

THE UN'S MORAL RESPONSIBILITY IN THE 'SPILL-OVER' OF GENOCIDE FROM RWANDA TO THE DEMOCRATIC REPUBLIC OF THE CONGO

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I. INTRODUCTION

Politicians and academics are paying more attention to normative inquiries addressing how societies and states should account for past wrongdoing. Here, the struggle of South African society to come to terms with its racist apartheid regime springs to mind; in this sense, its Truth and Reconciliation Commission emerges as a landmark decision.¹ An equally interesting example is the recent public apology by the Canadian government to Native Canadians; in a sad era in Canadian history, approximately 150,000 children were forced to attend state residential schools where they suffered abuse and where a systematic effort was made to eradicate local languages and traditions.² This recent proclivity to scrutinise past wrongdoing has been diffused into international politics as well.³ In 1999, President Clinton offered an apology to the Guatemalan people for the US support of the right-wing government that systematically executed tens of thousands of rebels as well as native Mayan Indians during the 'dirty war' that lasted 36 years.⁴

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1 For a more detailed account of the TRC see C. Villa-Vicencio, 'Restorative Justice in Social Context: The South African Truth and Reconciliation Commission', in N. Biggar (ed.), *Burying the Past. Making Peace and Doing Justice after Civil Conflict*, Georgetown University Press (2003), pp. 235–50.

2 I. Austen, 'Canada Offers an Apology for Native Students' Abuse', *New York Times* (12 June 2008).

3 J. Lind, *Sorry States: Apologies in International Politics*, Cornell University Press, (2008).

4 M. Kettle and J. Lennard, 'Clinton Apology to Guatemala', *Guardian* (12 March 1999).

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The examination of past wrongdoing and the emergence of diverse responses to it, ranging from truth recovery to restorative justice models and inter-state apologies, show a willingness to reply to (normative) questions of moral responsibility. Although there is a widely shared (academic and political) consensus that individual leaders,⁵ domestic institutions, and even states can be held morally accountable for their actions or omissions—domestically or internationally—the reluctance to assign moral responsibility to international institutions is remarkable.⁶ In the state-centric discipline of international relations, the privileged position reserved for states, along with the tendency to perceive international organisations as merely forums for competing (state) interests, partially explains this hesitation to ascribe ‘ontological independence’ to international organisations.⁷ This is paradoxical, given that the majority of contemporary economic, social and political problems, including environmental degradation, global inequality, famine and security, stem from large-scale forces, such as globalisation, which render insufficient any individual effort to redress them.⁸

This article adopts a multidisciplinary perspective, cutting across law, international relations, ethics and organisation theory. Because international law does not stand on its own, significant insights can be gleaned from multidisciplinary analytical approaches to complex issues such as genocide and the moral accountability of international actors. This paper focuses on the possibility of ascribing moral agency to the United Nations (UN), the guarantor of security and international peace. More explicitly, it seeks to examine in what ways – if any – the UN can be held morally accountable for its actions or omissions in the unfolding of the worst humanitarian crisis since World War II, namely, the war in the Democratic Republic of Congo (DRC) from the mid 1990s to 2003. It remains the world’s deadliest conflict since World War II, with approximately 3.9 million casualties.⁹ This conflict encompasses almost all features of the new ‘complex humanitarian emergencies’ that have characterised intrastate conflicts since the 1990s, including long duration, high death toll among civilians, the collapse of the state and the emergence of threats to international peace and security.¹⁰ Further, the transformation of the conflict into a continental war or ‘Africa’s Great War’, encompassing the armed forces of eight neighbouring countries, makes this case particularly instructive. To what extent is the UN morally responsible?

5 The indictments against the former President of Serbia as well as the arrest of the corrupt leader of Liberia, Charles Taylor, serve as the most notable examples.

6 T. Erskine, ‘Locating Responsibility: The Problem of Moral Agency in International Relations’, in C. Reus-Smit and D. Snidal (eds), *The Oxford Handbook of International Relations*, Oxford University Press (2008), pp. 699–707.

7 For a more refined analysis see Erskine, *supra* note 6, p. 703.

8 A. Dobson, ‘Thick Cosmopolitanism’, 54 *Political Institutions* (2006): 181.

9 B. Coghlan, R. Brennan, P. Ngoy, D. Dofara, B. Otto and T. Steward, ‘Mortality in the Democratic Republic of Congo: Results from a Nationwide Survey’, 367 *Lancet* (2006): 44–51.

10 C. Young, ‘Contextualizing Congo Conflicts. Order and Disorder in Postcolonial Africa’, in J. Clark (ed.), *The African Stakes of the Congo War*, Palgrave Macmillan (2002), pp. 13–31.

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In the first part of the article, drawing primarily on the work of Toni Erskine, I will identify the basic preconditions for an institution to be the bearer of moral responsibility. I will then apply these preconditions to the UN, considering whether it can be held morally accountable for its actions and omissions. In the second part, I will assess the UN's moral responsibility in the unfolding of the Congolese conflict. I will argue that despite early warnings from UN agencies working in the DRC, decision-makers at UN headquarters failed to respond appropriately in two key instances: the refugee crisis (1994–6) and the ensuing repeated violation of DRC's sovereignty and territorial integrity (1996–2003).

II. INSTITUTIONAL RESPONSIBILITY AND THE UNITED NATIONS

This section considers the preconditions of moral agency and asks whether these conditions are met by the UN. Is the UN a moral agent in international politics and therefore morally accountable for its actions and omissions? Before proceeding, some background information on the UN seems useful. First, the UN is a complicated international organisation comprised of numerous (treaty-based or charter-based) bodies and groups, including the Secretariat, UNHCR, UNDPKO, Security Council and Human Rights Council.¹¹ Its complex and unique internal structure should be taken into account in any discussion of its responsibility. Although a central task of this paper is to examine whether the UN can be the bearer of moral agency, I do not perceive the UN as an internally coherent entity but a complex and unique organisation, a particularly 'hard case'.¹² Second, the UN is expected to act in exceptional external conditions. As the guarantor of international security and peace, it must coordinate the action of its 192 members¹³ and prevent or intervene in extreme situations such as ethnic cleansing and genocide. Given this complexity, assigning responsibility should remain case-specific. Equally, because the UN is a complex and unique organisation, there are degrees of moral responsibility among the different UN organs or bodies.

