

⁷⁶ Fassbender 1998, 614 [emphasis added].

⁷⁷ “Just as a state cannot evade its obligations under the constitution of the international community, it cannot be expelled from the constitutional community as such. This membership in the international community has to be distinguished from a state’s participation in the work of the community organs. A (temporary) suspension ‘from the exercise of the rights and privileges of membership’, as provided for in Article 5 of the Charter, is acceptable from a constitutional point of view” (Fassbender 1998, 613).

⁷⁸ Fassbender’s distinction between the contractual and constitutional attributes of the UN Charter is very instructive in guiding such construction.

⁷⁹ *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, Report of the Secretary-General, S/2004/616, 23 August 2004, Chapter X, para. 27, 10.

⁸⁰ Caplan 2006.

A reform of the trusteeship system is preferable to the TIAT approach for several reasons: First, the permanency of the arrangement is preferable to the *ad hoc* TIATs operations. Chapters XII and XIII are distinctly not UNSC-type chapters: They distribute constitutional heads of power between the UNSC and the UNGA, unlike the UNSC-driven TIAT, thus militating against the UNSC's overpowering impact in general, and UNSC-5's dictate in particular. While Chapter XII Article 83 specifies that “[a]ll functions of the United Nations relating to *strategic areas*, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be by the Security Council” [emphasis added], Chapter XII Article 85 stipulates that

1. [t]he functions of the United Nations with regard to trusteeship agreements for *all areas not designed as strategic*, including the *approval* of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.
2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions. [emphasis added]

This may encourage an effective sharing of Pillar 2 and 3 responsibilities by these three UN organs.

Chapter XII Article 79 specifies that the “terms of the trusteeship shall for each territory be placed under the trusteeship system, including any alteration or amendment, shall be *agreed upon by the states directly concerned* [...] and shall be approved as provided for in Articles 83 and 85” [emphasis added]. This trilateral checks-and-balances arrangement is backed by an inclusive and flexibly composed Trusteeship Council (Chapter XIII Article 86) and the provision of equal voting rights to all its members (Chapter XIII Article 89).

Second, since both Chapters XII and XIII require collaboration and coordination between the UNSC and the UNGA, the ensuing trilateral partnership may be conducive to the democratization of R2P efforts. By assigning the UNGA a proactive role as a participant in R2P operations, the arrangement might, on the one hand, empower the UNGA, and on the other hand, balance the powers of the UNSC and UNGA as co-sharers of responsibility in the supervision of R2P efforts. Consequently, the legitimacy of UN R2P operations will be enhanced.

Third, the brevity of Chapter XIII allows for ample discretion and flexibility in accommodating the needs of any specific case. In addition, this openness may effect organizational learning conducive to incremental adaptation and transformation to changing global circumstances.

Fourth, from a system capacity perspective, centralizing R2P in one UN organ committed to tripartite collaboration is more likely to enhance bureaucratic efficiency and effectiveness, especially when compared with the inevitable

redundancy of *ad hoc* TIAT administrations. Under a trusteeship system, the UN could build an organizational expertise pool, an organizational memory, and an organizational permanent administration to set up a harmonized inventory of basic standards to assess R2P situations, classify them according to R2P prevention, reaction, and rebuilding criteria, evaluate ongoing and complex R2P operations, and recommend future ones. Certainly, this would go a long way towards meeting concerns of redundancies and institutional proliferation in the UN's work.

Fifth, the constitutional nexus among UNGA, UNSC, and UNTC creates a broad-based yet centralized address to check UN accountability for R2P operations. Arguably, uncertainties and speculations of the people protected by R2P may thus be eased, bolstering the chances for successful operations.

Finally, the prospects of such tight and effective intra-UN partnership might prove a deterrent to FFS governments and non-governmental actors (such as rival groups, militias, and others) to engage in counter-R2P activities.

Conclusion

As this paper was being written, former International Crisis Group President Gareth Evans' book *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All* has just been rated by the Council on Foreign Relations as one of the best books on international affairs; it was also awarded an Honorable Mention in the 2009 Arthur Ross Book Award. R2P, which continues to occupy a prominent place at least in the academic and legal discourse, represents an early 21st century's initiative to propel efforts previously undertaken by the UN – and before it, by the League of Nations, the International Committee of the Red Cross, and others – to new horizons, and perhaps to better international compliance. In this process, an idea codified in the UN Charter, namely the international trusteeship system, has been almost completely overlooked. Held back by the legacy of colonialism and imperialism, the horizons of the R2P debate have been obscured. However, as other reforms to the UN have worked their way into the organization and yet the regime has proven resilient, capable of undergoing transformations, there is no reason to refrain from reconsidering in detail the applicability of Chapters XII and III to R2P.

The current state of the art of R2P shows a norm in the making (or not), the thrust of which is not at all new: to maintain international peace and security, at least to prevent atrocities, and if this proves unfeasible, to react and rebuild life after such conscience-shocking acts of violence. Aside from its practical potential contributions, R2P is poised to play a significant role in the development of

international law. Its success in accomplishing the goal of reinforcing and codifying a general positive duty of states has perhaps put R2P back in the spotlight. The time is ripe to take advantage of UN Charter provisions which consist of an elegant design of UN labor division and which, for historic and geopolitical reasons that no longer prevail, have not been fully appreciated. Over the lifetime of the UN, groundbreaking progress has been made in matters of legitimacy and democracy, even if only due to the vow new members have made upon joining the organization. This is not at all to suggest that these challenges have been surmounted. Rather, the argument is that after over sixty years, there has now been laid a solid underpinning for addressing legitimacy and democracy matters directly and honestly rather than circumventing and avoiding them.

The objectives of the international trusteeship system remain as relevant today as at the time of that system's inception. When the UN was first born and its Charter was drafted and adopted, some territories were considered too immature for immediate self-government. Generations later, states which had at one point achieved and maintained self-government have found themselves falling into incapacitation. In the absence of interest, resolve, and self-confidence, the opportunity to attempt a more contemporary and fitting construction of Chapter XII Article 78, which states that the international trusteeship system shall not apply to territories which have become UN members, was overlooked. As we consider the various suggestions on how to develop new interpretations of sovereignty in order to tackle globalization, fragmentation, and other 21st century challenges, the idea of suspended sovereignty offers a means to reconsider Article 78. In addition, the constitutional link between the UNSC, UNSA, and UNTC, built into Chapters XII and XIII, provides the law and the mechanics for harnessing the international trusteeship system in the service of R2P in certain FFS "zones of chaos"⁸¹.

⁸¹ Robert Cooper cited in Caplan 2006, 84.

Canada and Afghanistan: Peacemaking as Counterinsurgency Warfare – A Conflict in Terms

George Melnyk
University of Calgary

Résumé

Le présent article étudie les liens entre l'engagement du Canada dans la guerre en Afghanistan et les concepts de maintien, de rétablissement et de consolidation de la paix. Il offre un aperçu historique de l'engagement militaire canadien en Afghanistan ainsi qu'une analyse des arguments donnés par le gouvernement canadien et les médias pour justifier sa participation au conflit. En même temps, l'accent est mis sur l'évolution de l'identité nationale canadienne, passée de celle d'État gardien de la paix à celle d'État belligérant. L'auteur discute des causes de cette transformation et des implications qui en découlent au niveau du discours public et de la conscience nationale, tout en détaillant l'escalade du conflit depuis l'invasion américaine en 2001 et son évolution vers un cas classique de guerre anti-insurrectionnelle. Les arguments avancés par les forces d'occupation, incluant le Canada, pour expliquer le renforcement grandissant de l'insurrection pendant la dernière décennie, présentent des contradictions; les parallélismes entre la guerre en Afghanistan et la guerre au Vietnam ainsi que les implications qu'ont ces similitudes pour les populations afghanes et canadiennes sont sources de préoccupation. L'article se termine par une discussion sur le rôle que le Canada pourrait tenir dans la période post-2011 lorsque, peut-être, il aura retiré ses troupes du combat actif, et sur les facteurs nécessaires à une redirection vers un véritable rôle de gardien de la paix.

The conflict in Afghanistan will be far more costly and much, much longer than Americans realize. This war, already in its seventh year, will eventually become the longest in American history.

Richard Holbrooke¹, US Special Representative to Afghanistan and Pakistan appointed by President Obama

A Touch of History

If the Afghanistan War (2001-) will indeed be America's longest war, surpassing even the Vietnam War (1960-1975), then Canadians can legitimately ask if the Afghan War will also turn out to be Canada's longest war. Canadian soldiers have been fighting in Afghanistan since December 2001. Withdrawal from Canada's combat role has been announced for July 2011 and will take until December 2011. This deadline is based on a March 2008 parliamentary motion that received all-party support. This is a total of ten years, longer than Canada's involvement in

¹ Richard Holbrooke quoted in George Packer, "The Last Mission: Richard Holbrooke's Plan to Avoid the Mistakes of Vietnam in Afghanistan", in: *The New Yorker*, 28 September 2009, 39.

World War One and World War Two combined. Although the number of casualties has been small during this lengthy period (147 dead up to June 2010) and the number of personnel relatively minor (2800 troops at the peak), the impact on Canadian public consciousness and national self-image has been much greater than these limited numbers would suggest. Furthermore, the planned withdrawal from combat does not by any means signal the end of Canada's military involvement in Afghanistan. Canadian forces (up to 900 personnel) will remain in that country after 2011 in a military and police-training capacity.²

Three different administrations have not only kept Canada on the battlefield for a decade, they have progressively escalated the level of Canadian military involvement. By doing so both Liberal and Conservative governments have redefined Canada's role in the world from one of a peacekeeper to one of a belligerent.³ When and how this shift came about and what has been the result of this transformation for Canada's political identity and discourse is the main focus of this study. If the late Richard Holbrooke is right in his assessment – and his views should not be underestimated since he was a veteran analyst from Vietnam War days – then it is possible that Canada's military involvement will last as long as that of the Americans and so end up equating Canada with the American propensity toward military solutions and imperial conquest.⁴

The pivotal point in the remaking of Canada from peacekeeper to belligerent was the American invasion of Afghanistan in October 2001. Canada joined in the military campaign to unseat the Taliban government of Afghanistan and destroy al-Qaeda cells because of the traumatic events of September 11, 2001 and the American claim that both elements could be held responsible for the attack on the Twin Towers in New York. The rhetoric that successive Canadian governments and mainstream media have generated to justify Canadian participation in the occupation of Afghanistan has led to a fundamental redefinition of Canada's image in the global community. Whether this redefinition has taken hold in the Canadian psyche to such an extent that Canadian military involvement becomes normative rather than exceptional is yet to be determined, but if there is no change from the current direction in the foreseeable future, this change may be very difficult to

² The Official Opposition Liberal Party published a foreign policy position paper in June 2010 titled *Canada in the World: A Global Networks Strategy*, which called on Canada to remain in Afghanistan as a military and police trainer.

³ The three Prime Ministers involved are Jean Chretien (2001-2003 Liberal), Paul Martin (2003-2006 Liberal), and Stephen Harper (2006- Conservative).

⁴ In spring 2010 accounts appeared in the Canadian press quoting 'experts' who stated that it takes 13 to 15 years to defeat an insurgency. This figure only appeared when it had become obvious to non-military observers that the foreign troops were failing in their efforts to defeat the insurgency. At the same time the 'mission' is cloaked in NATO's public relations language in which the dominant role of the United States in directing the war is covered up.

reverse.⁵ The extent of government and media propaganda for the war may have caused a fundamental shift in Canadian values.

The arguments raised for Canada's military engagement have been varied, but consistent. One of the main proponents of Canada's participation in the military occupation of Afghanistan has been David Bercuson, a historian and director of the Centre for Military and Strategic Studies at the University of Calgary. As a public intellectual who regularly writes op-ed pieces for the prestigious newspaper *The Globe and Mail*, he has argued on behalf of Canada's military mission. For example, in an op-ed piece on 20 April 2007 he condemned the opposition Liberal Party's motion to end Canada's military involvement in February 2009. He claimed that adopting this motion would mean "Canada's reputation as a reliable ally [...] would be shattered", and the country's "national interests would suffer grievous harm"⁶. These national interests include standing firm with its American ally, creating democracy and progress in Afghanistan, defeating a foe (the Taliban) whose social and political values are repugnant to Western values, having Canada appear as a significant player in international affairs, and finally not letting the lives that have been lost be dishonored by not finishing the job, i.e. winning the war. The cumulative result of these 'national interests' is a redefinition of Canada away from peace and toward war, but in a curious way – identifying war as a legitimate form of peacekeeping. This conflating of war and peace in the minds of those who have sought to redefine Canada's post-Korean War military history is exemplified in the title of Bercuson's 2010 op-ed piece, "There's a New Peace 'Warrior' in Town"⁷. Only a study of Canada's historical relationship to peacekeeping and its current relationship to making war can expose the contradictions in the warrior-as-peacemaker image.

From the end of the Korean War in 1953 until the first Gulf War in 1991, Canada's military was involved in only two kinds of military actions: military training with NATO and NORAD (North American Aerospace Defense Command) and United Nations peacekeeping operations, in which it was considered a leading contributor. Because Canada was not actively involved in making war for almost 40 years, there emerged in Canada and abroad a widely held perception that Canada was a peaceful nation that did not participate in imperial projects, and that it could be counted on to help end conflicts and supply military personnel to supervise ceasefires and lines of demarcation. Canadian government rhetoric under Liberal prime ministers Pearson in the 1960s and Trudeau in the 1970s identified Canada

⁵ Under the newly-elected 2011 Conservative majority government Canada involved itself militarily in supporting the rebellion in Libya, which indicated that Canada would continue to project a military profile to the world.

⁶ David Bercuson, "Playing Politics with Afghanistan", in: *The Globe and Mail*, 20 April 2007, A17.

⁷ David Bercuson, "There's a New Peace 'Warrior' in Town", in: *The Globe and Mail*, 2 March 2010.

with the United Nations and with a global diplomacy centered on the concept of peace.

Jack L. Granatstein, a historian and senior research fellow at the Canadian Defence and Foreign Affairs Institute, has been a strong proponent of the Canadian military and its engagement on the battlefield ever since the Afghanistan war, and has been a regular media commentator on the subject. Like Bercuson, he has commented negatively about “the centrality of the peacekeeping myth in the public mind”⁸. Granatstein believes that “not much of this belief system is correct” and that a focus on peacekeeping would mean less money spent on the military, which according to him is “folly”⁹. Yet he acknowledges that “[t]he Harper government, without question the best government in more than a half-century for the military, is taking us out of Afghanistan” because it can read the polls, in which Canadians want the military to move to peacekeeping and away from combat.¹⁰ So the ‘myth’ persists in spite of a decade of concerted effort to replace it with a valorization of the military and a new ‘robust’ Canadian self-image.

When Canada joined the United States in the first Gulf War in 1991, its government took the first significant step toward turning its back on its UN peacekeeping image. The goal of driving the Iraqis out of Kuwait, a country allied to the United States, was sanctioned by the Security Council of the United Nations. At the time two permanent Security Council members – Russia and China – were not in a strong position. The Soviet Union had collapsed and broken apart, leaving Russia in a seriously weakened state, and China was only starting out on the road to capitalist transformation and reform, which left it in a vulnerable position. The United States was able to redefine its position as the pre-eminent world power in the post-Cold War environment. The Gulf War was its first active expression of what came to be termed ‘American exceptionalism’. After this war, Canada again joined the United States in another UN-sanctioned and NATO-directed military campaign, the bombing of Serbia, forcing that formerly dominant Yugoslavian country to vacate its province of Kosovo in 1999. Russia’s attempt to bolster its ally was rebuffed for all to see. Two years later (2001) Canadian Special Forces joined the American invasion of Afghanistan. In a single decade Canada thus transformed its international identity as a peacekeeper to one of confirmed belligerent in various wars, all of which were led or instigated by the United States. This change of identity should not come as a total surprise: The signing of the Free Trade Agreement in 1988 already created an imperative for closer political and ideological ties between the two nations, and Canada had been moving

⁸ Jack Lawrence Granatstein, “A Persistent Myth”, in: *The Literary Review of Canada* 18, 5 (June 2010), 25 (25-26).

⁹ Granatstein 2010, 25-26.

¹⁰ Granatstein 2010, 26.

closer to the US throughout the re-alignment of international geopolitical power ushered in by the end of the Cold War. This new alignment found its full fruition in Afghanistan.¹¹

Matters of Definition

The war in Afghanistan has led to a dangerous expansion of the terminology surrounding peace and its military maintenance. Since the end of the Cold War, three key terms have appeared that currently define the peace process on a political/military continuum: 'peacekeeping', 'peacebuilding', and 'peacemaking'. Peacekeeping refers to a military involvement by a third party sanctioned by the global community via the United Nations that ensures the maintenance of ceasefires and peace agreements. This third-party intervention has been agreed to by the former belligerents and its role is primarily passive. Peacebuilding refers to a post-conflict reconstruction of civil society and state institutions through third-party activities, such as the disarmament of belligerents and support for rebuilding economic, social, and political structures in a war-torn state. This is a pro-active rather than a passive process that tends to be civilian-driven, though there is a military component. The final term, peacemaking, refers to a military action that is robust and intense. It generates conflict and combat until such time as there is a military resolution. Peacemaking has been used as a descriptor of Canada's role in Afghanistan. Third-party intervention may or may not be UN-sanctioned, but it considers itself peacemaking because its military efforts are necessary to maintain security and defend reconstruction. Since such foreign military intervention can generate an insurgency aimed at removing the intervention/occupation, peacemaking can degenerate into protracted counter-insurgency warfare. This is the case in Afghanistan.

The Rhetoric of the Good War

The Government of Canada argued at the beginning of its involvement in Afghanistan that it was supporting the United States in its 'war on terror'. This was when it sent Canadian Special Forces troops to aid the Americans in their war on the Taliban in December 2001. This low level of involvement was moved up to a higher level soon after the Taliban defeat in early 2002. The Western powers installed a pro-Western government in Kabul to replace the Taliban, who had been the victors after a brutal civil war in the 1990s, which in turn had come on the heels of an American-supported insurgency against the 10-year Soviet

¹¹ Cf. Lucia Kowaluk – Steven Staples (eds.), *Afghanistan and Canada: Is There an Alternative to War?*, Montreal, Black Rose Books, 2009.

occupation (1979 to 1989). In early 2002 the United Nations established the ISAF (International Security Assistance Force) to prop up the fledgling government in Kabul. Canada contributed troops to ISAF, whose mandate was restricted to the support of the Kabul government. The UN Security Council expanded the role of ISAF to the whole country in 2003 and NATO took over its command. Canada's initial contribution to ISAF was centered in Kabul and remained there until 2006, when it was increased to 2,500 soldiers who were moved to Kandahar, Afghanistan's second-largest city, a key battlefield of the insurgency. In doing this Canada moved its military from a defensive and relatively safe role in Kabul to a front-line role in Kandahar. As a result Canadian casualties increased substantially. Likewise, the Afghanistan war came under the control of two occupying Western entities – NATO and the United States. Originally, the Canadian contribution to Kandahar was limited to two years, but in 2007 it was extended for two years to 2009 and then again for another two years to 2011. The level of troop deployment leveled off at 2,800 and did not increase.

The Conservative minority government of Stephen Harper initially framed the war as Canada's leadership contribution to the world and adopted the previous Liberal government's 3-D policy (defense, diplomacy, and development) for Afghanistan. This meant that our military efforts were there to build security, i.e. destroy the Taliban insurgency, and to encourage development in order to win the allegiance of the local population, while fostering democratic institutions aligned with Western values and Western interests. Canadian diplomacy supported the corrupt and ineffective government of Karzai, who has been in power since his installation in 2001 (subsequently winning two corruption-riddled elections). Next to the United States, Britain was the largest force in Afghanistan, with British troops eventually numbering almost 10,000.¹²

From its first election in 2006 the minority Conservative government adopted tough militarist language in public, praising its soldiers for fighting terrorists and vowing that military casualties would never lead to a 'cut and run' policy. The Conservative government, led by Prime Minister Harper, reveled in presenting Canada as a warrior nation participating in the American's 'War on Terror'. This 'War on Terror' was the reason offered in the United States for an increase in forces by another 17,000 troops in 2009; in the media and in the minds of Americans, Al-Quaeda and the Taliban were rolled into a single terrorist entity that endangered the United States. Using the 'War on Terror' as the rationale for engagement in Afghanistan meant that the U.S. and its allies were engaging in counterinsurgency warfare. When peacemaking is defined by counterinsurgency warfare, then the prospect of real peace becomes a distant vision. The claim that

¹² Doug Saunders, "Dutch Withdrawal Could Leave Key Afghan Province Vulnerable", in: *The Globe and Mail*, 10 February 2010, A 10.

a more robust counterinsurgency war will produce security and then all else will follow was accepted by the public initially, but it grew weary of this argument as the insurgency grew with every increase in Western military escalation.¹³ Every new general, whether Canadian or American, promised a quick victory, but after a decade of such unfulfilled promises,¹⁴ skepticism and disillusionment had set in. The Americans had used a 'surge' of troops in Iraq in 2008 and they applied the same approach in Afghanistan, bringing in an extra 30,000 troops in 2010. In the case of Helmand province, American troops now outnumbered the British forces, who had military jurisdiction in the province under NATO.¹⁵ But the war continued unabated, expanded into Pakistan, and multiplied the foreign military presence in Afghanistan. There were almost 100,000 American troops fighting in Afghanistan by spring 2010, including 47,000 Americans in the ISAF force plus an equal number under its own direct command in Operation Enduring Freedom.¹⁶ Diplomacy to end the conflict was nowhere to be seen because negotiation with the insurgents was ruled out and development was a tiny part of overall Canadian costs in the war compared to the military cost of keeping a corrupt government in power.

Who are the Taliban?

War is a phenomenon that divides people into friend or foe. In counterinsurgency warfare, who is friend and who is foe is more difficult to discern than in conventional war because the population, which is supposedly the object of protection, is also the source of the insurgency. The enemy in the Afghanistan War is called the Taliban by most Canadians who follow the news. But who are the Taliban? The initial rhetoric of the Canadian government associated the Taliban with a repressive Islamic fundamentalism and its support of anti-Western terrorist attacks. For example, Chris Alexander, a Canadian UN official, was quoted in 2007 as calling the Taliban "a violent, drug-fuelled rabble"¹⁷. Major-General Hillier, the former head of the Canadian military, was even more colorful, referring to

¹³ For a revealing discussion of American military strategy in Afghanistan after a decade of fighting, cf. Robert D. Kaplan, "Man Versus Afghanistan", in: *The Atlantic*, April 2010, 61-71.

¹⁴ Saunders 2010, A10. He provides figures for ISAF in 2010.

¹⁵ Richard Norton-Taylor, "Britain's Afghan Role Up in the Air", in: *The Globe and Mail*, 22 April 2010, A14.

¹⁶ Saunders 2010, A10, and Paul Koring, "Obama's Exit Deadline Unrealistic, Afghan Envoy Says", in: *The Globe and Mail*, 5 July 2010, A7. The article shows a graph detailing American military expansion from 10,000 troops in 2003 and a gradual climb to mid-June 2008 (30,000), when the Americans began to take over complete control of the war from NATO, followed by a rapid climb to 95,000 in mid-2010.

¹⁷ Jon Lee Anderson, "The Taliban Opium War", in: *The New Yorker*, 9 July 2007, 14. In 2009 Mr. Alexander returned to Canada and announced his plan to seek a Conservative Party nomination for the next federal election.

the insurgents as “scumbags”¹⁸. But as the war escalated and the insurgency’s strength increased, it has become evident that the insurgency, commonly called the Taliban, is a Pashtun-based movement of Islamic militants who see their struggle in patriotic as well as religious terms. When the occupying foreign forces are Christian and Western (European and North American) and the government of the country completely dependent on those forces, the Taliban’s view that they are resisting foreign occupation and a corrupt puppet government seems self-evident. Their explanation of the war is shared by non-Taliban Afghans as well. For example, a young female member of the Afghan parliament and the author of *A Woman Among Warlords* called for the withdrawal of Canadian forces because in her view the government of Afghanistan was simply a government of warlords propped up by the Americans.¹⁹ But this interpretation of the war has had little impact on public opinion in Canada, especially in the early years when the official explanation was the norm – that the Taliban were anti-Western fanatics and a threat to the most powerful nations and military alliance in the world because their control of the country would lead to a return to attacks on the US. Initially, the insurgents were lumped together under the term ‘terrorists’, which was a catch-all government and media term for the enemy, but as 9/11 faded from memory and it became clear that the Taliban were resisting a foreign military occupation on their home territory, the word terrorist was replaced with the word ‘insurgent’. But even that term, while less demonizing than ‘terrorist’, was a catch-all label referring to those engaged in a military campaign against Canadian troops and their allies. At least it had the benefit of allowing for a modicum of neutrality in the designation, and of a grudging recognition of military prowess.

As the war dragged on it became increasingly clear that it was the tactics of counterinsurgency war itself that was fuelling the insurgency, and that the quest to secure the pro-American government bred resistance and, thus, further insecurity. Wanting to deny the Taliban any credibility or legitimacy, the Canadian government claimed that drug production was the financial underpinning of the insurgency and that sanctuary in Pakistan was another reason for the insurgency’s growth and success. If the Pakistan-Afghan border could be sealed and the opium trade terminated, military victory would result. There was little reference in mainstream public discourse to the idea that the military occupation of a foreign country and the waging of a vigorous counterinsurgency war necessitated a massive escalation of the war by the Obama administration after 2008, both within Afghanistan and

¹⁸ Janice Gross Stein – Eugene Lang, *The Unexpected War: Canada in Kandahar*, Toronto, Penguin, 2007, 200.

¹⁹ Sonia Verma, “Young Activist Wants Canadian Troops Out Now”, in: *The Globe and Mail*, 20 November 2009, A12.

inside Pakistan's borders.²⁰ The Obama administration appointed one of its top counterinsurgency generals in Iraq, Stanley McChrystal, to head the war in Afghanistan in 2009, asking him to repeat his 'success' of Iraq. But the promised turn-around began to unravel in June 2010 when McChrystal publicly criticized the Obama administration for its handling of the war. This came less than a month after the head of the Canadian forces in Afghanistan was recalled for violations of the military code in regard to sexual relations while on combat duty. Obviously the military solution to the Afghan situation was problematic. Besides the traditional rationale of opium production funding the insurgency and the porous border with Pakistan that allows the insurgents to have a 'safe' haven in Pakistan as preventing a victory, a new rationale was added after 2008: that of an uncooperative and corrupt government in Kabul. An examination of this tripartite rationale, offered by the Western powers for the failure of the military campaign, will expose its fundamental contradictions.

The Political Economy of Occupation

It has become abundantly clear to the international community that there are two major driving forces in Afghanistan's current war economy. The first is the investments in military and political activities by foreign powers, which amount to many billions of dollars. These are funds to support the Afghan army and police and funds to bolster the Karzai government that has been in power for a decade; it is an external cash flow. There is also an external NGO (Non-Governmental Organization) flow of funds into the country. By the end of 2006 there were 277 foreign NGOs and 891 Afghan NGOs operating in the country, all of them dependent on foreign funding.²¹ In contrast to foreign aid there is one domestic product that is not only the main export of the country but also its only significant indigenous economic driver – opium production. This production involves farmers, criminal elements, warlords, and government officials – the latter two are often interchangeable – as well as the insurgency itself which, at minimum, taxes production in the areas it controls and, at maximum, is involved in production and distribution itself.

²⁰ Tariq Ali, "Afghanistan: Mirage of the Good War", in: Kowaluk – Staples 2009, 61, asserts that "the Taliban [...] is the only available umbrella for national liberation that is not corrupt or warlordist". The main forms of American involvement in Pakistan include military support for the government, constant pressure for Pakistan to wage a war on its side of the border, and targeted assassinations of militants using pilotless drones.

²¹ Lara Olson – Andrea Charron, "NGO Myths, Realities, and Advocacy on the International Strategy in Afghanistan", in: Hans-Georg Ehrhart – Charles C. Pentland (eds.), *The Afghanistan Challenge: Hard Realities and Strategic Choices*, Montreal–Kingston, McGill-Queens University Press, 2009, 88.

In the first year of the US occupation (2002) opium production skyrocketed to 3,400 metric tons from a modest 200 in 2001, when the Taliban were still in power and had outlawed production in late 2000.²² By 2007 Afghanistan was producing 8,200 tons and supplying 95% of the world's opium, the basic ingredient of heroin.²³ This meant that Afghanistan under the occupation had become a narco-state. In 2009 opium production fell off to only 6,900 metric tons because of a switch to wheat production due to drought. For the first time wheat was a more profitable commodity for farmers to grow because of increased demand and prices. Furthermore, a glut developed on the heroin market because supply exceeded demand, with enough opium stored to supply the world's illegal demand for two years without any new production.²⁴ Heroin is moved from Afghanistan into three neighboring countries as it makes its way around the world. While this devastating drug has a global market, it has been noted that Iran and Russia are major destinations. Why is there so much production and why has it not been stopped or severely curtailed?

First, Afghanistan is one of the six poorest nations in the world with a 2008 per capita GDP of under \$350 and an unemployment rate of 40 per cent. It is basically a country of subsistence farming and significant illiteracy. With a strict Islamic code prevailing throughout the country, families tend to be large and agricultural production is fundamental to their economic survival. Growing poppies has been one of the few stable commodities in terms of cash crops. Because of its economic importance to the local population, the Canadian military does little to combat production. "The Canadian national policy prevents us from doing too much about it"²⁵, is the explanation offered by a Canadian major working around Kandahar, who claims that destroying the fields and thus the farmers' livelihood would make them support the Taliban. Basically, the occupying powers do not want to or cannot for military reasons reduce or eliminate a major underpinning of the insurgency, which results in a continuation of the conflict.

Second, the Afghanistan government, which is centralized around the appointment of local warlords and tribal strongmen to positions of provincial and regional power, is completely entangled in the drug trade. This corruption has undermined its legitimacy. For example, the president's brother, who is considered a major

²² Production under the Taliban regime had peaked at 4,600 metric tonnes in 1999. In the first four years of rule Taliban (1995-1998) opium production had held steady at between 2,200 and 2,800 tonnes per year. Cf. United Nations Office on Drugs and Crime, "Afghanistan Opium Survey 2004", November 2004, in: www.unodc.org/pdf/afg/afghanistan_opium_survey_2004.pdf, accessed 14 September 2011.

²³ Jon Hemming, "Afghan Poppy Harvest on Pace to Hit Record", in: *Calgary Herald*, 27 August 2007, A11.

²⁴ Tu Thanh Ha, "Afghan Opium Production Down, UN Survey Finds", in: *The Globe and Mail*, 2 September 2009, A10.

²⁵ Ethan Baron, "Afghan Opium Harvest Frustrates Troops", in: *Edmonton Journal*, 26 April 2010, A5.

drug lord, is also a local governor appointed by the president, and, according to recent news reports, on the payroll of the CIA. There seems to be a strong thread running from the drug trade through the government and the insurgents and to the occupying powers. By refusing to make a concerted effort to stop the production and distribution of heroin the occupying powers were in collusion with the warlords and corrupt government officials which they supported.

The United States and its NATO allies have only engaged in superficial eradication campaigns because of their need to court the favor of local governors and tribal leaders. But there may also be another reason, which has not been articulated. The drug trade can be considered a strategic weapon in demoralizing American enemies such as Iran and Russia. Taking a hands-off approach to the drug trade can be seen as serving US interests in several ways: Not interfering with opium cultivation and trade keeps the Karzai government subservient and compliant, and opium production encourages drug addiction in countries that the US considers strategic enemies.

Third, the economics of the insurgency are primarily home-based while those of the Karzai government are dependent on foreign funds. This indigenous characteristic increases the legitimacy of the insurgency in the eyes of the population while delegitimizing that of the US and NATO forces. All the key players – the occupying powers, the insurgents, the government, and Afghan farmers – view opium as a commodity that serves their needs and purposes.

Another aspect of the counterinsurgency strategy has been the spread of the war to Pakistan, whose autonomous tribal border areas have become a war zone with American-promoted government military campaigns to eliminate pro-Taliban elements, with constant use of drones by the CIA and US military to hit human targets, and with the appearance of suicide bombing in major urban centers. This attempt to deny the insurgency a safe haven (a fundamental tenet of counterinsurgency warfare) in western Pakistan has resulted in a major destabilization of the Pakistan government, a permanent sense of being under political siege by the US, and an escalation in anti-government militancy. This destabilization makes Pakistan's authorities ever more dependent on US support and drags their territory into the Afghan conflict.

Finally, the rationale of a politically corrupt regime in Kabul appeared in 2009 when President Karzai 'won' a new term as president in a manner criticized by the international community, including his allies, as lacking in legitimacy. Nevertheless, he returned to power when his opponent did not participate in the run-off election. The label of corruption and illegitimacy was augmented when Karzai was painted in the Western media as someone who both tolerated reactionary laws favored by conservative elements in his government and also promoted a dialogue with the

Taliban, thereby legitimizing the insurgency as a political entity of some stature.²⁶ Karzai's attempt to offer himself as the father of an Afghan solution to the civil war was shattered when the peace *jirga* (a gathering of elders and notables) in May 2010 was shelled by the insurgents. The division between the 'puppet' government and the US and its allies has continued, resulting in an increased polarization between the Afghans and the Western powers. These tensions only serve the long-term interests of the insurgency, whose major weapon is increasing war-weariness in the populations of those countries who have troops there. The decline of public support for the decade-long war in spite of intense government propaganda has exposed the rationale for continuing the war to skepticism and disbelief.

The Cost of the War to Canada and Popular Opinion

With the occupation weighed down by growing contradictions, it is worthwhile to explore the cost of Canada's 'mission' in Afghanistan. There are three costs to consider: the economic cost of the war to the taxpayer, the personal cost of lost and destroyed Canadian lives, and finally, the cost to national identity. The first cost, which is economic, has attracted widely varying estimates, depending on what parameters one uses. For example, in 2005 when Canadian troops went to Kandahar, the annual expenditure was projected as C\$ 1.2 billion for one year.²⁷ However in 2008 the budget officer for Parliament concluded that costs were now running at C\$ 200 million per month and that the total cost of the war effort would be between 14 and 18 billion by the planned withdrawal in 2011.²⁸ By 2007 Canada was spending more on its military as a percentage of the federal budget (and adjusted for inflation) than it had in 1952-53 when it was engaged in the Korean War.²⁹

At the same time as costs increased dramatically Canadian casualties also skyrocketed. In 2005, when Canada was still patrolling Kabul, there were only 10 casualties (killed or wounded). In 2006, the first year in Kandahar, the number was 300 and in 2007 it had grown to 412.³⁰ Numbers kept increasing into 2010, with casualties often announced weekly. In comparison, US casualties outnumbered

²⁶ Sonia Verna, "Karzai Is Just Misunderstood, Friends Say", in: *The Globe and Mail*, 30 April 2010, A10.

²⁷ Stein – Lang 2007, 187.

²⁸ Campbell Clark, "Afghan Mission's Cost Much Higher than Billed", in: *The Globe and Mail*, 10 March 2008, A1.

²⁹ David Pugliese, "Military Spending Passes Cold War Levels", in: *Calgary Herald*, 22 October 2007, A4. Steven Staples, "How Much is this War Costing Canadians?", in: Kowaluk – Staples 2009, 120 (119-134).

³⁰ Byers 2008.

Canadian deaths in 2006 by a ratio of only about 2 to 1, while in 2010 the American to Canadian ratio had skyrocketed to 12 to 1, with Canadian casualties peaking in 2009 prior to the US moving into Kandahar province in a major way.³¹ So what has public reaction been to this escalation and how does that reaction align with government and media discourse?

In 2006 ongoing polls of Canadian attitudes indicated that support for Canada's military role varied from 35% to 55%, depending on which month one selected. Opposition ranged from 41% to 61%, so there was slightly more opposition than support. In 2007 support varied from 36% to 40% and opposition from 55 to 59% – a clear indication that the war was becoming unpopular. These figures have remained more or less consistent over the past two years. Polls from October 2009 indicated that support stood at 45% and opposition at 55%.³² The major opposition is in Quebec, as it has been from the start of Canada's involvement in the war. In the four years during which Canada was engaged in counterinsurgency warfare, public opinion turned against the war. The same has happened in both the US and the UK.³³ In Canada's case there was also the major 2009–2010 public issue of the torture of detainees handed over by the Canadian military to the Afghan authorities, which the government tried to stonewall, but which blemished the purity of the Canadian image.³⁴

So what can be concluded from the public opinion figures and their relationship to the cost of the war financially and in terms of human lives? It would seem that as casualties increase, opposition grows, but not in a dramatic way. For the Americans and the British this may be the result of war weariness associated with the Iraq War and an increasing skepticism about the rationale for both wars. In Canada the extent of military costs, both financial and human, has not been anywhere near that of the American occupation of Iraq. Yet state and media rhetoric about brave soldiers dying for a good cause is being eroded. Even so the public is conflicted and divided over the issue and the view it has of Canada's identity as a peacekeeper. This has been the major cost to national identity.

³¹ Anon., "Afghan Mission Facing Toughest Test", in: *Calgary Herald*, 4 July 2010, B2.

³² Anon., "Support for Afghanistan Mission Dips to 45 per cent", in: *Calgary Herald*, 10 October 2009, A5.

³³ Norton-Taylor 2010. Norton-Taylor states that Britain is currently spending \$7.7 billion per year to keep its forces in Afghanistan and that there is "growing scepticism about the role of British forces there reflected in opinion polls". By mid-June 2010 the British had lost 300 troops since 2001. By August 2009 more than half of Americans opposed the war and over 70 percent of Democrats had turned against it (Packer 2009, 45).

³⁴ Janice Tibbets, "Tories Attack Claims They Know of Torture", in: *Calgary Herald*, 20 November 2009. Richard Colvin, a foreign service official who was in Afghanistan during the period discussed (2007), confirmed that the Canadian military were aware of the torture and abuse and were complicit in it by continuing to hand over prisoners.

In a major media piece on “Canadians re-imaging their country as a military nation” Michael Valpy, a long-time columnist for *The Globe and Mail*, argued that “our national mythology has moved beyond the idea of peacekeeping and embraced the culture of the warrior”³⁵. He pointed out that this has come about because of the valorization of the military in its combat role in Afghanistan, a valorization promoted by the ruling Conservative Party. And yet this valorization and glorification of Canada as a military nation has come up against serious contradictions in the Afghan situation – contradictions which keep surfacing. The planned withdrawal in 2011, along with that of the Netherlands and Denmark in the same year, challenges the essential meaning of that image and raises the possibility of its reversal.

The Future of Canada’s Involvement in Afghanistan

There are a variety of factors that are relevant to Canada’s role in post-2011 Afghanistan. Historically, Canadian government support for the US actions in Afghanistan has been in place since 2001. Politically the matter has been determined over the years by the continuance of minority governments in Canada since 2004. Canada’s Liberal and now Conservative minority governments have had to tread carefully – maintaining involvement in the war while limiting that involvement financially and militarily because of the resistance to the war among a significant percentage of the population. Should the current Conservative government break the minority stalemate there is every likelihood that Canada’s military involvement will continue at some level beyond 2011, since it would have a majority in the House of Commons and could pass a contrary vote of Parliament. Already the pro-war media in the country are calling for a continued military presence. In late 2009 Bercuson wrote an op-ed piece for *The Globe and Mail* titled “Don’t Head for the Exit”, in which he argued that the defeat of the Taliban, in his eyes a laudable goal, requires “much greater military power”³⁶ than already present in the country. He went on to say that the war cannot be Afghanistitized for many years, implying that foreign powers have to fight until victory. With the Liberal Party in 2010 promoting a ‘training’ military presence as a kind of fig leaf for withdrawal, more militarist figures are sounding the alarm over the withdrawal. For example, two senators (a Conservative and a Liberal) called for a continued military presence “to help Afghanistan stand on its own”³⁷. All this pre-withdrawal ‘debate’ is surely a sign of where government policy intends to go, whether there is a minority or a majority Conservative government, or a Liberal one for that matter.

³⁵ Michael Valpy, “Invisible No More”, in: *The Globe and Mail*, 21 November 2009, F1.

³⁶ David Bercuson, “Don’t Head for the Exit”, in: *The Globe and Mail*, 21 November 2009, A17.

³⁷ Pamela Wallin – Roméo Dallaire, “Our Afghan Mission is Not Finished”, in: *The Globe and Mail*, 23 June 2010, A17.

In the waning days of 2009 McChrystal, the American general in charge of the war, was promising that by the time Canadian troops began to leave “we will have reversed Taliban momentum”³⁸, thereby making the Canadian departure feasible. However, the Obama administration’s continued commitment to Afghanistan as its new frontline war (replacing Iraq) and the new militarization of the Canadian national image could mean that the withdrawal will be more symbolic than real.

Peacemaking and Counterinsurgency Warfare: A Conflict in Terms

It is important to understand that a change in national orientation has occurred and that there continues to be a struggle between Canada’s former identity and its current one.³⁹ The factors that have influenced that change and that struggle need to be understood in order to develop a strategy that can return Canada to a closer identification with its former Cold War role as a peacekeeper rather than its post-Cold War role as a warrior state.

First, there needs to be a widespread acknowledgement that Canada’s role in Afghanistan has been one of counterinsurgency warfare ever since the presence of its Special Operations forces in December 2001 and that the training of Afghan military and police in a post-2011 scenario continues to be part of a counterinsurgency strategy. Defining Canada’s role in defeating the insurgency as peacemaking is a conflict in terms because it is the securitization project itself that is fomenting the insurgency. The French Deputy Ambassador in Kabul was quoted in the French media as stating that “[t]he military presence of the coalition is part of the problem, not the solution”⁴⁰. Acceptance of such a position would result in a re-orientation for Canada, but this is something that neither the current government nor the Canadian military is willing to acknowledge.

Second, the reality of counterinsurgency warfare implies that it can take a long time. Two respected academic researchers, Stein and Lang, have stated frankly that the Canadian public needs to be informed that the war will take “a generation”⁴¹. With Canada already in place since 2001, and considering that a generation is anywhere from 17 to 22 years, we can expect that fighting will continue until at least 2018 and probably beyond. The last time that Canada fought a counter-insurgency war was 110 years ago when it participated in the Boer War

³⁸ Gloria Galloway, “McChrystal Not Worried by Canadian Pullout Plans”, in: *The Globe and Mail*, 17 December 2009, A8.

³⁹ Cf. Lloyd Axworthy, “Time for a Civilian Surge”, in: *The Globe and Mail*, 17 December 2009, A23.

⁴⁰ Mike Blanchfield, “Little Progress in Afghanistan: General”, in: *Calgary Herald*, 2 October 2008, A15.

⁴¹ Stein – Lang 2007, 297.

in South Africa at the end of the 19th century. The public's appetite for such a long commitment differs from that of the pundits and the rhetoric-prone politicians.

Third, the promise of peace, interpreted as a stable state of security and development, at the end of a successful counterinsurgency has become less likely with each year. The term 'Vietnam War' with its connotations of defeat is appearing more frequently in commentary.⁴² The implication is that the insurgency will triumph at some point. The underlying arguments for this include the existence of a safe haven in Pakistan for the insurgents, similar to North Vietnam in that other war; the inability of the US military to maintain an occupation of Iraq and Afghanistan plus Pakistan without initiating a draft, which was the main stimulant for opposition to the Vietnam War; and finally, the belief that any attempt to offload the war to the Afghan government and its military would result in disaster similar to what happened to South Vietnam's government and military.⁴³

What this basically means is that peacemaking through counterinsurgency warfare is a contradiction in terms for two fundamental reasons. First, war, and by extension peacemaking as war, has as its objective the victory over an enemy. It is an either/or situation. In a win/defeat paradigm everything must be done to ensure eventual military victory no matter the cost to the local population. This is truly a horrible way to achieve peace. Second, a counterinsurgency waged by a foreign occupying force appears illegitimate in the eyes of the population it is meant to secure because the foreign force's actions are viewed as having that force's own self-interest at heart. Malalai Joya, the young Afghan parliamentarian, summarized the occupation as being a way of having, "[...] access to the gas and oil of the Central Asian Republics. They are not there for my people. They are there for themselves"⁴⁴. The contradiction that counterinsurgency warfare creates between the goals of the population living in that war and the goals of the foreign military forces fighting that war means that peace recedes further and further. Only when these fundamental contradictions are resolved or removed can the path toward peace be regained.

⁴² Gordon Gibson, "Winning in Afghanistan Sounds a Lot Like Winning in Vietnam", in: *The Globe and Mail*, 23 April 2009, A13.

⁴³ The Afghan National Army is controlled by Tajik elements, whose Northern Alliance moved into Kabul in 2001 with the retreat of the Pashtun-controlled Taliban. The Tajik tribal elements make up only one third of the nation's population. Even with U.S. support they would probably lose the civil war to the Taliban. Erhart and Kaestner claim that "from the beginning the ANA has been built up as a US auxiliary force rather than the army of the Afghan state" (Hans-Georg Erhart – Roland Kaestner, "The International Commitment in Afghanistan", in: Erhart – Pentland 2009, 143).

⁴⁴ Verma 2009, A12.

Canada's Duty to Protect and Afghanistan as a Peace Project

The move from the military approach to a political one that would reduce the level of conflict entails a transformation of the meaning the Canadian government and media have attached to the term Taliban. Negotiation implies legitimacy and recognition. Re-branding the insurgency away from terrorism is a requirement for both peacebuilding and peacekeeping. Any political solution means that Afghanistan will be left to the Afghanis to govern, which means an end to the occupation. However, United States policy for a military solution remains firmly in charge. As Stein and Lang argue, "Canada can do little on its own to reverse the factors that cripple any prospect of [military] success"⁴⁵. Yet Canada remains wedded to a military solution by agreeing to maintain a reduced military presence in Afghanistan in a training capacity. Even a reduced military training mission for 2012-2014 remains part of the military identity that the Harper government has fostered. There is no fundamental change.

Peacekeeping, peacemaking, and peacebuilding require a significant component of non-belligerency to exist, such as a truce or a ceasefire agreement or even a unity government. To date the war has not been an exercise in peacemaking because it has generated more war than peace. Establishing a peacekeeping force with Canadian participation in Afghanistan that would separate two now non-warring sides is a possibility but one in which the unity of the country would be undermined. The option of peacebuilding is also problematic because of Canada's decade-long role as a belligerent in the Afghan War. Its credibility as a peacebuilder has suffered. Nevertheless, only a military withdrawal would allow Canada to reposition itself in a different role. But what would be the motivation or the national self-interest in becoming a peacebuilder, when, for a decade, Canada has worked tirelessly to become a military presence praised by the US? Only with a drive to create a new self-image and a redefinition of its international role would Canada move in this direction.

Peacebuilding in Afghanistan offers Canada a way of disassociating itself from American and Western imperial goals – the clash of civilizations scenario – and becoming a recognized player in post-conflict peacebuilding. Canada would have to see its withdrawal as contributing to the creation of a post-conflict situation, hurrying that condition along, rather than perpetuating the current one. Unless Canada selects this option it will be haunted by our ongoing contribution to ensuring that Afghanistan remains a war-torn 'failed state' for years to come. If Canada put into practice its responsibility to protect populations from war, then it would end its peacemaking military intervention and replace with a civilian peacebuilding one. An editorial contribution to the *Calgary Herald* at Christmas

⁴⁵ Stein – Lang 2007, 296.

in 2009 stated that “we [Canada] should look at the world through our own eyes, not those of our neighbours [...] [and] shift from a reactive to a proactive stance on global affairs”⁴⁶. It called for a Canadian rather than an American-oriented foreign policy. Afghanistan is the ground which cries out for this re-orientation. And there has been a recent example of the kind of work in which the Canadian military does receive widespread public support, such as the assistance it gave to Haiti after the devastating earthquake of 2010. While the ‘warrior spirit’ has been cultivated by the government and the military during the Afghan War with tens of thousands of Canadian troops spending some time there, recent polls carried out by the Department of National Defence indicate that Canadians want a return to our former peacekeeping identity.⁴⁷ That public consciousness has retained its attachment to peacekeeping over peacemaking, suggests that peacebuilding is an appropriate response to the post-2011 withdrawal. Unfortunately, the US will be waging an escalating counterinsurgency war in Afghanistan over the coming years, which could undermine the chances of an effective peacebuilding strategy. Supporting a political solution in Afghanistan is the prerequisite for a sustained Canadian effort in peacebuilding. To date Canada has remained firmly in the military camp.

⁴⁶ Kris Kotarski, “Sinking Reputation”, in: *Calgary Herald*, 28 December 2009, A12.

⁴⁷ <http://www.680news.com/news/national/article/73689-ottawa-military-alike-wondering-what-comes-next-after-afghanistan?ref=topic&name=TIFF&title=>, accessed 14 September 2011.

The Comprehensive Approach – A Way to Operationalize It in (Post-) Conflict Scenarios

*Thomas Starlinger
Austrian Armed Forces*

Résumé

L'approche compréhensive, en tenant compte de l'ensemble des acteurs nationaux et internationaux concernés ainsi que de la situation politique, sociale, économique et sécuritaire d'une région donnée, est la clef du succès dans toute mission de consolidation de la paix et de renforcement de l'État. Ces missions comprennent quatre champs d'action : la 'sécurité civile' – et donc également la 'responsabilité de protéger' –, la 'gouvernance', l' 'économie et l'infrastructure', et le 'système social'. Sans une approche compréhensive respectant tous les facteurs et acteurs d'importance dans une mission internationale, les ressources se trouvent utilisées inefficacement, les conditions de vie ainsi que la sécurité de la population civile se détériorent ou ne s'améliorent que très lentement – et ce d'autant plus que la mission s'éternise. Atteindre les buts de 'sécurité' et de 'développement' dépendra donc d'une opérationnalisation réussie d'une approche compréhensive. Cet article présente une méthodologie possible (par exemple le mécanisme Blueprint) ainsi que des outils appropriés pour mener à bien une telle opérationnalisation.

Introduction

The principle of the Comprehensive Approach is simple: If you are planning any action in a post-conflict scenario (within or parallel to an international mission) with the aim of stimulating and supporting the development of the region, it is essential to take into account the efforts of all other actors involved (including those in other fields of development). Since all efforts inevitably overlap, intersect, interact, and influence each other – positively or negatively – the best way forward is to co-operate and develop a common master plan. Taking a comprehensive approach means taking into consideration all national and international actors as well as the political, social, economic, and security situation in a given region; the approach represents the key success factor for State-/Peace-Building. Next to 'Civil Security' – and thus also the Responsibility to Protect (R2P) – the four fields of development within this task include 'Governance', 'Economy & Infrastructure', and the 'Social System'.¹ Without a comprehensive approach involving all relevant actors and factors in an international mission, resources are used ineffectively and

¹ As conceptual basis a four-pillar model is used; the four pillars being Civil Security, Governance, Economy & Infrastructure, and Social System. In general, there is a broad common understanding of the main fields of development; some models simply further subdivide one pillar or another.

the living conditions as well as the security situation of the civil population either deteriorate or improve only very slowly the longer the mission lasts. Unfortunately, this seems to be the case in many areas around the world: from Haiti to the Horn of Africa, from the Balkans to the Middle East, from Iraq to Afghanistan.

The need for a comprehensive approach is reflected in the opinions and assessments of various official bodies and experts. The 3C (Coherent, Coordinated and Complementary) Conference Report states in its case study on Afghanistan: “No security without development and no development without security. An integrated approach across security, governance and development efforts is required, and between all local and international partners in support of the Afghan Government and the Afghan people.”² A Force Commander of the United Nations Stabilization Mission in Haiti (MINUSTAH) stated: “At the very beginning security was fundamental to the country’s development. After a time, development became fundamental to sustain the security level achieved. [...] the delay in development keeps the security situation fragile and permanently at risk.”³ A managing director of the World Bank stressed: “Strengthening the coordination and complementarity of development, diplomatic and security support to countries moving from fragility to resilience will enable these countries to successfully confront the enormous challenges of poverty and personal security.”⁴ As is visible in these quotes, ‘Security’ and ‘Development’ are obviously inseparably compounded with each other, and achieving them will depend on a successful operationalization of the comprehensive approach.

International Developments

The UNSC (United Nations Security Council), in its Resolution 1894 (Protection of Civilians), emphasized the need for a comprehensive approach among the member states as well as for its own organizations, in order

[...] to facilitate the implementation of protection mandates through promoting economic growth, good governance, democracy, the rule of law, and respect for, and protection of human rights, and in this regard, [the Security Council] urges the cooperation of Member States and underlines the importance of a coherent, comprehensive and coordinated approach by the principal organs of the United Nations, cooperating with one another and within their respective mandates.⁵

² 3C (Coherent, Coordinated, Complementary) Conference Report, “Improving Results in Fragile and Conflict Situations”, Geneva, 19-20 March 2009, 23, in: http://www.3c-conference2009.ch/en/Home/The_Conference/media/3C_Conf_Report_v6.pdf, accessed 13 May 2010.

³ Carlos dos Santos Cruz cited in 3C Conference Report 2009, 25.

⁴ Juan José Daboub cited in 3C Conference Report 2009, 7.

⁵ UNSC Res. 1894, 11 November 2009, adopted at 6216th meeting, para. 28, 6-7, in: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/602/45/PDF/N0960245.pdf?OpenElement>, accessed 13 May 2010.

In a similar vein, the OECD (Organization for Economic Cooperation and Development) developed ten “Principles for Good International Engagement in Fragile States & Situations”, which also state that “[t]he long-term vision for international engagement in fragile states is to help national reformers to build effective, legitimate, and resilient state institutions, capable of engaging productively with their people to promote sustained development”⁶. Principle 8, “Agree on a practical coordination mechanism between international actors”, reads:

Where possible, it is important to work together on: upstream analysis; joint assessments; shared strategies; and coordination of political engagement. Wherever possible, international actors should work jointly with national reformers in government and civil society to develop a shared analysis of challenges and priorities.⁷

Out of the six recommendations of the Geneva 3C⁸ Conference Report⁹, the second recommendation “[...] to respond in a timely and appropriate manner to the evolving situation in the partner country”, includes the requirement of “[...] foster[ing] the use of shared tools and methodologies for assessment, planning, monitoring and evaluation”¹⁰.

The OECD-DAC¹¹ High-Level Meeting on 26-28 May 2009 agreed on the following:

⁶ Organization for Economic Cooperation and Development (OECD), “Principles for Good International Engagement in Fragile States & Situations”, April 2007, 1, in: <http://www.oecd.org/dataoecd/61/45/38368714.pdf>, accessed 13 May 2010.

⁷ OECD 2007, 3.

⁸ 3C Conference Report 2009, 8: “3C is understood as the common fundamental requirements of whole-of-government and whole-of-system approaches and focuses on the required results rather than questions of mandate, resources and leadership. Main dimensions are: Enhanced strategy, policy and operational coherence, both among different external actors as well as with partner country policies and priorities; Improved coordination among all actors involved, both at headquarters and field level; Strengthened complementarities through a ‘division of labour’. It moves beyond the earlier 3D concept (diplomacy, defence and development) to call upon all actors – irrespective of the degree and mode of their involvement – to work jointly to define and implement coordinated activities to reach shared State-Building and Peace-Building objectives. 3C refers to the international community, bilateral donors as well as partner countries.”

⁹ Nearly 300 participants including policy and decision-makers representing different policy communities and coming from OECD, United Nations, World Bank and NATO as well as 40 donor and partner countries, selected think tanks and civil society organizations.

¹⁰ 3C Conference Report 2009, 16-17.

¹¹ OECD, “DAC Information Note on the Peer Review Process for Peer Review Participants”, in: http://www.oecd.org/document/60/0,3343,en_21571361_37949547_37976444_1_1_1_1,00.html, accessed 26 July 2010: “The Development Assistance Committee (DAC) functions as a forum where bilateral donors come together to exchange experience and to address issues of common interest or concern. Its overarching objective is the continuous improvement of Member efforts in all areas of development assistance, through the exchange of best practices and the promotion of co-ordination and collaboration among members. In order to promote the process of learning, the DAC periodically (every 3-4 years on average) undertakes reviews and assessments of all Member development co-operation systems. This is done with the intent of promoting continually improved development

[t]hat members would follow-up on the implementation of the commitments reached at the 3C Conference;
 that options for undertaking whole-of-government peer reviews on conflict and fragility, building on the DAC Peer Review process, would be explored;
 that relevant sessions of the senior-level meeting of INCAF¹² will be open to non-development policy communities, including NATO and the whole of the UN;
 that the whole-of-government participation in ongoing multi-stakeholder meetings on monitoring the implementation of the DAC Principles for Good International Engagement in Fragile States and Situations and the International Dialogue on Peace-Building and State-Building would be strongly encouraged.¹³

In March 2010, the EU-Military Committee (EUMC) stressed in its Military Advice to the Political and Security Committee (PSC):

[t]he need for an inclusive and active development process to ensure that all relevant elements of a Comprehensive Approach are fully addressed in a timely manner. Overall, this will require top-level governance, project management to ensure coordination and integration with other key projects, and a methodology to ensure horizontal collaboration.¹⁴

On 18 May 2010, the PSC noted in its conclusions the military contribution to the EU's comprehensive approach; it stressed that the EU-wide comprehensive approach remains a central element of the EU's crisis management under the leadership of the High Representative; and tasked the Crisis Management Planning Directorate (CMPD) to further reflect on this issue in consultation with the relevant civilian and military actors, including the Commission, and to report back to the PSC as soon as possible.

There is obviously a broad agreement among the various actors on how the main elements of the comprehensive approach can be understood in theory, as well as on the need for a practical coordinating mechanism; however, so far neither a common methodology nor tools have been developed. In the following chapters a possible methodology (Blueprint Mechanism) as well as appropriate tools for a successful operationalization of the Comprehensive Approach are introduced. Just as blueprints are applied to building a house, the suggested Blueprint Mechanism could be applied for a broad array of circumstances, ranging from the situation in Haiti to that of the Balkans; from African hotspots to Afghanistan.

co-operation practices in a complex and rapidly changing environment. Recommendations and suggestions for improvement are extended, and a follow-up is done in order to ensure that lessons are translated into improvements in the practices of DAC Member development co-operation programmes and policies.”

¹² The International Network on Conflict and Fragility (INCAF) brings together experts from governments and international organizations on issues of peace, security, and governance.

¹³ 3C Conference Report 2009, 4.

¹⁴ Council of the European Union, “Military Advice on the further Handling of the Comprehensive Approach to EU Crisis Management”, 8169/10, LIMITE ESDP/PESD, COSDP 262, 30 March 2010, 2.

Relevant discussions and decisions of international actors/organizations as well as experiences from various missions are embedded in the considerations.

The Comprehensive Approach – Dependencies of the Four Fields of Development



Figure 1: The Four Fields of Development as Pillars in the Task of State/Peacebuilding (Thomas Starlinger)

The four fields of development (1. Civil Security, 2. Governance, 3. Economy & Infrastructure, and 4. Social System) must not be seen in isolation from each other. Moreover cross-cutting principles¹⁵ and high-level trade-offs have to be considered. The OECD Director of the Development Cooperation Directorate stressed:

Whole-of-system (and whole-of-government) approaches are not a matter of choice. Around one fifth of the world's countries require attention. Not just aid. The regional and international spill over effects from these countries – violent conflict, instability, organized crime, migration, human trafficking, and public health – continue to resonate widely beyond the development community.¹⁶

¹⁵ United States Institute of Peace (USIP) – United States Army Peacekeeping and Stability Operations Institute (PKSOI), *Guiding Principles for Stabilization and Reconstruction*, Washington (DC), United States Institute of Peace Press, 2009, 12, in: <http://www.usip.org/resources/guiding-principles-stabilization-and-reconstruction>, accessed 26 July 2010: “Cross-Cutting Principles Apply to Every Actor Across Every End State – No Matter Who You Are, International or Local; Where You Are, in the UN Security Council or in a Host Nation Municipality; or What You Are Doing, Running a School or Creating a new Banking System.”

¹⁶ Richard Carey cited in 3C Conference Report 2009, 11.

The OECD furthermore stated:

Donors need to pay greater attention to how the combination of their interventions – the mix of aid instruments, advocacy of systemic reforms in governance and programmes to build capacity across state functions – affect the capacity and processes involved in the articulation and implementation of policy in the states where donors are working.¹⁷

That the various fields of development are strongly interrelated soon becomes obvious. Strengthening national capacities (police and military forces) to ensure a safe and secure environment in the ‘Civil Security’ field of development is directly linked with building up legislative, executive, and judicative structures in ‘Governance’. In addition, how quickly the International Community can reduce its involvement in this latter field depends very much on successful development of the internal security structures. In terms of aiding the development of a ‘Social System’, it is very clear that ensuring good education and training also requires the availability of the relevant jobs, which in turn is based on a self-sustaining economy in the field of development ‘Economy & Infrastructure’. The motivation of foreign investors to strengthen the development of ‘Economy & Infrastructure’ is very much related to the issue of legally based ownership and as such dependent on adequate progress in the development of ‘Governance’. And if the ‘Social System’ and ‘Economy & Infrastructure’ are deteriorating, social unrest will consequently follow and become a threat to ‘Civil Security’.

Figure 2 shows the reciprocal influence of the fields of development as it is addressed in the OECD-recommendation (cf. in quote 17).

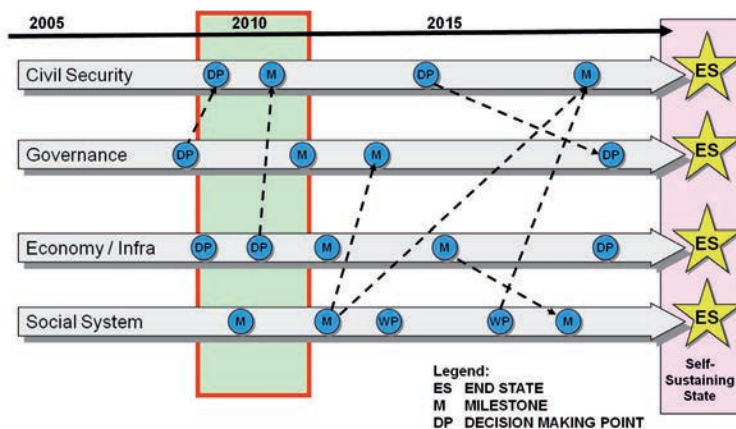


Figure 2: Fields of Development and Mutual Influence (Case Study: Kosovo) (Thomas Starlinger)

¹⁷ Organization for Economic Cooperation and Development (OECD), *Do No Harm. International Support for Statebuilding*, 11 January 2010, 22, in: <http://browse.oecdbookshop.org/oecd/pdfs/browseit/4310041E.PDF>, accessed 13 May 2010.

As is evident from the colossal failure in Kosovo, the cross-pillar approach is rarely – if ever – applied. How else to explain that after ten years of international investment totaling some 4 to 5 billion Euro,¹⁸ the youth unemployment rate (under-30s) is around 76%?¹⁹ Moreover, the average monthly salary is approximately 200 Euro²⁰ and there is still no reliable electrical power and potable water supply. All these deficits plague a country that is a mere 10,908 square kilometers large.²¹

Unfortunately, this example is not just restricted to Kosovo – it is applicable to many countries where the International Community is engaged. A recently published OECD report “Do No Harm: International Support for State-Building”, which is based on six case-studies (Afghanistan, Bolivia, Democratic Republic of Congo, Nepal, Rwanda, Sierra Leone), states: “Generally, donors lack the knowledge of local politics, of the balance of power between locally contending groups and elites or how they are linked to the centre, so support in this area is often blind and therefore in danger of provoking unintended outcomes.”²² This mismatch between the bottom-up approach (locally launched projects) and the top-down approach (countrywide strategies) means that efforts to help can do more harm than they contribute to development, as is visible in Kosovo as well as in other cases such as Afghanistan: “Increased funding through PRTs – if not carefully integrated with Afghan institutions and programs working in the province – can do damage to the nascent institutions of sub-national governance and delay our exit strategy.”²³

On the other hand, deteriorating living conditions – such as those mentioned above – can cause a spiral of violence and a backlash to the security situation of the civil population: Youth unemployment rates of 80% provide a fertile pool for terrorist groups and organized crime as well as a high potential for social unrest. As a way out of this dilemma, the OECD report introduces “Sector-Wide Approaches (SWAs)” which represent a holistic approach across the fields of development. First experiences in countries like Nepal and Rwanda show that

[t]hese programmes all tend to reduce transaction costs in dealing with donors, build capacity within the state for planning budget management, monitoring and evaluation

¹⁸ To date, there is no reliable overview available on how much has been spent in which areas so far – a rather unacceptable status from a taxpayer’s view.

¹⁹ The World Bank, “Youth in Jeopardy: Being Young, Unemployed, and Poor in Kosovo – a Report on Youth Employment in Kosovo”, 2 September 2008, iv, in: http://siteresources.worldbank.org/INTKOSOVO/News%20and%20Events/22017125/Kosovo_Youth_Employment.pdf, accessed 26 July 2010.

²⁰ The World Bank, “Kosovo Poverty Assessment”, 3 October 2007, 5, in: <http://siteresources.worldbank.org/INTKOSOVO/Country%20Home/21541686/KosovoPAvol1.pdf>, accessed 26 July 2010.

²¹ Wikipedia, “Kosovo”, in: <http://de.wikipedia.org/wiki/Kosovo>, accessed 26 July 2010.

²² OECD 2010, 11.

²³ Mark S. Ward cited in 3C Conference Report 2009, 24.

and often promote new channels of interaction between social groups and the state. They maintain decision-making processes within the state and therefore have neutral or positive impacts on political processes.²⁴

Supporting economic progress goes hand in hand with a considerable investment in the development of civil society. “Sector-Wide Approaches have also provided considerable room for dialogue between state officials and interest groups within society, thus having a positive impact on both the political processes and state-society relations that underpin State-Building.”²⁵ In addition to these Sector-Wide Approaches, clear and specific final goals, or end states, must be defined in the four fields of development (cf. Figure 2):

- Civil Security: safe and secure environment
- Governance: functioning democratic institutions and rule of law
- Economy & Infrastructure: sustainable economy
- Social System: social well-being/social stability

These end states represent “the ultimate goals of a society emerging from a crisis or a conflict”²⁶; with the four fields working together towards the overarching goal of establishing a self-sustaining state.²⁷ To reach this long-term goal, the 3C Conference Report stresses the need to

[g]ive priority to strengthening partner countries’ institutions and capacities at all levels, including the local level, to enable the state to fulfil its core functions. Priority functions include: ensuring security and justice, mobilising revenue and managing budget and public finances, establishing an enabling environment for basic service delivery, strong economic performance and employment generation.²⁸

The OECD report emphasizes that “[d]onor countries’ support for disarmament, demobilization and reintegration programmes needs to be based on an integrated

²⁴ OECD 2010, 68.

²⁵ OECD 2010, 82.

²⁶ Cf. Daniel Serwer – Thomson Patricia, “A Framework for Success: International Intervention in Societies Emerging from Conflict”, in: Chester A. Crocker – Fen Osler Hampson – Pamela Aall (eds.), *Leashing the Dogs of War. Conflict Management in a Divided World*, Washington (DC), United States Institute of Peace Press, 2008, 369-389.

²⁷ Safe and Secure Environment → *Ability of the people to conduct their daily lives without fear of systematic or large-scale violence.*

Rule of Law → *Ability of the people to have equal access to just laws and a trusted system of justice that holds all persons accountable, protects their human rights and ensures their safety and security.*
Stable Governance → *Ability of the people to share, access or compete for power through nonviolent political processes and to enjoy the collective benefits and services of the state.*

Sustainable Economy → *Ability of the people to pursue opportunities for livelihoods within a system of economic governance bound by law.*

Social Well-Being → *Ability of the people to be free from want of basic needs and to coexist peacefully in communities with opportunities for advancement* (USIP – PKSOI 2009, 9).

²⁸ 3C Conference Report 2009, 16.

military, economic, political and sustainability assessment, and open to flexible approaches with a view towards long-term results and impact”²⁹.

On the way to enabling the state to fulfill its core functions, all the actions within and between the four fields of development need to be synchronized as they mutually influence each other. Therefore, if goals are not carefully set on a timeline with a short-, medium- and long-term view, strategies and measure in the different fields can potentially even have a negative impact on the results of those from other fields. The sequencing of priority actions and how they mutually affect and reinforce each other has to be done with enough flexibility for a periodical or occasional readjustment.

The Multi-Dimensional Aspect of the Comprehensive Approach

So far, the four fields of development have only been tackled from a two-dimensional perspective. The complexity of the comprehensive approach must, however, be considered in a multi-dimensional model “to identify behaviours and structures and to assess strengths, vulnerabilities, and interrelationships. This approach provides an examination of the engagement space as a system of systems divided into four domains (Civil Security, Political/Governance, Economic/Infrastructure, Social System)”³⁰.

The model is applicable to all kinds of missions around the world, as Donald Kaberuka, president of the African Development Bank, made clear:

This fragmentation of the nation and statebuilding process is artificial. Countries emerging from conflict and with fragile states require all three types of intervention simultaneously (security/peace keeping operations, humanitarian relief effort, development programs) – not sequentially: potable water must be available, children must receive an education, crops must be harvested, at all times, whether there is conflict or not.³¹

Considering the holistic aspect of the comprehensive approach it is evident that an appropriate mechanism (Blueprint Mechanism) and the corresponding tools are required to cope with the complexity a number of factors involved in the type of situation this approach is meant for.

²⁹ OECD 2010, 24.

³⁰ North Atlantic Treaty Organization (NATO), “Bi-Strategic Command, Pre-Doctrinal Handbook (Effect Based Approach for Operations)”, NATO unclassified releasable to EU/UN/OSCE/NATO Partner Nations, December 2007.

³¹ Donald Kaberuka cited in 3C Conference Report 2009, 20.

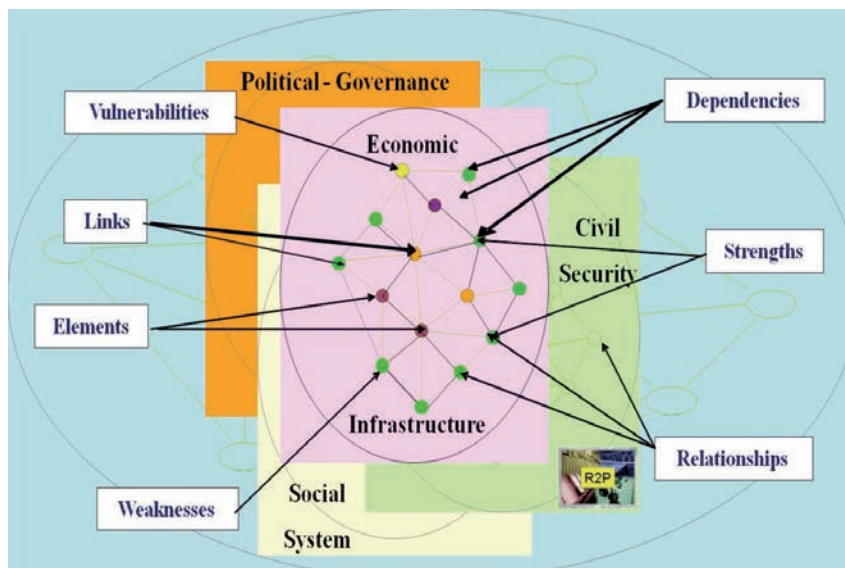


Figure 3: Multi-Dimensional Aspects of the Comprehensive Approach (Thomas Starlinger)

The Blueprint Mechanism and Its Tools

If we take a critical look at the reality of state- and peacebuilding projects, we will see a large number of different actors acting without a comprehensive situational awareness of ‘What is being done by whom?’, ‘Who is accountable for what?’, or ‘How much has been achieved so far?’; the upshot of which is that their endeavors sometimes do ‘more harm than good’.³² If we compare this to building a house, we soon realize that in our private lives we would never accept such a disorderly approach and chaotic situation: Who would build a house without a blueprint and without a project plan? Who would accept simply having a bunch of companies on our construction site, hardly communicating with each other and working on the basis of their best guesses? Certainly we would consider such an approach as waste of money, time, and efforts. To ensure that the work on the ‘construction site’ of state- and peacebuilding is efficient as well as effective, the main criteria in operationalizing the comprehensive approach are:

- a clear and up-to-date overview of projects and their status as a sound basis for an efficient monitoring and evaluation system;
- avoidance of overlaps between projects and duplication of efforts to ensure increased aid efficiency;

³² OECD 2010, 20.

- unified processes for the establishment of sector strategies leading to common objectives to fulfill the requirements;
- evidence across the timelines so that needs are met taking into account actual and planned donor assistance;
- an action plan with priorities and benchmarks enabling static/dynamic planning as well as the measurement of progress;
- a comprehensive management system based on a complete, constantly updated and publicly accessible database;
- the use of a commonly and interoperable reporting system providing ideal preconditions for Sector Working Groups;
- an efficient interface between local government and development partners ensuring full ownership as well as accountability.

In concrete terms, the proposed Blueprint Mechanism, which is based on the above-mentioned criteria, consists of four main tools:

- Blueprint Document (to serve as an overview and framework of all efforts in the designated area);
- Sector Strategies and Static & Dynamic Planning (to harmonize various efforts);
- Knowledge Development Process (to manage the different efforts in the four fields of development);
- Interoperable Reporting System (an 'Executive Summary' for up-to-date information and data at a glance).

Tool 1: Blueprint Document

The Blueprint Document with its four fields of development is broken down to the respective level of detail on which the projects could be pinned. Based on workshops with various international actors in Kosovo, it provides a clear and updated picture of all ongoing projects, overcoming overlaps and the duplication of efforts. The four fields of development could contain the following subfields:

Civil Security (End state: safe and secure environment):³³

- safe and secure environment/freedom of movement (e.g. border security, support for civil authorities and IOs/NGOs, designated areas of interest, demining);

³³ "A safe and secure environment is one in which the population has the freedom to pursue daily activities without fear of politically motivated, persistent, or large-scale violence. Such an environment is characterized by an end to large-scale fighting; an adequate level of public order; the subordination of accountable security forces to legitimate state authority; the protection of key individuals, communities, sites, and infrastructure; and the freedom for people and goods to move about the country and across borders without fear of undue harm to life and limb" (USIP – PKSOI 2009, 6-38).

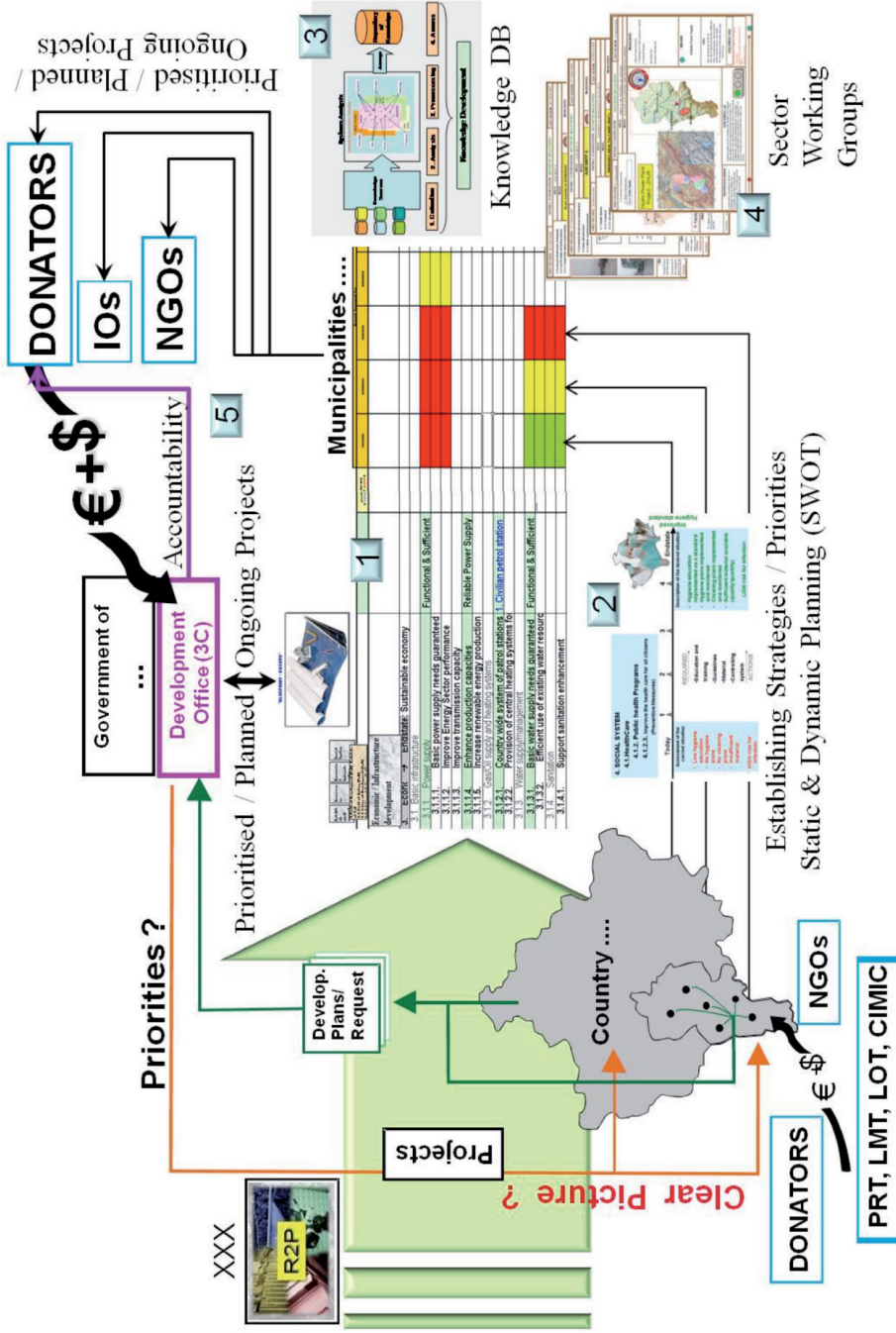


Figure 4: Visualization of a Blueprint Mechanism and the Necessary 'Tools' (Case Study: Kosovo) (Thomas Starlinger)

- prevention of a renewal of fighting (e.g. definition of parallel structures, cooperation with local police, internal security system);
- interethnic stability; security sector reform (e.g. establishment of national armed forces, establishment of national security force, stand down among former warring factions).

Governance³⁴ (End state: functioning democratic institutions and rule of law):³⁵

- legislative authority (e.g. establishment of legal framework, building of legitimate executive institutions, development of systems of political representation, democratic party system, promotion of free media, civil society, and public access);
- judicative authority (e.g. reform of justice system, detention facilities);
- executive authority (e.g. monitoring court rulings and criminal prosecution, development of police system, training and education of security forces, customs services);
- public administration reform (e.g. establishment of a functional, effective public administration, e-governance, implementation of policies and laws in compliance with EU standards, property);
- rule of law (e.g. human rights, independent judiciary).

Economy & Infrastructure (End state: sustainable economy):³⁶

- basic infrastructure (e.g. power supply, gas/oil supply and heating systems, water supply/management, sanitation); transportation (e.g. road network,

³⁴ “Stable governance refers to an end state where the state provides essential services and serves as a responsible steward of state resources; government officials are held accountable through political and legal processes; and the population can participate in governance through civil society organizations, an independent media, and political parties. Stable governance is the mechanism through which the basic human needs of the population are largely met, respect for minority rights is assured, conflicts are managed peacefully through inclusive political processes, and competition for power occurs nonviolently. National and sub national government institutions may work with a range of non-state partners to provide some of the government functions” (USIP – PKSOI 2009, 98).