Toni Erskine, in her influential analysis, says that to qualify as a moral agent, an international organisation should have 'an identity that is more than the sum of the identities of its constitutive parts and, therefore, does not rely on a determinate membership; a decision-making structure; an identity over time; and a conception of itself as a unit'.¹⁴ In addition, to be considered a moral agent, a collective should have the capacity to transform its decisions into actions.¹⁵ Does the UN satisfy these preconditions?

11 For further information on the UN Human Rights System, see H. Steiner, P. Alston and R. Goodman, *International Human Rights In Context*, Oxford University Press (2007), pp. 735–835.

12 T. Erskine, 'Blood on UN's Hands? Assigning Duties and Apportioning Blame to an Intergovernmental Organization', 18(1) *Global Society* (2004): 21–42.

13 UN ORG/1469 press release, 'United Nations' Member States' (3 July 2006), available at www.un.org/News/Press/docs/2006/org1469.doc.htm (accessed 15 September 2009).

14 Erskine, *supra* note 12, p. 24.

15 Erskine, *supra* note 12, p. 24.

A. Corporate identity

Initially, the institution under examination must be more than the sum of its constituent parts.¹⁶ In other words, does the UN *possess a (corporate) identity* that cannot be reduced to the identities of its constituent member states, thus making it morally accountable for its actions and omissions? Can we say that ‘what it does is caused by its own wants and beliefs and not merely the wants and beliefs of certain powerful individuals’?¹⁷

Erskine notes that according to international law, to be characterised a ‘person’, an entity should have an identity which is significantly distinct from its constituents. The UN is a bearer of ‘international legal personality’; legally, then, it has a distinct identity.¹⁸ Albeit a legal argument, it illustrates the distinct identity of the UN; further, because its legal actions have moral implications, we can consider the UN a moral agent. We also need to consider the bottom-up approach of international organisations (such as the UN); through its ‘bureaucratic culture’ the organisation will be significantly independent of the members that created it.¹⁹ According to this constructivist view, argued by Michael Barnett and Martha Finnemore,²⁰ the rational and legal authority of international organisations allows them to pursue objectives selected according to established priorities of the organisation, thus securing a level of independence from their member states. Furthermore, every organisation develops a ‘bureaucratic culture’ which informs the discourses (that is, formal or informal rules) that shape its policies.²¹ More specifically, the bureaucrats (agents) in the UN not only pursue the agenda imposed by their principals (states) but are also affected by the ‘cultural landscape’ which enables them to pursue their own bureaucratic agendas.²² This ‘cultural landscape’ makes bureaucracy and subsequently the organisation itself an independent site of authority from its constituents; thus, it is plausible to consider the UN as having sufficient ‘ontological independence’ to qualify as a moral agent.

16 This is perfectly illustrated by French’s distinction between aggregate and conglomerate collectives. P. French, *Corporate Ethics*, Harcourt Brace College Publishers (1995), p. 18.

17 A. Corlett, ‘Collective Moral Responsibility’, 32(4) *Journal of Social Philosophy*, (2001): 573–84.

18 Erskine, *supra* note 12, p. 34.

19 M. Barnett and M. Finnemore, ‘The Politics, Power and Pathologies of International Organizations’, 53(4) *International Organization* (1999): 720.

20 M. Barnett, *Eyewitness to A Genocide. The United Nations and Rwanda*, Cornell University Press (2002).

21 M. Barnett, ‘The UN Security Council, Indifference and Genocide in Rwanda’, 12(4) *Cultural Anthropology* (1997): 551–78.

22 The most relevant example comes from the experience of European Union politics, where the agents (bureaucrats) are not mere instruments of their principals’ (states’) interests, but develop their own preferences which are shaped by this ‘bureaucratic environment’. This is known as ‘bureaucratic drift’ in the relevant literature and reaffirms the argument of Barnett and Finnemore. On this, see M. Pollack, ‘Delegation, Agency and Agenda Setting in the European Community’, 50(1) *International Organization* (1997): 99–134.

B. Decision-making structure

Another important criterion is a coherent *internal decision-making structure*, meaning that the group has the capacity to deliberate. This decision-making structure allows the group to be an independent 'rational actor'²³ and to convert individual actions into a unitary intentional corporate action.²⁴ More precisely, if a group has a 'constitution'—a set of pre-existing formal or informal rules which determine how the 'inputs' of individual judgements are put together to generate group judgements as 'outputs'—then we can plausibly argue that this group has a coherent decision-making structure and is a moral agent.²⁵ Groups lacking such 'constitution', such as crowds or mobs, lack the capacity to pass corporate judgements and thus do not qualify as moral agents.

Does the UN have a 'constitution' which can convert the diverse judgements and interests (input) of individual member states into a coherent 'collective' output? If so, the UN through this 'internal organisation': (1) possesses moral deliberation; (2) surmounts individual interests; (3) represents the unity of the organisation; and (4) responds according to moral-rational evaluation.²⁶

According to Erskine, the UN Charter provides a full account of the functioning of the organisation, as clarified in Chapter V.²⁷ Thus, we can argue that the UN possesses a decision-making structure that converts individual judgements into 'corporate' action. However, at this point, a legitimate objection by Chris Brown should be noted. According to Brown, the UN Security Council cannot act as an agent of international society, because even if states pursue the common good for the 'society of states', at the same time, they also pursue their own national interests.²⁸ Hence, in the case of conflict between the common good and their own interests, the five permanent members of the Security Council are legitimised to pursue the latter; most importantly, as long as they have the *veto provision*, the decision-making procedure mentioned previously vanishes.²⁹ In cases where veto is being exercised, we cannot argue for a coherent decision-making procedure; nor can we argue that the UN is a moral agent distinct from its constituents.³⁰

23 The use of the term 'rational actor' in this context slightly differs from the traditional use of the term in political science and economics where it merely indicates the maximisation of wealth or interests. Instead, in this context 'rational actor' indicates more broadly the capacity of a collection of units to deliberate and act consistently in order to achieve overarching objectives.

24 Corlett, *supra* note 17, p. 580; P. French, 'The Responsibility of Inactive Fictive Groups for Great Social Problems', in P. French (ed.) *Individual and Collective Responsibility*, Schenkman Books (1998), p. 254.