³⁵ “Rule of law refers to an end state in which all individuals and institutions, public and private, and the state itself are held accountable to the law, which is supreme. Laws must be consistent with international human rights norms and standards, legally certain, legally transparent, drafted with procedural transparency, and publicly promulgated. 190 This end state requires equal enforcement and equality before the law, independent adjudication of the law, fairness in the application of the law, and avoidance of arbitrariness. Access to justice – the ability of people to seek and obtain a remedy through informal or formal institutions of justice – is a mutually reinforcing component of rule of law. The rule of law requires the separation of powers and participation in decision-making. Rule of law is the ideal that states strive for; stabilization requires urgent focus toward this end” (USIP – PKSOI 2009, 38).

³⁶ “A sustainable economy is one in which people can pursue opportunities for livelihoods within a predictable system of economic governance bound by law. Such an end state is characterized by market-based macroeconomic stability, control over the illicit economy and economic-based threats to the peace, development of a market economy, and employment generation. Economic governance refers to the collection of policies, laws, regulations, institutions, practices, and individuals that shape the context in which a country’s economic activity takes place” (USIP – PKSOI 2009, 132).

- railway network, civil aviation, public transport);
- media and information (e.g. TV, radio, internet, print media);
- creation of viable workforce;
- public financial management; public investment management; tax administration;
- building of financial and economic institutions (e.g. investments of nations, fiscal system);
- environmental protection;
- agriculture development (e.g. sustainable use of agricultural land, farm restructuring, improvement of competitiveness, creating employment opportunities, food safety, improvements to forest structure).

Social System (End state: Social wellbeing/social stability):³⁷

- health system (e.g. funding, public health, treatment, health infrastructure, education of medical personnel);
- education (e.g. education system, educational quality, education of teachers, school infrastructure);
- basic needs (e.g. living conditions, average employment, basic supply needs);
- peaceful coexistence (e.g. sustainable returns, internally displaced persons and refugees, missing persons, minority situation, DPRE movement, DPRE camps, support, free religious practice);
- civil protection (e.g. interoperability of emergency services, protective infrastructure, countrywide alarm system, exercises);
- poverty alleviation and social stability (e.g. social network, international support); gender issues (e.g. gender equality, monitoring of violence against women and children, trafficking, exploitation);
- religious authorities (e.g. separation of power, inter-religious dialogue, cultural heritage).

On the basis of a ‘common language’ and in regard to the 3C Conference Report this Blueprint Document would:

[...] develop and maintain a clear understanding of all commitments and investments made, as well as of all capacities available at both the national and international community ends, with a view to optimizing their utilisation, based on comparative advantages, while also identifying clear but sometimes shifting priorities and aiming to avoid duplication of efforts and to bridge critical gaps.³⁸

³⁷ “Social well-being is an end state in which basic human needs are met and people are able to coexist peacefully in communities with opportunities for advancement. This end state is characterized by equal access to and delivery of basic needs services (water, food, shelter, and health services), the provision of primary and secondary education, the return or resettlement of those displaced by violent conflict, and the restoration of social fabric and community life” (USIP – PKSOL 2009, 162).

³⁸ 3C Conference Report 2009, 20.

Furthermore the Blueprint Document would support cooperation among all actors, as this:

[...] requires constant communication, dialogue, and negotiation among all actors – international, host nation, government, and nongovernment. Communication involves mechanisms for sharing and reporting information about goals and activities. Active dialogue entails open exchanges between actors to facilitate a mutual understanding that may lead to better cooperation.³⁹

Within the Blueprint Mechanism, the first tool (the Blueprint Document) alone would contribute to an avoidance of overlaps between projects and the duplication of efforts, and would also ensure increased aid efficiency.

Tool 2: The Establishment of Sector Strategies and Static and Dynamic Planning

The second tool allows actors to set up unified processes for the establishment of sector strategies, which in turn help actors work together towards achieving common objectives and fulfilling the requirements; it will also help establish an action plan with priorities and benchmarks enabling static/dynamic planning as well as the measurement of progress.

The USIP principles emphasize that “[a] shared strategic vision enables different actors to work cooperatively toward the same goal. This vision is the ‘storyline’ that must be communicated through mandates by leadership and with full participation by the host nation population”⁴⁰. During the Geneva 3C Conference it was stated that “[t]he international community has great difficulties in harmonising the various aid programmes and aligning them behind a nationally owned and shared strategy. This applies not only for an overall development strategy, but equally to sectoral strategies”⁴¹. The development of such a strategic vision – a ‘storyline’ – consists of three main steps:

- See: What is today’s situation?
- Think: Define goals/objectives!
- Draw: Map a route to achieving the goals/objectives!

One step in this process that is of particular importance is determining beforehand where there may be interference, conflict or other negative interaction. The OECD points out that “[d]onor countries operating in fragile states where State-Building is on the agenda need to undertake ‘dilemma analyses’ in order to identify where strategic objectives contradict State-Building objectives; and where State-

³⁹ USIP – PKSOI 2009, 30.

⁴⁰ USIP – PKSOI 2009, 30.

⁴¹ 3C Conference Report 2009, 24.

Building objectives are themselves at odds with one another⁴². As the first step in the strategy development process, performing a dilemma analysis, such as a ‘Strengths – Weaknesses – Opportunities – Threat (SWOT)’⁴³ analysis would be the most appropriate methodology.

The usefulness of a SWOT analysis is not limited to profit-seeking organizations. It may be used in any decision-making situation when a desired end state (objective) has been defined. Examples include: non-profit organizations, governmental units, and individuals. SWOT analysis may also be used in pre-crisis planning and preventive crisis management. It may also be used in creating a recommendation during a viability study/survey.⁴⁴

The following paragraph is an example of the application of the SWOT analysis in the field of agricultural development. It was developed in 2008 within the southern sector in Kosovo among various IOs, NGOs and representatives of the local administration.

Strengths

Good climatic condition for grains, fruit, and vegetables (wheat; grapes, water melons; bell peppers, sugar beets, etc.), profits with fruit and vegetables, water systems for irrigation available (additional projects ‘in the pipeline’), traditional crafts by families, the region produces 80% of what it needs in terms of consumption.

Weaknesses

Small fields/farms, no schools for farming, lack of modern agricultural knowledge and equipment, lack of cooling and storage facilities, lack of food industry, insufficient water system for irrigation, over-aged plants (wine plants), monoculture, overproduction/summer season, lack of market facilities.

Opportunities

Marketing ‘Toscana of the Balkans’, quality standards/EU standards, build up regional food industry, consulting for farmers in the fields of agriculture techniques, farmers’ association, long-term solution for unemployment, concentration on niche products, subventions.

Threats

Main focus on water-intensive plants, imports of cheaper fruit and vegetables, production of mass instead of quality, old crusted structures of former farmers’ cooperatives, exploitation of river sand.

⁴² OECD 2010, 124.

⁴³ The four elements of the SWOT analysis comprise the following content: Strengths are currently existing attributes that are helpful to achieve the objective. Weaknesses are currently existing attributes that are harmful to achieve the objective. Opportunities are potential conditions that are helpful to achieve the objective. Threats are potential conditions which could do damage to achieve the objective.

⁴⁴ Wikipedia, “SWOT Analysis”, in: http://en.wikipedia.org/wiki/SWOT_analysis, accessed 12 July 2010.

The SWOT analysis not only draws a thorough picture of today's situation, it assists in the second step of the strategy development process: the definition of goals and objectives. To overcome national and organizational obstacles “[d]onor countries need to take account of the tensions between their strategic objective and State-Building objectives in their interventions in fragile states as a first step towards elaborating more coherent and constructive interventions”⁴⁵. Mission success is nothing less than the self-sustaining state. Therefore, the objectives have to be broken down into measurable milestones, so called SMART (specific, measurable, achievable, relevant, time-bound) objectives based on the SWOT analysis.

The third step of the strategy development process, the mapping of a route to achieving the goals and objectives, is the establishment of suitable milestones and decision-making points. For this purpose, *Measurements of Effectiveness* (MoE) have to be set up: “Effectiveness measures provide decision makers with feedback on the impact of deliberate actions and affect critical issues such as the allocation of scarce resources, and on whether to maintain or change existing strategy.”⁴⁶ Furthermore:

A system of metrics translates lofty goals into measurable outcomes. The best goals can be undermined by inadequate initial analysis that does not identify the drivers and mitigators of conflict. Measuring progress allows continuous adjustments to strategy and implementation to improve success. Ongoing measurements should contribute to adjusting the goals, plans, and activities of all actors.⁴⁷

Regarding the outcome of the measurement, “[a] system of metrics should not measure success versus inputs, but rather outcomes. For example, rather than measuring progress by number of police trained, the system should assess whether there has been a reduction in crime”⁴⁸.

By following the three steps of the strategy development process (SWOT analysis, definition of goals and objectives, mapping of a route towards these objectives), we can establish priorities, objectives, and action plans with benchmarks through purely logical assessment; reaching the benchmarks allows us to proceed to the next phase. The action plans would be sensitive to the changing environment and would also ensure the participation of the local administration and population. Thanks to the incorporation of the short-, medium- and long-term perspective, they can also help to avoid or overcome potential conflicts between peacebuilding and

⁴⁵ OECD 2010, 13.

⁴⁶ Richard K. Bullock, “Theory of Effectiveness Measurement”, Dissertation, September 2006, IV, in: http://www.au.af.mil/au/awc/awcgate/afit/bullock_effectiveness_measure.pdf, accessed 12 July 2010.

⁴⁷ USIP – PKSOI 2009, 32-33.

⁴⁸ Council of the European Union 2010, 38.

statebuilding as well as problematic political settlements: “Donor countries are faced with trade-offs between supporting short-term measures to secure peace and pursuing longer-term objectives of State-Building.”⁴⁹

Regarding the alignment of countrywide strategies with those at the sectoral or regional level, the Geneva 3C Conferences emphasized the following point:

Where governments demonstrate the political will to foster peace, security, human rights, and development, but lack capacity, the international community should seek to align assistance with country strategies. Where this is not possible because of particularly weak governance or violent conflict, they should seek opportunities to maximise alignment with plans developed in a participatory and inclusive manner at the sectoral or regional level.⁵⁰

In developing joint strategies, the impartiality of organizations has to be ensured as described by Behrens:

They [partner countries and international actors] should make use of the comparative advantages of all different actors, while preserving the humanity, independence, neutrality and impartiality of humanitarian aid. In the context where a peace operation has deployed with a Security Council mandate, it should be ensured that it is part of a whole-of-system approach to Peace-Building in order to create the conditions for a sustainable and lasting peace.⁵¹

Using the suggested methodology to develop strategies, IOs, NGOs, partner countries, and local administration, whilst preserving their independence and impartiality, would be able to develop shared and down-to-earth peace- and state-building objectives that are adjustable to the evolving situation, as well as strategies that address the root causes of the preceding conflict and help to ensure the protection of the population. On this basis, pre-feasibility studies for possible projects could be launched, consisting of the following components: “Market analysis and marketing concept (strategies, objectives); Material inputs, Location and environment; Project engineering; Organisation and overhead costs; Human resources (skills); Implementation scheduling; Financial analysis and investment”⁵².

Tool 3: Knowledge Development Process

An appropriate knowledge development process will consider the holistic dimension of the comprehensive approach:

⁴⁹ OECD 2010, 90.

⁵⁰ 3C Conference Report 2009, 18.

⁵¹ 3C Conference Report 2009, 17.

⁵² Werner Behrens – P.M. Hawranek, *Manual for the Preparation of Industrial Feasibility Studies*, Vienna, UNIDO, 1991, 352-354.

Using systems analysis, knowledge about the different political, military, economic, social, infrastructural and informational aspects of the strategic environment will be developed. This will allow a better understanding of the behaviour and capabilities of key actors and their interaction within the engagement space. The knowledge development process is continuous, adaptive, networked and inextricably and seamlessly linked to systems analysis. Both rely on human expertise and the exploitation of information technology.⁵³

The knowledge development process is based on a complete and constantly updated knowledge database which is publicly accessible (e.g. via Internet). Rather than complicating matters, such a system should be employed as a planning tool, comparable with the software game 'The Settlers', which could be applied worldwide. It copes with the multi-dimensional aspects of the four fields of development (Civil Security, Governance, Economy & Infrastructure, Social System), their relationships and dependencies. A well-kept knowledge database provides a continuous and comprehensive situational overview on which to base a sound decision-making process. Moreover, this knowledge database allows for a better understanding of the respective capabilities of key actors and their interaction in the mission area.

Of course, the participation of all actors would be required to keep the knowledge database updated: "Donor countries and multilateral agencies must provide partner countries with complete, accurate, detailed and timely information on their aid disbursements [...] and assist state officials in developing centralized tools for accurately monitoring overall aid flows and their sectoral and regional distribution."⁵⁴ As 'return-service' the knowledge database would offer all management levels and actors in the field permanently updated formats for overviews, reports, statistics, graphics, and presentations.

The third tool, the knowledge development process, will allow actors to handle the complexity of the holistic approach within and across the four fields of development. It will show whether needs at the regional level are being met or not, take account of overall country strategies and their interdependencies as well as consider actual and planned donor assistance. In addition, it will also raise awareness of 'blank spots' in the fields of development that are not currently being tended to, even though urgent measures are required. Last but not least, the management system will also prevent the loss of knowledge caused by the rotation of staff.

⁵³ NATO 2007.

⁵⁴ OECD 2010, 22.

Tool 4: An Interoperable Reporting System

An interoperable reporting system enables the exchange of information on specific topics between the various players:

Simplify and harmonise aid management to the extent possible by reducing the number of aid coordination mechanisms and aid channels, and agreeing upon common business practices. Each donor should try to adapt its representation in the field in line with partner countries' needs, and define clear lines of authority for its various activities; practical approaches could take the form of joint offices, agreed divisions of labour, delegated cooperation agreements, multi-donor trust-funds and common reporting, and financial requirements.⁵⁵

The fourth tool consists of a common format, with a one-page 'visualized executive summary' and a 'fact sheet' with all the background information. The respective information management is maintained by the above-mentioned knowledge database. The 'executive summary' offers pertinent information at a glance: a focused map view, a link to the relevant level in the Blueprint Document (Tool 1), major events, the five 'Ws' (Who, What, When, Where, Why), the end state, next objectives/milestones to be achieved, and an assessment of the current situation. The 'fact sheet' includes detailed information on background, end state, actual development, assessment, and the next required steps toward the desired end state. By using this tool all actors will be able to collect, analyze, and share information in a far more organized manner, avoiding unnecessary duplication of efforts. This will allow sector working groups (topically/geographically) to work in a more effective and less time-consuming manner.

Interacting Triangle of State-/Peacebuilding

The suggested Blueprint Mechanism fully supports the 'Interactive Triangle of State-/Peace- Building' consisting of the three cornerstones 'transparency', 'ownership', and 'progress'. The mutual influence of the cornerstones guarantees the most efficient use of all resources to reach the final goals of state-and / peacebuilding in the shortest possible time frame.

Transparency – What is Being Done by Whom?

Transparency means more than just avoiding overlaps and duplication of efforts in the development process; it also means limiting corruption:

Basic systems for accountability – both for the international mission and the host nation – are critical factors for legitimacy. Accountability requires transparency. This

⁵⁵ 3C Conference Report 2009, 19.

means making government transparent for the population through media, civil society, and other reporting mechanisms. Together, these are the basic building blocks for any approach to limit the de-legitimizing corruption that often pervades war-torn environments—both in host nation institutions and those of international actors.⁵⁶



Figure 5: Interactive Triangle within the Blueprint Mechanism (Thomas Starlinger)

The Blueprint Mechanism ensures full transparency through the Blueprint Document, the joint SWOT analysis, and the development of strategies as well as through the publicly accessible knowledge database.

Ownership – Who is Accountable for What?

The Blueprint Mechanism and its four main tools constitute an efficient interface between the respective local government and the development partners, ensuring full ownership and accountability. Through its inherent logic and transparency, the Blueprint Mechanism in and of itself on its own ensures a *coherent, coordinated, complementary* (3C) approach by all actors without imposing their interests on each other. Furthermore, the top-down approach is linked with the bottom-up approach that takes into consideration the regional needs in the context of overall country strategies with full participation of the local population. Even in the early planning phase, the Blueprint Mechanism would be of enormous importance as it enables:

[...] regularly updated joint assessments and analysis of the evolving situation, challenges and trends, including crisis and risks dynamics. These joint assessments should initially be as light and rapid as possible, including partner countries wherever appropriate, and progressively become more comprehensive. They should involve those responsible for security, political and economic affairs, as well as those

⁵⁶ USIP – PKSOI 2009, 17.

responsible for development and humanitarian assistance and other policy areas, as appropriate.⁵⁷

Generally, the local government is accountable for the development of its own country as well as for the efficient use of donor support. But at the same time, donors should care that their financial resources – which, in the end, is taxpayer’s money – are being invested effectively just as much as they care about the improvement of the security situation of the local population which goes along with an effective development in the areas governance, economy/infrastructure and social system. “Host nation ownership and capacity means that the affected country must drive its own development needs and priorities, even if the transitional authority is in the hands of outsiders. Ownership requires capacity, which often needs tremendous strengthening in Stabilisation & Reconstruction environments.”⁵⁸

The elaboration of strategies, action plans, and assessments has to be done iteratively between the international actors and the respective country:

Maintain a continuous dialogue between the partner country and the international community to ensure that their shared objectives are reflected in appropriate mutual accountability mechanisms where relevant, such as comprehensive frameworks detailing actions and resources required, associated with mutually endorsed benchmarks, and submitted to regular mutual assessment reviews.⁵⁹

Through its interacting tools, the Blueprint Mechanism offers a transparent interface between the local government and the development partners, ensuring the full ownerships and accountability of both. Moreover, the establishment of priorities and the corresponding funding of projects would follow a roadmap based on short-, medium- and long-term strategies.

Progress – How Much Has Been Achieved so Far?

To identify how much has already been achieved and to adapt the action plans to the changing environment it is necessary to:

[...] carry out joint monitoring and evaluation of activities, including real-time evaluations, more systematically, to the extent possible; these joint efforts should involve all relevant departments/ministries/agencies of both the international community – bilateral donors as well as international organisations – the partner country, and its civil society as appropriate; they should also ensure that the respective perspectives of all these actors are duly taken into account, and reflect the partner country’s priorities and strategies.⁶⁰

⁵⁷ 3C Conference Report 2009, 16.

⁵⁸ USIP – PKSOI 2009, 12.

⁵⁹ 3C Conference Report 2009, 18.

⁶⁰ 3C Conference Report 2009, 20.

The Blueprint Mechanism and its tools, e.g. the knowledge database, will allow actors to answer the question ‘What has been achieved so far?’ at each development stage. Specifically the roadmaps, including milestones and measurements of effectiveness, enable all players to make the right adjustments at the right time on the basis of a short-, medium- and long-term strategies.

The Way Ahead: Development of a Comprehensive Approach Capability

If we describe the operationalization of the Comprehensive Approach as a capability, this capability consists of the following five elements:

- Concept & doctrine
- Technology
- Readiness & deployability
- Organization & structure
- Education & training

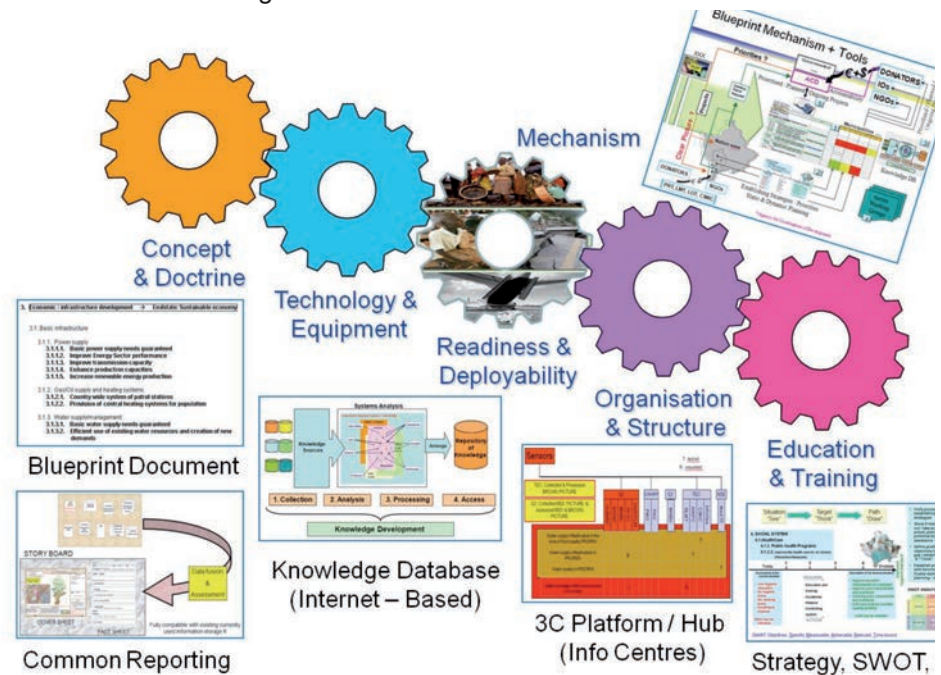


Figure 6: Comprehensive Approach and Capability Development (Thomas Starlinger)

First Step

To establish a sound conceptual and doctrinal environment, the Blueprint Document needs to be developed generically. This would guarantee a broad participation of all main actors as well as the merging of already existing information stored in their various databases. “[...] the insights gained and best practices identified by relevant international, regional and sub-regional organisations and bodies should be promoted and disseminated; moreover, the expertise of the international, national and local civil society should be fully mobilised.”⁶¹

Second Step

To develop the generic knowledge database, measurements of effectiveness as well as cross-cutting principles have to be identified. This would also include the development of an interoperable reporting system. Whilst developing the comprehensive approach capability, a better understanding of the Blueprint Mechanism and its tools as well as its practical implications in the field like the establishment of 3C platforms or information hubs will be achieved. “Promote more systematic joint learning, training and capacity development activities across agencies within donor governments, as well as among the various international organizations operating in conflict and fragile situations.”⁶²

The development of a common Blueprint Mechanism and its tools will also have a socio-economic impact on all the various actors involved. It will simplify and harmonize the planning of aid management as well as its execution in the field.

The development of a Comprehensive Approach philosophy and the practical measures to adapt the EU to a Comprehensive Approach will be founded in the education, training, rehearsals and shared experiences of people and their work teams. This will be an essential element of further developing a collaborative culture and the trust necessary to rely on the contributions of others.⁶³

Final Goal

Ultimately, partner countries and international actors would have a generic management tool with flexible parameters available to them. Such a “Blueprinter” could be used for the planning and execution of various missions worldwide. An adaptive controller device would set the respective starting point for actions according to the specific situation/evaluation (e.g. Haiti, Chad, and Afghanistan).

⁶¹ 3C Conference Report 2009, 9.

⁶² 3C Conference Report 2009, 19.

⁶³ Council of the European Union 2010, 24.

Conclusion

The successful operationalization of the Comprehensive Approach will be based on the following key elements:

- the willingness – and the *sine-qua-non* prerequisite – of all involved individuals, departments, and organizations to implement the approach, which would mean “[...] a real cultural revolution – breaking with conventional thinking, and re-organising to be able to work together more effectively”⁶⁴;
- the development of a common Blueprint Mechanism and tools to cope with the multi-dimensional dependencies of the four fields of development (Civil Security, Governance, Economy & Infrastructure, and Social System) as well as to carry out concerted actions on the basis of joint strategies;
- a functioning interacting triangle of state- and peace-building, consisting of the three elements transparency, ownership, and progress.

Afterthought

Recently, during a discussion on operationalizing the comprehensive approach at the European Defense Agency (EDA), one participant raised the following argument: “As everything seems so complex, we should simply accept the mess and live with it.”⁶⁵ While we are busy discussing possible ways to operationalize the comprehensive approach we should not forget that in many areas people are suffering and dying because of said ‘mess’ – a ‘mess’ we are failing to overcome due to individual or organizational preconceptions.

“There is no long-term security without development. There is no development without security.”⁶⁶

⁶⁴ Anders Fogh Rasmussen, speech at the 46th Munich Security Conference 2010, in: <http://www.securityconference.de/Rasmussen-Anders-Fogh.459.0.html?&L=1>, accessed 13 May 2010.

⁶⁵ “Operationalising the Comprehensive Approach”, meeting at the EDA, 19 April 2010.

⁶⁶ Kofi A. Annan, “The address by UN Secretary-General Kofi Annan to the United Nations Association of the United Kingdom”, Central Hall, Westminster, United Kingdom, 31 January 2006, in: <http://www.un.org/News/press/docs/2006/sgsm6620060131.asp?statID=49>, accessed 2 September 2010 .

Finding New Ways: Protection and Stabilization Issues

*Deborah Goodwin
Royal Military Academy Sandhurst*

The views expressed are those of the author and do not represent the views of the Ministry of Defense, or any other organization or individual.

Résumé

Dans un environnement globalisé qui est selon toute apparence d'une imprévisibilité violente, il doit exister un impératif implacable de conciliation et d'intervention active. Nous ne vivons plus dans un monde dominé par des guerres interétatiques, bien que cette possibilité existe encore, mais plutôt dans un monde où un différend idéologique et culturel peut être la cause de nombreux conflits. Il est très peu probable que la solution à de telles situations réside dans la seule réponse armée. Il doit aussi y avoir un effort déterminé d'instauration de contact et de dialogue tout au long du cycle d'un conflit et de sa désescalade, peu importe à quel point ces efforts peuvent être ardues et dangereux. Ces initiatives devraient être entreprises avec autant de vigueur que l'est la réponse par l'agression. Les ripostes traditionnelles ont une viabilité et un champ d'action limités et ainsi, en accordance avec le commentaire de Kofi Annan, "[...] cela nous a porté à remettre en cause nos responsabilités et nos assumptions les plus basiques sur la nature même de la guerre et sur le prix élevé de la paix dans l'après guerre-froide". Cet article traitera de agents post-conflit d'une part et de l'entraînement des soldats-diplomates d'autre part.

The Pool of Post-Conflict Operatives

The reconstruction phase of a conflict naturally necessitates the involvement of many players in theater (cf. Figure 1) as crisis response workers. Experience has shown that it can be difficult to organize and focus such a diverse group, especially when there is no clear common strategic aim, or when that aim is not appropriate or viable for all operatives. The polarity of views, for example, between military and non-governmental organizational actors can be marked and can raise questions about the exact roles and objectives of the parties involved and the best way to interact.

The Military	Non-Governmental Organizations
Police [international/home nation]	International Organizations
Legal advisors	The Media
Political advisors	Private Businesses

Figure 1: Variety of Actors in the Field

Evolving military doctrine in the United States and many NATO countries encompasses an objective to play an active part in the post-conflict stage, and not to just 'defeat the enemy' in a more traditional sense. This has led to friction between the military, the police, and humanitarian workers in certain theaters of operation (such as Afghanistan), since traditional areas of responsibility are becoming blurred and indistinct.¹ At the very least these frictions can result in misunderstandings or wounded pride, but at worst they can cause problems for those who need to be helped. Save the Children cites a case where the delivery of aid by the US-led coalition in Afghanistan's Zabul province was accompanied by leaflets calling upon civilians to provide intelligence information or face losing the aid in future. Following protests from humanitarian agencies the leaflets were withdrawn.²

How might it be possible for post-conflict support workers, ranging from the military to one person with a truck of donated supplies, to work together in a mutually cohesive manner? An initial, and rather simplistic, response is a change in mindset. Human nature is such that organizations can become extremely insular in both outlook and objective terms, and can lose the ability to see the 'bigger picture', preferring to focus on their own needs and concerns. Whilst this is understandable, and even effective, in non-conflict deployments, group cohesion and a concept of 'common partnership' will prove beneficial in the complicated environment of post-conflict reconstruction. Being tough on the problem, and not on the people, focuses attention on the essence of the dilemma to be ameliorated, even if it costs a degree of self-pride or forces interagency rivalry to take a back seat. Of course, every operative has an individual mission and drive, but unless there is an early recognition of the part that every player has to play in the greater 'good', implicit frictions rapidly become explicit and necessarily destructive. Respect and trust that each organization has its area of expertise and understanding, which can be 'pooled' to inform and provide best practice in the field, is another essential realization. A drive to 'act' rather than 'appraise judiciously' (albeit briefly in crisis situations) can lead to poor communication, poor understanding, and poor responses lacking in co-ordination and effectiveness. This is regrettable when all parties are driven by the core motivation to protect, rebuild, and sustain.

A way to form a healthy post-conflict working environment is to use modern communications as well as traditional meetings and negotiation structures to discover who is in theater (not always obvious or overt), who needs what, who

¹ Cf. Save the Children, "Provincial Reconstruction Teams and Humanitarian-Military Relations in Afghanistan", September 2004, in: http://www.savethechildren.org.uk/en/docs/Provincial_Reconstruction_Teams_and_Humanitarian-Military_Relations_in_Afghanistan_2004_09.pdf, accessed 23 October 2010.

² Save the Children 2004, 40.

will be the provider, and who will monitor, assess, and make secure. Regular communications both at the ground level and at a wider operational level can help to maintain focus, provide mutually useful information about each agency and for each agency, and help to control the flood of requests and responses required. It also limits the 'us and them' factor by raising understanding and recognizing discreet areas of responsibility. The hosting and logistical requirements of arranging such communications can be decided upon in each specific deployment, with the main agencies alternating in taking the lead and initiative in information sharing and communicating. To state what seems an obvious and constructive working environment initiative, might appear simplistic, but in current circumstances parties jostling for position at the post-conflict stage can supersede any integrated response, and reduce effectiveness for all agencies. Even better would be the formation of a 'code of conduct and responsibility' to aid all agencies in delineating response *prior* to active involvement in any post-conflict reconstruction initiatives. This ought to be formed at a strategic level, akin to the concept of writing a broad-based mandate for agencies that would be non-context specific, but provide general guidance for all parties once deployed. In essence, this would be an inter-agency charter that all would construct and devise, and that would provide guidelines on main responsibilities and roles. Once in theater, the fundamentals would be already established, but would then allow for a flexibility of response and delivery of context-specific initiatives. The formation of such a charter would take time to define, and a high degree of effort to produce in the international arena, but is likely to prove an effective tool on active operations.

Security Concerns

The deaths of five MSF (Médecins Sans Frontières) workers in Afghanistan in June 2004, and the spate of hostage taking of civilian construction workers and humanitarian workers pose a significant threat to their ability to bring aid to the civil community. Unlike the military or police, these workers are not armed and do not have any real way to defend themselves and their missions, and the impact of such acts has resulted in the withdrawal of active involvement in on-going operations by organizations such as MSF, Save the Children, and the UN. The post-conflict reconstruction community faces a serious dilemma; if the tactic of targeting such 'soft' targets persists, then how might support to the home nation be best effected without the presence of vital agencies? One argument might be that, despite humanitarian agencies' dislike of military involvement in humanitarian work, in volatile circumstances the military might be the only agency able to provide viable support. This is due to the fact that the military would have the capability to defend themselves as they are armed, and can act in a more aggressive manner if required to protect supplies or individuals. In situations where a post-conflict dynamic remains inherently violent and an imperative for

human assistance exists, military delivery of such appears to be the only option. NGOs (non-governmental organizations) stress that they do not want to arm themselves, and that they wish to remain distinct from the military on operations in order to carry out their own work in an effective manner. In fact, they tend to dislike the military getting involved in any kind of humanitarian assistance. This is very understandable, yet in the dangerous working conditions described the elective departure of such organizations from theater leaves a vacuum that has to be filled by someone else. Often the only 'someone else' left is the military. Therefore to complain that the military should not get involved in humanitarian work is not to see 'the bigger picture' in this instance: that is, getting the help to the people who continue to suffer during episodes of violent response. If humanitarian agencies are forced to leave due to a deplorable threat to their operatives, then their remote guidance for the military in the continued delivery of aid could be beneficial and supportive. In quieter post-conflict environments, such work/the delivery of aid should remain the main responsibility of humanitarian aid organizations; however, in volatile countries where workers are placed at unnecessary extreme risk, the military has a capability to fulfill *some* of the aid responsibilities still required. Humanitarian workers have not been targeted solely because they are believed to be allied with the military (it has already been stated that they seek to remain remote from the military on many occasions), but often due to more fundamental antagonisms and cultural hatreds. The seizure of Margaret Hassan, the head of CARE (Cooperative for American Remittances to Europe), in Iraq in October 2004 exemplifies this. In such circumstances it is important that humanitarian organizations ask themselves the following question: Given that it is sensible and right not to risk civilian aid workers in such situations, does it remain reasonable to veto aid distribution and support being undertaken by another agency in a period of volatility and during the necessary absence of established aid agencies, in order for a degree of aid relief to be continued? This is a logistical and ethical dilemma for all parties involved, and one that still requires an adequate solution. As Barbara Smith commented:

Peacekeeping forces will not protect aid workers, local authorities will not protect aid workers and, in some respect, the behavior of aid workers compromises their own protection. There is no security for them.³

Dealing with Crises

When people or nations are in a state of crisis, there is an increase in general tension, and if the situation cannot be resolved, then tension rises still further. People can be overwhelmed with feelings of panic, anger, and confusion. Caplan

³ Barbara Smith, "The Dangers of Aid Work", in: Yael Danieli (ed.), *Sharing the Front Line and the Back Hills*, New York, Baywood Publishing Co, 2002, 173 (171-178).

emphasizes that such a crisis feels like “[...] an obstacle to important life goals that is, for a time, insurmountable through the utilization of customary methods of problem-solving”⁴. As difficult as it might be, this is the time to try to build links with those not only of a like mind, but also with those with whom it is problematic to talk. A sustained crisis necessitates the use of unusual problem-solving techniques. Whether we are negotiating with an individual extremist, a nation state, or at inter-agency meetings, the underlying motivations and drives remain the same. Each party has interests, goals, and aspirations, and mutual negotiation is an effective way of discovering these factors. The persistent use of force or armed aggression is not always effective, nor does it necessarily help to discover and reveal the central dilemma.

If we were able, at this very moment, to witness the human interaction in many of the world’s current trouble spots, we would be struck by the drive to communicate, build links, and foster relationships. Firsthand experience of desperate human circumstances and the power of looking into another pair of eyes stir a core impulse to interact, to do one’s best, and to help if one can. The daily persistence of field workers from innumerable humanitarian agencies stems not only from altruistic goals but also from the mechanics of troubling to foster effective working relations in theater with local dignitaries, decision-makers, and with those suffering. In a country where the infrastructure has been destroyed, an effective field operative seeks to re-discover social structures by talking to those who might be able to influence and assist. These people might be religious leaders, town mayors, or leaders of refugee groups. Remedies to problems can only be viable if communication is established with all those affected and if all take an active part in solving the common problem. One of the key ways of achieving this is through effective negotiations, planned and unplanned, which build confidence, knowledge, and mutual co-operation.

But what about situations where there is an ongoing conflict? Recent history has shown us that conventional warfare is relatively short-lived and that the time following the cessation of formal hostilities is a key phase. As in any human dilemma, the basic survival drives of humankind (security, shelter, food) are the first to come to the fore, yet the previously fighting forces are often those who remain in charge. The last decade in particular has seen the growth of military peacekeeping forces providing both physical security and humanitarian support, often under UN mandates and international agreements. How do our global soldiers respond to the demands we make upon them?

⁴ Gerald Caplan, *An Approach to Community Mental Health*, New York, Grune and Stratton Inc., 1961.

The troubled history of the Balkans has witnessed a number of approaches, ranging from the weak and uncertain mandate of UNPROFOR (United Nations Protection Force) in the early nineties to a new European initiative employed in December 2004. Out of very troubled times, which seemingly culminated in Srebrenica, a modern expectation arose with regard to the role of the military. We had entered the age of what I like to call the 'soldier-diplomat'. In other words, we still expect our military to act as traditional fighters, but, almost simultaneously, to actively conciliate, liaise, and co-operate with both the home nation and other in-theater organizations. Many have been effective in this role. Many nations have trained their military in negotiating and liaison skills for over two decades; the countries of Canada, Norway, Sweden, and Great Britain are of particular note in this respect. It is important that the military continue to liaise with vital community leaders; to meet, to talk, to work out problems, and to respect all viewpoints wherever they are deployed. Where this happens significant confidence building can occur, and the needs of distressed and displaced people can be addressed and remedied. Such work, however, rarely makes international news headlines.

Training Soldier-Diplomats

Any military pre-deployment training should be scenario-specific wherever possible so that military actors appreciate the context and relevancy of culture, communication techniques, and inter-agency co-operation in any particular operational area. As Sun Tzu observed:

Those who are skilled in executing a strategy,
Bend the strategy of others without conflict;
Uproot the fortifications of others without Attacking;
Absorb the organizations of others without prolonged operations.⁵

As the following commentator states, one difficulty lies in the perceived transference of theoretical training knowledge into practical real-world application:

The difficult area in training was always going to be the less easily definable skills such as using interpreters, negotiation dealing with the media, [...] the armed drunk, the difficult soldier at a check point or trying to stop a firefight, skills which you could discuss and practice ad infinitum but not really test until you were on the ground.⁶

The UNPROFOR mission demonstrated the new operating procedures required by the serving soldier in such a difficult situation, many of which ran contrary to

⁵ Sun Tzu, "Engaging the entire system, 9 III", in: *The Art of Strategy*, translated by R.L. Wing, New York, Thorsens, 1997, 44.

⁶ Non-attributable comment from an Operation Grapple soldier.

established military behavior in a traditional war zone.⁷ These practices can be summarized as follows:

- direct engagement: the delivery of humanitarian supplies, re-building of infrastructure, 'hearts and minds' work⁸
- protection of NGO personnel and their supplies
- acting as mediators between warring factions
- establishment of safe areas
- liaison and negotiation: bodies, accommodation, movement.

The watching world generally hopes that such peacekeeping missions will not merely freeze conflicts, but help to restore a sound peace as well. In a military sense, this requires integration of the tactical and operational command levels to support the strategic aim of de-escalating violence and reconciling communities.⁹ Experience in operational areas such as Cyprus – where peacekeepers have used negotiation, arbitration, go-between mediation, and conciliation to achieve ends – shows that appropriate techniques exist at the tactical level. Principled negotiation consultation and problem-solving meetings are thus more progressive forms of conflict resolution, if the aim is to do more than just keep the belligerents apart physically. Ken Eyre stressed this viewpoint in 1993:

Given that the peacekeeping model is changing, it is fair to ask if the tasks that soldiers are now being required to do are still covered in training or general war, or if the changing face of peacekeeping now raises the imperative to train soldiers at all levels in skills that are beyond those needed to successfully prosecute combat operations. Based on experiences from the unstable environment during the Cyprus War in 1974, media reports from events in the former Yugoslavia, Cambodia, and Somalia and an informal survey conducted with several hundred troops who served in Sarajevo with the Canadian Contingent in UNPROFOR, the answer is tentatively 'yes'.¹⁰

It is obvious that the word “tentatively” now requires removal and to be replaced by ‘definitely’ so as to reflect the new world order and the multifunctional demands on the military.

In the early 1990s the UN was forced to realize that the diversity of roles played by the troops in UNPROFOR led to concomitant diversification in liaison and ‘on-the-

⁷ Deborah Goodwin, “An Encounter with an Outcome”, in: Deborah Goodwin (ed.), *Negotiation in International Conflict. Understanding Persuasion*, London, Frank Cass & Co, 2001, 120 (117-136).

⁸ A term devised by General Templar.

⁹ Cf. the proceedings under UNPROFOR with specific guidance given in Operation RESTORE HOPE (Rwanda): “In humanitarian operations [...] [all] must be intimately involved in what the other is doing, and must make an extra effort to ensure that the other is appraised of every activity, meeting, encounter, and operation conducted by the other” [non attributable, authorial summary].

¹⁰ Kenneth Eyre’s comment at a symposium on “The Changing Face of Peacekeeping”, Canadian Institute of Strategic Studies, 1993, not published.

ground' duties and requirements. As a Canadian contingent stated, "[n]egotiation techniques are critical for LOs, F Echelon leaders from patrol/section level and up, and key CSS personnel"¹¹. Military units deployed to facilitate humanitarian aid had to negotiate on a case-by-case basis for freedom of movement to escort the convoys, and this often led to 'linkage' negotiations on other humanitarian issues and political problems that would be used as bargaining devices by, and with, local warlords. The following comment exemplifies this: "Peacekeeping operations can contain elements of both small and large scale confrontations which have to be dealt with during the de-escalating effort."¹²

Working within such an environment and using a skill that was unfamiliar at times meant that there was a further problem for the soldiers: Many soldiers felt inadequately trained in negotiating skills. While most of the more senior British personnel had experience from working in Cyprus, many younger British personnel did not, and most international units had no formal pre-deployment training package or doctrine at all. Many soldiers have stated that their experiences in Bosnia/Croatia indicated that individuals were either a good negotiator or were not, and had little time to alter that fact for the better.¹³ They were aware that poorly handled negotiations could have serious ramifications beyond the immediate issue, and when cultural factors and pervading hostility were added, then issues and tempers could rapidly increase in intensity. A great deal of damage could be done with very few words. Thus, a perception grew that new skills were being required of the soldiers in addition to traditional armed capability, and that these so-called 'soft-skills' were assumed to be in their arsenal already. Shortly after the deployment of UNPROFOR, UN staff attempted to review and illustrate the new skills that had been observed on the mission.

Awareness and resultant training initiatives have moved on since the days of UNPROFOR, albeit a little haphazardly on a global scale. This author, who has been involved in training peacekeepers and developing doctrine and training material since 1994,¹⁴ has noticed the welcome growth of international workshops, conferences, training courses, and general awareness raising of the issues inherent in the modern theater of operations. However, context-specific training remains rather limited and needs to become more widespread, both geographically and organizationally. The demands on the military and other agencies continue

¹¹ 12eRBC Mid Tour Report, CANBAT 2, Roto 2, cited in <http://www.allc.com/website/english/products/dispatch/3-1/dis313ae.html>. LO is an abbreviation for Liaison Officer, accessed before 2000. The website is now <http://armyapp.dnd.ca/allc-clra/default-eng.asp>.

¹² *United Nations Civilian Police Handbook*, New York, UN [first draft 1995], <http://publicintelligence.net/united-nations-civilian-police-handbook/>, 45.

¹³ Verbal comments to the author.

¹⁴ Cf. Goodwin 2005; Goodwin 2001; Keith Bonn – Anthony E. Baker, *Guide to Military Operations Other than War*, Mechanicsburg, PA, Stackpole Books, 2000.

to grow exponentially, and so must the support that they receive to do the job effectively and cohesively.

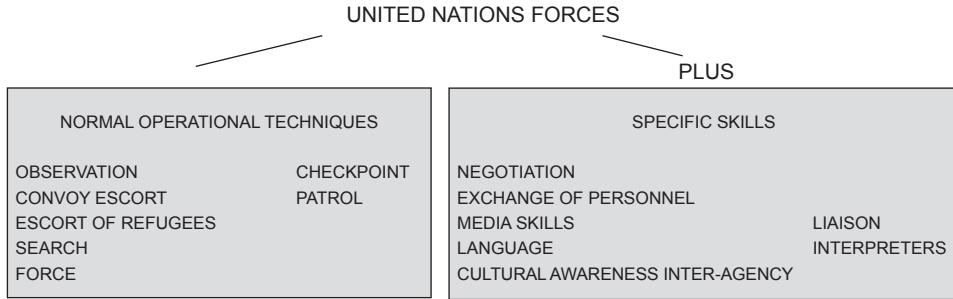


Figure 2: Perceived New ‘Soft Skills’ Required by Peacekeepers¹⁵

The key skills to be absorbed and used in peacekeeping include active listening, interest identification, and the recognition of effective psychological influencers such as those described by Cialdini. The personal motivation to learn is a prime factor for any successful training and ought not to be overlooked: Just because the learner is required or obliged to learn a subject (e.g. because it is part of his or her prescribed duties) does not mean learners are not intrinsically or personally motivated. In fact, most practitioners are eager to learn as much as possible because the implications of not learning could ultimately be life threatening. This in turn will mean that learners are likely to be demanding on the trainer and demanding in terms of training methods. Variety in active instruction is preferable; in addition to the repeated reinforcement of key issues, training will usually involve pertinent simulation exercises. Simulations are most effective when they are as similar to reality as possible; it is not useful for the learner (whatever their category) to take part in a simulation that bears no resemblance to what they will later face in reality. How else will a learner turn theory into practice in any meaningful way? In this sense, a simulation that is purposely designed to be stressful will provide a realistic representation of likely field negotiation processes and the inherent external factors. In his ideas on military precision in strategic negotiation processes, Sun Tzu stresses the importance of analyzing the ‘enemy’ in minute detail, of weighing up options in decision-making in light of this understanding, and of using this knowledge to underpin strategic moves. In order for trainee negotiators to learn to make such a relevant analysis of the other party, they need to be given ‘real-life’ scenarios, operational procedures

¹⁵ Adaptation and enlargement of a figure in Jean-Michel Faure, *Commanding United Nations Peace-Keeping. Operations Methods and Techniques for Peace-Keeping on the Ground, Programme of Correspondence Instruction in Peace-Keeping Operations*, New York, UNITAR-POCI, 1996, 87, in: Deborah Goodwin, *The Military and Negotiation. The Role of the Soldier-Diplomat*, London, Frank Cass & Co, 2005, 176.

and complementary bargaining procedures, realistic threat moves and suitable counter-moves. Furthermore, they need to be stimulated to constantly re-assess the shifting process throughout a negotiation. The validity of formal negotiation training for the field operative is thus not disputed; the main issue is the relevancy and applicability of the training format, context, and delivery. When the ultimate goal is to provide practitioners with knowledge and skills in negotiation that might save lives, the impetus for designing and delivering pertinent training is evident.

One of the easiest ways for field practitioners to learn about negotiation scenarios and the best response in such scenarios is to provide the time and space for the practitioners to 'brainstorm' about a particular context, preferably on a frequent basis and with their peers; thus benefitting from each other's experience and ideas. By inviting suggestions and by pooling ideas and responses, a diversity of issues and solutions can be raised, and probably they will be different with each group of learners encountered, so any trainer will need to get used to the unexpected. The trainer will need to prepare for this seemingly spontaneous work well in advance, because the pedagogic prompts for brainstorming will be vital if it is to be successful. One useful prompt might be to show learners a videotaped role-play – or, even better, a real situation, if it is available on film – which can be viewed and assessed by the learners and then discussed in specific contexts. This experience tends to promote higher-level skills and the refinement of technique and approach.

The real difficulty often lies in transferring theoretical training knowledge onto practical real-world application. Simple role plays can be useful in the sense that they can illustrate the phases of negotiation, the use and application of language or the nuances of body language. The area where trainees often stumble is focusing on subtleties, psychological concerns, linguistic details, or even realism, as the comment above suggests. Role plays are also highly dependent on the way they have been composed, delivered, and de-briefed. If phase structures are less clear in real life, then it is important that role plays also try to replicate this confusion. Such simulations must, however, be followed up with constructive debriefings and knowledge reinforcement; otherwise learners could be left as muddled and confused as they were during the simulation. Role plays and scenario-specific negotiation training courses need to be designed carefully, with realism in mind. If they are used together with video and audio evidence, then trainees should come to the realization that flexibility and diversity in approach are a vital part of learning 'how to do it'. Real case material can exemplify the requirement to gather evidence, intelligence and information, rather than just 'talking someone down'. This is an approach being taken increasingly by crisis negotiators, where the strategy of negotiations can be different in every situation. However, when a real field negotiation starts it is unlikely that everyone will be aware of everything that is happening, including factors such as the context, the decision

parameters, the personal traits of the other bargainer, and the possible zones of agreement. In practice, such a detailed picture can only be built up gradually as the circumstances allow. The problem for the negotiator faced with a volatile other party, for example, is that while this acquisition of information is taking place, so, too, is the potential for an escalation of the event towards more dangerous armed responses. Further danger lies in pursuing one's own objectives whilst failing to recognize the interests of the other party, especially if the process is getting more aggressive.

One major weak point of the literature on negotiation lies in the authors' assumption that negotiations can only work if all parties 'play fair' or even 'play nice'. It fails to provide any real advice on how to handle situations where the parties involved are hostile, aggressive, uncooperative, untruthful and 'playing dirty', much less on how to respond in kind (i.e. how to play dirty oneself). The only advice of such authors is to avoid these situations altogether or to change the conditions before any further negotiation proceeds. For instance, when faced with a 'hostile' negotiator or someone using aggressive tactics, Fisher and Ury in their book *Getting to Yes* (1991)¹⁶ – recommend negotiating the rules of the 'game' with the dirty trickster, verifying any false information, and then reviewing the status of the negotiation. To their mind, negotiators should not proceed unless these verifications have been obtained. The authors roundly reject psychological mind games, personal attacks, and positional tactics; again the recommendation is *do not proceed* if these are in play. However, the facets of negotiation that Fisher and Ury have described as 'dirty tricks' are commonplace on the ground – in fact, they are to be expected more often than not. Coercion is often a given in such contexts, and it is usually *armed* coercion. In truth, if field negotiators were to heed Fisher and Ury's advice, then nothing would ever be negotiated. It is the real, volatile, unpredictable world in which people have to work and interact. In this point, there is a marked divergence in crisis negotiation from the more logical, 'amenable' approaches taken by generic theories on negotiation, since armed aggressors tend not to play by the 'rules' described so neatly in placid instructional manuals. Field negotiators tend not to linger on arguments such as these.

Field operatives usually originate from established professional fields such as the police, military, or a highly communication-based profession. They may have been part of this organization for some time before they are either selected or choose themselves to become a specialist field negotiator for that organization. They will then need to undertake their respective intensive negotiation training. Most modern courses focus on logistics, behavior and psychological training, practical strategies, and use of force issues. But all of this, and the degree of depth of this

¹⁶ Roger Fischer – William Ury, *Getting to Yes: Negotiating Agreement Without Giving In*, New York, Penguin Books, ²1991.

training, will be heavily dependent on financial resourcing and training support provided by the organizations and governing bodies involved. Funding and time, or rather the lack thereof, dictate the extent of the training on offer and thus, by extension, the preparedness of the field operatives. Logistics training will include briefings on personal supplies to be used (notebooks, pocket recorders for quick personal notes, suitable clothing and food supplies, and so on). After this, detailed training concerning behavior and psychology can take place; or, in other words, trainees should explore and learn what makes people 'tick'.¹⁷ Time can be spent on the examination of these factors during training, both for self-awareness and heightened awareness of the other and the context as they are at the heart of human interaction and perception. Also included can be crucial training in decision-making skills, social perception, and personal negotiation strategies. Throughout this training repeated use should be made of real events, records and statistics from which trainees can check and test their own responses in similar situations. Some courses will build up to extensive field exercises where situations can be acted out for the trainees to respond to in real time and with real people involved, and thus complications will occur. This training is used to good effect by the police as force issues can be vividly demonstrated, and for the UK military the formation of a new training village is very useful in this way. After all this, the next learning experience is the real-world application.

Those who engage in negotiation require support, practical advice, and skills that are first honed in the non-threatening training environment. As has been discussed, issues such as the trainees' personal needs and wants, as well as what professional tactics they will require for their job, should be addressed early on in the training phases. Training needs to be designed and implemented to truly prepare trainees for the reality they will later face when they negotiate: a world that is volatile, unpredictable and that fails to mirror usual norms. While there are modern initiatives to engage such learners in computer-based learning programs, or to encourage them to read generic negotiation theories, these forms of delivery should not serve as the sole basis. Experience shows that negotiators who are dealing with life-and-death issues respond well to interaction with peers, observation of real encounters, realistic simulations, and challenges to their personal preconceptions and tactics. These imperatives thus require a trainer who can supply both viable academic parameters and real-world examples and contexts, building up levels of information and difficulty as the training progresses. At the core of this training is the realization that for the field negotiator in particular,

¹⁷ Social-psychological factors: self awareness – self enhancement – self-serving bias – positive illusions – egocentric judgment – overconfidence – false uniqueness – awareness of others: 'halo and horns' effect – primacy effect – positivity bias – negativity effects – correspondent inference – actor-observer differences – fixed pie perception – false consensus – world picture Hindsight bias – anchoring and adjustment – unwarranted causation – perseverance – rose-tinted-glasses effect – balance effects – illusory correlation.

the negotiation dynamic is living, mutable, and shifting in degrees of emphasis on each and every occasion. Lessons learned both in the real world and in training should be exchanged after every encounter and should also be built into the longer-term training package to support any field operative throughout their career.¹⁸

¹⁸ For full discussion of these training elements refer to Deborah Goodwin, *About Turn: Preparing the Military Negotiator in Current Conflict*, Sandhurst Occasional Paper 1, 2010.

Literature and Media Littérature et médias

Twice at Peril... The Rwandan Genocide in Cultural Discourse: A Survey with Special Focus on Gil Courtemanche's *Un dimanche à la piscine à Kigali*

Piet Defraeye
University of Alberta

The things that happened in Nyamata, in the churches, in the marshes, and on the hills, were the abnormal actions of perfectly normal people.
Jean-Baptiste Munyankore¹

Résumé

Le génocide rwandais a engendré une grande quantité de discours culturels et de représentations, allant des récits fictifs jusqu'aux sculptures abstraites en passant par les témoignages juridiques. L'article présente un aperçu de cette vaste production culturelle sur le génocide rwandais. Chacun des genres abordés est pris dans une tension dyadique entre ce qui est factuel et ce qui demeure du domaine de la fiction, et se heurte par ailleurs à ses propres conventions et à la représentabilité des événements d'horreur de 1994. Les différents genres apportent chacun ses présuppositions particulières, ses problèmes et ses contingences spécifiques à la représentation, tout en proposant souvent leur propre agenda. Certains récits, souvent d'inspiration religieuse, s'orientent vers la réconciliation, d'autres, tout comme les bandes dessinées, favorisent l'aspect didactique. D'autres encore, comme les récits des témoins, sont destinés à commémorer et à historiciser, et ont souvent des motivations thérapeutiques. Les récits de fiction sur le génocide nous sont toutefois les plus familiers, en particulier les films, les pièces de théâtre ainsi que les romans. Le réalisme du cinéma et sa représentation pseudo-documentaire des événements est toutefois très problématique, brouillant les pistes et empêchant souvent de comprendre ce qui s'est réellement passé. Le théâtre à son tour se voit confronté à une lutte dyadique entre la réalité phénoménologique de corps réels sur la scène et le faire-semblant de la convention théâtrale. L'article conclut par une analyse du roman *Un dimanche à la piscine à Kigali* de G. Courtemanche, lequel comme la plupart des représentations, a été écrit par un *outsider* et en plus dispose d'un *outsider* en tant que protagoniste principal dans un récit 'restauratif' controversé.

Early on in his autobiographical *Shake Hands with the Devil*, Roméo Dallaire calls his testimonial writing "a *cri de coeur*"² in honor of the hundreds of thousands that were slaughtered during what has become known as the 100-day Rwandan genocide of 1994. Dallaire's writing is meant as a historical account of the United Nations' (UN) involvement in the conflict and its failure to prevent and/or adequately

¹ Jean Hatzfeld, *Machete Season. The Killers in Rwanda Speak*, New York, Farrar, 2005, 225.

² Roméo Dallaire, *Shake Hands with the Devil*, Toronto, Vintage, 2004, 7.

intervene in the frenzied slaughter that terrorized the country. More than a historical account, it is also a therapeutic attempt to ease his own process of dealing with his experiences and what he saw and was involved in during his twelve months in what he repeatedly calls the Rwandan “inferno”. Clearly, it is a book that had to be written, though it took almost ten years for the Canadian UN general to find enough mental space, courage, and distance to put the book together, and even then he could only write the tome with the encouragement and help of his collaborating “catalyst and disciplinarian”³ Brent Beardsley, who called the work on this book “an obligation”⁴. Dallaire makes sweeping conclusions and accusations in the volume, and it is also loaded with circumstantial apologies and excuses. Yet, throughout the book, his deep respect for a country he has grown to love emanates; descriptions like “a little bit of heaven on earth”, and “a green paradise that seemed to be perennially capped by the bluest of skies”⁵ reminded me of my own touristic response to this amazingly beautiful country when I went on a long bicycle trip in the summer of 1987. On the banks of Lake Kivu, near Gisenyi, drenched in sweat after an exhausting bike ride from Ruhengeri, I specifically remember admiring a landscape which for me, like for Dallaire, had the beauty of a biblical Eden. Even then, the simmering tension between the two main ethnic groups was palpable. I made friends and acquired a deep sense of respect for the tremendous effort of the Rwandese in the areas of agriculture, transport, and education. My subsequent research into the discourse on the genocide and post-genocide is my own way of trying to grasp the experience of friends and acquaintances gone missing.

Roméo Dallaire’s book won several prizes. Translated into numerous languages and adapted into two films – an actual documentary and a more filmic adaptation – it is probably the book that is most widely recognized as having unlocked the dark course of the 1994 events in the central African country for a wider audience. Even before it was published, and surely since, a small library has been written on the Rwandan conflict. Dallaire himself concludes his book with four pages of critical bibliography in his “Recommended Reading Appendix”, and he encourages “young authors, journalists and scholars to continue to study this human tragedy and to contribute to our growing understanding of the genocide”. He concludes, “If we do not understand what happened, how will we ever ensure it does not happen again.”⁶ The latter is a sentiment that comes back time and again in a variety of responses to the Rwandan genocide. Authors and artists alike explicitly situate their responses within a project of witnessing and understanding, and these are the main motivations for any person to engage either in writing or artistic response to the events, no matter how close or how far they were removed at the time. This

³ Dallaire 2004, XIII.

⁴ Dallaire 2004, XII.

⁵ Dallaire 2004, 95.

⁶ Dallaire 2004, 548.

article then offers a critical look at and survey of the variety of cultural discourse that is produced in response to the Rwandan genocide, a discourse so vast that we can actually talk about a genre, with a whole pedigree of subgenres. This survey uses the notion of *genre* as a purely pragmatic device. It is, on the one hand, based on a thematic grouping – works that have as their subject or focus the Rwandan genocide – and uses, on the other hand, stylistic and formal characteristics to try to organize the different responses in a comprehensive and comprehensible whole. After all, even Benedetto Croce, one of the most vocal critics of genre classification admitted that the “books in a library must be arranged in one way or another”⁷. Representations of and responses to the Rwandan genocide go well beyond discursively based genres, and include a vast array of cultural discourse and expression, from news reports and legal accounts to narrative fiction and works of art. My use of the term ‘cultural discourse’ refers to a cultural practice of representation or, in Stuart Hall’s words, signifying practices. These cultural interventions of signification comprise a wide spectrum of practices, including linguistically based discourse, literary or otherwise, artistic representation in music and so-called plastic arts, but also socio-cultural practice as in commemoration and rituals. Cultural discourse on the Rwandan genocide includes journalistic reportage, survivor and eye-witness accounts, secondary witness accounts and documentary film, but also different kinds of monumentalization, songs, and visual art responses. The field is best known through a range of fictional cultural discourse, most eminently in movies, but also in poetry, theater, and novels in a wide variety of languages. This survey article concludes with a more in-depth look at one of these fictionalized accounts, Gil Courtemanche’s novel *Un dimanche à la piscine à Kigali*. The Canadian author has gained prominence with his work, both as a novelist and as a journalist. The novel, controversial as it is, brings together many of the challenges and problems of representing the genocide.

A full overview of the representation of and response to the 1994 events and their aftermath is well-nigh impossible because of the sheer volume of sources that need to be catalogued. A number of general categories can, however, be drawn. Discourse critics have approached this genre – cultural discourse dedicated to the Rwandan genocide – from a number of points of view – and the fact that there are several volumes and articles, of which the current article is just one example, that critique and theorize this kind of discourse is the clearest indication of it being an actual genre. Not surprisingly, for Robert Stockhammer, as someone writing from a German perspective, his research was initially a study of writing on the ‘other’ genocide: *Ruanda: Über einen anderen Genozid schreiben*. Five years later, in his second volume on the genre, the title has been neutralized into *Literature after a Genocide*. Stockhammer’s point of departure to come to some sort of taxonomy

⁷ Benedetto Croce, “Criticism of the Theory of Artistic and Literary Kinds”, in: David Duff (ed.), *Modern Genre Theory*, Harlow, Longman, 2000, 28 (25-28).

within the plethora of distinct responses to the Rwandan genocide is the distinction between factual and fiction, based on Aristotle's distinction between historiography and *Dichtung* or fiction – the former dealing with the particulars of real events, the latter dealing with *possible* events. Roméo Dallaire's book, for instance, clearly fits in with Aristotle's category of the historiographic, as it focuses on the rendition of actual facts and sources, "ohne es zu einer Einheit von Handlungen zusammenzuführen"⁸. Clearly, this generic distinction becomes little more than an academic exercise and ends up being untenable within the hundreds of discursive, filmic, and artistic responses to the Rwandan conflict. Even Dallaire's reconstructive project is full of observations of 'what might have happened if only...'. The generic distinction between what *actually* happens and what *is possible* is particularly problematic since it was precisely this fragile equilibrium that ceased to exist altogether in the central African country on the night of 6 April 1994, when the airplane that carried the presidents of both Rwanda and neighboring Burundi, Juvénal Habyarimana and Cyprien Ntaryamira, was shot down over Kigali airport. The *impossible* scenario which numerous Rwandese citizens and international watchdogs had warned about for years now turned into a factual reality in a matter of hours and days.

Alexandre Dauge-Roth limits his impressive study to filmic and discursive responses to the events, and distinguishes two main sources of writing that thus create their own specific genre: testimonies written by survivors or compiled by editors or journalists, and writing by primary or secondary witnesses. Most people who responded in written or filmed narratives in the West are obviously secondary witnesses who obtained their knowledge of the events in Rwanda through journalism, testimonials or preceding narratives. This dyadic division is not unproblematic, as is the title of Dauge-Roth's book, in which one specific group is unequivocally identified as victim, thus implying the other group as aggressor: *Writing and Filming the Genocide of the Tutsis in Rwanda* (2010). Dauge-Roth acknowledges that testimonials themselves often have fictionalized parts; conversely, what comes across as fictional writing – as is the case of the production of the Belgian theater group Groupov's *Rwanda 94* – contains concrete and powerful testimonial by actual survivors, live on the stage, a mix which Alexandre Dauge-Roth seizes as an opportunity "to examine what it means to mediate the radical violence and traumatic aftermath of genocide for authors who are themselves survivors and those who do not share this traumatic fate"⁹.

⁸ Robert Stockhammer, *'Literatur', nach einem Genozid: Äußerungsakte, Äußerungsformen, Äußerungsdelikte*, Aachen, Shaker, 2010, 26.

⁹ Alexandre Dauge-Roth, *Writing and Filming the Genocide of the Tutsis in Rwanda*, Lanham (MD), Lexington, 2010, 36.

A French set of studies of writing on the Rwandan genocide, collected in 2007 under the title *Les langages de la mémoire*¹⁰, sees the representational response mostly in function of a project to establish a collective memory – *un travail de mémoire* – and subdivides the genre into conventional structural categories like theater, photography, journalism (‘média’), and literature (‘littératures’). Rather than work with the opposition of ‘fiction’ versus ‘non-fiction’, the editors prefer distinctions between, in Daniel Delas’ words, different “régimes d’écriture”¹¹, which then are mostly about the degree to which the author brings in a subjective voice and represents strict facts, whether or not as a narrative, or knits more elaborate fictional accounts based on these facts. The focus of their critical investigation is to see writing on genocide as a cross-disciplinary *devoir de mémoire* and is to be located within the wider memorialization project ‘Rwanda: écrire par devoir de mémoire’, which was set up mostly within the Afro-Francophone world. The aim then is for this memorializing writing – whether of survivor or primary or secondary witness – to coincide as much as possible with the real underlying events and experience. Writing (and reading) genocide, in other words, is a metonymic exercise of proximity or approximation, in which the signifier – photo-reportage, novels, documentary, and live theater – is evaluated as to its potential to proximate the original, historical, and authentic experience that functions as original referent – the signified. Needless to say that it is always and necessarily a failing project – which, in the end, and for obvious reasons, is a blessing: No sane person could ever want to re-create or re-live the original historical horrors. The want, desire, or need to re-live reflects a certain ideology of memory, which in itself is an understandable response to one of the main accomplishments of memory: It forgets. Dutch psychology historian Douwe Draaisma, in his most recent monograph on the mechanisms of forgetting,¹² observes that our memory is quantitatively mostly governed by forgetting. Within the context of trauma, it is also a perfectly understandable function: We sometimes want or need to forget (or to repress) simply to be able to overcome the paralysis induced by the trauma and move on with our lives. At the same time survivors are haunted by the traumatic experience and continue to be defined by it – both as an internal experience and by external forces. Writing and representing then is both an antidote to our natural function of forgetting, as well as a way of writing off trauma as a cathartic exercise. Moreover, most cultural discourse on the Rwandan genocide situates itself within a project of collective responsibility of recollection with an eye towards the past as well as the future. The responsibility towards the past is to ‘get it right’, more precisely to be able to get to a degree of truth of what exactly has happened in the historical past. The duty towards the future is

¹⁰ Pierre Halen – Jacques Walter (eds.), *Les langages de la mémoire. Littérature, médias et génocide au Rwanda*, Metz, Université Paul Verlaine, 2007.

¹¹ Daniel Delas, “Fiction ou témoignage : deux régimes d’écriture du génocide rwandais (Antoine Rutu, Jean Hatzfeld)”, in: Halen – Walter 2007, 385-400.

¹² Douwe Draaisma, *Vergeetboek*, Groningen, Historische Uitg., 2010.

Dallaire's previously mentioned insistence that it not happen again, and is mostly known under the motto "Never Again". Not surprisingly, it is one of the most voiced motivations for survivors, witnesses, authors, artists, and critics alike to write or work on or about the Rwandan genocide. The 1994 events have had the dubious merit of promulgating a Kinyarwanda translation of this phrase in wider cultural discourse: *Ntidigasubire*.

And yet, as we know, none of this is self-evident. Especially having both surviving victims and perpetrators bear witness will always be precious, painful, shameful, reluctant, partial, and incomplete. One survivor says it succinctly, "[T]he intimate truth of the genocide belongs to those who lived it, and so does the right to withhold this truth, for it is not something to be shared with just anyone."¹³ To transcribe this primary testimony into a representation on the page, the screen, the stage or other medium, is both a compelling exercise as well as an extremely delicate affair. Adorno, and many others after him, have pointed out the impossibility of such a project, both ontologically – the events themselves can't be represented, and even less understood – as well as ethically – the aestheticizing and redeeming drive of art itself stands in contrast to the complete lack of sophistication and concern with redemption of the events themselves. Yet, in its very essence, representing the genocide will always be an effort of understanding, or a desperate attempt to control what is continuously suggested to be uncontrollable or incomprehensible. Linda Milvern, in her investigation of culpability, points out, for example, that the British press consistently talked about "'hopeless, helpless horror' taking place in a relatively unknown country, far away"¹⁴. Writing the genocide then, is mostly a hermeneutic exercise, and not – as some critics want it to be – a preventative and interventionist action. Heike Härting, for one, contrasts the remarkable output of (Western) cultural discourse on the Rwandan genocide with "decreasing international commitment to putting a stop to genocidal violence in Africa"¹⁵. Even though she focuses on Western-produced discourse, the argument seems to create a troubling hierarchy vis-à-vis the impressive Africa-based discourse on the Rwandan genocide, and construct expectations for literature and art which seem fundamentally unfair. We surely hope, of course, that better understanding can bring about better, more appropriate, and more effective action, though it cannot be the responsibility of creative responses to these events to actually prevent them from re-occurring in a distant future.

¹³ Jean Hatzfeld, *The Antelope's Strategy: Living in Rwanda After the Genocide*, New York, Farrar, 2009, 100.

¹⁴ Linda Milvern, *Conspiracy to Murder. The Rwandan Genocide*, London, Verso, 2006, 268.

¹⁵ Heike Härting, "Global Humanitarianism, Race, and the Spectacle of the African Corpse in Current Western Representations of the Rwandan Genocide", in: *Comparative Studies of South Asia, Africa and the Middle East* 28, 1 (2008), 61 (61-77).

Writing about and representing genocide is also an effort of restoration or repair, since the representations that reference the genocidal acts are themselves only possible because of a radical rupture. The rupture then characterizes not only the historical reality these atrocious acts are part of, but is also a fundamental characteristic of the truncation, fragmentation, and re-assembly that allows for their being chronicled, witnessed, narrated, edited, and memorialized – even though the intent of this intervention may well be (and is invariably stated as) an effort to bring truth, harmony, and wholeness. What is most visible in any response to an event like the Rwandan genocide is the sutures in the restorative representation. The most acute response to the 1994 events – and systematically disregarded in critical reflection on its representation – was and remains the numerous reports from nongovernmental organizations; fragmentary efforts to document what was going on at the time.¹⁶ In terms of dissemination, however, the impact of the journalistic reportage is second to none. During the actual cycle of genocide, journalistic coverage became extremely difficult. Local journalists were either partisan members of the extremist press – mostly Hutu-leaning and excessively rapacious in their discourse, like Radio Télévision Libre des Mille Collines (RTM) or the monthly extremist newspaper *Kangura* –, or were themselves targets of the violence during the height of the carnage.¹⁷ The international organization Reporters sans Frontières estimated that a total of at least 49 local journalists were murdered in the four months following the outbreak of the deadly inferno.¹⁸ Very few foreign correspondents remained in the country in the first weeks after 6 April 1994. Only a handful of journalists managed to find access to the country and adequately report what was happening during the first few weeks, and even fewer managed to stay long enough to really be able to give a fair testimony of the actual scope of things. Two famous examples of those who did are George Alagiah and Els De Temmerman. With a dozen or so colleagues based in Nairobi, BBC-correspondent Alagiah managed to enter Rwanda in May, and was one of the main instruments through which the world could visually witness the most shocking aspects of the events in a mode which has become known as ‘let the picture tell the story’. A month earlier, precisely four days after the downing of the presidential plane, Els De Temmerman, arrived in northern Rwanda through Uganda, and, facilitated by the Rwandese Patriotic Front, covered the initial events for the Dutch newspaper *de Volkskrant* and the Flemish-Belgian radio station BRTN. Only ten days later she was forced to flee to neighboring Nairobi, and wrote in her concluding summary of fragmentary impressions, as she waited for her plane to take off from

¹⁶ Cf. Lindsey Hilsum, “Reporting Rwanda: The Media and the Aid Agencies”, in: Allan Thompson (ed.), *The Media and the Rwanda Genocide*, New York, Fountain, 2007, 167-187.

¹⁷ For a good presentation of the role of the Rwandese media before the actual genocide, cf. Jean-Pierre Chrétien et al. (dirs.), *Rwanda. Les médias du génocide*, Paris, Karthala, 1995.

¹⁸ Chrétien 1995, 389.

the devastations of Kigali airport: “All journalists have now left, together with the last few whites. As if the narrative stops.”¹⁹

Meanwhile we know that the narrative surely did not stop there; neither the historical events nor the narrative that has since developed. Wikipedia’s bibliography alone is three pages long, add to that the ten pages on the German equivalent²⁰ and it becomes clear that not only has the Rwandan genocide become a genre, it is also a field or a discipline, which goes well beyond Croce’s pragmatic issue of how to shelve the books in a library. Journalists have siphoned their experiences into published collections of witness accounts and traveler-stories. Christian Jennings’ *Across the Red River* is just one example of many. Legal experts have responded to the issue of genocide itself in national and international law. Filip Reyntjens’ extensive publication record in this area alone is overwhelming. The thousands of pages of *Reports of Orders, Decisions and Judgements*²¹ of the Arusha-based International Criminal Tribunal for Rwanda must also be filed as part of this reconstructive narrative, as is of course the oral tradition nourished by the practice of Gacaca hearings, a Rwandese participatory grass-roots justice system. Minutes and reports from courts in Belgium, Canada, France, and other countries that have tried perpetrators offer additional depositories of genocide narratives. Historians too have since put together several reconstructive narratives of causes, events, and aftermaths. African Rights’ *Rwanda. Death, Despair and Defiance* is one of the most comprehensive histories of the conflict, as is Gerard Prunier’s *The Rwanda Crisis: History of a Genocide*. Documentary films like Jean-Christophe Klotz’s 2005 *Kigali, des images contre un massacre* add to the historical documentation, as do Jean Hatzfeld’s documentary collections in which he lets victims as well as killers speak.²²

The genre of discourse on the Rwandan genocide is doomed to continue, as more and more legal, cultural, and artistic discourse is generated, and unavoidably, a sort of genocide industry has emerged similar to that what Norman Finkelstein calls the Holocaust industry. Scholarly conferences continue to offer platforms for further dissemination. Scholars have geared their careers towards its study and discursive treatment. In 2002, for instance, L’Association internationale pour la mémoire du génocide au Rwanda (AIMGR) was founded with the explicit goal to

¹⁹ My translation. Els De Temmerman, *De doden zijn niet dood. Rwanda, een ooggetuigenverslag*, Groot Bijgaarden (B), Globe, 1994, 32.

²⁰ “Bibliography of the Rwandan Genocide”, in: http://en.wikipedia.org/wiki/Bibliography_of_the_Rwandan_Genocide, and http://de.wikipedia.org/wiki/V%C3%B6lkerkermord_in_Ruanda, accessed 14 November 2010.

²¹ International Criminal Tribunal for Rwanda, “*Reports of Orders, Decisions and Judgements*”, in: <http://www.unictr.org/>, accessed 10 November 2010.

²² Jean Hatzfeld, *Dans le nu de la vie. Récits des marais rwandais*, Paris, Seuil, 2000; and *Saison de machettes*, Paris, Seuil, 2003.

establish “une information complète”²³, mostly in the form of eye-witness collections, documentary, conferences, websites, and memorialization projects. This chapter too is part of this industry. Local and international court cases – feeding even more careers and economies; the booming Arusha regional economy being the most striking example – continue to grind their way forward. Revisionistic approaches have challenged generally accepted narratives. Robin Philpot’s controversial *Ça ne s’est pas passé comme ça à Kigali* (2003) was followed four years later by his *Crimes, mensonges et étouffement de la vérité*. The most recent UN report on the responsibilities and actions of the current political and military rulers in Rwanda has been released in spite of heavy pressure and protest, and will no doubt be further grist to political scientists’ critical discursive mill. Jean Hatzfeld, for instance, has recently published his third volume on the conflict that documents life in the aftermath of the Rwandan genocide. His publications contribute to the long list of powerful testimonials that have since been published by survivors. The scores of survivor-books alone are actually a sub-genre in themselves, and have been subject to intense translation work, as well as adaptation to the stage and the screen. Often, they are initiated by interesting personal interpretations of the political history that led to the racially based stand-off, as in Annick Kayitesi’s *Nous existons encore* (2004). Others are by privileged witness-survivors, as is the case with Dallaire’s report, or Nicolas Poincaré’s account of the French Catholic priest Gabriel Maindron in *Rwanda: Gabriel Maindron, un prêtre dans la tragédie* (1995). Poincaré’s slim volume has the unglamorous merit of containing one of the most distressing witness stories within the entire genre, as the priest recounts how a group of children were hacked to death simply because the presbytery’s door, through which a group of almost two hundred hounded women and children sought refuge, was too narrow. The simplicity of the statement and matter-of-fact impact is shocking: “Tout le monde s’est précipité à l’intérieur, mais la porte était trop étroite, les plus petits n’ont pas pu rentrer à temps.”²⁴ The mutilated corpses of three little children are abandoned in pools of blood within reach of the door.

Some of these survivor accounts have been adapted for the stage, as is the case with Yolande Mukagasana and Esther Mujawayo’s harrowing stories that became structural elements in the Liège-based troupe Groupov’s very successful play *Rwanda 94*. Several others have been adapted to film, as, for instance, Paul Rusesabagina’s account, which served as the basis for the film *Hotel Rwanda*, though the actual book was published after the film. Documentaries have mushroomed too. Immaculée Ilibagiza’s *Left to Tell: Discovering God Amidst the*

²³ Robert Dray, “L’AIMGR : Association Internationale pour la Mémoire du Génocide au Rwanda”, in: *Africultures*, 21 October 2002, <http://www.africultures.com/php/index.php?nav=article&no=2575>, accessed 15 December 2010.

²⁴ Nicolas Poincaré, *Rwanda: Gabriel Maindron, un prêtre dans la tragédie*, Paris, Éditions de l’Atelier, 1995, 68.

Rwandan Holocaust (2006) served as the blueprint for the salvationist documentary *The Diary of Immaculée*, which immediately followed the book's publication. These survivor testimonials, harrowing as they are, have many functions, leaving aside their income-generating potential. As always with trauma-narratives, they have a cathartic function. However, I fully agree with Alexandre Dauge-Roth's astute analysis that focusing on the cathartic function of testimony "confines its meaning and its implication within the survivor" and "signals rather our discomfort and a social attempt to contain survivor's words"²⁵. While for the survivor, testimonies have restorative functions, for the receiver they must be allowed to fully affect us the opposite way: as an interruption, a violent intrusion, that has the same scandalous, disruptive, truncating force as the underlying historical act they testify to. However, this is a very tall order, since any receiver will only venture into these challenging testimonials because of their safe framing: The represented violence is contained and, while represented, also neutralized and thus essentially absent. The complex paradox between absentification and presentification in representation obviously plays full force in these survivor testimonies. For German critic Robert Stockhammer, the reliability of these narratives is a crucial question, and it raises the more fundamental problem of whether or not these autobiographical texts can be read as historical chronicle from which facts can be deduced. If we take Stockhammer's point of departure of Aristotelian poetics, then autobiography is certainly more fictional than biography. In Mieke Bal's words, it is, in fact, more literature, since "autobiography gives a representation and leaves the model to be constructed"²⁶ by the reader.

Apart from scores of survivor testimonial narratives, there are also many secondary witness accounts. People who have been touched in one way or another – often by representations of the genocidal events, be it in media or print, and often after a considerable amount of time has passed since the events – have gathered stories and brought these together with different objectives. Evidently, the privilege of easy access to these representations as well as to a publishing machinery result in most of these secondary collections to be firmly presented from a Western point of view. Corrine Vanderwerff's *Kill Thy Neighbor* (1996) is a good example. An American Christian missionary based in Congo, she gathered what she calls "good stories, the stories of escape because neighbor protected neighbor"²⁷ as an antidote to the dystopian discourse of horror that had been coming out of Rwanda. Catherine Claire Larson collected her stories of reconciliation under the eponymous title, after watching the Laura Waters Hinson's documentary film *As We Forgive* (2008), which documents aspects of the reconciliation process which is ongoing in Rwanda.

²⁵ Dauge-Roth 2010, 49.

²⁶ Mieke Bal, "Mimesis and Genre Theory in Aristotle's Poetics", in: *Poetics Today* 3, 1 (1982), 176 (171-180).

²⁷ Corrine Vanderwerff, *Kill Thy Neighbour*, Boise (ID), Pacific Press, 1996, 8.