25 C. List and P. Pettit, 'Group Agency and Supervenience', XLIV *Southern Journal of Philosophy* (2006): 1–21.

26 Erskine, *supra* note 12, p. 26; P. French, 'Collective Responsibility', in P. French (ed.) *Individual and Collective Responsibility*, Schenkman Books (1998), p. 45; List and Pettit, *ibid.*, p. 5.

27 Erskine, *supra* note 12, p. 30.

28 C. Brown, 'Moral Agency and International Society: Reflections on Norms, the UN, the Gulf War, and the Kosovo Campaign', in T. Erskine (ed.) *International Relations: Key Questions and Concepts. Can Institutions have Responsibilities? Collective and Moral Agency*, Palgrave (2003), pp. 51–68.

29 *Ibid.*, pp. 55–60.

30 Erskine, *supra* note 12, p. 36.

Still, it can be argued that the UN is capable of moral deliberation if it can ‘respond to events and moral criticism by altering its intentions and behaviour’.³¹ The UN frequently feels obligated to justify its actions on ethical grounds, and on various historical occasions – such as the Srebrenica massacre – the UN proved capable of reflection into past omissions and actions.³²

C. Identity over time and conception of itself as a unit

To qualify as a moral agent, the UN should have continuity, irrespective of external events; at the same time, it should not be merely externally defined but have a consciousness of itself as a unit. Following Erskine, ‘the United Nations [...] does possess an identity over time. Indeed, it exists prior to the crises to which it is charged with responding, and its existence outlives any response.’³³ Alternatively put, the UN was established in the aftermath of World War II with certain objectives, the most important of which were the prevention of violent conflicts, and the promotion of peace and security. It has a ‘prospective’ responsibility to respond when a threat to these objectives arises. Otherwise, it would be a ‘coalition of the willing’ responding to certain stimuli (crises) within a specific time limit.³⁴

Even though the persons holding the central positions in the UN change, its institutional status and identity are unaffected. For example, although the UN Secretary General may change, this does not indicate a change in the institution of the ‘Secretariat’. The UN flag, the blue helmets in peacekeeping operations, and even the international soil under the headquarters of the organisation in New York, all symbolically represent this distinct identity. The UN also has a monopoly on legitimising international actors³⁵ and defining members of international society.³⁶ This has become an inherent characteristic of the UN identity.

D. Capacity to act and mandated responsibility

Logically deriving from the previous preconditions, coherence of identity and a clearly defined decision-making structure should be coupled with the agent’s capacity to implement decisions.³⁷ It would be absurd to hold accountable

31 P. French, *Corporate Ethics*, Harcourt Brace College Publishers (1995), p. 18.

32 A. Lang, ‘The United Nations and the Fall of Srebrenica: Meaningful Responsibility and International Society’, in T. Erskine (ed.), *International Relations: Key Questions and Concepts. Can Institutions have Responsibilities? Collective and Moral Agency*, Palgrave (2003), pp. 183–206.

33 Erskine, *supra* note 12, p. 31.

34 *Ibid.*

35 C. Inis, ‘Collective Legitimization as a Political Function of the United Nations’, 20(3) *International Organization* (1966): 367.

36 M. Barnett, ‘The UN Security Council, Indifference and Genocide in Rwanda’, 12(4) *Cultural Anthropology* (1997): 565.

37 Erskine, *supra* note 12, pp. 25–6.

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an international organisation that possesses all preconditions but is unable to transform its decisions into actions. Therefore, an international institution should possess at least a rudimentary executive capacity in order to qualify as a moral agent.

The UN is *the* designated international body with the 'responsibility to act' in specific circumstances. These actions fluctuate from vigorous interventions such as peacekeeping operations which may resort to armed force, to political acts such as mediation initiatives.³⁸ Furthermore, an analysis of UN activities over recent decades reveals a new competence. More explicitly, its activities in the post-Cold-War period have increased, especially in cases of 'failed' or 'collapsed' states.³⁹ The UN has developed not only peacekeeping missions, but a number of administrative operations in conflict-ravaged states, establishing a trend called 'post-conflict development' or 'post-conflict reconstruction'. In such operations, UN agencies manage virtually every sector of public administration, including security, elections, tax collection, border control, even issuing identity cards. In several conflict-ridden countries, the UN has become the prime coordinator of local efforts to establish mechanisms of transitional justice, such as truth commissions and domestic criminal courts.⁴⁰ For some scholars, this trend sets the stage for a new (post-Westphalian) model of sovereignty, more related to the 'control' of the population and responsibility than to the notion of territory. These '*proto-sovereign*' competences verify the impression that the UN is *the* competent organisation to respond to humanitarian crises.

Howard Adelman inserts an interesting element into the preconditions of institutional moral agency when he highlights the 'mandate of the institution to assume responsibility'.⁴¹ This remark emphasises the provision of responsibility and the predetermined knowledge of the moral agent who is the bearer of moral responsibility. Following Adelman, the UN is charged with the authority and duty to mitigate or prevent genocide and ethnic cleansing.⁴²

III. DEFINING RESPONSIBILITY

There are certain conditions under which a moral agent may be held morally accountable for his/her actions or omissions. According to the two 'negative'

38 Erskine, *supra* note 12, p. 30.

39 F. Megret and F. Hoffmann, 'The UN as a Human Rights Violator? Some Reflections on the United Nations' Changing Human Rights Responsibilities', 24 *Human Rights Quarterly* (2003): 314–42.

40 This is a particularly interesting field in which the UN has become very active over the last few years and eventually it is considered to be the exclusive international organisation designated to organise and sponsor such initiatives. The most important examples come from the East Timor and Sierra Leone (Hybrid Court). For a more detailed account, see P. Gready, 'Reconceptualizing Transitional Justice: Embedded and Distanced Justice', 5(1) *Conflict and Security Development* (2005): 3–21.

41 H. Adelman, 'Blaming the United Nations', 4(1) *Journal of International Political Theory* (2008): 14.

42 *Ibid.*

Aristotelian principles, an agent should *not* be ignorant of the facts surrounding his/her actions, and those actions should not show undue force.⁴³ Equally, the principle of ‘alternate possibilities’ implies that ‘a person is morally responsible for what he has done only if he could have done otherwise’.⁴⁴ A point to consider here is the distinction between establishing that the UN is a decision-making agent and establishing its capacity to act in a very specific situation, such as the humanitarian crisis in the DRC. To be consistent, it is necessary to illustrate that the UN had the ability to form corporate decisions and the capacity to *control* the situation and influence the outcome.