There are, in fact, a remarkable number of documentary films that focus explicitly on reconciliation.²⁸ Other narratives are made in honor and memory of victims. Martine Debatty's *Mon frère. Un para tué au Rwanda* is the homage of a sister to her fallen UN soldier brother, in which she tries to come to terms with the senseless butchery of UN soldiers who had been ordered to allow their disarmament, which in turn indirectly precipitated the death of hundreds of thousands of people. In response to the Belgian king's eloquent eulogy "ils sont morts en héros et ont épargné énormément de vies", she retorts wryly, "leur assassinat et le retrait des troupes belges ont permis le génocide fatal à près d'un million de personnes, en trois mois. Fameux rendement!"²⁹

Homage and commemoration is obviously an important course of action in the process of enunciation, representation, and memorialization. Monumentalization and museum exhibitions have recently started to occupy a specific place in this process. Commemorative plaques and monuments have mushroomed all over Rwanda, and vary from Belgium's roughly hewn granite columns for their ten fallen paracommandos at Camp Kigali to the Nyamata Genocide Memorial, which has preserved the entire site of the former Nyamata parish as a monument and memorial to the estimated 24,000 people who perished in its vicinity. The Kigali Genocide Memorial is a depository of material evidence as well as oral, written, and pictorial testimony, and serves now as the national monument to the genocide, attracting survivors, local visitors, and tourists alike. For survivors in particular, apart from a place of employment, these locations are also a sort of homecoming, a calm serene center from which they can continue to devote their energy to the remembrance of the genocide. In the three books he published, Jean Hatzfeld has followed the story of Cassius Niyonsaba, a survivor who grew up in Rwanda's Nyamata district, and whose entire family was eradicated in the killing fields around the small southern town. Most recently, Hatzfeld reports how Cassius has discovered that, in spite of his traumatic past, he has come to terms with his status of survivor, marked as he is with a chilling scar around his scalp from several machete blows he received as a seven-year old. Now a young adult, he reminds us all how important discourse and commemoration is as a way of finding one's center, and fighting the overwhelming feeling of randomness: "I think about my hiding place, my wound, my dead family. Enduring all that, it's really something, and I don't want to lose one speck of what happened. I'm interested in documentaries about the genocide, radio programs, the mourning ceremonies, and I like the music they play at commemorations."³⁰ He now spends much of his time telling his story

²⁸ See Roger Bromley, "After Such Knowledge, What Forgiveness? Cultural Representation of Reconciliation in Rwanda", in: *French Cultural Studies* 20 (2009), 181-197.

²⁹ Martine Debatty – Jean-Pierre Borloo, *Mon frère. Un para tué au Rwanda*, Brussels, Luc Pire, 2009, 53.

³⁰ Hatzfeld 2009, 158.

to visitors who drive up from Kigali: “Thanks to much listening and reflection, he has learned to tell the story of that cataclysm in polished and sincere words to those who inevitably ask him about it. And he can be quite precise about the aftermath of such an event.”³¹ Cassius, clearly, has become an author. His remembering and commemoration is a signifying intervention to what otherwise remains a dystopian and meaningless rupture, a cataclysmic episode in his life.

No surprise then that the Rwandan genocide has become an important topos in creative representation in arts, film, and writing. These authors/artists have embraced the subject through a kaleidoscope of genres and disciplines. Israel-based artist Ardyn Halter was commissioned to design two stained-glass windows for the Gisozi Memorial Centre in Kigali,³² which also houses an impressive group-sculpture by the Rwandese woodcarver Laurent Hategekimana.³³ South-African artist Bruce Clark created “The Garden of Memory”, a participatory art installation that is part of the Nyanza Memorial site. Survivors are invited to place a distinctively designated stone for each of the close to 800,000 victims, but the project has so far not been very successful. Berlinde De Bruyckere, a Belgian sculptor, responded to footage of the Rwandan refugee crisis with a series of sculptures called *dekenvrouwen* or blanket-women.³⁴ Born in Kenya, Wangechi Mutu is now based in New York, but her installations and sculptures are decidedly African-inspired. In works like *Fallen Heads* (2010) she showcases twenty-five heads, beautifully ornamented with flowers, beads, colored stones, and make-up; it is haunting as well as charming and, while not explicitly presented as a genocidal work, surely functions as a beautifying homage to its victims. The Congolese artist Bill Kouélany is equally non-explicit in her installations that comment on the violence that has ravaged central Africa. For Kassel’s 2007 Documenta, she entered her fragile wall installation made of papier-maché, felt, and other fabric sewn together, thus metonymizing the infected scars and gashes of civil war and genocide.³⁵ There are hundreds of other artists who have responded artistically to the stories and images to come out of the Rwandan genocide and its aftermath.

Cartoonists, too, have published graphic novels or comic books on the subject. The genre of comic book on the Rwandan genocide has recently been used in a U.N.-sponsored campaign to educate East-African youth on what happened in Rwanda. An initial batch of twenty five thousand copies of *100 Days in the Land*

³¹ Hatzfeld 2009, 157.

³² Kigali Memorial Centre, in: <http://www.kigalimemorialcentre.org/old/centre/exhibition/windows/ohhope.html>, accessed 2 December 2010.

³³ Kigali Memorial Centre, in: <http://www.kigalimemorialcentre.org/old/centre/exhibition/sculpture.html>, accessed 2 December 2010.

³⁴ <http://www.corpus-delicti.be/images/presentation/berlinde-de-bruyckere.jpg>, accessed 2 December 2010.

³⁵ Anon., *Documenta Kassel: 16/06-23/09 2007. Catalogue*, Köln, Taschen, 2007, 272-273.

of *the Thousand Hills* (2011)³⁶, illustrated by Mark Njoroge Kinuthia have been distributed in primary and secondary schools in Tanzania, Rwanda, Burundi, Kenya, and Uganda, thanks to a grant from the German government. The English term for the *bande dessinée* genre is decidedly problematic in relation to the sort of content it contains, since there is very little to be observed as comic or cartoonish. In *Sourire malgré tout* (2005), Rupert Bazambanza, himself a survivor, now based in Montréal, tells the story of a family he knew well, and of whom only the mother – herself orphaned from an earlier pogrom – survived. Another, more privileged survivor, Jeroen Janssen, channeled his traumatic experience into a prize-winning and sobering narrative *Muzungu. Sluipend Gif* (1997). Cécile Grenier teamed up with famous comics writer Ralph and cartoonist Pat Masioni, himself of Congolese origin, to produce a two-volume album *Rwanda 94* (2005-8), which has meanwhile been translated in a handful of languages. Its reception has been mixed, especially for the second volume where Masioni's drawings foreground the violence unapologetically, using spectacularly macabre mise-en-scène for his characters, hacking into bodies, and piling up the corpses. Christophe Cassiau-Haurie not only questions the authors' historical reliability, but also critiques the effect of this particularly spectacular approach of the genre, "ils rajoutent la violence des images à la violence de la situation"³⁷, thus creating a setting in which the physical killing fields become mere details, or just a background to the story, glanced over by a saturated reader. The effect of this *abondance en petits cadres* reminds us, rather remarkably, of the impact on many survivors themselves of the violence around them. Berthe Mwanankabandi, one of the few N'tarama church survivors, who subsequently held out for an entire month in the papyrus marshes of the Akanyaru,³⁸ talks about the impact of death to Jean Hatzfeld, who revisited her in 2007:

By the end of the killings, after encountering so many naked, decaying bodies, after stepping over them, finding them in the water of my hiding places, death became nothing to me. I mean, I had almost stopped paying attention to the mystery of death. The news of a neighbor's passing did not affect me much.³⁹

The graphic novel genre is a sobering reminder that a genocide cannot, in truth, be documented in film or photography. While witnessing Raoul Peck's team in the village of Nyamwiza, in south-eastern Rwanda (2003) trying to put to film the refugees horrid "reptile life in the marshes"⁴⁰ for the film *Sometimes in April*, Hatzfeld

³⁶ <http://www.unict.org/News/ICTRCartoonBook/tabid/2225/Default.aspx>, accessed 26 October 2011.

³⁷ Christophe Cassiau-Haurie, "Rwanda 94. Une approche périlleuse du génocide", in: *Africulture*, 23 July 2008, <http://www.africultures.com/php/index.php?nav=article&no=7966>, accessed 15 December 2010.

³⁸ Berthe Mwanankabandi recounts her own survival story in Hatzfeld 2000, 171-184.

³⁹ Hatzfeld 2009, 102.

⁴⁰ Hatzfeld 2009, 99.

talks with survivor Innocent Rwililiza about the striking absence of photographic material of the actual killings. “There aren’t any photos because there is no place for photographers on killing fields, such as our marshes and forests. No pathway of any kind along which a foreigner might slip among the killers, the killed, and those who have yet to be killed.”⁴¹ And Rwililiza continues with captivating clarity:

A genocide must be photographed before the killings – to show clearly the preparation, the faces of the leaders, the stockpiled machetes, the complicity of the French soldiers or Belgian priests, [...]. And the genocide can be photographed afterward – to show the corpses, the survivor’s haggard faces, the arrogance or shame of the killers, the churches piled with bones, the events in Congo and Canada, the penitentiaries, the ceremonious foreigners visiting the memorials.⁴²

The survivor’s comments push the issue of representation well beyond the logistics of what is possible, and presents it in its full ethical dimension. Filming death, as we know from sequences such as Saddam Hussein’s court-ordered execution, and more recently from the immodest videos capturing Muammar Gaddafi’s final minutes, quickly disintegrates into voyeuristic obscenity as these images are virally promulgated through the indiscriminate pervasiveness of the internet. One of the very few instances where the Rwandan killings are actually documented on film is in Nick Hughes’ footage of the slaughter of a father, later identified as Gabriel Kabaga, an auto mechanic, and his twenty-year old daughter Justine Mukangango. Hughes filmed the gruesome event on 11 April 1994 from the rooftop of a French school in Kigali’s Gikondo district, flanked by a distressed UN paratrooper who, helplessly, guided the cameraman to the scene through the scope of his rocket launcher. The entire scene took no more than twenty minutes to film, yet Hughes had to turn off his camera periodically, “because he knows that he is almost out of tape and fears his batteries are running low”⁴³. The grainy and jumpy footage was broadcast that same evening on CNN, German ZDF, Australian Broadcasting, and other channels, but without much further impact or effect. In fact, the total of three minutes and twelve seconds video had far more impact years later, when the *Toronto Star* journalist Allan Thompson managed to reconstruct the circumstances and identify both victims as well as some of the culprits. Hughes himself dealt with ethical questions and feelings of guilt in the 2008 documentary *Iseta, Behind the Roadblock*, which focuses on the circumstances of this killing and on the aftermath, including the quest for justice. The original document is obviously hugely important. It may well be the only actual killing during the Rwandan genocide documented in film. It has also inspired many other representations in films about Rwanda, and is often quoted as an illustration of both the media’s power of dissemination

⁴¹ Hatzfeld 2009, 99.

⁴² Hatzfeld 2009, 100.

⁴³ For the original footage, and Al Thompson’s commentary, cf. Allan Thompson, “The Father and Daughter We Let Down”, 11 April 2009, in: <http://www.thestar.com/News/Insight/article/616860>, accessed 6 December 2010.

and inadequacy to actually intervene and stop the violence. It was also used to incriminate, try, and convict one of the killers, Alexandre Usabyeyezu, who adamantly maintains he has been wrongly identified in the blurry film, further illustrating this medium's inadequacy. The overwhelming effect of Hughes' three-minute film, however, is the sense of jagged and quasi-misplaced intrusiveness – so shocking that it brings about a paralyzing feeling of futility and ineffectiveness. Innocent Rwigyiza's response to Hatzfeld is helpful in understanding the impotently explosive power of Hughes' witness document, "the intimate truth of the genocide belongs to those who lived it"⁴⁴.

Intimacy is surely not a word that can easily be applied to the numerous Rwanda films that have come out since. While for obvious reasons journalistic documentaries were the first to be shown, a number of movies have followed suit. Terry Georges' film *Hotel Rwanda* (2004) has been by far the most successful in terms of box office and cultural impact, and illustrates well the privileged position the medium of film has in the genre, but more importantly also in the shaping of a specific and/or collective memory of the Rwandan genocide. As with most films on Rwanda, it foregrounds the fact that its narrative is based on real events, thus giving it an aura of authenticity, reliability, and truth. Considerable critical work has since been executed on *Hotel Rwanda*⁴⁵ and other films, which challenges the films' veracity and, on the other hand, underlines choices and manipulations which make these films more palpable, and therefore successful in a Hollywood sense: They generate comfortable audience positions that find their comfort in easy and simplified – if not downright erroneous – understanding. Often the manipulation comes from as simple a trick as the skin colour of the protagonists through whose eyes we view the events and their own dislocation, as is the case with the two Caucasian main characters in Michael Caton-Jones' *Shooting Dogs* (2006)⁴⁶. Other films are more subtle. Nick Hughes' *100 Days*, released in 2001 and thus the first feature film on the genocide to be screened, is often referred to as the least historically revisionist. Produced by Rwandan film maker Eric Kabera, who lost many of his own family members in the genocide, the film was shot in Rwanda in the Kibuye area, using mostly locally available non-professionals, often survivors as well as perpetrators. The film is a good example of the trappings and dangers that filmmakers are challenged with. It is clearly based on solid research – in this case the first-hand experiences of just about everyone who was involved in the film, including the director, producers, and actors – and the film's historical reliability is very high, almost at a documentary level. Furthermore, it is unapologetic in its focus on the responsibility of the West in the lack of any serious attempt to prevent. The film, however, struggles with its

⁴⁴ Hatzfeld 2009, 100.

⁴⁵ Cf. Alfred Ndahiro – Privat Rutazibwa, *Hotel Rwanda or the Tutsi Genocide as Seen by Hollywood*, Paris, L'Harmattan, 2008.

⁴⁶ The film was released in the U.S. under the title *Beyond the Gates*.

own aesthetics, as the violence shown becomes quite watchable, mostly because of cinematographic choices and the allure of Hughes' expert camerawork. This is in stark contrast to a very simple dialogue – in Kinyarwanda and in English – delivered by charming, but often awkward actors. However, the more important impact of the film is on a local level, where it not only contributed considerably to the local economy, but also became a catalyst for memorial discourse to find its way into the public arena, as was also the case with Michael Cato-Jones' *Shooting Dogs*. Dauge-Roth calls these feature films on Rwanda “vectors of memory that reach a large audience”⁴⁷, and their role in shaping and impacting on a dominant view of the Rwandan genocide after the fact can hardly be underestimated. One thing that unites all films made on the genocide so far is their realist aesthetics and their fairly traditional narrative structure, through which the story unwinds itself with a purposeful, teleological diegesis, with clear causes and effects – often didactically explained in prologues – and with unmistakable protagonists and antagonists, all moving towards a denouement – often tragic, but nevertheless presenting a fantasy of closure. While the events portrayed may be mindboggling and chaotic, there's an internal coherence at work which makes us want to see the end of the movie's plot, which we mistakenly collapse with the events themselves, thus allowing us to think of the fictional closure of the movie as the end and closure of the historical events themselves. For the spectator, it is a double victory. Not only is the unrepresentable dystopian madness molded into a comprehensible format, it is also, now, understood, appropriated, and therefore overcome.

Realist aesthetics, teleological narrative, and closure are certainly not symptoms that impede poetic responses to the subject, of which there are countless examples. The strength of these poems lies in their imagery, the authority of voice they conjure, and their calm sobriety. Lille-based, Tchad-born poet Nocky Djedanoum, one of the organizers of the *devoir de mémoire* project, has published a volume of poems, named after one of Kigali's popular neighborhoods, *Nyamirambo!*, which sidesteps the closure trap completely. He concludes his collection with the memorable rallying cry, “Nous en avons assez de mourir, nous voulons vivre pour l'Afrique [...]”⁴⁸, thus producing a life-giving beginning, rather than an elegiac plaintive. Celebrated South African poet Antjie Krog, in her bundle *Kleur kom nooit alleen nie*, includes moving poems under the heading “Bindweefsel” that comment on the pan-African impact of the genocide. In her lament “Klaaglied” she mourns with powerful images “die gouddonker hart van Rwanda”, a land which is no longer an exterior beyond, but one she acknowledges as an unavoidable communal self, “ons is Rwanda/ons is onvermybaar”⁴⁹. Rwanda-born Ivan Godfroid, a Belgian development worker in agriculture, debuted with his volume *Omgewoelde aarde*.

⁴⁷ Dauge-Roth 2010, 192.

⁴⁸ Nocky Djedanoum, *Nyamirambo!*, Bamako–Lille, Le Figuier–Fest'Africa, 2000, 50.

⁴⁹ Antjie Krog, *Kleur kom nooit alleen nie*, Capetown, Kwela Boeke, 2000, 78.

Rwanda gedichten, in which he impersonates both victims and perpetrators in a chilling matter-of-fact syntax, “littekens blijven/bloeden/honger wordt/ niet meer gestild”⁵⁰. Derick Bureson (*Ejo*), Matthieu Gosztola (*Débris de tuer*), Alain Joseph Sissao (*Weoogo*), and Kamau Brathwaite are just a handful of the hundreds of poets who have been inspired by the 1994 events.

While poetry is traditionally considered a hyper-subjective genre, where action is subordinate to emotional impact, theater is traditionally believed to bring to the fore the action itself, impersonated through different characters and their diverse points of view. Theater has of course a long tradition of dealing with violence, from the Greek tragedies to Shakespeare’s cycles, to more contemporary theater on, say, the Northern Irish conflict. It is a tricky genre as far as the staging of violence is concerned, since, unlike the apparent realism of film, theater must invariably rely on conventions and tropes to avoid falling into contrivance, and thus into unbelievability. As in most artistic representations, theater will seek to individualize the conflict, and stage individual genocidal experiences. Audiences of theater on the genocide witness a complex transaction of experience, knowledge, and affect: while the actions and dialogue happen in real time on the stage, with real bodies, the mediating aspect of the actor and the *mise-en-scène* – the *as-if*, in other words – continuously negotiate the realness – or fakeness – of the experience. This additional problem works in very different ways within the popular theater tradition in Rwanda itself than it does in the professional theater circuits in the West. Chantal Kalisa has brought together a highly informative overview of the sort of theatrical activity that has emerged in Rwanda, which is mostly a theater of recovery that deals with trauma through embodiment, be it in dance, theater, or a combination.⁵¹ Chadian-born playwright Koulsy Lamko was part of the *devoir de mémoire* project, and created several opportunities for engagement with the stage in Butare and in Kigali, which were mostly aimed at creating cathartic experiences for performers as well as spectators. His *Corps et voix: paroles rhizomes*, was performed in 2000 and warmly received. The play explicitly deals with the *lack* of language, or the ‘unsayable’ nature of the genocidal experience and its memory, recognizing at the same time the rhizomatic nature of the experience and the need for it to be revived and expressed. Expressive language, whether through words or movement, is the main focus of the play, and it is no coincidence that Lamko opts for a multi-lingual strategy, or an *abundance* of language. As Rwanda is increasingly a tri-lingual country since Kagame’s take-over, Lamko chose to have his production peppered with English commentary, while the main vehicles remain Kinyarwanda and French.

⁵⁰ Ivan Godfroid, *Omgewoelde aarde. Rwanda gedichten*, Leuven, Uitg. P., 1995.

⁵¹ Marie-Chantal Kalisa, “Theater and the Rwandan Genocide”, in: *Peace Review: A Journal of Social Justice* 18, 4 (2006), 515-521.

The Belgian Liège-based Groupov troupe created a six-hour show, laconically entitled *Rwanda 94*. It premiered at the prestigious Avignon Theater Festival in 1999, and then toured the world for over six years, including memorable performances in Kigali. Jacques Delcuvelierie and his troupe worked on this project for close to five years, a collaboration between Belgian and Rwandese artists, some of whom were actual survivors. The complexity of the story was obviously the main reason why it took so long to put together, but it was also a matter of the mix of survivors, witnesses, and actors who did not even know where Rwanda was on the African map when the rehearsals started. The ambition to integrate different media, such as video, live music, and dance also required a longer gestation than usual. While a sort of playscript has been published, it is not a script in the traditional sense: The troupe call it a “non-texte”⁵², since both the actual words and the delivery changed with every performance, and there were regular interactions between performers and audience. The play was a polymorphous production that included song, testimony by actual survivors, a forty-five-minute lecture, dance, and choral presentation, combined with historical impersonation, for instance of François Mitterrand, and created a rather unique sense of community between performers and audience. *Rwanda 94* foregrounds that there is an explanation for the genocide, which seems primarily to be found in colonial times. It devotes entire sections of its performance to ‘les Colons’ and to ‘Rwanda précolonial’. The production has been warmly embraced by the Kagame government.

When J.T. Roger’s *The Overwhelming* opened in New York (2007), theater critic Marilyn Stasio wrote “Stop the presses! There’s finally a play in town that makes thinking a pleasure again”. The terms “pleasure”, “suspenseful” and “not easy entertainment”⁵³ pepper her review of this play and are obviously odd epithets for discourse that deals with one of the most harrowing human disasters in living memory. One of the first English-language theatrical responses to the Rwandan conflict on a main stage in the West, *The Overwhelming* is clearly meant for a Western audience. It premiered at London’s National Theatre in 2006, which obviously created a huge exposure. Roger’s fable deals mostly with the pre-genocide situation in Kigali and centers around an American academic and his family, who become involved in the ethnical quarrel. In many ways, *The Overwhelming* is fairly traditional theater, with a combination of straightforward realist dramaturgy alternated with an epistolary *raconteur* in the character of a Rwandan doctor, who is politically compromised, and is a friend from university of the American visiting academic. The tension in the play is mostly brought about by a thriller-structure whodunit approach, including sudden appearances from closets and a *deus-ex-machina* ending. As political

⁵² Groupov, *Rwanda 94. Une tentative de réparation symbolique envers les morts, à l’usage des vivants*, Paris, Éditions théâtrales, 2002, 167.

⁵³ Marilyn Stasio, Review of *The Overwhelming* (New York, Laura Pels Theatre), *Daily Variety*, 29 October 2007, 54, 58.

analysis or commentary, the play fails, though in true Graham Greene tradition, it does elucidate the bystander role in a typical individuation of the mega-conflict, and with an unapologetically Western point of view.

Erik Ehn's play *Maria Kizito*, on the other hand, shows what performance is capable of in terms of the creation of an experience. The American playwright wrote his play in response to the trial in Belgium of a couple of Rwandese Catholic nuns, accused of collaborating with *génocidaires*, for instance by providing petrol to burn a church full of Tutsi refugees. The play is non-linear, there is no clear plot, no obvious characterization, no apparent conflict. There is hardly a political or geographically clear context presented, instead we witness a series of appositions, allusions to states of mind, alliances, hopes, fear, and also some action. Ehn has chosen for his play the structure of a mass, or the vespers. It creates a highly poetic text, full of symbols, which can also find their way to the stage as props or set. Erik Ehn's project is in response to the excess of unspeakable violence, and results in a distillation of events as well as feelings and emotions. There is never any explanation, instead, in Ehn's own words *Maria Kizito* provides "a space of time in which we can be with Maria. I try not to judge her guilt. I try to let us *be with* her in her guilt"⁵⁴. We listen attentively to the incantations of the two nuns and their entourage, which include lines like "My heart is a jerrican, a jerrican of gasoline. My mind is evaporation, my fingers are my shadow and my body is a lie"⁵⁵. Needless to say, the play is a huge challenge to stage, and finds no venue within any commercially driven network.

Erik Ehn combines the physicalization and therefore exteriorization of drama, with the subjective voice and interiorizing movement of poetry into a polyphonous and meditative mediation of in-the-moment re-enactment, memory, and response. It is the narrative novel, however, that ultimately singularizes the crushing enormousness of *THE* Rwandan genocide into individual accounts. Many novelists see their narrative project explicitly as part of a duty to remember, and, for precisely this reason, many of these novels are called both 'fiction' as well as eye-witness report. Jean-Marie V. Rurangwa, for instance, calls his 2006 novel *Au sortir de l'enfer* "un texte de fiction sur fond de vérité historique" but wishes this text to be considered "comme un témoignage"⁵⁶. The Djibouti-French author Abdourahman Waberi, who was also part of the *devoir de mémoire* project, underlines the political as well as cathartic function of this kind of mixed writing: "Notre humanité exige de donner, ne serait-ce que pour quelques instants, visage, nom, voix et partant, mémoire vive aux centaines de milliers de victimes pour qu'elles ne soient pas

⁵⁴ Celia Wren, "Saints, Sin, and Erik Ehn. Mysticism Ignites the Plays – and Theories – of a Theatrical Visionary", in: *American Theatre* 21, 5 (May-June 2004), 20.

⁵⁵ Erik Ehn, "Maria Kizito", in: Robert Skloot (dir.), *The Theatre of Genocide*, Madison, University of Wisconsin Press, 2008, 205.

⁵⁶ Jean-Marie V. Rurangwa, *Au sortir de l'enfer*, Paris, L'Harmattan, 2006, 197.

simplement synonymes de chiffres, au pire, précipitées dans les caveaux de l'oubli [...]."⁵⁷ It is a sentiment that is repeated time and again by novelists, who, like Rurangwa, call their writing a transcendent way of overcoming the obstacle of the unrepresentable. The Rwandese playwright and novelist refers to Peter Weiss's documentary play *Die Ermittlung*, with which Weiss famously broke the so-called Holocaust silence in 1965 in German literature, and sees his responsibility as that of *porte-parole* or ambassador, or even more, custodian of the genocide victims' narratives: "Les survivants prennent en charge le récit des morts. Ils témoignent en leurs noms. Il se font les parrains des victimes."⁵⁸

It is also important to take note of a handful of earlier novels which were written on earlier pogroms that occurred in Rwandan history. Ivan Reisdorff's *L'homme qui demanda du feu* (1978) deals with a Tutsi murder during the end of Belgium's colonial administration against the background of the 1959 massacres. The novel was, not coincidentally, re-published in 1995. Julian R. Pierce's novel, *Rwanda Speak* (1999), was one of the earlier novels to come out. In what turns out to be a page-turning whodunit, the conflict is presented through the eyes of ten characters, each of whom has an emblematic function, thus also allowing Pierce to transcend bias, or avoid an unmediated position of sympathy for the Tutsi victims. As is the case with many, if not most of these novels, the reader is drawn in by a love story; this one ends positively, and thus functions as a sign of hope, all the more so since the story concerns a Hutu nurse and Tutsi rebel soldier. The trope of mixed marriage or love story is ubiquitous in the genre. As in many of the film plots, often the love story is between a Hutu or Tutsi, or a Rwandan and a white stakeholder. The identity and position of the narrator is crucial, for obvious reasons. Tierno Monémbo's 2000 novel *L'ainée des orphelins* is an important landmark, since his narrator subverts the traditional triadic model of perpetrator/survivor/witness. Faustin is a Rwandese youth of mixed heritage who finds himself in prison for the passionate murder of his sister's lover, and is about to be tried by a Rwandese court that can only think in terms of genocidal violence. The novel not only brings an internal point of view, but also shows that any dyadic or polar presentation is a reductive and ultimately harmful re-iteration of the oppositions we know so well.

Numerous novels with the genocide as their main focus have since been written by Rwandan, African as well as Western-based novelists. The *devoir de mémoire* project itself yielded four francophone novels, with a few more following in the tracks of the ensuing Fest' Africa, organized for the first time in both Europe and Africa in 2000. The pile of novels has henceforth become impressive as well as intimidating, and begs the question, 'Why do we need fiction if the reality of the underlying

⁵⁷ Abdourahman Waberi, *Moisson de crânes. Textes pour le Rwanda*, Paris, Le Serpent à plumes, 2000, 17.

⁵⁸ Rurangwa quotes Weiss critic Michel Gheude, cited in Rurangwa 2006, 197.

events is so overwhelming, complex, and emotive?’ Senegalese novelist Boubacar Boris Diop, also part of the *devoir de mémoire* project, recalls in an interview that Rwandese survivors were extremely skeptical to see their experiences turned into fiction, “n’écoutez surtout pas de romans avec nos souffrances”, they implored. Yet the visiting authors persisted, often opting for sober styles, which in the case of Diop’s novel *Murambi, le livre des ossements* (2000) allowed a spartan economy of purposeful reading. In the author’s words, “[l]e récit est dépouillé afin que le lecteur n’ait aucun prétexte pour détourner le regard, je ne voulais pas le distraire du contenu du livre par de vains artifices de style”⁵⁹. Fictionalization is not hampered by its lack of veracity or reliable truthfulness, nor handicapped by its incapacity to reconstruct judiciously. In Diop’s words, fiction has the power to go beyond the *mere and messy facts*:

Dans la fiction en revanche, tout est à la fois inexact et plus vrai que la vérité elle-même. Mais il s’agit ici d’une vérité purement humaine, qui est de l’ordre du pressentiment. C’est, je crois, Barbey d’Aurevilly qui disait : “Là où l’historien s’arrête ne sachant plus où aller, le poète apparaît et devine [...]”.⁶⁰

It is clear, however, that imagination plays a crucial role for the novelist. Unlike the handful of Rwandese survivors that have published novels on the genocide, and the African authors of the *devoir de mémoire* project, who spent less than two months in post-genocide Kigali, or authors who worked in Rwanda before or after the events, scores of western-based fiction writers have not had immediate access to the country. One such case is Flemish novelist Aster Berkhof, who produced a hefty *Bildungsroman* entitled *Bemінде Schurken* (1999), whose principal focus seems to be the denouncement of the role of Rwanda’s Catholic Church and its (post-)colonial Belgian parentage.⁶¹ Lukas Bärfuss, a German writer best known for his unconventional plays, wrote a remarkable novel entitled *Hundert Tage* (2008), in which he critiques the acquiescent and ultimately complicit role of the aid and development industry – in this case through his character David Hohl, head of the Swiss development team in Kigali. In a rather revealing and also amusing comment on the Rwandese tourist appellation as “la Suisse de l’Afrique” the Swiss protagonist, awed by the degree of discipline and organization that was required to operationalize the genocidal plans, wonders if anybody has thought of calling Switzerland “das Ruanda Europas”⁶². While Bärfuss, like most other novelists, stresses the historically true framework of his novel, his characters are mostly

⁵⁹ Boubacar Boris Diop, “Le Rwanda m’a appris à appeler les monstres par leur nom (Interview)”, in: *Africultures* 30 (2000), <http://www.africultures.com/php/index.php?nav=article&no=1465>, accessed 14 December 2010.

⁶⁰ Diop 2000.

⁶¹ The novel’s title translates into *Beloved Villains*. An interesting critique can be found in Paul Kerstens, “*Bemінде Schurken* d’Aster Berkhof: La Flandre et le génocide au Rwanda”, in: Halen – Walter 2007, 357-371.

⁶² Lucas Bärfuss, *Hundert Tage*, Göttingen, Wallstein, 2008, 169.

invented. Not so for Reiner Wochele's *Der General und der Clown*, in which the central character is the Canadian-German general John Geisreiter, clearly modeled on UN general Roméo Dallaire. The novel offers a fictional sequel to a disillusioned protagonist, who, haunted by the nightmares of his own and the world's failure to prevent the genocide, tries to find a modicum of self in a retreat in the Black Forest, where he finds a new horizon on the future in a love affair with a young woman, the pacifist daughter of a military pilot.

The need for positive outcome, for hope, and for future as an antidote to the dystopian events is obviously a major structural element in most representations of the Rwandan genocide. There is perhaps no better model for this sort of cultural buoyancy than Gaile Parkin's 2009 novel *Baking Cakes in Kigali*. In a chatty *kletsch* style, we follow Angel Tungaraza running her cake-baking home-business in post-genocide Kigali. Together with her husband Pius, who teaches at the Kigali Institute of Science and Technology as part of Rwanda's re-building project, the grandmother of five has come from Tanzania to the Rwandese capital, and not only processes the loss of both of her children (to AIDS and murder), but also serves as a catalyst for reconciliation for her entire neighborhood, which really stands for all of Rwanda. In a series of fourteen short chapters, each of them revolving around a cake ordered for a special occasion, we see a motley arrangement of characters who all have a specific story to tell that somehow sheds a different light on "the events". However, just as we never get to read a single word about the fourteen recipes (the cakes' exterior appearance is what matters), there is no in-depth analysis of what happened and what ought to happen next. Over endless cups of tea, and with never a raised voice, we listen in on horrendous anecdotes of rape, murder, disfiguration, madness, scarring, survival guilt, anxiety, irresponsible sexual behavior, and denial. Yet, somehow, these stories always turn into survival accounts or moving reports of courageous behavior. While Parkin's novel is steeped in the signals of wounds and loss – characters with missing limbs, the orphaned mayibobo container-children that live on the street, the smells that linger around the genocide shrines, victims of rape who have become sterile – it reads as a somewhat naive celebration of life. Yet, with a mild sense of humor, the novel is critical too, not so much of Hutu Power's diabolical arrangements, or of the hatred and rage that promulgated the violence, but more of Western arrogance and paternalism, the local administration's inefficiency, and Rwanda's endemic sexism. Nevertheless, the kind-hearted protagonist has no time for political correctness. Her actions and opinions are mostly motivated through sheer practicality and practical justice, in which everybody is connected with everybody – "the friend of the sister of the wife of Odile's brother"⁶³; this compulsive story of cake-baking foregrounds an emphatically positive outlook on things. "Now

⁶³ Gaile Parkin, *Baking Cakes in Kigali*, Bath, Winsor, 2009, 162.

we're all Banyarwanda, Rwandans"⁶⁴, professes Angel's hairdresser confidently at the end of the novel, while earth-mother Angel herself mischievously serves yet another cake, this time for the wedding of Leocadia, a single mother Hutu survivor to Modeste, an ex-RPF Tutsi fighter. The festivities are covered by two journalists for their home TV station; they happen to be a gay couple from South Africa – "indeed, a very modern country"⁶⁵ – merrily walking into this novel and an obviously emancipated capital city, putting the figurative cherry on the proverbial cake of hope, reconciliation, and empowerment. *Baking Cakes in Kigali* is a feel-good novel that deals with the aftermath of one of the worst humanitarian disasters in Africa, and reflects very well one of the major tendencies in Rwandan genocide representation. Somehow, after going through the horrors of hell, all those involved – no matter their age, gender, race, ethnicity, or social status – have learned from it, and will now be wiser and better humans: genocide as trauma as well as catharsis.

Gaile Parkin's novel is a fairy tale compared with Giles Courtemanche's dark genocide account *Un dimanche à la piscine à Kigali* (2000). Just like Parkin, the Quebecois journalist also resided in Rwanda for a while, but neither were there as witnesses or stakeholders during the April-August 1994 period. Courtemanche's first novel very quickly caught critical attention internationally. It was translated into more than fifteen languages and was adapted into a film with the same title by Quebecois director Robert Favreau in 2006. This novel is most likely the most impactful promulgator of genocide narrative in the West. Because of its graphic passages, it was particularly controversial in Canada, France, and Belgium, three countries that are sarcastically commented upon in the novel. Partly autobiographical, it tells the story of Bernard Valcourt, a Quebecois journalist who originally came to Kigali to co-direct a new television station, a project which has gotten stuck in the quagmires of bureaucratic red tape and NGO politics. Instead, Valcourt has re-focused his time on making a documentary about the country's AIDS crisis. This happens against the background of the simmering political unrest, grounded as it was in tension between the two major ethnicities of Hutu and Tutsi. The novel begins shortly before the events of April 1994, and uses many historic references to position the narrative within the actual situation of Rwanda at the time. Lando, Faustin, Théoneste, Father Louis, the downing of the presidential plane, geographic locations, are all indications that Courtemanche did his research and anchored his novel in the events and characters that played a major role during the genocide. Yet it is not quite a *roman à clef* because it lacks the distancing – and therefore ironic – effect of any substitution strategy. On the contrary, while the novel certainly shows a historicist approach, it is structured in such a way that it draws in the reader as an actual participant, and therefore is more akin to the genre of pamphlet than to the history novel. Heike Härting's assessment is quite right:

⁶⁴ Parkin 2009, 243.

⁶⁵ Parkin 2009, 243.

Courtemanche's strategy "positions the reader as a participant in the spectacle of violence"⁶⁶. In his foreword, the author stresses the dyadic nature of his work: "Ce roman est un roman. Mais c'est aussi une chronique et un reportage."⁶⁷ The latter, in Patricia Claxton's English translation, is turned into the much stronger notion of "eye-witness report"⁶⁸, giving the novel an almost judicial significance.

In many ways, this is exactly what Courtemanche's text aspires to be: an indictment against everyone involved in the Rwandan genocide, from the Belgian colonial regime (the German lead-up and its anthropological field-work are conveniently forgotten), to the civic breakdown in 1994. The novel has come under vehement fire for what Härting calls its "pornographic gaze" and "pornographic rhetoric," which contribute to the author's "necropoetic narrative"⁶⁹. Indeed, Courtemanche leaves little to the imagination in his description of some of the violent interactions, and his narrative is certainly one of death. On a purely historicist, objective level, these passages seem verisimilar and in line with actual events; the particularly horrific episodes are then an attempt to disclose the earlier referred-to "intimate truth" of killing and being killed that is never allowed to be shown, captured or understood. Towards the end of the story, Valcourt teams up with Raika, a Somali woman who works for Africa Rights,⁷⁰ in order to collect eye-witness accounts "pour qu'on puisse écrire la véritable histoire du génocide [...]"⁷¹. It is of course a very tall order, and while Valcourt's only contribution to chronicling the genocide is a botched video project on the AIDS situation, one cannot avoid the impression that it is in fact Courtemanche himself who considers his novel if not *la* at least *une* veritable history of the genocide. Raika's work for Africa Rights has clearly allowed Courtemanche to base his novel on true eye-witness reports. For those readers who doubt the level of horror and debauchery that is reported on in the novel, its author refers to the "sept cents pages de témoignages recueillis par l'organisme African [sic] Rights"⁷², and published under the title *Rwanda. Death, Despair, and Defiance*. Several of the witness accounts of this hefty volume match well with the more violent episodes in the novel, and the approximately fifty pages on sexual violence surely confirm the astounding sexualization of the murderous rampage in 1994.

⁶⁶ Härting 2008, 67.

⁶⁷ Gil Courtemanche, *Un dimanche à la piscine à Kigali*, Paris, Denoël, 2003, 9.

⁶⁸ Gil Courtemanche, *A Sunday at the Pool in Kigali*, Toronto, Vintage, 2004, V.

⁶⁹ Härting 2008, 67-70.

⁷⁰ In the English translation, Raika is a male, an alteration which of course makes the historicity of the account more dubious.

⁷¹ Courtemanche 2003, 231.

⁷² Courtemanche 2003, 9.

In Courtemanche's novel, sex plays on several levels, and the motif of sex is introduced very early on in the book. Six pages into the story, we read that Valcourt regularly sees madame Agatha, a procurer of prostitutes at the Hotel des Mille Collines, a well-known gathering place in Kigali and one that plays a central role in the majority of narratives that have been produced on the Rwandan genocide. At the hotel, Agatha keeps her troupe of prostitutes – a motley catalogue of Tutsi and Hutu – around her at the ready for the many NGO and business types who want to be serviced in exchange for their dollars. During the six months that Valcourt has been receiving Agatha in his room, however, he has barely been able to manage an erection; the only thing he can think about while between her thighs are the breasts of Gentille, one of the hotel's waitresses for whom he has felt an almost immediate attraction. It is interesting that these thoughts involve a sort of transformation, an exchange that actually transfers his sexual desire from the individual that Gentille is to a broader category that represents an idealized womanhood, "depuis six mois qu'il bande à moitié dans Agatha parce qu'il veut transformer les seins de Gentille en seins de femme"⁷³. What is to explode into an intense and mutual love affair in the book starts in an essentialized picture of aggressive fragmentation – both of the desired woman (her breasts) and of the desiring man's gaze. In the act of realizing his single-focused project of "enfiler" Gentille, Valcourt ends up, in true Freudian fashion, wounded and hacked "like a badly butchered carcass on a blood-smeared meat counter"⁷⁴, in Patricia Claxton's vibrant translation.

It is an astounding and early prodiorthosis of the mutilation at the end of the novel, not of the male protagonist, but of his female counter. Gentille survives the genocide, but utterly mutilated, cut, disfigured, one-eyed; a bloody mess of sores and sickness. No longer a woman, she is reduced to "un corps qui se décompose"⁷⁵. Several months earlier, in his search for Gentille and in defiance of his entourage's insistence that she is dead, Valcourt desperately needs her "d'exister jusque dans sa mort"⁷⁶. Now, the genocidal account is concluded in a symbolic act of agency. Alive, sitting with her back to her one-time lover, Gentille declares her own death, "je suis morte"⁷⁷, and orders him to leave the blood-smeared country behind. Instead, Valcourt decides to settle in Kigali and marry a Swedish co-expatriate. When they decide together to adopt a Hutu orphan girl, Valcourt's role of privileged bystander shifts, rather unconvincingly, into that of actual (though nonetheless privileged) participant at the very end of the novel. Michael Keren explains the novel's remarkable success in North America and Europe, in spite of the controversy surrounding its violent and sexual language and imagery, because

⁷³ Courtemanche 2003, 16.

⁷⁴ Courtemanche 2004, 6.

⁷⁵ Courtemanche 2003, 297.

⁷⁶ Courtemanche 2003, 273.

⁷⁷ Courtemanche 2003, 297.

of its focus on the bystander disposition. He sees *A Sunday at the Pool in Kigali* as a quintessential narrative of failure: It resonated strongly in its readership, as it did for example in Canada, where it hit a nerve in a country “tormented by its failure to make a difference in Rwanda”⁷⁸.

The novel’s story is, indeed, one of catastrophic fiasco, a double-pronged failure: that of the book’s main protagonist – Valcourt fails to save his beloved Gentille – and also that of the devastating killing field that the novel’s locus is sitting on. It is interesting that there seems to be a shift in the attribution of blame. While the blame for the genocide is primarily with Hutu extremism,⁷⁹ Western incapacity and even more its unwillingness to intervene is foregrounded on numerous occasions in the novel. Most of the Western ex-pats in Kigali are self-serving oafs. Even the Belgian AIDS researchers are not interested in helping the Rwandese cope with an epidemic; they feast on an unstoppable supply of test-material in the hundreds of infected individuals, which they hope will give them a head start on their colleagues in European and American research centers and a better chance at an important discovery – be it in cosmetics or in actual medicine – and the subsequent fortune: “Le médecin belge rêvait à sa Mercedes”⁸⁰ while examining his patient.

However, the blame for Gentille’s death is more dubious. For the engaged reader, it is already fairly clear after the first twenty pages that Valcourt should get Gentille out of there, something she herself repeatedly suggests – “Elle, rien ne la retenait ici.”⁸¹ However, Valcourt on the one hand clearly underestimates the gravity of the situation, always thinking that they will be fine, and, in spite of his cynicism, continues to rely on precisely those Western institutions he looks down upon. In spite of his Tutsi friends warning him of ‘the final solution’, “Valcourt tenait toujours d’apporter des nuances. Il invoquait sans y croire la présence des Nations Unies et surtout le fait que jamais plus la communauté internationale ne tolérerait qu’on élimine un peuple de la surface de la terre”⁸². On the other hand, in a sort of urge to distance himself from his fellow Westerners, he turns as it were Super-Rwandese, and pledges to his future wife to stay in her country, emphatically stating that, after a life-long meandering as a journalist in troubled regions, “[c]’est ici que je veux

⁷⁸ Michael Keren, “The Bystander’s Tale: Gil Courtemanche’s *A Sunday at the Pool in Kigali* and the Rwandan Genocide”, in: *Studies in Canadian Literature* 34, 2 (2009), 23 (22-39).

⁷⁹ The novel opts unambiguously for the inside (Hutu) conspiracy version of the two presidents’ plane crash: “À Kigali, en cette matinée du 6 avril 1994, une douzaine d’hommes discutaient dans un bureau de la caserne de la garde présidentielle, en face de l’édifice des Nations Unies, boulevard de la Révolution.” And the killing machine was to be set in motion “dès que le président serait assassiné” (Courtemanche 2003, 237).

⁸⁰ Courtemanche 2003, 67.

⁸¹ Courtemanche 2003, 211.

⁸² Courtemanche 2003, 243.

vivre”⁸³. It is an arrogant statement, inspired by a naive belief that he understands the country he has come to adore for its wonderful valleys, “le soleil qui soulève ces champignons de ouate et le concert des enfants qui dévalent les collines vers les écoles”⁸⁴. It also isolates him from the rest of the white community in Rwanda, with the possible exception of Father Louis, who hands out condoms in spite of his religion’s stance, and Élise, a feisty Québécois nurse. All the other whites really want to be somewhere else, like Lisette, the Canadian consul, who suffers “luxueusement” in this “pays de merde”⁸⁵. Valcourt’s determination to stay – “Mon vrai pays est celui des gens que j’aime”⁸⁶ – is only possible because of his white privilege, which stands in diametric opposition to his desire to blend in. Moreover, it is this white privilege which he himself foregrounds as one of the principal facilitating elements in the cocktail of aggression that reigns the country. The privilege is marked in his skin color, but also emphatically replicated in his failure to speak Kinyarwanda, though, admittedly, he can say three words: “Valcourt ne savait dire que *yégo*, *oya* et *inzoga*, soit ‘oui’, ‘non’ et ‘bière’.”⁸⁷ The book’s simplistic stance on white privilege and ineptitude versus black victimhood and responsibility finds another reflection in the remarkable role attributed to both Gentile and Valcourt’s libidinous satisfaction. As already indicated, for Valcourt, Gentile is quintessential femininity, an obsessive force that literally compels him “de plonger dans la nécessité de vivre”⁸⁸. At the same time, however, for Gentile, Valcourt is a sexual guru, whom she asks, “Apprends-moi le désir”⁸⁹, which, it is clear, she has so far missed in her furtive sexual contacts with Rwandese men. Quite revealingly, Gentile’s apprentice position is explicitly associated with Valcourt’s sixteen-year-old daughter Anne-Marie. Like his daughter who, while admiring Monet’s *Nymphéas* at the Orangerie ten years earlier sheds some tears in awe, so, too, does Gentile shed tears after reading Valcourt’s declaration of love.⁹⁰ This role of super-lover and initiator of the Rwandese woman to real love and desire is bestowed upon no-one else but this white journalist from Quebec, a widower for five years, several generations her elder, in his late fifties. While that in itself can of course make for a good yarn, Valcourt’s role of super-lover stands in great contrast to the sexual lack and/or overindulgent ineptness of just about every other white male in the novel. Western sexual interactions with the locals are always pure exploitation and abuse, something Valcourt very carefully and explicitly distances himself from. Without even a touch of irony, the narrator

⁸³ Courtemanche 2003, 212.

⁸⁴ Courtemanche 2003, 211.

⁸⁵ Courtemanche 2003, 22.

⁸⁶ Courtemanche 2003, 171.

⁸⁷ Courtemanche 2003, 239.

⁸⁸ Courtemanche 2003, 120.

⁸⁹ Courtemanche 2003, 231.

⁹⁰ Courtemanche 2003, 172.

repeats his statement, “[s]i [Valcourt] avait une femme noire, c’était le fruit des hazards de la vie plutôt que d’une passion pour l’autre couleur”⁹¹. The sexually and libidinally inadequate white male, which Valcourt is not, finds its best example in the newly arrived diplomat Monsieur Lamarre, whose pregnant wife has a habit of cuckolding him, this time with the hotel’s hunky super-model pool attendant Justin, an Apollonian figure, whose “sexe raide sortait presque de son petit maillot”⁹². Valcourt is complicit in the deal, as he supplies clients to Justin, who fully plays into the expectations of an ‘African animalistic sexual predator’. Little is made of the fact that Valcourt facilitates the sexual transaction between Mme Lamarre and her dreamboat hunk knowing full well that Justin is on a personal vengeance trip for any colonial wrong or condescension with his positive HIV status and penis as razor-sharp weapons:

Justin avait la vengeance plutôt douce, mais elle atteignait un raffinement et une cruauté psychologique qui avaient impressionné Valcourt. Il ne manquait jamais une occasion de contribuer à l’effort de guerre de Justin. Le jeune homme lui avait cependant caché la véritable mesure de sa haine. Justin était sidéen. Quand ces dames inquiètes exigeaient qu’il enfile une capote, il brandissait un faux certificat de séronégativité.⁹³

Justin does not fight with machetes, but he does have death on his hands, just like Valcourt, for whom Mme Lamarre’s fatal sexual escapade is little more than a prank to be pulled on people of whom one is not tremendously fond (“J’ai utilisé mon pouvoir pour jouer avec sa vie”⁹⁴). Heike Härting’s classification of the novel’s diegetic strategy as necropoetic is à propos; the successfully completed death mission that is unfolded (and expected) is the main structurally binding element in the novel, and plays on a macro as well as on a micro level. Härting finds these necropoetics proof of a fundamentally flawed neo-colonial approach of the representation of violence in Africa, and sets up the African landscape as “a spectacle of suffering”⁹⁵ that is explicitly meant for a Western readership, for whom death remains an unavoidable, and mostly personal, tragedy. Courtemanche’s novel certainly highlights many of the post-colonial socio-political structures that played a role in the Rwandan collapse: colonial legacy in the racial tension, Western ‘import’ – and therefore detrimental – development aid, self-serving diplomacy and representation, the ill-managed AIDS crisis, conspiring local thugs. Yet, the Justin/Lamarre example above also reveals that the novel not only displays death as an inevitable African universalism; even more disturbingly, it is also presented as an opportunity for poetic justice. As a white woman, “une femme gratuite”, with an insatiable and racially informed sexual lust, married to a third-rate, overpaid,

⁹¹ Courtemanche 2003, 153.

⁹² Courtemanche 2003, 154.

⁹³ Courtemanche 2003, 155.

⁹⁴ Courtemanche 2003, 165.

⁹⁵ Härting 2008, 12.

opportunistic Western diplomat, Mme Lamarre is ‘fucked’, in every sense of the word, and has herself and her ilk to blame for it. It is a position not too far away from the dreadful Tutsi myths that oiled the Hutu-power machinations of the genocide itself, and when we read that, at any rate, and as a final justification, Valcourt only precipitated “une rencontre qui serait survenue de toute manière”⁹⁶, the inevitability of death is a mere result of its justifiability. Mme Lamarre’s lust for the virile black stud finds a resounding echo in Valcourt’s obsessive yearning for the youthful innocence of a fine-featured black female.

The overlapping inevitability and justifiability of violence – its normalization, historical or otherwise – is one of the main problems in the realistic representation of violence, and usually starts in the very structure of the inevitable continuity of the diegesis itself, its purposefulness, and its drive for closure. Minute description of the violence itself parallels the quest for cause and effect, and its explanation to the reader: Death is documented, racialized, contextualized, and explained, even though analysis, commentary or irony may highlight the absurdity of this supposed causality. Verisimilar representations, as in the case of Courtemanche’s harrowing realism in his narrative of violence – sexual or otherwise – is also a tricky strategy, because it inevitably draws the reader in and has a naturalizing effect, which, ironically, increases as its traumatic intensity may turn away the reader in a defensive reaction of negation that things simply cannot be as bad as suggested. Valcourt’s desire for authentic witnessing – and the author’s ambition for documentary reportage – give the novel a certain aura of both historicity, as well as an elucidatory character and role. Its need for closure then counters the dystopian character of its fable. In Courtemanche’s novel, Valcourt settles in Kigali, where Gentile finally succumbs to a bout of pneumonia. While earlier, both his and Gentile’s state of mind was summarized in Camus’ “[c]e n’est plus d’être heureux que je souhaite maintenant, mais seulement d’être conscient”⁹⁷, at the very end of the novel, Valcourt “est heureux”⁹⁸. It is a startling closing sentence for a novel on the genocide, made somewhat more palatable in the English translation: “Valcourt is at peace with himself.”⁹⁹ While this state of balance is inevitably a result of the novel’s teleological narrative progression and the reader’s desire for this narrative to come to harmonious accord, there is also an internal trigger. Though barely credible, but nevertheless with powerful symbolic effect, Valcourt is handed a handwritten school workbook of the type that he himself had used 50 years earlier in primary school in Quebec, the title carefully calligraphed in the same handwriting that his mother and sisters were taught by the Catholic nuns: “Histoire de Gentile après

⁹⁶ Courtemanche 2003, 164.

⁹⁷ Courtemanche 2003, 276-77.

⁹⁸ Courtemanche 2003, 298.

⁹⁹ Courtemanche 2004, 258.

son mariage”¹⁰⁰. While the *mise-en-abyme* effect may be facile, the symbolic value of finally giving Gentille Sibomana a voice – and therefore agency – in this Western romance cannot be underestimated as a declarative statement, even though here, too, she resorts to Paul Éluard’s verse – presented to her by Valcourt – to give voice to herself as an autonomous being: “[C]et œil crevé c’est moi/ Ce ventre ouvert et ces nerfs en lambeaux/ C’est moi, sujet des vers et des corbeaux.”¹⁰¹ Against the background of this powerful perlocutionary speech act, in which Gentille herself firmly declares her brutal annihilation, the earlier harmonious record of their first wedding night gains a new meaning. In the midst of rampaging killers in the capital, the two “s’aimeraient longtemps et paisiblement, sans étreinte bruyante et passionnée, comme deux cours d’eau se rencontrent et se fondent, perdant au rythme du courant leur couleur originale”¹⁰². It is a naive, wishful-thinking avowal that aims to wipe out what is ineradicable, and is also at the very heart of both the fable and the genocidal historical events.

The tension between these two statements is also the best defense of Courtemanche’s novel. Flawed as the novel is with its Western point of view, its outsider disposition, its privileged eye on things, it remains an important document within the genre of genocide discourse. The many attacks on the novel seem to have one criticism in common: It fails to represent the real events, as well as the real underlying structures that lead to them. That sort of measure continues to be the principal gauge against which any discourse on the genocide is measured; as if those real events can be *read* so much better. Roland Barthes’ warning about our tendency to essentialize the real, in this age of pseudo-real and meta-real is more applicable than ever: “[L]e ‘réel’ est réputé se suffire à lui-même, qu’il est assez fort pour démentir toute idée de ‘fonction’, que son énonciation n’a nul besoin d’être intégrée dans une structure et que l’*avoir-été-là* des choses est un principe suffisant de la parole.”¹⁰³ Cultural discourse on the genocide obviously helps to find structure, and even though the enunciation itself is subject to other hidden structures and principles, and has inevitable flaws – none of which are as risky as the fatal flaw of the underlying reality – it is our only chance of not letting that reality just *be*, but instead, of acknowledging it, remembering it, and beginning to understand. *Un dimanche à la piscine à Kigali* shows us that the project of *Ntidigasubire* or Never Again is not simply one of restoration or representation. It is a constant struggle with the failures of both restoration and representation.

¹⁰⁰ Courtemanche 2003, 277.

¹⁰¹ Courtemanche 2003, 285.

¹⁰² Courtemanche 2003, 263.

¹⁰³ Roland Barthes, “L’effet du réel”, in: *Communications* 11 (1968), 88 (84-89).

Fictionnaliser la responsabilité civique – approches théoriques, défis interculturels, écritures transculturelles

Hans-Jürgen Lüsebrink
Université de Sarrebruck

Abstract

This paper has three objectives, as suggested by its programmatic title. First, it will develop theoretical approaches to the conflicting aspects of intercultural communication, which result from growing discrepancy between different value systems and cultural areas around the world, as well as from the growth of communalism in the past twenty years. We will take into consideration the approaches of I. Wallerstein (*European Universalism: The Rhetoric of Power*, 2006) and of A. Maalouf (*Le dérèglement du monde: Quand nos civilisations s'épuisent*, 2009), as well as the debates that arose around the controversial work by S. Huntington (*The Clash of Civilizations and the Remaking of World Order*, 1996). A second part will outline the intercultural challenges resulting from the Enlightenment and the objective followed by occidental societies ever since: spreading forms of civil responsibility based on an occidental conception of values such as 'equality', 'human rights', and 'liberty'. In conclusion, a third part will question the role played by literature, and more particularly by fiction, within these problematics. We will base our reflection on novels and travelogues by G. Courtemanche, H. Chr. Buch, A. Kourouma and R. Kapuscinski; all of which deal with the conflicts, civil wars, and traumas that have torn apart sub-Saharan Africa during these past two decades.

Conflit et interculturelité

Les concepts d'interculturalité et de transculturalité qui désignent des objets d'étude scientifiques, mais qui sont devenus également des termes à la mode dans le monde des médias sont liés, dans la conscience générale, aux notions d'entente entre les peuples, d'échange culturel, et, en langage post-moderne, aux notions d'hybridité et d'identité culturelle.

La présente contribution est focalisée sur la problématique de l'universalisme des valeurs occidentales parmi lesquelles la responsabilité civique occupe une place centrale, avec les valeurs qui lui sont associées. L'universalisme occidental joue un rôle de tout premier plan, sur le plan de la circulation transnationale et transculturelle des idées et des modèles politiques depuis la fin du XVIII^{ème} siècle et la Déclaration Universelle des Droits de l'Homme promulguée des deux côtés de l'Atlantique entre 1776 et 1789. Nous visons donc à proposer une perspective d'approche en matière de questionnement des problèmes de communication interculturelle qui mette délibérément en avant sa dimension potentiellement

conflictuelle. Elle vise à interroger les conflits et les controverses susceptibles de résulter de l'universalisme éthique occidental, hérité du Siècle des Lumières et des Révolutions française et américaine, et de leurs transferts et réceptions dans des sociétés et cultures non-occidentales, à partir des représentations qu'en donnent des fictions littéraires.

La naissance de formes conflictuelles de communication interculturelle peut s'expliquer par différentes raisons: les principales d'entre elles résident d'une part dans la construction culturelle d'images négatives de l'Autre et leur ancrage mental pour lequel les médias, mais aussi la littérature, jouent un rôle essentiel; et d'autre part dans la différence des systèmes de valeur qui se matérialisent bien souvent dans les concepts radicalement contrastés du Soi et de l'Autre. La dimension esquissée ici de l'élément conflictuel dans la communication interculturelle, "le mauvais conflit" évoqué par Hésiode au VII^{ème} siècle avant Jésus Christ¹ et cité dans un article de Jan et Aleida Assmann sur la théorie des conflits, peut être mise en lumière à partir de quelques configurations qui seront d'abord esquissées sur le plan théorique, et ensuite illustrées à travers l'exemple d'auteurs africains subsahariens, Célestin Monga (Cameroun) et Ahmadou Kourouma (Côte d'Ivoire), ainsi qu'à travers l'œuvre, qui sera brièvement évoquée, des journalistes-écrivains occidentaux Gil Courtemanche (Canada), Ryszard Kapuscinski (Pologne) et Hans Christoph Buch (Allemagne). Ces derniers ont tous trois consacré une part importante de leurs publications littéraires et journalistiques aux guerres et conflits de l'Afrique contemporaine.

Globalisation et conflits culturels

Samuel Huntington affirme dans son livre sur le conflit des civilisations, livre certes controversé mais ayant connu un large écho,² que les conflits politico-idéologiques des XIX^{ème}, XX^{ème} et du début du XXI^{ème} siècle trouvent leur origine de façon croissante, dans les différences de civilisation. L'année 1979, celle de la Révolution en Iran et de la prise de pouvoir par Khomeini, et l'année 2001, celle de la destruction du World Trade Center, constituent les dates-clés de ce processus historique. Pour l'analyse de cette problématique concernant les différences de valeurs et les conflits culturels au centre de toute approche contemporaine de la responsabilité civile, quatre perspectives de réflexion semblent s'imposer:

¹ Aleida Assmann – Jan Assmann, "Kultur und Konflikt. Aspekte einer Theorie des unkommunikativen Handelns", in: Jan Assmann – Dietrich Harth (eds.), *Kultur und Konflikt*, Frankfurt/Main, Suhrkamp, 1990, 11-48.

² Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order*, New York, Touchstone, 1996.

- globalisation et résistance culturelle;
- universalité et spécificité des droits de l'homme ;
- conflits interculturels: refus et appropriation productive de la mondialisation;
- continuités et ruptures de l'universalisme occidental.

Globalisation et résistance culturelle

La mise en relation croissante des cultures et civilisations dans le cadre de la globalisation (la quatrième phase de globalisation depuis les débuts de l'époque moderne) contraste de façon croissante avec des phénomènes comme la non-communication, mais aussi comme la résistance violente, le refus, la rupture de la communication et de l'échange. Les formes de résistance anti-américaines et anti-occidentales au Proche-Orient, en Afrique et aussi dans certaines parties d'Asie et d'Amérique du Sud, s'avèrent ici symptomatiques. Derrière des conflits superficiellement politiques ou religieux, comme ceux du Proche-Orient ou dans l'ancienne Yougoslavie, se dissimulent le plus souvent des conflits interculturels reposant sur des constructions culturelles (notamment des identités construites et des images négatives de l'Autre). Amin Maalouf a très bien mis en lumière cette configuration assez paradoxale caractérisant l'actuelle phase de la globalisation en affirmant que l'internet,

[...] ce formidable outil moderne, qui devrait favoriser le brassage et l'échange harmonieux entre les cultures, devient un lieu de ralliement et de mobilisation pour nos „tribus“ globales. Non en raison de quelque obscure machination, mais parce que l'Internet, qui est un accélérateur et un amplificateur, a pris son essor à un moment de l'Histoire où les identités se déchaînaient, où „l'affrontement des civilisations“ s'installait, où l'universalisme s'effritait, où la nature des débats se corrompait, où la violence gagnait dans les paroles comme dans les actes, et où les repères communs se perdaient.³

Universalité et spécificité des droits de l'homme

Les droits de l'homme, un héritage des Lumières et de la Révolution française, se comprenaient comme droits universels, mais ne parvinrent pas, malgré la domination européenne et occidentale, à s'imposer dans le monde entier pendant les deux derniers siècles, et furent même bafoués par les Européens pendant l'époque coloniale. Depuis les années soixante, et surtout les années quatre-vingt du XX^{ème} siècle, est apparu un contre-discours culturaliste face aux prétentions d'universalité du discours sur les droits de l'homme qui a émergé à la fois dans le champ intellectuel et dans le champ politique. L'ancien président du Zaïre, Sese Seko Mobuto, comme l'actuel président du Zimbabwe, Robert Mugabe, par exemple affirment depuis le début des années 1960, que l'idée des droits de l'homme importée d'Europe et d'Amérique du Nord n'est pas compatible avec

³ Amin Maalouf, *Le dérèglement du monde. Quand nos civilisations s'épuisent*, Paris, Grasset, 2009, 92-93.

les valeurs fondamentales africaines, avec la spécificité culturelle africaine et la conception africaine de l'autorité, du pouvoir politique et du charisme. On retrouve cette position parmi les partisans des mouvements fondamentalistes islamistes qui justifient avec des formes culturalistes de légitimation la censure de la presse, l'obligation pour les femmes de se voiler ou le postulat de l'inégalité des sexes, ou encore l'application des peines corporelles pour des atteintes à la morale officielle. Selon la philosophe d'origine chinoise Anne Cheng, le gouvernement chinois actuel oppose de façon croissante la conception d'un confucianisme universel à la conception occidentale des droits de l'homme universels, et utilise cet argument pour légitimer la répression exercée contre les manifestants de la place Tiananmen en 1989 à Pékin.⁴

Conflits interculturels: refus et appropriation productive de la mondialisation

Globalisation signifie, dans la quatrième phase de l'actuel processus de la mondialisation, la mise en réseau économique, culturelle, politique des sociétés et cultures de la planète. Aux côtés de processus de rapprochement culturel, d'uniformisation et d'homogénéisation, tels qu'ils sont symbolisés par exemple à travers des marques comme Coca-Cola ou McDonald's ou à travers la diffusion planétaire de styles vestimentaires comme les "jeans", on trouve également des processus de résistance culturelle et de refus à tous les niveaux: sur le plan politique, économique et culturel, mais aussi sur le plan esthétique et symbolique, jusque dans les manières de s'exprimer verbalement, de se vêtir et de consommer, par exemple avec l'interdiction du Coca-Cola, des jeans, de films ou de certaines séries télévisées hollywoodiennes, dans plusieurs pays du Moyen Orient et en Afghanistan sous le régime des talibans, ou encore avec le contrôle d'internet tel qu'il est pratiqué en Chine assez systématiquement. La "réception productive" ou encore le "recyclage créatif" constitue encore une autre forme créative d'appropriation de formes de culture globale exprimant une résistance. L'ethnologue Karl-Heinz Kohl qualifie ces formes de "tension fructueuse entre les cultures" ("die fruchtbare Spannung zwischen den Kulturen"⁵). Il entend par là des phénomènes de détournement de fonction de produits occidentaux, de textes littéraires et de médias dans des cultures et sociétés en particulier non-occidentales.

Continuités et ruptures de l'universalisme occidental

La globalisation de modèles occidentaux en matière de droit, de philosophie

⁴ Anne Cheng, "Confucianisme, post-modernisme et valeurs asiatiques", in: Yves Michaud (éd.), *Qu'est-ce que la culture?*, Paris, Odile Jacob, 2001, 80-90; Anne Cheng, "Les dirigeants chinois opposent une universalité chinoise à l'universalité des droits de l'homme", in: *Télérama* (2006), hors série (*Les Lumières, des idées pour demain*), 73.

⁵ Karl Heinz Kohl, "Die andere Seite der Globalisierung. Über die fruchtbaren Spannungen zwischen den Kulturen", in: *Frankfurter Allgemeine Zeitung*, 14 novembre 2000, 11.

politique, de morale et de civilisation, ainsi que dans le domaine de la pensée scientifique, de même que les controverses qui l'ont accompagnée, sont nées au début même de l'expansion européenne Outre-mer, c'est-à-dire à la fin du XV^{ème} siècle. Ces controverses peuvent être retracées en filigrane jusqu'à la fameuse controverse entre l'évêque Bartolomé de Las Casas, défenseur des Amérindiens, et Juan Ginés de Sepúlveda qui, dans ses livres *Demócrates primero y segundo*, défendit dès 1531 la conquête espagnole et les violences qui l'accompagnaient par la notion de "guerre juste" et par le recours à des catégories considérées comme universelles, basées sur la religion chrétienne et opposées à la "barbarie" des Aztèques et des Mayas. Comme l'a montré Immanuel Wallerstein dans son livre *European Universalism. The Rhetoric of Power* (2006), on peut constater une profonde continuité dans ces controverses autour de l'universalisme occidental, par-delà les significations différentes qui lui ont été attachées depuis le XVI^{ème} siècle, chrétiennes d'abord, puis philosophiques, culturelles, éthiques, et enfin, avec le mouvement des Lumières, et la Révolution française, éminemment politiques.

Malgré les continuités des configurations et des matrices d'argumentation, depuis le XVI^{ème} siècle, il faut souligner également deux discontinuités ou ruptures qui caractérisent les débats contemporains: d'une part une nouvelle et forte sensibilisation interculturelle pour la dimension culturelle du langage – dont le langage politique – qui met l'accent sur les significations culturelles très différentes de termes à première vue universels et largement identiques comme "Démocratie", "Droits de l'Homme", "Dictature" et "Oppression"; et, d'autre part, l'émergence de contre-discours, fort hétérogènes et multifformes, dirigés contre l'universalisme occidental ancré aussi bien dans des positions intellectuelles que dans des discours du pouvoir politique défendant des régimes autoritaires et foncièrement anti-démocratiques au nom de la critique de l'universalisme occidental né des Lumières.

Transferts et traductions non-occidentales de l'universalisme occidental – réfractions autobiographiques et fictionnelles

Deux textes littéraires autobiographiques, au sens large du terme, d'auteurs, d'intellectuels et d'écrivains africains, le roman *Allah n'est pas obligé* (2000) d'Ahmadou Kourouma (Côte d'Ivoire), et l'essai autobiographique *Nihilisme et Négritude* (2009) de Célestin Monga (Cameroun) sont susceptibles de mettre en lumière les configurations contemporaines de la critique de l'universalisme occidental et de sa conception de la responsabilité civique qui viennent d'être évoquées. Ils mettent en même temps en lumière le rôle important, voire essentiel, de la fiction littéraire au sens large du terme, incluant également les genres de l'essai et du récit de voyage, pour saisir les tensions culturelles contemporaines. Comme

le souligne Amin Maalouf dans son ouvrage récent *Le dérèglement du monde* (2009) qui porte précisément sur les conflits de valeurs caractérisant l'actuelle phase de la globalisation, la littérature fictionnelle permet un accès privilégié à l'"intimité"⁶ d'un peuple, son outillage mental⁷ (ou ses mentalités collectives), sa vision du monde et de ses conflits: "C'est là qu'il dévoile ses passions", note Maalouf, "ses aspirations, ses rêves, ses frustrations, ses croyances, sa vision du monde qui l'entoure, sa perception de lui-même et des 'autres', y compris de nous-mêmes."⁸

Le roman de Kourouma, couronné en l'an 2000 en France par le prestigieux Prix Renaudot ainsi que par le Prix Goncourt des lycéens, plonge son lecteur dans la Côte d'Ivoire des années 1990, et l'entraîne vers le Libéria et la Sierra Leone dévastés tous deux par la guerre civile.⁹ Au centre de l'action se trouve le narrateur Birahima, âgé d'une douzaine d'années au début du roman, et l'un des membres de sa famille nommé Yacouba, un contrebandier, fabricant de fausse monnaie et magicien à la fois, chargé d'amener Birahima à sa tante Mahan vivant au Libéria. Il espère en même temps profiter de la guerre civile pour réaliser des affaires douteuses mais profitables. Tous deux appartiennent, comme Kourouma lui-même, au peuple des Malinké. Parvenus à la frontière libérienne, ils tombent dans une embuscade et sont contraints de se rallier au Front patriotique de libération du Libéria de Charles Taylor. Birahima devient alors enfant-soldat et apprend vite à manier une Kalaschnikow; Yacouba devient, lui, "féticheur". Au cours des différentes péripéties de cette guerre civile au Libéria, les deux protagonistes sont faits prisonniers plusieurs fois et changent de camp. Ils se rallient successivement à l'Union nationale pour la liberté rassemblant sous le sigle ULIMO les partisans du dictateur Samuel Doe, puis finalement au Front national indépendant pour la Défense du Libéria créé par le Prince Yormie Johnson. Et ils se trouvent plongés dans les combats sanglants des différents groupements politiques, tous désireux de mettre la main sur l'or et les diamants constituant les richesses du pays. Ayant appris que la tante Mahan avait fui vers l'Etat voisin du Libéria, la Sierra Leone, ils décident de l'y rejoindre et se trouvent alors plongés dans la guerre civile faisant également rage dans ce pays. Ici aussi, ils parviennent à sortir vivants des combats sanglants opposant les différents groupes politiques, en se ralliant comme enfant soldat et comme magicien d'abord au parti du président en exercice Ahmad Tejan Kabbah, puis, après avoir été emprisonnés, au parti d'opposition mené par Foday Sankoh, le Front révolutionnaire unifié. Après avoir appris que sa

⁶ Maalouf 2009, 206.

⁷ Le terme "outillage mental" est utilisé par l'histoire des mentalités. Jacques Le Goff, "Les mentalités", in: Jacques Le Goff – Pierre Nora (éds.), *Faire de l'histoire*, Paris, Gallimard, 1974, 87 (76-94): "outillage mental: vocabulaire, syntaxe, lieux communs, conceptions de l'espace et du temps, cadres logiques".

⁸ Maalouf 2009, 206.

⁹ Ahmadou Kourouma, *Allah n'est pas obligé*, Paris, Seuil, 2000.

tante était décédée dans un camp de réfugiés, Birahima rencontre son cousin, le médecin Mamadou Doumba, qui décide de le ramener dans son pays d'origine, la Côte d'Ivoire, avec Yacoumba et son ami Sekou. Les deux bandits Yacoumba et son ami Sekou qui ont rempli leurs poches d'or et de diamants, apparaissent comme les profiteurs cyniques de la guerre civile. Birahima, incité par son cousin Doumba à écrire son histoire, décide de se mettre à l'ouvrage à l'aide de quatre dictionnaires, fréquemment cités au cours de son récit, dont il a hérité d'un traducteur mort dans un camp de prisonniers.

Le roman de Kourouma se distingue tout d'abord par son habileté à retracer les événements traumatiques de l'histoire africaine récente à travers le vécu (fictionnel) d'un enfant soldat, à la fois narrateur, témoin et acteur. Le lecteur est profondément touché par la façon extrêmement directe et dépourvue d'a priori avec laquelle le narrateur décrit des scènes d'une terrible brutalité comme des meurtres rituels ou des massacres sous influence de la drogue. Le narrateur Birahima raconte la mort de ses compagnons de voyage dans de courts textes intitulés "Oraisons funèbres" et renoue ainsi avec une tradition de la littérature orale africaine. La structure narrative du roman est truffée d'une multiplicité de formules religieuses rituelles, de proverbes et de jurons traduits de langues africaines, surtout du Malinké, sa langue maternelle, mais aussi de l'arabe, qui sont chaque fois accompagnés d'une explication de l'auteur.

Kourouma résume cette démarche dans un de ses articles par la phrase significative: "Écrire en français, penser dans sa langue maternelle."¹⁰ Kourouma traite dans cet article court, mais très dense, à la fois du problème de la biculturalité et du bilinguisme fondamental de tous les écrivains africains et des problèmes de transfert et de traduction qu'ils impliquent et entraînent, notamment pour la transposition et l'appropriation interculturelle de notions occidentales liées à des valeurs éthiques et des droits:

Mon premier problème d'écrivain, d'écrivain francophone, est donc d'abord une question de culture. De culture, parce que ma religion de base étant l'animisme africain, je me bats dans une grande confusion de termes avec les expressions françaises que j'utilise. Je vais relever un exemple. La loi de chez moi condamne à de longues années de prison ceux qui avouent avoir mangé l'âme d'un décédé. Manger l'âme d'un décédé est une expression insolite en français, elle fait sourire parce que, dans la culture française, on ne peut pas manger l'âme. [...]. Le droit pénal, pour être équitable et efficace, doit s'appuyer sur des mots précis, des notions rationnelles qui ont le même sens pour tous dans la langue. Dans le français qui est notre langue nationale et qui est la langue administrative, les termes utilisés n'ont pas le même sens pour le juge – qui raisonne en français – et le jugé – qui raisonne en négro-africain. Revenons au délit de „manger l'âme“ pour lequel les prévenus peuvent écopier des peines de cinq ans. Si d'aventure en sortant d'ici je suis victime d'un accident et qu'un

¹⁰ Ahmadou Kourouma, "Écrire en français, penser dans sa langue maternelle", in: *Études françaises* 33, 1 (1997), 115-118.

compatriote ou une compatriote de mon village en Côte d'Ivoire est accusé d'avoir mangé mon âme, celui-ci sera lourdement condamné à de nombreuses années de prison s'il reconnaît le crime. Le délit se constitue dans le code Napoléon, substrat de notre droit, par des faits matériels et „manger l'âme“ d'un mort par accident à des milliers de kilomètres ne se comprend pas, ne se voit pas. C'est un fait, une notion de culture qui n'est pas exprimable en français.¹¹

Kourouma parvient en tant qu'auteur avec une grande virtuosité, tout au long de son roman, à reprendre les défis, décrits dans l'article cité, que pose la situation multilingue et multiculturelle des sociétés et cultures africaines et à les transposer dans les registres de son écriture. Il fait ainsi évoluer son narrateur entre différents niveaux linguistiques, en particulier entre le français standardisé et les différentes variantes du français africain. Il sait intégrer habilement, tout au long de son roman, de longs passages historiques fournissant au lecteur des informations précises sur le contexte historique. Le regard porté par le narrateur sur les détenteurs du pouvoir politique ainsi que sur les mouvements d'opposition en révolte, mais également sur les troupes armées nigériennes de l'ONU stationnées en Sierra Leone (ECOMOG) et sur le rôle des organisations d'aide humanitaire est rempli de désillusion. Des hommes politiques comme le président libyen Khaddafi ou l'ancien président ivoirien Houphouët-Boigny, évoqués dans le roman, apparaissent sous la plume de Kourouma comme tout aussi autoritaires, corrompus et malhonnêtes que les chefs des Rebelles au Libéria ou en Sierra Leone. Kourouma représente le pouvoir politique dans l'Afrique post-coloniale comme un jeu brutal et immoral, dont les victimes sont toujours les populations civiles. Leur sort est décrit avec force détails très émouvants à travers le regard d'un enfant soldat entraîné bien malgré lui, comme la plupart de ses malheureux compagnons plongés dans des situations de vie extrêmement précaires, dans le tourbillon inexorable de la violence et de la mort.

Constamment muni de dictionnaires – notamment le *Larousse* et *Le Petit Robert* – qui lui servent à traduire, à transcrire et à conceptualiser ses idées et son vécu dans une autre langue que sa langue maternelle, le protagoniste du roman se voit fréquemment confronté, dans ses rencontres avec les mouvements politiques rebelles s'affrontant au Libéria et en Sierra Leone, à des notions issues de l'universalisme des Lumières et transférées dans le contexte des guerres civiles africaines. Ce sont des notions clés de la responsabilité civile, tels "Démocratie"¹², "Liberté"¹³, "Générosité", "Patriotisme", "sacrifice pour la patrie"¹⁴ ou encore "éthique" qui sont utilisées par des leaders politiques comme le Prince Johnson au Libéria afin de légitimer leurs actions. La perception du protagoniste

¹¹ Kourouma 1997, 115-116.

¹² Kourouma 2000, 177.

¹³ Kourouma 2000, 71.

¹⁴ Kourouma 2000, 109.

en ce qui concerne cette réception des valeurs occidentales, en particulier de l'universalisme des Lumières, est extrêmement désabusée et cynique. Quand il note par exemple que Valentine Strasser, chef d'un mouvement révolutionnaire en Sierra Leone, "joue le jeu de la démocratie", "autorise les partis politiques" et "organise une Conférence nationale"¹⁵, il souligne en même temps que ce n'est pas fondé sur des convictions ni sur des réalités politiques, mais sur un pur calcul machiavélique visant à gagner l'appui de la scène médiatique internationale, afin de renforcer sa propre position et de tenter de discréditer l'adversaire.

L'ouvrage *Nihilisme et négritude* (2009) de Célestin Monga est caractérisé par une matrice générique originale qui combine les genres de l'autobiographie et de l'essai politique.¹⁶ Il vise à analyser, comme il le souligne au début, l'"imbrication de l'ici et de l'ailleurs"¹⁷ et ainsi à mettre en cause ce qu'il appelle l'"universalisme superficiel"¹⁸. "Ma méthode de travail dans cet essai", écrit-il dans l'introduction, "sera plutôt comparable à ce que les musiciens appellent les modes de synchronisation: au lieu de développer une thèse en allant du thème général à des observations particulières, je procéderai par des formes de parallélisme, soulignant la relation entre principes généraux et faits particuliers, l'anecdote, la réflexion et le thème se confondant parfois dans le but de se renforcer mutuellement."¹⁹ Les sept chapitres du livre, associant de manière ingénieuse expériences personnelles, observations anecdotiques et réflexion politique, développent, au moyen d'une écriture très différente de celle de Kourouma, également une position culturaliste à l'égard de l'universalisme qui rapproche fondamentalement ces deux écrivains et intellectuels africains. À travers des thèmes, chaque fois introduits par des observations et des anecdotes autobiographiques, comme "Amour", "Autorité", "Sexualité", "Alimentation et cuisine", "Musique", "Danse", "Religion", "Corps", "Famille", "Solidarité" et "Violence politique" (où il fait référence par ailleurs, comme Kourouma, aux mêmes mouvements rebelles du Libéria et en Sierra Leone), Monga défend une position foncièrement culturaliste: non seulement les phénomènes, pratiques et comportements englobés par ces notions-clés dans le contexte africain, ou plus particulièrement camerounais, seraient impossibles à traduire précisément avec des concepts français, mais ils seraient également culturellement spécifiques et ancrés dans des vécus quotidiens et des imaginaires fondamentalement différents des imaginaires et vécus occidentaux. Face à une superficielle "occidentalisation générale du goût et de la culture"²⁰ symbolisée par McDonald's, Monga souligne, en effet, la puissance des résistances culturelles et

¹⁵ Kouroma 2000, 177.

¹⁶ Célestin Monga, *Nihilisme et Négritude. Les arts de vivre en Afrique*, Paris, PUF, 2009.

¹⁷ Monga 2009, 37.

¹⁸ Monga 2009, 39.

¹⁹ Monga 2009, 2.

²⁰ Monga 2009, 93.

mentales face à tout universalisme éthique, qui ne sont pas, selon lui, temporaires ou conjoncturelles, mais structurelles et par conséquent ancrées dans des épistémès différents.²¹

La littérature fictionnelle en question – responsabilité civique et valeurs occidentales entre universalisme et culturalisme

Si l'on analyse la réception de l'universalisme occidental, associée aux notions de liberté et égalité, au modèle occidental de la démocratie et à la conception des Droits de l'Homme, dans le monde non-occidental, en l'occurrence en Afrique subsaharienne, à travers des textes de fiction et des discours non-fictionnels, on peut essentiellement distinguer deux configurations.

La première configuration pourrait être qualifiée de *culturaliste*, et se trouve représentée par exemple par l'intellectuel camerounais Célestin Monga et l'écrivain ivoirien Ahmadou Kourouma. La vision culturaliste de l'universalisme occidental que les deux auteurs représentent, à travers des œuvres elles-mêmes très différentes, met en lumière l'impossibilité d'un simple transfert, et d'une application conséquente sur le plan politique, de notions, de modèles et de valeurs occidentales dans des sociétés et cultures très différentes. Les deux intellectuels et écrivains montrent, en effet, de manière extrêmement concrète et impressionnante, que des notions comme "liberté" ou "égalité" peuvent bien être transférées, mais qu'elles recouvrent des significations très différentes dans d'autres aires culturelles. Elles s'y trouvent intégrées dans des imaginaires spécifiques, impliquant des conceptions de l'autorité, de l'individu, de l'autonomie de la personnalité, de la violence et de la légitimité du pouvoir radicalement différentes des conceptions occidentales et foncièrement incompatibles avec les idéaux des Lumières. Cette position culturaliste se retrouve également parmi des écrivains occidentaux les plus engagés actuellement sur le plan de la responsabilité civique face à des conflits et des guerres: tel l'Allemand Hans Christoph Buch, à la fois écrivain et journaliste, ou le Polonais Ryszard Kapuscinski dont les récits de voyage dans le monde non-européen, et notamment ses foyers de conflits en Afrique et au Moyen-Orient sont d'une grande qualité esthétique. Les deux auteurs, et en particulier Kapuscinski, soulignent, à travers les formes de commentaires qui accompagnent leurs récits, la dimension culturelle radicalement différente des valeurs et formes de communication occidentales. Ils mettent également en lumière, à l'exemple de Kourouma et de Monga, les formes d'appropriation perverses et déviantes des notions occidentales comme "Liberté", "Démocratie" et "Indépendance" qui surgissent dans des contextes de guerres civiles en Afrique

²¹ Monga 2009, 162-163.

et en Asie.²² Kapuscinski par exemple observe, dans les passages de son livre *Afrikanisches Fieber* (1998) avec acuité et ironie l'usage extrêmement manipulatif des notions de "Démocratie" et d'"Indépendance" par les "Warlords" en Sierra Leone dans les années 1990:

Les Warlords sèment en Afrique la haine ethnique et raciale. Ils proclament toujours qu'ils sont à la tête d'un parti ou d'un mouvement qui poursuit des objectifs nationaux. Dans la plupart des cas il s'agit d'une libération de quelque chose ou d'une protection de la démocratie ou de l'indépendance. Ils ne se contentent pas d'idéaux moins élevés.²³

En même temps Kapuscinski, comme Hans Christoph Buch, donne à lire, dans ses récits de voyages et ses essais, une vision profondément humaniste, inhérente dans son regard sur les Autres, qui tente de comprendre leurs registres de comportement et leurs valeurs, même si celles-ci s'avèrent parfois radicalement contraires à l'éthique occidentale héritée des Lumières.

La seconde configuration a, contrairement à la position culturaliste qui est plutôt récente, une longue généalogie et remonte au fond à l'époque coloniale, et aux contestations d'intellectuels et hommes politiques africains, caribéens et indochinois mettant l'accent sur les contradictions frappantes entre l'idéologie égalitaire républicaine, fondée sur l'universalisme des Lumières et de la Révolution Française, et la pratique du colonialisme français. Surtout les porte-parole de la première génération d'intellectuels africains et antillais, comme Aimé Césaire, Léopold Sédar Senghor, notamment dans le cycle poétique *Hosties noires* (1948) consacré aux Tirailleurs sénégalais morts pour la France, Léon-Gontran Damas et surtout Bernard Dadié, dans des poèmes par exemple comme "Ce que m'a donné la France" écrit en 1949, quand il fut emprisonné, pour des raisons politiques, en Côte d'Ivoire, défendirent cette position; mais aussi certains écrivains et intellectuels des plus jeunes générations, comme Henri Lopes né en République populaire du Congo. Cette position opposant l'idéologie républicaine et la répression coloniale, basée sur la conviction fondamentale de la possibilité de réussir à universaliser les valeurs occidentales héritées des Lumières et des révolutions américaine et française, a également été au centre de la grande exposition que la Bibliothèque nationale de France avait consacrée en 2006 à l'héritage des Lumières en France et dont Tzvetan Todorov, auteur du livre *L'esprit des Lumières* (2006), avait été l'organisateur.

²² Ryszard Kapuscinski, *Afrikanisches Fieber. Erfahrungen aus vierzig Jahren*, trad. Marion Pollock, Zürich-München, Piper, 2001, 253 (original paru en polonais en 1998).

²³ "Die Warlords säen in Afrika den Stammes- und Rassenhaß. Das werden sie allerdings nie zugeben. Sie verkünden stets, daß sie an der Spitze einer Bewegung oder Partei stehen, die allgemeine nationale Ziele verfolgt. In den meisten Fällen ist das eine Bewegung für die Befreiung von irgend etwas oder zum Schutz der Demokratie oder Unabhängigkeit. Mit weniger hohen Idealen geben sie sich gar nicht ab" (Kapuscinski 2001, 253).

L'exposition parisienne sur les Lumières renoua avec un débat politique et social qui a constitué, tout au long de la période coloniale, le ferment intellectuel des mouvements démocratiques et indépendantistes, et qui s'est articulé, au cours de ces dernières années, à travers de nouvelles formes de protestation et des objectifs nouveaux. L'universitaire allemand Dietmar Hüser montre dans son livre sur l'histoire et l'appropriation culturelle, sociale et politique du mouvement et de la musique Rap en France,²⁴ comment de nombreux textes de groupes de Rap français contemporains thématisent cette contradiction entre les valeurs républicaines *Liberté-Égalité-Fraternité* – et les formes d'engagement et de responsabilité civique qu'elles impliquent – et la situation sociale explosive dans les banlieues des grandes métropoles françaises contemporaines. Ces groupes rap ironisent sur le terme de citoyen et mettent en lumière dans leurs textes les fossés profonds existant aujourd'hui entre la réalité sociale des banlieues et les valeurs de la Révolution de 1789.²⁵ Des films comme *La faute à Voltaire*, tourné en 2001 par le réalisateur franco-maghrébin Abdellatif Kéchiche, viennent compléter le tableau de cette situation contradictoire et explosive. Ce film met en scène le destin d'un immigrant tunisien en France espérant, comme il le dit au début du film, obtenir l'asile politique "dans le pays de Voltaire" mais qui se voit expulsé de France sans aucune prise en compte de sa situation personnelle.

Les deux configurations qui sont très différentes, marquent ainsi deux positions quasi antagonistes sur le potentiel universaliste des valeurs occidentales des Lumières et leur possible – ou impossible – transfert dans des aires culturelles non-occidentales. Si la première caractérise sans doute les positions de nombreux intellectuels maghrébins, africains et antillais aujourd'hui, malgré les problèmes de récupération politique qu'elle pose, la seconde semble représenter celles des mouvements sociaux, politiques et intellectuels liés à l'immigration, en France, au Canada et dans de nombreux autres pays occidentaux. Effaçant certains défis et problèmes interculturels – de transfert, de traduction, de différences de systèmes de valeur –, cette position universaliste militante et revendicative, comme on pourrait la définir, semble offrir, notamment dans le contexte actuel des mouvements sociaux et politiques liés à l'immigration en Europe et en Amérique du Nord, des champs d'action certes nettement plus directs et plus prometteurs. La littérature fictionnelle, au sens large du terme, s'y est taillée, à côté des films fictionnels, une place importante. Elle y est devenue, à cause des déficiences d'autres médias comme la presse d'information et l'historiographie, de plus en plus incontournable.²⁶

²⁴ Dietmar Hüser, *RAPublikanische Synthese. Eine französische Zeitgeschichte populärer Musik und politischer Kultur*, Köln–Weismar–Wien, Böhlau, 2004.

²⁵ Cf. Hüser 2004, 413 e.a.

²⁶ Cf. dans cette perspective Hans-Jürgen Lüsebrink, "De l'incontournabilité de la fiction dans la connaissance historique. Questionnements théoriques à partir de romans historiques contemporains

La littérature paraît, en effet, incontournable sous plusieurs aspects dans le contexte contemporain de la globalisation et des défis de responsabilité civique, renvoyant ainsi à la question posée par Jean-Paul Sartre en 1947 sur les fonctions et pouvoirs de la littérature.²⁷ La littérature est devenue, comme le souligne notamment Hans Christoph Buch dans ses réflexions sur “Laokoon oder die Grenzen von Journalismus und Literatur” paru dans son livre *Blut im Schuh. Schlächter und Voyeure an den Fronten des Weltbürgerkriegs* (“Du sang dans la chaussure. Bourreaux et voyeurs sur le front de la guerre civile mondiale”, 2001), un contre-discours quasi incontournable face aux évolutions du discours journalistique et médiatique. Ce dernier se trouve, en effet, de plus en plus focalisé sur l'événementiel, le sensationnel et l'éphémère et faisant ainsi abstraction de ces dimensions essentielles de la connaissance de l'Autre que sont le temps d'écoute, d'observation et de connaissance. En opposant à la figure de l'écrivain les figures du reporter (de plus en plus pressé) et de l'expert (à qui fait souvent défaut la connaissance intime du terrain et dont le discours s'avère de plus en plus inadapté aux réalités vécues),²⁸ Buch et Kapuscinski considèrent la littérature semi-fictionnelle comme le média par excellence de l'empathie et du dialogue, souvent difficile, avec l'Autre. Par rapport au rôle potentiel important que la littérature est susceptible de jouer comme média de connaissance de l'Autre, Kapuscinski critique, dans son livre *Der Andere* paru en 2008, la tendance contemporaine de très nombreux écrivains occidentaux, et notamment de ceux qui occupent le devant de la scène littéraire et recueillent les grands prix littéraires, à se détourner des conflits et des problèmes politiques et sociaux en se focalisant sur les éternels, mais souvent bien anodins, conflits intimes et passionnels.²⁹ Ensuite, la littérature fictionnelle ou semi-fictionnelle s'avère être le seul média à pouvoir rendre compte, de manière adéquate, des expériences limites, des traumatismes, de l'expérience des guerres, des conflits et des massacres qui ont laissé peu de traces documentaires et dont les images médiatiques n'arrivent qu'à saisir la surface des réalités vécues. L'imagination, nourrie d'expériences réelles et d'observations du terrain, de témoignages et de dialogues, paraît dans ce sens *incontournable* afin de (re)construire à la fois les réalités sociales et les modes de perception des acteurs. La part fictionnelle de toute littérature, et a fortiori de celle qui se veut témoignage, contient des dangers dont des auteurs comme Kourouma et Buch sont parfaitement conscients: celui de la manipulation idéologique ; ou celui, plus troublant encore, de la fascination 'négative' devant

d'Alejo Carpentier, de Yambo Ouologuem et d'Ousmane Sembène”, in: *Neohelicon* 16, 2 (1989), 107-128.

²⁷ Jean-Paul Sartre, *Qu'est-ce que la littérature?*, Paris, Gallimard, 1948, réédition 1972.

²⁸ Hans Christoph Buch, *Blut im Schuh. Schlächter und Voyeure an den Fronten des Weltbürgerkriegs*, Frankfurt/Main, Eichborn, 2001, 17-18.

²⁹ Ryszard Kapuscinski, *Der Andere*, trad. Martin Pollack, Frankfurt/Main, Suhrkamp, 2008, 59: “Andererseits schöttet sich die sogenannte wahre Literatur von den Problemen und Konflikten ab, die Milliarden unserer Fremden erleben.”

la violence et ses relations traumatisantes avec l'érotisme et la sexualité que Hans Christoph Buch thématise dans plusieurs de ses livres. Le journaliste et romancier canadien Gil Courtemanche, dans son roman *Un dimanche à la piscine de Kigali* (2001), un livre troublant et controversé sur le génocide au Rwanda, a pour certains critiques volontairement transgressé les limites déontologiques qui s'imposent à un écrivain, journaliste et intellectuel voulant représenter la violence.

“Il est le devoir de tout écrivain de parler d'une vérité terrible”, formule Hans Christoph Buch dans ses récits de voyage et reportages sur les guerres civiles contemporaines qui sont à mi-chemin entre l'essai et le reportage journalistique, la fiction et la non-fiction. “Et il est du devoir civique de tout lecteur de l'apprendre. Celui qui se détourne, qui ferme les yeux et qui passe, blesse la mémoire des assassinés.”³⁰ Les réflexions de Hans Christoph Buch qui sont intercalées dans ses récits-reportages sur les lieux de guerres civiles et de violences du monde contemporain, d'Haïti au Rwanda, et de la Sierra Leone à Timor dans l'archipel indonésien, partent de classiques de la littérature ayant introduit le politique et la responsabilité civique dans la fiction littéraire: Lessing, avec ses réflexions sur la figure tragique de Laocoon; Tolstoï, avec sa nouvelle *L'attaque* et son roman *Guerre et paix*; Johann Peter Hebel, avec son *Schätzkästlein des Rheinischen Hausfreundes*; Stendhal, avec *La Chartreuse de Parme* dont le héros erre sur le champ de bataille de Waterloo; et, enfin, Paul Celan, Wassilij Grossmann et Peter Weiss qui ont su représenter, à travers des voies très différentes, l'horreur de l'holocauste. La fiction contemporaine se voit ainsi confrontée aux mêmes exigences et aux mêmes responsabilités, mais sans doute aussi à des défis encore plus grands que ceux que rencontrèrent les auteurs classiques, puisque le contexte culturel et médiatique dans lequel elle s'insère est devenu plus complexe et plus conflictuel tout en accordant moins de place et d'attention à ce média incontournable pour la connaissance de la réalité et le dialogue avec l'Autre que représente la littérature.

³⁰ “Von einer furchtbaren Wahrheit zu berichten ist die Pflicht des Schriftstellers, und die Bürgerpflicht des Lesers ist es, sie zu erfahren. Jeder, der sich abwendet, die Augen schließt und vorbeigeht, verletzt das Andenken der Ermordeten” (Kapusinski 2008, 134).

La politique de la littérature ou des lettres pour transformer: production de savoirs démocratiques et subversion des identités politiques en Afrique subsaharienne

Maria-Benedita Basto
Paris Sorbonne-Paris IV/CRIMIC
Centre d'études africaines de l'EHESS
Centre Écritures, Université de Metz

Abstract

In this article I reflect on the relationship between literature and democracy as discussed in the transdisciplinary volume *Literary Stakes and the Construction of Democratic Spaces in Sub-Saharan Africa*, which I edited in 2003. I first develop an analytical framework regarding the expressions 'literary stakes' and 'democratic spaces' in order to then discuss their application based on three examples: the debate on the links between literature, knowledge, and democracy; the problem of the autonomy and 'labeling' of literary texts and their significance for community; and finally, the practice of literary writing as identity subversion work. I come to two conclusions: the usefulness of a concept like 'stakes' in literary theory and, more importantly, the postulate of a transformative or democratizing capacity of literature. It is based on the tension between the indetermination or autonomy of literary writing in relation to any instituted order and its capacity to render thinkable collective experiences without making communities homogeneous. This allows me to address the key issue of understanding in which ways literature can be involved in processes of political transformation.

Dans cet article je me propose de réfléchir sur le rapport entre littérature et démocratie. J'utiliserai comme toile de fond l'ouvrage collectif, transdisciplinaire, que j'ai édité fin 2007, à Paris, intitulé *Enjeux littéraires et construction d'espaces démocratiques en Afrique subsaharienne*¹. Partant justement de son titre, je développerai d'abord un cadre d'analyse autour des expressions 'enjeux littéraires' et 'espaces démocratiques' pour ensuite discuter son application à partir de trois exemples: le débat autour de la question du lien entre littérature, savoir et démocratie; le problème de l'autonomie et labellisation d'un texte littéraire et de sa signification communautaire; et enfin la pratique de l'écriture littéraire comme travail de subversion des identités. De cet ensemble découleront deux constats: l'opérationnalité d'un concept comme celui d'"enjeu" dans la théorie littéraire et, concernant plus spécifiquement la problématique centrale de ce texte et de ce

¹ Maria-Benedita Basto (éd.), *Enjeux littéraires et construction d'espaces démocratiques en Afrique subsaharienne*, Paris, Centre d'études africaines – École des Hautes Études en Sciences Sociales, 2007.

livre, le postulat d'une capacité transformatrice ou démocratisante de la littérature, la tension entre l'indétermination ou autonomie des écritures littéraires par rapport à tout ordre institué et leur capacité de rendre pensables des expériences collectives sans rendre homogènes les communautés. Ce qui amène à poser d'emblée la question de savoir de quelles manières la littérature peut se trouver impliquée dans des processus de transformation politiques.

Enjeux littéraires et espaces démocratiques

Partant de l'idée que la littérature est porteuse d'un savoir qui l'inscrit dans l'histoire et de dynamiques à la fois esthétiques et sociales, j'ai utilisé l'expression 'enjeux littéraires' au lieu de celle de 'littérature'. Ce terme a permis, en effet, une analyse de la question littéraire qui prend en compte non seulement 'la' littérature, mais les discours sur la littérature, les politiques éditoriales, les archives, les paratextes compris comme zones de transition et de transaction,² les circuits de lectures et de lecteurs, les représentations de l'écrivain et des œuvres littéraires, la distribution, le marché du livre, les statuts et les langues. Nous pouvons envisager ici cette "matérialité du texte" et cette "corporalité du lecteur"³ dont parle Roger Chartier, ou reprendre la force illocutoire défendue par Searle⁴. Chartier propose qu'il s'agirait, "[a]vant tout, de construire un nouvel espace intellectuel qui oblige à inscrire les œuvres dans les systèmes de contraintes qui bornent, mais aussi qui rendent possibles leur production et leur compréhension"⁵.

Cependant, parler d' 'enjeux' signifie également que la littérature déplace ce système de contraintes et possibilités, qu'elle crée une relation avec le politique. Au lieu de comprendre littérature et politique comme deux entités qui se croisent dans le contenu des textes ou dans les engagements des auteurs, je préfère interroger ici ce qu'on appellera avec Jacques Rancière, la "politique de la littérature"⁶, les manières d'agissement de la littérature, c'est-à-dire moins la signification idéologique d'un contenu que les dispositifs littéraires qui subvertissent, désordonnent ou disloquent tout ordre préexistant. On s'intéresse en ce sens à une politique des "écarts"⁷, des entre-deux. C'est ainsi que j'ai associé la littérature à la "construction d'espaces démocratiques", des espaces où de la transformation est possible, pour utiliser une expression de Foucault. Ces espaces de transformation sont issus

² Gérard Genette, *Seuils*, Paris, Seuil, 1987, 8.

³ Roger Chartier, *Au bord de la falaise. L'histoire entre certitudes et inquiétude*, Paris, Albin Michel, 2009, 322-327.

⁴ John Searle, *Sens et expression*, Paris, Minuit, 1982.

⁵ Chartier 2009, 326.

⁶ Jacques Rancière, *Politique de la littérature*, Paris, Galilée, 2007, 11.

⁷ Chartier 2009, 326.

de la capacité des hommes “de déplacer continuellement leur subjectivité, de se constituer dans une série infinie et multiple de subjectivités différentes”⁸. Les espaces démocratiques constituent ainsi le lieu d’un “travail de nous-mêmes sur nous-mêmes en tant qu’êtres libres”⁹. La littérature serait alors un des domaines où pourrait se déployer ce travail de subjectivation et de mise en commun d’une expérience.

Loin d’être réductible à une substance prédéfinie par les Grecs ou les Lumières, le concept d’‘espaces démocratiques’ renvoie à une universalisation de l’idée de démocratie qui, en tant que contenu pratique, est toujours le produit contextuel des processus de transposition, traduction et interprétation. Si nous suivons Arjun Appadurai, la démocratie se trouve, de ce fait, placée “au milieu d’une variété d’‘ideoscapes’ [ou de] paysages idéels”¹⁰, et la spécificité de ces lieux ouvre une problématique identitaire et culturelle. En Afrique, celle-ci témoigne particulièrement d’une tension entre appropriation et attribution qui se joue dans l’espace et dans le temps à travers des référents transnationaux et locaux, ainsi que précoloniaux, coloniaux et postcoloniaux. Il s’agit, sous cet angle, de déceler comment le travail d’une “écriture de soi”¹¹ associée à la production des ‘espaces démocratiques’ implique à la fois des actes de reprise, de déplacement et de contestation des catégories hégémoniques. L’idée de subjectivation à travers l’écriture est ici conçue, non comme un écrire contre, mais comme une déstabilisation de l’ordre établi par le fait qu’au lieu de prendre la parole en tant qu’assigné à une quelconque identité, l’écrivain investit ‘transgressivement’ une place entre les identités et les rôles qu’il pourrait choisir. Son écriture représenterait, en empruntant les mots de Jacques Rancière, “le dérèglement même de l’ordre légitime par lequel le logos se distribue et distribue les corps en communauté”¹². Ce dérèglement s’exprime également par le fait que dans sa capacité de “décrire la réalité locale dans un travail littéraire singulier et capable de traverser les frontières”¹³, la littérature est également susceptible de brouiller toute juxtaposition entre des altérités culturelles locales et les référents occidentaux.

⁸ Michel Foucault, “Conversazione con Michel Foucault. Entretien avec D. Trombadori”, in: *Dits et écrits II (1976-1988)*, Paris, Gallimard, 2001, 894 (860-914) [*Il Contributo* 4, 1 (janvier-mars 1980), 23-84].

⁹ Michel Foucault, “Qu’est-ce que les Lumières?”, in: Foucault 2001, 1394 (1381-1397) [“What is Enlightenment?”, in: Paul Rabinow (éd.), *The Foucault Reader*, New York, Pantheon Books, 1984, 32-50].

¹⁰ Arjun Appadurai, “Disjuncture and difference in the global cultural economy”, in: *Theory, Culture & Society* 7 (1990), 300 (295-310).

¹¹ Achille Mbembe, “À propos des écritures africaines de soi”, in: *Politique Africaine* 77 (2000), 16-43.

¹² Jacques Rancière, *La parole muette. Essai sur les contradictions de la littérature*, Paris, Hachette, 1998, 83.

¹³ John Marx, “Littérature postcoloniale et canon littéraire occidental”, in: Neil Lazarus (éd.), *Penser le postcolonial: une introduction critique*, Paris, Éd. Amsterdam, 172 (157-173) [traduit de l’anglais: *The Cambridge Companion to Postcolonial Literary Studies*].

Littérature, savoir et démocratie

En relation à cette faculté transformatrice de la littérature, un débat s'est constitué autour de la question de déterminer dans quelle mesure elle peut constituer ou être associée à un savoir sur la démocratie en Afrique.

Pour Pierre Halen, dans l'ouvrage cité, la problématique fondamentale de la relation entre littérature et démocratie découle d'une situation où "un émetteur adresse un énoncé de son choix à un et, plus souvent, à plusieurs récepteurs, sans qu'une 'réponse' soit prévue par le système"¹⁴. Halen discute alors tout un ensemble de stratégies qui cherchent à masquer ou à compenser ce déficit. Pour les littératures d'Afrique deux procédés semblent particulièrement répandus. Il s'agit, d'un côté, de privilégier des émetteurs sans pouvoir (femmes, ouvriers, descendants de captifs, etc.) et, d'un autre côté, d'effacer l'auteur derrière un 'émetteur peuple' lié aux savoirs populaires ou à l'oralité. Dans un cas comme dans l'autre, le texte offre au lecteur la possibilité d'entendre sa voix dans les énoncés ou, avant tout, pour compenser un statut sociopolitique plus élevé, de se sentir plus proche des dominés. Le roman *Allah n'est pas obligé* d'Amadou Kourouma¹⁵ exemplifie les propos de Pierre Halen. Ce livre, dont le narrateur est un enfant soldat peu instruit, illustre, selon lui, "par sa virtuosité, tout l'art de produire une énonciation tout à la fois naïve/native et, dissimulée derrière cette naïveté, très intellectuelle"¹⁶. D'ailleurs, le roman, en tant que genre, se prête particulièrement à cette stratégie. Du fait qu'il laisse toute liberté à la forme et peut représenter toute couche sociale, il est devenu le genre préféré des écrivains africains. S'il y a lieu d'utiliser le prédicat démocratique dans le contexte littéraire, il s'agit avant tout de souligner la qualité désordonnante d'une écriture qui pour Jacques Rancière suit un "principe antigénérique de l'égalité de tous les sujets représentés"¹⁷. Par la possibilité d'y représenter différentes voix et perspectives (si efficacement mise en avant par Mikhail Bakhtin), il pourrait être considéré comme "lieu de débat et de confrontation"¹⁸.

Tandis que Halen pose le problème d'un savoir démocratique avant tout à partir de la question des stratégies narratives adoptées, Jean Copans met en avant le rôle de l'écriture dans un contexte plus élargi des circulations et appropriations des savoirs. Il pose la question de l'existence d'une écriture partagée qui puisse conserver et diffuser la mémoire des expérimentations démocratiques et stimuler

¹⁴ Pierre Halen, "Écriture africaine et démocratie: quelques réflexions générales", in: Basto 2007, 41 (35-51).

¹⁵ Amadou Kourouma, *Allah n'est pas obligé*, Paris, Seuil, 2000.

¹⁶ Halen, in: Basto 2007, 45.

¹⁷ Rancière 1998, 28.

¹⁸ Halen, in: Basto 2007, 47.

une réflexion à leur égard. L'auteur repère un véritable déficit d'écriture qui pose le problème de l'existence des assises critiques nécessaires à une démocratisation. L'enjeu principal se trouve lié au défi d'une appropriation locale de la production scripturale dans un contexte où "les modes particuliers, coloniaux, de formation des classes d'État semblent jusqu'à présent exclure la nécessité productive, bureaucratique et politique de la maîtrise populaire de l'écriture et de la lecture"¹⁹. Dans le contexte (post-) colonial les choses se sont donc passées autrement qu'en Occident où l'enculturation démocratique est historiquement liée à un apprentissage de l'écriture faisant partie d'une modernisation autoritaire imposée par l'État. La place des différents genres d'écriture dans les sociétés africaines reflète cette situation: "[L]es conditions de leur production, diffusion, lecture et critique sont plus ou moins atypiques par rapport aux modèles valorisés par ces producteurs eux-mêmes, provenant tout naturellement de l'occident."²⁰ Dans ces conditions, où "l'indigénisation de la production scripturale reste problématique"²¹, Copans cherche à reconstruire le cheminement écrit du politique et ses répercussions populaires à travers quatre genres différents: le journalisme, les sciences sociales, la philosophie et la littérature. S'appropriant de la notion levi-straussienne de "groupe de transformation", son idée est que ces genres ont en commun d'avoir été produits par des "figures qui se cherchent dans les interstices de la société colonial"²² et que leur fonctionnement dans les sociétés postcoloniales continue à perpétuer un même modèle orienté "vers le pouvoir et les puissant"²³.

Cependant, en comparaison avec les autres genres d'écriture, c'est avant tout la littérature qui pourrait servir "de passerelle entre sociétés et catégories sociales"²⁴ et créer les bases d'une communauté démocratique construite autour de "l'équivalence collective de valeurs culturelles hétérogènes"²⁵. Ceci grâce à sa liaison avec plusieurs publics en Afrique et en Occident et le fait que sa lecture ne nécessite aucune compétence en dehors de la capacité de lire, d'être inséré socialement et culturellement et de réfléchir. La littérature peut tenir ce rôle médiateur à condition qu'elle prenne en compte l'autodidactisme, le recours aux langues nationales et aux langues étrangères popularisées. Pour l'auteur, la mémoire pourrait ainsi s'installer "au cœur de ces échanges intertextuels, à la fois comme enregistreur mais aussi comme transmetteur des cultures orales

¹⁹ Jean Copans, "La production scripturale de la démocratie ou le sens commun entre journalisme, littérature, philosophie et sciences sociales", in: Basto 2007, 95 (89-112).

²⁰ Copans, in: Basto 2007, 95.

²¹ Copans, in: Basto 2007, 95.

²² Copans, in: Basto 2007, 98.

²³ Copans, in: Basto 2007, 99.

²⁴ Copans, in: Basto 2007, 101.

²⁵ Copans, in: Basto 2007, 97-98.

et populaires de plus en plus réflexives puisque disposant d'un instrument d'objectivation et de critique librement appropriée²⁶. Si l'écriture devient "un signe de l'information, de la discussion et de la délibération démocratique au plus près des populations"²⁷, on peut considérer que la nature démocratique d'un savoir véhiculé par la littérature a moins à voir avec la transmission d'un certain contenu qu'avec la façon dont la littérature exprime avant tout des 'problématiques' et ouvre la voie à un 'processus' interprétatif qui reste ouvert.

C'est dans ce sens que Bernard Mouralis argumente qu'en tant qu'"espace de conceptualisation" la littérature contient "nombre d'énoncés exprimant des problématiques, parce que ceux-ci mettent en contact des notions antagonistes tout en suggérant la possibilité de dépasser ces antagonismes"²⁸. Insistant sur la dimension empirique de ce travail, l'auteur choisit comme exemples le camerounais Mongo Beti et le congolais Tchicaya U Tam'si. Dans le cas de Beti, Mouralis montre comment cet auteur fait ressortir la complexité du système colonial en dépassant une vision stéréotype de l'opposition entre colonisateurs et colonisés. Dans *Le roi miraculé*²⁹, par exemple, Beti nous parle de la conversion au christianisme d'un vieux chef malade qui doit de ce fait renoncer à la polygamie. Cette renonciation finit par provoquer une grave crise politique due à la destruction des multiples alliances que le chef avait contractées par la voie matrimoniale. Venue pour régler le conflit, l'administration coloniale s'en prend violemment au missionnaire responsable de cette conversion. La volonté de ce dernier d'amener les Africains au christianisme entre en confrontation avec l'intérêt de l'administration coloniale de conserver 'les traditions' africaines.

Concernant l'Afrique postcoloniale, dans le roman *Ces fruits si doux de l'arbre à pain*³⁰ de Tchicaya U Tam'si, le héros, membre du parti unique, se livre à une réflexion sur l'histoire de l'Afrique devant ses collègues du comité central. Se demandant si le colonialisme n'aurait pas été la "première grande révolution des temps modernes"³¹ et en la plaçant en continuité avec les 'révolutions' de la période de l'indépendance, le discours du héros met à nouveau en question toute approche binaire. Se trouvent déstabilisées les coupures établies entre période coloniale et postcoloniale, mais aussi la notion même de 'révolution'.

Les œuvres d'Amadou Hampâté Bâ exemplifient selon Mouralis la qualité processuelle des renseignements transmis par le texte littéraire. Dans son

²⁶ Copans, in: Basto 2007, 108.

²⁷ Copans, in: Basto 2007, 108.

²⁸ Bernard Mouralis, "Littérature et savoir en Afrique subsaharienne", in: Basto 2007, 134 (131-146).

²⁹ Mongo Beti, *Le roi miraculé: chronique des Essazam*, Paris, Buchet-Chastel, 1958.

³⁰ Tchicaya U Tam'si, *Ces fruits si doux de l'arbre à pain*, Paris, Éd. Seghers, 1987.

³¹ U Tam'si 1987, 199.

travail autobiographique sur l'administrateur colonial Wangrin,³² Hampâté Bâ souligne qu'il ne s'agit pas seulement de reproduire les informations données par le concerné, mais de mener un travail d'interprétation historique à partir des témoignages obtenus dans les différents postes de l'Afrique Occidentale Française où il avait été amené à servir. De la même façon, les enseignements de Tierno Bokar, le sage de Bandiagara, que Hampaté Ba avait regroupés dans un recueil, ne pourraient pas être considérés comme une 'tradition', mais d'avantage comme une réflexion touchant à la métaphysique et à la morale sociale sans qu'une solution tout faite soit offerte.

L'autonomie du texte littéraire en relation aux catégorisations sociales et la question de la labellisation des littératures

Le fait que ce savoir porté par la littérature ne serait pas réductible à la simple représentation d'une expérience ou d'un contexte social et que la littérature s'est constituée historiquement à travers l'émergence d'une autonomie esthétique, nous amène à la question, qu'à son tour Jacques Rancière se pose, sur le statut du poème dans sa relation avec la communauté et à la discussion qu'il y consacre. Rancière met ensemble deux discussions autour de l'appréciation de l'œuvre d'Homère entreprise par le philologue et philosophe-historien Giambattista Vico. Entre Edgar Quinet, en 1839, et l'écrivain Mbwil a Mpaang Ngal, cent cinquante ans plus tard, au XX^{ème} siècle, se dessine une argumentation commune accusant Vico d'avoir méconnu le lien vivant entre le poète et son peuple. Dans son entreprise de restituer le 'véritable' Homère, Vico avait postulé qu'il ne s'agissait pas, comme le préconisait Aristote, d'un inventeur d'histoires, mais d'un écrivain qui exprimait la vision qu'avaient les hommes, de leur temps et de leur propre histoire. Selon Quinet, une certaine lecture de Vico aurait non seulement réduit le peuple à une pure abstraction, mais coupé le lien entre l'art et la vie. De plus, l'idée que l'écriture homérique aurait été nécessaire pour conserver les poèmes de son temps serait un préjugé de moderne, qui "méconnaît les conditions mêmes du poème, le lien vivant de sa production à sa réception"³³.

Dans le même ordre de choses, l'ouvrage de Mbwil a Mpaang Ngal *Giambattista Vico ou le viol du discours africain*³⁴, fait de Vico le personnage d'un roman accusé d'avoir livré, en le transposant sur le plan d'une écriture, l'espace oral subjectif du conteur africain à l'espace objectivé du roman européen. Rancière

³² Hampâté Bâ, *L'étrange destin de Wangrin ou les roueries d'un interprète africain*, Paris, UGE, 1993.

³³ Jacques Rancière, "Le philologue et le conteur. Littérature, communauté, démocratie", in: Basto 2007, 56 (55-66).

³⁴ Mbwil a Mpaang Ngal, *Giambattista Vico ou le viol du discours africain*, Paris, Hatier, 1984.

voit dans les deux cas l'expression d'une ambiguïté caractéristique entre le statut autonome du poète et sa communauté préexistante. D'un côté, le poème ou récit peut être compris comme ce qui est issu du commun d'une communauté incarnée par sa voix vivante. D'un autre côté, en tant qu'écriture ou 'lettre morte', le poème se distancie de cette communauté primaire. Séparant "les mots des corps pour construire des quasi-corps"³⁵, l'écriture littéraire n'apparaît plus comme étant homologue à un corps social déterminé ou à une réalité spécifique. Au lieu de reproduire un "cercle de représentation"³⁶ propre à la poétique aristotélicienne, fondée sur une adéquation nécessaire entre un certain type de public, les situations, les actions, les sentiments et le langage utilisé, l'écriture – et avec elle la littérature – installe une indétermination. Avec Gustave Flaubert il est alors possible de penser l'existence du roman comme "œuvre que rien ne porte – ni corps d'énonciation ni mémoire de la collectivité"³⁷ et d'envisager la possibilité d'une communauté aléatoire et démocratique des lecteurs. Cette communauté démocratique sera fondée sur la propension du mot écrit à parler à n'importe qui, et donc, à désordonner toute concordance entre mots et corps sociaux.

Pourtant, se maintient en relation au postulat de l'autonomie de la littérature par rapport aux déterminations des réalités de la vie sociale, une tension "entre la singularité sans norme de l'écriture et le fantasme fondateur de la parole incorporée"³⁸. Cela veut dire que la littérature se situe dans une tension entre son indétermination subjective par rapport aux classements culturels et sociaux – l'autonomie dont parle Pierre Halen – et sa puissance de créer un certain monde en commun qui la rapproche de nouveau de l'expérience d'un collectif, expérience thématifiée chez Halen et Copans.

On peut lier cette complexification de la relation entre production littéraire et collectif à un autre débat concernant la façon dont la littérature se trouve labellisée. Sur ce plan, la discussion autour de la possibilité de parler d'une "poétique africaine" – et j'utilise ici un texte que j'ai publié en 2006 dans les *Cahiers d'Études africaines* intitulé "Une poétique africaine est-elle nécessaire?"³⁹ – met en jeu une tension entre des auteurs qui cherchent à définir un 'modèle littéraire africain' à partir d'une tradition ou d'un imaginaire autonome, et des prises de position d'écrivains et de chercheurs qui conçoivent l'écrivain en rupture avec les modèles culturels et

³⁵ Rancière, in: Basto 2007, 63.

³⁶ Rancière, in: Basto 2007, 59.

³⁷ Rancière, in: Basto: 2007, 61.

³⁸ Rancière, in: Basto: 2007, 63-64.

³⁹ Maria-Benedita Basto, "Une poétique africaine est-elle nécessaire?", in: *Cahiers d'Études africaines* 46, 1, 181 (2006), 179-198.

sociaux préexistants. En abordant notamment les analyses de Abiola Irele⁴⁰ et de Louis Henry Gates⁴¹, j'ai essayé de démontrer la façon dont des distinctions raciales et des délimitations communautaires se confondent avec des considérations linguistiques à l'intérieur desquelles l'oralité joue un rôle fondamental comme matrice d'une esthétique africaine ou africaine-américaine. L'argumentation de ces deux auteurs me semble particulièrement intéressante dans la mesure où ils s'efforcent d'apporter des nuances théoriques à leurs propos. Discutant ce qu'il appelle "une imagination africaine"⁴², Irele insiste sur le caractère construit de toute tradition littéraire, tandis que Gates parle de l'influence d'une "tradition vernaculaire noire" sur la "tradition littéraire afro-américaine"⁴³ en partant de l'idée que l'appropriation d'une pensée critique occidentale serait indispensable pour réfléchir sur une critique afro-américaine et que tous les textes littéraires peuvent être considérés à la lumière des renvois à d'autres textes. Pourtant, ces auteurs finissent par établir une relation d'homologie entre langue, littérature, culture et communauté qui les rapproche à des positions qui apparaissent à première vue plus radicales, comme celle de l'écrivain kenyan Ngũgĩ wa Thiong'o. Dans *Decolonising the Mind*⁴⁴, celui-ci défend l'idée que la langue transporte la culture et la culture transporte, par l'orature et la littérature, l'ensemble des valeurs à travers lesquelles nous nous définissons par rapport à nous-mêmes. Par conséquent, Ngũgĩ wa Thiong'o voit l'acte d'écrire dans sa langue maternelle locale, le kikuyu, comme la seule solution pour se libérer de la domination impérialiste de l'Occident.

La présupposition que la littérature s'enracine dans une langue et, avec elle, dans une culture, se retrouve à l'intérieur de ce que Jacques Rancière identifie comme un régime esthétique inspiré par la poétique aristotélicienne propre aux 'belles-lettres'. Dans ce régime est mise en adéquation une certaine façon d'écrire avec un certain contenu, auquel correspondrait un public spécifique. Dans le sillon de la révolution initiée par les frères Schlegel et dont Flaubert, Mallarmé ou Proust se feront les militants, l'écriture littéraire se transforme au contraire "en espace d'expérimentation et d'appropriation de la langue, d'invention d'une autre langue à l'intérieur même de la langue"⁴⁵. Cette forme d'expression ne représente plus un dispositif d'adéquation dans lequel l'écrivain se ferait le porte-parole d'une certaine division entre groupes sociaux. En ce sens, en 1985, lors d'une table ronde intitulée "Écritures ethniques, écritures nationales ou écrire tout court" Catherine

⁴⁰ Abiola Irele, "The African Imagination", in: *Research in African Literatures* 21, 1 (Spring 1990), 49-67.

⁴¹ Henry Louis Gates, *The Signifying Monkey. A Theory of African-American Literary Criticism*, New York-Oxford, Oxford University Press, 1989 [1988].

⁴² Irele 1990, 53.

⁴³ Gates 1989, xi.

⁴⁴ Ngũgĩ wa Thiong'o, *Decolonising the Mind. The Politics of Language in African Literature*, London, Heinemann, 1986.

⁴⁵ Basto 2006, 190.

N'Diaye constate qu'un "écrivain ne peut pas être l'émanation d'un groupe: quand on commence à écrire c'est parce qu'on a des problèmes de langage, et non parce que l'on parle mieux que les autres, c'est un acte individuel"⁴⁶. L'écriture n'implique pourtant pas l'absence d'un lien entre littérature et communauté. Sauf que cette fois-ci elle crée des communautés qui mettent "en commun ce qui n'était pas commun"⁴⁷. Ici, contrairement à l'ancien régime des belles-lettres, la parole circule sans restrictions et n'importe qui "peut se l'approprier, la transformer et la réécrire à sa guise"⁴⁸. En même temps, Rancière considère que la littérature peut également être associée à un univers où "les choses elles-mêmes parlent"⁴⁹. Dans ce cas "la littérature tend [...] à se faire le déchiffrement des signes partout écrits sur les corps des choses et de la langue. Elle rêve au corps glorieux d'une communauté ayant réveillé la force d'histoire et la puissance de communauté assoupie dans tous ces signes"⁵⁰. Cela implique que la littérature est non seulement une force de désidentification, mais peut s'offrir à la mise en œuvre symbolique des identités, des cultures et des nations.

On peut alors conclure qu'à travers la dynamique désordonnante de l'écriture, la littérature ne peut pas être assimilée à la représentation d'un système de valeurs, d'un régime social ou symbolique essentialisé, associé à un *ethos* communautaire. Cependant, cela n'empêche pas que la littérature puisse également participer à la constitution des communautés à travers ses usages sociaux et politiques, ses interprétations et ses effets symboliques. Cette propriété contradictoire de la littérature, qui la fait participer à la fois à la déconstruction et à la construction de l'ordre social et culturel, est certainement pour une grande partie responsable de la difficulté d'analyser les relations entre littérature et culture ou littérature et nation sans les confondre. Dans mon article je concluais:

L'idée d'une poétique africaine [...] conduit à une essentialisation œuvrant à un enfermement. Le problème qui se pose ici, en effet, ne concerne pas la légitimité d'explorer la spécificité d'un univers esthétique et de son cadre socioculturel. La difficulté se trouve là où cet univers et les moyens critiques de son exploration sont réduits à l'expression d'une spécificité culturelle et inscrits dans une généralité dont le signe renvoie à des référents géographiques et raciaux. Cela débouche sur une pensée qui ordonne, selon d'anciens schèmes binaires, les appropriations et circulations hétérogènes dans la longue durée et dans des espaces transnationaux, régionaux et/ou internationaux, en flux sud-sud, sud-nord et non simplement nord-sud. Il faut envisager l'existence de littératures africaines – et non d'une littérature

⁴⁶ Jacques Chevrier, "Écritures nationales, écritures ethniques, ou écriture tout court. Débat animé par Jacques Chevrier", in: *Notre Librairie* 83 (avril-juin 1986), 22 (17-24).

⁴⁷ François Noudelmann, "Entretien avec Jacques Rancière", in: *Rue Descartes* 42 (2003), 88 (84-89).

⁴⁸ Basto 2006, 191.

⁴⁹ Basto 2006, 191.

⁵⁰ Basto 2006, 191.

africaine – et des expériences et échanges individuels multiples qui interrogent des dispositifs identitaires.⁵¹

L'écriture littéraire comme travail de subversion des identités politiques

C'est sous cet ultime aspect que j'aimerais en venir maintenant à une réflexion sur la façon dont un travail littéraire produit une œuvre qui répond à la demande de donner corps à la nation tout en se constituant comme écart, en n'étant pas là où on l'attendait. Je prends ici l'ouvrage *Eu, o povo*⁵² ("Je/Moi, le peuple"), un recueil de poèmes publié dans le cadre des commémorations de l'indépendance du Mozambique, en juin 1975, dans une édition exceptionnelle de trente mille exemplaires. Ce cas est aussi une bonne illustration de la productivité de l'idée d'«enjeux littéraires» et du type d'analyse et de travail critique qui en découle, lequel, comme ici, a mêlé entretiens avec l'éditeur et les autres acteurs impliqués avec les discours autour de l'œuvre, le repérage des pistes de lecture marginalisées au détriment de lectures officielles, etc.

Le point de départ est une vision répandue de ce livre considéré comme l'expression aboutie du modèle d'une 'poésie de combat' consignée comme 'la' poésie 'nationale' dans le contexte de la mise-en-place d'une canonicité littéraire au moment de l'indépendance du pays. Présenté comme étant écrit par un des guérilleros de la lutte de libération, de son nom Mutimati Barnabé João, il fut considéré comme le poème fondateur de la nation mozambicaine, chanté dans les écoles et scandé lors des commémorations. Fruit du désir de constitution d'une société nouvelle à partir de l'expérience de la lutte armée anticoloniale, cette poésie de combat serait alors représentative du lien étroit entre genre littéraire, identité nationale et modèle de citoyenneté. C'est bien ce qui soulève le premier texte critique qui a encadré la réception du livre: *Eu, o povo* représenterait une importante contribution au canon "dans le sens de la création de conditions qui unifient habitudes, mœurs, traditions, en leur donnant une dimension révolutionnaire, et comme il a été souligné [...], contribuant ainsi pour la formation d'une vraie personnalité du peuple du Mozambique"⁵³.

Face à ce classement canonique de l'œuvre qui a orienté toutes ses lectures et analyses, *Eu, o povo* devient finalement un travail daté dont l'obsolescence sera entérinée par la fin du projet révolutionnaire dans les années 1980. J'ai repéré pourtant dans cette œuvre deux stratégies 'littéraires' qui dénouent

⁵¹ Basto 2006, 194.

⁵² Barnabé João Mutimati, *Eu, o povo*, Lourenço Marques, Ed. FRELIMO, 1975.

⁵³ José Mota Lopes, "Poesia e revolução", in: *Tempo* 243 (25 avril 1975), 20 (18-20).

l'identification instrumentale à la nation et font de lui, un chef-d'œuvre intemporel et transnational.⁵⁴ Ces deux stratégies sont l'hétéronymie et ce que j'appelle le brouillage de genres. Elles permettront à l'auteur de subvertir le canon en composant avec lui. Si l'hétéronymie est en elle-même un travail de dislocation, car elle suppose l'accueil d'une altérité radicale au sein du même, le 'je' devient un 'autre', dans l'ensemble de ces poèmes elle se radicalise dans la fabrication volontaire d'un manuscrit dont l'auteur serait un guérillero – par quelqu'un qui non seulement ne l'était pas, mais s'est avéré être un écrivain portugais. Cette stratégie crée alors une *persona* avec des effets esthétiques et politiques, le poème de la nation mozambicaine, comme le poème de toute nation peut être écrit par n'importe qui et, en ce sens, ce poème est celui de toute nation à venir. Quant au brouillage des genres, le poète organise un glissement subtil d'un style épique, propre au chant de la gloire des faits guerriers et constitutif de la poésie de combat (entendue comme aboutissement de la poésie nationale⁵⁵), vers une poésie didactique focalisée sur la vie civile, la paix et le bon usage écologique de la nature, s'aventurant aussi dans le journal intime et l'espace onirique, dispositifs opposés à une écriture épique. Et si dans une première lecture, nous pouvons nous laisser porter par l'idée que ces poèmes sont une arme pointée dans un seul sens, le lecteur sera vite invité à partager une réflexion éthique riche et créative sur les 'travaux et les jours', la vie des abeilles, la défense d'une gestion harmonieuse de l'environnement, ainsi que sur les hommes envisagés dans leurs contradictions et incomplétudes. Nous avons dans ces poèmes une sorte de reprise de la querelle entre Homère et Hésiode dont le but était de répondre à la question: "[Q]u'était-t-il préférable, la poésie didactique ou la poésie épique?"⁵⁶ On y retrouve aussi la thématique des *Géorgiques*⁵⁷ de Virgile, écrits à la demande de Mécène, son protecteur afin de revaloriser l'agriculture laissée à l'abandon pendant les guerres. Et n'oublions pas que dans les *Géorgiques* il n'y a pas que l'éloge du travail, mais la formulation du rapport entre le travail, la paix et le destin des nations. Rajoutons que, au contraire de la poésie épique, le genre didactique peut être considéré comme un genre mineur et périphérique, il est donc bien adapté aux stratégies textuelles de détournement du canon de la nation déployées dans *Eu, o povo*. Un court échantillon de ce travail: dans le poème intitulé "Le vent dans la production", le mot "vigilance" se voit précédé du

⁵⁴ Maria-Benedita Basto, "Enjeux, double je(ux): hétéronymie, genre et nation dans *Eu, o povo* de António Quadros/Mutimati Barnabé João", in: Basto 2007, 183-216.

⁵⁵ Dans une lecture des propositions de Frantz Fanon où l'on ne tient pas compte de toutes les implications et conditions formulées dans le texte, la poésie de combat est un synonyme pour poésie nationale, une sorte d'aboutissement d'un parcours littéraire révolutionnaire. Cf. "Sur la culture nationale", in: *Les damnés de la terre*, Paris, Gallimard, 1991, 268.

⁵⁶ C'est le titre même donné par Hésiode. Cf. "La dispute d'Homère et d'Hésiode", in: Hésiode, *La Théogonie. Les travaux et les jours*, trad. Ph. Brunet, Paris, Librairie Générale Française, 1999, 315-329.

⁵⁷ Virgile, *Bucoliques. Géorgiques. Catalectes*, trad. J.-P.Foucher, Paris, Stock, 1980.

mot “liberté” dans une recreation-déplacement du nouveau vocabulaire associé aux principes de la jeune nation: “[l] va enseigner le vent dans la chanson de la Liberté Vigilante.”⁵⁸

La ‘politique de la littérature’ consiste alors, ici, dans cet entrelacement d’une pratique de l’hétéronymie, qui est une stratégie de désessentialisation identitaire, avec une pratique de déplacement d’un texte vis-à-vis d’un ordre pré-établi, non au sens d’un changement d’un ordre par un autre, mais d’un déplacement qui crée des identités intervallaires et les habite. En ce sens, la désidentification par rapport à un certain genre littéraire canonique déstabilise ainsi, également, les délimitations et identifications politiques auxquelles le canon avait offert un modèle normatif.

J’ai essayé de penser les liens entre deux termes, littérature et démocratie en développant l’idée d’une articulation entre enjeux littéraires et construction d’espaces démocratiques en tant qu’espaces de transformation et de liberté. Le concept d’enjeux littéraires m’a permis de concevoir les multiples manières à travers lesquelles les liens entre création littéraire et ses contextes matériels, intellectuels, politiques et culturels pourraient être envisagés. Partant de mes propres analyses et de celles de certains auteurs qui ont participé à l’ouvrage mentionné dans l’introduction, j’ai décliné ce cadre analytique sous trois axes qui se sont avérés être dans une étroite interrelation: littérature, démocratie et savoir; autonomie du texte littéraire et labellisation; littérature et subversion des identités. S’interroger si “la littérature peut-elle constituer un savoir démocratique” implique une tension entre la reconnaissance de l’autonomie de la littérature par rapport à une représentation des ordres sociaux, moraux ou normatifs et l’idée que l’écriture littéraire donnerait accès à une réflexion critique autour d’une mémoire des expériences politiques vécues. On a retrouvé cette ambiguïté dans la coprésence de la propension de la littérature à désordonner toute concordance entre mots et corps sociaux et sa puissance à créer des collectifs possibles. Pour Jean Copans et Bernard Mouralis, le texte littéraire intègre le lecteur dans un circuit réflexif fondamental pour la constitution d’un certain savoir. Celui-ci prend la forme d’une mémoire des expériences politiques qui sera indispensable à une ‘position’ critique. Il stimule la problématisation des catégorisations stéréotypées, il ouvre la voie aux interprétations multiples et toujours à venir. Comme le montre Pierre Halen, l’autonomie doit se jouer dans l’ouverture de l’éventail des stratégies ‘littéraires’ mêlant tradition et modernité. Le roman “est le genre de ce qui est sans genre”⁵⁹, comme écrira Rancière, constituerait non seulement la voie choisie par les écrivains, mais offrirait la possibilité de représenter l’altérité des voix différentes et indifférenciées. Jacques Rancière voit justement dans

⁵⁸ Mutimati 1975, s. p.

⁵⁹ Rancière 1998, 29.

l'indétermination ou autonomie du roman, la possibilité de se libérer d'un lien qui rattacherait la littérature à des catégories et des formes de subjectivation prédéfinies, soumises aux règles de l'adéquation, créant des conditions d'une égalité démocratique.

J'ai interrogé le fait que la littérature soit à la fois autonome et hétéronome dans la discussion d'une catégorisation de la littérature sous l'idée d'une 'poétique africaine' et dans le projet d'un livre qui représente une nation, tout en déstabilisant les liens fixes entre littérature, genre et identité collective. En ce qui concerne la possibilité de subsumer les littératures d'Afrique sous la forme d'un modèle littéraire commun, nous avons vu la préoccupation d'auteurs comme Abiola Irele et de Louis Henry Gates de l'envisager soit comme l'expression d'une tradition construite, soit en tant que produit d'une intertextualité cosmopolite. Mais cette conception ne leur permet pas de dépasser une perspective dans laquelle race, langue, culture, oralité, littérature et ordre social se confondent.

Sur ce terrain se manifeste la différence entre un régime esthétique aristotélien visant la parfaite coïncidence entre poème, communauté et divisions sociales, et une écriture littéraire dans laquelle la parole désordonne les catégorisations sociales établies, créant des nouvelles langues à l'intérieur d'une langue. La discussion du cas *Eu, o povo* nous a donné la possibilité de voir comment une écriture littéraire, par la mise-en-œuvre d'un brouillage des genres et de l'hétéronymie, interroge et interrompt des procédures menant à la constitution de corps communautaires homogènes. Devant l'identification entre canon politique et canon littéraire axée sur la seule mémoire de la lutte anticoloniale, unique origine de la société nouvelle, *Eu, o povo* ouvre la voie de l'indétermination constitutive à l'ordre démocratique, s'érige en chantier circonstanciel offrant la possibilité de raconter une nation à travers le tissage entre intervalles et désidentifications. Il me semble que c'est justement le fait que la littérature introduit l'indétermination dans l'ordre social, tout en créant des formes d'intersubjectivité, qui rend le lien entre littérature et démocratie pensable et effectif.

Impact des cultures littéraires locales dans le processus de résolution des conflits dans la région des Grands Lacs d'Afrique (Burundi, République démocratique du Congo et Rwanda)

Charles Djungu-Simba K.
Université Pédagogique Nationale Kinshasa

Abstract

Over the past two decades, unremitting inter- and intra-state conflicts have transformed the African Great Lakes region into a vast powder keg; one might even say into the largest hotbed of violence in the world today. In the face of these conflicts, which often escalated into massive humanitarian disasters, the international community became involved here and there; but their initiatives to end the conflicts were for the most part ineffective in instituting any lasting or true peace. Not only do the authors of such initiatives tend to promote 'ready-made' solutions that ignore the history and culture of the peoples concerned, they also act as though African societies have never yet had to deal with war situations. These authors therefore view reconciliation with suspicion and distrust, seeing it either as a simple act of demagoguery or a manipulative implementation of some hidden agenda. The use of non-local literary cultures (e.g. texts intended to restore national harmony or to reconcile belligerent states or communities) in the resolution of conflicts in the Great Lakes region is just one example of how 'foreign' or 'alien' solutions fail. As Michel Naumann points out, African societies have their own cultural means to move forward peace both in policy and in the hearts of the people. This article aims to advocate and illustrate how local literary production can contribute to the promotion of peace in this region of Africa.

Cette contribution aux actes du congrès vise avant tout à présenter une recherche en cours, recherche initiée sous ma direction par un groupe d'universitaires burundais, congolais et rwandais. En fonction des financements que nous espérons obtenir, la recherche s'effectuera concomitamment à l'école doctorale de l'Institut Supérieur Pédagogique de Bukavu (République démocratique du Congo), à l'Institut Supérieur d'Enseignement Pédagogique de Kigali (Rwanda) et à l'Université du Burundi, à Bujumbura. Dans ces trois sites universitaires, nous avons reçu des propositions de recherches doctorales sur la thématique de la culture de la paix que nous comptons accompagner et encadrer et dont nous espérons publier les résultats. À l'origine de notre projet se trouve une préoccupation commune qui pourrait se résumer en un double questionnement: pourquoi et comment intégrer dans les mécanismes officiels de résolution des conflits qui sévissent dans et entre nos pays respectifs, les cultures littéraires locales? Elles font partie intégrante d'un patrimoine culturel considérable dont

l'efficacité, en d'autres époques, a été reconnue et mise à contribution à la fois dans la prévention de conflits et dans l'instauration et la consolidation de la cohésion au sein de nos communautés territoriales respectives.

Nous nous contenterons ici de parler uniquement de l'exploitation qui peut être faite de ce patrimoine culturel sur l'axe synchronique, c'est-à-dire aujourd'hui, et il va de soi que cette recherche ne pourra avoir de sens ni d'intérêt sans une relecture de notre orature. C'est la raison pour laquelle nous inciterons nos doctorants à interroger systématiquement les productions culturelles relevant de nos traditions orales. C'est en effet de leur méconnaissance que découlent bien des méprises et des naïvetés qui caractérisent souvent les solutions proposées pour résoudre ou transformer les conflits. Il est, par exemple, illusoire de chercher à démêler l'écheveau du drame rwandais sans connaître ce qu'est réellement l'*Ubwenge*. Fait culturel indéniable, ses relents seraient observables même aujourd'hui. Ce terme, que beaucoup d'étrangers s'empressent de traduire par 'culture de mensonge', n'aurait en réalité, aux dires de l'écrivain rwandais Gaspard Musabyimana, pas d'équivalent en français. "Il combine à la fois les mots français: intelligence, mensonge, ruse, malignité, duplicité, dissimulation, et fourberie."¹

Que faut-il donc entendre par cultures littéraires locales? Il ne s'agit pas dans notre chef de ranimer le débat éculé autour du concept de localisme mais il est important de savoir que l'intérêt porté au milieu local va de pair avec la conception largement partagée de nos jours à propos de la littérature et du champ littéraire qui ne se réduisent plus à la production de seules œuvres de fiction. Il en résulte une réévaluation de canons esthétiques et plus de souplesse dans la définition de corpus. Cet *aggiornamento* ne peut cependant se concrétiser sans une pratique de terrain, une investigation dans les milieux littéraires locaux, c'est-à-dire là où s'effectuent au quotidien la production et la réception des œuvres.

Pour comprendre comment se construit la représentation du monde ou, ce qui revient au même, quelle représentation se font du fait littéraire les membres d'une communauté donnée, il est important de bien connaître l'histoire, la culture et les traditions de cette communauté. L'évaluation de la production littéraire (ou culturelle en général) doit en effet tenir compte autant de critères esthétiques que des enjeux culturels et politiques. La prise en compte de ces enjeux non seulement autorise une lecture correcte des réalités existentielles (tels les conflits et leurs séquelles), elle confère aussi et confirme la citoyenneté des membres d'une communauté, les réhabilite dans leur humanité dans le cas où celle-ci a été niée ou bafouée. Selon Pierre-Yves Saunier,

¹ Gaspard Musabyimana, "La culture du mensonge au Rwanda", 1 octobre 2009 (<http://www.musabyimana.be>), in: <http://jkanya.free.fr/ubwenge011009.html>, consulté le 13 janvier 2012.

c'est la reconnaissance d'une culture locale qui fonde la légitimité d'une communauté territoriale, s'agit-il d'une nation, d'une région, d'un pays ou d'une cité. [...] [L]a démonstration et l'exhibition de l'existence de modes spécifiques de dire, de faire, de dessiner, de chanter et de peindre sont au cœur de cette ingénierie sociale quotidienne et savante qui se préoccupe de réactiver en permanence les caractéristiques qui fondent et prouvent l'existence d'un groupe territorial.²

La guerre est justement une négation de la légitimité de l'Autre et de sa communauté, elle en constitue une menace. Analysant les différents aspects que la guerre a revêtus tout au cours de l'histoire africaine – tantôt comme instrument de la recherche d'identité(s), tantôt comme expression de l'état de décomposition qui met en danger l'intégrité de communautés territoriales – le critique français Michel Naumann n'hésite pas à affirmer que “les sociétés africaines disposent de considérables ressources culturelles pour faire avancer la paix dans les cœurs et en politique”³.

Cependant, au vu de l'image chaotique que donne à voir de nos jours l'Afrique, et surtout l'Afrique des Grands Lacs, le moins que l'on puisse dire est que les cultures littéraires locales soit n'ont pas réussi à dépasser le seuil de curiosités exotiques, soit leurs vertus thérapeutiques sont loin d'avoir été reconnues par tous. Pour certains chercheurs occidentaux, tel Alain Ricard, la disqualification de cette production littéraire résiderait dans sa difficulté à dire l'histoire.

Il y a dans la littérature des Grands Lacs un silence sur l'histoire qui contraste violemment avec la présence massive de la littérature d'exploitation et de colonisation [...]. Ainsi l'Afrique centrale a-t-elle produit très peu de romans et j'aurais beaucoup de peine à citer un titre, aussi bien ougandais que burundais ou zaïrois du Kivu. Cette difficulté à s'exprimer n'est pas propre au Rwanda et au Burundi: elle paraît habiter les Grands Lacs. Une certaine forme d'indicible semble habiter les traditions dynastiques codifiant la parole.⁴

Est-ce cette “difficulté à s'exprimer” qui justifierait le recours, aujourd'hui, à des écritures de substitution ou par procuration⁵ pour codifier une grammaire de la paix (de quelle paix?) et, éventuellement, instituer une culture de la paix? C'est une question qu'on ne peut pas évacuer lorsqu'on observe, dans le cadre des initiatives que déploie la communauté internationale en vue d'enrayer le cycle

² Pierre-Yves Saunier, “Que faire (du localisme)? L'Institutionnalisation de l'identité locale, Lyon au XIX^{ème} siècle”, in: Vincent Dubois – Philippe Poirrier (éds.), *Politiques locales et enjeux culturels. Les clochers d'une querelle XIX^{ème}-XX^{ème} siècles*, Paris, Comité d'histoire du ministère de la Culture/ Fondation Maison des Sciences de l'Homme/La Documentation Française, 1998, 29-52.

³ Michel Naumann, *Les nouvelles voies de la littérature africaine et de la libération. Une littérature “voyoue”*, Paris, L'Harmattan, 2001, 124.

⁴ Alain Ricard, “Échos du silence: remarques sur la littérature des Grands Lacs...”, in: *Études littéraires africaines* 14 (2002), 4-9.

⁵ À la manière de certains coloniaux qui, voulant susciter des vocations littéraires locales, se firent passer pour des écrivains autochtones en signant leurs écrits sous des noms africains d'emprunt.

de conflits dans la région des Grands Lacs, l'attention particulière et les moyens considérables qui sont consacrés à la production et à la diffusion de toute une littérature destinée à accompagner le processus de restauration de la paix. Il est certes difficile d'augurer de l'impact réel et immédiat de cette littérature auprès de consommateurs ciblés.⁶ Ce qui est par contre de toute évidence c'est la présence dans les textes produits (publications de facture scientifique, sketches et pièces radiophoniques, pièces de théâtre, BD, vidéos, chansons, affiches, etc.) d'un discours bien structuré, volontariste et optimiste à souhait, qui aurait pour unique finalité de restaurer la paix à tout prix et de prôner la réconciliation malgré tout – quitte à susciter et à alimenter la méfiance de ceux qui croient (et l'affirment) à une collusion possible entre les organismes qui financent les projets producteurs de ces textes et ceux qui tirent les marrons du feu de situations de conflits ou de post-conflits dans lesquelles croupissent depuis plusieurs années déjà les populations de cette contrée.

Les cas de *Pole Institute* et de *Search For Common Ground* sont à cet effet très révélateurs du malaise que l'on ne peut ne pas éprouver face aux initiatives de paix élaborées de l'extérieur. Il s'agit de deux projets en œuvre dans l'est de la République démocratique du Congo, région qui, malgré la cessation officielle d'hostilités, peine à émerger de l'état de belligérance.

*Pole Institute*⁷ ou Institut interculturel dans la région des Grands Lacs a été créé en 1997 lors d'une conférence regroupant à Bonn, en Allemagne, des membres de la société civile du Kivu, alors en pleine guerre. Il rassemble aujourd'hui une dizaine de chercheurs multidisciplinaires, issus de plusieurs ethnies congolaises et basés pour la plupart à Goma, chef-lieu de la province congolaise du Nord-Kivu. Cet institut se veut "un carrefour de réflexion et d'échanges dans une région où depuis la nuit des temps se sont brassés des peuples autour des richesses que leur offrait une nature généreuse"⁸. *Pole Institute* est surtout connu pour ses publications⁹ dont le but avoué est "de développer et de vulgariser les idées avant-gardistes en matière de paix et contre le *mal développement*, [avec] une attention soutenue et particulière [...] sur les aspects de la falsification de l'histoire des Grands Lacs et sur les enseignements du passé pour construire le présent

⁶ En cause aussi les supports de médiation utilisés (internet, radios) qui ne sont pas toujours d'accès facile, y compris l'écriture.

⁷ *Pole*, mot swahili utilisé pour consoler une personne éprouvée ou affligée.

⁸ *Pole Institute. Institut interculturel dans la région des Grands Lacs*, "Qui sommes-nous", in: <http://www.pole-institute.org/site%20web/quisom/genese.htm>, consulté le 13 janvier 2012.

⁹ Trois au total: *Regards croisés* (périodique qui propose une lecture plurielle du contexte actuel); *Fissures* (des monographies sous la forme d'analyses sur les lézardes qui menacent la société congolaise) et *Dossiers* (des études plus fouillées portant sur les enjeux de l'heure).

et le futur¹⁰. C'est curieusement la lecture de l'histoire régionale de *Pole Institute* que contestent ses détracteurs. Pour eux, derrière cette fumée de propagande et de belles intentions, se cache une volonté de faire implorer le Congo, coupable de son gigantisme et de son incapacité à protéger ses minorités. C'est pourquoi ils fustigent le rôle dévolu à cet institut¹¹, celui de "pourvoyeur d'idées de la balkanisation du Congo"¹².

On pourrait de prime abord s'étonner de voir épinglé ici *Search For Common Ground*, une ONG américaine fondée en 1982 et qui parmi ses méthodes d'approche privilégie l'immersion dans les cultures locales, tout comme l'appui sur la sagesse et la créativité des individus et des communautés afin de renforcer leur capacité à résoudre leurs propres conflits. Cette organisation opère en République démocratique du Congo depuis 2001 sous l'appellation de Centre Lokolé, essentiellement à partir de Bukavu, chef-lieu de la province du Sud-Kivu, théâtre de violences chroniques inouïes contre des populations civiles abandonnées par leur État. Elle a initié des programmes radiophoniques, édité des supports didactiques, produit du théâtre participatif dans lequel interviennent aussi bien des comédiens amateurs que des anciens enfants soldats ou des femmes victimes de violences sexuelles, autant d'initiatives et projets pour convier et impliquer la population dans la recherche d'une paix durable.

L'impact demeure toutefois fort mitigé. Ce qui est en cause, ce n'est ni la sincérité ni la générosité des initiatives, mais le côté patchwork, touche-à-tout et passe-partout des produits proposés, qu'il s'agisse de BD, de prospectus, ou de pièces de théâtre. Le discours distillé est par ailleurs partial et naïf: tout est présenté comme si ce qui arrive était la faute de seuls soldats et de seuls rebelles; et qu'il suffit de les *éduquer* pour que les conflits disparaissent et que la paix revienne. On en arrive ainsi à faire accroire que sur l'autel de la réconciliation tant recherchée, on peut faire l'impasse sur le passé récent et toutes les atrocités amenées par les conflits, sur la responsabilité des élites politiques dans la déconfiture nationale, et la collusion de la communauté internationale. Nous faisons nôtres les conclusions d'une recherche universitaire récente, que nous avons accompagnée, sur l'expérience du Centre Lokolé (SFCG) en matière de théâtre. Elles fustigent avec raison son amateurisme et finalement le peu d'ancrage dans les réalités culturelles locales:

¹⁰ *Institut Africain de la Gouvernance*, "POLE Institute - Institut Interculturel dans la Région des Grands Lacs", in: http://www.iag-agi.org/spip/fiche-organisme-88_fr.html, consulté le 13 janvier 2012.

¹¹ Financé par Evangelischer Entwicklungsdienst – EED (Allemagne), Novib (Pays-Bas), Union Européenne et DFID (Department for International Development, Grande-Bretagne).

¹² Emmanuel Nashi, "Lumière sur Pole Institute, la Think Tank de la balkanisation du Congo", in: http://www.umoya.org/index.php?option=com_content&task=view&id=4082&Itemid=41, consulté le 12 septembre 2011.

Tant que le théâtre pratiqué ne sera pas du vrai théâtre avec toutes les exigences techniques (choix de sujets et de comédiens, organis[ation] des séances de répétition, dispos[ition] d'espaces et matériels appropriés pour la représentation, etc.) et professionnelles (moyens financiers, disposer d'animateurs, encadreurs et metteurs en scène qualifiés pour les troupes, etc.), tant que les réalités culturelles locales ne seront pas intégrées dans les projets initiés, tant que l'autorité politique n'instituera pas un État de droit, les bonnes volontés – avec ou sans agendas cachés – ne pourront pas seules suffire pour instaurer la paix.¹³

Un autre matériau qui nous intéressera, ce sont tous les textes, au sens le plus large (oralité, chanson, presse, discours politique, etc.), nés à la faveur de ces conflits ou qui s'en sustentent pour rendre compte, à la manière d'un révélateur, de nouvelles configurations des sociétés de la région. Les conflits successifs ont en effet bousculé les positions sociales, provoqué des luttes de classes et créé des possibilités inédites de mobilité dans l'échelle des rangs sociaux (ascensions, déchéances, émergence sur toutes les scènes de la vie publique de groupes nouveaux, etc.). Ils ont aussi, avec leur chapelet d'horreurs, déconstruit l'imaginaire de presque tous les individus, dont les enfants et les jeunes. En attendant d'aider les uns et les autres à reconstruire leur imaginaire, ces textes, croyons-nous, pourraient donc nous offrir une certaine photographie des sociétés burundaise, congolaise et rwandaise actuelles.

Les 'nouvelles', six au total, que nous avons réunies dans le recueil intitulé *Les terrassiers de Bukavu* appartiennent à cette catégorie de textes. La facture de la plupart d'entre elles est difficilement compatible avec l'identité générique protestée, affichée. À une certaine époque, l'institution littéraire congolaise ne les aurait jamais intégrées dans le corpus littéraire national. D'ailleurs pour les faire accepter, nous avons cru devoir les escorter d'une préface et d'une postface portant la signature de deux éminences grises du microcosme littéraire congolais.¹⁴ Autant de rituels dont le lectorat de Bukavu, loin du centre institutionnel qu'est Kinshasa, n'a pas eu cure; il s'est en effet spontanément approprié la production et a consacré ses auteurs comme écrivains à part entière.

Il est intéressant de souligner que ces auteurs avaient été sollicités, dans le cadre d'un concours littéraire, pour rédiger des nouvelles qui devaient parler de Bukavu sans plus. Contre toute attente, tous ont sauté sur l'occasion pour parler de conflits armés dont leur ville a été plus d'une fois victime de la part du Rwanda et de rebellions armées ou soutenues par Kigali. Voici comment l'un des auteurs justifie

¹³ Marie-Stella Kitoga, *Du bon usage du théâtre dans le processus de réconciliation et de transformation des conflits. Expérience du Centre Lokolé au Sud-Kivu (RDC)*, Mémoire de licence, Centre d'Études théâtrales, Université catholique de Louvain, 2009.

¹⁴ Il s'agit respectivement du Professeur Justin Bisanswa, titulaire de la chaire de recherche du Canada en Littératures africaines et Francophonie, et de Nyunda ya Rubango, critique littéraire et professeur à l'Université de Creighton, États-Unis.

la dérive: “Si nous nous étions contentés de rédiger de simples nouvelles, ces choses-là seraient restées coincées à travers notre gorge!”¹⁵ Tous les ingrédients que Michel Naumann attribue à la littérature dite voyoue se retrouvent dans ces textes hybrides, à savoir “[p]icaros sans espoirs, sociétés plongées dans l’horreur et l’excès, franche immoralité, hédonisme cru, nominalisme joyeux ou cynique, langue familière, argotique et folle, récits éclatés”¹⁶. Si elle devait prouver quelque chose, cette expérience éditoriale montre que si des textes en tant que tels sont rares dans la région des Grands Lacs, les écrivains, eux, sont là, tissent dans l’anonymat, prêts à se saisir de toute opportunité pour dire leur histoire, à leur manière. Il suffit de vouloir les écouter, sans a priori. C’est ce que nous allons essayer de faire dans le cadre de notre projet de recherche.

¹⁵ Charles Djungu-Simba K. (éd.), *Les terrassiers de Bukavu*, Paris, L’Harmattan, 2009.

¹⁶ Naumann 2001, 20.

Haïti, de la mise en scène littéraire à la déconstruction des paradigmes

Yves Chemla
Université Paris-Descartes

Abstract

The paths taken by Haitian writers in resisting F. Duvalier aimed at a work of deconstruction. Even though publishing in Haiti suffered a setback between 1957 and 1971, the writers who remained in Haiti and those who emigrated – mainly to Quebec and France – elaborated a literature which renewed well-trodden paths. Observing the dictator's habit of distorting discourse, they questioned the very conditions of social representation and its writing. Following a period necessary for their stabilization in new environments, both in Haiti and abroad, and after the failure of direct and armed conflict, Haitian writers dedicated themselves to a critical re-reading of history and to social studies. It is astonishing to notice how international organizations observed in silence the Haitian scene and Duvalier's dictatorship, which made good use of its influential relationships and of the conflict between the western and eastern blocs to maintain its hold.

Haïti est un épitomé de l'histoire de l'ingérence étrangère, de son invasion initiale, jusqu'à la plus récente et plus tragique actualité. Certes, on ne saurait assimiler la conquête espagnole, la Traite, l'esclavage, l'expédition Leclerc, les interventions européennes tout au long du XIX^{ème} siècle, l'occupation étatsunienne entre 1915 et 1934, avec le débarquement de 1994, la mission, en cours, de la MINUSTAH (Mission des Nations Unies pour la stabilisation en Haïti) et le déferlement international depuis le 12 janvier 2010. Mais il convient aussi de rappeler que toute l'aventure de la littérature haïtienne exprime un refus rageur de ces présences étrangères, depuis les pamphlets du baron de Vastey (1820). On relèvera que le déchaînement de la violence duvaliériste¹, à partir de 1957, ne semble pas avoir suscité d'ingérence, sinon par le biais d'officines, aux fonctions souvent inavouables.² La communauté internationale a été singulièrement absente d'Haïti, entre les années 1960 et 1980. En revanche, la mise en roman de cette terreur et de ses conséquences sociales inhumaines a été l'objet d'une production considérable. Inscrit depuis les années 1930 dans la tradition du roman du retour à la terre, ouverte par Lespes et surtout par Roumain, le roman haïtien a rompu

¹ On distinguera, dans la mesure du possible, les adjectifs *duvaliériste* et *duvaliérien*: le premier qualifie les postures et les actions politiques; le second, les normes d'un discours.

² Cf. par exemple les interrogatoires de Mohrenschildt et le rapport de la commission Warren le concernant, in: http://mccadams.posc.mu.edu/russ/testimony/demohr_g.htm, consulté en juillet 2009.

avec ces codes dévoyés par le discours de Duvalier, pour parvenir à nommer le désastre, et l'ignominie.

Or, l'émigration et l'exil de très nombreux Haïtiens depuis les années 1960 ont aussi modifié la donne: la littérature haïtienne est aussi littérature de l'extérieur, qui, depuis Paris, ou Montréal, principalement, tente de rattraper une haïtianité souvent exaltée comme un mythe, aux antihéros meurtris. Le présent article distinguera deux postures, dans le cours de l'histoire de ces cinquante dernières années: d'une part, la célébration des combats politiques et militaires appuyés sur les discours du communisme internationaliste, depuis Paris – ou Cuba –, et de l'autre côté, des postures d'intégration, qui se sont appuyées sur la Révolution tranquille, au Québec. On retiendra de cette opposition aux visées littéraires différentes, une mise en silence relative du champ proprement haïtien en France, et sa reconstruction en vue de la conquête d'une américanité, certaine de son ancrage dans une histoire en cours d'écriture, au Québec. À l'utopie de la société sans classe d'un communisme internationaliste, effondré à partir de 1989, les écrivains haïtiano-québécois avaient substitué une tâche éducative, de déconstruction des paradigmes culturels haïtiens les plus stéréotypés, et d'intégration sociale par le biais d'une communauté structurée. Depuis les années 2000, les deux tendances semblent désormais se rejoindre, du fait d'un mouvement certain de mondialisation littéraire. Mais il n'est pas certain, non plus, que les Haïtiens d'Haïti même, partagent ces mêmes considérations, et la même perception menée depuis l'étranger. Il faut noter, enfin, que le projet de cette contribution s'est trouvé peu à peu modifié, en raison de la qualité des documents qui ont été dépouillés, et des ouvrages qui ont été lus. Cette contribution doit beaucoup à l'ouvrage monumental de Leslie J.-R. Péan³. Il faut aussi noter qu'entre le début de cette recherche et la présentation de ses résultats, un certain nombre de présupposés ont été remis en cause: de nouvelles perspectives se sont sans cesse ouvertes, tout au long de ce travail. Tous les documents nécessaires n'ont pu être pris en compte. Que Gérald Bloncourt, dont les entretiens sont si précieux trouve ici également l'expression de mes remerciements.

Mais il convient, d'abord, de revenir sur ces années terribles: 1957-1971, entre la prise du pouvoir par Duvalier et sa mort. Quand on regarde les photographies des macoutes visibles sur le site Fotki.com⁴, et de ceux qui les entourent, plusieurs détails frappent: la maigreur, la fatigue hébétée dans les regards, peut-être aussi la poussière sur les vêtements défraîchis. Elles forment un violent contraste

³ Leslie J.-R. Péan, *Haïti, économie politique de la corruption*, 4 vols, Paris, G. P. Maisonneuve et Larose, 2003-2007. Le dernier volume, *L'ensauvagement macoute et ses conséquences 1957-1990*, Paris, G. P. Maisonneuve et Larose, 2007, a été plus particulièrement utilisé.