The idea of control over actions is central in the philosophical literature,⁴⁵ and assigning responsibilities should always consider the parameters of information gathering, decision-making, and control over the implementation of the decision. Deriving from the notion of control, responsibilities should always be assigned to specific bodies bearing the moral burden. For example, the UN Secretariat is the designated body to translate UN Security Council mandates into directives of action.⁴⁶

IV. UN’S MORAL RESPONSIBILITY IN THE DRC

The humanitarian disaster in the DRC could be considered the product of three overlapping conflicts rather than a single conflict.⁴⁷ The first conflict began in 1996 and ended with the demise of Zairian President Mobutu (1997). The second Congolese war (Africa’s Great War) signified the termination of Congolese President Laurent-Désiré Kabila’s dependence on Rwanda and Uganda; it ended with the Lusaka ceasefire Agreement (1999). A third conflict running concurrently and continuing to the present is taking place in the country’s eastern provinces between armed factions. All conflicts were related to the control over territories rich in mineral resources and became defined in ethnic terms (‘territorialization of ethnicity’).⁴⁸ In essence, then, the conflict in the DRC has been multi-level: local, national and regional, with a ‘cancerous metastasis’ of foreign armies and military parties in the DRC from neighbouring countries.⁴⁹ Hence, actors

43 M. Fischer and M. Ravizza, *Responsibility and Control: a Theory of Moral Responsibility*, Cambridge University Press (1998); M. Zimmerman, ‘Moral Responsibility and Ignorance’, 107(3) *Ethics* (1997): 411.

44 D. Copp, ‘Defending the Principle of Alternate Possibilities: Blameworthiness and Moral Responsibilities’, 31(4) *Nous* (1997): 441.

45 I would like to thank Jeremy Watkins for bringing this point to my attention; J. M. Fischer and M. Ravizza, *supra* note 43.

46 A. Sitkowski, *UN Peacekeeping: Myth and Reality*, Praeger Security International, (2006), p. 24.

47 F. Reytsjens, ‘The Second Congo War: More than a Remake’, 98(391) *African Affairs* (1999): 241–50.

48 K. Vlassenroot and T. Raeymaekers, *The Formation of the Centres of Profit, Power and Protection. Conflict and Social Transformation in the Eastern DR Congo, Occasional Paper, Center of African Studies*, University of Copenhagen (2005), p. 10.

49 International Crisis Group (ICG), ‘The Kivus: The Forgotten Crucible of the Congo Conflict’, *Africa Report No. 56* (24 January 2003): 7.

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should not be seen in isolation, but within 'complex networks' that influence decision-making⁵⁰ and make any effort to assign responsibility extremely difficult.

Is the UN (morally) accountable for its actions or omissions in the DRC humanitarian disaster? In its bid to answer this question, the analysis will consider two specific points, namely the UN failure to effectively manage the problem of the refugee camps in the eastern provinces of the DRC in the aftermath of the Rwandan genocide, and its stance towards repeated violations of the territorial integrity and sovereignty of the DRC by armed groups of neighbouring countries. The refugee crisis is the single most important catalyst for the turmoil in the Great Lakes region, while the illegal exploitation of the natural resources of the DRC by foreign militias has perpetuated the war and created a humanitarian disaster. Further to the latter point, the primary causes of death in the DRC are easily preventable and treatable diseases,⁵¹ but given the constant state of unrest, the vast majority of people cannot receive treatment. It is estimated that in the Eastern provinces, the crude mortality rate is 90 per cent higher than that of Sub-Saharan Africa.⁵²

In its broadest definition, accountability involves the scrutiny of a specific action or omission against a standard set of norms; in some cases, it involves consequences for failing to comply with these norms. In international law, legal responsibility indicates a 'particular form of legal accountability, focused upon the legal consequences of breaches of international law that are attributable to an international actor'.⁵³ Traditionally, international law has focused on the rights and obligations of states, limiting the scope of analysis to inter-state interactions. Hence, incorporating perspectives from the study of international relations, ethics and organisation theory enriches the basic analysis, allowing us to discuss more complex phenomena.

To examine the degree of accountability of the UN and its agencies or bodies, I ask the following three questions: (1) did the UN have sufficient *information* about the gravity of the situation?; (2) was this information *evaluated* as required action?; and (3) was this information transformed into appropriate action? Admittedly, this is simplistic, as complex humanitarian situations cannot be analytically explained in the light of one actor – no matter how powerful that actor might be. As mentioned, however, there are degrees of accountability, even within the bodies and agencies of the UN; therefore, by asking these questions we will be better able to assign responsibility.

50 T. Carayannis, 'The Complex Wars of the Congo: Towards a New Analytical Approach', 38(2–3) *Journal of African and Asian Studies* (2003): 232.

51 Coghlan et al, *supra* note 9, p. 44.

52 Watchlist, *Struggling to Survive: Children in Armed Conflict in the Democratic Republic of the Congo*, Watchlist on Children and Armed Conflicts (2006), also available at www.watchlist.org.

53 J. Bruneel, 'International Legal Accountability through the Lens of the Law of State Responsibility', XXXVI *Netherlands Yearbook of International Law* (2005): 4.

A. The ‘spill-over’ of the genocide

The last days of the Rwandan genocide (July 1994) found the perpetrators surrounded by the Tutsi army. During this period, the only remarkable decision taken by the UN was to authorise limited military humanitarian intervention (‘Operation Turquoise’). This intervention took place in south-western Rwanda; its primary objective was to evacuate foreigners and protect those facing imminent threat.⁵⁴ Paradoxically, the creation of a humanitarian zone provided a secure retreat for the ex-Rwandan government, the army (ex-FAR) and the paramilitary perpetrators of the genocide (Interahamwe). More importantly, the minimum policing within this zone facilitated the evacuation of virtually all their weapons to Zaire, enabling them to regroup and launch attacks against the new regime in Kigali.⁵⁵ As Linda Melvern notes, it was ‘probably the largest group of fugitive murderers ever assembled all fed and sheltered by the aid agencies’.⁵⁶ Relief aid was stolen and taxed by the groups controlling the camps; this fuelled the war economy and perpetuated the conflict.⁵⁷ The Interahamwe and ex-FAR militias hosted in the refugee camps were able to rearm and gain considerable military strength, enabling them to launch cross-border attacks against Rwanda and ignite local tensions. It is estimated that approximately 1 million entered Zaire at Goma and 200,000 went to Bukavu.