⁴ "L'ère de Papa Doc Duvalier", Fotki, in: http://public.fotki.com/pikliz/very_old_pictures/tontons-macoutes, consulté en juillet, août, septembre et octobre 2009.

avec celles où l'on observe la corpulence de plusieurs dignitaires du régime de François Duvalier, ainsi que la richesse des tenues vestimentaires, qui semblent souvent codées: costumes blancs immaculés, ou bien complets sombres, uniformes rigides. À l'arrière-plan des photographies prises dans les villes ou les bourgades, les façades des maisons menacent ruine, les chemins semblent disparaître. Une indicible présence de pauvreté, de décrépitude qui confine souvent à l'effondrement constitue cet arrière-plan, formant un fort contraste avec le repli dans le bureau bourgeois du 'leader du tiers-monde', comme s'auto-célébraient François Duvalier, ou bien la prétention architecturale des espaces officiels. Déjà, sur ces quelques photos souvent anonymes, se manifestent cette économie et cette visibilité de la corruption, dans tous les sens du terme. Il y a quelque chose de l'ordre de la décomposition dans cette auto-représentation. Les années 1957-1970 sont celles en Haïti de la diminution généralisée: du produit national brut, du revenu moyen, du taux de croissance du produit intérieur brut, de la consommation d'électricité, de la surface cultivée, et de l'espérance de vie. Cet état est l'amplification du diagnostic que pose à la même époque le géographe Paul Moral: à partir des années 1950, l'équilibre entre la population et les ressources alimentaires internes est désormais rompu.⁵ Les tentatives de solutions s'avèrent catastrophiques: Leslie Péan évoque Haïti comme le "laboratoire du diable", qui a réduit "la population à l'état de vermines"⁶. Mais cette considération est aussi celle de l'élite, en tous les cas intellectuelle. Quand on y regarde de près, les contrastes sont forts, même si les regards demeurent toujours aussi hagards, et les paysages aussi décomposés. La dénonciation de la dictature de François Duvalier est complexe, et le relatif silence littéraire qui lui est parallèle n'est pas aisé à interpréter. Il est peut-être l'indice d'un trouble.

Ce sont des années de relatif silence littéraire. La bibliographie qui servira de support a été constituée à partir des recoupements entre diverses productions: celles des fiches bio-bibliographiques du site Île en île⁷, des travaux de Léon-François Hoffmann, de la périodisation définie par Max Dominique dans ses *Esquisses critiques*⁸. On dénombre entre 1957 et 1986, année de la chute de la maison Duvalier, 59 titres (61 si on ajoute deux textes, l'un de Lespès, l'autre d'Alexis, publiés en 1955), en 29 ans, contre environ 200 entre 1986 et 2005, soit en 19 ans. Ces chiffres sont évidemment à prendre avec beaucoup de précautions, tant que des bibliographies réellement exhaustives et scientifiques n'auront pas été établies pour les périodes récentes. Il y manque ainsi les

⁵ Paul Moral, *Le paysan haïtien: étude sur la vie rurale en Haïti*, Paris, G. P. Maisonneuve et Larose, 1961.

⁶ Péan 2007, 52-53.

⁷ "Littérature haïtienne – Île en île", in: <http://www.lehman.cuny.edu/ile.en.ile/haiti/paroles.html>, consulté en juillet, août, septembre et octobre 2009.

⁸ Max Dominique, *Esquisses critiques*, Port-au Prince–Montréal, Éditions Mémoire–Éditions du Cidihca, 1999.

nombreuses plaquettes, comme celles de Frankétienne, publications à compte d'auteur, aux tirages limités, et à la diffusion généralement confidentielle. Il est vrai que les outils manquent, et qu'il conviendrait de consulter les archives haïtiennes elles-mêmes, en cours de rassemblement depuis le séisme du 12 janvier 2010. Il n'en demeure pas moins que ces dénombrements sont significatifs. Des voix se taisent, assassinées, comme celle de Jacques Stephen Alexis. D'autres sont frappées de mutisme: Magloire Saint-Aude, ou Belance qui ne recommence à publier qu'en 1984, Morisseau-Leroy, qui publie, en créole haïtien, *Diacoute 2* à Montréal.⁹ Entre 1957 et 1986, quatorze textes du corpus sont publiés en Haïti, quarante-neuf ensuite. Une quinzaine de textes de François Duvalier qui, en quelque sorte sature l'espace éditorial haïtien, ont été retirés (pour les années 1957-1971). Pour les mêmes périodes, ce sont donc 47 textes publiés à l'étranger entre 1957 et 1986 (sur 59), contre environ 157 de 1986 à 2005 (sur 207). Dans le premier groupe, 18 sont publiés au Canada, 27 en France (l'un d'eux est publié à la fois en France et au Canada;¹⁰ dans le second groupe, 74 au Canada, 79 en France, les autres en Espagne, en Suisse, aux États-Unis, et dans des co-éditions. Le rythme peu soutenu des publications confirme ce que l'on sait et que Rafaël Lucas nomme un "conservatisme ethnologisant qui allait occuper tout l'espace national sous forme d'une dictature obscurantiste essentiellement caractérisée par sa dynamique de déstructuration"¹¹. Nombreux ont été les Haïtiens à quitter leur pays, en plusieurs vagues. Dans les premiers temps de la répression, ce sont essentiellement des professionnels de santé, d'éducation, de services sociaux qui arrivent au Canada. Ils sont rejoints, à partir des années 1970 par des immigrants des classes populaires: ils constituent entre 1974 et 1989 le groupe d'immigrants le plus important à arriver au Québec. La situation est différente en France. L'enquête menée par Bastide et ses collaborateurs¹², fait état de la présence en 1974 d'environ 500 ressortissants haïtiens, pour la plupart étudiants et intellectuels ayant fui la dictature. Cependant il semblerait que les termes de cette enquête soient l'objet de critiques. Ce n'est qu'à partir des années 1980 qu'une immigration plus nourrie est arrivée en France.

Au-delà des ressemblances et des différences signalées par ces quelques chiffres, l'inscription littéraire a sans doute pris des reliefs contrastés. Il faut aussi relever que dans ce contexte, un certain nombre de faits culturels viennent brouiller ce qui pourrait s'apparenter à une distinction des deux côtés de l'Atlantique, le rôle

⁹ Felix Morisseau-Leroy, *Diacoute 2*, Montréal, Nouvelle Optique, 1972.

¹⁰ Jean Jonassaint, *Le pouvoir des mots, les maux du pouvoir des romanciers haïtiens de l'exil. Entretiens avec Jean Jonassaint*, Paris-Montréal, Éditions de l'Arcantère-Presses de l'Université de Montréal, 1986.

¹¹ Rafaël Lucas, "L'esthétique de la dégradation dans la littérature haïtienne", in: *Revue de littérature comparée* 302 (2002), 191 (191-211).

¹² Roger Bastide – Françoise Morin – François Raveau, *Les Haïtiens en France*, Paris-La Haye, Mouton, 1974.

symbolique conféré à la place de Paris dans la démarche éditoriale. Il conviendrait, là encore, d'établir très précisément la dialectique des éditions d'expression française entre le Canada, particulièrement Montréal, et Paris. La dynamique qui veut que la consécration, mais surtout la diffusion, passent nécessairement par la capitale française mérite aussi d'être précisée, et surtout analysée dans une perspective qui prend en compte le temps, les changements d'équilibre et de points de vue. La véritable difficulté est ici d'échapper à une vision franco-française implicite, quoique minorée dans la mesure du possible. La notoriété est une donnée éminemment subjective qui dépend de l'angle de perception de l'observateur, même si des calculs peuvent être menés sur la diffusion des ouvrages et les chiffres de vente à l'échelle internationale. Mais, on le sait, pendant longtemps, la diffusion des œuvres d'expression française publiées sur le continent africain, dans la Caraïbe, au Québec et en Europe, plus généralement, en France a été sévèrement limitée. En revanche, les réseaux tissés par les circulations ont permis à des publics restreints de connaître, un peu, ce qui s'écrivait des deux côtés de l'Atlantique. Mais cette diffusion ne concernait que des cercles limités. Ainsi, la notoriété éditoriale d'un écrivain relativement prolifique comme Gérard Étienne n'a pas atteint la France avant les années 2003-2005, et encore est-elle limitée. Il en va tout autrement au Québec. À l'inverse, Émile Ollivier, vivant à Montréal, et dont les romans ont été publiés en France par Albin Michel et *Le Serpent à Plumes*, a vu sa diffusion accomplie en France et au Québec. Enfin, on ne négligera pas non plus le fait suivant: sur la scène littéraire française, les littératures francophones, du sud, îliennes, postcoloniales... ont acquis en une trentaine d'années plus qu'un droit de cité. Des centres de recherches se sont ouverts, et ces littératures sont également devenues des terrains d'études, en même temps qu'une source de revenus non négligeable dans le monde éditorial. La littérature haïtienne n'a pas échappé à cette dynamique complexe.

Pour parvenir à construire un ensemble d'interprétations de ce qui est arrivé à Haïti dans ces années terribles, on essaiera d'abord de stabiliser quelque peu le contexte duvaliérien, et d'analyser le silence littéraire relatif. Puis on tentera une analyse comparée des textes publiés au Québec et en France dans la période 1971-1986, après avoir rappelé les publications marquantes dans la même période en Haïti.

Duvalier, maître des paroles

Les discours autour de la dictature

Il convient d'abord de s'interroger sur le statut des écritures qui se dressent contre Duvalier. En effet, la dégradation sociale, en Haïti, relève du long terme, et a émaillé de ses crises les XIX^{ème} et XX^{ème} siècles. La littérature haïtienne a fait

de cette dégradation un thème courant, traitant par la fiction les interrogations touchant aux césures du lien social et à la quasi impossibilité à élaborer un projet national et sociétal. La période Duvalier ne déroge pas à cette construction au long cours. Mais la brutalité du régime, la tétanisation des esprits a aussi quelque peu modifié cette donne. Les intellectuels qui ont tenté de résister devaient aussi le faire en réaction à un ancrage du discours dans une série de piliers: le noirisme, le supplément d'âme, la réaction anticoloniale, le panafricanisme, tous discours instrumentalisés par le docteur. Comme le rappelle Michaël Dash, "there was nothing unusual about Haitian presidents assuming dictatorial powers. However, the extreme nature of the Duvalierist state makes it the most disturbing manifestation of state power by first of all neutralizing all the institutions in civil society that could pose a threat to his regime"¹³. C'est bien autant cette emprise dans tous les secteurs que la rare violence par laquelle s'exerce la dictature qui plongent dans l'hébétéude. L'armée, le système éducatif et universitaire, les églises, les syndicats, le système économique, les medias sont mis au pas. Duvalier installe son pouvoir sur une base populaire large, relayée par la milice des Volontaires à la Sécurité nationale, les *macoutes*. Dash le confirme, à la suite de la plupart des commentateurs de cette histoire: "Violence alone could not provide security for this regime. Rather, it was the size of the social base that it could not draw on as well as the shrewd manipulation of popular culture that made Duvalierism unique and eventually turned it into a hereditary dictatorship."¹⁴ Ainsi, on connaît la façon dont il a détourné la religion populaire et paysanne du vaudou, se moulant dans la gestuelle et dans la tenue vestimentaire du terrible *Baron Samedi*, le gardien des cimetières, parant sa propre voix des articulations nasales des *guédés*¹⁵, par exemple, se déclarant le maître symbolique du monde des relations sociales et familiales. Il aura ainsi encouragé l'articulation entre pouvoir macoute et emprise des esprits. Simone Duvalier, son épouse, sous couvert de charité installera la cité Simone, plus connue désormais sous le nom de Cité Soleil, considérée comme un des pires bidonvilles des Amériques, et un des foyers gangstéristes du pays. Il convient de revenir sur ces faits et de leur apporter un éclairage critique.

André-Marcel d'Ans dressait tout de suite après la chute de la maison Duvalier une esquisse mesurée de l'action de François Duvalier, ainsi que de son portrait. Dans *Haïti. Paysage et société*, publié en 1987, il s'en prend violemment à "la contre-propagande anti-duvaliériste [qui] fourmille d'exagérations fantasmagoriques"¹⁶.

¹³ J. Michael Dash, *Culture and Customs of Haïti*, Westport, Greenwood Press, 2001, 16.

¹⁴ Dash 2001, 17.

¹⁵ Une des familles des loas du vaudou. Karen McCarthy-Brown, *Mama Lola. A Vodou Priestess in Brooklyn*, Berkeley-Los Angeles, University of California Press, 1991, 391-392, donne quelques éléments de leur description: "Gede has license to break all the social rules. [...] In the presence of Papa Gede (at birth, making love, and in our coffins), we are all stripped down to our basic humanity."

¹⁶ André-Marcel D'Ans, *Haïti. Paysage et société*, Paris, Karthala, 1987, 206.

Selon d'Ans, la particularité du régime ne repose pas sur la violence, qui a été aussi le fait de ses prédécesseurs, mais bien dans ce que le nouveau régime "affichait cette fois sa détermination de faire usage de la terreur contre des fractions substantielles de l'élite et non plus seulement contre les paysans pauvres qui en avaient jusqu'alors constitué exclusivement la cible"¹⁷. Et la remarque qu'il déduit du départ des élites intellectuelles est par conséquent très sévère:

Une fois installés dans leurs pays d'accueil (Canada, États-Unis et France principalement), les nombreux intellectuels de 'l'élite' haïtienne émigrée, culturellement 'en phase' avec les bourgeoisies occidentales, eurent donc beau jeu non seulement d'y semer l'information (ou la désinformation) qui les arrangeait, mais également d'y concocter à fort peu de frais des montages idéologiques qui doubleraient sans effort le duvaliérisme aussi bien sur sa gauche que sur sa droite, le dépassant en illusionnisme et en nationalisme chaque fois qu'ils ne lui intentaient pas le rentable procès des 'droits de l'homme' [...]. En un mot, cette 'élite' émigrée bénéficia toujours en Occident d'un crédit médiatique illimité pour faire écho à sa rancœur et à ses utopies politiques, tout en étant par ailleurs déchargée de l'encombrant fardeau de gérer le réel haïtien.¹⁸

Cette vigoureuse critique¹⁹ des élites intellectuelles haïtiennes a, bien sûr, suscité de nombreuses réactions véhémentes, mais, il faut en convenir, peu de réponses construites, à ce jour, comme si surnageait dans les consciences un sentiment de culpabilité. Duvalier apparaît chez d'Ans comme un redoutable politique, qui a pleinement assumé ses décisions et s'est donné les moyens d'atteindre ses objectifs: l'intimidation de toute les forces intellectuelles s'est traduite par leur départ, et la cessation de toute opposition intérieure, dans un pays qui connaît à peine le transistor et pas encore la télévision, seul moyen de diffusion dans un pays dont les habitants sont dans leur très grande majorité analphabètes. Quant aux masses déshéritées, "il ne faisait *rien de moins* que les régimes qui l'avaient précédé"²⁰. La mise en place des macoutes vient couronner en quelque sorte le tableau, car ainsi la corruption, qui était le fait des oligarchies claires, est largement démocratisée. La plupart des corps de l'État et de la société en sont investis, l'armée est muselée, bien incapable dès lors de déclencher un quelconque coup d'État ralliant la population. Quant à la hiérarchie catholique, celle-ci se prête en partie à cette emprise. Malgré les expulsions de Mgr. Poirier et Mgr. Augustin en 1960 et 1961, de 1955 à 1965, celui qui seconde l'archevêque de Port-au-Prince n'est autre que le futur Mgr. Ducaud-Bourget, proche des mouvances traditionalistes françaises et opposé aux décisions de Vatican II.

¹⁷ D'Ans 1987, 207.

¹⁸ D'Ans 1987, 207.

¹⁹ Dans *Nègre je suis, nègre je resterai: entretiens avec Françoise Vergès*, Paris, Albin Michel, 2005, Aimé Césaire revient sur son séjour en Haïti en 1944 et 1945, et à des mots très durs à l'égard de ses élites littéraires.

²⁰ D'Ans 1987, 208.

La critique que fait d'Ans ne prend cependant pas en charge le désastre économique concomitant à l'action politique de François Duvalier, et met l'accent sur les réalisations matérielles du régime (constructions d'écoles, équipement du port de la capitale, construction de l'aéroport, du barrage de Péligre). De même, il ne documente pas le fait littéraire, s'attachant, dans sa critique des 'élites' – les guillemets marquant typographiquement une rapide modalisation – uniquement, à la parole politique et journalistique. Mais au-delà de la vigueur parfois des termes de l'analyse, il faut aussi parfaire l'information. Ces propos de d'Ans nécessitent de très sérieuses nuances. Ainsi sa perception de Duvalier comme dictateur à peu près intègre de tout enrichissement personnel²¹ ne résiste pas à l'analyse des comptes bancaires, on le sait désormais.²² La brutalité sans équivoque du régime, qui semble s'enfoncer dans les oubliettes de l'histoire, voire dans les limbes de l'avant-séisme, doit aussi être présente à l'esprit. Et pourtant, toujours subsiste un soupçon, que d'Ans parvient à mettre en circulation: et si la part de la représentation littéraire négative était celle d'une revanche, espérée et toujours possible? Cette question soulève aussi d'autres perspectives, et d'autres questions, auxquelles on ne répondra pas ici, par exemple celle-ci: qui légitime la présence littéraire haïtienne au plan international?

L'anomie haïtienne

Ce qui nous intéresse est bien plus la représentation de cette brutalité, et le discours qui accompagne cette représentation. Ce discours est largement fondé, on ne le rappelle jamais assez, sur une longue emprise de la dessaisie de soi, dans le temps de la plantation, dans celui du contexte international de la racialisation,²³ puis dans celui de l'occupation américaine, dans les années 1915-1934. Il se traduit par la posture suivante: à l'autre est conféré le contrôle sur soi, ce qui revient à affirmer dans le contexte haïtien, que le sujet colonisé intériorise la vue coloniale, tout en y répondant par une radicale insoumission, qui est le véritable étampage de l'haïtianité. Cette défection est à l'origine d'une chaîne de discours qui devient rapidement incontrôlable. Ainsi, dès 1804, le noirisme prôné par Dessalines est affirmé sans restriction: tout Haïtien est réputé noir, dans la

²¹ D'Ans évoque un "désintéressement personnel dont en vérité il était peu d'exemple dans l'histoire du pays", ou bien son ambition, "de nature exclusivement politique et non pas bassement matérielle" (D'Ans 1987, 208). "Au cours de son gouvernement de 1957 à 1971, François Duvalier a amassé une fortune estimée à 10 millions \$ US par an, soit un total de 150 millions \$ US en quatorze ans" (D'Ans 1987, 312-313). Certains de ces millions ont alimenté des comptes à l'UBS, à Genève.

²² Cf. Péan 2007, 279-286. L'auteur détaille, à l'aide de tableaux comptables entre les pages 279 et 286 un certain nombre de prévarications au détriment de la Régie des Tabacs et des Allumettes.

²³ Yves Chemla, "Edgar La Selve et Haïti", in: Christiane Chauvet Achour – Dominique Fattier – Françoise Moulin Civil (éds.), *Présences haïtiennes*, Cergy-Pontoise, Université de Cergy-Pontoise, 2007, 25-40.

Constitution.²⁴ C'est reconnaître ainsi que le préjugé colonial s'est adapté à la nouvelle situation, qui évince les clairs, eux-mêmes constituant une catégorie non négligeable de la population d'Haïti, en 1805, et qui a, elle, bien souvent intériorisé le préjugé de couleur dans un autre sens. Ces préjugés sont surdéterminés par le contexte international, tout au long du XIX^{ème} siècle, qui voit la montée en puissance des thèses racialistes et des postures qu'elles entraînent:²⁵ ainsi, la fonction diplomatique haïtienne était essentiellement réservée à des hommes présentant des phénotypes clairs. Et c'est ce personnel qui circule, qui a ses entrées dans les salons parisiens, par exemple, et qui, dans des stratégies de reproduction abouties, forme ses enfants à l'étranger, ou pratique une endogamie considérée comme garante de la reproduction. Comme le rappelle Péan, "l'État marron haïtien qui se voulait l'avant-garde du monde noir et la preuve de la fausseté des thèses véhiculées par le racisme esclavagiste anti-noir a été pris au piège du racialisme, du colorisme et n'a pas pu s'en sortir tant au niveau de la pensée que de celui de l'action"²⁶. Parmi les conséquences politiques de ce piège en trompe l'œil, on trouve bien évidemment l'illusion que les phénotypes garantissent succès et défaillances: "L'État marron est porteur d'illusion dans les couches populaires en véhiculant l'idée populiste que les masses participent à la richesse et au pouvoir dès qu'ils [sic] ont un président noir au sommet de l'État."²⁷ Le regard étranger en est d'autant celui du dédain, comme le rappelle dans le cas de Soulouque, François Hoffmann.²⁸ Ainsi en est-il de celui qui est jeté sur Duvalier, et c'est ce que d'Ans tente de critiquer. Il n'en demeure pas moins que le concert cacophonique des disqualifications qui affectent les parties en présence est quasiment essentialisé.

Ainsi, la délimitation d'un contexte littéraire relevant de ces situations sociologiques, en Haïti, et plus globalement, des œuvres intellectuelles, ne repose pas alors sur le mode de l'évidence: l'espace de la représentation est déjà celui de la conflictualité. Représentés et représentants n'y ont pas les mêmes pouvoirs, encore moins les mêmes rôles. L'inscription duvaliérienne dans le texte se range aussi dans cette histoire littéraire. On en donnera un exemple relativement connu, qui est celui du *Vieux Piquet*, de Janvier, publié en 1884. Sur son lit de mort, le vieux paysan guérillero avant la lettre s'adresse à ses enfants: "Notre sang fut versé à flots. Encore une fois nous fûmes vaincus, écharpés, écrasés. C'est depuis lors surtout que, dans les livres qu'ils sont seuls à écrire ou

²⁴ Constitution de 1805: "Article 14. – Toute acception de couleur parmi les enfants d'une seule et même famille dont le chef de l'Etat est le père, devant nécessairement cesser, les Haïtiens ne seront désormais connus que sous le nom générique de Noirs."

²⁵ Yves Chemla, "Louis-Joseph Janvier, écrivain national", in: *Francofonie* 49 (2005), 7-36.

²⁶ Péan 2007, 85.

²⁷ Péan 2007, 85.

²⁸ Léon-François Hoffmann – Carl-Hermann Middelani, *Faustin Soulouque d'Haïti: dans l'histoire et la littérature*, Paris, L'Harmattan, 2007.

qu'ils ont fait écrire, les fils des fusilleurs nous traitent de misérables, d'infâmes, de pillards et d'insolents! Quelle menteuse canaille et quels bandits!"²⁹ On peut analyser ces mots comme la revendication d'un changement de posture littéraire, visant une tradition bourgeoise de la littérature. On peut aussi dans le système haïtien, décaler très légèrement le point de vue, et se souvenir que justement, le nouvel État haïtien, en 1804, est aussi fondé sur la restriction du champ de l'espace politique, qui devient un espace réservé. Les coups d'État successifs ont seulement permis l'accession de nouvelles figures, sans que cette restriction ne s'éteigne. Une grande partie de l'histoire haïtienne peut être lue aussi comme une lutte contre les intellectuels, taxés d'intelligence avec l'ennemi étranger et, partant, tenus pour irrémédiablement racistes. "La disqualification des intellectuels est faite sur la base que leurs idées ne cadrent pas avec les traditions haïtiennes", poursuit Péan.³⁰ L'affirmation du vieux Piquet prend alors, réellement, un autre sens. Et les intimidations de Duvalier, notamment contre les intellectuels Price-Mars, Bellegarde et Gouraige, en 1963, comme la répression sanglante, et la plupart du temps sans autre prétexte que la prédation, s'inscrivent dans une continuité dont la lecture doit être vigilante. Enfin, et pour installer pleinement ici la question de couleur, il faut aussi relever que le noirisme de Duvalier n'était pas aussi radical que le tableau précédent permet de le penser: d'une part, il s'est entouré de ministres et de sbires clairs, mais aussi, le phénotype clair a constitué pour Duvalier un horizon d'attente, notamment pour ce qui concerne les mariages de ses propres enfants, interdisant à sa fille d'épouser un homme jugé trop noir, par exemple. Le teint clair est demeuré pour lui une sorte de mètre étalon de l'apparence. Du moins dans les faits, et la cause noiriste ne semble n'avoir guère joué d'autre rôle que celui de prétexte démagogique. Une grande partie de la rhétorique duvalérienne devrait être ainsi relue à l'aune de cette double imposture.

Le véritable souci, en ce qui touche à la littérature, est que justement il ne semble pas avoir été le seul à subir ou à mettre en œuvre cette double circulation des discours. De nombreux acteurs parmi les intellectuels haïtiens se sont fait de la même façon piéger par les mêmes confusions. Ainsi Jacques Stephen Alexis et René Dépestre, bien qu'auréolés encore de la révolution de 1946, n'auront pu en maîtriser les dérives postérieures, dont la plus éclatante est le renoncement de fait à la cause prolétarienne, au profit de polémiques dont l'arrière-plan est la question de couleur. La gauche haïtienne voit s'effondrer son discours combatif dans une polémique retentissante et publique entre ces deux écrivains, dès 1957, au sujet de l'installation à Port-au-Prince par Depestre d'une filiale de la Société Africaine de Culture, alors qu'Alexis est membre du Comité exécutif international et qu'il n'en a pas été avisé. Les échanges entre les deux hommes sont d'une rare

²⁹ Louis Joseph Janvier, *Le Vieux Piquet. Scène de la vie haïtienne*, Paris, Antoine Parent, 1884, 21.

³⁰ Péan 2007, 89.

violence, et vont jusqu'à des accusations de corruption, pas toujours, semble-t-il, infondées, de la part d'Alexis.³¹ Cette polémique retentissante, de la part de deux intellectuels et écrivains majeurs, qui aura été comme un piège tendu par cette "syntaxe collective de raisonnement"³², selon l'analyse critique et assez désabusée d'André Corten, complète l'habile politique de récupération des forces et des intellectuels de la gauche menée par Duvalier, qui aura toujours intégré à ses gouvernements successifs des personnalités réputées de cette fraction politique proche des populations les plus défavorisées, ouvrières et paysannes, et qui supportent de plus en plus difficilement la corruption généralisée et l'anomie juridique qui poursuit, sous Duvalier, son installation.

C'est justement sur ce terrain des masses que la victoire aura été la plus écrasante. Les forces de la gauche communiste ou proche du parti y seront combattues dans leurs propres ressources, Duvalier agitant avec une redoutable habileté, l'épouvantail communiste face aux gouvernements états-unis. Les mouvements de masse opposés à Duvalier échoueront systématiquement, faute d'ancrage populaire. Les invasions régulières d'opposants armés se heurteront à ce front populaire, ou à tout le moins, ne disposeront pas d'une aide telle qu'elle leur aurait permis de se fondre dans la population. Et ces invasions faciliteront le déclenchement de campagnes de répression. Les paroles de Duvalier auront aussi assuré l'emprise des esprits, qui savaient aussi de quel désastre social et économique, déjà, elles revenaient:

À un système social archaïque, anachronique et dont a commencé la transformation, le Gouvernement substitue graduellement la société nouvelle aux dimensions nouvelles pour que l'égalité soit chargée d'un contenu social et politique. C'est la marche logique de l'histoire, celle que les classes moyennes et les masses, en pleine possession de leur destin et armées de leur volonté d'émancipation, ont reprise depuis que l'effort commun commence à colorer l'existence pour tous, à en élargir le sens et à donner à l'homme la clef de son bonheur. Mon Gouvernement qui sait le prix des luttes des grandes multitudes pour se réintégrer dans la nation à laquelle elles appartiennent et qui pendant plus d'un siècle a été, sous le masque de l'égoïsme, étrangère à leurs problèmes, regarde par delà ces vues étroites d'hier, confinées aux particularismes et aux déformations.³³

'Système social archaïque', 'émancipation', 'colorer l'existence', ces expressions qui reviennent dans la bouche et sous la plume de Duvalier font écho aux conditions de vie souvent indécentes dans lesquelles étaient confinées ces masses et ces classes moyennes noires par les élites claires, et surtout à la

³¹ Péan rappelle ainsi "les faveurs octroyées par le gouvernement à travers les per diem à ceux qui voyagèrent à Paris pour assister au Congrès des Écrivains et Artistes Noirs en 1956" (Péan 2007, 372). Information recoupée par un entretien avec Gérald Bloncourt, octobre 2009.

³² André Corten, *Diabolisation et mal politique. Haïti: misère, religion et politique*, Montréal, CIDHICA, 2000, 28.

³³ François Duvalier, *Face au peuple et à l'histoire*, Port-au-Prince, SID, 1961, 51.

répétition des considérations essentialistes qui appuyaient ces confinements. Encore que, on le sait, cette situation n'est pas tout à fait exacte, et qu'elle nécessite des nuances. Ainsi, Jacques Stephen Alexis lui-même, diplomate, fils de Stephen Alexis, accomplira une partie de ses études secondaires dans un prestigieux établissement français privé, le collège Stanislas. C'est la très grande force de l'idéologie duvaliérienne d'avoir en quelque sorte familiarisé et diffusé cette situation. On sait aussi que les premiers craquements du régime se sont fait entendre lors de la célébration du mariage de Jean-Claude Duvalier et de Michèle Bennet Pasquet en 1980, qui scellait publiquement l'alliance entre le régime noiriste et les élites claires.³⁴ On le sait aussi, cette alliance objective avait été aussi actée, autant que possible, dès l'installation du régime de François Duvalier.

1957-1971, textes littéraires

La dénonciation du régime duvaliériste dans les lettres se heurte alors à la radicalité démagogique du discours de Duvalier. Les textes littéraires publiés dans cette période de 1957-1971 ne semblent pas porter directement sur la période, à l'exception de deux d'entre eux. S'ils le font, c'est de manière latérale, d'abord, du moins on l'estimera ainsi. *Les arbres musiciens*, *L'espace d'un cillement* et le *Romancero aux étoiles*, d'Alexis, respectivement de 1957, 1959 et 1960 explorent dans l'histoire récente haïtienne des situations et des contextes merveilleux des espaces du possible révolutionnaire. Il faut aussi prendre en considération l'intervalle de temps entre la composition de l'ouvrage et sa publication par Gallimard. *La danse sur le volcan*, au titre prémonitoire, publié par Marie Chauvet en 1957, rend compte d'une autre approche romanesque, qui est celle de la recomposition de l'origine, par delà l'écran historique des "Pères de l'indépendance", sur lequel semble se projeter sans relâche un générique de début de l'histoire d'Haïti. L'œuvre est critique, aussi, dans son projet de réinscrire le destin des femmes dans le récit historique haïtien, tout en réhabilitant tous les ancêtres, "noirs comme blancs"³⁵. Le roman déclarait ainsi une opposition de principe aux thèses de Duvalier, comme les romans d'Alexis, qui remettait en cause l'atomisation de la société haïtienne. On trouvera également un texte d'une grande puissance qui présente une vision hallucinée, et cocasse, mais aussi empreinte d'une crainte absolue, *Les chiens*, de Francis-Joachim Roy. Le cas de cet auteur est particulier, et constitue quasiment un hapax dans le corpus. Né en 1923 à Port-au-Prince, Roy est un militant communiste, attentif à la condition

³⁴ Cf. par exemple Jean Claude Duvalier – Michèle Bennet, Wedding 25 Mai 1980, <http://youtu.be/Fy88wGtoS60>, consulté le 28 mai 2010, vérifié le 22 janvier 2012. Le retour de Jean-Claude Duvalier en Haïti le 16 janvier 2011, et son activité politique actuelle, rendent particulièrement instables les références à ce type de document.

³⁵ Anne Marty, *Le personnage féminin dans les romans haïtiens et québécois de 1938 à 1980. Traitement et signification*, Thèse de doctorat de littérature comparée, Villeneuve d'Ascq, Presses universitaires du Septentrion, 1995, 228.

paysanne. Arrêté, emprisonné, il s'installe en France en 1949. Il tente de se réinstaller en Haïti en 1954, qu'il quitte définitivement en 1957, en raison de son opposition très ferme à Duvalier. Professeur de littérature, traducteur, il ne publie que ce seul roman, quasi inconnu du public haïtien.³⁶ Sous forme d'une longue *lodyans* (genre narratif oral lié au récit de l'actualité et à ses anecdotes), il raconte l'échec d'une tentative de coup d'État du général Magloire en 1956. Ce sont des chiens qui envahissent la ville, des milliers de chiens, qui progressivement vont se constituer en armée aux rangs serrés. Comme le relève très justement Costantini,

ainsi qu'un retour du refoulé, les chiens représentent ici l'autre partie du monde haïtien, le 'monde en dehors (*moun andeyò*)', les paysans, par antonomase et historiquement la partie exploitée (économiquement), réprimée (politiquement) et refoulée (anthropologiquement) d'Haïti. Ce monde périodiquement s'approche de la ville, des nantis, des bourgeois, affamé de nourriture aussi bien que de liberté, ne voulant pas mourir dans la misère ou simplement voulant survivre, cherchant de nouveau à vivre.³⁷

Et précisément, ce qui est patent, dans le corpus, est la disparition du roman paysan et indigéniste, sous l'ère Duvalier. Le roman est désormais urbain essentiellement. La misère effroyable que connaissent les paysans comme les violences infligées échappent à la représentation littéraire. Celle dont disposent les lecteurs étrangers, qui sont (un peu) au courant de la violence duvaliériste, grâce à des témoignages émanant d'organisations politiques ou religieuses, de quelques journalistes, est fondée essentiellement sur des textes qui décrivent une réalité antérieure au régime duvaliériste.

Les autres publications de l'époque sont d'abord poétiques, à l'exception notable des œuvres de Duvalier et de deux textes publiés en 1968, qui, avec le recul, apparaissent comme décisifs dans leur geste d'écriture. Il s'agit d'*Amour, colère, folie*, de Marie Chauvet et de *Mûr à crever*, de Frankétienne. Le premier vit les exemplaires intégralement rachetés, de peur que la famille demeurée en Haïti ne soit l'objet de persécutions meurtrières. Dans ce triptyque qui a été depuis diffusé, l'auteur remonte dans l'archéologie des persécutions infligées aux paysans, et déplie les aberrations démagogiques du régime, sans jamais le nommer. Pourtant, dans l'un d'entre eux, la figure de Duvalier y apparaît, nettement visible, sous les traits d'un avocat besogneux et déversant ses ressentiments à l'égard d'une oligarchie vouée littéralement aux gémonies. Le troisième temps montre la déstructuration de toute narration possible d'une histoire ordonnée par les victimes mêmes des répressions, et de la criminalité érigée en forme de gouvernement. C'est précisément sur ce terrain que l'écriture de Frankétienne

³⁶ Alessandro Costantini, "Des chiens et des hommes: de la métonymie individuelle à la métaphore collective", in: Yves Chemla – Alessandro Costantini (éds.), *Le roman haïtien: intertextualité, parentés, affinités*, Lecce, Alliance française de Lecce, 2007, 113.

³⁷ Costantini, in: Chemla – Constantini 2007, 103.

prend son essor: dans *Mûrs à crever*, s'amorce aussi le travail de déconstruction d'une langue plongée dans la fange, qui n'a pas – et c'est désormais acquis – vocation à prendre en charge le réel, mais à l'évacuer, voire à le nier. Malgré leur diffusion confidentielle, ces deux ouvrages marquent très certainement un réel tournant dans le montage des discours antiduvalériens.

Les années 1971-1986

Haïti, 1971-1986

Le desserrement de l'étau duvalérien est on le sait relatif. Cette période a connu une émigration massive notamment vers l'Amérique du Nord. Néanmoins, c'est dans cette période que Roger Gaillard publie avec régularité son imposante histoire de l'occupation américaine d'Haïti, *Les Blancs débarquent*³⁸. C'est en creux qu'il faut parvenir à y lire les prémices de cette défection de la subjectivité, dont il analyse les étapes, tant politiques qu'économiques. Ce travail critique trouve sa correspondance littéraire chez Frankétienne qui publie *Ultravocal* et *Les affres d'un défi*, respectivement en 1972 et 1979, et qu'en 1983, il donne la pièce *Bobomassouri* au Centre Dramatique Franco-Haïtien, affirmant progressivement ce travail de déconstruction de la langue obscure du discours duvalérien. Mais d'autres figures surgissent, qui reviennent sur l'état de déréliction dans lequel est enfermé le pays et sa conscience. Ce sont *Fils de misère*, de Marie-Thérèse Collimon-Hall (1974), *Cathédrale du mois d'août*, de Pierre Clitandre (1980) ou les *Mémoires d'une amnésique* de Jan J. Dominique (1984), dont le titre est terriblement explicite. C'est aussi en 1986 qu'est publié le texte féroce de Marie Vieux-Chauvet, *Les rapaces*, qui évoque une géographie haïtienne définitivement abandonnée à la sauvagerie et à la bestialité.

Vue de l'extérieur, 1971-1986

C'est pendant ces années 1957-1970 que ceux qui ont quitté Haïti s'installent, qui au Québec, qui en France, conservant le lien à la langue française, par delà l'exil, qui aux États-Unis, amorçant un processus d'*américanisation*. Il faut du temps pour mener une telle transformation, et installer son existence dans des mondes de relations et de professionnalité largement différents de ceux dans lesquels ils ont été éduqués, puis formés. Il faut même reprendre des études, pour nuancer, voire compléter ce qui a été imparfaitement acquis en Haïti. André-Marcel d'Ans semble avoir occulté ces contraintes, pourtant bien réelles. Ainsi, Émile Ollivier, qui, après un passage par Paris, rejoint son épouse au Québec, et se retrouve nommé enseignant à Amos, en Abitibi. Ce n'est qu'à partir de 1968 qu'il s'installe

³⁸ Roger Gaillard, *Les Blancs débarquent*, Port-au-Prince, Le Natal, 1971-1987. Une somme de 14 volumes, disponibles en partie, et qui constituent la référence historique pour les années 1880-1930.

à Montréal, et qu'il enseigne la sociologie de l'éducation dans le département des sciences de l'éducation de l'Université de Montréal. Et ce n'est qu'en 1977 qu'il publie son premier recueil de nouvelles, *Paysage de l'aveugle*, chez Pierre Tisseyre, toujours à Montréal.

Publications canadiennes et d'origine canadienne³⁹

Or justement, plusieurs publications reviennent sur les questions de formation, comme sur une meilleure connaissance de l'espace haïtien, et de sa culture. Ainsi, Jean Fouchard publie en 1973, à Montréal, *La meringue haïtienne*, qui réinscrit cette danse dans le contexte post-colonial spécifiquement haïtien et Franck Fouché, en 1976 porte sur le vaudou un regard qui le fait sortir de cette aura ténébreuse et méphitique dans laquelle Duvalier a réussi à le plomber, montrant que justement un théâtre populaire haïtien peut s'y ressourcer.⁴⁰ Georges Anglade, géographe, publie son analyse de *L'espace haïtien* en 1974, qui aura un retentissement considérable dans la formation des jeunes élites intellectuelles. Il s'agit visiblement dans ces ouvrages de rompre avec la logorrhée duvalérienne. Émile Ollivier, pour sa part, participe à ou dirige plusieurs ouvrages interrogeant les perspectives réelles de développement en Haïti, mais dans son souci de formation des adultes, s'intéresse également de très près à la mise en œuvre effective de l'alphabétisation, notamment des migrants haïtiens, inaugurant parfois une réflexion sur la pédagogie de la communication interculturelle, dont on sait combien elle a été essentielle au Québec. C'est l'ouverture d'un véritable travail d'analyse en prise sur les pratiques réelles d'américanisation des populations migrantes. En 1972, cependant, Anthony Phelps publie *Moins l'infini, roman haïtien*, à Paris, chez les éditeurs français réunis.⁴¹ Il y fait vivre les activités d'une cellule de militants, en lutte quotidienne contre les macoutes, ses échecs, la mise à mort de membres de cette cellule sous la torture. Mais aussi, il donne une description du quotidien de la répression, et des réactions des personnages qui tentent par tous les moyens de trouver une issue au confinement géographique, moral et intellectuel décrété par le Régénérateur À-Vie, par exemple dans un amour violent éclairé par les corps incendiés des victimes des macoutes, dans la folie, dans l'exultation de la mission jusqu'à l'écrasement, le démembrement et le détricotage de la conscience sous la torture. En 1976, Phelps, dans *Mémoire en colin-maillard*, publié cette fois à Montréal, poursuit encore cette exploration de

³⁹ Ce qui s'apparente ici à une contorsion dans la tenue du classement révèle aussi les choix ou plutôt les possibilités éditoriales des auteurs.

⁴⁰ On se permet de rappeler ici que l'ouvrage de Fouché a particulièrement informé Jean-Pierre Bernay qui dirigeait dans les années 1980 le Centre Dramatique Franco-Haïtien de l'Institut Français d'Haïti. C'est dans ce centre que furent produits et mis en scène un certain nombre de spectacles qui témoignèrent en leur temps d'un renouveau (par exemple, *Bobomasouri*, de Frankétienne, en 1983, présenté à la fois en français et en créole haïtien).

⁴¹ C'est Gérald Bloncourt qui a rendu possible, par son intercession, la publication de ce roman (entretien octobre 2005).

la conscience de l'opprimé radical, qui résiste au-delà des limites de l'humanité à l'obscurantisme triomphant. Mais c'est bien le traitement infligé à la subjectivité et même à la capacité de subjectivation qui est l'enjeu clairement posé du roman.

C'est aussi en 1974, à Montréal, que paraît le texte de Gérard Étienne, *Le nègre crucifié*, qui n'est pas le premier récit littéraire touchant les pratiques duvaliéristes de torture, mais qui est celui qui, assurément, retiendra l'attention en premier, l'auteur ayant eu à les subir. Texte au statut incertain (récit? témoignage? allégorie?), il participe de la remise en cause de la littérature dans ses propres fondements, interrogeant la forme et la force que prend une agonie certaine de la littérature. C'est bien la langue et la possibilité d'ouvrir des espaces de représentation qui est en cause dans ce texte. "Dépassant le cri de rage et d'impuissance, le livre de Gérard Étienne participe de cette sommation à inventer un langage qui puisse favoriser la naissance d'un homme nouveau, en mesure d'accomplir des rites articulés par leur fonction fondatrice, et non plus dégradés en ritualismes instrumentalisés, confisqués au profit de pratiques d'avilissement."⁴² Cette interrogation fondée sur la mise en cause de la langue incapable d'avoir résisté à sa liquéfaction par le discours duvaliérien voit même émerger dans cette période le début de sa théorie, avec, en 1986, la parution du livre d'entretiens de Jean Jonassaint avec les écrivains haïtiens, *Le pouvoir des mots, les maux du pouvoir des romanciers haïtiens de l'exil*.⁴³

Mais à Montréal arrive aussi massivement une nouvelle immigration haïtienne, plus jeune, qui a subi "le jean-claudisme civilisateur"⁴⁴, celle dont les pères ont subi déjà le terrorisme du père du dictateur du moment. En 1985, Dany Laferrière publie un roman au titre remarqué, *Comment faire l'amour avec un nègre sans se fatiguer*, qui est le ferment d'une nouvelle considération dans les rapports entre l'haïtianité et le reste du monde: il ne s'agit plus tant de redire sans relâche le désespoir haïtien que de dire l'exil, son temps de solitude et de difficulté et de mettre en mot les stratégies et les procédures d'inscription dans un monde résolument nouveau, de confronter l'insoumission radicale à la modernité sociale. Ce sera l'objet du long cycle de l'auteur, l'*Autobiographie américaine*,⁴⁵ dont le

⁴² Yves Chemla, "Une littérature cruciale", in: Danielle Dumontet (éd.), *L'esthétique du choc. Gérard Étienne ou l'écriture haïtienne au Québec*, Frankfurt am Main, Peter Lang, 2003, 67 (49-68).

⁴³ Le livre fut publié à la fois à Montréal et à Paris, aux Éditions de l'Arcantère et aux Presses de l'université de Montréal, en 1986.

⁴⁴ Panneau de célébration des 25 années de régime Duvalier, observé à Port-au-Prince, près de l'aéroport de Maïs-Gâté, le 6 septembre 1982.

⁴⁵ Yves Chemla, "Quelques notes sur Vieux Os, ce narrateur qui 'porte la forme entière de l'humaine condition'", in: http://homepage.mac.com/chemla/fic_doc/lafer_montreal.html, consulté le 12 septembre 2011.

dernier écho, paru récemment, *L'énigme du retour*⁴⁶ raconte aussi en partie la difficile transmission de cette acculturation en "québécois le jour, haïtien, la nuit"⁴⁷, pour reprendre l'expression d'Émile Ollivier.

C'est enfin depuis l'Université Laval que Maximilien Laroche publie une œuvre théorique importante, qui propose de nouvelles pistes à l'étude de la littérature haïtienne, mais aussi en ce qui touche justement à ces rapports entre la posture haïtienne radicalement marronne et les institutions littéraires qui la reçoivent. *L'image comme écho*, publié en 1978, propose une vision ordonnée résolument haïtienne de la sémiologie littéraire.

Publications françaises

Dans les publications de ces années en France, un même travail d'explicitation est réalisé par les auteurs. On constate cependant que le volet lié à la formation des adultes manque singulièrement, et c'est précisément sur ce point que la différence prend corps: les nécessités ne sont pas les mêmes, et l'intégration à la française s'ordonne selon des normes radicalement autres qu'au Canada, tant sur le plan symbolique que sur celui des pratiques mêmes. Mai 1968 a eu un retentissement entraînant, sans doute, des conséquences différentes, notamment un regain des luttes militaires, à travers la fondation du Parti Unifié des Communistes Haïtiens (PUCH). On le verra notamment lors de l'opération à la fois spectaculaire et désastreuse de mars 1969 à Cazale, qui se soldera par l'assassinat de très nombreux paysans. Revenant sur les prémices des guerres d'indépendance, Fouchard publie en 1972 *Les marrons de la liberté*, qui est en quelque manière une contre-histoire de celle réactivée sans relâche par Duvalier. C'est la même année que Laënnec Hurbon publie *Dieu dans le vaudou haïtien*, qui inverse radicalement le discours duvaliérien sur les pratiques culturelles populaires. Prenant en charge les décisions de Vatican II, Hurbon montre que la cérémonie vaudoue est précisément le lieu de la manifestation du divin, et plus du tout du diabolique. En 1978, Claude Souffrant publie, lui, le remarqué *Une négritude socialiste*, qui revient sur l'écriture et les textes de Jacques Roumain, Langston Hughes et Jacques Stephen Alexis ainsi que leurs analyses des discours religieux, et des idéologies du développement, étudiés à partir des matrices senghoriennes de la négritude. C'est bien évidemment une lecture critique des discours duvaliériens qui est ainsi mise en perspective. Une perspective critique analogue est développée par Willy Apollon dans son *Vaudou: un espace pour les voix*, publié dès 1976. C'est aussi dans ces années que Métellus publie une part essentielle de son œuvre, soit plusieurs romans de la saga des Vortex, qui revient

⁴⁶ Yves Chemla, "Dans les replis du corps", in: <http://www.africultures.com/php/index.php?nav=article&no=8933>, consulté le 12 septembre 2011.

⁴⁷ Jonassaint 1986, 88.

et raconte les conditions d'écriture de l'histoire, à distance des versions négatives et partielles de celles des forces obscurantistes. Il publie aussi un roman dont l'action se situe dans l'Est de la France, et qui traite d'une question en apparence banale, le bégaïement, mais dont l'arrière-plan haïtien surgit parfois comme un lapsus.⁴⁸

En 1983 paraît à Paris *Mère-solitude*, d'Émile Ollivier, qui met en scène les contradictions et la complexité du discours haïtien, ses linéaments historiques, idéologiques, et également oniriques. C'est un imaginaire peuplé de figures fortes qui se débattent dans une ville au nom symbolique, Trou-Bordet, tourmentée par la misère, le sous-développement et la violence arbitraire. En 1986, *La discorde aux cent voix*, installe un microcosme de deux voisins qui s'étoile et s'étiolle comme le macrocosme haïtien, ses tissus de haine, de manipulations et d'instrumentalisation de l'Autre, sans cesse renvoyé à son altérité.

Mais en 1985, *Manhattan blues* de Jean-Claude Charles marque aussi la rupture avec le discours de l'ancrage haïtien, à la terre, à son inspiration séminale. Il raconte "l'enracinerrance"⁴⁹ d'un homme de nulle part, entre New York et Paris, mais aussi dont la violence se retourne contre lui-même, provoquant un effondrement identitaire et psychologique dont l'auteur lui-même subira les conséquences vitales.

Conclusion provisoire

Les positions des auteurs, sont, on le voit quelque peu différentes, et cette différence dépend des lieux où sont produites les œuvres. D'aucuns évoquent une capacité de résilience peu commune, après la nuit duvaliérienne. Certes, mais cette remarque traduit aussi une condescendance surprenante. Le discours de la dérélition se fait aussi entendre dans ces textes, qui bien souvent, ont été assimilés à des discours hallucinés. Ce qui est surtout étonnant est le silence relatif dans lequel ils ont été plongés, au moment de leur parution, et que les procédures de légitimation du fait littéraire ont mis du temps à médiatiser. On doit sans doute aussi considérer qu'Haïti a été un objet intouchable, sans doute répugnant à la conscience occidentale, dont le regard était apitoyé, guidé par une déclaration compassionnelle, sans enjeu. Il est vrai aussi que l'appui objectif des puissances au régime de Duvalier, notamment celui de De Gaulle, dans une part

⁴⁸ Yves Chemla, "Note sur *La Parole prisonnière*", in: http://homepage.mac.com/chemla/fic_doc/metparpris.html, consulté le 12 septembre 2011.

⁴⁹ Jean-Claude Charles, "L'enracinerrance", in: *Boutures* 1, 4 (2001), 37-41. Les archives du site sont déposées sur le site Île-en-île, l'article est disponible à la page <http://www.lehman.cuny.edu/ile.en.ile/boutures/0104/charles.html>, consulté le 23 janvier 2012.

relative celui de Kennedy, puis de Johnson, a encore renforcé cette répugnance. Dans ces années, on le sait aussi, Duvalier pouvait être conseillé par des hommes aux noms d'infamie: Meyer Lansky⁵⁰, Georges de Mohrenschildt⁵¹, André Labay⁵², par exemple, et pour ne citer qu'eux. Le réalisme merveilleux des Haïtiens, tant célébré en 1956 par Alexis, était traîné à l'égout. Pourtant, rapidement, timidement aussi sans doute, un travail critique a été mis en place: critique de l'effondrement des logiques discursives dans le pire et du développement hors de tout contrôle des syntaxes collectives de raisonnement du côté de la diabolisation, dont on a vu qu'elles étaient banalisées depuis les fondations de l'État et que Duvalier a poussées à leur paroxysme. Il conviendrait, pour compléter ce rapide tableau des publications d'interroger aussi le monde des revues, notamment au Québec où ceux que d'Ans malmène en 1987 participent aussi de ce travail critique.⁵³ Il conviendrait également de dépouiller les très nombreux articles publiés dans la presse scientifique par Jean Métellus, qui est aussi neurologue, spécialiste des troubles du langage, et linguiste lui-même. C'est aussi une façon de résister à la ruine discursive. Enfin, il faut considérer le retentissement international du roman de Graham Greene, *The Comedians* (1966), puis du film qui en est tiré en 1967, qui a à la fois acculturé le tragique et le burlesque duvaliérien et duvaliériste, mais a aussi contribué à cette esthétique de la contemtion dont Haïti ne parvient pas à se défaire. Le déferlement des ONG depuis les années 1990 et surtout depuis le séisme du 12 janvier 2010 a également introduit une nouvelle donne complexe, considérée aussi comme une emprise sur la réalité haïtienne et une forme renouvelée du ventriloquage de cette parole: le texte haïtien peine à se faire entendre face à ces discours qui se substituent à lui.

Mais c'est la spécificité québécoise qui devrait surtout retenir l'attention. Le travail autour des sciences de l'éducation et des pratiques de formation d'adultes a été essentiel, et aura eu un retentissement international. On rappellera ici qu'Émile Ollivier a été plusieurs années président de l'ICÉA, l'Institut de Coopération pour l'Éducation des Adultes, structure de rassemblement et de mise en cohérence

⁵⁰ Maffieux notoire, réputé trésorier de l'organisation, il fut le conseiller au tourisme de Duvalier.

⁵¹ Personnage à multiples facettes, ami de Lee Oswald, géologue, agent de la CIA, il permit à Clémard Jean Baptiste, banquier proche longtemps de Duvalier, d'acquérir des armes et des avions civils qui furent militarisés pour l'armée haïtienne. Il fut longuement interrogé par la commission Warren, et se suicida à la veille d'un interrogatoire de ladite commission.

⁵² Homme d'affaires aux relations maffieuses, il a exercé ses talents d'industriel en Tunisie, en France, au Liban et en Grèce. Il fut producteur de cinéma (*Le deuxième souffle*, dir. Jean-Pierre Melville, Les Productions Montaigne, 1966.) Trafiquant de drogue notoire, membre de la *French connection*, il servit d'intermédiaire à Duvalier dans ses propres affaires. Il s'associa à Luckner Cambronne, un des faucons duvaliéristes, dans l'affaire de la banque du sang.

⁵³ Józef Kwatерko, "Ouvrir le Québec sur le monde". La revue *Dérives* (1975-1987) et la transculturation du réseau de sociabilité littéraire au Québec", in: Yvan Lamonde – Jonathan Livernois (éds.), *Culture québécoise et valeurs universelles*, Québec, Presses de l'Université de Laval, 2010, 97-110.

de l'éducation et de la formation des adultes au Québec. Après le choc frontal, tel qu'il est raconté par Phelps, après le désespoir radical de l'abandon, chez Étienne, c'est vers un travail d'éducation et de (trans)formation que se tournent les intellectuels québécois d'origine haïtienne, et qu'ils poursuivent. Il n'en demeure pas moins que l'anamnèse de cette nuit se fait aussi entendre dès ces années qui suivent la mort du 'grand électrificateur des âmes' comme F. Duvalier se caractérisait lui-même, et qu'elle n'est sans doute pas encore close. Le récent roman de Kettly Mars, *Saisons sauvages*⁵⁴ procède de cette remontée temporelle, et vient aborder encore le retentissement dans l'intime féminin de ce poids du passé qu'il convient de mettre en mots, afin, sans doute, de parvenir à s'en défaire. Mais c'est aussi un véritable travail de déconstruction du récit haïtien que vont mener à partir de 1985 la plupart des écrivains d'Haïti, même si les pratiques politiques brutales duvaliéristes ont trouvé des continuateurs dans le morceau d'île. C'est bien évidemment parce que le moment Duvalier semble être désormais analysé comme une des normes de l'anomie critique haïtienne. Mais ceci est une autre histoire, dans tous les sens du terme. Il serait cependant prudent de retenir les leçons de ces trente années douloureuses, particulièrement de cet abandon international dont les Haïtiens ont été d'abord les premières victimes.

⁵⁴ Kettly Mars, *Saisons sauvages*, Paris, Le Mercure de France, 2010. Cf. Yves Chemla, "Kettly Mars, *Saisons sauvages*", in: *Culture Sud. La revue en ligne de littérature du sud*, <http://www.culturessud.com/contenu.php?id=157>, consulté le 30 mai 2010.

Whose Truth? Framing Processes in War Reporting

Susanne Kirchhoff
Paris-Lodron-University, Salzburg

Résumé

Lors de débats publics, les médias tiennent lieu de forum dans lequel la légitimité politique est formée et contestée. Les médias d'information jouent également un rôle central dans notre compréhension de toute guerre ou conflit et modèlent notre réaction envers ceux-ci. La 'nécessité d'informer' la population sur une guerre s'accompagne alors de la nécessité d'observer attentivement les mécanismes de production de l'information, ainsi que la représentation des événements et de leurs acteurs par les médias. Prenant pour fondement le concept d'effet de cadrage' ('framing'), cet article se propose d'étudier les facteurs clefs influençant la production du reportage de guerre autour de trois dimensions: premièrement, nous discuterons des 'effets de cadrage' comme modèles cognitifs qui jouent sur la manière dont les journalistes comprennent et évaluent moralement les événements, ainsi que sur l'interprétation de causalité et les solutions qu'ils leur appliquent. Nous examinerons par la suite l'effet de cadrage' dans sa dimension matérielle, c'est-à-dire le rôle des contraintes structurelles de la production de l'information journalistique, incluant les règles du milieu que les reporters appliquent au quotidien, les conditions de travail aussi bien dans les agences de presse qu'à l'étranger, et les relations entretenues par les médias et la sphère militaire. Enfin, cet article conclura sur une brève discussion à propos de l'effet de cadrage'.

Introduction: Frames in the Media

News media play a pivotal role in our understanding of any war or conflict and thus shape our reaction to them. In public discourse the media provide a forum in which political legitimization is accomplished and contested.¹ But it is not just a matter of the need to inform the public about ongoing events – the question of how information is gathered and represented in a given context is just as important. Different actors assign different meanings to events in order to gain legitimization, denounce the legitimizing strategies of others, and ultimately control discourse production.² This is where the concept of framing comes into play and this is why we should give careful consideration to the mechanisms of news production and their outcome: the everyday news in print, on television, radio, and the internet.

¹ Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, Cambridge (MA), MIT Press, 1996.

² Paul Chilton, *Analysing Political Discourse: Theory and Practice*, London–New York, Routledge, 2004, 45–47.

Frames are “schemata of interpretation that enable individuals to locate, perceive, identify and label occurrences within their life space and the world at large”³. Frames, in other words, are models for the organization of knowledge and information. With their help the social world can be meaningfully structured. ‘Frame’ is thus a rather appropriate metaphor for a complex process. Consider for a moment an actual window frame, as Gaye Tuchman did in her study of news production:

News is a window on the world. Through its frame, Americans learn of themselves and others, of their own institutions, leaders and life style, and those of other nations and their peoples. [...] But, like any frame that delineates a world, the news frame may be considered problematic. The view through the window depends upon whether the window is large or small, has many panes or few, whether the glass is opaque or clear, whether the window faces a street or a backyard. The unfolding scene also depends on where one stands, far or near, craning one’s neck to the side, or gazing straight ahead, eyes parallel to the wall in which the window is encased.⁴

The media frame highlights the aspects of an event “[...] in such a way as to promote a particular problem definition, causal interpretation, moral evaluation and/or treatment recommendation for the item described”⁵. Furthermore, media frames correspond with or refer to familiar images, myths, and narratives that resonate within a culture.⁶ The following cover (cf. Figure 1) of the German tabloid *Bild* contains metaphorical, visual, and textual elements set within a culturally specific narrative.

The image was printed on 1 April 1999, a few days after the beginning of the NATO bombings in Kosovo.⁷ The headline reads, “Sie treiben sie ins KZ” – they are herding them into concentration camps. The black and white photograph shows a long line of people walking toward the observer, carrying suitcases and other belongings with them. The text identifies them as Kosovo Albanians. They may be refugees or they may not. The reference to concentration camps, however,

³ Erving Goffman, *Frame Analysis*, Cambridge (MA), Harvard University Press, 1974, 21, cited in David A. Snow – E. Burke Rochford – Steven K. Worden – Robert D. Benford, “Frame Alignment Processes, Micromobilization, and Movement Participation”, in: *American Sociological Review* 51, 4 (1986), 464 (464-481).

⁴ Gaye Tuchman, *Making News. A Study in the Construction of Reality*, New York–London, The Free Press, 1980, 1.

⁵ Robert M. Entman, “Framing: Toward Clarification of a Fractured Paradigm”, in: *Journal of Communication* 43, 4 (1993), 51-58.

⁶ Entman 1993, 53; James K. Hertog – Douglas M. McLeod, “A Multiperspectival Approach to Framing Analysis: A Field Guide”, in: Stephen D. Reese – Oscar H. Gandy, Jr. – August E. Grant (eds.), *Framing Public Life: Perspectives in Media and Our Understanding of the Social World*, London–Mahwah (NJ), Lawrence Erlbaum, 2003, 141-142 (139-161).

⁷ Cf. Andreas Neumann, “Was Bilder beweisen. Über die Funktion von Bildern im Krieg gegen Jugoslawien”, in: *Arbeiterfotografie* 88 (August 2000), <http://www.arbeiterfotografie.com/galerie/kein-krieg/hintergrund/index-medien-und-krieg-2.html>, accessed 10 July 2010.

draws an analogy to the Holocaust,⁸ facilitated by the black and white quality of the picture and its composition, both of which are reminiscent of images from the Second World War. The interplay between headline and photograph thus provides the readers with a schema of interpretation – a frame that gives meaning to the events in at least four different ways. By way of analogy it *defines the problem* along certain lines: A genocide comparable to the Holocaust is happening in Kosovo. It provides a *causal definition*: the Republic of Yugoslavia – and the Serbs in particular – are the perpetrators, with Milosevic as the new Hitler. Accordingly, the *moral evaluation* would include a condemnation of Yugoslavian actions. And the analogical *treatment recommendation* would be an allied effort of war, which at that time had just begun. The legitimizing function of the article can furthermore be viewed in the broader context of the German public discourse in the late 1990s. Framing strategies contain an element of identity construction, which in this case places the Kosovo war in the ongoing debate about re-united Germany's role in Europe, about its political and military goals and obligations.⁹



Figure 1: Media Framing of the Kosovo War in the German Tabloid Bild

⁸ A similar framing strategy was employed by *Time* magazine during the Bosnian War. The now famous cover of the 17 August 1992 issue showed an image from an ITN videotape. It depicted a shirt-less emaciated man among other refugees behind a barbed wire fence. The headline read "Must It Go On?" with a smaller subtitle "The Balkans. Muslim Prisoners in a Serbian Detention Camp". The publication of both pictures was followed by a long debate about their actual meaning. The Kosovo picture most likely shows refugees at the Albanian border, while the video from Bosnia was shot at a refugee camp, not a detention camp.

⁹ Cf. Christiane Eilders – Albrecht Lüter, "Germany at War. Competing Framing Strategies in German Public Discourse", in: *European Journal of Communication: The Media and the Kosovo Conflict* 15, 3 (2000), 415-428 (Special Issue); Romy Fröhlich – Helmut Scherer – Bertram Scheufele, "Kriegsberichterstattung in deutschen Qualitätszeitungen: Eine inhaltsanalytische Langzeitstudie zu Framingprozessen", in: *Publizistik* 52, 1 (2007), 11-32; Michael Schwab-Trapp, *Kriegsdiskurse: Die politische Kultur des Krieges im Wandel 1991-1999*, Opladen, Leske und Budrich, 2002; Elisabeth Klaus – Kerstin Goldbeck – Susanne Kassel, "Fremd- und Selbstbilder in der Berichterstattung der deutschen Medien während des Kosovokrieges – am Beispiel des Spiegel", in: Kurt Imhof – Otfried Jarren – Roger Blum (eds.), *Integration und Medien*, Opladen, Westdeutscher Verlag, 2002, 285-305.

But in Tuchman's quote the term 'frame' does not only apply to media frames and their function in public discourse. She notes that the view from the window also "depends on where one stands"¹⁰ – that is, on the cognitive predispositions of the observer. We shall therefore distinguish between media frames as properties of texts that provide us with an interpretation of things we do not experience first-hand, and cognitive frames as culturally shared properties of the mind that organize our understanding of the world. Cognitive frames "make the world look natural"¹¹, they give meaning to what is going on around us, produce and shape knowledge, and structure our understanding of what is normal or appropriate in a given situation. They are as deeply embedded in the socio-cultural context as a window is in a wall and are thus a part of our socialization as members of a cultural community. Yet at the same time our individual dispositions can account for different understandings of what we see. Frames are thus both culturally shared and individual. Hertog and McLeod stress the cultural aspect by viewing frames as "cultural structures with central ideas and more peripheral concepts – and a set of relations that vary in strength and kind among them"¹², and by focusing on those ideas they consider to be most powerful: the myths, narratives, and metaphors that are most relevant in a specific cultural context. Their embeddedness in the "deep structure of a culture"¹³ gives them their persuasive power – they are persistent over time and widely recognized by the members of a community, and any intercultural communication has to take the cultural bias of framing into account.

In sum, the framing process encompasses three levels of news production: the *cognitive level*, at which the journalists' cognitive frames are rooted, the *discursive level*, at which media frames are produced and contested, and the *textual level*, where the actual media frames are located. Studies of framing focus on the routines of media production, media content, social mobilization, and/or the effects of framing on individual or public opinion.¹⁴ Based on the framing concept, I examine the key factors that influence the production of war reporting along these three dimensions: First, I discuss frames as cognitive models which shape the journalists' understanding and moral evaluation of events as well as the causal interpretation and problem solutions they apply to them. Second, I will examine the discursive level of framing, namely the structural constraints of news production, which include the rules of the journalistic field that journalists apply to their everyday routine, the working conditions both in news rooms and abroad,

¹⁰ Tuchman 1980, 1.

¹¹ Todd Gitlin, *The Whole World Is Watching. Mass Media in the Making and Unmaking of the New Left*, Berkeley–Los Angeles–London, University of California Press, 2003, 6.

¹² Hertog – McLeod, in: Reese – Gandy – Grant 2003, 141.

¹³ Hertog – McLeod, in: Reese – Gandy – Grant 2003, 141.

¹⁴ Bertram Scheufele, "Framing-Effekte auf dem Prüfstand. Eine theoretische, methodische und empirische Auseinandersetzung mit der Wirkungsperspektive des Framing-Ansatzes", in: *Publizistik* 48, 1 (2004), 30-31 (30-55).

and the relationship between the media and the military. Third, I will conclude with a brief discussion of framing effects.

Cognitive Frames: The Habitus of War Correspondents

Media organizations shape and circulate knowledge on a daily basis.¹⁵ In order to deal with the influx of information efficiently, they need institutionalized routines that constitute the everyday process of media production and guarantee a constant output of what we consider as ‘news’.¹⁶ The selection and presentation of issues, protagonists, and attitudes appears ‘normal’ because journalists as well as their audience expect the media to follow the rules of news production, i.e. we expect to be informed about a war between the United States and an Islamic country on the front page of the newspaper in a certain style, because that is ‘how things are done’. But objectivity, balance, confirmation of sources, etc., are in no way natural to news production. They are part of the journalistic code, which reporters, editors, and publishers adhere to. The media are therefore not only “core systems for the distribution of ideology”¹⁷, their everyday routines are ideologically shaped as well – established and reinforced by the private and professional socialization of the journalists.¹⁸ The media, in short, are a social institution because they are an institutional method of making information available to the audience, because they participate in the circulation of discourse and are therefore related to other institutions such as politics, economy, etc., and because they are run by professionals drawing upon institutionalized practices.¹⁹

In order to understand the framing processes of the media, it is therefore necessary to look at the structural constraints of news production, the rules of the journalistic field, the working conditions in the news room and abroad as well as the self-image, norms, and values of the journalists. In her study of news room work routines Tuchman asked where media send their reporters to gather information, how news items are selected and processed, and how they are influenced by deadlines and other rhythms of work. She also looked at the way journalists handle their own position within the organization’s hierarchy, how they deal with superiors, colleagues, and sources and how they create a “frame of facticity”²⁰ through their methods of gathering and checking information. She shows, for instance, that journalists engage in complex social interaction for the

¹⁵ Tuchman 1980, 2.

¹⁶ Gitlin 2003, 7.

¹⁷ Gitlin 2003, 2.

¹⁸ Gitlin 2003, 11.

¹⁹ Tuchman 1980, 4.

²⁰ Tuchman 1980, 102.

purpose of distinguishing between appropriate, reliable sources and inappropriate ones, and that 'information' has to undergo standard procedures of confirmation and presentation before it becomes 'fact' and then 'news'. In the same manner journalists use objectivity as a routine and strategic ritual in the creation of a news narrative.²¹ Yet to acknowledge that journalists possess professional cognitive frames which manifest themselves in the routines of news production and ultimately in the media frames found in news reporting does not explain how frames come into place, how they are handed down to the next generation, and how they might change over time. It also fails to explain why there is a certain amount of diversity and flexibility in the journalists' take on their work.

In looking for answers to these questions, some scholars have turned to Pierre Bourdieu's twin concepts of 'field' and 'habitus'.²² Indeed frame analysis and field theory fit together quite neatly, because Bourdieu describes habitus as "systems of durable, transposable dispositions, structured structures predisposed to function as structuring structures, that is as principles of the generation and structuring of practices and representations"²³, and notes that

the word disposition seems particularly suited to express what is covered by the concept of habitus (defined as a system of dispositions). It expresses first the result of an organizing action, with a meaning close to that of words such as structure, it also designates a way of being, a habitual state (especially of the body), and, in particular, a predisposition, tendency, propensity, or inclination.²⁴

It is the affinity between the idea of socially acquired dispositions that structure our attitudes, actions, and thoughts, and the concept of frames as "schemata of interpretation"²⁵ that makes Willems argue that Goffman's analysis of interaction implies a theory of habitus as the complement to frame theory.²⁶ The habitus concept goes beyond our definition of frame in explaining how cognitive schemata of interpretation are developed in relation to a given social context. Habitus avoids structural determinism by claiming that on the one hand our concepts are owed to a long-term private and professional socialization (and are therefore subject to constant change), and that on the other hand social structures are informed by this process:

As an acquired system of generative schemes, the habitus makes possible the free production of all thoughts, perceptions and actions inherent in the particular conditions

²¹ Gitlin 2003, 11-12.

²² Cf. Herbert Willems, *Rahmen und Habitus: Zum theoretischen und methodischen Ansatz Erving Goffmans. Vergleiche, Anschlüsse und Anwendungen*, Frankfurt am Main, Suhrkamp, 1997.

²³ Pierre Bourdieu, *Outline of a Theory of Practice*, Cambridge, Cambridge University Press, 1977, 22.

²⁴ Bourdieu 1977, 214.

²⁵ Goffman, 1974, 21.

²⁶ Willems 1997, 181.

of its production – and only those. Through the habitus, the structure of which it is the product governs practice, not along the paths of mechanical determinism, but within the constraints and limits initially set on its inventions.²⁷

The habitus is the link between social structure and individual practice, and any understanding of attitudes, discourses, etc., must pay attention to the structural position of a person and the particular trajectory – the habitus – by which he or she arrived there.²⁸ The habitus to a large degree determines the rules and practices of what Bourdieu calls the ‘field’ of social action, and the position within a field in turn influences the habitus. This position depends on the individual’s social, cultural, economic and symbolic ‘capital’.²⁹

Like all other fields, the journalistic field (which Bourdieu views as part of the larger field of cultural production) is a microcosm within the social universe, governed by its own laws, but not totally independent from other fields such as politics and economics.³⁰ Journalistic practices develop through the interaction of the field’s inhabitants and become objectified as part of the field’s structure – making the everyday routine of news production appear ‘normal’.

The journalist’s capital secures his or her position within the field: Economic capital takes the form of income and the media organization’s financial assets, cultural capital includes education and intellectual capacity, social capital can be measured in terms of the number and quality of contacts a journalist maintains and the number of sources with which he or she is connected; symbolic capital refers to his or her reputation among colleagues, audiences and members of other fields.³¹ Generally, the more capital of all four types a journalist accumulates, the more power he or she holds within the field. The star reporter of a high-profile news magazine, for instance, will likely be well off, well connected, and well respected.³²

Journalists work within the limitations of the objectified rules of their professional field which they have incorporated into their habitus during their training on the job (and before). Although it may be assumed that journalism is a profession characterized by a high degree of (self-)reflection, certain rules, such as the

²⁷ Pierre Bourdieu, *The Logic of Practice*, Stanford (CA), Stanford University Press, 1990, 55.

²⁸ Rodney D. Benson – Erik Neveu (eds.), *Bourdieu and the Journalistic Field*, Cambridge, Polity Press, 2005, 3.

²⁹ Benson – Neveu 2005, 4-5.

³⁰ Pierre Bourdieu, “The Political Field, the Social Science Field, and the Journalistic Field”, in: Benson – Neveu 2005, 33 (29-47).

³¹ Benson – Neveu 2005, 4.

³² For further discussion of the connection between capital and field cf. Philippe Marlière, “The Rules of the Journalistic Field: Pierre Bourdieu’s Contribution to the Sociology of the Media”, in: *European Journal of Communication* 13, 2 (1998), 219-234.

dominance of ‘facts’ or the appraisal of objectivity as a professional norm are never contested. That does not mean, however, that all journalists can be expected to share the same beliefs, values, and practices. Their different positions in the field, different experiences during their careers, and differences in their upbringing account for differences in their habitus – and thus for diversity within the range of possibilities determined by the structure and rules of the journalistic field.

Taken together, the field’s inherent structure and laws, the dissemination of capital, and the position and habitus of the journalists account for their cognitive frames and thus to a large degree for framing in news coverage. But although there are a rising number of studies using Bourdieu to analyze current developments in journalism,³³ they focus on the field as a whole and do not discuss war reporting independently. Other studies explicitly address the subject of media and war, but have different theoretical backgrounds. Yet combined they offer valuable insight into the structural and individual influences on the media’s framing of war.

Most work on war correspondents takes the form of (auto)biographies, focusing on individual experiences, attitudes, and behavior.³⁴ Studies which systematically address working conditions, norms, and values of journalists in wartime are still relatively rare. Here overviews over the changes in methods of gathering and presenting information, self-image, and constraints in the form of censorship from the early times (Crimean War) to the present (Iraq) figure most prominently.³⁵ A growing body of research uses interviews and questionnaires to learn about war correspondents.³⁶ One notable exception is Korte, who looks at autobiographical

³³ Cf. Benson – Neveu, 2005; Sabine Schäfer, *Die Welt in 15 Minuten: Zum journalistischen Herstellungsprozess der Tagesschau*, Konstanz, UVK, 2007; Michael Meyen – Claudia Riesmeyer, *Diktatur des Publikums: Journalisten in Deutschland*, Konstanz, UVK, 2009; Barbara Korte, *Represented Reporters: Images of War Correspondents in Memoirs and Fiction*, Bielefeld, Transcript, 2009.

³⁴ Kate Adie, *The Kindness of Strangers: The Autobiography*, London, Headline, 2002; Chris Ayres, *War Reporting for Cowards: Between Iraq and a Hard Place*, London, Murray, 2005; Martin Bell, *In Harm’s Way*, London, Hamish Hamilton, 1995; Michael Herr, *Dispatches*, New York, Avon, 1978; John Pilger, *The Last Day*, New York, Vintage, 1975, and many others. For a comprehensive list cf. Korte 2009, 171-174.

³⁵ For example Phillip Knightley, *The First Casualty: The War Correspondent as Hero, Propagandist, and Myth-Maker from the Crimea to Kosovo*, London, Pan Books, 2000; Howard Tumber – Frank Webster, *Journalists Under Fire. Information War and Journalistic Practices*, London–Thousand Oaks–New Delhi, Sage, 2006.

³⁶ Cf. Greg McLaughlin, *The War Correspondent*, London, Pluto Press, 2002; Tumber – Webster 2006; Michael Emery, *On the Front Lines: Following America’s Foreign Correspondents Across the Twentieth Century*, Washington (DC), American University Press, 1995; Simone Richter, *Journalisten zwischen den Fronten. Kriegsberichterstattung am Beispiel Jugoslawien*, Opladen, Westdeutscher Verlag, 1999; Lars Klein – Andreas Steinsieck, “Geschichte der Kriegsberichterstattung im 20. Jahrhundert: Strukturen und Erfahrungszusammenhänge aus der akteurszentrierten Perspektive”, in: <http://www.bundesstiftung-friedensforschung.de/pdf-docs/berichtdaniel.pdf> (2006), accessed 12 July 2010.

and fictional texts as representations of the habitus of war correspondents.³⁷ But memoirs, novels, and movies give only limited access to habitus because they follow the demands of certain genres and/or audiences: “Representations select aspects of the war correspondent’s professional habitus or field”, that are deemed interesting at a given time. “Indeed, representations [...] are always a way of *showing* doing, to use Schechner’s term, and where they show war correspondents who are ‘doing the war correspondent’, the performativity of that behaviour is particularly pronounced.”³⁸ Such representations of habitus, however, have repercussions on the actual practice in the field because correspondents position themselves towards them, either by identification or rejection.

Before taking a closer look at framing processes in the journalistic field, three different groups of journalists need to be distinguished: journalists living and working in a country at war, foreign correspondents who cover a region over some stretch of time, and correspondents specializing in war reporting who travel from one conflict to the next. A fourth group that has gained much influence in the last years are non- or semi-professionals, often living in a war zone, who spread their reports mainly via Twitter, warblogs and other forms of internet communication. These groups are positioned in different corners of the field, depending on their economic, cultural, social, and symbolic capital.

Since the distinction between foreign and war correspondent is notoriously vague and most journalists cover the subject of war only sporadically, few reliable studies on the working conditions and culture of war correspondents exist. Instead, they are often indirectly included in more comprehensive studies on journalists’ practices and self-image. But precisely because journalists usually work as part-time war correspondents, we can safely assume that there is not much difference in professional attitudes during a war and before or after, and autobiographical accounts of war correspondents are a case in point.³⁹ Self-images, role conceptions, and work ethics of journalists in general are thus helpful in establishing the repertoire of relevant maxims war correspondents can act upon.⁴⁰

Surveys among journalists tend to show some globally accepted professional standards like impartial, fact-oriented reporting. The ‘Worlds of Journalism’ project – carried out in over 20 countries, each with a quota sample of 100

³⁷ Korte 2009.

³⁸ Korte 2009, 31 (original italics).

³⁹ Korte 2009, 32.

⁴⁰ Margret Lünenborg – Annika Bach, “Der Abschied vom furchtlosen Helden – Zum Wandel des Berufsbildes von Kriegs- und KrisenreporterInnen”, in: Martina Thiele – Tanja Thomas – Fabian Virchow (eds.), *Medien – Krieg – Geschlecht: Affirmationen und Irritationen sozialer Ordnungen*, Wiesbaden, VS Verlag für Sozialwissenschaften, 2010, 325 (323-344).

interviews – finds differences that seem to depend less on cultural than on political contexts: Journalists in elective Western democracies are more likely to view themselves as detached watchdogs than their colleagues in more authoritarian nations (China, Russia, Indonesia, Uganda), who seem to favor the role of partner to the government, helping to build the political and economic future of their countries.⁴¹ They are also less supportive of the role of a critical agent of change, which includes motivating people to participate in civic activity and political discussion, promoting particular values or advocating social change, a stance that can be found in Egypt or Turkey.⁴²

Other international surveys highlight the basic characteristics and values everybody seems to agree upon – public service, objectivity, autonomy, immediacy of news production, and adherence to ethical values.⁴³ But the assumption of a common, culturally shared journalistic ideology is problematic for three reasons: First, surveys among journalists must be viewed critically, since they tend to generate socially and professionally acceptable answers – both in national and international contexts.⁴⁴ Second, comparative studies bear the risk of imposing a certain perspective on the matter by using standardized surveys in different cultural contexts and by summarizing a wide array of practices in a limited typology.⁴⁵ Third, common characteristics, norms, and values tend to be so abstract that they encompass all kinds of practices.⁴⁶ Journalists may agree upon the need for ethical behavior in order to legitimize their position in society, but no universal ethical code exists. They view themselves as people who work in accelerated real time to provide the world with ‘news’, but how they go about it may vary a great deal. They perceive independence and protection from censorship as crucial to a functioning media system, but that tells us nothing about how they handle it in everyday situations. Indeed, a closer look at journalistic cultures is much needed.

⁴¹ Thomas Hanitzsch, “Professionelle Milieus im journalistischen Feld: Befunde aus einer internationalen Vergleichsstudie”, in: Andreas Hepp – Marco Höhn – Jeffrey Wimmer (eds.), *Medienkultur im Wandel*, Konstanz, UVK, 2010, 229-244.