A fundamental point of the UN’s moral accountability is its *management of the refugee problem* when the Hutu refugees settled in Zaire. Over the next two years, with the assistance of Mobutu and the passivity of the UN, the forces that committed the genocide in Rwanda were reorganised and rearmed within the refugee camps in eastern Zaire and eventually launched attacks against both Rwanda and the local Banyamulenge (Tutsi) community.⁵⁸

Any assessment of the refugee crisis should consider regional politics. More to the point, President Mobutu of Zaire significantly assisted the Hutu leaders in the refugee camps to rearm.⁵⁹ The residents of the eastern provinces of Zaire had been particularly hostile towards Mobutu since the 1960s, especially after 1981 when Mobutu attempted to marginalise the Banyamulenge community (local residents of Tutsi origin) by passing the Nationality Act, depriving them

54 UN S/RES/929 (22 June 1994); L. Melvern, *A People Betrayed. The Role of the West in Rwanda’s Genocide*, Zed Books (2000), p. 210.

55 G. Nzongola-Ndalaja, ‘From Zaire to Democratic Republic of the Congo’, *Current African Issues*, Paper No. 28 (2004), Nordiska Afrikainstitutet.

56 Melvern, *supra* note 54, p. 224.

57 D. Shearer, ‘Aiding or Abetting? Humanitarian Aid and its Economic Role in Civil War’, in M. Berdal and D. Malone (eds), *Greed and Grievance: Economic Agendas in Civil Wars*, Lynne Rienner (2000), p. 92.

58 K. Dunn, *Imagining the Congo: The International Relations of Identity*, Palgrave Macmillan (2003); S. Kenyon Lischer, *Dangerous Sanctuaries: Refugee Camps, Civil War, and the Dilemmas of Humanitarian Aid*, Cornell University Press (2005), p. 82.

59 H. Adelman and G. C. Rao, ‘The Zairian War and Refugee Crisis, 1996–1997: Creating a Culture of Prevention’, in H. Adelman and G. C. Rao (eds), *War and Peace in Zaire/Congo. Analyzing and Evaluating Intervention, 1996–1997*, Africa World Press (2004), pp. 1–30.

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of their Zairian citizenship.⁶⁰ Therefore, when the Hutu refugees arrived, the Rwandan cleavage (Hutu v. Tutsi) was revitalised in Eastern Zaire. Mobutu perceived this as a 'window of opportunity' to regain his lost legitimacy in the international community, presenting himself as the prudent leader of the region who could handle complicated situations.⁶¹ Most importantly, Mobutu saw this as a unique opportunity to use the Hutu refugees in the next elections (1997) as a counterweight against the local Tutsi,⁶² or even postpone the elections on the grounds of instability.

In any case, the Great Lakes crisis was unique in its complexity. Had the UN sufficient information on this multifaceted crisis to hold it accountable? In fact, in August 1994, UN High Commissioner for Refugees (UNHCR) Sadako Ogata had a clear picture of the situation and urgently demanded that the UN set the following in motion: (1) the total disarmament of the ex-FAR soldiers and the collection of their weapons; (2) the isolation and neutralisation of Hutu leaders; (3) a mechanism to deal with the perpetrators of the genocide; and (4) a mechanism to sustain law and order in the camps.⁶³ Further, UN Secretary General Boutros Ghali, in his reports to the Security Council, underlined the possibility that the frequent raids of the Hutu refugees into Rwanda would lead to full-scale war. The UN was also the first to perceive that the ethnic cleansing of the Zairian Tutsi community committed by the Hutu extremists in the refugee camps coupled with the attacks against Rwanda were two important factors behind the conflict (1996).⁶⁴ A report to the General Assembly states: 'The primary problem was the international community's failure to separate those who deserved international protection from those who did not, ensuring the physical security of the refugees and preventing the genocidaires committing violent acts on Nationals and refugees'.⁶⁵

Clearly, the UN understood the situation. To be sure, the exceptional magnitude of this humanitarian crisis makes the attribution of responsibility to the UN difficult. Arguably, however, the UN Security Council, the designated body for the protection of international security,⁶⁶ failed to transform the warnings of UN bodies (UNHCR and UN Secretariat) into robust action.

The UN first pursued a policy of 'voluntary repatriation' of the refugees to Rwanda.⁶⁷ This largely ineffective measure ignored the fact that the vast majority

60 W. C. Reed, 'Public Policy, Contested Government, and State Decay: Zaire as a Regional Actor in the Great Lakes', in H. Adelman and G. C. Rao (eds), *War and Peace in Zaire/Congo. Analyzing and Evaluating Intervention, 1996–1997*, Africa World Press (2004), p. 144.

61 G. Prunier, *The Rwanda Crisis. History of a Genocide*, Hurst (1997), p. 376.

62 Reed, *supra* note 60.

63 S. Ogata, *The Turbulent Decade. Confronting the refugee Crises of the 1990s*, Norton (2005), p. 197; G. Prunier, *From Genocide to Continental War. The 'Congolese' Conflict and the Crisis of Contemporary Africa*, Hurst (2009), p. 55.

64 A. H. Gnamo, 'The Role of the Interahamwe in the Regional Conflict: The Origins of Unrest in Kivu, Zaire', in H. Adelman and G. C. Rao (eds), *War and Peace in Zaire/Congo. Analyzing and Evaluating Intervention, 1996–1997*, Africa World Press (2004), p. 87.

65 UN General Assembly, A/AC.96/SR 516, 17 Oct 97, p. 5; Gnamo, *ibid.*, p. 87.

66 A. Sitkowski, *UN Peacekeeping. Myth and Reality*, Praeger Security International (2006), p. 25.

67 Ogata, *supra* note 63, p. 188.

of the Hutu refugees were hostages of the extremists who carried weapons and controlled the distribution of food. In the reality of the refugee camps, 'voluntary' was equivalent to the will of the most powerful militias, who had no interest in returning to Rwanda where they would be prosecuted for their crimes during the genocide or become the victims of revenge killings by Tutsi mobs. Even when there was an effort to repatriate some of the refugees (August 1994), it was violently stopped by the camp leaders.⁶⁸

Then when the UNHCR demanded the separation of militias from refugees as a prerequisite for the normalisation of the refugee camps, the UN Security Council did not comply. In February 1997, six months after the demand was made by the UNHCR, the UN established the highly problematic 'Zaire Camp Security Contingent'.⁶⁹ This body, composed of 1,500 elite Zairian troops, was designated to maintain security in refugee camps and facilitate the supply of humanitarian aid.⁷⁰ The mandate of the mission was 'irrelevant', as the UNHCR had no command over this body; more significantly, there was no provision for a mechanism to remove the extremists from the camps.

In this fashion, the UN's omissions enabled the transformation of a refugee crisis into regional instability. As previously mentioned, it would be incongruous to hold equally responsible different bodies within the same organisation, charged with different tasks. On the one hand, the UNHCR responded sufficiently to the refugee crisis, supplying humanitarian aid under a reign of terror set by the ex-genocidaires, and providing valid information and pertinent recommendations for timely action. On the other hand, the UN Security Council did not respond appropriately and thus bears the moral burden for this failure.

To list its errors, the Security Council first failed to allocate the necessary security resources—as indicated by the UNHCR and the Secretary General—to control the extremists in the refugee camps. This would have: (1) addressed the security concerns of neighbouring countries (Rwanda and Uganda) and prevented the 'self-help' solution that led to Africa's Great War in 1996; and (2) provided a minimum level of security in the refugee camps to allow the UNHCR do what it knows best, namely, supply humanitarian aid. Instead, the UN Security Council, adversely affected by the divergent views of member states on the management of the problem, delayed and hesitated. Suffering from 'humanitarian myopia', the UN Security Council ignored its responsibilities (protecting international security) and sent the UNHCR into a pointless humanitarian mission which ultimately empowered the extremists and destabilised the region.⁷¹ In fact, the refugees

68 K. Mills, 'Refugee Return from Zaire to Rwanda: The Role of the UNCHR', in H. Adelman and G. C. Rao (eds), *War and Peace in Zaire/Congo. Analyzing and Evaluating Intervention, 1996–1997*, Africa World Press (2004).

69 Prunier, *supra* note 63, p. 55.

70 Mills, *supra* note 68.

71 C. Cater, 'The Political Economy of Conflict and the UN Intervention: Rethinking the Critical Cases of Africa', in K. Ballentine and J. Sherman (eds), *The Political Economy of Armed Conflict: Beyond Greed and Grievance*, Lynne Rienner (2003), p. 34.

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mockingly referred to the UNHCR as 'Hauts Criminels Rassasiés' (Well-fed Top Criminals).⁷²

Simply stated, it would have been possible for the UN to control the camps, but the sufficient information coming from the UNHCR was not transformed into robust action. Both Zaire and Tanzania received Hutu of Rwandese origin, due, in large part, to the cooperation of their governments with the UNHCR and the confiscation of weapons in the refugee camps; in Tanzania, at least, their settlement was relatively peaceful.⁷³ The successful example of Tanzania illustrates that the situation could have been controlled, had the UN so desired; clearly, the UN had not learned from previous experience.

The UN's moral responsibility is noted by a UNHCR spokesperson who admits that 'the involvement of aid agencies in the camps makes accomplices of us, helping [the militias] consolidate power'.⁷⁴ But responsibility should be assigned to the Security Council, the UN's decision-making body. Factors triggering the first Congolese war include the security threat posed by the Rwandan refugee camps to the neighbouring countries (Uganda, Rwanda and Burundi), and the proliferation of armed factions in Zaire who opposed the leadership of these countries and posed a significant threat.⁷⁵ This inaction resulted in 3.9 million deaths.

In the Great Lakes region, the UN *failed to prevent the transformation of a civil conflict into a continental war that involved eight states and numerous armed factions*. More explicitly, the UN failed in its mission to prevent conflict; Article 1, paragraph 1 of the UN Charter underlines the need for: 'effective collective measures for prevention and removal of threats to peace and for the suppression of acts of aggression or other breaches of the Peace'.

B. Aggression

The organization is based on the principle of the sovereign equality of all its members. (UN Charter, Article 2, para. 1)

All members shall settle their international disputes by peaceful means [...]. (UN Charter, Article 2, para. 3)

All members shall refrain in their international relations from the threat of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purpose of the UN. (UN Charter, Article 2, para. 4)

⁷² Prunier, *supra* note 61, p. 315.

⁷³ Ogata, *supra* note 63, p. 198.

⁷⁴ Lischer, *supra* note 58, p. 92.

⁷⁵ P. Rosenblum, 'Endgame in Zaire', 96(610) *Current History* (1997): 200–5; S. Smiis and W. Oyatambwe, 'Complex Political Emergencies, the International Community and the Congo Conflict', 93/94 *Review of African Political Economy* (2002): 415.

The founding principle of the UN is the doctrine of 'collective security'. This implies the obligation of this collective international body to intervene when one of its 'equally sovereign' member states experiences a violation of one or more of the central norms of international society: state sovereignty; non-intervention; non-use of force; and territorial integrity. Foreign armed groups were well established in the DRC and Congolese natural resources were being exploited by local armed proxies of foreign countries but the UN did nothing. The conflict in the DRC included armed forces from seven neighbouring countries, and the DRC became the battlefield of various foreign conflicts, partly explaining its fame as 'Africa's Great War'.⁷⁶ Indicatively, Rwanda had approximately 25,000–30,000 soldiers fighting in the territory of the DRC, out of its total armed forces of 50,000–60,000 troops.⁷⁷

Several foreign conflicts became embedded in the DRC. The primary conflicts were the struggle between the Rwandan government, which attempted to hunt down ex-FAR soldiers and the Interahamwe perpetrators of the genocide, and the Hutu rebel groups who launched attacks against Kigali.⁷⁸ Uganda and Angola experienced a similar security problem with their rebels stationed on the DRC borders. The Burundian civil war also spread to the DRC; this war began in 1993 between the Burundian government (FAB – *Forces Armées Burundaises*) and the FDD (*Forces pour la Défense de la Démocratie*) rebels.⁷⁹ For foreign observers, it was a paradox to see 'Angolans fighting Angolans in western Congo and Rwandans fighting Rwandans in the East'.⁸⁰ In short, however, the DRC experienced outright 'aggression' at the hands of a coalition of neighbouring states.⁸¹ 'Aggression' is defined as any violation of the territorial integrity or political sovereignty of an independent state and 'is the only crime that states can commit against other states'.⁸²

Was the UN fully aware of this situation? When the fighting started, in November 1996, UN Secretary General Boutros Ghali argued in favour of creating a 'Multi-National Intervention Force' (MNF), as the Secretariat had valid information that the situation was getting out of control.⁸³ However, the divergent

76 International Crisis Group (ICG), *Africa's Seven-Nation War. ICG Democratic Republic of Congo*, Report No. 4 (21 May 1999), p. 7.