⁴² Cf. www.worldsofjournalism.org, accessed 12 July 2010.

⁴³ David H. Weaver (ed.), *The Global Journalist: News People Around the World*, New Jersey, Hampton Press, 1998; Pamela J. Shoemaker – Stephen D. Reese, *Mediating the Message: Theories of Influences in Mass Media Content*, White Plains (NY), Longman, 1996, 91-103; Siegfried Weischenberg – Maja Malik – Armin Scholl, *Die Souffleure der Mediengesellschaft: Report über die Journalisten in Deutschland*, Konstanz, UVK, 1998.

⁴⁴ Lünenborg – Bach, in: Thiele – Thomas – Virchow 2010, 325; Meyen – Riesmeyer 2009, 16ff.

⁴⁵ Oliver Hahn – Roland Schröder – Stefan Dietrich, “Journalistische Kulturen. Forschungstypologie und Aufriss”, in: Oliver Hahn – Roland Schröder (eds.), *Journalistische Kulturen: Internationale und interdisziplinäre Theoriebausteine*, Köln, Halem, 2008, 7-30.

⁴⁶ Mark Deuze, “What is Journalism? Professional Identity and Ideology of Journalists Reconsidered”, in: *Journalism* 6, 4 (2005), 442-464.

In interviews and autobiographical accounts war correspondents often refer to the implicit rules of conduct, the norms, and values that characterize the journalistic field, thus creating a positive identity for themselves. This image has changed over time, probably best illustrated by the fact that many correspondents dismiss the term 'war correspondent' and prefer to call themselves 'journalist' or 'a foreign correspondent who occasionally covers conflict'.⁴⁷ Constructions of identity necessarily evolve from the distinction between 'self' and 'other'. People dissociate themselves from others' practices, attitudes, norms, etc., or from what they believe these to be.⁴⁸ The old stereotype of the tough, danger-loving war correspondent is not what journalists want for themselves today: "You're not there as a war junkie or a tourist, you are there to do a job of work."⁴⁹

Such statements strikingly contradict the motivations many name as reasons for taking on the job: excitement, a break from trivial daily routines, addiction to the lifestyle, the chance of glamour, and front-row seat to history.⁵⁰ The other major reason for endangering one's life in a foreign war is what some correspondents call 'vocation':⁵¹ the wish to reveal abuses and misdeeds, to bear witness to atrocities, and to tell the world about it. Therefore they sometimes struggle "to reconcile their hatred of war with their very real enjoyment of it", as Knightley writes about the Vietnam correspondents.⁵² Such conflicts might be at the heart of another common construction of identity – the hope of making a contribution to ending the war, however small or as one journalist puts it:

There is always that gnawing fear that you're somehow profiting from the misery of others because so much of what is reported [...] is tragedy and terrible things happening to people. You're very much an intrusion in their lives at a very difficult moment and you have to walk a fine line between compassion and objectivity when you're in these situations.⁵³

Journalists may express serious doubts about their influence on politics and shroud themselves in an aura of cynicism and world-weariness, but can be quite passionate about the injustices they see.⁵⁴ This is clearly the most significant change in self-image from the early days of war coverage to the present. The relationship with war has become difficult and less clear-cut, as journalists no longer embrace war as a good solution to political problems, although some

⁴⁷ Tumber – Webster 2006, 61-62.

⁴⁸ Chilton 2004, 18, 47.

⁴⁹ Chilton 2004, 71 (cf. Richter 1999, 184; Klein – Siebeck 2006, 20).

⁵⁰ McLaughlin 2002, 6-23; Tumber – Webster 2006, 64ff.

⁵¹ McLaughlin 2002, 6-23; Tumber – Webster 2006, 64ff.

⁵² Knightley ⁵2000, 448.

⁵³ Tumber – Webster 2006, 73.

⁵⁴ Tumber – Webster 2006, 69, 72-73.

view it as a necessary last means to an end. John G. Maydon's description of how he became a war correspondent for the *Daily News* in the Boer War would be unthinkable today: "I had come from England with a desire to play a more belligerent role in Natal, the land of my adoption [...]."⁵⁵ The rejection of war as a political instrument has led present-day journalists to take a very different approach and to place emphasis differently in their work. They wish to tell the stories of civilians and victims of war and to take their perspective, if any, and feel a moral obligation to cover war.⁵⁶ The shift of focus from war makers to war victims is to some a vital part of the difference between the stereotypical image of war correspondents and how they view themselves. One journalist who covered Kosovo and Somalia and worked as an embedded journalist in Iraq resents the title of war correspondent, explaining:

Of course I cover war situations but I am not there to retell battles. I try to find answers: What is happening to the people, does their situation change for the better or worse? Is there some civilizing influence? Is there a process of democratization? What about human rights?⁵⁷

Images and goals influence work routines. Journalists who try to make contact with the people face other dangers and have to rely on other forms of support than journalists who accompany the armed forces.⁵⁸ Many voiced their concern about being 'embedded' in Iraq, whereas being on the literal frontline was an essential part of the construction of a reporter's identity in Vietnam and the Second World War.⁵⁹ Indeed, the favorable image of war correspondents has shifted from the heroic frontline fighter of the 19th century to that of the critical observer after the catastrophe of the First World War. This ideal of an independent and investigative reporter dominated much of the 20th century, especially the Vietnam War, where journalists maintained an aura of autonomy. There are, however, alternative templates. The idea of humanitarian commitment was prominent in the wars in former Yugoslavia, and present-day pool systems and embedding strategies that defy the notion of independence see the return of the brave reporter working side by side with the soldiers, an image first revived during the Second World.⁶⁰

⁵⁵ John G. Maydon, *French's Cavalry Campaign: A Special Correspondent's View of British Army Mounted Troops During the Boer War*, London, Pearson, 1901, 32.

⁵⁶ Korte 2009, 33; Tumber – Webster 2006, 64-74; McLaughlin 2002, 13-15.

⁵⁷ "Ich berichte natürlich auch über Kriegssituationen, aber ich erzähle keine Schlachten nach. Es geht mir darum herauszukriegen: Was passiert mit den Leuten, gibt es Verbesserungen für sie oder Verschlechterungen? Oder gibt es einen Zivilisierungsprozess? Gibt es einen Demokratisierungsprozess? Was ist mit Menschenrechten?" (Klein – Steinsieck 2006, 21).

⁵⁸ Richter 1999, 138.

⁵⁹ Shahira Fahmy – Thomas J. Johnson, "'How We Performed': Embedded Journalists' Attitudes and Perceptions Towards Covering the Iraq War", in: *Journalism and Mass Communication Quarterly* 82, 2 (2005), 301-317; Klein – Steinsieck 2006, 20-21.

⁶⁰ Korte 2009, 164.

One important, often overlooked aspect of the creation of self-image is gender. A comprehensive study on the relevance of gender for the construction of war correspondents' identity is not yet available, but some implicit conclusions can be drawn from existing data. Women, for instance, seem to be more critical of the war correspondent stereotype and less reluctant to voice personal fear.⁶¹ One female reporter also speaks of the opportunity to do different things, to go where her male colleagues are denied access:

'Do women write differently?' is a stupid question. [...] 'Do women write about different things?' is a subject with interesting facets. Especially when we are talking about news coverage from around the globe, and even more so when we are talking about war zones. Because the moment you travel in a cultural context where the male and female spheres are strictly separated, the stories you bring back home can be totally different.⁶² [translated by SK]

In her statement the reporter uses gender as an important element in the construction of a positive identity: Being female enables her to move among women and men alike, getting a different angle of the story.

All studies that rely on interviews with journalists face the problem of having to accept their perspective at face value. One ethnographical work that compares journalists' constructions of identity with an external perspective is *War Stories. The Culture of Foreign Correspondents* by Mark Pedelty (1995), who spent a year with the foreign press corps during the war in El Salvador in the early 1990s.⁶³ Although he does not use Bourdieu's terminology, speaking instead of the "collective heart and soul"⁶⁴ of foreign correspondents, Pedelty gives a detailed analysis of the rules that govern the journalistic field in the form of objectivity, selection of sources, norms, and values, etc., and of part of its structure with regard to the hierarchical position of editors, correspondents, and stringers. He also describes the role of myths and rituals for the creation of self-image and identity. His method of participant observation allows him to give a clear account of the journalist's dealings with each other, the military, the stringers, and the Salvadorians that goes beyond the mere description of work routines, institutional

⁶¹ Mark Pedelty, *War Stories: The Culture of Foreign Correspondents*, New York–London, Routledge, 1995, 135.

⁶² "Schreiben Frauen anders?" ist also eine dumme Frage. [...] 'Schreiben Frauen anderes?' ist ein Thema, dem man durchaus interessante Aspekte abgewinnen kann. Insbesondere dann, wenn es um Reportagen aus der weiten Welt, und speziell aus Kriegs- und Krisengebieten geht. Denn sobald man in Kulturen unterwegs ist, die strikt zwischen Männer- und Frauensphäre trennen, können die Geschichten, die man aus beiden Sphären nach Hause bringt, sehr unterschiedlich sein." Sybille Hamann, "Reporterinnen im Krieg", in: Thiele – Thomas – Virchow 2010, 315 (315-322).

⁶³ Although highly artificial in style, Marcel Ophüls' film *The Troubles We've Seen/Veillées d'armes* (1994), which was in part filmed at the Sarajevo Holiday Inn during the war in Bosnia, offers a similar approach.

⁶⁴ Pedelty 1995, 65.

constraints, and role conceptions, and also transcends the self-stylization and myth-building of autobiographies. As an example, other studies emphasize the need for translators and stringers in every war situation and recount tales of the close relationships that develop between correspondent and stringer:

It's almost one of love. They are generally fantastic people whom I adore and I will pay them ludicrous amounts of money. I always try to give them more than the going rate because they take terrible risks. I think they're fantastic [...]. They are our eyes and ears. We don't pay them enough, we betray them too much and we leave them with terrible moral predicaments. You have this strange relationship. You fall in with these people, you look after them. They're desperately important to you for two weeks and then you forget them and then they go away.⁶⁵

Pedelty, however, tells a different story: He significantly calls foreign correspondents the 'A Team' and freelancers and stringers the 'B Team' and records tensions between the two groups that can be explained by different interests, different perspectives on the situation, and most of all different positions in the hierarchy of news culture.⁶⁶ The 'A Team' often shares a common background with accumulated social and symbolic capital in the form of university degrees and reputation. Through close contact with their editors they identify with their own media organization to the point that their professional identities are constructed in relation to the news institution they work for. The 'B Team', on the other hand, usually has a local background or else a keen interest in and knowledge of the region they are reporting from. Their motivation, experience, and social environment often lead to a different take on political issues. This bias will not make it into the news, however, because stringers and freelancers have to conform to the wishes of their clients. If they plan to rise in the hierarchy, this becomes even more of an issue; stringers who become staffers are sometimes accused by former colleagues of having betrayed their ideals.⁶⁷ Pedelty agrees that the two groups heavily depend on each other (in terms of information on the one side, and money and institutional resources on the other) and that stringers play a vital role in the process of media framing because their cognitive frames do show in the news, however indirectly.⁶⁸ Yet he views the A and B 'Teams' as antagonistic and gives a striking example from his interviews:

For the most part, staffers ignored the existence of stringers, especially during our interviews. When making the point that journalists were quickly leaving El Salvador, a staff correspondent stated, "The *Miami Herald* doesn't have anyone here". "The *Herald* still has a stringer", I corrected him. "In fact, he has been receiving a byline". "Yeah, but they used to have a correspondent", replied the staffer. From the perspective of most A Team reporters, stringers simply don't count. The A Team's disregard is

⁶⁵ Tumber – Webster 2006, 106f.

⁶⁶ Pedelty 1995, 72ff.

⁶⁷ Pedelty 1995, 77ff.

⁶⁸ Pedelty 1995, 78.

strongly contested. I received a serious rebuke from the aforementioned *Miami Herald* stringer when I asked him to compare 'stringers vs. correspondents'. He interrupted, angered by my juxtaposition of the terms 'stringer' and 'correspondent'. "We are the real correspondents", he explained, "We are permanently stationed in El Salvador, 'corresponding' rather than parachuting".⁶⁹

On the other side of the globe, this sentiment is shared by Pukhtoon journalists working for Western media during the Afghan war. Many were in it for the money, but also because they saw "Western style objective, professional careers"⁷⁰ as a personal ideal. This has changed with their experiences after 9/11:

They buy our services for a few dollars and then sell the stories in tens of thousands. This is not fair. We are the ones who make the stories. They don't even know the language, the culture, nothing. They can not even know a bit about anything, if we are not there to help them. [...] "They treat us very harshly", one young journalist told me. "They even interfere with personal matters. They try to dictate even our personal behaviour. They pay for the services and they think they have bought the person".⁷¹

There is obviously a large discrepancy between the foreign correspondents' and the local stringers' evaluation of their relationship, in which hierarchical, political, economical, and cultural components intermingle with each other.

Another, and arguably the most valuable point of Pedelty's study is that he is also concerned with the recreational routines the foreign press corps indulges in. Although this is where he finds confirmation of the war correspondents' legends about alcohol, prostitutes, and boasting,⁷² he makes the most of it by observing the necessity of rituals for the creation of identity. He sees these rituals as "alternative means of communication, spaces, where reporters may act out their professional myths, identities deferred during normal work routines"⁷³. In other words, the journalists are perfectly aware of professional myths and try to live up to them, for instance through tales about their adventures or opinionated discussions.

Yet another myth is the ideal of independence. Many studies find that journalists feel that they are relatively independent from their news desk in their decisions, negotiating with editors about stories and possibilities, although occasional fights

⁶⁹ Pedelty 1995, 79.

⁷⁰ Altaf Ullah Khan, "The Afghan War and the Pukhtoon Journalists in Peshawar", unpublished paper, 3; another version was printed as "Peshawar Based Pukhtoon Journalists and the War in Afghanistan", in: *Central Asia* 55 (2004), 253-272.

⁷¹ Khan 2004, 9.

⁷² Cf. Emery's assessment of the character of war correspondents: "Sure, some drank too much and others were lazy and uncaring, but this is not a profession for the faint-hearted and those weak of character. Rather, for the most part foreign correspondence has been the choosing of men and women of stamina, heart and healthy self-confidence" (Emery 1995, 280).

⁷³ Emery 1995, 128.

do occur.⁷⁴ But that hardly means that journalists would go outside the boundaries of what is considered ‘good news’. Since journalists share the same professional socialization and often the same cultural capital as their editors and identify heavily with their respective institutions, they are likely to adopt the media’s professional ideology, which places constraints subtly through recruitment, promotion, through handed-down standards and traditions.⁷⁵ Media institutions influence reporters in a number of ways: as agents of professional socialization,⁷⁶ as reference for identification,⁷⁷ through a system of rewards and sanctions,⁷⁸ and finally through the hierarchical process of news production.⁷⁹ This leads Pedelty to the bleak conclusion

[...] that reporters play a relatively small role in the creative process of discovery, analysis, and presentation involved in news production. Instead, they are mainly conduits for a system of institutions, authoritative sources, practices and ideologies that frame the events and issues well before they, the mythical watchdogs, have a chance to do anything resembling independent analysis or representation.⁸⁰

But although it is true that the cognitive frames of journalists are heavily influenced by their professional routines and ideologies and that a large part of frames in the media are owed to these same routines, the conduit metaphor seems false and is contradicted by Pedelty’s own findings for at least two reasons: 1) routines and ideologies do not exist independently from the journalists’ day-to-day practice, 2) this practice which accounts for the journalists’ cognitive frames and ultimately much of framing in the media, stems from their habitus, from what Pedelty calls the correspondents’ ‘culture’.

Structural Constraints: Working Conditions in a Field Among Other Fields

The journalistic field is not only characterized by the practices and habitus of its agents; external constraints are another factor that influences framing processes in the media. Among these, working conditions in the war zone and media/military-relationship arguably have the greatest impact.⁸¹ Studies on working conditions

⁷⁴ Tumber – Webster 2006, 101ff.; Emery 1995, 286; Richter 1999, 141ff.

⁷⁵ Pedelty 1995, 90ff.

⁷⁶ Tuchman 1980, 4.

⁷⁷ Pedelty 1995, 72.

⁷⁸ Gitlin ²2003, 259.

⁷⁹ Tuchman 1980, 15ff.

⁸⁰ Pedelty 1995, 24.

⁸¹ Cf. Bourdieu, in: Benson – Neveu 2005. Other factors, which will not be dealt with here, include economical, political, and social or discursive constraints, e.g. the market orientation of privately owned news media, the political status of the media in a given country, and the limitations of what and how things can be discussed in society.

during war time emphasize certain crucial aspects which will be discussed only in brief: training and preparations, accreditation, censorship and pool systems, work routines and the role of technical equipment, the relationship with colleagues, local stringers, the military and other sources, and the efforts to cope with fear and danger. These shall be discussed only in brief. Because wars are becoming ever more dangerous for non-combatants and because journalists have become explicit targets for kidnappers and killers, much attention is paid to proper training and security equipment. Presently, a number of armies and private organizations offer survival training for journalists, bullet-proof vests and cars have become standard equipment, and handbooks give advice to journalists planning to travel in dangerous regions.⁸² Accreditation still plays a vital role, especially when access to the frontline is either limited or too dangerous. The interviewed journalists spend much time on the subject of who gets access and why – and does not.⁸³

The actual work in a war zone comprises much routine and a few dangerous situations, or, as one correspondent puts it, “boredom punctuated by terror”⁸⁴. This leaves journalists with a constant feeling of fear, although very few of them wish to dwell on it.⁸⁵ Work is organized around deadlines, but the routines may differ, depending on the type of media (TV, print, radio) the journalists work for, their field of competence (reporter, camera, photography), and their institutional position (star reporter, correspondent, freelancer).⁸⁶ Although it is seldom talked about and we see one reporter’s name under an article or one face on the TV screen, war reporting is team work for various practical reasons: a) correspondents rely heavily on the help of stringers, chauffeurs, and translators who know the area and make contact with the locals; b) due to government regulations, the security situation, and/or a lack of infrastructure, they often live in the same hotel (like the now famous Sarajevo Holiday Inn during the war in Bosnia), sharing information and advice, debating politics and taking part in professional discussions; c) where mobility is an issue, travelling together is often both cheaper and safer; d) parties organize ‘guided tours’ to show journalists around the battlefield. Correspondents usually have mixed feelings about this, but again it offers security and is at times the only way to gain access; e) when technology was more expensive and heavier to carry around, reporters sometimes shared their equipment, and they might still do so on occasion.⁸⁷

⁸² Cf. Martin Löffelholz – Christian F. Trippe – Andrea C. Hoffmann (eds.), *Kriegs- und Krisenberichterstattung: Ein Handbuch*, Konstanz, UVK, 2008; Clarence R. Wyatt, *The Military and the Media: A Reference Handbook*, New York, Frederick Praeger (forthcoming).

⁸³ Tumber – Webster 2006, 77ff; Richter 1999, 79ff; Alexander Foggensteiner, *Reporter im Krieg: Was sie denken, was sie fühlen, wie sie arbeiten*, Wien, Picus, 1993.

⁸⁴ Pedelty 1995, 59.

⁸⁵ Tumber – Webster 2006, 142ff; Pedelty 1995, 41ff.

⁸⁶ Tumber – Webster 2006; Richter 1999; Knightley ²⁰⁰⁰; Pedelty 1995.

⁸⁷ Richter 1999, 149-171.

Working conditions also depend on factors such as changes in the nature of war, technological developments, and – more subtly – the socio-political context. The so-called ‘new wars’ with their lack of a clear frontline and their transnational nature pose new threats to non-combatants.⁸⁸ The media are considered an important party in any war, both because they influence opinion and might put pressure on governments and because they are a means of communication with which to reach sympathizers. As a consequence, journalists have become targets, as the sad case of Daniel Pearl has shown.

Much has been said about the impact of military and media technology on the work of war correspondents, from the first telegraphs to live TV and from panzers to ‘intelligent’ weapons.⁸⁹ Arguably the most significant of recent changes has been brought about by the internet. Groups that otherwise would not be able to broadcast their messages to a worldwide audience can now reach people in distant regions – for better or worse. The web 2.0 has become an important player in the media field, used as a major source by mainstream media. Warblogs, milblogs, and platforms like Wikileaks offer alternative perspectives on events, raising questions about sources, verification, and ultimately about what ‘journalism’ is and who can be called a ‘journalist’:⁹⁰ What, if any, is the difference between a dedicated blogger and a seasoned correspondent? Are personal accounts in blogs more ‘subjective’ than classical reports and features? Are they less trustworthy or more so? During the war in Iraq warblogs and milblogs tended to contain diary-style tales that repeated conventional experiences commonly found in the classical genre of war story, and less background and contextual information than the traditional news media.⁹¹

Historical shifts in the war discourse, in the political and social context of countries also alter working conditions, albeit in a less obvious way. How a society positions itself on the issue of war and how political legitimization is formed ultimately influences the self-image and motivation of correspondents and therefore their working routines and goals. In the Bosnian War the journalists’ strong commitment to a cause must be seen in relation with the discourse about the UN’s and others’ humanitarian responsibility. In Germany, this discourse later legitimized military operations in Kosovo, the first military engagement since the Second World War.⁹²

⁸⁸ Mary Kaldor, *New and Old Wars: Organized Violence in the Global Era*, Cambridge, Polity Press, 1998, 9.

⁸⁹ McLaughlin 2002, 24-45; Klein – Steinsieck 2006, 32-34.

⁹⁰ Hans Jürgen Bucher, “Internet und Krieg”, in: Martin Löffelholz (ed.), *Krieg als Medienereignis 2, Krisenkommunikation im 21. Jahrhundert*, Wiesbaden, VS Verlag für Sozialwissenschaften, 2004, 275-296.

⁹¹ Roering, Johanna, “‘Getting the Word Out’: Warblogs als Kriegsberichterstattung”, in: Barbara Korte – Horst Tonn (eds.), *Kriegskorrespondenten: Deutungsinstanzen in der Mediengesellschaft*, Wiesbaden, VS Verlag für Sozialwissenschaften, 2007, 194 (181-196).

⁹² Schwab-Trapp 2002, 358ff.

Part of the context in which war correspondents work is set by the framing efforts of political agents. Not surprisingly, studies dealing with structural constraints take a close look at the relationship between the media and the military. On the side of the military this is characterized by a mixture of affirmative and repressive strategies designed to control the news flow from a war zone. While censorship remains an important tool for the regulation of war coverage, 'soft' strategies such as public relations efforts, information campaigns, embedding, and military training for journalists have been on the rise for at least 30 years. On the side of the media the most obvious problem is the conflicting need for support from and distance to the military. Media rely on the military not only for information, but often for security, infra-structure, and freedom of movement.⁹³ At the same time they are keenly aware of strategic efforts of propaganda and the dangers of close association with a single war party that often results in a one-sided view of an armed conflict. Press briefings have a long tradition and the first pool systems were created during the Grenada and Falkland wars,⁹⁴ but the methods have grown more sophisticated over the years, adapting to new media technologies as well as to the changing demands of the public.⁹⁵ Governments and the military have put great effort in devising new strategies of communication with the media, including the use of private Public Relations firms.⁹⁶ Control of the access to battlefields and of communication are key issues in any modern war.

Learning from the experiences of the Falklands War, Alan Hooper⁹⁷, a serving officer in the Royal Marines himself, recommended an elaborate media training for the military that included awareness of the media's role in society, the details of the news process and the journalists' attitudes and responsibilities, and the promotion of military education for the media, especially on subjects such as the military's basic structure and its role in society. He also noted "remarkable

⁹³ Trevor A. Thrall, *War in the Media Age*, Cresskill (NJ), Hampton Press, 2000, 239.

⁹⁴ Knightley ⁵2000, 476-482; Jonathan Mermin, *Debating War and Peace: Media Coverage of U.S. Intervention in the Post-Vietnam Era*, Princeton (NJ), Princeton University Press, 1999, 36-65.

⁹⁵ Thomas M. Cioppa, "Operation Iraqi Freedom Strategic Communication Analysis and Assessment", in: *Media, War and Conflict* 2, 1 (2009), 25-45. Cioppa lists "understanding of the Iraqi and Pan-Arab media; media penetration of key themes; alignment of key messages; understanding Iraqi perceptions; prevalence of misinformation and disinformation in media stories; resonance of press conferences and key themes and messages; and effect of embedded reporters" as the major media strategies in the Iraq war. "The goal was to assess the alignment among facts on the ground, media framing of events, and Iraqi perceptions, and to provide actionable recommendations to improve the alignment" (25).

⁹⁶ Ray Eldon Hiebert, "Public Relations as a Weapon of Modern Warfare", in: Bradley S. Greenberg – Walter Gantz (eds.), *Desert Storm and the Mass Media*, Cresskill (NJ), Hampton Press, 1997, 29-36; Michael Kunczik, "Die Privatisierung der Kriegspropaganda", in: Löffelholz 2004, 81-98; Mira Beham, *Kriegstrommeln: Medien, Krieg und Politik*, München, dtv, 1996.

⁹⁷ Alan Hooper, *The Military and the Media*, Aldershot, Gower Publishing, 1982.

similarities between the characteristics of the two professions⁹⁸ and expected soldiers and journalists to get along quite well – once they are outside strenuous war situations.⁹⁹ Strategic planning, however, is not necessarily done by the military. In the US from Vietnam to the Gulf War, most media strategies were developed by the White House due to a rising awareness of media power.¹⁰⁰ The latest developments include the creation of the Media Center at Doha/Qatar during the Iraq War and the creation of the Office of Strategic Influence (OSI) – later renamed Office of Global Communications – after 9/11. The OSI coordinated propaganda efforts in Afghanistan, Europe and Arab countries, mostly through the Coalition Information Center (CIC). The latter's campaign included attempts to build contacts with European and Arab journalists and to position American politicians in Arab media.¹⁰¹

From the perspective of framing theory political discourse can be viewed as a struggle over the control of framing processes in public communication. Political actors try to impose their own frames on political discourse in order to gain legitimization for their actions, delegitimizing those of others. If frames make the world meaningful, then control of frames is control of meaning production, and the media as the chief provider of public discourse play an important role in this frame game.

Due to a number of constraints – such as lack of mobility, censorship, personal danger, etc. – journalists in a war rely heavily on official sources, making it easier for the latter to control the range of available frames. Furthermore, Daniel C. Hallin showed that critical reports about the war in Vietnam did not appear in American media until 1967-1968, when high-ranking officials in Washington had spoken out against the war and the national consensus began to erode.¹⁰² Jonathan Mermin, who looked at the media coverage of US military interventions from Grenada to the Gulf, found that the range of interpretations of events never left the boundaries set by political debate.¹⁰³ If dominant political sources are in agreement, the media

⁹⁸ Hooper lists initiative, responsibility, dedication, efficiency, teamwork, delegation of authority, self-discipline, forward planning, flexibility, long work hours, decision-making under pressure, and a few others – most of them so common-place that they fit the description of a large number of professions (Hooper 1982, 211).

⁹⁹ Hooper 1982, 69.

¹⁰⁰ Thrall 2000, 232ff.

¹⁰¹ Olaf Christiansen, "Das 'Office for Strategic Influence' als Informationsmanager in der US-Kampagne in Afghanistan", in: *Publizistik* 49, 1 (2004), 74 ff. (66-81).

¹⁰² Daniel C. Hallin, *The 'Uncensored' War: The Media and Vietnam*, New York, Oxford University Press, 1986.

¹⁰³ Jonathan Mermin, *Debating War and Peace: Media Coverage of U.S. Intervention in the Post-Vietnam Era*, Princeton (NJ) Princeton University Press, 1999.

play a relatively passive role, acting as mirrors rather than watchdogs.¹⁰⁴ Likewise W. Lance Bennett argues that the mainstream media “‘index’, the range of voices and viewpoints in both news and editorials according to the range of voices expressed in mainstream government debate about a given topic”¹⁰⁵. Combining framing theory with a model of media-state relations, Robert Entman argues that the spreading activation of frames travels from one level of political discourse to the next.¹⁰⁶ In this stratified ‘cascade’ model, framing processes run from government administration to political elites to the media and then on to the public:

The theory of spreading activation underlines the importance of the order in which information is presented. Early stimuli arising from news events and issues generally have primacy, since activation spreads out from the initial idea. There is thus a very practical reason for political leaders to worry, as did President Bush after September 11th, about imposing their own frames on an event from the start. A dominant frame in the earliest news coverage of an event can activate and spread congruent thoughts and feelings in individuals’ knowledge networks, building a new event schema that guides responses to all future reports. [...] The more often journalists hear similar thoughts expressed by their sources and by other news outlets, the more likely their own thoughts will run along those lines, with the result that the news they produce will feature words and visuals that confirm the same framing. If ideas expressed are more varied, framing may be less one-sided.¹⁰⁷

Ingrid Lehmann finds evidence for the cascading model in the American and German reporting on UN weapons inspections during the build-up to the Iraq war.¹⁰⁸ Both President Bush and Chancellor Schröder were highly effective in implementing their respective pro- and anti-war frames in the media. Models of indexing and cascading, however, fail to link framing processes to their discursive and ideological context. The hegemonic discourse influences notions about war, the role of the media in society, cultural or national stereotypes and so forth. In other words, journalists, politicians, and audiences already share a number of the most basic frames they can draw upon, making it hard to determine causation of framing effects.

¹⁰⁴ Mermin 1999, 143ff.

¹⁰⁵ W. Lance Bennett, “Toward a Theory of Press-State Relations in the United States”, in: *Journal of Communication* 40, 2 (1990), 106 (103-127). He finds evidence for the indexing hypothesis in the coverage of U.S. aid to the Nicaraguan contras in the 1980s as well in coverage of the Gulf war. Cf. W. Lance Bennett – Jarol B. Manheim, “Taking the Public by Storm: Information, Cuing, and the Democratic Process in the Gulf Conflict”, in: *Political Communication* 10, 4 (1993), 331-351.

¹⁰⁶ Robert M. Entman, *Projections of Power: Framing News, Public Opinion and US Foreign Policy*, Chicago-London, Chicago University Press, 2004.

¹⁰⁷ Entman 2004, 7, 9.

¹⁰⁸ Ingrid A. Lehmann, “Exploring the Transatlantic Media Divide Over Iraq: How and Why U.S. and German Media Differed in Reporting on UN Weapons Inspections in Iraq, 2002-2003”, in: *Press/Politics* 10, 1 (2005) 63-89.

Framing Effects

The media's framing highlights different aspects of war, gives different problem definitions, attributions of blame, etc., depending on the socio-political and cultural context of the publication. Journalists might not be aware of their framing at most times, but at others they make conscious use of it. Pedelty records the story of a helicopter shoot-down in El Salvador which the correspondent presented in different ways for the American and European press, using a more balanced frame in the former and a more biased frame in the latter, anticipating both institutional and audience reaction.¹⁰⁹

One important question remains: Do news frames influence public discourse and people's opinion? Evidence from various studies suggests that they do. We know from Agenda Setting research that media have the power to shape the people's agenda of political issues, or as McCombs and Shaw famously phrased it in 1972, citing Bernhard Cohen: "The media may not be successful in telling people what to think, but they are stunningly successful in telling people what to think *about*."¹¹⁰ In other words: News reporting shapes our ideas of what are important issues – whether, for instance, a conflict in Africa is more important to European politics than a conflict in Latin America or if migration is a more serious and pressing problem than drug trafficking.

Framing theory then poses a different question: Do the media also tell people *how* to think about an issue in terms of problem evaluation, attribution of guilt, applying of strategies for solutions, et cetera. While agenda setting suggests a correspondence between media agenda and audience agenda, framing theory suggests that salience is produced by the structure of narratives.¹¹¹ The most basic assumption is that of a 'cultural resonance' of media frames.¹¹² A frame must be meaningful for members of a group in order to have any effect. Studies on the mobilization of social movements have shown that the stronger the frame resonates within the group's culture, i.e. the more it relates to fundamental beliefs, ethics, and traditions, the more likely it is to make an impact.¹¹³ Edy and Meirick tested this thesis in a study on framing effects of the 9/11 coverage in the United States.¹¹⁴ They found that while the major television networks favored the

¹⁰⁹ Pedelty 1995, 9ff.

¹¹⁰ Bernhard C. Cohen, *The Press and Foreign Policy*, Princeton (NJ), Princeton University Press, 1963, 120, cited in Maxwell E. McCombs – Donald E. Shaw, "The Agenda Setting Function of Mass Media", in: *Public Opinion Quarterly* 36, 2 (1972), 177 (176-187).

¹¹¹ Jill A. Edy – Patrick C. Meirick, "Wanted, Dead or Alive: Media Frames, Frame Adoption, and Support for the War in Afghanistan", in: *Journal of Communication* 57, 1 (2007), 121 (119-141).

¹¹² Hertog – McLeod, in: Reese – Gandy – Grant 2003.

¹¹³ Hertog – McLeod, in: Reese – Gandy – Grant 2003, 141.

¹¹⁴ Edy – Meirick 2007.

war frame over the crime frame, crime was the most frequent audience frame. Forty-nine percent of the survey respondents adopted frame components that represented a mix of war and crime frames; i.e. they saw the dead as murder victims but wanted the perpetrators killed in war ('vengeance frame'), or they saw the victims as war casualties but desired a court trial for the perpetrators ('war crime frame'). The authors explain the dominance of the crime frame over the war frame based on the fact that the World Trade Center and Oklahoma City bombings in 1993 and 1995 were investigated and tried as criminal acts and were thus more culturally resonant.¹¹⁵ The adoption of mixed frames, consisting of both war and crime frame elements, suggests that there is no simple direct relationship between media frames and audience frames. Furthermore, the study found a connection between the correspondents' demographic background and their adoption of problem-defining frame elements, but no correspondence between demographic background and preferred problem solutions. Edy and Meirick concluded that the two framing dimensions are relatively independent of each other and that respondents "may use their own moral compasses to evaluate and combine frame elements instead of deriving moral valences from the frames"¹¹⁶. This in turn would mean that social context plays a more important role in the adoption of frames than media framing.

The structure and content of frames also have an impact on audience effects. McGoldrick¹¹⁷ analyzed the psychological effects of the audience's exposure to 'war frames' in news reporting in comparison to 'peace frames', explaining the reasons for 'compassion fatigue'.¹¹⁸ Her respondents experienced "anger with the constructedness of news and its failure to equip us to make meaning"¹¹⁹, find solutions or offer sympathy: "News begins with the premise that we care, or at least should care – which is why we are hearing about the situation in the first place – but it gives us a long list of problems with no opportunities for us to apply our care."¹²⁰ In addition, media coverage is seen as either an attempt to fix meaning on the audience's side or to make those audiences a part of the production of meaning, i.e. people might feel that the media are trying to persuade them of a certain political position, making them complicit in the tacit acceptance of the killing of others.

¹¹⁵ Edy – Meirick 2007, 121, 135.

¹¹⁶ Edy – Meirick 2007, 136.

¹¹⁷ Annabel McGoldrick, "Psychological Effects of War and Peace Journalism", in: Susan Dente Ross – Majid Tehranian (eds.), *Peace Journalism in Times of War*, New Brunswick (NJ), Transaction, 2008, 111-128.

¹¹⁸ Susan E. Moeller, *Compassion Fatigue: How the Media Sell Disease, Famine, War and Death*, New York–London, Routledge, 1999.

¹¹⁹ McGoldrick, in: Dente Ross – Tehranian 2008, 13-14.

¹²⁰ McGoldrick, in: Dente Ross – Tehranian 2008, 14.

Iyengar and Simon showed that under episodic framing, which depicts public issues in terms of concrete events, viewers attributed responsibility for war, crime or terrorism to particular individuals and groups.¹²¹ Under thematic framing, which places the same issues in a more general or abstract context, viewers tended to put blame on general societal factors. With respect to the Gulf War, episodic framing strengthened support for military action because it calls for punitive treatment of individual perpetrators.

Lee, McLeod, and Shah¹²² work on the assumption that journalistic practice tends to present political issues in a dualistic structure or 'conflict frame', and that conflict over issues can in turn either rely on 'strategy frames' highlighting political interests and competing strategies, or on 'value frames' depicting political conflict as a clash of moral principles or basic values. Their findings suggest that value framing does not suppress partisanship in the formulation of opinions, while it is rejected as a consideration for making judgments under the strategic frame, maybe because respondents tended to view strategic frames as mere political game-play in which partisan actors seek advantage for themselves.

Although the extent to which actual opinion is shaped by media frames is still unclear, experiments have shown that they resonate with audiences in at least four ways:¹²³

1. *Activation and Priming Effect:*

Media frames activate those cognitive frames of the recipients that fit best with their own predispositions. If the cognitive frame has been activated, it is likely that it will be activated again at another point, a process called 'priming'. Iyengar and Simon documented such priming effects in the Gulf War, where the principal basis for the evaluation of President Bush shifted from national economics to foreign policy matters.¹²⁴

2. *Transformation Effect:*

Cumulative, consonant media framing may have the ability to shape the recipients' frames in the direction of the media frame. If a story makes it into the news on a regular basis and is not represented with contradictory frames, it may in time shape the cognitive frames audiences apply to it. If a war is repeatedly framed in

¹²¹ Shanto Iyengar – Adam Simon, "News Coverage of the Gulf Crisis: A Study of Agenda Setting, Priming, and Framing", in: Shanto Iyengar – Richard Reeves (eds.), *Do the Media Govern? Politicians, Voters, and Reporters in America*, Thousand Oaks–London–New Delhi, Sage, 1993, 248-257.

¹²² Nam-Jin Lee – Douglas M. McLeod – Dhavan V. Shah, "Framing Policy Debates: Issue Dualism, Journalistic Frames, and Opinions on Controversial Policy Issues", in: *Communication Research* 35, 5 (2008), 695-718.

¹²³ Bertram Scheufele 2004, 40.

¹²⁴ Iyengar – Simon, in: Iyengar – Reeves 1993.

terms of ethnic rather than economical conflict, the audience's understanding and evaluation of the conflict will develop in the direction that the media frame implies.

3. *Establishing Effect:*

Cumulative, consonant media framing can also establish new cognitive frames if the subject is new or unfamiliar to the recipient. Members of an audience do not have cognitive schemata available for every piece of information the media provides. Thus, a regular, frame-consistent reporting on the subject may be able to establish new frames in the recipient's minds.

4. *Change-of-Opinion Effect:*

Effects in terms of opinion change are still controversial. Framing effects seem to be found on a more abstract level rather than in concrete attitudes towards specific issues, i.e. long-term exposure to media frames might influence the way mechanisms of conflict and conflict solution are understood, rather than cause a change in opinion about a given conflict.

Conclusions

George Lakoff gives a witty example to explain how framing works by telling his students in class, "Don't think of an elephant! Whatever you do – do not think of an elephant!"¹²⁵ This obviously will not work because the moment you evoke a frame, it is there. Since framing is inevitable, it is necessary to both beware and be aware of it.

Beware of it:

Media strategies that focus on conflict de-escalation should be sensitive to the subject of which frames ought to be avoided. Peace-oriented journalism should not make use of any frames that draw stark distinctions between self and other, and/or portray a conflict as consisting of only two parties contesting one goal. Careful consideration should also be given to the five frame elements of problem definition, causal interpretation, moral evaluation, treatment recommendation, and legitimating/mobilization.¹²⁶ Among other things, problem definitions should not focus on violent acts alone or assess them only in terms of their visible effects. They should not use imprecise or emotive words such as Holocaust or genocide. Likewise causal interpretations should not demonize one of the conflicting parties or place blame in terms of who started what. Moral evaluations should

¹²⁵ George Lakoff, *Don't Think of an Elephant! Know Your Values and Frame the Debate. The Essential Guide for Progressives*, White River Junction (VT), Chelsea Green Publishing, 2004.

¹²⁶ Cf. Entman 1993; Eilders – Lüter 2000.

be balanced and well-informed; treatment recommendations should advocate peaceful, compromise-oriented solutions.¹²⁷

Be aware of it:

A critical eye on media frames requires one to be self-critical about one's own cognitive frames, and to be aware of the mechanisms and consequences of framing processes. On the cognitive level the predispositions and the habitus of war correspondents influence their approach. On the discursive level the structural constraints of news production and the rules of the journalistic field are met by the rules and constraints of other fields, and on the textual level metaphors and other textual elements highlight certain aspects of an event. Thomas Dominikowski sees the media as prone to "structural militarization"¹²⁸ because of the symbiotic relationship between the discourses of media and war on a technological, political, economical, individual, and professional level. But structural militarization – unlike framing – is not inevitable, as any part of the framing process might be open to change.

¹²⁷ Annabel Goldrick – Jake Lynch, "What is Peace Journalism?", in: *Activate* (Winter 2001), 6-9, http://ics.leeds.ac.uk/papers/pmt/exhibits/1808/activate_4.pdf, accessed 14 July 2010.

¹²⁸ Thomas Dominikowski, "Massenmedien und Massenkrieg. Historische Annäherung an eine unfriedliche Symbiose", in: *Löffelholz* 2004, 78-80.

Young Researchers' Forum Forum des jeunes chercheurs

“[U]sing doom and horror to reaffirm life”¹: Guilt and Victimhood in Uwem Akpan’s “My Parents’ Bedroom”

*Adrian Knapp
University of Innsbruck*

Résumé

En étudiant la nouvelle “My Parents’ Bedroom” (2008) dans laquelle Uwem Akpan dépeint l’image de l’éclatement d’une famille pendant le génocide au Rwanda en 1994, nous nous proposons de baser notre analyse sur le concept de l’“entre-deux subjectif” élaboré par H. Arendt dans *The Human Condition* (1958). Comme F. Kermode l’explique dans *The Sense of an Ending* (2000 [1966]), nos vies personnelles et notre expérience prennent un sens lorsqu’on les conçoit comme ayant un début et une fin (fictifs) à un moment précis. La présente contribution entreprend une étude des traumatismes personnels qui résultent de la destruction violente et inattendue de ces fictions, “whose ends [in being] consonant with origins, and in concord, however unexpected, with their precedents”² valorisent et répondent à nos besoins. Notre analyse mettra l’accent sur la manière dont les formes de la communication inter-/intrafamiliale et intra-/interculturelle sont affectées par cette transformation forcée qui entraîne la destruction du sentiment personnel d’appartenance et la fuite dans le rôle de victime où l’individu s’attribue la culpabilité. En outre notre focus portera sur le passage de vieilles formes de la communication inter-/intrafamiliale/culturelle (légitimées à l’intérieur) à de nouvelles (imposées par l’extérieur), de la perspective personnelle d’un ‘sujet’ actif à celle d’un objet qui est ‘traité’. Cela nous permettra de déconstruire l’impotence auto-protectrice (et auto-imposée) de la victime et de dessiner un moyen de récupérer la pleine capacité d’agir en négociant de nouvelles formes de l’affiliation intersubjective.

*We closed our hearts and minds and did the job.
Turikinkiko³
An enemy is someone whose story you have not heard.
Wendy Brown⁴*

Introduction

Genocide is a term that evokes pictures of bodies piled on the side of the road, of roadblocks where people are murdered because of their physical appearance,

¹ Gil Courtemanche, *A Sunday at the Pool in Kigali*, trans. Patricia Claxton, Edinburgh, Cannongate, 2004, 148.

² Frank Kermode, *The Sense of an Ending*, Oxford, Oxford University Press, 2000, 5.

³ Turikinkiko cited in Michael Mann, *The Dark Side of Democracy: Explaining Ethnic Cleansing*, Cambridge, Cambridge University Press, 2005, 466.

⁴ Wendy Brown cited in Slavoj Žižek, *Violence*, New York, Picador, 2008, 46.

of a traumatized population not knowing how to work through a nightmare that is difficult to imagine and even more difficult to make sense of. Many people have wondered what triggers such unspeakable crimes against humanity and many more have wondered how they would behave if they found themselves in such a precarious situation, be it on the side of the perpetrators or on the side of the victims. Is it enough to lament that “what happened in Rwanda in 1994 [was] the greatest and most shameful cataclysm of humanitarianism”⁵? If it is, how does such a claim make victims of other violent mass killings feel? Is there an alternative to this competitive “struggle for hegemony in suffering”⁶? Uwem Akpan’s “My Parents’ Bedroom” hints at a way out of this predicament of seeking refuge in simply allocating guilt and victimhood among fighting parties by highlighting the interrelated and interwoven nature of stories told by both perpetrators and victims.

Conceptions of Genocide: Guilt, Victimhood, Envy, and Rage

*Sometimes doing nothing is the most violent thing to do.*⁷

Of all the short stories collected in Akpan’s *Say You’re One of Them* (2008), “My Parent’s Bedroom” perhaps best highlights the hopelessness prevalent in a society that has succumbed to seeing and interpreting the world in only one way exclusively; a form of “controlled” social interaction that “loses its dialogical dimensions [and] becomes not only self-referential and solipsistic, but pathological”⁸. Hannah Arendt refers to such tyrannical societies as societies built on an “imprisoned subjectivity”. As she points out, in such societies “all [are] imprisoned in the subjectivity of their own singular experience, which does not cease to be singular if the same experience is multiplied innumerable times”⁹. Such an “imprisoned subjectivity” is a chief characteristic of societies suffering from ethnic violence, when individual social experiences that were formerly equally influenced by aspects of class, religion, and gender, are all of a sudden interpreted exclusively along ethnic lines. This overpowering dominance of ethnicity as a marker of social allegiances is characteristic of “ethnonationalism”¹⁰ which often constitutes the basis for acts of ethnic cleansing. As Michael Mann makes clear,

An *ethnicity* is a group that defines itself or is defined by others as sharing common descent and culture. So *ethnic cleansing* is the removal by members of one such group of another such group from a locality they define as their own. [...] Genocide is

⁵ Tony Vaux, *The Selfish Altruist: Relief Work in Famine and War*, London, Earthscan, 2001, 7.

⁶ Žižek 2008, 3.

⁷ Žižek 2008, 217.

⁸ Michael Jackson, *The Political of Storytelling: Violence, Transgression, and Intersubjectivity*, Copenhagen, Museum Tusulanum Press, 2002, 40.

⁹ Hannah Arendt, *The Human Condition*, Chicago, University of Chicago Press, 1998, 58.

¹⁰ Mann 2005, 5.

[therefore] intentional, aiming to wipe out an entire group, not only physically but also culturally (destroying its churches, libraries, museums, street names).¹¹

Uwem Akpan's short story narrates such a shift in the form of social interaction depicting a society that has fallen into the trap of seeing the world exclusively in terms of ethnic affiliations. It hardly needs mentioning that notions of guilt and victimhood feature strongly in such a society not only as a means of interpreting the past but also as legitimizing present actions. More importantly, however, when analyzing such a society one tends to oversimplify the complex motives underlying violent action by dividing parties into innocent victims and callous perpetrators, completely overlooking the underlying social structures that facilitate the outbreak of violence in the first place. In this respect it is worth remembering that

perpetrators of ethnic cleansing do not descend among us as a separate species of evildoers. They are created by conflicts central to modernity that involve unexpected escalations and frustrations during which individuals are forced into a series of more particular moral choices.¹²

As Slavoj Žižek points out, these unexpected escalations of violence are first and foremost the result of a

complex interaction of the three modes of violence: subjective, objective, and symbolic. The lesson is thus that one should resist the fascination of subjective violence, of violence enacted by social agents, evil individuals, disciplined repressive apparatuses, fanatical crowds: subjective violence is just the most visible of the three.¹³

As such, the individual moral choices and subsequent actions taken in the course of ethnic conflict must be recognized as firmly grounded in a social system formed by symbolic and systemic violence. While the former highlights the violent potential inherent in language whereby real experiences and frustrations are given symbolic value legitimating social action, the latter refers to social practices that are largely performed uncritically due to their being based in ideology.

Symbolic and Systemic Violence

As Peter Sloterdijk makes clear, "[m]ore communication means at first above all more conflict"¹⁴. This is not only due to language constituting an insurmountable barrier between ourselves and others, fostering miscommunication and misunderstanding, but also due to the fact that any verbal exchange is dominated by what Jacques Lacan has called the 'Master-Signifier' policing the borders of semantic fields. As Žižek points out,

¹¹ Mann 2005, 11, 17.

¹² Mann 2005, ix.

¹³ Žižek 2008, 11.

¹⁴ Peter Sloterdijk cited in Žižek 2008, 59.

language simplifies the designated thing, reducing it to a single feature. It dismembers the thing, destroying its organic unity, treating its parts and properties as autonomous. It inserts the things into a field of meaning which is ultimately external to it.¹⁵

In the Rwandan context, referring to someone as ‘Hutu’ resembles an oversimplified description of a complex human being, as it not only excludes and ignores other social factors such as class and gender but perhaps more importantly, because it confines a person to one particular position in the social divide and thus engenders feelings of allegiance that despite their fictional nature can be highly divisive. What is more, the term Hutu positions a human subject in a semantic field that is not controlled by the subject him/herself but by the ‘Master-Signifier’ inherent to this ethnic group, urging the human subject to act in specific ways. In turn, taking a closer look at systemic violence, it becomes clear that it is closely entangled with power (ideological, economic, military, and political)¹⁶ pressuring people into making certain decisions and acting in particular ways. While these pressures can take a top-down or a bottom-up form, people are also often coerced sideways by social groupings such as paramilitaries.¹⁷ Having said that, it is important to remember that people take part in violent crimes not as victims of a “cult of obedience”¹⁸ but rather as active agents who are mobilized via particular social power structures. Leaning on Žižek’s concept of the “institutional unconscious”¹⁹, it is therefore the “cultural unconscious” of social power relations that buttresses and legitimizes specific forms of social and cultural exchange in ways that generally remain hidden to people living in these cultures.

The Mask of Evil

These counter-intuitive insights into forms of symbolic and systemic violence illustrate that “[t]here are no virtuous peoples. [...] Indeed, placed in the right circumstances and core constituencies, we are almost all capable of such evil – perhaps even of enjoying it.”²⁰ This is perhaps the most disconcerting aspect when examining the Rwandan genocide, namely that there is ample “evidence”, according to Tony Vaux, “that the killers enjoyed their task and became addicted to it”²¹. What may initially have started out as small-scale violence instigated by a group of people clinging on to political, economic, and military power “gathered

¹⁵ Žižek 2008, 61.

¹⁶ According to Mann, “[p]olitical power is inherently territorial, authoritative, and monopolistic. Ideology is partially private and substantially voluntary, economic life involves market choices, and military power is normally institutionalized and kept away from our everyday life experiences” (Mann 2005, 33).

¹⁷ Mann 2005, 8.

¹⁸ Mann 2005, 469.

¹⁹ Žižek 2008, 168.

²⁰ Mann 2005, 9.

²¹ Vaux 2001, 186.

an internal momentum of its own. People joined in enthusiastically, killing almost indiscriminately because someone was tall or because they had a grudge"²². Or as André Sibomana remembers in *Hope for Rwanda* (1999):

After several days of this horrific blood bath, the killers went completely mad. Politics, ethnic divisions, the war, none of this even entered their minds. They killed for a crate of beer, for a look which may have been too insistent, or just because they did not know what else to do.²³

If most of us are capable of enjoying committing such abominable crimes, as Mann tells us, where does this leave humanity, especially when perceived along Vaux's lines as constituting a naturally given proclivity to "care for the person in need"²⁴? Is such violence then the result of a dark, disavowed, bestial underside of humanity? According to Vaux, it is only through confronting our own evil and base tendencies, our own internal biases, only through "'minimizing' the self and increasing awareness of the 'other'", that we can live up to the best in humanity and take "pride in our species"²⁵. But what if this focus on the other is what actually triggers our evil and base tendencies in the first place? Žižek has convincingly argued that it is rather this interest in others that constitutes the "primary vice of a bad person"²⁶: "The true opposite of egotist self-love is not altruism, a concern for common good, but envy, *ressentiment*, which makes me act *against* my own interests."²⁷ Following Žižek, it is the subject's envy of the other that, in aiming at destroying the other's "ability/capacity to enjoy the object"²⁸ of desire, lies at the basis of human strife and violence. If Žižek is right, then "the properly human good, the good elevated above the natural good, the infinite spiritual good, is ultimately *the [true] mask of evil*"²⁹ since its driving motive is less a common altruistic ideal of doing good for its own sake but a devious scheme seeking to outdo, outshine and, if necessary, undo the other.

Violence understood along these lines has to be regarded as a form of intersubjective communication where words have lost their conciliatory power. As Michael Jackson points out, "violence arises not in aberrant *subjective* impulses or desires but in intersubjectivity"³⁰ and as such its cyclical nature is modeled on

²² Vaux 2001, 191.

²³ Sibomana cited in Vaux 2001, 192-193.

²⁴ Vaux 2001, 2.

²⁵ Vaux 2001, 7, 212.

²⁶ Žižek 2008, 92.

²⁷ Žižek 2008, 87.

²⁸ Žižek 2008, 90.

²⁹ Žižek 2008, 66.

³⁰ Jackson 2002, 44.

Marcel Mauss' "three obligations of reciprocity – giving, receiving, repaying"³¹. In a similar vein, the Rwandan genocide has been analyzed in terms of its resembling "a circle of self-hate – of authoritarian government, oppression, low self-esteem and self-disgust"³² – that comes to manifest itself in the triad "threat-humiliation-rage" where an ominous threat causes a sense of personal humiliation that leads to "a self-righteous rage to expunge it"³³. Nietzsche once wondered about the extent to which suffering inflicted on others can balance debts or guilt. He came to the conclusion that

to make [others] suffer was in the highest degree pleasurable, to the extent that the injured party exchanged for the loss he had sustained, including the displeasure caused by the loss, an extra-ordinary counterbalancing pleasure [...]. To see others suffer does one good, to make others suffer even more.³⁴

Seen in historical terms it is important to note that this potential for rage underlying social interaction has seen a considerable shift since the time of ancient Greece. As Žižek avers, "[w]hile in ancient Greece rage [wa]s allowed to explode directly" the subsequent monotheistic religious culture of Christianity with its doctrine of "turning the other cheek" caused a "sublimation, temporal deferral, postponement, transference" of rage.³⁵ This shift has had profound consequences on the "social web of relationships"³⁶ and the human faculty of forgiving, as the final settlement of inter-human conflict was postponed to a kind of future Judgment Day. As a result, true forgiveness resulting from the freeing effect of immediate retributive and reconciliatory expressions of rage has become increasingly difficult and has increased the danger of socially and culturally suppressed rage sporadically breaking free in a form of uncontrolled, all-encompassing (subjective) physical violence. This is why Arendt's understanding of forgiving as constituting "the only reaction which does not merely re-act but acts anew and unexpectedly, unconditioned by the act which provoked it [...] freeing from its consequences both the one who forgives and the one who is forgiven"³⁷ needs to be read in relation to Žižek, who points out that true forgiving can only take place after the rage resulting from humiliation has found adequate expression, be it in the form of revenge or some other form of just punishment, since it not only satisfies the victim's desire of seeking redress but also liberates the perpetrator from his/her

³¹ Marcel Mauss cited in Jackson 2002, 41.

³² Vaux 2001, 196.

³³ Mann 2005, 28.

³⁴ Friedrich Nietzsche cited in Richard Holloway, *Between the Monster and the Saint: Reflections on the Human Condition*, Edinburgh, Canongate, 2009, 14.

³⁵ Žižek 2008, 186.

³⁶ Arendt 1998, 183.

³⁷ Arendt 1998, 241.

crimes.³⁸ So perhaps Žižek is right when outlining that "[w]hat is truly arrogant and sinful is to assume the prerogative of mercy"³⁹ as it prevents and postpones real social catharsis.

The Social Function of Literature

What role could literature then possibly play in such a society divided by envy and suppressed rage? As Richard Holloway points out, "from the beginning of recorded history our fictions [as human beings] have been about our struggles with sex and violence, cruelty and greed, belonging and loss"⁴⁰. If literature as a means of reflecting our own experiences and desires has accompanied humanity since the beginning of time, how can this medium of cultural exchange be perceived as liberating when one remembers that it is firmly entrenched in the symbolic violence of language? Kenneth Burke's theory of "type situations", which refers to "subtle subdivisions of the relationships involved in competitive and cooperative acts"⁴¹, appears useful in this respect, as it sums up and categorizes reoccurring representative experiences produced in any given society. Literature perceived in this light therefore constitutes "strategies for selecting enemies and allies, for socializing losses, for warding off evil eye, for purifications, propitiation, and desanctification, consolation and vengeance, admonition and exhortation, implicit commands or instructions of one sort or another"⁴². By subjecting ourselves to these types of situations through the medium of language we are confronted with someone else's experiences, desires, and frustrations, which not only enables us to draw comparisons to our own experiences but also helps us re-negotiate our semantic code in relation to the feelings the text evokes. Literature is thus paramount for highlighting and addressing the injustices in the world without which the "entire history of humanity [could] be seen as a growing normalisation of injustice, entailing the nameless and faceless suffering of millions"⁴³. This is perhaps what Burke had in mind when claiming that art, and by extension literature, is "designed to organize and command the army of one's thoughts and images"⁴⁴. It is this aspect of "re-ordering and commanding one's thoughts and images" in relation to present social injustices that will constitute the focus of the following discussion of aspects of guilt and victimhood in Akpan's "My Parent's Bedroom".

³⁸ Žižek 2008, 190.

³⁹ Žižek 2008, 193.

⁴⁰ Holloway 2009, xvi.

⁴¹ Kenneth Burke, "Literature as Equipment for Living", in: Elizabeth Burns – Tom Burns (eds.), *Sociology of Literature and Drama*, Harmondsworth, Penguin, 1973, 129 (129-138).

⁴² Burke, in: Burns – Burns 1973, 137.

⁴³ Žižek 2008, 179.

⁴⁴ Burke, in: Burns – Burns 1973, 132-133.

“My Parents’ Bedroom”

*Everyone must have blood on their hands. Then no one person can be blamed.*⁴⁵

In “My Parents’ Bedroom” guilt and victimhood manifest themselves as envy and rage and are negotiated in a violent struggle in which ethnicity takes center stage and dominates over other social markers such as gender, religion, class, and culture. The following analysis will try to show how the all-domineering notion of ethnicity is re-positioned in relation to these other social markers to the effect of legitimizing and condoning certain forms of human interaction while prohibiting others.

Ethnicity as a Social Marker

The dominance of ethnicity as a social marker is detailed early in the story when Monique (Shenge), the child narrator, remarks that she has similar bodily features as her mother who is “a very beautiful Tutsi woman” with light skin and “high cheekbones, a narrow nose, a sweet mouth, slim fingers, big eyes, and a lean frame”, while her brother Jean has inherited Papa’s Hutu features of black skin, “a round face, a wide nose, [...] brown eyes [and] lips [that] are as full as a banana”⁴⁶. Monique’s relatives, however, complicate this picture of ethnicity – Hutu vs. Tutsi – as directly corresponding to specific physical features. While Tonton André is “a cross between Papa and Maman – as tall as Maman but not quite as dark as Papa”⁴⁷, the pregnant Tantine Annette, despite being “Tutsi, like Maman, [is] as dark as Papa [and thus sometimes] ask[ed] for her ID [by the police], to be sure of her roots”⁴⁸. To complete this picture of ethnic hybridity,

Papa’s father’s brother, Tonton Nzeyimana – the Wizard [...] is a pagan [whose] color of [...] skin is milk with a little coffee. He never married because he says he hates his skin and doesn’t want to pass it on. Sometimes he paints himself with charcoal, until the rain comes to wash away his blackness.⁴⁹

It is with this ambiguous notion of ethnicity in mind that the following story of ethnic strife has to be examined. More specifically, it is the Wizard who with his “milky skin” – the physical trace of “a complicated story of intermarriage”⁵⁰ and representative of past forms of European and African cultural exchange – constitutes the family’s only ‘truly’ ethnic and cultural hybrid and therefore comes to play a central part in the unfolding story.

⁴⁵ F. Keane cited in Mann 2005, 468.

⁴⁶ Uwem Akpan, “My Parent’s Bedroom”, in: Uwem Akpan, *Say You’re One of Them*, London, Abacus, 2008, 266.

⁴⁷ Akpan 2008, 268.

⁴⁸ Akpan 2008, 268.

⁴⁹ Akpan 2008, 267.

⁵⁰ Akpan 2008, 267.

Ethnicity and Gender

The story starts out with the child narrator, Monique, telling us about a fateful Saturday evening:

I'm nine years and seven months old. I'm at home playing peekaboo in my room with my little brother, Jean. It's Saturday evening, and the sun has fallen behind the hills. There's silence outside our bungalow, but from time to time the evening wind carries a shout to us. Our parents have kept us indoors since yesterday.⁵¹

Like an innocent child, Monique is not troubled by the mysterious shouts that sporadically disrupt the quiet of the evening, nor does she reflect upon the fact that her parents have not allowed her to leave the house. Not even her mother's ghost-like appearance telling her not to turn on the lights at night seems to unsettle her. She contently complies with her mother's request to wait for her "papa and uncle [to] return" as "they'll explain things"⁵². But instead of her papa's explanation Monique is subjected to a show of force and violence when Tonton André tricks his way into the house accompanied by the Wizard and an angry mob. As Simone Weil notes, force "is that X that turns anybody who is subjected to it into a *thing*. Exercised to the limit, it turns man into a thing in the most literal sense: it makes a corpse out of him"⁵³. Testifying to Arthur Schopenhauer's contention, as interpreted by Richard Holloway, that the force of nature is "at its most tyrannical in the reproductive drive, sex, where it can quench not only normal human sympathy, but rationality as well"⁵⁴, Monique is sexually assaulted after opening the door to Tonton André. Abandoned by André and her great-uncle, the Wizard, Monique is attacked in front of Jean's eyes by a big-bellied man of the mob:

Pressing me down on the floor the naked man grabs my two wrists with his left hand. He pushes up my nightie with the right and tears my underpants. I shout at the top of my voice. I call out to Tonton André, who is pacing in the corridor. He doesn't come. I keep screaming. I'm twisting and holding my knees together. Then I snap at the naked man with my teeth. He hits my face, this way and that, until my saliva is salted with blood. I spit in his face. Twice. He bangs my head on the floor, pinning down my neck, punching my left thigh. [...] His short pee is pouring on my thighs and my nightie, warm and thick like baby food. I can't breathe, because he has collapsed on me with his whole weight, like a dead man.⁵⁵

Nobody interferes to put an end to the assault. What is more, the Wizard, who protests against Monique's rape interjecting – "Shenge is one of us!"⁵⁶ – and threatening – "You're lucky you didn't open her womb. I would've strangled you

⁵¹ Akpan 2008, 265.

⁵² Akpan 2008, 265.

⁵³ Simone Weil cited in Holloway 2009, 5.

⁵⁴ Holloway 2009, 10.

⁵⁵ Akpan 2008, 271.

⁵⁶ Akpan 2008, 271.

myself!"⁵⁷ – later indirectly approves of the assault when he assures Tonton André that "[n]obody can escape our wrath this time. Nobody"⁵⁸. This passage not only attests to Weil's claim that one's succumbing to force turns one into a mere thing or corpse, as the big-bellied man's collapsing on Monique like a dead man testifies, but also to Stephen Pinker's contention that "[m]aleness is by far the biggest risk factor for violence"⁵⁹. However, if one reads this sexual attack along ethnic lines, it becomes clear that, as Mann avers, the intent of rape "is to make the woman unlikely to bear children carrying the identity of the out-group. Biological cleansing tends to center on females for obvious reasons: maternity is certain, paternity only presumed"⁶⁰. What this passage therefore outlines is how ethnicity is used as an excuse by men to gratify personal desires. But still, it is worth noting that the assault is framed in such a way that its legitimacy and cultural acceptability – especially if conceived of in ethnonationalist terms – is powerfully undermined. Just as Maman's urging Monique to "say you're one of them"⁶¹ regardless of who may ask effectively waters down the alleged essence of ethnicities fought over in the genocide, the Wizard in defending Monique as "one of us"⁶² – that is, one of the Hutu mob – counteracts his own stipulated agenda, especially since Monique looks like her mother, a Tutsi, while he himself resembles the product of "a complicated story of intermarriage"⁶³. Read with a focus on envy and guilt, the hypocrisy underlying the Wizard's actions is all the more confounding, for his envy of Monique's 'pure' physical features and her seemingly undisputed ethnic belonging results in his condoning a rape that can only give life to a creature similar to his despised 'mongrel' self.

Ethnicity as Misplaced Envy and Suppressed Rage

This ambivalence underlying the concept 'ethnicity' also features in Papa's futile attempt to save the family from the impending violence. As Monique relates,

Papa pulls his ID from his back pocket and considers the details with disgust. He gets Maman's card out of his pocket too. Joining the two together, he tears them into large pieces, then into tiny pieces, like confetti. He puts the scraps on the table and goes back to his security post at the window. Then he comes back and gathers them up, but he can't repair the damage. He puts the pieces into his pocket.⁶⁴

⁵⁷ Akpan 2008, 271.

⁵⁸ Akpan 2008, 271.

⁵⁹ Stephen Pinker cited in Vaux 2001, 193.

⁶⁰ Mann 2005, 15.

⁶¹ Akpan 2008, 266.

⁶² Akpan 2008, 271.

⁶³ Akpan 2008, 267.

⁶⁴ Akpan 2008, 282-283.

This scene constitutes the turning point of the story. In first tearing apart the documents that attest to the ethnic rift running through the family and later feebly reassembling the pieces that highlight the family's fractured unity, Papa concedes defeat and subjects himself and his family to the new social hierarchy based on ethnic essentialism. His resolution is put into effect shortly after when Tonton André and the Wizard return and urge him to kill his wife in order to save his children. As Tonton André makes clear, "You were with us when I killed Annette yesterday. My pregnant wife. You can't keep yours"⁶⁵. André's justification for killing his own wife is soon after explained by the Wizard, who points out:

If we kill your wife for you [...] we must kill you. And your children too. [...] Otherwise, after cleansing our land of Tutsi nuisance, your children will come after us. We must remain one. Nothing shall dilute our blood. Not God. Not marriage.⁶⁶

The Wizard's words are insightful in many respects. Firstly, by urging Papa to kill Maman he reminds André that in killing his wife Annette he also killed his unborn child, testifying to the self-destructive nature of envy and ethnic violence⁶⁷. What is more, the passage also outlines the Wizard's ambiguous perspective on ethnicity per se, fighting for ethnic purity whilst himself representing the very example of 'diluted blood'. Most importantly, however, in saving the lives of Papa's two children – Jean is distinctly Hutu while Monique has Tutsi features – the Wizard defers the conflict's logical resolution to an indefinite future. In this respect it could be argued that the mob's driving motive, as here illustrated by the Wizard, is not so much the eradication of the rival group itself, but rather the weakening of its power and strength so as to reduce the perceived danger of an attack, as the complete annihilation of the rival group would endanger the existence and unity of the in-group which depends on the rival group for its own legitimacy. With this in mind, Papa needs only little encouragement from Maman – "My husband, be a man. [...] My husband, you promised me"⁶⁸ – before he "lands the machete on Maman's head"⁶⁹. By sacrificing his wife, Papa not only saves his two children but also a motley assembly of people of the out-group who have found refuge in the ceiling. This, however, is not to ignore the fact that Papa's actions draw him "into a life of bondage to aggression"⁷⁰ just as André and the Wizard before him. An unnamed member of a gang killing numerous people in the Rwandan genocide testifies to this fact, noting that "the more we saw people die, the less we thought

⁶⁵ Akpan 2008, 285.

⁶⁶ Akpan 2008, 285.

⁶⁷ Akpan 2008, 268.

⁶⁸ Akpan 2008, 285.

⁶⁹ Akpan 2008, 285.

⁷⁰ Pumla Gobodo-Madikizela, *A Human Being Died that Night: A Story of Forgiveness*, Claremont, David Philip, 2003, 56.

about their lives [...] and the more we got used to enjoying it”⁷¹. But this also holds true for the victims who become perpetrators. As Arthur Koestler points out: “If power corrupts, the reverse is also true; persecution corrupts the victims, though perhaps in subtler and more tragic ways.”⁷² In this respect the enjoyable sensation of killing people soon also infects members of the other ethnic group, who in seeking redress commit similar atrocious acts of retributive violence. This is vividly demonstrated by Monique when she states after leaving her parents’ house that there is

a smaller mob coming toward us. [...] These are the people on Maman’s side, and they’re all in military clothes. Like another soccer fan club, they’re chanting about how they’re going to kill Papa’s people. [...] If Papa couldn’t spare Maman’s life, would my mother’s relatives spare mine? Or my brother’s?⁷³

It is ironic that this mob, by burning down Monique’s abandoned family home, unknowingly kills all the people that Monique’s family had granted shelter in the ceiling, including members of their own ethnic group. What this passage therefore illustrates is the self-destructive force of ethnic group thinking. Monique’s comparing both mobs to groups of football hooligans further reminds us that the “violent ‘rent-a-crowds’ of young men”, these “roving bands of armed youths” who were at the forefront of the killing, were the product of an attempt to alleviate some of the severest effects of poverty and unemployment in local communities by merging football clubs with youth works programs.⁷⁴ What was initially created in the interest of the community has turned against the community itself, now devouring the community in self-interested madness.

Ethnicity and Religion

The struggle for ethnic hegemony is also played out in the religious sphere juxtaposing traditional and modern ways of life. Here the front line again runs between the three male family members, with André and Papa representing modern Western ways of living while the Wizard is depicted as subscribing to more ‘traditional’ African values. Thus staying true to their ideals, André and Annette ignore people’s stares when kissing in public and Monique’s family has openly embraced Catholicism; both much to the dislike of the Wizard. This conflict for ethno-cultural hegemony is therefore arguably best illustrated in the scene where Monique directly confronts the Wizard’s hatred of Christianity.⁷⁵

⁷¹ Jack R. Fischel, “Genocide in Rwanda”, in: *The Virginia Quarterly Review* 82, 1 (2006), 272 (263-274).

⁷² Arthur Koestler cited in Žižek 2008, 121

⁷³ Akpan 2008, 288.

⁷⁴ Mann 2005, 441, 462.

⁷⁵ It needs to be mentioned that Monique, the firstborn child in her family, despite her female sex has been appointed as caretaker of the luminescent crucifix adorning the family altar in the parlour

I see the Wizard by the altar. He turns and winks at me. Then he swings his stick at the crucifix, once, twice, and Christ's body breaks from the cross, crashing to the floor. Limbless, it rolls to my feet. Only bits of his hands and legs are still hanging on the cross, hollow and jagged. The cross has fallen off the altar too. The Wizard smiles at me, annoying my frustration. When he's distracted for a moment, I grab Jesus' broken body and hide it under Jean's pajama top.⁷⁶

Monique's victory, however, is only short-lived since the Wizard soon uncovers her ploy and putting on his charms and "dangling his tongue and making stupid faces [...] snatches Christ's body from Jean and puts it in his pagan pocket"⁷⁷. Unperturbed at having lost Christ's broken body, Monique rescues the luminescent crucifix resembling her family's history of "concern for others" and puts it back on the altar. But in light of the story's demonization of the Wizard as the product of evil of backward-looking traditions, it is necessary to remind oneself that representatives of Western religious institutions were just as implicated in the unfolding genocide. As Mann tells us, "Hutus from all walks of life were involved. Even clerics and nuns betrayed Tutsis taking refuge in their churches"⁷⁸. Thus the mob tricking its way into Monique's house consists not only of well-known members of the community but also includes Monsieur François, a preacher:

They look victorious, like soccer champions. I know some of them. Our church usher, Monsieur Paschal, is humming and chanting and wears a bandana. Mademoiselle Angeline, my teacher's daughter, is dancing to the chants, as if to reggae beats. She gives the thumbs-up to Monsieur François, who is the preacher at the nearby Adventist church.⁷⁹

Tellingly enough, it is Monsieur François who reminds the lingering mob "that the government didn't buy them machetes and guns to be idle"⁸⁰, thus urging them on to commit further atrocities against unarmed people. This scene gives flesh to Mann's argument that in an increasingly ethnonationalist state, former struggles for hegemony between Western and traditional religious groups – exemplified by the Wizard's 'paganism' and Monique's role as caretaker of Christianity – are subsumed and reconfigured within the framework of a struggle for ethnic hegemony, emphasizing the constructed and contingent nature of both.

Ethnicity and Class

Class constitutes another social denominator that is reinterpreted in ethnic conflict to warrant the changing objectives of the ethno-fascist state. What is striking,

which she seeks to defend circling it "like an ant whose hole has been blocked" (Akpan 2008, 275).

⁷⁶ Akpan 2008, 270.

⁷⁷ Akpan 2008, 270.

⁷⁸ Mann 2005, 464.

⁷⁹ Akpan 2008, 269.

⁸⁰ Akpan 2008, 272.

however, is that the mobs hunting down members of the rival ethnic group largely managed to retain their former class hierarchies. So while people of higher social standing gave orders, “the lowest and those experienced in violence did most of the killing”⁸¹. As Mann makes clear, among the officers of paramilitary groupings “physicians, agronomists, and especially teachers were overrepresented. Most were youngish adult men, though survivors identified at least five women leading *Interahamwe* bands”⁸². This aspect of persisting class hierarchies is also reflected in Akpan’s story, for both Tonton André, a poor primary school teacher, and Papa, a university graduate working in a government ministry, kill their wives in order to protect their class position and social standing. Considered in this light, it becomes clear that André’s and Papa’s killing of their beloved wives enhances their social standing in the community while giving the impression of acting out of “mercy”⁸³. Interestingly enough, in order to retain their power the former elite is urged to forge token alliances with the poor and unemployed and to destroy material possessions testifying to their wealth and former class loyalties. It is along these lines that Papa’s destructive rage against souvenirs bought in the West has to be read: “Papa is cursing the toys, destroying the special treats that he and Maman bought for us when they visited America. He kicks the teddy bear against the wall and stamps on Tweety and Mickey Mouse.”⁸⁴ At the end of the day, all the accumulated wealth is not able to save his family; a betrayal that is aptly illustrated by UN soldiers’ selfishly refraining from interfering in the unfolding genocide. Papa’s sense of abandonment by the West is soon after also experienced by Jean, who, in seeking help and protection from “the UN soldiers at the corner, their rifles shiny in the twilight”, makes the painful discovery that the soldiers appear to be “walking away from him, as if they were a mirage”⁸⁵. Thus the Western soldiers’ forsaking of a people they are paid to protect is paralleled and likened to the Rwandan government and its elite turning against its own people rather than working towards a peaceful resolution of the conflict. Similar to UN soldiers acting against their professional code of protecting the public, the ethno-fascist reconfiguration of former class hierarchies results in members of the elite turning into self-destructive parasites feasting on their own (families’) blood.

Ethnicity and the Cultural Unconscious

It is hardly surprising that in an ethno-fascist society culture is not only perceived along the lines of a struggle between civilization and tradition but also related in terms of a general good fighting an irredeemable evil. While Monique’s family

⁸¹ Mann 2005, 464.

⁸² Mann 2005, 461.

⁸³ Conceived in strictly patriarchal terms, rather than having one’s family killed by others the head of the family takes the burden upon himself as to permit his family a ‘graceful’ escape into death.

⁸⁴ Akpan 2008, 275.

⁸⁵ Akpan 2008, 288.

is happy to help out Tonton André's family financially, the Wizard's money is shunned since "[i]f he gave even one franc, his bad money would swallow all the good contributions like the sickly, hungry cows in Pharaoh's dream"⁸⁶. In a similar vein, the mad and disheveled Tonton André appearing on Monique's doorstep is referred to as having been put under a spell⁸⁷ just as Papa after killing Maman is imaginatively seen through Maman's eyes as turning into "a wizard, [...] his people telling him bad things"⁸⁸. Likewise, before the final return of the mob Maman is also rendered in terms of having been put under a spell, acting "dumb, bewitched, like a goat that the neighborhood children have fed sorghum beer"⁸⁹.

But is this the only possible way to interpret this struggle between good and evil? Considering Žižek's concept of the 'institutional unconscious' or what has been here called the 'cultural unconscious', it is worth remembering that any institution or culture also harbors a dark, disavowed underside informing its external appearance, which Žižek refers to as "the underground of the unspoken underpinnings of our everyday lives"⁹⁰. In this respect, the classification of certain aspects of social practice as evil or as constituting the work of evil wizardry only distracts attention away from what represents the core segment of any given institution or culture. This is highlighted in the story by the ceiling people, an assemblage of neighbors comprising both critics and victims of the new ethnonationalist dispensation. Most importantly, it is the Tutsi mob's torching of Monique's house and subsequent killing of their own supporters that pinpoints the barbarity inherent in any civilization relying on force. By denying Hutus the capability of acting altruistically rather than ethno-fascistically, by denying them the courage of volunteering to kill their wives to save their children and to protect the neighbors hiding away in the ceiling, the Tutsis in turn deny themselves a chief characteristic of what constitutes human civilization: 'a concern for the other'. It is thus that "every clash of civilisations really is a clash of underlying barbarisms"⁹¹, as Žižek aptly rephrases Walter Benjamin's insight. Or to put it differently, the story emphasizes that in a genocide where people kill each other because of outward appearances, what is good in people is safely hidden away above in the ceiling rather than below in the floor. This is to highlight the upside-down nature of ethnonationalism, which, in seeing everything through the eyes of ethnic essentialism rather than perceiving ethnicity as constituting part and parcel of a much more complex whole, only succeeds in killing the "good people"⁹² rather than making use of them in working for a better tomorrow.

⁸⁶ Akpan 2008, 268.

⁸⁷ Akpan 2008, 273.

⁸⁸ Akpan 2008, 285.

⁸⁹ Akpan 2008, 275.

⁹⁰ Žižek 2008, 168.

⁹¹ Žižek 2008, 177.

⁹² Akpan 2008, 279.

Transcending Guilt and Victimhood

This analysis of Akpan's "My Parents' Bedroom" has outlined how ethnic group thinking, once it starts to predominate in the social sphere, ultimately runs counter to its own claims of ethnic purity. As a consequence, what possibilities are there to counteract this seemingly endless spiral of violence fuelled by the subjective allocation of guilt and victimhood? According to Shaobo Xie, "[e]very time consciousness breaks with its past, it renews itself through identifying with an 'other's' thought" consequently "redefine[ing] and renarrativiz[ing] the world"⁹³. In "My Parents' Bedroom" aspects of hope and change are similarly modeled on this other's perspective, on "invok[ing] and counterpoint[ing] various points of view", a productive mode of experiential exchange which Arendt has termed the "visiting imagination"⁹⁴. In Akpan's story this new subjective in-between is negotiated on two levels. While Akpan's choice of narrative voice, on the one hand, subjects the present world to the critical eyes of a nine-year-old girl, this preference of a child's perspective, on the other hand, also highlights the continuous change of forms of inter-subjective affiliation constitutive of the human condition itself. With respect to the former, Goodenough et al. have pointed out that in difficult times and disaster "children become the last frontier, embodiments of existence without bounds, of freedom, of possibility, purity, primitivism; they provide a perspective on the exotic, the unknown"⁹⁵. Ulla Ratheiser argues similarly when she refers to children as "propulsive agents of a powerful counter-discourse"⁹⁶. This, however, is not to downplay the contradictions underlying the story's particular mode of narration, especially when considering McGillis' convincing argument that it has always been children's foremost desire "to join the group that holds authority over them"⁹⁷ rather than to question the legitimacy of the group's claim to authority. What is more, using a child's perspective in telling a story also disguises what Bhekizizwe Peterson has called the underlying "adult anxieties"⁹⁸ inherent in this mode of narration thus forcing ideas upon children's minds that are firmly entrenched in

⁹³ Shaobo Xie, "Rethinking the Identity of Cultural Otherness: The Discourse of Difference as an Unfinished Project", in: Roderick McGillis (ed.), *Voices of the Other: Children's Literature and the Postcolonial Context*, New York, Routledge, 2000, 1.