77 Prunier, *supra* note 63, p. 243.

78 G. Prunier, 'The Great Lakes Crisis', 96(610) *Current History* (1997): 193–9; R. Winter, 'Lancing the Boil: Rwanda's Agenda in Zaire', in H. Adelman and G. C. Rao (eds), *War and Peace in Zaire/Congo. Analyzing and Evaluating Intervention, 1996–1997*, Africa World Press (2004), pp. 109–36.

79 J. Giniifer, 'Peacebuilding in the Congo: Mission Impossible?', 9(3) *International Peacekeeping* (2002): 123.

80 Dunn, *supra* note 58, p. 151.

81 R. Butandu, *Forgotten War. The Criminal Invasion of the Democratic Republic of Congo, The International Conspiracy Unveiled*, Publish America (2004), pp. 62–93.

82 M. Walzer, *Just and Unjust Wars. A Moral Argument with Historical Illustrations*, Basic Books (1977), p. 51.

83 H. Adelman and L. J. Baxter, 'The Multi-National Force for Eastern Zaire: The Conception, Planning and Termination of OP Assurance', in H. Adelman and G. C. Rao (eds), *War and Peace in Zaire/Congo. Analyzing and Evaluating Intervention, 1996–1997*, Africa World Press (2004), pp. 253–80.

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views and policy agendas of the more powerful players hindered the creation of a robust mission. For example, the US agenda significantly diverged from that of France.⁸⁴ According to Gérard Prunier, the USA was reluctant to forcefully intervene. The American sense of 'guilt' towards the Tutsi government in Rwanda considerably decreased the possibility of taking strong action against the victims of the genocide.⁸⁵ France sought forceful action to save its close ally, Mobutu, from being toppled by the coalition of the Rwandan proxies and anti-Mobutu rebels. These considerations shaped the UN Security Council Resolution 1097, in February 1997, demanding: (1) the cessation of hostilities; (2) the immediate withdrawal of all external forces; and (3) the protection of all refugees.⁸⁶ Lacking any provisions for implementation, the resolution reflected the 'wishful thinking' of the Security Council.

Equally, the Lusaka Ceasefire Agreement, signed in July 1999, formally terminating the Second Congolese war, provided for the creation of a UN peacekeeping force that would ensure the security of the country.⁸⁷ However, there was significant reluctance on the part of the Security Council to comply. Secretary General Kofi Annan repeatedly asked for the deployment of thousands of troops to implement the agreement, but the reticence of the Security Council led to Resolution 1291 establishing the *Mission de l'Organisation des Nations Unies en RD Congo* (MONUC) which determined that up to 5,537 military personnel would be deployed for MONUC.⁸⁸ Even this feeble mission – taking into consideration that the DRC is a country of the size of Western Europe – was not deployed for two years, a delay justified by the security situation on the ground.⁸⁹ In the meantime, the Security Council's resolutions called on the parties involved to cease fire and demanded that the foreign troops leave the country; in other words, the Security Council contented itself with using words rather than taking action.⁹⁰

In essence, the UN had sufficient information and a specific plan – the Lusaka Agreement – that would have enabled the UN to 'control' or restore peace and stability, or at least pacify certain parts of the country. The Lusaka Agreement, although not without its flaws, would have had a better chance of success had the UN Security Council complied with the urgent demands of the Secretary General. But MONUC was too little, too late. Therefore, the UN Security Council should be seen as primarily responsible for the failure to transform valid information on the dangers posed to international security into appropriate action. In fact, the Security Council's reticence to intervene masqueraded behind the new catchy

84 A. Huliaras, '(Non)Policies and (Mis)Perceptions: The United States, France and the Crisis in Zaire', in H. Adelman and G. C. Rao (eds), *War and Peace in Zaire/Congo. Analyzing and Evaluating Intervention, 1996–1997*, Africa World Press (2004), pp. 281–306.

85 Prunier, *supra* note 63, pp. 13–14.

86 Prunier, *supra* note 63, p. 138.

87 UN S/Res/1291 (24 February 2000).

88 Prunier, *supra* note 63, p. 346.

89 Prunier, *supra* note 63, p. 346.

90 UN S/Res/1304 (16 June 2000).

phrase ‘African solutions to African problems’, ignoring the fact that regional leaders were part of the problem.⁹¹

V. ‘YOU NEVER FINISH EATING THE MEAT OF AN ELEPHANT’

In the DRC, the violation of these norms occurred in more than just military terms; the breach of the state sovereignty was apparent elsewhere, as in the *illegal exploitation of the natural resources* of the DRC by foreign armed groups. As noted above, *economic interests and the illegal exploitation of Congolese natural resources transformed and perpetuated the conflict*.⁹²

Broadly speaking, the exploitation occurred in two phases. The first phase (1996–8) was characterised by looting and quick transfer of various resources—such as minerals, coffee, wood and money—across borders, to the neighbouring patron-states and afterwards to the international market. The second phase (1998–2003) was characterised by more ‘systematic and systemic’ planning and organisation; activity was primarily related to minerals, such as diamonds, timber, gold and cassiterite.⁹³ Control over regions rich in natural resources provided unique incentives for the armed factions to continue fighting because the exploitation of these resources helped finance the war.⁹⁴ In the view of the UN Secretary General, the fighting between former allies (that is, Africa’s Great War) who justified their invasion of the DRC on security grounds was economically motivated.⁹⁵ As a result, the UN ordered the establishment of the UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the DRC to explore the link between illegal exploitation of the Congolese natural resources and human rights abuses.

The four reports, published by the Panel between 2001 and 2003, clearly indicated that Rwandan, Ugandan and Zimbabwean army officers, as well as members of the Congolese elite, were growing rich from the illegal exploitation of Congo’s mineral wealth. They also noted that *the extraction of these resources helped the armed groups to finance their war effort and subsequently to perpetuate the war*.⁹⁶ The Panel concluded that the illegal exploitation of the natural

91 Prunier, *supra* note 63.

92 M. Nest, F. Grignon and K. F. Emizet (eds), *The Democratic Republic of Congo. Economic Dimensions of War and Peace*, Lynne Rienner (2006), p. 27.