⁹⁴ Jackson 2002, 140.

⁹⁵ Elizabeth Goodenough – Mark A. Heberle – Naomi Sokoloff, "Introduction", in: Elizabeth Goodenough – Mark A. Heberle – Naomi Sokoloff, *Infant Tongues. The Voice of the Child in Literature*, Detroit, Wayne University Press, 1994, 12 (1-15), cited in Ulla Ratheiser, *Agents of Change: Childhood and Child Characters in Patricia Grace's Novels*, Dissertation, University of Innsbruck, 2008, 80.

⁹⁶ Ratheiser 2008, 98.

⁹⁷ Roderick McGillis, "Postcolonialism, Children, and their Literature", in: *Ariel* 28, 1 (1997), 15 (7-15).

⁹⁸ Bhekizizwe Peterson commented on an earlier version of this paper at the conference entitled "Eastern African Literary and Intellectual Landscapes: Rethinking Eastern African Cultural and Intellectual Trans/national Legacies through History" at the University of the Witwatersrand, Johannesburg, 23-24 October 2009.

an “adultist’ critical practice”⁹⁹. Regarding the second aspect of hope implied in the other’s perspective, Frank Kermode’s perceptive insight into the workings of the human imagination is useful. Arguing that change conceived through “the human imagination” not only changes “the consoling plot, but [also] the structure of time and the world”¹⁰⁰ itself, Kermode hints at the vast spectrum of change possible when looked at through individuals as social agents. Jackson calls this the “volatility of intersubjectivity” and attributes it to the fact that “intersubjective relationships [are never] entirely passive or static. Indeed, whether between persons or between persons and ideas, objects or words, they tend to be unstable and continually contested”¹⁰¹.

So how do we move forward? Is there a way of escaping this endless spiral of revenge and hatred outlined in Akpan’s short story? Taking into account Ngūgĩ wa Thiong’o’s claim that “language as culture is an image-forming agent in the mind of a child”¹⁰², how is Monique supposed to continue living a human(e) life after having been conditioned “to see th[e] world in a certain way”¹⁰³, that is, in its most savage and bloodthirsty configuration? As outlined earlier, Arendt in contrast to Žižek places great hope in the human faculty of forgiveness.¹⁰⁴ “My Parents’ Bedroom” offers a brief glimpse of what form this forgiveness could take. As Monique remembers, in the course of a communal service organized by Le Père Mertens, the Belgian parish priest, all children are asked to fetch

buckets of water for old people in the neighborhood. He said if you’re Hutu you should fetch for the Tutsis or the Twa. If you’re Tutsi, you do it for the Hutus or the Twa. If you’re Twa, you serve the other two. Being both Tutsi and Hutu, I fetched for everybody with my small bucket.¹⁰⁵

The perspective on forgiving outlined here highlights the complexities of what Jackson calls “intersubjective life”: a perpetual “oscillation between being an actor and being acted upon” which ensures that “no one person or group ever arrogates agency so completely and permanently to itself that another is reduced to the status of a mere thing, a cipher, an object, an anonymous creature of blind fate”¹⁰⁶. Perceived along these lines, being is then “not only a belonging but

⁹⁹ Cf. Oliver Lovesey, “Initiation for the Nation’: Ngūgĩ wa Thiong’o’s Writing for Children”, in: Roderick McGillis (ed.), *Voices of the Other: Children’s Literature and the Postcolonial Context*, New York, Routledge, 2000, 194 (193-210).

¹⁰⁰ Kermode 2000, 31.

¹⁰¹ Jackson 2002, 66.

¹⁰² Ngūgĩ wa Thiong’o, *Decolonising the Mind: The Politics of Language in African Literature*, Oxford, James Currey, 1986, 15.

¹⁰³ Ngūgĩ wa Thiong’o 1986, 17.

¹⁰⁴ Arendt 1998, 241.

¹⁰⁵ Akpan 2008, 282.

¹⁰⁶ Jackson 2002, 12-13.

[also] a becoming"¹⁰⁷. This is perhaps what Rebecca Solnit has in mind when she argues that "[i]f paradise now arises in hell, it's because in the suspension of the usual order and the failure of most systems, we are free to live and act another way"¹⁰⁸. So just as Gil Courtemanche in *A Sunday at the Pool in Kigali* imagines using "doom and horror to reaffirm life"¹⁰⁹, disaster can sometimes represent "a door back into paradise"¹¹⁰, especially when we allow stories not only to "take us beyond ourselves, but *transform our experience* and bring us back to ourselves, changed"¹¹¹. As Monique vows at the end of the story, hiding the bright glow of the luminescent crucifix underneath her and Jean's body to escape detection by the bloodthirsty gang: "We want to live; we don't want to die. I must be strong."¹¹² So if Em Griffin is right that the "ultimate motivation of all public speaking is to purge ourselves of an ever-present, all-inclusive sense of guilt" relating to "every form of tension, anxiety, embarrassment, shame, disgust, and other noxious feelings that [are] intrinsic to the human condition"¹¹³, then Monique's final, albeit private, resolution to be strong and defend human(e) values in a violent world counteracts the all-too-human tendency of "unburdening [oneself from one's] guilt [by simply loading it] on to a sacrificial victim"¹¹⁴, by having others pay for one's own sins. In this respect, let us again open our hearts and minds and listen to the story of the enemy to overcome factional group thinking that has far too often resulted in preventable human bloodletting.

¹⁰⁷ Jackson 2002, 13.

¹⁰⁸ Rebecca Solnit, *A Paradise Built in Hell: The Extraordinary Communities that Arise in Disaster*, New York, Viking, 2009, 7.

¹⁰⁹ Courtemanche 2004, 148.

¹¹⁰ Solnit 2009, 3.

¹¹¹ Jackson 2002, 138.

¹¹² Akpan 2008, 289.

¹¹³ Emory A. Griffin, "Dramatism of Kenneth Burke", in: *A First Look at Communication Theory*, New York, McGraw-Hill, 2008, 292 (289-297).

¹¹⁴ Hans L. Zetterberg, "The Grammar of Social Science", in: *Acta Sociologica* 49, 3 (2006), 254 (245-256).

Territoires occupés de Christiane Frenette: le courage et l'aporie de témoigner dans les rues du monde

Nicoletta Dolce
Université de Montréal

Abstract

In *Territoires occupés* the female subject perceives, through television, the “pictures/ of wars, of genocide/ and other catastrophes/ that have nothing natural” (H. Dorion). Her craving to document in her books what she sees every night at 10 o'clock, her desire to allow the poem to resonate in a world that is falling apart, inevitably mix with the conviction that we live in an era of distortion, forgery, and counterfeit reality. The present paper will look at two related problematics: With J. Derrida, we will question the presence of the witness who attends world events indirectly, through the bias of television. In a second step the focus will be on a third person: the cameraman, an intermediary between the eyes of the witness and the broadcast pictures, who has chosen to frame a portion of reality. How does the lyrical subject react to the aporia of what G. Vattimo calls a falsely transparent media society?

À partir de la fin de la deuxième Guerre mondiale, nous sommes entrés, pour reprendre les mots d'Annette Wieviorka, “dans l'ère du témoin”¹. D'après Anne Lavallois, entre autres, “depuis le génocide nazi qui a confronté l'humanité à la ‘part maudite’ d'elle-même, [la] notion de responsabilité s'est radicalisée et fait du témoignage un élément essentiel dans l'établissement d'une vérité historique que nul n'est plus en droit d'ignorer, ni de contester”². Le souci de témoigner des événements qui se passent dans les rues du monde s'avère capital pour certains intellectuels contemporains. Plus précisément, si l'on observe la production de plusieurs poètes québécois, comme Paul Chamberland, Hélène Dorion, Louise Dupré, Rachel Leclerc, Pierre Nepveu, Louise Warren et Christiane Frenette, on remarquera que la visée testimoniale demeure au cœur de leur démarche artistique. Tout en appréciant l'œuvre de ces poètes, dans ce contexte précis, je m'arrêterai sur celle de Christiane Frenette.³

¹ À la page 15 de son livre *Le passé, modes d'emploi*, Paris, La fabrique, 2005, Enzo Traverso cite l'œuvre d'Annette Wieviorka, *L'ère du témoin*, Paris, Plon, 1998.

² Anne Lavallois, “Témoignage et histoire: une approche de la singularité contemporaine”, in: Jean-François Chiantaretto – Régine Robin (éds.), *Témoignage et écriture de l'histoire*, Paris, L'Harmattan, 2003, 33 (33-45).

³ D'ores et déjà une précision doit être faite. Cet article ne se veut pas une étude approfondie de la poésie de Christiane Frenette, mais plutôt une réflexion théorique sur la responsabilité et le témoignage, réflexion qui prend appui sur certains textes de la poète. Pour ceux et celles qui aimeraient plonger davantage dans son œuvre, je signale mon long article “Dans la marge: espoir et désistement”

Poète et romancière québécoise, Christiane Frenette a publié, depuis 1986, cinq recueils et quatre romans. Les recueils *Indigo nuit* (1986), *Cérémonie mémoire* (1988), *Le ciel s'arrête quelque part* (1991) et *Les fatigues du dimanche* (1997) précèdent une décennie marquée par le silence poétique, silence brisé en 2007 avec la publication de *Territoires occupés*.

Territoires occupés est divisé en huit sections. L'incipit "Les premiers territoires" et l'explicit "Les territoires ultimes" sont en quelque sorte des topographies du *je*. Entre ces deux parties sont enchâssés six tableaux, "Les enclaves". Ce qui se passe dans ces six enclaves, des "actes barbares commis dans l'aveuglement de nos passions débridées"⁴, est évoqué par un sujet féminin qui assiste à ces événements par le biais de la télévision. S'identifiant à certains des protagonistes de ces histoires, la femme prend directement la parole à leur place. D'ailleurs, il ne s'agit pas d'une stratégie nouvelle chez la poète qui, dans son premier recueil, *Indigo nuit*, confie au *je* lyrique ces mots "Je voyage ensemble"⁵. Cette syllepse, figure rhétorique où l'accord se fait selon le sens et non selon la grammaire, demeure un indice fondamental de sa démarche car, quelques années plus tard, un poème du recueil *Les fatigues du dimanche* accueille un sujet qui, pour la première fois explicitement, porte et incarne d'autres vies que la sienne:

J'ai cent ans demain
des os friables
un cœur qui ne bat pas
selon les normes

je suis un enfant
abandonné dans une gare
la liste des ses allergies
dans sa poche⁶

La tonalité constative de l'énoncé, caractérisé par une syntaxe simple et par la rareté des adjectifs, soutient un sujet qui s'assume clairement au début de chaque quatrain en s'identifiant à une humanité malade.

Dans les premières pages de *Territoires occupés*, le *je* annonce ses intentions:

[...] Je raconterai
dans mes livres
ce que je vois
chaque soir à 22 heures.⁷

qui est complètement consacré à Christiane Frenette. Il paraîtra dans l'ouvrage dirigé par Stéphane Martelly, *Marges et mémoires dans les littératures haïtienne et québécoise* (sous presse).

⁴ Rachel Leclerc, "Tous les damnés de la terre", in: *Lettres québécoises* 131 (2008), 48 (47-48).

⁵ Christiane Frenette, *Indigo nuit*, Montréal, Leméac, 1986, 30.

⁶ Christiane Frenette, *Les fatigues du dimanche*, Saint-Hippolyte, Noroît, 1997, 37.

⁷ Christiane Frenette, *Territoires occupés*, Montréal, Le lézard amoureux, 2007, 10.

Autrement dit, la locutrice, postée devant l'écran, nous fait part de sa vocation testimoniale. Sans entrer dans la controverse du témoin intégral, controverse soulevée par Primo Levi⁸ et reprise par Giorgio Agamben⁹, il serait intéressant de rappeler, en paraphrasant les mots de Paul Ricoeur, que le témoin atteste de la réalité d'une scène à laquelle il a assisté. Dans ce recueil, toutefois, figure ce que j'appelle le 'témoin *in absentia*', c'est-à-dire un sujet qui, tout en portant un témoignage, n'a jamais participé directement ou indirectement à l'événement qu'il évoque ou suggère: ni protagoniste ni *terstis* (tiers), il était absent de l'événement, de cet acte unique qui arrive "*ici-maintenant pour toujours*"¹⁰.

À la lumière de ce qui a été formulé, émerge ici l'une des questions majeures traversant le livre de Jacques Derrida, *Demeure* (1998)¹¹: le témoin est-il celui qui a participé directement à la séquence d'événements évoqués même si, en fin de compte, il n'a pas saisi leur essence? Ce questionnement innerve également deux autres textes: l'essai "Irrévocable témoignage. À propos de Paul Celan" (2003) d'Alexis Nouss¹² et l'ouvrage *La mémoire saturée* (2003) de Régine Robin; dans ce dernier, l'auteure s'interroge ainsi: "Le témoin est-il celui qui a vu, témoin oculaire selon la définition, même s'il est passé totalement à côté de ce qu'il y avait à voir? Est-il celui qui 'n'y était pas' mais qui porte en lui ce savoir de l'indicible et parfois de l'invisible?"¹³ Il semble qu'une telle aporie parcourt en filigrane *Territoires occupés* de Christiane Frenette.

Dans *Territoires occupés*, le témoin rencontre deux difficultés: la première sous-tend tout acte testimonial et la seconde est liée à son état de téléspectatrice. Tout d'abord, dans son essai "Poétique et politique du témoignage", Derrida nous rappelle que la promesse de dire la vérité est "toujours susceptible de trahison, toujours suspendue à cette possibilité du parjure, de l'infidélité ou de l'abjuration"¹⁴. Autrement dit, "tout témoin peut se tromper de bonne foi, il peut avoir une perception finie, erronée, de mille façons trompeuse de ce dont il parle"¹⁵,

⁸ Primo Levi, *Les naufragés et les rescapés*, Paris, Gallimard, 1989 (*I sommersi e i salvati*, Torino, Einaudi, 2003 [1986]).

⁹ Giorgio Agamben, *Ce qui reste d'Auschwitz*, Paris, Éditions Payot & Rivages, 1999 (*Quel che resta di Auschwitz*, Torino, Bollati Boringhieri, 1998).

¹⁰ Gad Soussana, "Texte liminaire", in: Jacques Derrida – Alexis Nouss – Gad Soussana, *Dire l'événement, est-ce possible? Séminaire de Montréal, pour Jacques Derrida*, Paris, L'Harmattan, 2001, 12 (9-12).

¹¹ Jacques Derrida, *Demeure*, Paris, Galilée, 1998.

¹² Alexis Nouss, "Irrévocable témoignage. À propos de Paul Celan", in: Chiantaretto – Robin 2003, 322 (319-333).

¹³ Régine Robin, *La mémoire saturée*, Paris, Stock, 2003, 272.

¹⁴ Jacques Derrida, "Poétique et politique du témoignage", in: Marie-Louise Mallet – Ginette Michaud (eds.), *L'Herne Derrida*, Paris, Éditions de l'Herne, 2004, 527.

¹⁵ Derrida 2004, 528.

car la mémoire est une toile de Pénélope, nous rappelle Walter Benjamin. Pour ce qui est de l'état de la téléspectatrice, bien que les intentions de la locutrice soient claires, c'est-à-dire raconter ce qu'elle voit, il ne faut pas oublier qu'entre ses yeux et les images perçues, surgit la figure d'un tiers. Il s'agit du cameraman, de celui qui a décidé de cadrer une portion de la réalité. Susan Sontag, dans son essai *Devant la douleur des autres* (2002), se questionne sur la nature et la facture de l'image pour en conclure qu'une image "ne peut pas être le simple reflet transparent de ce qui s'est produit. Elle est toujours l'image choisie par quelqu'un"¹⁶; car photographier et, j'ajoute, filmer, c'est cadrer, et cadrer, c'est exclure. Les mots de Derrida résonnent à nouveau alors que dans son essai "Une certaine possibilité impossible de dire l'événement", il écrit:

Quand on prétend aujourd'hui nous montrer "live", en direct, ce qui se passe, l'événement qui a lieu dans la Guerre du Golfe, on sait que si directs, si apparemment immédiats que soient le discours et l'image, des techniques extrêmement sophistiquées de capture, de projection et de filtrage de l'image permettent en une seconde de cadrer, de sélectionner, d'interpréter et de faire que ce qui nous est montré en direct soit déjà, non pas un dire ou un montrer de l'événement, mais une production de l'événement.¹⁷

Les considérations de Sontag et de Derrida s'inscrivent dans une réflexion plus large sur la société des communications, réflexion dont Gianni Vattimo demeure l'un des initiateurs. Dans *La société transparente*, publié en 1989, le philosophe analyse le rôle que jouent les médias dans le monde contemporain quand ils rentrent en contact avec les sciences humaines.¹⁸ Selon Vattimo, ces dernières, en interaction avec la société de communications, devraient viser à l'idéal de l'autotransparence, c'est-à-dire à une intensification majeure des phénomènes communicationnels, à une accentuation de la circulation du savoir.¹⁹ En revanche, cette connexion, dont les prémisses demeurent fécondes, a l'effet opposé puisqu'elle établit ce qu'il définit comme un état de chaos relatif. La radio, la télévision et les journaux sont devenus les sources d'une multiplication généralisée des *Weltanschauungen*, à tel point que l'Occident est en train de vivre "une situation explosive, une pluralisation qui semble irrésistible et qui ne permet

¹⁶ Susan Sontag, *Devant la douleur des autres*, Paris, Christian Bourgois, 2002, 54. Plusieurs études contemporaines portent sur la société des médias. À titre d'exemple: Marco Belpoliti, *Crolli*, Torino, Einaudi, 2005; Michel Henry, *La barbarie*, Paris, Grasset, 1987; Gilles Lipovetsky, *Métamorphoses de la culture libérale. Éthique, média, entreprise*, Montréal, Liber, 2002; Daniel Schneidermann, *Le cauchemar médiatique*, Paris, Denoël, 2003; Gianni Vattimo, *La société transparente*, Paris, Desclée de Brouwer, 1990.

¹⁷ Jacques Derrida, "Une certaine possibilité impossible de dire l'événement", in: Derrida – Nous – Soussana 2001, 90 (79-112).

¹⁸ "On appelle sciences humaines tous les savoirs qui rentrent dans le cadre de ce que Kant a appelé l'anthropologie pragmatique [...] c'est-à-dire les savoirs qui donnent une description 'positive', non philosophico-transcendante de l'homme, mais à partir de ce qu'il fait de soi – donc à partir des institutions, des formes symboliques, de la culture, et non de ce qu'il est par nature" (Vattimo 1990, 25).

¹⁹ À ce propos, voir les théories sur le village global de Mc Luhan.

plus de concevoir le monde et l'histoire à partir d'un point de vue unitaire²⁰. Par la prolifération des images, la population n'est plus en mesure de vérifier les informations sélectives qui lui sont fournies; elle perd ainsi le sens de la réalité et la capacité de discerner le vrai du faux, la franchise de l'imposture. Dans cette situation de précarité, même l'idée de l'histoire, conçue comme un processus unitaire, se dissout et le principe de réalité tend à s'effriter.

Le sujet poétique de *Territoires occupés* est confronté consciemment ou inconsciemment à une double aporie: d'un côté, son engagement à dire la vérité est suspendu à la possibilité du parjure, de l'infidélité ou de l'abjuration implicitement reliés à ce processus; de l'autre, sa perception de la réalité est conditionnée inévitablement par le choix d'un autre regard.

Ce double paradoxe génère une question capitale: pourquoi témoigner de quelque chose qui a été diffusé à la télévision et qui, d'ailleurs, serait à la portée de tous les téléspectateurs? Autrement dit, nous pourrions nous interroger, à juste titre, sur la visée de cet acte dont découlent, pour le moment, trois hypothèses. La première émane des théories d'Émile Benveniste. Comme ce linguiste l'a montré, la seule possibilité que l'individu a de vivre sa temporalité humaine, c'est-à-dire le maintenant, est représentée par l'insertion du discours dans le monde. Les vers:

J'habite le monde
par les mots
que je crache²¹

témoignent tant de l'agentivité²² du sujet, mise en valeur par la connotation du verbe *cracher*, que de son envie d'habiter pleinement l'*ici-maintenant*. La seconde supposition relève aussi bien de l'anthropologie que de la philosophie. Installés devant l'écran, nous voyons défiler les images à une telle vitesse que l'infime et le catastrophique, le banal et l'immonde pourraient assumer la même valeur pour nous qui regardons sans voir, rivés à un ennui incurable. Force est de constater que plusieurs écrivains se sont penchés sur les phénomènes médiatiques, parmi lesquels Don DeLillo²³, pour qui la télévision se transforme en un petit instrument personnel d'apocalypse (*Mao II*), Daniel Schneidermann avec son œuvre *Le cauchemar médiatique* et Paul Virilio²⁴ (*Ville panique, L'accident originel*). D'après Michel Serres, qu'ici je cite de mémoire, l'un des effets causés par la divulgation

²⁰ Vattimo 1990, 15.

²¹ Frenette 2007, 86.

²² Concept renvoyant à la conscience d'être l'auteur de ses actions.

²³ Don DeLillo, *Mao II*, New York, Viking, 1991.

²⁴ Paul Virilio, *Ville panique*, Paris, Galilée, 2004; *L'accident originel*, Paris, Galilée, 2005. "Virilio confirme, à sa façon, la vision exprimée par DeLillo dans *Mao II*. Cependant il constate que, pendant les derniers vingt ans, les choses ont changé rapidement, étant donné que le terrorisme n'est plus seulement celui des bombes et des attentats suicidaires, mais plutôt celui produit par le système de

des tragédies hideuses, c'est l'angoisse la plus profonde qui conduit, comme dans la pure tradition aristotélicienne, aux sentiments de *pietas* et de terreur. Bien que cela puisse paraître paradoxal, tant l'état d'ennui dans lequel le spectateur est immergé que la sensation d'angoisse qui lui serre la gorge mènent au même résultat: une perte de vigilance vis-à-vis de la contingence. Cet état semble constituer l'une des causes incitant le *je* féminin à adopter la posture d'*éveilleuse* de consciences, posture choisie d'ailleurs par plusieurs poètes québécois de la contemporanéité. La préoccupation, formulée entre autres par Jean-Pierre Dupuis²⁵, que la catastrophe est inscrite dans notre avenir encourage ces écrivains à éveiller et à sensibiliser notre conscience collective, au cœur de la communauté humaine. La troisième hypothèse découle des précédentes. Je crois que les vers suivants, tirés des *Fatigues du dimanche*, suggèrent une réponse à la question en sondant les raisons qui poussent le sujet à raconter des événements publics diffusés auparavant:

que peut-on dire aux enfants
sur le seuil des portes?
que Sarajevo n'existe pas?
que les chemins sont en mouvement
et l'on sait chaque fois lequel trahira?
que l'amour est un tableau de Chagal?²⁶

La volonté de raconter aux générations futures ce qui advient dans les rues du monde passe forcément par le témoignage écrit, par cette forme tangible et durable de legs. Car, même si lointains que soient les carnages du monde, nous ne pouvons plus faire comme s'ils n'existaient pas:

à l'ombre des carnages
nous mangeons des pommes
nous rions et pleurons
les fruits tombent des arbres
nous nous tenons à distance des drames
qui nous atteignent pourtant sans rémission.²⁷

L'univers des maladies et des drames que la poète évoque, comme nous l'avons vu, appartient à ce qu'Édouard Glissant nomme la *collectivité terre*, cette

l'information, comme le démontrent les barbares exécutions médiatisées des otages en Iraq" (Belpolitti 2005, 85, trad. libre).

²⁵ Jean-Pierre Dupuis, *Pour un catastrophisme éclairé*, Paris, Seuil, 2002, 167. "La catastrophe éclairée consiste à penser la continuation de l'expérience humaine comme résultant de la négation d'une autodestruction – une autodestruction qui serait comme inscrite dans son avenir figé en destin. Avec l'espoir comme l'écrit Borges, que cet avenir, bien qu'inéluctable, n'ait pas lieu" (216).

²⁶ Frenette 1997, 60.

²⁷ Frenette 1997, 36.

collectivité formée d'*histoires transversales*²⁸, dont les enjeux et les imbrications se tissent souvent dans l'opacité. Ce sont ces histoires transversales qui incitent le *je* lyrique à témoigner; témoigner non pas au nom d'une vérité illusoire ou d'une mémoire trompeuse, mais plutôt au nom d'une vie vécue plus justement. Mais quelle est la signification de ce syntagme? Il est important de rappeler que la posture testimoniale requiert d'abord et avant tout un acte de présence à soi et que celui-ci va de pair avec la présence du sujet au monde. En d'autres termes, la présence à soi demeure la condition primordiale de la responsabilité qui, à son tour, constitue l'un des piliers de la notion de justice. Derrida nous éclaire encore là-dessus:

Aucune justice [...] ne paraît possible ou pensable sans le principe de quelque responsabilité, au-delà de tout présent vivant, dans ce qui disjointe le présent vivant, devant les fantômes de ceux qui ne sont pas encore nés ou qui sont déjà morts, victimes ou non des guerres, des violences politiques ou autres, des exterminations nationalistes, racistes, colonialistes, sexistes ou autres, des oppressions de l'impérialisme capitaliste ou de toutes les formes de totalitarisme – sans ce qui secrètement les désajuste, sans cette responsabilité et ce respect pour la justice à l'égard de ceux qui ne sont pas là, de ceux qui ne sont plus ou ne sont pas encore présents et vivants, quel sens y aurait-il à poser la question 'où', 'où demain'?²⁹

Au nom de cette responsabilité devant ceux et celles qui ne sont plus là ou qui ne sont pas encore là, le sujet lyrique témoigne. Et c'est aux vers de Christiane Frenette que revient la conclusion de cette réflexion, conclusion qui n'en est pas une:

Dans les rues du monde,
la nuit s'effondre.
Le jour va pondre.
Le courage recommence
au soleil.³⁰

²⁸ Ici, j'emprunte l'expression ainsi que le concept à Édouard Glissant, *Mémoires des esclavages*, Paris, Gallimard, 2007.

²⁹ Jacques Derrida, *Spectres de Marx*, Paris, Galilée, 1993, 15-16.

³⁰ Frenette 2007, 85.

The Responsibility to Protect and Its Emancipation from the Doctrine of Humanitarian Intervention

Nathan Hauthaler
Karl-Franzens University Graz
Birkbeck, University of London

Résumé

Le concept de 'responsabilité de protéger', introduit en 2001, est influencé par les concepts récents de la souveraineté des peuples, de la souveraineté comme responsabilité, et de la sécurité humaine. Cependant, face au dilemme de l'intervention, dont le concept est difficile à dépasser, la R2P se rattache au discours ancien de l'intervention humanitaire. Au sens de ce dernier et malgré le caractère étendu que la R2P entend faire respecter tant du point de vue de la lettre que de l'esprit, elle est généralement identifiée au recours à la force dans un objectif humanitaire. Dans les forums internationaux (plus particulièrement au sein du Conseil de Sécurité et de l'Assemblée Générale des Nations Unies) le vif soutien apporté à cette responsabilité de protéger a été crucial pour sa reconnaissance en droit international. Toutefois, ce soutien pourrait avoir contribué à une évaluation trop audacieuse du concept et de sa portée dans un futur proche au sein du droit international. En expliquant comment la notion de 'responsabilité' est interprétée et appliquée au recours à la force en droit international, l'auteur tâche d'expliquer sa base légale. En évaluant sa capacité à dépasser les écueils de la doctrine de l'intervention humanitaire et sa capacité à se passer réellement de cette doctrine, il entend mettre en lumière les principales forces et faiblesses qui marquent la transition du concept de 'droit d'intervention' à celui de 'responsabilité de protéger'.

Introduction

The *Responsibility to Protect* (R2P) has been heralded as a *concept, doctrine, emerging norm, norm, basic norm, emerging guiding principle, principle*¹, and

¹ *Doctrine*: Rebecca J. Hamilton, "The Responsibility to Protect: From Document to Doctrine – But What of Implementation?", in: *Harvard Human Rights Journal* 19 (2006), 289-297; *emerging norm*: High-level Panel on Threats, Challenges and Change, *A More Secure World: Our Shared Responsibility*, UN Doc. A/59/565, 2 December 2004, 57, para. 202-203; *norm*: Alex J. Bellamy, "The Responsibility to Protect – Five Years On", in: *Ethics & International Affairs* 24, 2 (2010), 160-162 (143-169); *basic norm*: Bertrand G. Ramcharan, *Contemporary Human Rights Ideas*, London–New York, Routledge, 2008, 29; *emerging guiding principle*: International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect*, Ottawa, IDRC, 2001, 15-16, para. 2.24, 2.26; *principle*: David Scheffer, "Atrocity Crimes Framing the Responsibility to Protect", in: *Case Western Reserve Journal of International Law* 40, 1-2 (2008), 111-135. The variety could certainly be further enriched.

even as “almost a ‘charter’ or at least a multidimensional normative doctrine”². It has had two different acronyms (R2P, RtoP) bestowed upon it and has become a common concept in the discourse on international law and politics. Introduced to help overcome problems related to the doctrine of humanitarian intervention, R2P is put forward by many of its proponents as military intervention in humanitarian crises under certain circumstances. The concept thus understood has maintained high currency and has caused much controversy. Opposition to R2P is usually grounded in the fear of agreeing to a doctrine that might undermine state sovereignty by furthering a right or even responsibility of (unilateral) military intervention.³ Much controversy about R2P is thus due to a tacit or explicit equation of the concept with humanitarian intervention, and generally to a reduction of R2P to its military dimensions. Such readings are strikingly ignorant of the history and development, the substance and thrust of the concept. While some criticism of R2P is grounded in reservations about R2P’s alleged military interventionism, other criticism is motivated by the too-bold endorsement of R2P in precisely the military interventionist directions that R2P was intended to overcome in the first place.

The present essay seeks to remedy some of the above-mentioned shortcomings regarding the construal of R2P. It does so by discussing in particular the military-interventionist component of R2P, against the background of the doctrine of humanitarian intervention, from a perspective of international law *contra bellum*. Such a focus is in order despite the high level of attention already paid to R2P’s interventionist components: The concept is still insufficiently distinguished from the doctrine of humanitarian intervention and the most significant potentials (as well as dead ends) of R2P are still insufficiently explored. I argue, firstly, that in light of the pitfalls and dilemmas of the doctrine of humanitarian intervention, R2P interventionism must be construed in a genuinely multilateralist way if R2P is to succeed where humanitarian intervention fails. Secondly, I argue that R2P’s notion of ‘responsibility’, as far as it pertains to intervention, ought still to be construed in a political rather than legal sense, as R2P is neither apt nor intended to provide or substantiate the required grounds for a legal responsibility to intervene. Thirdly, I argue that in light of the generally limited viability of military interventions (even according to R2P), the focus of R2P should be reoriented to place less emphasis on military interventionism so as to be able to resolve the dilemma of intervention.

Three caveats are in order here. One: Throughout the text I refer to R2P as a concept, as it is “not a single norm but a collection of shared expectations that

² Damien Helly, “Africa, the EU and R2P: Towards Pragmatic International Subsidiarity?”, in: *Internationale Politik und Gesellschaft* 1 (2009), 46 (45-58).

³ Cf. “Assembly President Warns on Doctrine to Intervene on War Crimes, Atrocities”, in: *UN News Centre*, 23 July 2009, <http://www.un.org/apps/news/story.asp?NewsID=31562&Cr=right+to+protect&Cr1>, accessed 15 July 2012.

have different qualities”⁴. In the context of the law of military intervention R2P does not denote or establish a novel ‘norm’ of intervention but delineates a specific area of the Security Council’s mandate under the Charter of the United Nations (hereinafter: the ‘Charter’). Two: I stress the dichotomy between (duly authorized) military action in accordance with the Security Council’s mandate on the one hand, and genuinely (unauthorized) unilateral action on the other. As R2P is to be construed as endorsing Security Council authorization and thus authorized and genuine multilateralism (thereby effectively ruling out unilateral action), other potential sources of authority are of minor relevance. Three: I draw a (*prima facie*) stark contrast between intervention and prevention, where the former is associated generally with military intervention and the latter with certain forms of (non-military) intervention. This distinction should not lead to a misunderstanding of the overall claim: that genuine (cooperative) prevention and cooperation, rather than *any* form of intervention, is the most auspicious strand of the responsibility to protect.

Humanitarian Intervention

The term *humanitarian intervention* as it is most commonly used denotes the threat or use of armed force against a state, without its consent, and for the purpose of protecting the fundamental rights of that state’s population.⁵ The ideational lineage of the doctrine can be traced back several centuries, notably to doctrines of *bellum iustum* (*just war* theory) as well as to European interventionist practices of the nineteenth century. The challenge that this deep-rooted doctrine poses, however, is no older than the United Nations Charter (1945): Only with the Charter – Art. 2(4) and 2(7) in particular – was a comprehensive rule on the use of armed force in international relations established that enjoys universal recognition, including in

⁴ Bellamy 2010, 160.

⁵ For the question of definition, cf. Ian Brownlie, “Humanitarian Intervention”, in: John Norton Moore (ed.), *Law and Civil War in the Modern World*, Baltimore–London, Johns Hopkins University Press, 1974, 217-218; Peter Malanczuk, *Humanitarian Intervention and the Legitimacy of the Use of Force*, Amsterdam, Het Spinhuis, 1993, 3-9; Sean D. Murphy, *Humanitarian Intervention. The United Nations in an Evolving World Order*, Philadelphia, University of Pennsylvania Press, 1996, 8-20; Terry D. Gill, “Humanitarian Intervention: Legality, Justice, and Legitimacy”, in: *Global Community Yearbook of International Law & Jurisprudence* 4, 1 (2004), 53-57 (51-75). Numerous further differentiations could be made under this characterisations. The attribute ‘humanitarian’ invites further differentiation notably with respect to the types of rights, the types and extent or degree of their violation, the qualification of the humanitarian purpose. Concerning the exactitude of ‘intervention’, one may inquire further into types and organization of interveners. For present purposes the basic characterisation suffices as a generic working definition of humanitarian intervention if the following implications are duly borne in mind: humanitarian *intervention* is distinct from *consensual* deployment of force (most notably from peacekeeping); it reaches the level of *armed* intervention; and it is distinct from *self-defense* (as humanitarian intervention implies the intervention into another state for the purpose of protecting that state’s population and does not require any previous armed attack on the intervener).

customary international law and as *ius cogens*.⁶ It is against this comprehensive rule that the doctrine of humanitarian intervention needs – and seeks – to establish ‘humanitarian’ exceptions.

Two Avenues of Humanitarian Intervention

Historically and systematically one can distinguish two main avenues for establishing such humanitarian exceptions. Although they are quite distinct, they are often conflated, which blurs debates over humanitarian intervention. The first and ‘classical’ avenue is that of ‘unilateral’ military intervention⁷, where ‘unilateral’ refers to the lack of authorization for a given forcible intervention.⁸ Following this avenue, the viability of humanitarian intervention is derived either from certain constructions of the clauses of Art. 2(4) of the Charter, from adaptations of the right to self-defense to circumstances of military intervention, or from the invocation of legitimizing customary international law.⁹ Frequently, several of these grounds are combined or invoked together to proffer a case for humanitarian intervention. Nevertheless, no such argument has proven tenable under international law, which renders unilateral humanitarian intervention unlawful and therefore – at least legally – unviable.¹⁰ This has been reiterated recently e.g. in the course of NATO’s 1999 intervention in Kosovo.¹¹

⁶ Cf. International Court of Justice (ICJ), *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. USA)*, Merits, Judgment of 27 June 1986, ICJ Reports (1986), para. 190; Yoram Dinstein, *War, Aggression, and Self-defence*, Cambridge, Cambridge University Press, 2005, 100; Christine Gray, *International Law and the Use of Force*, Oxford, Oxford University Press, 2008, 30. On important trailblazers thereto, cf. the 1919 *Covenant of the League of Nations* (esp. Art. 10-11 thereof) and the so-called *Kolleg-Briand Pact* (the 1928 *General Treaty for the Renunciation of War as an Instrument of National Policy*, Art. 1-2 thereof).

⁷ Cf. Gill 2004, 53-56, on its definition.

⁸ This should not be conflated with the antagonism of collective versus individual intervention.

⁹ For an examination of prominent arguments, cf. Simon Chesterman, *Just War or Just Peace? Humanitarian intervention and International Law*, Oxford, Oxford University Press, 2001, chapter 2.

¹⁰ Permissive construals of Art. 2(4) of the Charter go astray as the provision’s clauses were not meant as qualification but as reinforcements of its scope, cf. Ian Brownlie, *International Law and the Use of Force by States*, Oxford, Clarendon Press, 1963, 266-268; Albrecht Randelzhofer, “Article 2(4)”, in: Bruno Simma (ed.), *The Charter of the United Nations: A Commentary*, Oxford, Oxford University Press, 2002, 123, para. 35-36; claims on humanitarian intervention and self-defense are conceptually questionable (self-defense of the population of others?) and legally unviable (inter alia as self-defense requires the occurrence of an armed attack), cf. Albrecht Randelzhofer, “Article 51”, in: Simma 2002, 792-793, para. 11-13; customary law claims, finally, do not succeed in evidencing any relevance of such alleged pre-Charter-regime custom (cf. Malanczuk 1993, 11; Gill 2004, 66) or relevant development of either *consuetudo* or *opinio iuris* since the Charter, cf. Chesterman 2001, chapter 2.2; Gray 2008, 39-44.

¹¹ Cf. the debates by Charney, Chinkin, Falk, Franck, Henkin, Reisman, and Wedgwood in the *American Journal of International Law* 93, 4 (1999), Cassese and Simma in the *European Journal of International Law* 10, 4 (1999), and Boyle, Brownlie & Apperley, Chinkin, Greenwood, and Lowe in the *International and Comparative Law Quarterly* 49, 4 (2000); cf. especially Ian Brownlie – C.J. Apperley, “Kosovo Crisis Inquiry: Further Memorandum on the International Law Aspects” and “Kosovo Crisis Inquiry: Further Memorandum on the International Law Aspects”, in: *International and Comparative Law Quarterly* 49, 4 (2000), 878-905 and 905-910, respectively.

The second avenue, ‘multilateral’ military intervention in the sense of UN collective enforcement, seeks to utilize the Charter’s collective security system itself to render military intervention on humanitarian grounds permissible.¹² Its principal basis lies in Chapter VII of the Charter, which provides for possibilities of military enforcement (under Art. 42) in case the Council determines a given situation subsumable under Art. 39 of the Charter and authorizes action accordingly. During the Cold War era, the avenue was barred from being utilized for intervention purposes for political and procedural reasons (most notably the superpower stalemate resulting in Security Council ‘deadlock’), as well as for some legal doubts concerning the permissibility of military enforcement under ‘humanitarian’ circumstances.¹³ Since the end of the Cold War, both lines of doubt have basically been dispelled through the Security Council’s renewed activity under Chapter VII as well as its successively bold discharge of discretion and the widening of its mandate under Chapter VII. The resultant role of the Council, although “its activities bear little relation to the original scheme of the Charter”¹⁴, has rendered moot doubts as to its competence to authorize enforcement in erstwhile ‘domestic’ humanitarian crises. Nevertheless, and its remarkable post-Cold War track-record notwithstanding, the Council has remained neither consistent nor ultimately reliable in its practice concerning humanitarian crises, as has been illustrated starkly in the context of humanitarian crises such as the 1994 Rwandan genocide.¹⁵ The pitfalls of both avenues of humanitarian intervention – the unlawfulness of unilateral intervention and the volatility of UN enforcement – constitute what has been termed a “dilemma of intervention”¹⁶ by former UN Secretary-General Annan. This dilemma and the ambition to overcome it are the main starting points for the responsibility to protect and provide the benchmark of its success.

The Responsibility to Protect

Genealogy

The genealogy of R2P is well known and needs little recapitulation. In the aftermath of NATO’s 1999 intervention in Kosovo, the concept was introduced

¹² This avenue, as it is subsumable under UN Chapter VII collective enforcement action and under the Security Council’s authorising auspices, is therefore often excluded from the scope of humanitarian intervention (cf. Gill 2004, 53-54).

¹³ Such circumstances, being not necessarily subsumable under the “*international* peace and security”, were contemplated to be ruled out by Art. 2(7) of the Charter and its prohibition of intervention into “matters which are essentially within the domestic jurisdiction” of states.

¹⁴ Gray 2008, 254.

¹⁵ Cf. the *Report of the Independent Inquiry into the actions of the United Nations during the 1994 genocide in Rwanda*, UN Doc. S/1999/1257, 15 December 1999; Murphy 1996, 343-357.

¹⁶ Cf. Kofi A. Annan, *We the Peoples: The Role of the United Nations in the 21st Century. Report of the Secretary-General*, UN Doc. A/54/2000, 27 March 2000, 35, para. 217-219.

by the Canadian-sponsored International Commission on Intervention and State Sovereignty (ICISS) in its final report of the same name.¹⁷ The report drew on approaches such as *sovereignty as responsibility* and *human security*, on the protection of civilians (POC) in and from armed conflict as well as on scholarly doctrine on the use of force ranging from classical *just war* to contemporary humanitarian intervention doctrine.¹⁸ By shifting the terms of the debate from the right to intervene to the responsibility to protect, the commission sought to overcome the dilemma of intervention. This was to be achieved not only through a notional shift but through a comprehensive and auspiciously normative framework for the protection of populations from large-scale human rights violations. According to this framework, while the primary responsibility to protect its population rests with each individual state, the international community has a subsidiary responsibility to protect in case the state is unwilling or unable to discharge its responsibility.¹⁹

Even though the commission's final report and its advancement of the "emerging guiding principle" of R2P was initially upstaged somewhat by the debate on (countering) terrorism in the wake of the 9/11 attacks, the concept soon gained ground, receiving prominent mention in the 2004 High-Level Panel report *A More Secure World*²⁰ as well as in SG Annan's 2005 report *In Larger Freedom*²¹, the latter already serving as a preparation for the 2005 UN high-level World Summit. At the summit itself and in its Outcome document, the concept received what may still be regarded as its most authoritative and normatively pertinent recognition by the international community.²² Although the UN's embracing the concept (or rather, appropriating it) has also drawn criticism (even from some R2P supporters), this move has paved the way for further high-level discussion and recognition, especially within the United Nations.

Since the 2005 World Summit, UN Secretary-General Ban has appointed Edward Luck as a Special Adviser on issues of R2P, has claimed that R2P is "more firmly anchored in current international law"²³ than the related concepts of human

¹⁷ Cf. ICISS, *The Responsibility to Protect*, Ottawa, IDRC, 2001. The commission was originally envisaged as a commission on humanitarian intervention but was termed ICISS so as to draw less controversy, cf. Alex J. Bellamy, *Responsibility to Protect. The Global Effort to End Mass Atrocities*, Cambridge, Polity Press, 2009, 36.

¹⁸ Cf. ICISS 2001, chapters 1-2.

¹⁹ Cf. the synopsis *ibid.*, xi-xiii.

²⁰ Cf. the High-Level Panel on Threats, Challenges, and Change, *A More Secure World*, 56-58, para. 199-209; esp. para. 202-203.

²¹ Cf. Kofi Annan, *In Larger Freedom: Towards Development, Security and Human Rights for All*, UN Doc. A/59/2005, 21 March 2005, chapters 3-4; in a nutshell: 35, para. 135.

²² Cf. "2005 World Summit Outcome", UNGA Res. 60/1, 24 October 2005, 30, para. 138-140. Nonetheless, it should be borne in mind that the resolution is no legally binding document.

²³ Ban Ki-Moon, "Responsible Sovereignty: International Cooperation for a Changed World", Berlin, 15 July 2008, UN Doc. SG/SM/11701, 15 July 2008.

security and humanitarian intervention, has called for its swift implementation and has taken first steps through a report on the matter.²⁴ The General Assembly, being usually reluctant to consider matters of humanitarian intervention, has held an informal interactive dialogue and a plenary debate, echoing significant support (but also significant criticism) of R2P and has issued a (modest) resolution on the matter.²⁵ Even the Security Council has on several occasions seen fit to endorse the concept in its resolutions.²⁶ Regional organizations, national governments and non-governmental organizations speak out in support of R2P, numerous independent institutions conduct research and monitoring on R2P and relevant political crises. There is a scholarly journal dedicated specifically to the promotion of R2P, and even Google has come to readily suggest that every query beginning with ‘responsibility’ end in ‘to protect’. Almost a decade into R2P, its remarkable career that “sounds almost like a fairy tale”²⁷ invites an explication of its original ambition to shift the terms of the debate.

Structure and Development

The two basic formulations of R2P are the original 2001 ICISS conception (hereinafter: ‘R2P ‘01’) and the World Summit Outcome document’s respective passages (para. 138–40; hereinafter: ‘R2P ‘05’). Initially, R2P encompassed a – somewhat artificial but relatively clear-cut – distinction of different *stages* (*primary* responsibility of states, ‘*fallback*’ responsibility of the international community) and *dimensions* (*prevention, reaction, rebuilding*). The most controversial facet of R2P being military intervention (i.e. the forcible discharge of the responsibility to react), this aspect was given privileged attention in the report,²⁸ repeated emphasis on prevention as the “single most important” dimension of R2P notwithstanding.²⁹ Military intervention was thus flanked by prevention (gone wrong) on one side,

²⁴ Cf. Ban-Ki Moon, *Report of the Secretary-General on the Work of the Organization*, UN Doc. A/63/1, 12 August 2008, para. 74, and Ban-Ki Moon, *Implementing the Responsibility to Protect, Report of the Secretary-General*, UN Doc. A/63/677, 12 January 2009, respectively.

²⁵ Cf. the General Assembly Debate and Interactive Thematic Dialogue on the responsibility to protect, 23 - 28 July 2009, United Nations, New York, www.un.org/ga/president/63/interactive/responsibilitytoprotect.shtml, accessed 13 July 2010, and UNGA Res. 63/308, 7 October 2009. For a bolder draft (of the Assembly’s taking note *with appreciation*), cf. UNGA Doc. A/63/L.80/Rev.1, 10 September 2009.

²⁶ Cf. UNSC Res. 1674, 28 April 2006; UNSC Res. 1706, 31 August 2006; UNSC Res. 1894, 11 November 2009. Nonetheless, the Council has been criticised for not operationalizing the concept in numerous other occasions, cf. Bellamy 2010.

²⁷ Carsten Stahn, “Responsibility to Protect: Political Rhetoric or Emerging Legal Norm?”, in: *American Journal of International Law* 101, 1 (2007), 99 (99-120).

²⁸ While prevention and rebuilding were allotted 16 pages in the report, 32 pages were dedicated to reaction – with a particular focus on reaction *not* ‘short of military means’ (which is amply reflected in the report synopsis, cf. ICISS 2001, xi-xiii); cf. Bellamy 2009, 64. Such disproportionate (in-)attention to intervention (versus prevention and rebuilding, respectively) led Bellamy to argue that “the commission should rewrite its chapters on prevention and rebuilding”. Bellamy 2009, 53; cf. also 52, 59.

²⁹ Cf. ICISS 2001, xi; 17, para. 2.29; 19-20, para. 3.1-9, on such emphasis on prevention.

and rebuilding (to follow after an intervention) on the other. Furthermore, such intervention was hinged on a set of criteria, including a basic defining threshold (for the application of R2P and for military intervention specifically) as well as a hierarchy of authority to authorize and exercise military intervention. This latter criterion (*right authority*) was particularly intricate as it touched immediately on the question of unilateral military intervention. The commission identifies the Security Council as the chief authority over military intervention. Still, while claiming “that there is no better or more appropriate body than the Security Council to deal with military intervention issues for human protection purposes” and wishing to “make the Security Council work better than it has”³⁰, the commission insinuates that unilateral intervention suggests itself where multilateral avenues fail. For such circumstances it suggests alternative sources of authority, notably regional organizations as well as the General Assembly.³¹ To avoid such circumstances, it suggests a code of conduct for the permanent members of the Council, encouraging them to abstain from using their veto power against the discharge of R2P. Apart from the basic threshold and authority, certain “precautionary criteria” (*right intention, last resort, proportional measures, and reasonable prospect*) as well as operational criteria and priorities (such as the requirement of *proportionality* and the omission of “force protection”) are identified.³²

The transformation of the 100+ page report of R2P ‘01 into the few paragraphs of R2P ‘05 in the 2005 World Summit Outcome blurs the rather neat ICISS scheme, e.g. as R2P ‘05 does not expressly follow R2P ‘01’s tripartite structure of prevention, reaction, rebuilding. All the same, R2P ‘05 maintains the distinction of levels of responsibility and adds a further intermediary level of responsibility (the responsibility to assist).³³ The matter of military intervention with all its basic modalities is cautiously framed in a single sentence.³⁴

³⁰ ICISS 2001, 49, para. 6.14.

³¹ Cf. ICISS 2001, xiii, 48, 53-55.

³² Cf. ICISS 2001, xii-xiii; ch. 6-7.

³³ Cf. Ban Ki-Moon 2009, 2, 8-9 para. 11, for a formulation of ‘three pillars’ (state responsibility; international assistance and capacity-building; timely and decisive response) of R2P. In other accounts, even four pillars or ‘commitments’ are manifest with R2P ‘05, cf. Alex J. Bellamy, “The Responsibility to Protect and the problem of military intervention”, in: *International Affairs* 84, 4 (2008a), 623 (615-639). Bellamy follows the tri-pillar construal but individuates the use of force as a fourth commitment.

³⁴ Cf. the “2005 World Summit Outcome”, 30, para. 139, sentence 2: “In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.”

The Outcome document has been said to have deprived R2P of its original thrust (having rendered it an “R2P lite”),³⁵ notably concerning its former criteria for military intervention, code of conduct for the permanent Council members not to use the veto in case of R2P circumstances, legitimate authorities other than the Security Council, or the aspiration of a full-blown legal obligation to protect.³⁶ Such dissatisfaction has created a delicate situation for supporters of R2P: while some acknowledge the R2P ‘05 results and subsequent UN interpretative authority on R2P, others (who might otherwise embrace this hitherto most authoritative and normatively relevant endorsement of R2P) continue to advocate an interpretation which they take to be closer to the original concept, especially regarding unilateral military intervention.³⁷ Views on how to attain R2P’s fundamental ambition of shifting terms and resolving the dilemma of humanitarian intervention differ accordingly. Furthermore, sequels and spin-off concepts have been advanced in the proximity of R2P ‘05 just as with R2P ‘01.³⁸

It is helpful to assess interventionist readings of R2P, and corresponding criticism of R2P ‘05, in the light of the doctrine and pitfalls of humanitarian intervention, as these pitfalls make clear the limited auspiciousness of ‘R2P’ unilateral military intervention and of R2P military interventionism in general. An accordingly informed construal of R2P not only helps to dispel R2P-skeptics’ reservations against that allegedly unilateralist ‘doctrine to intervene’, but also to keep advocates of R2P from endorsing unwarranted and unpromising branches of a responsibility to protect that has yet to be fully developed.

³⁵ Cf. the discussions in Ramesh Thakur – Thomas G. Weiss, “R2P: From Idea to Norm – and Action?”, in: *Global Responsibility to Protect* 1, 1 (2009), 38 (22-53); Nicholas J. Wheeler – Frazer Egerton, “The Responsibility to Protect: ‘Precious Commitment’ or a Promise Unfulfilled?”, in: *Global Responsibility to Protect* 1, 1 (2009), 123-132 (114-132); discussion in Bellamy 2008a, 616-617 (esp. at n. 10). For a positive assessment of the Outcome results for R2P, cf. Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All*, Washington (DC), The Brookings Institution, 2008, 47-48.

³⁶ Cf. Bellamy 2008a, 623. On the suggestion of such an obligation, cf. Wheeler – Egerton 2009, 122. Pace Wheeler – Egerton 2009, cf. *infra* n. 46.

³⁷ Although the distinction is too crude and scholars’ positions too nuanced for a division into factions, one may perhaps rank Axworthy, Thakur or Weiss among the former; Bellamy, Evans, Luck or Williams among the latter.

³⁸ For R2P ‘01, cf. Slaughter’s and Feinstein’s so-called “duty to prevent” (a variant of pre-emptive self-defence that bears little actual resemblance to R2P): Lee Feinstein – Anne-Marie Slaughter, “A Duty to Prevent”, in: *Foreign Affairs* 83, 1 (2004), 136-50. For R2P ‘05, cf. Lloyd Axworthy – Allan Rock (who propose an adaptation of the R2P framework for responses to ecological crises), “R2P: A New and Unfinished Agenda”, in: *Global Responsibility to Protect* 1, 1 (2009), 54-69, or the “*Will to Intervene* (W2I)” initiative, cf. the Montreal Institute for Genocide and Human Rights Studies (MIGS), *W2I – Mobilizing the Will to Intervene. Leadership & Action to Prevent Mass Atrocities*, Montreal, MIGS, 2009.

Humanitarian Intervention versus R2P Interventionism

The main grievance concerning the criteria for R2P military interventions is the absence of such express criteria in the Outcome document. However, this disregards the grounds for such criteria in international law and, in fact, in the Outcome document itself, for arguably most R2P '01 criteria *are indeed* contained in the Charter or elsewhere in international law. The criterion of *last resort* is incorporated in the Outcome, as military action is called for "if peaceful means should be inadequate"; this reiterates corresponding Charter provisions and is derived from the Charter (Art. 42). *Proportionality*, as an *in-bello* and a *contra-bellum* criterion, is firmly established in both these bodies of international law.³⁹ *Right intention* emanates if not from a single phrase then from the Outcome's R2P section as a whole.⁴⁰ Only the criterion of *reasonable prospect* may be said to be somewhat underrepresented, albeit reflected in the Outcome's reference to 'appropriate' means and in the Charter's general security architecture.⁴¹

Regardless of their recognition in the broader corpus of international law, the inclusion of express criteria for military intervention in the Outcome document could have been a *political* asset for R2P and its impact on the transparency of the Council's conduct under Chapter VII. In early Outcome drafts, such criteria were mooted for this very reason.⁴² Yet the disappointment expressed about their eventual deletion stems less from the loss of such a political asset but from the hope that R2P '05 would offer a genuine basis for unilateral military intervention proffered by corresponding intervention criteria⁴³ – a hope already boosted by misconstruals of R2P '01 passages on *right authority* as a basis for unilateralist interventions. These passages might lend some *prima facie* plausibility to the idea of a right or responsibility to unilateral intervention being introduced through R2P. Any such plausibility is shattered, however, in light of the doctrine of humanitarian intervention and its corresponding – unsuccessful – endeavors to introduce a right (or responsibility) to intervene. Compared to these, the ICISS's corresponding

³⁹ Cf. ICJ, *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, 8 July 1996, ICJ Reports (1996), 242, para. 30; 245, para. 41; cf. Frits Kalshoven – Liesbeth Zegveld, *Constraints on the Waging of War*, Geneva, ICRC, 2001, 170-171.

⁴⁰ As the Outcome commitments to R2P may be read as a specific declaration of intent to halt and avert the four specified atrocity crimes.

⁴¹ Such as the SC veto power, which practically rules out UN enforcement action against a permanent member of the Council (as such action would very likely trigger greater conflict); cf. ICISS 2001, 37, para. 4.41-2.

⁴² Cf. the draft Outcome document of 3 June 2005, 12, para. 47, http://www.reformtheun.org/index.php/united_nations/991_; cf. also William R. Pace – Nicole Deller, "Preventing Future Genocides: An International Responsibility to Protect", in: *World Order* 36, 4 (2006), 20 (esp. at n. 40; 15-32). Remarkably, the draft does not associate the criteria with R2P itself.

⁴³ Thus: that R2P would solve the intervention dilemma simply by rendering one horn of the dilemma a viable avenue.

advances are neither original (providing novel and tenable grounds for intervention) nor well-founded (providing evidence for the emergence of such legal bases). Presumably the ICISS was not ignorant or careless, but cautious, about its basic claims and their required legal evidence. If it had wanted to substantiate legal bases for military action in the absence of Security Council authorization, it would have done so in a straightforward and unambiguously convincing manner. Its actual case for a responsibility to protect, resting on a relatively indiscriminate notion of responsibility, might ultimately be conducive to further legal developments in this direction; in itself it still falls short of evidencing them.

It must be borne in mind that the law on the use of force, despite even the *ius cogens* status of the prohibition of armed force, is not entirely static and that relevant developments might be said to be taking place, especially concerning the acknowledgment of regional military intervention without prior Council authorization.⁴⁴ Problems inherent in such conceptions of military interventions notwithstanding, it still remains to be seen whether such development may yield a new interpretation of the mandate of regional organizations under Chapter VIII of the Charter. Such a development would require a significant measure of consistent practice and legal opinion on the matter and depend considerably upon the Council's very own sanctioning of such action (through acquiescence, condemnation, or the like). It is arguably more cogent in this vein to construe the ICISS's propositions in a way that takes literally the commission's declared intention not to find alternatives to, but to improve on the Council's performance;⁴⁵ to read suggested alternatives as a carrots-and-sticks argument inducing the international community, and especially all members of the Security Council, to fully live up to their responsibilities under the Charter, and as deterring them from omissions which would again steer towards one horn or another of the intervention dilemma. The R2P '05 passages then, despite their openness to different readings,⁴⁶ are a relatively cogent reiteration and a declaration of intent

⁴⁴ Under Chapter VIII of the Charter, regional organisations are generally held to require *prior* authorisation by the Council to engage in regional military enforcement action (also because anything else would effectively undermine the Council's auspices over military action), cf. Art. 53(1) of the Charter and Georg Ress – Jürgen Bröhmer, "Article 53", in: Simma 2002, 864, para. 13-15. It is important to note, however, that such novel interpretation of the Charter would perhaps be compatible with R2P '05 provisions on regional action. Related developments with regard to General Assembly authorisation of military intervention (or with renewed trust in its "Uniting for Peace" procedure with regard to military intervention), on the other hand, are hardly observable yet, and arguments provided e.g. by Ban 2009, 27, para. 63, are neither novel nor workable, and legally *ultra vires* concerning military intervention; cf. Terry D. Gill, "Legal and Some Political Limitations on the Power of the UN Security Council to Exercise its Enforcement Powers under Chapter VII of the Charter", in: *Netherlands Yearbook of International Law* 26 (1995), 58 (33-138).

⁴⁵ Cf. ICISS 2001, 49, para. 6.14.

⁴⁶ It has often been argued that several states, notably the United States through John Bolton, threw a spanner in the works of the World Summit (cf. Colum Lynch, "Bolton Voices Opposition to U.N. Proposals", in: *The Washington Post*, 1 September 2005; Evan MacAskill, "World summit on

to meet long-standing responsibilities under the Charter. With regard to the overall doctrine of humanitarian intervention, this means that R2P may be viewed in close proximity with its post-classical tradition while dissociating itself from the classical doctrine; where the former should be viewed as being concerned with the intricacies of multilateralism, the latter may – as usual – dedicate itself to further attempts at justifying unilateral intervention.⁴⁷

An Obligation to Intervene?

As the responsibility to protect does not solve the dilemma of intervention by rendering its first horn (unilateral intervention) viable, one should hope to find it tackling the second horn (problems accompanying multilateral intervention). A particularly ambitious approach in this vein would be to anchor an *obligation* of the international community to protect and, where necessary, to intervene. While it is surely sensible to expect R2P to tackle the latter horn of the dilemma by working towards a fully reliable system of multilateral action, the institution of an obligation to protect and to intervene would hardly be a promising approach in this vein.

As noted earlier, the Security Council may, in pursuance of its mandate and discretion under the Charter, authorize military intervention – if necessary also in seemingly ‘domestic’ humanitarian crises. This has become almost trivial – at least a moot point – for legal scholars, whereas it is yet to be fully acknowledged by all states. The definition of the Council’s mandate in this respect is largely owed to its own exercise of discretion under Chapter VII relating to the determination of a given situation (Art. 39) as well as to adequate responses thereto (Art. 40–42). By virtue of this very discretion of the Council, which lies in its nature and has enabled it to recognize humanitarian crises – including the types of atrocity crimes identified by R2P – under Chapter VII, it is currently impossible to require the Council to act in a given situation or even to act in a particular manner.⁴⁸ Hence:

UN’s future heads for chaos – UK leads last minute effort to rein in US objections”, in: *The Guardian*, 10 September 2005) that also deflected the assigned countenance of R2P ‘05 (cf. Wheeler – Egerton 2009, 122). While this may be true to a considerable extent, supposed R2P responsibilities to engage in unilateral intervention, let alone *obligations* to intervene (multilateral or unilateral), were never mounted in draft Outcome documents (cf. the draft Outcome document *supra* n. 42, and UN Docs. A/59/HLP/CR 1, 8 June 2005; A/59/HLP/CR 1/Rev.1, 22 July 2005; A/59/HLP/CR 1/Rev.2, 5 August 2005; UNGA Res. A/60/L.1, 15 September 2005).

⁴⁷ On recent stages and promising approaches in this respect, cf. esp. discussions of the legal pertinence (in terms of exoneration or mitigation) of collective intervention in: Bruno Simma, “NATO, the UN and the Use of Force”, in: *European Journal of International Law* 10 (1999), 11 (1-22); Thomas M. Franck, *Recourse to Force. State Action Against Threats and Armed Attacks*, Cambridge, Cambridge University Press, 2004, ch. 10; Gill 2004, 67-70, 72-74.

⁴⁸ Cf. Gill 1995, 40: “[T]he wide margin of discretion the Council enjoys in carrying out its responsibilities and the practice of the Security Council over nearly half a century make it clear that the Council is not under any legal obligation to decide whether a given situation falls within the terms of Article 39, or to take any enforcement action or make recommendations when it in fact has made such a determination.”

By virtue of the Council's very discretion to enact R2P is it impossible to require it to do so, let alone to require it to resort to its *ultima ratio* of military enforcement.⁴⁹

One arrives at a similar result concerning supposed R2P obligations to intervene based on the law of international responsibility as articulated by the International Law Commission (ILC).⁵⁰ The 'responsibility to protect' might *prima facie* be associable with this body of law; closer examination, however, unearths "innumerable, obvious difficulties when we try to affirm R2P as a legal proposition in this fashion"⁵¹. Most generally, while the law of international responsibility is concerned (by and large) with breaches of international obligations and the compensation of resulting damages, R2P chiefly argues for the protection of populations from mass atrocities: Its main rationale is to *move* states to act, to prevent and counteract mass atrocities.

A plausible case could be made for the primary (i.e. domestic) responsibility to protect. Genocide is recognized as "a crime under international law which they [the states, N.H.] undertake to prevent and to punish"⁵² which is a peremptory (*ius cogens*) norm⁵³ and owed *erga omnes*.⁵⁴ In this sense, R2P, "first and foremost, is a matter of State responsibility"⁵⁵ also in ILC terms. Furthermore, as "serious breaches" of such norms bring states "under a positive duty to cooperate to bring

⁴⁹ Cf. Stahn 2007, 120.

⁵⁰ Cf. generally the ILC "Articles on Responsibility of States for Internationally Wrongful Acts", in: *Report of the International Law Commission on the work of its fifty-first session (3 May-23 July 1999)*, UN Doc. A/56/10 (2001), rpt. in and cited after *Yearbook of the International Law Commission*, UN Doc. A/CN.4/SER.A/2001/Add.1 (Part 2), II/2: 1-210 (2001).

⁵¹ José E. Alvarez, "The Schizophrenias of R2P", Panel Presentation at the *2007 Hague Joint Conference on Contemporary Issues of International Law: Criminal Jurisdiction 100 Years After the 1907 Hague Peace Conference*, The Hague, 30 June 2007, 12; cf. also Tobias Stoll, "Responsibility, Sovereignty and Cooperation – Reflections on the 'Responsibility to Protect'", in: Doris König et al. (eds.), *International Law Today: New Challenges and the Need for Reform?*, Berlin–Heidelberg–New York, Springer, 2008, 7.

⁵² 1948 *Convention on the Prevention and Punishment of the Crime of Genocide* ("Genocide Convention"), Art. 1.

⁵³ Cf. ICJ, *Armed Activities on the Territory of the Congo*, New Application, 2002 (*Democratic Republic of the Congo v. Rwanda*), Jurisdiction of the Court and Admissibility of the Application, Judgment, 3 February 2006, *ICJ Reports* (2006), para. 64; ICJ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro; "Genocide")*, Judgment, 26 February 2007, *ICJ Reports* (2007), para. 162. Cf. also ILC "Draft Articles", 112-113 at n. 646.

⁵⁴ Cf. ICJ *Barcelona Traction, Light and Power Company Limited*, New Application, 1962 (*Belgium v. Spain; "Barcelona Traction"*), Second Phase, Judgment of 5 February 1970, *ICJ Reports* (1970), 32, para. 33-34; ILC "Draft Articles", 33 (at (4)). This allows all other states to consider themselves "injured", *ibid.*, 126, on ILC Draft Article 48(1)(b) ("The obligation breached is owed to the international community as a whole").

⁵⁵ "[...] because prevention begins at home and the protection of populations is a defining attribute of sovereignty and statehood in the twenty-first century" (Ban Ki-Moon 2009, 10, para. 14).

to an end serious breaches”⁵⁶, an R2P responsibility of the international community may also be recognizable.⁵⁷ The plausible case notwithstanding, a corresponding responsibility of forcible intervention is untenable, as reactions to breaches may involve countermeasures which may also be required of states in case of such breaches being serious – yet which, as set forth expressly by the ILC, may never include the use of armed force.⁵⁸ The Security Council, on the other hand, whose pivotal role for such circumstances is recognized by the ILC,⁵⁹ is not subject to a positive duty to act, let alone to resort to force. Nor could it be, as this would again be irreconcilable with its mandate and discretion under the Charter.

The ILC framework of international responsibility, while leaving untouched the Council’s rule on armed force and intervention, contains certain parallels to R2P’s structure and may help bolster its legal foundation as far as peaceful measures are concerned. At the same time, concerning supposed obligations of forcible intervention it would lead to “innumerable, obvious difficulties” which R2P is neither apt nor intended to overcome.⁶⁰ While future efforts may bring closer together certain aspects of the two realms of responsibility,⁶¹ a full-blown ILC-based R2P obligation to protect “is absurdly premature and not likely to be affirmed by state practice”⁶². This does not render R2P pointless with regard to the Council’s mandate, nor does it merely present “old wine in new bottles”⁶³. On the contrary: while R2P does not represent a novel or emerging legal ground (or ‘norm’) on

⁵⁶ ILC “Draft Articles”, commentary on ILC Draft Art. 41, whose (1) reads that “States shall cooperate to bring to an end through lawful means any serious breach within the meaning of article 40”. “A breach of such an obligation [a peremptory norm, N.H.] is serious if it involves a gross or systematic failure by the responsible State to fulfil the obligation”, 112 (on ILC Draft Article 40 (2)).

⁵⁷ Provided that R2P’s requirement of “manifest failure” (cf. para. 139, sentence 2 of the Outcome document) amounts to “a gross or systematic failure” required for a serious breach. For such argument cf. Scheffer 2008.

⁵⁸ “Countermeasures shall not affect: (a) The obligation to refrain from the threat or use of force as embodied in the Charter of the United Nations”; UN (2001), 131, Art. 50(1)(a). Cf. Also Simma 1999, 2; Gill 2004, 67-8. This dismisses in general the law of international responsibility as a basis for justifications of (unilateral) military intervention. Also the Genocide Convention does not call for the use of force, but rather for a “call upon the competent organs of the United Nations”, cf. the *Genocide Convention*, Art. 8.

⁵⁹ Cf. ILC “Draft Articles”, 113 (at (9)).

⁶⁰ Such as the reconciliation of the ILC’s focus on cessation and reparation of the responsible state (cf. ILC draft Art. 48 (2)) with R2P’s focus on the international community’s responsibility ‘to rebuild’; or the question of reparation claims against the international community when it fails to discharge its responsibility to protect. Cf. Stahn 2007, 115-120, and Alvarez 2007, 11 sqq., on further related intricacies.

⁶¹ “Not surprisingly, R2P has now helped to inspire the experts on the International Law Commission engaged in drafting provisions that would impose legal responsibility on those international organizations – such as the UN or even regional organizations – who fail to act in the face of international atrocity” (Alvarez 2007, 11).

⁶² Alvarez 2007, 12.

⁶³ Cf. Stahn 2007, 102, 111-115.

intervention, it contributes to the delineation of a certain segment of the Council's mandate, and to individual states' successive acknowledgment of that mandate of the Council.⁶⁴ The Council itself, likewise, is being encouraged to assume its wide mandate and responsibility through the acknowledgment of R2P.⁶⁵ While it has no legal – or legally enforceable – obligation, the Council after all bears the main “responsibility for the maintenance of international peace and security” as well as “duties under this responsibility”⁶⁶ which it must account for. While a legal obligation to discharge that responsibility (involving, where necessary, military enforcement) must currently (and, arguably, the near future) be denied,⁶⁷ nothing prohibits political forces – stirred by R2P advocacy – from effectively inducing the Council to fully commit itself and live up to its responsibility to protect. Such a commitment, as evidenced in its first stages in the Council's resolutions on R2P, would do more than obviate any (political) code of conduct enshrined in a non-binding resolution such as the Outcome document, and would contribute in a legally pertinent way to further developments of the Council's mandate under the Charter.⁶⁸ The still somewhat vague notion of responsibility employed by R2P, for its very fleetingness and variety of connotations, might be conducive to that process. Instead of being old wine in new bottles, R2P would ideally prove to be the exact opposite – new wine in old bottles, new spirit in old (and manifoldly underexploited) vessels of the UN international security system.

The Virtues of Prevention

As the above discussion of R2P's (modest) prospects of effecting a change on the law of humanitarian intervention shows, the resolution of the intervention dilemma still remains mainly a political task. It is a task to effectively abandon unviable unilateral resorts to force, and to engage multilaterally in the protection of civilians from mass atrocities. In this context it should be recalled that in many *ultima-ratio* circumstances (where R2P's criterion of last resort applies), military intervention

⁶⁴ As evidenced in the 2009 General Assembly debate which showed wide acceptance of the core of R2P (which, in contrast, would seem quite inconceivable for the doctrine of humanitarian intervention).

⁶⁵ As evidenced *in nuce* by its endorsement of R2P in its resolutions 1674, 1706, and 1894, in connection with para. 139 of the Outcome document (regardless of the Council's disregard of R2P on several other occasions).

⁶⁶ Art. 24 (1) of the Charter.

⁶⁷ Cf. Murphy 1996, 294-297; Franck 2004, 172; Kirsten Schmalenbach, “Recht und Gerechtigkeit im Völkerrecht”, in: *Juristenzeitung* 60, 13 (2005), 644 (637-644); Budislav Vukas, “Humanitarian Intervention and International Responsibility”, in: Maurizio Ragazzi (ed.), *International Responsibility Today: Essays in Memory of Oscar Schachter*, Leiden–Boston, Martinus Nijhoff Publishers, 2005, 237-240; Stahn 2007, 120; Christopher Verlage, *Responsibility to Protect*, Tübingen, Mohr Siebeck, 2009, 212-224.

⁶⁸ Which is arguably more auspicious than alternatives such as a Security Council reform through a formal amendment of its discretion under the Charter (as this would afford all the Council's permanent members' approval, cf. Art. 108 of the Charter).

might still be unviable. R2P '01 expressly points this out, notably with its criterion of reasonable prospect. Neither an obligation of the Council to issue military enforcement nor a unilateral alternative (sanctioned by a right, a responsibility, or an obligation) would provide a solution in such circumstances. Circumstances where there is no reasonable prospect of success (as in many large-scale 'protracted conflicts') present fairly clearly the crucial limits of military intervention, also in the context of R2P. These limits strongly suggest that solutions to such crises ought to be sought elsewhere. In some cases earlier intervention might help resolve a given crisis; it would be erroneous to assume, however, that in any given crisis intervention at some point or other would yield the desired resolution. Moreover, it ought to be stressed, military intervention is generally to be considered only as a means of last resort. In this vein the focus ought to be removed from the adequate point of intervention. Often-cited instances of the international community's failure to become active, such as the Rwandan genocide, are stark reminders not that the international community should have forcibly intervened at an earlier point in time, but that it should – and could – have *prevented* large-scale human rights violations in the first place.⁶⁹ Similar conclusions might be drawn concerning the genocidal crisis in the Sudanese region of Darfur, where the apparent impossibility of halting or averting mass atrocities through intervention results from a failure of concerted preventive efforts to defuse the crisis.⁷⁰

R2P itself holds that, essentially, solutions lie elsewhere than with intervention. Just as from R2P '01 through R2P '05 and beyond it has affirmed the aim of improving the Security Council's performance rather than replacing it, it has also steadfastly underlined the paramount importance and primacy of prevention over other dimensions of protection. While this has been recognized and echoed variously in the R2P discourse,⁷¹ sustained discussions of prevention are still passed over all too swiftly when measures against mass atrocities are being contemplated. All too often, the dice are loaded against prevention in such contemplations: where circumstances are considered in the short run and under the premise that prevention and other reactive measures have failed, robust measures seem necessary and military intervention lends itself easily.⁷² Such a focus on forcible reaction is as

⁶⁹ Cf. conclusions and recommendations of the *Report of the Independent International Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda*, UN Doc. S/1999/1257, 16 December 1999, 30 sqq.

⁷⁰ Cf. Evans 2008, 59-61, 145-146, on unreasonable prospects (or the 'balance of consequences') precluding military intervention in the crisis of Darfur.

⁷¹ Notwithstanding 'fig-leaf', 'alchemy' or 'pipe dream' interpretations of R2P's emphasis on prevention (cf. Thomas G. Weiss, *Military-Civilian Interactions. Humanitarian Crises and the Responsibility to Protect*, Lanham, Rowman & Littlefield, 2005, 205).

⁷² This rhetoric is already present in R2P '01 when it argues that "[b]y showing a commitment to helping local efforts to address both the root causes of problems and their more immediate triggers, broader international efforts gain added credibility – domestically, regionally, and globally. This credibility is especially important when international action must go beyond prevention to reaction,

rash as it is problematic, as it is prone to unnecessarily fostering interventionist attitudes and is destined to fail exactly in the direst of circumstances that ‘shock the conscience of humankind’. These circumstances, in which prospects of crisis-resolution by intervention are often dim if not absent, do not generally ‘cry out’ for military intervention; yet they generally highlight a failure to engage in preventive efforts in a sincere and timely manner. In this vein, the ultimate virtues of R2P lie not only in its call for functioning multilateralism generally but, more importantly, in its specific call for multilateral *prevention* of mass atrocities. This vast dimension of R2P, encompassing diverse and complex measures ranging from structural root-cause prevention to the preventive deployment of troops, entails a dilemma of its own: where prevention is engaged in successfully, it is scarcely visible or appreciable; where its assets are recognized and valued (typically in retrospective analyses of conflicts too protracted to intervene in), it is usually too late to effectively engage in prevention.⁷³ But of course this dilemma is not an argument against prevention itself, but rather for its greater recognition.

Despite the facile association of R2P with military intervention, numerous scholarly, practitioners’ and institutional efforts urge the “international community to be doing more to close the gap between rhetorical support for prevention and tangible commitment”⁷⁴ in the context of the R2P discourse.⁷⁵ The development from R2P ‘01 to R2P ‘05 itself can be regarded as having provided important bases for the closure of this gap. In supplying a responsibility to assist, it clearly connects domestic with international levels of prevention⁷⁶ and reminds actors on the institutional level of responsibilities to assist often neglected in the shuffle of domestic protection versus international intervention.⁷⁷

and especially when that reaction necessarily involves coercive measures, and ultimately the use of armed force”. ICISS 2001, 19, para. 3.4. Likewise, despite its emphasis on prevention the commission declares e.g. that R2P “implies above all else a responsibility to react to situations of compelling need for human protection”. ICISS 2001, 29, para. 4.1.

⁷³ Cf. Albrecht Schnabel, “Post-Conflict Peacebuilding and Second-Generation Preventive Action”, in: *International Peacekeeping* 9, 2 (2002), 7-30; cf. also the *UN Report of the Panel on United Nations Peace Operations (“Brahimi Report”)*, UN Doc. A/55/305–S2000/809, 21 August 2000, 2, para. 10.

⁷⁴ ICISS 2001, 19, para. 3.1.

⁷⁵ Cf. Pace – Deller 2006; Alex J. Bellamy, “Conflict Prevention and the Responsibility to Protect”, in: *Global Governance* 14 (2008b), 136-156; Bellamy 2009, part 2 (whose focus was apparently informed by Deller, cf. 2006; ix); Ban 2009, 4-22; as well as recent contributions on prevention in *Global Responsibility to Protect* 1, 4 (2009) (cf. therein esp. the contributions by Rosenberg – Harff – Mills, 442-77, 506-31, and 532-59 respectively).

⁷⁶ These were somewhat separated with R2P ‘01 and its distinctions of primary and secondary responsibilities to protect, the latter being subsidiary or ‘fallback’ responsibilities (cf. ICISS 2001, 17, para. 2.31.) and left unclear the role of subsidiarity versus complementarity of the international community with regard to prevention; cf. also Stahn 2007, 116-117.

⁷⁷ Examples for such oft neglected commitments in the Charter are: “All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action” (Art. 2 (5) of the Charter); “The Members of the United Nations agree to accept

A clear recognition of the inherent limitations of military intervention and of R2P's limited force in this vein is one important step toward the realization of R2P's potentials. Full recognition of the role of concerted prevention efforts and their supremacy over other branches of R2P, likewise, is a crucial step towards the furtherance of the concept. The case of Kenya, the first actual operationalization of R2P, may be a good case in this vein, as R2P was operationalized not through intervention but through prevention.⁷⁸ Still, for a full resolution of the intervention dilemma and a genuine shift of the debate on humanitarian intervention, a central claim of R2P applies today just as it did in 2001: "Underlying all the specifics, what is necessary is for the international community to change its basic mindset from a 'culture of reaction' to that of a 'culture of prevention'."⁷⁹

Conclusions

The responsibility to protect was introduced in international legal and political discourse in order to shift the terms of the debate and solve the dilemma, of humanitarian intervention – the problem of the unlawfulness of unilateral intervention on the one hand and the unreliability of sanctioned multilateral interventionism on the other. The contributions provided by R2P in this context lend themselves to several interpretations. One strand of interpretation concerns R2P's alleged establishment of avenues for unilateral military intervention, and thus a solution to the first horn of the intervention dilemma. Such interpretations must be dismissed on similar grounds as corresponding doctrines of humanitarian intervention have to be dismissed in contemporary international law. On the issue of unilateral intervention, R2P ought to be read as a carrots-and-sticks argument in favor of concerted and duly authorized 'multilateral' action under the Charter rather than a new doctrine of unilateral intervention. By the same token, then, problems and intricacies pertaining to unilateralism and its justification ought best to be left with the doctrine of humanitarian intervention itself, and be dissociated from the concept of R2P.

and carry out the decisions of the Security Council in accordance with the present Charter" (Art. 25 of the Charter); "All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security" (Art. 43 of the Charter).

⁷⁸ When 2008 post-electoral violence was successfully prevented from escalating further, Kofi Annan and other involved parties related their efforts to R2P explicitly (as did commentators later on), cf. Roger Cohen, "African genocide averted", in: *The International Herald Tribune*, 2 March 2008; Ban 2009, 9, para. 11(c); Bellamy 2010, 148 sqq; Ramesh Thakur – Thomas G. Weiss, "R2P: From Idea to Norm – and Action?", in: *Global Responsibility to Protect* 1, 1 (2009), 52 (22-53), take this as evidence that the "R2P norm has become accepted with surprising rapidity".

⁷⁹ ICISS 2001, 27, para. 3.42.

Due to reasons inherent in the UN Charter's multilateralist system of international security, R2P cannot provide a robust *legal* solution to the problem of intervention and the corresponding second horn of the dilemma. For the problem with this second horn is essentially a political problem. Interpretations of R2P in terms of a legal 'obligation to protect' and to intervene, likewise, ought to be dismissed on grounds of incompatibility with the Charter system of international security, in particular the Security Council's wide measure of discretion. Nevertheless, R2P may have the potential to address this horn of the dilemma effectively. It may well be conducive to an effective political furtherance of genuine multilateralism, which in turn would have legal significance. In this sense R2P should not be regarded as 'old wine in new bottles', but rather the opposite: new wine in old bottles – new spirit in old and hitherto underexploited vessels of international security. Even if R2P is to effectively contribute to the furtherance of multilateralism here, however, R2P's true virtues for the solution of the intervention dilemma and the shift of the debate must be recognized to lie elsewhere than with intervention. According to R2P itself, military intervention may not be a feasible or advisable option even in direst of humanitarian crises if multilateral intervention in such crises has only dim prospects of success. The actual solution to the intervention dilemma according to R2P, as the concept sets forth clearly in letter and spirit, lies with the full endorsement of genuine and multilateral *prevention* efforts. Likewise, the real potential of the responsibility to protect and its further development should be sought in avenues of prevention, and in an effective change of mindset from a culture of reaction to a genuine culture of prevention.

The Responsibility to Protect and the Case of Darfur: An Inadequate Concept?

*Johannes Langer
University of Vienna*

Résumé

L'émergence du concept de la 'responsabilité de protéger' semblait démontrer que l'on avait tiré des leçons des atrocités commises contre des civils en Bosnie et au Rwanda dans les années 1990. Au lieu de risquer une intervention humanitaire audacieuse, un nombre de mécanismes ingénieux avaient été développés par la CISSE pour parer à de tels cas. Mais bien qu'avec le Sommet Mondial de 2005, la R2P ait été instaurée en tant que norme politique, son interprétation reste source de désaccord. Le Darfour est souvent cité comme le premier cas du 21^{ème} siècle en ce qui concerne la responsabilité de protéger. Le débat fut d'importance, pourtant la communauté internationale s'est montrée incapable de mettre fin à la violence qui avait causé la mort de 300,000 personnes et la fuite de millions d'autres. L'Occident réagit tardivement sans inclure le Darfour dans le processus de paix entre le nord et le sud du pays. La MINUAD (Mission des Nations Unies et de l'Union africaine au Darfour) fut établie trop tardivement et demeure insuffisamment équipée. Les belles paroles diplomatiques sont monnaie courante dans l'espoir d'arrêter des massacres, mais à la fin les intérêts nationaux et la souveraineté des États ont tendance à prévaloir. Un élément important dans cette contradiction provient de l'échec du plus puissant organe onusien, le Conseil de Sécurité des Nations Unies, dans la prévention de génocides et de crimes contre l'humanité. De plus, pour ne pas perdre son but initial, la R2P doit être restreinte au maximum. Elle doit être appliquée uniquement dans les cas où un État agit contre ses propres citoyens. À l'avenir, l'accentuation du premier pilier de la R2P, la 'responsabilité de prévenir' sera nécessaire. C'est seulement ainsi que le dernier recours – l'action militaire – peut être évité et, avec lui, la souffrance des populations civiles.

Introduction

Massive human rights violations in the Balkans and Sub-Saharan Africa in the 1990s prompted a lively debate about the legitimacy and desirability of the use of force by third parties to prevent mass atrocities. A fierce argument started between supporters of sovereignty and non-intervention on the one hand, and advocates of universal human rights, who lobbied for military action as a last resort to guarantee human rights, on the other. Legal, political, and moral grounds frame the controversy about the right or even duty of the international community to protect endangered civilians faced with mass atrocities in violent conflicts.

The slogan ‘never again’ was often used to justify military action in reference to the Holocaust and the future prevention of genocide, particularly in the post-Cold War era. Military interventions on humanitarian grounds have proven to be half-hearted in the past and were unsatisfying for all parties involved, not least for the civilians suffering from gross human rights abuses at the hands of abusive states. When NATO responded to the Kosovo crisis in 1999 with a bombing campaign against the Federal Republic of Yugoslavia, NATO justified its intervention on the basis of a moral right and duty to protect the Albanian population in Kosovo.¹ The NATO campaign was widely perceived to be “legitimate but illegal”².

In 2000, the Canadian government took the lead in setting up the International Commission on Intervention and State Sovereignty (ICISS). The Canadian Foreign Minister Lloyd Axworthy wanted to establish a bridge between state sovereignty and humanitarian intervention, consciously create a positive connection between the two terms, and turn the debate toward a responsibility to protect endangered people. The ICISS came up with a concept labeled ‘Responsibility to Protect’ (R2P): a term which encompassed a responsibility to prevent or stop genocide, war crimes, crimes against humanity, and ethnic cleansing. The evolution of R2P must be seen in the context of a paradigmatic shift in the understanding of security from traditional security (i.e. national security or the survival of the state) to human security after the Cold War.³ Violent conflict is now approached in terms of preventive diplomacy and other initiatives focused on people-centered conflict resolution and peace-building activities. Military intervention to protect populations at risk is viewed as part of the spectrum of these initiatives, albeit as a last resort.

The vast majority of legal scholars consider interventions that are not sanctioned by the UN Security Council (UNSC) as illegal. Under international law, however, there are many legal texts that entitle the individual to basic human rights. In Article 55 (3) and Article 56, the UN Charter outlines respect for human rights and fundamental freedoms which must be defended. The provisions of the Charter, however, are vague and open to different interpretations to the point where there is no guidance on how the international community should sanction a state in cases where it fails to protect human rights. Some legal scholars therefore argue

¹ According to US President Bill Clinton, out of the 1.7 million Albanian Kosovars, some 900,000 had fled to refugee camps to escape the Serbian army of Milosevic, and a further 600,000 whose exact whereabouts were unknown at the time were believed to be „trapped“ within Kosovo and facing genocidal violence. “Clinton: NATO Must Stop Milosevic’s Atrocities Against Kosovo”, in: CNN, 13 May 1999, in: <http://edition.cnn.com/ALLPOLITICS/stories/1999/05/13/clinton.kosovo/>, accessed 26 January 2010.

² The former judge Richard Goldstone, a distinguished South African jurist, was the head of the International Independent Commission of Inquiry on the Kosovo War and reviewed the 78 days of the NATO air strike.

³ Fen Osler Hampson, *Madness in Multitude: Human Security and World Disorder*, Oxford, Oxford University Press, 2001, 17-18.

for a reform of the UN Charter to close the legal loopholes. Without closing the current gaps it will not be possible to bring an end to impunity in a crisis like the Darfur conflict. Darfur is used as a case study in this article because the principle of R2P has hardly had an effect in the conflict, despite the fact that it was well known that killings were taking place. This paper argues that the complexity of the situation in Darfur and the lack of reliable information on the ground caused the international community to fail to respond to the violence.

R2P's Successful Implementation

Human security, on which R2P is based, stresses that people rather than states have to be at the centre of foreign policy – promising a new emphasis on human rights rather than power games. The origins of human security are the rule of law, the safety of peoples, and sustainable human development, while the individual is the reference object. Yet it is important to remain focused on the threat of war or political violence against individuals or communities, and not include too broad a spectrum of potential threats.⁴ Otherwise, the analytical clarity is undermined and ‘insecurity’ loses its descriptive power. It is thus crucial to safeguard the physical security of people, as understood in the narrow understanding of human security. Potential threats to human security are limited to violence-related risks to human life. Examples of efforts to promote human security include international bans on landmines or on the illicit trade in small arms – efforts in which Canada, acting as a ‘middle power’ much like in the debate on R2P, is leading the way forward.⁵ Significantly, mass atrocities too must be stopped, and it is here that R2P comes into play. If a reduction in violence is not achieved diplomatically or by smart economic sanctions, military means as a last resort may be deemed necessary.

The rise of R2P led many in the field of human rights to hope for a brighter future. They believed the international community had learned a lesson from the mass atrocities against civilians in Bosnia and Rwanda in the 1990s. Instead of engaging in an imprudent humanitarian intervention, the ICISS developed a set of tools, resting on three pillars, for action in cases of gross humanitarian emergencies. First and foremost comes the responsibility to prevent, which the ICISS called the most important pillar in its own report⁶, it is the most important pillar. States

⁴ Andrew Mack – Zoe Nielson, *Human Security Report 2005: War and Peace in the Twenty-First Century*, New York–Oxford, Oxford University Press, 2005.

⁵ Although Canada was a major player to advocate for a human security agenda, this policy has changed because of domestic reasons since 2006. Cf. Mary Martin – Taylor Owen, “The Second Generation of Human Security: Lessons from the UN and EU Experience”, in: *International Affairs* 86, 1 (2010), 211 (211-224).

⁶ International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect*, Ottawa, IDRC, 2001, xi.

neighboring conflict areas are especially likely to have an interest in prevention, since they would be the first to feel the direct consequences of inaction, such as refugees and political destabilization.⁷ Negative sanctions in diplomatic, military, financial, or economic terms all present prevention possibilities. The problem, however, is the question of how to translate an early warning system into quick and effective action.⁸ Thomas Weiss argues that the responsibility to prevent “is a superficially attractive but highly unrealistic way” of adding an additional layer of prevention to humanitarian intervention; on the contrary, prevention “obscures the essence of the most urgent part”, which, bluntly put, is an intervention.⁹ Gareth Evans, on the other hand, asserts that the warning signs in the lead-up to the world’s worst cases of genocide were widely known, but that the signs were not taken seriously enough to take the necessary steps.¹⁰

Should prevention efforts fail and mass atrocities take place, the second pillar – the responsibility to react – comes into play. It is worth repeating that a military response must be the ultimate resort. Six criteria for conducting a military intervention serve as operational principles and are outlined in the report: right authority, just cause, right intention, last resort, proportional means, and reasonable prospects of success. The ICISS was thus able to shift the focus of the debate from an external intervention toward the people suffering from violence.¹¹ The UN Security Council should be the first body to tackle the issue. If the Security Council, the most powerful UN institution, should be blocked, the ICISS suggests that the responsibility be passed on to the UN General Assembly (UNGA), the only major UN body with equal representation, to deal with the humanitarian emergency. In case the UNGA also fails to tackle the mass atrocities, regional bodies like the African Union (AU) or the European Union (EU) should deal with the crimes committed. Regional organizations are more familiar with the local situation; they have more at stake due to their proximity to the conflict, and it is often not in their interest that the conflict be dealt with in the international arena, since this means they lose control and influence in their own region. Nonetheless, the Security Council remains the central body to deal with issues of world peace and security. An alternative to the procedure with the UNGA or regional organizations outlined above is the suggestion that the permanent five (P5) powers in the UNSC should refrain from using their veto power on questions of whether or not to deal

⁷ Gareth Evans – Mohamed Sahnoun, “The Responsibility to Protect”, in: *Foreign Affairs* 81, 6 (2002), 109 (99-110).

⁸ Alex J. Bellamy, *Responsibility to Protect: The Global Effort to End Mass Atrocities*, Malden (MA), Polity, 2009, 54.

⁹ Thomas G. Weiss, *Humanitarian Intervention: Ideas in Action*, Cambridge, Polity, 2007, 104.

¹⁰ Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All*, Washington (DC), Brookings, 2008, 79.

¹¹ Thomas G. Weiss, “The Sunset of Humanitarian Intervention? The Responsibility to Protect in a Unipolar Era”, in: *Security Dialogue* 35, 2 (2004), 138 (135-153).

with cases of genocide or mass atrocities. Still, the problem remains that China, Russia, and the United States do not want to make any concessions on the issue of veto abstention.

In cases where an intervention takes place, the third pillar comes into play. The interveners have the responsibility to rebuild the country and not leave chaos and destroyed infrastructure behind. The ICISS focuses on three areas of rebuilding: security, justice and reconciliation, and development.¹² After the end of the Cold War, 'nation-building' became a normal component in peacekeeping missions, also known as 'peacekeeping plus'. The question remains, however, as to what practical guidance interveners should draw upon when rebuilding post-conflict societies.¹³ In comparison with the first two pillars of R2P, prevention and reaction, the responsibility to rebuild has the advantage that donor countries are usually more willing to commit themselves to this task – at least in the first years after a conflict. Yet, rebuilding always remains a long and costly endeavor.

Only few people and actors took notice of R2P when it was first introduced. The timing of the ICISS' introduction of R2P was unfavorable because it was scheduled to be launched one week after 9/11. While it was postponed until December 2001, the public's attention rested on the war in Afghanistan. Nonetheless, stern criticism from China and Russia as well as many countries from the Non-Aligned Movement reduced the chances of R2P's acceptance in the international arena as a future concept. The chances of R2P's being accepted as an international norm were even lower. International law is based on the assumption of broad acceptance by many countries in order to be meaningful. Hence, R2P supporters tried to convince the skeptical actors. Unfortunately, the Canadian government and an active R2P supporter, the former ICISS commissioner Ramesh Thakur, bowed to increasing pressure and watered down the concept of R2P in order to win global support. Although this may have been important in order to gain momentum in the debate on R2P, R2P was weakened. Key suggestions from the ICISS report were dropped, and R2P supporters instead stressed that the UNSC could not be circumvented; neither the limited use of veto for P5 powers nor the just cause threshold were mentioned anymore.¹⁴ Furthermore, R2P was not presented as a stimulating new proposition but rather as a combination of pre-existing policies.¹⁵ R2P supporters gave the impression of being afraid to talk openly about all three of the concept's pillars. Bearing in mind that some voices in

¹² ICISS 2001, 40.

¹³ Bellamy 2009, 59.

¹⁴ Alex J. Bellamy, "Whither the Responsibility to Protect? Humanitarian Intervention and the 2005 World Summit", in: *Ethics and International Affairs* 20, 2 (2006), 154-156 (143-169).

¹⁵ Bellamy 2009, 72.

the US administration tried to label the 2003 Iraq invasion as a case of R2P, it is obvious that R2P supporters also had to be cautious of false friends.¹⁶

A decisive and positive impetus for R2P came from the High Level Panel on Threats, Challenges, and Change of the United Nations, which also referred to R2P in its report *A More Secure World: Our Shared Responsibility* from December 2004:

The panel endorses the emerging norm that there is a collective international responsibility to protect, exercisable by the Security Council authorising military intervention as a last resort, in the event of genocide and other large-scale killing, ethnic cleansing or serious violations of humanitarian law which sovereign governments have proved powerless or unwilling to prevent.¹⁷

The High Level Panel (HLP) not only called R2P an “emerging norm” but also linked the debate on R2P to an overall institutional reform of the UN, particularly the Security Council. If the UNSC had been reorganized, R2P could have strengthened the Council’s future record on stopping mass atrocities. The HLP did not seek to find alternatives to the UN Security Council, but wanted to reform the Council and set up guidelines (seriousness of threat, proper purpose, last resort, proportional means, and balance of consequences) for the Council on whether to authorize the use of military force or not. The HLP regarded R2P as a means of strengthening the security system under the UN Charter.¹⁸ Furthermore, UN General Secretary Kofi Annan tried to move the debate on R2P away from intervention toward a commitment of all states to human security and the rule of law.¹⁹

In September 2005 the World Summit, which was the follow-up meeting of the UN’s 2000 Millennium Summit, took place to reform the UN and take bold decisions in the area of security, human rights, and development. During the negotiations for the World Summit Outcome Document, intense debates about R2P included discussions on the unwillingness or inability of states to protect their own people, because there was no clear legal basis or definition of such protection. Others stressed that mass atrocities had already been dealt with in the UN Charter,

¹⁶ Feinstein and Slaughter took the discussion on R2P a step further, calling for not only a responsibility to protect but even a ‘duty to prevent’ (D2P) humanitarian disasters in 2004. The term duty is, of course, much stronger than responsibility. In many current or potential crises, the national and economic interests of big powers are not combined with the prevention efforts at need. Cf. Lee Feinstein – Anne-Marie Slaughter, “A Duty to Prevent”, in: *Foreign Affairs* 83, 1 (2004), 136-150.

¹⁷ High-Level Panel on Threats, Challenges, and Change, *A More Secure World: Our Shared Responsibility*, United Nations A/59/565, 17 November 2004, para. 203.

¹⁸ Carsten Stahn, “Responsibility to Protect: Political Rhetoric or Emerging Legal Norm?”, in: *The American Journal of International Law* 101, 1 (2007), 105 (99-120).

¹⁹ Ekkehard Strauss, *The Emperor’s New Clothes? The United Nations and the Implementation of the Responsibility to Protect*, Baden-Baden, Nomos, 2009, 24.

cancelling out the need for a new principle.²⁰ In the end, two paragraphs about R2P were incorporated in the World Summit Outcome in September 2005:

138. Each individual state has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter of the United Nations, to help protect populations from war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.²¹

The Heads of State unanimously decided that R2P would have two parts. First, the state has to protect the people living within its own borders. Proponents of R2P strongly emphasize that no sovereignty is taken away from the state. The second part of R2P addresses the rest of the world should a state fail to control the risk of mass atrocities within its own borders, or should the state itself pose the threat. The final version of the Outcome Document clarified that the international community has a “responsibility” to act through the UN, rather than an “obligation to act” as originally drafted, and stated that the UNSC should be “prepared to take collective action” but did not have a “shared responsibility to take collective action”, as written in a draft version. UN Secretary-General Kofi Annan wrote in *The Wall Street Journal* that the Summit Outcome Document was indeed disappointing but that, at the same time, the acceptance of a collective R2P by all member states was “most precious”. Annan further expressed his hope that “it will be acted upon when put to the test”²².

The Outcome Document and the ICISS report thus proposed alternative models with regard to the relative strength of the UN and regional organizations concerning R2P. According to the Outcome Document, regional organizations are merely seen as sub-contractors of the UN with no independent responsibility to protect. From this perspective, regional organizations should await authorization from the UNSC before intervening militarily in the internal affairs of a state. The

²⁰ Strauss 2009, 16.

²¹ “2005 World Summit Outcome”, UNGA Res. 60/1, 16 September 2005, para. 138-139.

²² Kofi Annan, “A Glass at Least Half Full”, in: *The Wall Street Journal*, 19 September 2005, A16.

ICISS report, by contrast, suggested that regional organizations should perhaps have a responsibility to protect that exists independently of the UN, most notably when the UN Security Council fails to respond to atrocities within a reasonable time period. Thomas Weiss thus termed the concept of R2P introduced by the Outcome Document ‘R2P lite’ – a watered-down version of the R2P concept in comparison to the version originally sketched out in the ICISS report.²³ The overall result of the Outcome Document on R2P was therefore a “mixture of political and legal considerations, which reflects the continuing division and confusion about the meaning of the concept”²⁴. The text of the two paragraphs tried to include the different positions but the compromise led to a rather feeble and confusing phrasing on what R2P stands for. Another line of criticism came from Louise Arbour, who argued that policy makers might be easily tempted to believe in a rigid progression of the three pillars of R2P. In reality, a mix of tools is required to address humanitarian crisis, because otherwise dangerous loopholes will arise.²⁵

Although the World Summit Outcome in 2005 embraced R2P as a political concept, dissention raged regarding its interpretation. Far from demonstrating international willingness to prevent mass violence, the revival of R2P at the 2005 World Summit has not overcome Westphalian sovereignty, as defined by Stephen Krasner.²⁶ Still, interventions in internal affairs are often prohibited and domestic structures should not be questioned. In 2006, the R2P was unanimously reaffirmed by the UNSC in Resolution 1674, which stated the Council’s determination to protect civilians. Despite the fact that R2P was taken up by the Security Council, it has had no effect in practice, as it will be seen in the case study on Darfur presented in the next section.

The Case of Darfur

Darfur is Sudan’s largest region, situated on its western border with Libya, Chad, and the Central African Republic. It comprises an area of some 500,000 square kilometers, roughly the size of Spain, and has a population of about six million people. Periodic violence in Darfur is not a new phenomenon. On the contrary, the last decades have been violence-prone as a result of the region’s peripheral

²³ Weiss 2007, 116-117.

²⁴ Stahn 2007, 109.

²⁵ Louise Arbour, “The Responsibility to Protect as a Duty of Care in International Law and Practice”, in: *Review of International Studies* 34, 3 (2008), 456 (445-458).

²⁶ Krasner defines as “Westphalian” an “institutional arrangement for organizing political life that is based on two principles: territoriality and the exclusion of external actors from domestic authority structures”. Therefore, “Westphalian sovereignty is violated when external actors influence or determine domestic authority structures”. Cf. Stephen D. Krasner, *Sovereignty: Organized Hypocrisy*, Princeton (NJ), Princeton University Press, 1999, 20.

status since its incorporation into British-ruled Sudan in 1916. Darfur experienced political marginalization and socio-economic injustice as Khartoum failed to invest in infrastructure, education, and economic development. The global warming-induced drought, particularly since the 1980s, has spurred competition over scarce resources like arable land and water. Rife with conflict, the region has been plunged into instability and chaos. Eruptions of violence have taken place for decades, in particular during the 1980s. While a tiny elite in Khartoum accumulated wealth and power, Darfur was confronted with the civil war in Chad and the involvement of Gaddafi's Libya. Khartoum successfully used the age-old strategy of 'divide and rule' to prevent opposition in Darfur and to marginalize the political groups so as to retain power. As a result of the Khartoum government's deliberate disregard, the death toll of the 1984/5 famine is estimated at well above 100,000 people.²⁷ Following the *coup d'état* in 1989, Omar Hassan al-Bashir took power in Sudan and constructed an Arab supremacy. Darfur was politically divided into the three provinces (*wilayat*) of Northern Darfur, Southern Darfur, and Western Darfur in 1994, and new capitals were selected. However, the districts remained ethnically heterogeneous and were controlled by an Arab elite. Darfur became even more marginalized and stigmatized as violent and frustrated throughout the 1990s.

While outsiders frequently simplify the region's racial complexities to consider all Darfuris 'black', the Arab identity has become the new decisive factor in excluding any non-Arab identity.²⁸ It is not possible, however, to draw a line on racial or religious grounds between 'Arabs' and 'Africans'. Typically, the government recruited marginalized 'Arabs' as paramilitary militia known as *Janjaweed* during the conflict, while 'non-Arab' farmers – 'African' groups – fought on the rebels' side. Khartoum has constructed being 'Arab' as a sign of civilization, while black Africans, in contrast, are described as savages. Often, an 'Arab' in Darfur refers to a person who speaks Arabic rather than an indigenous language, although most communities speak a Sudanese-Darfuri Arabic that is called *rutana*.²⁹ Practically, the different groups are related in various ways to different political movements and have ties to numerous warlords, who benefit economically from their banditry.³⁰

The Darfur conflict was the first case in which R2P was applied in the 21st century. Until 2004, Darfur was one of the least-known places in the world – since then, however, it has firmly lodged itself in international consciousness. Local disputes

²⁷ Martin William Daly, *Darfur's Sorrow: A History of Destruction and Genocide*, New York, Cambridge University Press, 2007, 230.

²⁸ Daly 2007, 260.

²⁹ Fouad Ibrahim, "Introduction to the Conflict in Darfur/West Sudan", in: Agnes van Ardenne – Mohamed Salih – Nick Grono – Juan Méndez (eds.), *Explaining Darfur*, Amsterdam, Vossiuspers, 2006, 12.

³⁰ Judith A. Hermanson, "Violence, Poverty and Survival in Darfur, Sudan", in: *Development* 50, 2 (2007), 154 (154-159).

increased in 2001, and more people joined self-defense forces to protect themselves and their neighbors against raids from the *Janjaweed* militia. At the same time, the Bush administration changed its stance toward Sudan because of 9/11; suddenly the Sudanese were ‘good Arabs’ because in 1996 they had offered to deport Bin Laden.³¹ The situation began to deteriorate soon afterwards. In November 2002, the Government of Sudan (GoS) had already committed atrocities in Darfur. The international community, however, was more concerned with the peace talks between the GoS and the Sudan People’s Liberation Movement (SPLM) in Kenya, and in bringing the long-term civil war between the South and the North to an end. The negotiations permitted Khartoum to relocate the Sudanese Armed Forces from the South of Sudan to Darfur.³²

In February 2003, a group of Darfuri rebels attacked a government military airport, thus dramatically escalating the simmering low-intensity conflict. This act was the start of what today is widely referred to as the Darfur crisis. It can be described as a typical north-eastern African civil war, in which many different overlapping conflicts intermingle. The local governance structures broke down. Provincial elites in Darfur supported the rebel groups while the GoS recruited *Janjaweed*, nomad Arab militias, to fight against the ‘bandits’. The militia was stirred up against innocent civilians through arguments that the locals were supporting the rebels in fighting against the government.³³ This would support the notion that the government had been striving for a military solution in their fight against the insurgency from the very beginning of the conflict. The militias used scorched earth tactics and burned down villages and even mosques; civilians were terrorized, raped, abducted, displaced, and killed. In return, young desperate ‘African’ men were motivated to join the rebels and take revenge for the loss of their villages and farming. This opened a vicious circle that was fuelled by the GoS. In addition, Khartoum decided to withdraw local police and other officials, arguing that their safety was no longer guaranteed. The violence caused mass atrocities, displacement, and famine. As a result it was estimated that by early 2004, some 80,000 people had been killed and more than one million displaced, including 100,000 refugees in neighboring states.³⁴

Because of the relatively slow pace of events, some observers concluded that what was unfolding in Western Sudan was “Rwanda in slow motion”³⁵. The *Janjaweed*

³¹ Gérard Prunier, *Darfur: The Ambiguous Genocide*, London, Hurst & Company, 2008, 89.

³² Gill Lusk, “False Premise and False Response to the Darfur Crisis”, in: *Peace Review* 20, 2 (2008), 172-173 (166-174).

³³ Michael Bohlander, “Darfur, the Security Council and the International Criminal Court”, in: *International and Comparative Law Quarterly* 55, 1 (2006), 226-236.

³⁴ Prunier 2008, 100.

³⁵ John Prendergast – Anthony Lake, “Stopping Sudan’s Slow-Motion Genocide”, in: *Boston Globe*, 20 May 2004, http://www.boston.com/news/globe/editorial_opinion/oped/articles/2004/05/20/

mainly targeted 'African' farmers such as the predominant tribes known as Fur, Masalit, and Zaghawa, who had the same tribal background as the rebels. In April 2004, a Chad-mediated ceasefire agreement was signed in N'Djamena, the capital of Chad, between the GoS and the two main rebel groups, the Sudan Liberation Army/Movement (SLA/M) and the Justice and Equality Movement (JEM). Thanks to the agreement, humanitarian organizations and the African Union Mission in Sudan (AMIS) were assured access to Darfur. The accord was criticized as a "rushed agreement", however, because a lack of agreement on the text led to the distribution of two versions of the text.³⁶ Hence, it is unsurprising that the ceasefire was broken within hours of being signed. While the humanitarian situation in Darfur deteriorated in summer 2004, the GoS blocked all humanitarian help from outside and called for 'purely Sudanese' solutions. Cynically, Khartoum denied any involvement in the atrocities and claimed that any information referring to the conflict was Zionist propaganda, Western media bias or the responsibility of neighboring countries, particularly Chad. In the meantime, UN Special Representative Jan Pronk and the Sudanese Foreign Minister Mustafa Osman Ismail were optimistic that their 'Darfur Plan of Action' would bring progress and 'safe areas' by early August 2004. In October 2004 and April 2005, the AMIS mandate was strengthened and the force expanded to include 6,171 military personnel and 815 civilian police officers, but insecurity remained. While AMIS brought some relief to excesses that had taken place during the first one and a half years of the conflict, effective civilian protection was not possible. In fact, AMIS was never able to fulfill its modest mandate to protect Darfuri civilians.³⁷

The GoS continued with its strategy of pretending to welcome negotiations, although Khartoum usually did not take the commitments seriously. An AU-led peace settlement called the Darfur Peace Agreement (DPA) was reached in early May 2006 in Abuja, Nigeria.³⁸ It was the result of extensive preparation, intensive discussions, and an enormous effort on the part of international experts and diplomats. There was hope that the DPA would not be a mere ceasefire but a framework for peace and security in the region that would direct a fair share of Sudan's resources to Darfur. Today, the DPA is widely perceived as a failure: It was too limited in signatories and scope. The SLA/M, one of the two major rebel groups in the beginning, succumbed to internal divisions during the negotiations leading up to the DPA, and finally, only one of the three main rebel factions

stopping_sudans_slow_motion_genocide/, accessed 26 June 2010.

³⁶ Alex De Waal, "Darfur and the Failure of the Responsibility to Protect", in: *International Affairs* 83, 6 (2007), 1041 (1039-1054).

³⁷ Roberto Belloni, "The Tragedy of Darfur and the Limits of the 'Responsibility to Protect'", in: *Ethnopolitics* 5, 4 (2006), 327-328 (327-346).

³⁸ It seems obvious that the name of the DPA was influenced by the Comprehensive Peace Agreement (CPA), which was reached between the GoS and the SPLM in January 2005 in Naivasha, Kenya.

signed the agreement. The different rebel groups split into further factions, often along tribal lines. They began fighting not only against the GoS, but also among themselves. It is generally estimated that more than 300,000 people have been killed in Darfur since 2003; a further 2.7 million have been internally displaced and 200,000 have fled to neighboring Chad and the Central African Republic.³⁹

Diplomats tried to reach Khartoum's agreement for a hybrid AU-UN force to protect civilians more effectively than the insufficient AMIS force, and to deter rebel attacks. In late July 2007, UNSC Resolution 1769 authorized a combined peacekeeping force, which was meant to deploy 26,000 AU and UN personnel. The United Nations–African Union Mission in Darfur (UNAMID) began deployment on 31 December 2007, but faced difficulties from the beginning. Staff shortages and attacks on personnel, such as the raid on 9 July 2008 that killed seven peacekeepers, posed the biggest problems. Since the end of 2007, the situation in Darfur has changed substantially. The number of casualties has decreased in comparison to the first four years of the conflict. Nonetheless, insecurity remains and the situation in the IDP camps is dreadful. Countless envoys and emissaries from both the AU and UN tried to bring the 'Arab' militia and the 'African' rebels together. They have one thing in common: They failed.

In March 2009, the ICC issued a warrant against the Sudanese President al-Bashir. Instead of collaborating with the court, Khartoum expelled aid agencies from Sudan so they could no longer inform the world public. The GoS paid lip service to investigating war crimes, but to date has only investigated low-ranking criminals.⁴⁰ Low-level violence, menace, and sexual harassment have continued to take place on a daily basis.

Darfur was an evident R2P situation from early 2003 to the end of 2007. According to R2P standards, the Darfur crisis was an extreme case involving large loss of life. Nevertheless, the UNSC did not manage to address the Darfur conflict until the summer of 2004, one and a half years after the outbreak of the fighting. The response of the Council to the actors, especially the GoS, was weak and insufficient. The African Union reacted more quickly, but their peacekeeping troops were inadequately equipped. As a consequence, the scale of the tragedy in Darfur is enormous, and it is often said that Darfur constitutes the worst humanitarian crisis in the new millennium to date.

Ironically, an advocacy campaign to stop the mass killings in Darfur, conducted mainly in the US, actually undermined the peace process. During 2004, many

³⁹ Human Rights Watch (HRW), "The Way Forward: Ending Human Rights Abuses and Repression across Sudan", 6 October 2009.

⁴⁰ HRW 2009, 15-16.

NGOs and advocacy groups made an effort to stop the alleged genocide in Darfur and pressured the US to end the impunity in Western Sudan. The Darfuri rebels saw their chance to achieve their political goals with the help of a military intervention, whether it had been approved by the Security Council or not. Such moral hazard with rebels is always widespread and persistent, and fuels genocidal violence.⁴¹ Advocacy work conducted by the US-based advocacy group *Save Darfur Coalition* was also counter-productive, due to their sensationalism and over-simplification of the conflict. Moreover, the debate did not move beyond whether the events in Darfur constituted genocide, ironically leading to inaction rather than steps that could have brought stabilization on the ground.

Even though more than 300,000 people have been killed, the rest of the world made no really effective efforts to end the killing. Although there was a global debate about the violence in Darfur, the international community was unable to halt the violence. Important actors from the West could have provided well-trained soldiers, critical tactical weapons, and helicopters. Those states, however, acted tardily and did not include Darfur in the North-South peace process in Sudan. UNAMID was established too late and is still not sufficiently equipped.

The Darfur Crisis as a Failed R2P Case

As Lee Feinstein wrote, “[t]he Darfur problem is an immensely difficult one. No solution is guaranteed to work”⁴². Yet it is clear that the GoS has utterly failed in its responsibility to protect its own citizens. It is equally true, however, that both the AU and the greater international community have failed in their responsibility to protect Darfuris or to change the government’s behavior towards the population in Western Sudan. It is also important to stress that Darfur is no longer an R2P situation, since the threshold as outlined in the ICISS report is no longer being reached. It is thus wrong to demand a military intervention in Darfur, as the Canadian philosopher Howard Adelman recently implied in his article in *Global Responsibility to Protect*.⁴³

Even after the conflict had attracted the attention of the international community, they did not appropriately approach the crisis. The events in Darfur called into question the credibility of world leaders’ claims to prevent mass atrocities and stop

⁴¹ Alan J. Kuperman, “The Moral Hazard of Humanitarian Interventions: Lessons Learnt from the Balkans”, in: *International Studies Quarterly* 52, 1 (2008), 51 (49-80).

⁴² Lee Feinstein, *Darfur and Beyond: What Is Needed to Prevent Mass Atrocities*, New York, Council on Foreign Relations, 2007, 41.

⁴³ Howard Adelman, “Refugees, IDPs and the Responsibility to Protect (R2P): The Case of Darfur”, in: *Global Responsibility to Protect* 2, 1 (2010), 128 (127-148).

crimes against humanity. The interest-norms equation began to change in March 2004, a year after the conflict had erupted. Western editorial pages started using the 'G' word – genocide. Pressure to address the situation in Darfur rose. One of the first publications to use the previously unspoken word 'genocide' was an op-ed by Nicholas Kristof from *The New York Times*.⁴⁴ USAID officials described the situation in Darfur as genocide, and in July 2004, the US House of Representatives passed a resolution declaring the situation in Darfur as genocide and asked President Bush to consider an intervention. In September, US Secretary of State Colin Powell uttered the 'G' word, at least in part due to the upcoming elections. Yet at the same time, Powell stated that the US would not be required to take any firm action or even to conduct a military intervention to stop the genocide. In contrast, the UN Commission of Inquiry came out with a report in January 2005 stating that it had identified crimes against humanity but not genocide in Darfur. The findings set off a firestorm of public debate. Although there is little functional difference between genocide and crimes against humanity – large numbers of people are killed either way – a debate in Western policy circles began about why the UN did not define the actions as genocide.

The Security Council did not take sufficiently decisive and strong action in Darfur, where an appalling situation of mass murder persisted between 2003 and 2007. The members of the Security Council did not find the political will, due to their own interests, to call for robust economic sanctions or other actions intended to end the violence in Darfur. Despite continuous demands for decisive action from international, and especially western, public opinion, the Council failed to change Sudan's behavior or establish a multilateral intervention to stop the killing in Darfur. In 2006, the Council passed Resolution 1706 with regard to the situation in Darfur and called on the GoS to protect its civilians, citing R2P. The Security Council thus recognized an R2P situation in Darfur in its resolution, but ultimately failed to enforce its own words with adequate measures. The ICC's issuing a warrant of arrest for Sudanese President Al Bashir also created further risks, rather than opportunities, for Darfuris, and achieved neither peace nor justice.

The international community failed to address humanitarian issues in Darfur. Western policy circles frequently condemned the situation in Sudan and provided some humanitarian assistance to Darfur. Nonetheless, no real efforts were made over a long period of time to pressure Khartoum to sign a valid peace agreement with the rebels or to deploy troops in Darfur to rescue civilians. The killings in Darfur did not harm the national interests of powerful states, which enormously reduced their political incentive to intervene. However, the African Union also failed to address the Darfur crisis adequately, as the following section shows.

⁴⁴ Nicholas D. Kristof, "Will We Say 'Never Again' Yet Again?", in: *The New York Times*, 27 March 2004.

The Impact of the AU

The AU insists on prioritizing the regional level in contrast to the global level on which the UNSC acts. As a consequence, AU member states seek to limit the work of the Security Council so as to prohibit great power interference in “internal” African affairs.⁴⁵ Even before the World Summit in September 2005, the African Union, through its Constitutive Act (2000), had made provisions that would allow its member states to act on their own and no longer rely on external forces. African states would also be able to intervene in other member states’ affairs to prevent crimes against humanity. The AU has expended great effort and funds to develop a political capacity that aims to address identity-based conflicts prior to escalation. Its Constitutive Act strongly endorses R2P principles, particularly in Article 4(h). This support illustrates the AU’s departure from the principle of non-intervention and uses R2P’s threshold criteria as outlined at the beginning of this paper. At the same time, however, the principle of non-intervention was reaffirmed in Article 4(g). African leaders have tried to demonstrate an encouraging pro-activeness in terms of their preparedness to tackle the continent’s peace and security challenges. So far, however, the AU is only devoted to R2P on a rhetorical level because in practice a true willingness to act is often absent, as the case of Darfur proved. Other examples like the Democratic Republic of Congo or Zimbabwe also serve as sad examples of AU’s ineffectiveness. The AU is hampered in its efforts to build up its own capacities by a lack of institutional and military resources that would allow preventive measures to be implemented in a timely fashion and without reliance on external assistance. As AMIS proved, AU troops have little impact on the ground.

While most AU member states receive some form of peacekeeping and conflict-prevention training from Western states, such training is not yet harmonized enough between the respective African forces. Moreover, the AU’s R2P regime is limited to a purely reactive dimension, and the magnitude of the Darfur crisis cannot be dealt with the existing capacity of the AU. Hence, capacity weaknesses on the one hand and the lack of political will on the other are two common explanations for why the AU is not yet a strong conflict preventer. It is important to stress that the AU has changed its policy toward its members, and suspended Mauritania and Togo in 2005 after their attempts to overthrow democratically elected governments. Similar steps by the AU did not, however, take place in cases of gross human rights violations. They still have some way to go to instill an African responsibility to protect their citizens.

⁴⁵ Bellamy 2006, 160-161.

R2P is Back on the Agenda

In October 2007, the UN Secretary-General informed the UNGA about his decision to appoint a Special Adviser for the Responsibility to Protect at the level of Assistant Secretary-General in the UN system in order to operationalize the concept. Consequently, Ban Ki-moon appointed Edward Luck as a Special Adviser “who will focus on the responsibility to protect”⁴⁶. The Fifth Committee of the UN General Assembly, however, dismissed Luck’s appointment in a resolution on the budget in February 2008 because some countries insisted that such a step would be premature. The Secretariat yielded and appointed a Special Adviser on a temporary pro-bono basis to appease critical member states.⁴⁷ The constraints were so strong that although Luck got the post, the word R2P had to be removed from his title.

A new step forward was UN Secretary-General Ban Ki-moon’s report on *Implementing the Responsibility to Protect* from 12 January 2009. Ban’s report was a constructive approach designed to receive broad support from as many UN member states as possible, including the disparaging ones. In late July 2009, the UN General Assembly intensely debated the Secretary-General’s report, and subsequently adopted a consensus resolution in mid-September 2009.

In cases of genocide, ethnic cleansing, and crimes against humanity, policy decisions should be influenced by events, potential ways of stopping atrocities, and the search for immediate as well as long-term solutions. Currently, however, the specific tools that would de-escalate a future Darfur-type situation or prevent a civil war such as the one that may reoccur in Southern Sudan are still not available; lack of capacity may be a further hindrance to successful conflict resolution in the near future.⁴⁸ Prohibition of the use of force, or disengagement when casualties mount are equally not viable options. As the case of Darfur showed, neither neutrality nor appealing to the potential perpetrators’ sense of morality is of any help. Importantly, the international community has to unanimously decide in favor of stopping the crimes. Hence, inherent problems related to the R2P concept can be detected. First, non-UN-led military interventions as a last resort will remain fraught with problems. Second, Western countries with military strength do not intervene in areas like Darfur because none of their national interests are at stake. Third, international humanitarian law is not strong enough to commit the international community, in particular the UNSC, to the protection of civilians.

⁴⁶ “UNSG Appoints Edward C. Luck of United States Special Adviser”, Press Release SG/A/1120, BIO/3963, 21 February 2008.

⁴⁷ Strauss 2009, 42-43.

⁴⁸ Cristina G. Badescu – Linnea Bergholm, “The Responsibility To Protect and the Conflict in Darfur: The Big Let-Down”, in: *Security Dialogue* 40, 3 (2009), 304 (287-309).

Fourth, oppressed groups are ultimately encouraged to take up arms and start a rebellion knowing that R2P might help their cause. Finally, the threshold at which an R2P situation is reached is not obvious.

Although several humanitarian crises have been described as R2P situations, the R2P concept was applied for the first time in Kenya.⁴⁹ In early 2008, former UN Secretary-General Kofi Annan characterized the post-election ethnic clashes in Kenya as an R2P case and took diplomatic and political steps to address the violence. Although Annan acted, the application of R2P did not entirely succeed as a preventive measure. More than 1,000 people had already been killed in ethnic-related violence; within a few weeks an estimated 300,000 people had been displaced.⁵⁰ Nonetheless Annan's efforts saved the country from widespread violence and helped to form a unity government. In the longer run, however, Kenya's peace remains fragile.⁵¹

A number of scholars such as Jean Cohen argue that limited sovereignty does not contradict constitutionalism or the rule of law.⁵² Yet many developing states are hostile to the idea of a Western military intervention and accuse the US and the EU of applying double standards and of politicizing human rights abuses. The fear of the 'global south' could be reduced by clear guidelines that constitute a framework for external military intervention. The principle of non-interference would remain a principle, but if states committed serious crimes, they would lose their absolute domestic autonomy. Such a restriction of sovereignty would only be possible if a state neglected codified criteria and was inactive in the face of humanitarian crises outlined by the ICC. Otherwise, a politicized UNSC would prompt other unilateral interventions like the US-led invasion of Iraq in 2003.

⁴⁹ Several humanitarian crises have been referred to as an 'R2P situation' since 2001, when the ICISS introduced the new concept. Although R2P supporters like this author argue that only few cases should be classified as being of R2P concern, there is a long list of countries that have been identified as R2P cases since 2001: Burma/Myanmar, China, Democratic Republic of Congo (DRC), Georgia, Iraq, Israel, Kenya, Russia, Sri Lanka, Somalia, Sudan, and Zimbabwe. These countries were either not R2P cases (Burma, Georgia, and Iraq), the threshold was not reached (Israel/Gaza Strip, Sri Lanka, and Zimbabwe), the UNSC would have been blocked (China and Russia), or the international community failed to react (DRC, Somalia, and Sudan). The UNSC Resolution 1973 (17 March 2011) on the situation in Libya was the first instance where the Security Council authorized the use of force for the protection of civilians. Also the post-election chaos in the Ivory Coast addressed by the UNSC in Resolution 1975 (31 March 2011) provided the UN peacekeeping troops in the country the authority "to use all necessary means" to protect civilians. Cf. Alex J. Bellamy – Paul D. Williams, "The New Politics of Protection? Côte d'Ivoire, Libya and the Responsibility to Protect", in: *International Affairs* 87, 4 (2011), 825 (825–850).

⁵⁰ International Crisis Group (ICG), "Kenya in Crisis", in: *Africa Report* 137; 21 February 2008.

⁵¹ "Kenyan 'Rearming for 2012 poll'", in: *BBC News*, 7 October 2009, <http://news.bbc.co.uk/2/hi/africa/8293745.stm>, accessed 25 June 2010.

⁵² Jean L. Cohen, "Whose Sovereignty? Empire versus International Law", in: *Ethics and International Affairs* 18, 3 (2004), 14 (1-24).

A non-reformed UN system will always remain limited in terms of treating all member states equally. UN reform would have to centre on the UNSC, and four main issues would need to be addressed regarding R2P:

- objective and practical criteria have to be established to determine and define the threshold level that would justify an intervention
- the responsibilities of R2P must be understood as an obligation under international law;
- a code of conduct has to be introduced in the UNSC in case the veto right for the P5 remains in force; and
- regional organizations like the EU, the AU or the Economic Community of West African States (ECOWAS) should be enhanced to be able to take coercive measures.

Conclusions

With the emergence of the Responsibility to Protect in 2001, there was hope that humanitarian interventions would receive a legal basis and clear criteria according to which the international community could act. It became a principle, however, that is not applied uniformly around the globe – power, circumstance, and national interest determine decisions on whether and how the international community will act in cases of gross human rights violations. Furthermore, varying interpretations of the concept by scholars and states pose a problem to R2P. So far R2P has been based on the willingness and capabilities of the UN Security Council members, particularly the P5 and their veto powers, but the UNSC has not met the expectations of R2P supporters because R2P is interpreted according to the World Summit Outcome of 2005 while the recommendations of the 2001 ICISS report are ignored. These latter recommendations should be reconsidered to make the concept more applicable.

The moral consequences of using force must outweigh the moral costs of inaction. Consequently, the responsibility to react must be limited to extreme cases of humanitarian emergencies and should only be applied to cases where the state acts against its own population. To go beyond these parameters would make R2P arbitrary. As we have tried to show, Darfur could have been a precedent for the international community in the protection of civilians, but it ultimately failed.

Nonetheless, R2P has become an important concept in world politics in a remarkably short time. Ending impunity and promoting accountability has become an achievable goal thanks to R2P, although there is still a long way to go until we reach the aim of the ICISS, which in 2001 stated that “[t]he most compelling task

now is to work to ensure that when the call goes out to the community of states for action, that call will be answered. There must never again be mass killing or ethnic cleansing”⁵³.

53 ICISS 2001, 70.

The United Nations Conflict Management in Sudan

Beate Wegscheider
University of Vienna

Résumé

Préliminairement, l'article donne un aperçu des différentes phases par lesquelles passe un conflit. Il expose ici la gestion, par l'ONU, des hostilités au Soudan. Le texte offre aussi une vue de l'intensité du recours à la force du côté des parties en conflit. Suit une discussion sur le concept de la responsabilité de protéger (R2P) dans le contexte de la souveraineté de l'État avant la présentation de l'histoire du Soudan et le résumé de ses nombreux conflits. L'article est centré sur la prise de participation de la communauté internationale au travers de l'ONU pour établir la paix au Soudan et, très particulièrement, au Darfour. Dans ce contexte, l'article s'interroge sur la prudence de la communauté internationale en ce qui concerne une intervention effective et efficace à l'avantage du bien-être de la population au Soudan.

Introduction

We seem never to learn. Time and again differences are allowed to develop into disputes and disputes allowed to develop into deadly conflicts. Time and again, warning signs are ignored and pleas for help overlooked. Only after the deaths and the destruction do we intervene at a far higher human and material cost and with far fewer lives to save. Only when it is too late do we value prevention.¹

The situation in Sudan, like many other conflicts in distant places, seems to be following the familiar pattern outlined in the quote above. The initial worldwide moral outrage and outcries that something must be done are followed by near-universal criticism rather than suggestions for necessary long-term solutions. When suggested solutions fail and promises cannot be delivered, there is finally helpless resignation. The current situation in Sudan – a conflict whose causes are as fundamentally diverse as they are familiar – is at risk of continuing down this path, and the Sudan may join the list of countries with a seemingly unsolvable, intricate conflict.

For sixty years the United Nations has used fact finding and military observer missions as an instrument in the process of managing international conflicts, like the one authorized by the Security Council in Darfur/Sudan in 2003. These methods, certainly successful in the early days of their application, can no longer

¹ Kofi Annan, *Address to the Presentation of the Final Report to the Carnegie Commission on Preventing Deadly Conflict*, SG/SM/6454, 5 February 1998.

be considered as effective in recent and current conflicts. Besides the dramatic change in the nature of conflicts, UN missions are more and more often seen as an *ad hoc* response when the nature of these conflicts requires better planned and mutually backed missions. Furthermore, more and more often the United Nations missions find themselves in environments where there is less and less peace to keep. Their missions in Darfur and the western part of the Democratic Republic of Congo (DRC) are examples of the dangerous and violent situations in which UN peacekeepers find themselves without the appropriate resources and capabilities. Even though reports like *An Agenda for Peace*², the “Brahimi Report”³, the *Report of the High-Level Panel on Threats, Challenges and Change*⁴, or *In Larger Freedom*⁵ have set the ball rolling for reform processes within the United Nations system, UN missions still face great challenges. First and foremost, there is a lack of political will among UN member states to contribute to interventions in places where they have no national interests, and it is they who are largely responsible for imposing unrealistic and under-resourced mandates on the UN for such operations. In addition, the scope of peace operations has drastically expanded. Today’s peacekeeping missions are not only charged with establishing and maintaining peace and stability, but also with providing support for other long-term peace and security issues such as human rights and gender issues, disarmament and demobilization,⁶ or security sector reform, to name just a few.⁷ Moreover, the United Nations finds itself increasingly trapped in a situation where it must contribute ever-increasing resources to addressing the immediate and often basic needs of victims, which consequently diverts attention and resources from those actions essential to dealing with the root causes of vulnerability and conflicts.⁸

Since the end of the Cold War, international conflicts have become more of an intrastate than an interstate⁹ phenomenon. This trend can not only be seen in

² Boutros Boutros-Ghali, *An Agenda for Peace. Preventive Diplomacy, Peacemaking and Peacekeeping*, A/47/277-S/24111, 17 June 1992.

³ *Report of the Panel on United Nations Peace Operations*, A/55/305–S/2000/809, 21 August 2000.

⁴ *A More Secure World: Our Shared Responsibility, Report of the High-Level Panel on Threats, Challenges and Change*, A/59/565, 2 December 2004.

⁵ Kofi Annan, *In Larger Freedom: Towards Development, Security and Human Rights for All*, A/59/2005, 21 March 2005.

⁶ DDR: Disarmament, Demobilisation, and Reintegration of ex-combatants into their civil societies as a contribution to the stability of their communities and their country.

⁷ Center on International Cooperation, *Annual Review of Global Peace Operations 2009*, London, Lynne Rienner Publishers, 2009, vii.

⁸ United Nations, *The Use of Military and Civil Defence Assets in Disaster Relief Operations: MCDA Field Manual*, 15 November 1995, chapter 2, in: <http://reliefweb.int/library/mcda/refman/>, accessed 23 June 2010.

⁹ The following definition is used in this article: Intrastate conflicts are situations in which there is a contest between the state (the incumbent government) and a group or groups, mostly organized,

Africa but also in Europe or the Middle East. While, historically, international conflicts were addressed either through official diplomacy or war,¹⁰ international organizations such as the United Nations and other bodies of international law like the International Criminal Court (ICC) have provided new forums for overcoming international disputes. With the shift from interstate towards intrastate conflicts, new and different methods are needed to prevent, manage and resolve conflicts. In order to design new UN missions for early warning and conflict prevention¹¹ we must gain a better understanding of the most likely kinds of violence and their precursors. With appropriate knowledge on how conflicts escalate and spread, and with an understanding of the ways of responding to them, we can link missions more effectively to warning and action.¹²

Conflict Cycle and Intensity

Conflict prevention still remains very elusive and difficult due to the great variety of reasons behind conflicts, and the differing environments in which conflicts can erupt. The intensity of a conflict is most commonly illustrated in five different stages. First, a non-violent *latent conflict* arises in which the conflict parties differ over definable values of national meaning. The second stage is the *manifest conflict* in which the conflict parties are already using measures that are a preliminary stage to violent force, such as verbal pressure, the threat of violence, or the imposition of economic sanctions. These two stages are characterized as non-violent conflicts with low intensity. In cases where conflict prevention measures are absent or insufficient, the conflict reaches the stage of a *crisis*, in which at least one conflict party uses violent force in sporadic incidents. With the emergence of a crisis the conflict has reached the medium level of conflict intensity. This is followed by a *severe crisis* in which the parties repeatedly exercise violent force in an organized way. The last conflict stage is *war*, where the different parties repeatedly use

which assume communal forms and are characterized by armed military hostilities. Such conflicts usually take the form of “irregular warfare” in which civilians rather than professional soldiers are subjected to the most heinous atrocities and have at least 1,000 deaths in a single year. Rasheed Draman, “Conflict Prevention in Africa: Establishing Conditions and Institutions Conducive to Durable Peace”, in: David Carment – Albrecht Schnabel (eds.), *Conflict Prevention. Path to Peace or Grand Illusion?*, New York, United Nations University Press, 2003, 233 (233-253).

¹⁰ Carl von Clausewitz argues in his masterpiece *On War* that war “is only a continuation of state policy by other means”, <http://www.clausewitz.com/>, accessed 16 July 2012.

¹¹ Definitions of the term “conflict prevention” abound in the literature. They range from the Carnegie Commission’s focus on both operational and structural aspects of prevention to Boutros-Ghali’s focus on prevention before, during, and after conflict. In order to contain this broad term the following definition of conflict prevention is used in this article: Conflict prevention is defined as action that is taken to address the root of a conflict and turn the resort to violence in addressing disputes into a resort to peaceful ways of coexistence (Draman, in: Carment – Schnabel 2003, 233).

¹² David Last, *Early Warning and Prevention of Violent Conflict: The Role of Multifunctional Observer Missions*, in: Carment – Schnabel 2003, 158.

violent force in an organized and systematic way. A severe crisis and finally war are considered conflicts with high intensity.¹³

The emergence of conflicts is also commonly analyzed in five stages: pre-violence, escalation, stagnancy, de-escalation, and post-violence. Preventive action can be applied in the first stage to prevent an escalation. If these efforts are fruitless, humanitarian and peacemaking operations are used to prevent the outbreak of an armed conflict. Peace enforcement is used as a response to an armed conflict in order to establish an environment in which peace negotiations can be held. In the de-escalation phase, peacekeeping operations are deployed and finally peacebuilding missions introduced to support recovery after violent conflicts.

Sadly, the common approach of the international community is to initiate direct involvement only when a conflict has already reached the stage of escalation. This approach is not only more cost-intensive than prevention, but also harder to justify. As already mentioned, the international community tends to deploy more and more missions that simply do not have the mutual backing, the resources, the right mandate, or the will for the long-term solutions which are so badly needed. After a number of successful missions, the United Nations has had a series of terrible failures in the former Yugoslavia, Somalia, and Rwanda. Based on the experience of these relatively ineffectual missions, most Western nations have become casualty-sensitive and reluctant to engage in rapid decisions or commit to long-term involvement in order to avoid the risk of running into another debacle. This is particularly the case when the conflict takes place in a distant land and poses no immediate threat to a state's national interests. However, it is an illusion to assume that conflicts in Africa will have no effect on security outside the region. To date, countries' unwillingness to engage in conflicts that do not immediately affect them exacerbates conflict dynamics more than it enhances the opportunities for sustainable development and peace. It would of course be wiser if a conflict were prevented in the first place. Bruce Jentleson captures the essence of preventive action when he argues that:

The basic logic of preventive diplomacy seems unassailable. Act early to prevent disputes from escalating or problems from worsening. Reduce tensions that if intensified could lead to war. Deal with today's conflicts before they become tomorrow's crises. It is the same logic as preventive medicine: don't wait until the cancer has spread or the arteries are fully clogged.¹⁴

¹³ Heidelberg Institute for International Conflict Research, *Conflict Barometer 2008*, University of Heidelberg, 17th annual conflict analysis, November 2008, i.

¹⁴ Bruce W. Jentleson, "Preventive Diplomacy: A Conceptual and Analytical Framework", in: Bruce W. Jentleson (ed.), *Opportunities Missed, Opportunities Seized: Preventive Diplomacy in the Post-Cold War World*, New York, Rowman & Littlefield, 2000, 3 (3-20).

The Responsibility to Protect

The idea of the Responsibility to Protect (R2P) was first discussed in 2001 at the International Commission on Intervention and State Sovereignty (ICISS), which was established by Canada as a response to Secretary General Kofi Annan's call to resolve the perceptible tension between state sovereignty and human rights. Even after numerous attempts at clarification, R2P is still sometimes mistaken for a doctrine that legitimizes the use of military aggression by the global North against other countries, particularly of the global South, to bring about regime changes.¹⁵ Instead, it implies a responsibility of the international community through the United Nations to react, with force only as a last resort, in order to protect populations in cases where a state is unable or unwilling to fulfill its responsibility to protect its own population. These responsibilities are outlined in paragraphs 138 and 139 of the World Summit outcome of September 2005:

138. Each individual state has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter of the United Nations, to help protect populations from war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. [...] We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.

The Responsibility to Protect recognizes three elements: a responsibility to prevent, a responsibility to react, and a responsibility to rebuild. The responsibility to prevent aims at addressing the root causes and other direct man-made causes of a conflict, and is considered the most important dimension of R2P. Acting as soon as a conflict has been initiated is not only considered the most effective way to protect the wellbeing of people around the world, it is also less costly in political, economic, and human terms. However, even though it is the only desirable solution, only few states and international organizations are moving toward implementing

¹⁵ Also seen as a right to intervene.

and working with a conflict prevention system.¹⁶ It is true that the United Nations struggles to engage in effective conflict prevention due to the immense demands it faces in ongoing and established conflicts but for the most part, the UN needs to respond to the symptoms of conflicts and wars where the development of conflict prevention strategies are currently lacking. Nevertheless, it is the responsibility of the UN member states, who *are* the United Nations, to provide the resources needed to achieve international peace and security. Furthermore, the international community has the responsibility to react in a timely and decisive manner in cases of mass atrocities. Even though the use of force in extreme cases is possible, the focus must be on non-military intervention. Finally, the responsibility to rebuild completes the concept of R2P. It requires member states to provide full assistance with recovery, reconstruction, and reconciliation during and after conflicts.

As early as 1648, the Peace of Westphalia¹⁷ introduced a system which recognized that sovereign nation states should enjoy territorial integrity and political independence, and encouraged non-intervention. This system, still in place today, seems to ignore the importance of fundamental human rights, such as the right to live, by focusing on state sovereignty instead of the rights of individuals. The conflict between this system and a consideration of human rights is evident in the United Nations' Charter itself, when its member states promise in the preamble to "reaffirm faith in fundamental human rights, in the dignity and worth of the human person," but also to "practice tolerance and live together in peace with one another as good neighbours"¹⁸. But how are states supposed to behave when mass atrocities are taking place in the neighboring country? In the case of Sudan, even well-disposed countries argued against collective action by citing the Charter and referring to the system of Westphalia. Just as nearly every discussion on the relationship of sovereignty and human rights, the debate boiled down to the question of which approach should take precedence over the other. Bellamy resolves this question by stating that there is in fact no contradiction between these two ideas, arguing that sovereignty is based upon the right of a nation's people to choose the form of government they favor. Sovereignty is therefore based upon the fundamental human right to liberty. Consequently, there is no real foundation to the supposed conflict between sovereignty and human rights, and sovereignty cannot justifiably be considered an obstacle to intervention. The

¹⁶ It is clear that not every single potential conflict can be operationally addressed. To do this, we would need an immense quantity of resources that are not available. But to tackle conflicts through prevention, structural mechanisms, and long-term attitudinal change is possible.

¹⁷ The two peace treaties of Osnabrück and Münster (1648), commonly known as the Peace of Westphalia, ended the Thirty Years' War (1618–1648) in the Holy Roman Empire, and the Eighty Years' War (1568–1648) between Spain and the Republic of the Seven United Netherlands. Westphalia is seen as a historic contribution to a peaceful coexistence.

¹⁸ The United Nations, *Charter of the United Nations*, 26 June 1945, in: <http://www.un.org/en/documents/charter/preamble.shtml>, accessed 22 June 2010.

truth is that states do not want to risk their soldiers and resources in conflicts where their national interests are not threatened, like in Bosnia, Rwanda and most recently Darfur. However, history has shown that international intervention is not always motivated by humanitarian concerns alone, and different members of the international community do not always have the same perception or attitude towards humanitarian issues.¹⁹ History also shows us that there are limits to the respect of national sovereignty. Otherwise, one could argue that Hitler was right in fulfilling his vision of a *Herrenvolk* (master race) in sovereign Germany. Sovereignty therefore was not and is not absolute. Moreover, non-intervention and sovereignty are not linked historically, given that before the twentieth century sovereign states had a legal right to expand their territory and conquer, subjugate or annex others. Therefore, non-intervention is more a “rule fashioned by sovereigns and designed to govern their relations with one another”²⁰ than an obligation that has evolved over time.²¹

Sovereignty never was, and hopefully never will be, a right for the incumbent regime to reign in whatever manner it desires. The concept of the Responsibility to Protect tackles and pursues exactly this point by underlining the responsibility of nation states as well as the international community to act in cases of mass atrocities. Through this, the United Nations are attempting to remove some of the obstacles and excuses which have previously characterized their response (or lack thereof) to many intrastate conflicts.

Sudan in Short

On the 9th of July 2011, Sudan, formerly the tenth-largest nation in the world and the largest country in Africa, split into the Republic of Sudan and the (newly independent) Republic of South Sudan. The territory of Sudan as we knew it before the separation of the South in 2011 is one of the poorest and most war-threatened in Africa, with widespread poverty, a weak infrastructure and an uneven economic base. Like the majority of African states, Sudan is a colonial creation. From 1898 to 1956, the Anglo-Egyptian condominium encouraged the existing divisions between groups in the North and South of the region which differed in religion, ethnicity, culture, and history. Measures like the 1922 Closed Districts Order imposed control and restrictions on northern traders. Muslims were prevented from travelling to and having an influence on the South. The aim was to divide north and south in order to create a secular state and a Christian

¹⁹ Alex J. Bellamy, *Responsibility to Protect: The Global Effort to End Mass Atrocities*, Malden (MA), Polity, 2009, 1-2.

²⁰ Bellamy 2009, 14.

²¹ Bellamy 2009, 10-14.

state, respectively.²² With a total separation through controlled migration and the prospect of independence, autonomy or self-determination in the South, the stage was set for a civil war. The eleven years from 1972 to 1983 are remembered as the last period of 'peace'. Since then, Sudan has been trapped in a cycle of violence in the struggle for resources, power, the role of religion and self-determination. Several attempts were made by the international community and the Sudanese parties themselves to finally bring peace to Sudan. After many negotiations, the Comprehensive Peace Agreement (CPA, also known as the Naivasha peace treaty) was signed in 2005; an agreement which, in short, set the frame for sharing wealth (especially oil revenues), for a federal governing structure for the South, and for the possibility for independence (after a six-and-a-half year interim period). Unfortunately, the CPA settled the conflict between North and South but ignored the region of Darfur in the west with its wide range of challenges.

Historically, Darfur, only part of Sudan since 1916, has been economically and politically marginalized and has suffered not only from instability and numerous internal conflicts, but was also particularly affected by drought and famine in the 1980s. It was during this period that conflicts erupted in Darfur between farmers and nomads, and that divisions along the lines of ethnic identity were instrumentalized and began to harden.²³ Even though violence has erupted periodically in Darfur over many decades and is not a new phenomenon, the situation escalated in 2003. The central government used paramilitary Janjaweed²⁴ militia in order to 'control' the violence, thereby exacerbating the level of violence in this region. Continued reports from the civilian population about the escalating situation in Darfur made it clear that a cessation of violence was neither likely nor imminent. Finally, extreme atrocities²⁵ committed by the Janjaweed resulted in international condemnation, threats of sanctions by the United Nations, and in late 2004, in the establishment of a ceasefire monitored by troops from the African Union (AU). When the African

²² Jill Shantlemann, *Oil, Profits, and Peace. Does Business Have a Role in Peacemaking?*, Washington (DC), United States Institute of Peace Press, 2006, 117; Khalid Ali Abdelmageed, *Wege der Zusammenarbeit zwischen EU und Afrika anhand vom Sudan*, Dissertation, University of Vienna, 2007, 137.

²³ Violette Cassis – William G. O'Neill, *Protecting Two Million Internally Displaced: The Successes and Shortcomings of the African Union in Darfur*, University of Bern, Project on Internal Displacement, The Brookings Institution, 2005, 13.

²⁴ The Janjaweed comprise Arabic-speaking African tribes which are generally nomads. The government in Khartoum needed to work with a force other than its military since there were close ethnic ties between most of its military personnel and the people of Darfur. The use of the Janjaweed exacerbated the conflict between the sedentary and nomadic populations of Darfur.

²⁵ The atrocities committed in Darfur are so severe that Human Rights groups and some UN Member States (first and foremost the United States) claim genocide has taken place. However, the Commission of Inquiry set up by the Secretary General found that the government of Sudan had not "pursued a policy of genocide" in Darfur. Nonetheless, the Commission stressed that the fact that "there was no genocidal policy pursued should not be taken in any way as detracting from the gravity of crime perpetrated in the region".

Union Mission in Sudan (in short AMIS²⁶) was installed, however, it seems that this was done with a lack of genuine political will.

United Nations Involvement in Sudan

To begin with, AMIS, the AU-led mission in Darfur established in 2004, was successful in negotiating a political agreement for peace in Darfur between the two major rebel factions (Darfur Peace Agreement DPA signed on 5 July 2005), though the two parties had different versions of what they had agreed upon. The post-DPA period was then characterized by an increasing level of fragmentation and realignment of different rebel groups; hostilities and fighting increased, particularly between the DPA signatories and the non-signatories so that by mid-2006 AMIS was having severe problems in carrying out its mandate. Even though ninety percent of the mission's authorized personnel were deployed at that time, AMIS was increasingly facing financial and logistical challenges. Just as the mission was running into trouble and needed the promised financial support, donors were becoming reluctant to release the money and actually support a mission that was no longer succeeding.²⁷ As a result, the inadequacy of the AMIS mandate became apparent. There were demands to boost the mandate so that armed peacekeepers could be deployed to control the situation, but these demands were for the most part ignored. When it was decided that a solution was required, the final decision – perhaps not surprisingly – was not to provide the existing AMIS mission with the resources and support agreed upon, but to transform it into a hybrid AU-UN mission, a practice also widely known as “blue hatting”²⁸. Despite the challenges this mission was facing, AMIS was a unique case of partnership involving several players, namely the AU, the UN, the EU, and NATO, but it also clearly demonstrated the need for stronger and better institutional cooperation between these partners.

²⁶ AMIS started with a group of 60 observers in June 2004 and expanded to 3,605 by the end of the year. The troops came from six countries – Nigeria, Rwanda, South Africa, Senegal, Gambia, and Kenya – and the police from Ghana. There were also military observers from Egypt and Libya, among others. A Joint Assessment Mission, led by the African Union with participants from the United Nations, the European Union, and Canada, followed in March 2005.

²⁷ Alhaji M. S. Bah – Ian Johnstone, “Sudan: Faltering Protection and Fragile Peace”, in: Center on International Cooperation, *Annual Review of Global Peace Operations*, London, Lynne Rienner Publishers, 2007, 37-39.

²⁸ Blue hatting, a term which literally refers to troops replacing the light green beret of the African Unions with the light blue beret of the UN, means that the troop contributing countries and even the soldiers staid the same but the command shifted. This underlines the core importance for some powers: the desired influence on the country and with it on the region. This especially due to the fact that the UN increased its support for the AU just before a principle was reached about a hybrid mission.

The change from AMIS to UNAMID, authorized by the Security Council,²⁹ took place in 2007. One year later, UNAMID had just over one thousand more personnel than AMIS, and also lacked a number of key resources crucial for the implementation of its mandate, first and foremost helicopters and radios. Until today the mission has not been provided with the full level of resources that was outlined in its mandate 2007. However the United Nations decided in July 2011 to extend the UNAMID mandate³⁰ for another year (until 31 July 2012) and simultaneously expressed its deep concerns over the proliferation of arms, the persistent localized conflicts and violence, and their effect on civilians.

At the same time another situation, which had been evident for years, has begun emerging. Both sides, the government in Khartoum and the government of South Sudan, have been moving their forces continuously closer to the 1156 border³¹ created between North and South in 1956 during British rule before Sudanese independence. This development portends a violent end to the discussion regarding the border demarcation; a prediction underscored by recent statements³² from both sides.

In 2003/2004, the situation in Sudan was one where international intervention would have probably been the best answer to prevent what was happening. In this period, however, there was no R2P principle as well as a lack of unanimity between members of the Security Council³³ regarding the gravity of the situation in Darfur. Today, it is still highly questionable whether the international community would be able to respond adequately if a similar case were to arise (possibly in the Sudan itself if questions like the border demarcation or wealth distribution remain unresolved). This once again underlines the need for the comprehensive provisions that policies like R2P can offer. At the same time, it must be stressed that the international community and the Security Council recognize this need. UNAMID is the physical proof of that recognition given that its mandate is to protect civilians against various crimes and sources of violence. While the concept

²⁹ UN Security Council Resolution 1769, UN Doc. S/2007/468, 30 July 2007.

³⁰ UN Security Council Resolution 2003 (2011), UN Doc. S/RES/2003 (2011), 29 July 2011.

³¹ Short for 1 January 1956.

³² Khartoum has lodged several complaints with the UN Security Council, describing the government in Juba as an "element of regional instability" in one of them; South Sudan's foreign minister Nhial Deng Nhial warned (on 7 December 2011) that continuous provocation by the Sudanese army might lead to a war between the two countries, in: <http://www.sudantribune.com/Sudan-S-Sudan-clash-in-disputed,40935>, accessed 16 July 2012.

³³ The Security Council is, of course, the preferred place to authorize action. However, inevitably the decision to take action – political, diplomatic, or otherwise – reflects the realities of power and circumstance. A democratization of the Security Council would break down these inherent political barriers and do away with the habit of some permanent member countries of putting their interests, rather than values, first; a practise which sometimes delays or even prevents the Council's giving urgently needed assistance.

is there in addition to the recognition of the urgency of the issue of protection, its implementation requires a fairly lengthy period of time, as UNAMID shows. Therefore, more efforts have to be made to find consensus within the international community and to institutionalize the responsibility to protect.

In this regard it is also important to have a clear look at the standards being used regarding the responsibility to prevent, to react, and to rebuild. The international humanitarian community, the UN agencies and associated programs have developed methods to quantify the various stages of humanitarian crisis and the requisite political response to the different stages. This system of assessment, however, still comes from the western political culture although it is almost never used in western countries. Assessing the kind of assistance needed has therefore to be connected to further practical principles and an understanding of how much assistance is necessary. The responsibility of the international community, in this regard, is a kind of overall strategy for instigating a process that could be described as re-establishing an environment which allows change towards normalization.

Conclusion

The case of Sudan shows the reluctance of UN member states to get involved in a conflict which seems hopeless or too cost-intensive. Since the first deployment of a mission in current Sudan (AMIS in 2004) it has become clear that something needs to be done regarding the attitude and action of member states. As outlined, there is a responsibility of the sovereign state, but also of the international community to step in when mass atrocities are taking place. The question that still needs to be addressed is: When is this point reached? In order to be able to react in a timely manner, the international community will need to take a tremendous step forward and install early warning mechanisms that would alert it to the emergence of conflicts and allow it to react without delay. More importantly, it seems necessary for the world to recognize not only that it is a human obligation to help people in need, but also that it is necessary to act in order to achieve peace and stability in the world. National governments need to focus on public relations in their home countries to explain the importance of their nation's involvement in faraway countries and why involvement is crucial for their own stability or national interests. Against the background of the current worldwide financial crisis, it is certainly not an easy task for a nation to get the backing and will of its population to play a more active role in the United Nations and its missions, but it is essential for peace and stability for every human being.

While Darfur is still trapped in a cycle of violence there is also an ongoing low-intensity conflict in the east of Sudan. Like the rebels in Darfur, the rebels in the east are also fighting against marginalization by the central government. Since

2005, when the first offensive against the government of Khartoum was launched, this conflict has remained widely unnoticed. Selective measures need to be applied to reduce the risk of this situation becoming another Darfur which could damage the peace efforts in Darfur as well as the North-South peace deal. The challenges the UN is facing in this country, as in so many other conflicts, cannot be met alone: Support from regional and other organizations is needed. In Africa, as in Sudan since its first involvement, the AU plays an important role in the search for sustainable solutions. With AMIS, which marked its first peace operation, the AU has clearly shown its decisiveness in fully embracing its responsibility even though the mission fell short in the areas of capacity, financing, and logistics.³⁴ Nevertheless, the AU has shown its commitment to African states where there are ongoing conflicts. Under the direction of the AU, the Economic Community of West African States (ECOWAS)³⁵ installed the African Standby Force, which is intended to be an international and continental African military force fully operational by 2015. The idea for a standby force emerged from the experiences in Liberia, Sierra Leone, and Guinea Bissau. This force is conceived to be deployed at short notice for the day-to-day prevention of conflict situations in Africa, a concept which represents an important step forward in conflict prevention or resolution. Africa has demonstrated its own general political will to intervene in conflict situations and the deployment of an African mission in African states has two major benefits: Not only will the AU be able to address “African problems in an African way”, but it will also be easier for the AU to get the legitimization of the concerned state for the deployment of a peace mission which is important for the success of a mission. However, the AU will also depend on the support of the UN, the EU and other donors. The challenges the international community is facing in Sudan, Chad and the Democratic Republic of Congo illustrate the need for a closer and broader cooperation between the partners mentioned.

³⁴ International Peace Institute, *Operationalising the African Standby Force*, January 2010, in: http://www.ipinst.org/media/pdf/publications/ipi_meetnote_african_standby_force__8_.pdf, accessed 15 May 2010.

³⁵ For more information cf. Discover ECOWAS, in: <http://www.ecowas.int/>, accessed 28 June 2010.



Band 11
Responsibility to Protect. Peacekeeping, Diplomacy, Media, and Literature Responding to Humanitarian Challenges
La responsabilité de protéger. *Peacekeeping*, diplomatie, littérature et médias répondant aux défis humanitaires
Ursula Mathis-Moser (dir.)
innsbruck university press, 2012, 368 S.
ISBN 978-3-902719-77-5
Euro 29,90



Band 10
Space and Gender – Spaces of Difference in Canadian Women's Writing
Espaces de différence dans l'écriture canadienne au féminin
Doris G. Eibl, Caroline Rosenthal (dirs)
Series editor: Ursula Mathis-Moser
innsbruck university press, 2009, 262 S.
ISBN 978-3-902719-19-5
Euro 19,90



Band 9
Acadians and Cajuns: The Politics and Culture of French Minorities in North America
Acadiens et Cajuns: Politique et culture de minorités francophones en Amérique du Nord
Ursula Mathis-Moser, Günter Bischof (dirs)
innsbruck university press, 2009, 203 S.
ISBN 978-3-902571-93-9
Euro 19,90



Band 8
10 Jahre „Zentrum für Kanadastudien“ an der Universität Innsbruck 1997-2007
The 10 Years Anniversary of the „Canadian Studies Center“ at the University of Innsbruck 1997-2007
Les 10 ans du „Centre d'études canadiennes“ à l'Université d'Innsbruck 1997-2007
Dreisprachige Ausgabe. Ursula Mathis-Moser (dir.)
Innsbruck, Leopold-Franzens-Universität, 2007, 196 S.
ISBN 978-902571-29-8
Euro 15,00



Band 7
Nouveaux regards sur la littérature québécoise
Hommage à Pierre de Grandpré
Actes du cinquième colloque de l'Association des jeunes chercheurs européens en littérature québécoise
Hélène Amrit, Anna Giaufret, Ursula Mathis-Moser (dirs)
Innsbruck, Leopold-Franzens-Universität, 2004, 165 S.
ISBN 3-902149-76-1
Euro 15,00



Band 6
Österreich – Kanada. Kultur und Wissenstransfer
Austria – Canada. Cultural and Knowledge Transfer
Autriche – Canada. Le transfert culturel et scientifique 1990 – 2000
Ursula Mathis-Moser (dir.)
Beiträge in deutscher, englischer und französischer Sprache
Innsbruck, Leopold-Franzens-Universität, 2003, 468 S.
ISBN 3-902149-74-5
Euro 20,00



Band 5
Nicole BROSSARD:
Sie wäre der erste Satz meines nächsten Romans
Elle serait la première phrase de mon prochain roman
She would be the first sentence of my next novel
Dreisprachige Ausgabe. Ursula Mathis-Moser (dir.)
Innsbruck, Leopold-Franzens-Universität, 2002, 104 S.
ISBN 3-902149-63-X
Euro 15,00



Band 4
ASINGIT: The Others – Les Autres – Die Anderen.
Kunst aus Nunavut.
Ursula Mathis-Moser, Sybille-Karin Moser (dirs)
Innsbruck, Leopold-Franzens-Universität, 2002, 22 farbige Abb., 80 S.
ISBN 3-901249-56-7
Euro 15,00



Band 3
Kanada: „The True North, Strong and Free“?
Vorträge anlässlich der Eröffnung des Zentrums für Kanadastudien an der Universität
Innsbruck am 14.4.1997
Ursula Mathis-Moser (dir.)
Innsbruck, Leopold-Franzens-Universität, 1997, 114 S.
ISBN 3-901249-45-1
Euro 12,00



Band 2
Französische Tonträger aus Nordamerika.
French Sound-Recordings from Northern America.
Documents sonores francophones de l'Amérique du Nord
Ursula Mathis-Moser, Mark Löffler
2. erweiterte Auflage. Innsbruck, Leopold-Franzens-Universität, 2002, 140 S.
ISBN 3-901249-2
Euro 12,00



Band 1
Publikationen aus und über Kanada an der Universität Innsbruck
Ursula Mathis, Klaus Niedermair
Innsbruck, Leopold-Franzens-Universität, 1997, 207 S.
ISBN 3-901249-4
Euro 12,00 (Restbestand)

The principle of R2P – “Responsibility to Protect” – is intended to successfully counteract the international community’s powerlessness and failure to act in the face of crises and humanitarian catastrophes. It commits the international community to intervene in cases of genocide and crimes against humanity – in extreme cases even against the will of the state concerned. Originally established in peacekeeping, R2P, in certain ways a Canadian “invention”, also involves other areas of operation such as diplomacy, literature, and the media.

The 19 articles assembled in this volume, which discuss the concept and the history of its realization, contain both general reflections on a new understanding of state sovereignty and case studies dealing with particularly explosive political situations (Sudan, Afghanistan). Furthermore, beyond the responsibility of the political and diplomatic instances, the texts examine that of the media as sources of information, and the role of literature which – far beyond mere documentary writing – develops its own strategies and scenarios of how conflicts can be solved.

La “responsabilité de protéger” (R2P) est la tentative de combattre l’impuissance et la passivité de la communauté internationale en cas de crises et de catastrophes humanitaires, c’est-à-dire d’intervenir en cas de génocide et de crime contre l’humanité, et dans le pire des cas, d’intervenir même contre la volonté de l’État concerné. Se référant à l’origine au “Peacekeeping”, le projet R2P qui s’est développé avec l’importante participation du Canada, met également à contribution d’autres secteurs comme la diplomatie, les médias et la littérature.

Les 19 contributions de ce volume qui éclairent le concept et l’histoire de sa réalisation comprennent aussi bien des prises de position pour une nouvelle conception de la souveraineté que des études de cas sur des situations politiques explosives (Soudan, Afghanistan). De plus, au-delà de la responsabilité manifeste des instances politiques et diplomatiques, les textes rassemblés abordent la responsabilité des médias en tant que sources d’information, et l’apport de la littérature qui, bien au-delà d’une écriture “documentaire”, propose des stratégies et des scénarios pour résoudre des conflits.