93 M. Rupyia, *UN Panel of Experts. A Peace-Building Tool?*, Institute for Security Studies (ISS) Paper No. 112 (2005), available at www.issafrika.org/index.php?link_id=3&slink_id=398&link_type=12&slink_type=12&tmpl_id=3.

94 D. Montaque, ‘Stolen Goods: Coltan and Conflict in the Democratic Republic of Congo’, 22(1) *SAIS Review* (2002): 126.

95 F. Grignon, ‘International Response to the Illegal Exploitation of Resources in the DRC’, in M. Mark and P. J. Gomes (eds), *Challenges to Peace Implementation. The UN Mission in the Democratic Republic of the Congo*, Institute of Security Studies (2003), pp. 43–52, available at www.issafrika.org/index.php?link_id=29&slink_id=210&link_type=12&slink_type=12&tmpl_id=3.

96 I. Samset, ‘Conflict of Interests or Interests of Conflict? Diamonds and War in the DRC’, 93/94 *Review of African Political Economy* (2002): 465; C. Tshitereke, ‘On the Origins of War in Africa’, 12(2) *African Security Review* (2003): 89.

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resources resulted in widespread abuses of human rights in the region; further, the withdrawal of foreign armies would not end the resource exploitation, since the elite network had created a self-financing war economy by delegating local proxies.⁹⁷ A critic notes:

Between 1996–1997, Rwanda's Coltan production doubled bringing up to \$20 million per month in revenue [...] From 1997–1998 the annual volume of Uganda's diamond exports jumped from 1500 carats to about 11,300 [...] [and] since 1996 Ugandan gold exports have increased tenfold.⁹⁸

Uganda had *no reported* Coltan production before 1995, while exports increased gradually between 1997 and 1998.⁹⁹ Hence, the stabilisation of Rwanda and Uganda was achieved at the expense of DRC's stability, security and wealth.

The Rwandan and Ugandan armies officially withdrew from the DRC in 2002 and 2003, respectively. But they left behind local proxies who, with continued assistance from their external backers, fought for the control of trade routes and mineral-rich areas. This generated violations of the human rights of the local populations, such as mass displacements. Not surprisingly, the Congolese conflict has been characterised – in Clausewitzian terms – as ‘the continuation of economics by other means’.¹⁰⁰ The vicious cycle of violence, exploitation and perpetuation of the conflict is well expressed in the Congolese phrase: ‘You never finish eating the meat of an elephant’.¹⁰¹

The basic rationale behind the establishment of the Panel of Experts was to name and shame companies, states or leaders who profited from illegal and immoral activities. However, as François Grignon points out, the work of the Panel could have been significantly more efficient had the companies involved not threatened the UN with lawsuits, not to mention the pressure of the five permanent members of the Security Council to exclude their own national companies from the list.¹⁰² The UN Security Council demanded that the Panel terminate its activities in 2003 because the transitional period towards democracy was very fragile in the DRC; naming and shaming endangered this process by provoking local leaders and spoilers involved in the process.¹⁰³

97 Human Rights Watch, *The Curse of Gold. Democratic Republic of Congo. A Report by Human Rights Watch*, Human Rights Watch (2005), available at <http://hrw.org/reports/2005/drc0505/drc0505.pdf> (accessed 15 June, 2008); UN Security Council (16 October 2002), available at <http://daccess-ods.un.org/TMP/2614544.html> (accessed 15 June 2008).

98 J. Haskin, *The Tragic state of Congo. From Decolonization to Dictatorship*, Algora (2005), p. 114.

99 O. Olsson and H. Fors Congdon, ‘Congo: The Prize of Predation’, 41(3) *Journal of Peace Research* (2004): 326.

100 S. Jackson, ‘Making a Killing: Criminality and Coping in the Kivu War Economy’, 93/94 *Review of African Political Economy* (2002): 519.

101 ICG, *supra* note 49, p. 28.

102 F. Grignon, *Economic Agendas in the Congolese Peace Process*, in M. Nest, F. Grignon and K. Emizet (eds), *The Democratic Republic of Congo. Economic Dimensions of War and Peace*, Lynne Rienner (2006).

103 *Ibid.*

162 *Iosif Kovras*

It is worth noting that the response time of the UN Security Council has significantly improved since its failure in the refugee crisis. It seems that, to some extent, previous experiences have become an important way for the UN Secretary General to attract the attention of the Security Council. The Security Council has also learned alternative ways to be efficient, particularly when the member states of the Security Council are reluctant to act, as, for example, the Panel of Experts or the naming and shaming approach. Largely due to the personal proactive involvement of Kofi Annan, in July 2003, the UN Security Council followed the recommendations of the Panel of Experts and imposed an arms embargo on all foreign and Congolese armed groups and militias operating in the eastern provinces of Congo.¹⁰⁴ Then, in 2004, a Sanctions Committee was established to oversee the implementation of the arms embargo; since then, its mandate has been renewed nine times. Finally, MONUC gradually became the world's largest deployed UN mission, with approximately 19,815 military personnel on the ground.¹⁰⁵

Taking all these factors into consideration, should the UN be held accountable for the management of the security situation which resulted from the illegal exploitation of the DRC's natural resources? I argue that it should be seen as morally accountable because *although it was cognisant of the illegal exploitation and the violation of state sovereignty, its response was delayed and minimal.*¹⁰⁶

The UN Reports of the Panel of Experts analysed the mechanisms of economic exploitation; the Panel noted that this was perpetuating regional instability and human suffering. The Second Congolese war began in 1996, but the first official enquiry into the primary cause of the conflict was ordered five years later, denoting the reluctance of the UN Security Council to address this problem. Additionally, the first reports of the Panel in 2001 gave a clear picture of the link between the exploitation of natural resources, the perpetuation of war and human rights abuses. The Security Council could and should have acted more promptly in the early years of the conflict. It is estimated that between 1996 and 2003 (the latter date representing the Security Council's decision to enforce an arms embargo), the number of casualties reached 3.9 million.¹⁰⁷ After 2003, the UN was considerably more proactive.

VI. CONCLUSION

The case study of the Congolese conflict reasserts the primary hypothesis that the UN can be held morally accountable for its actions and omissions. As the case of the DRC illustrates, there are degrees of moral accountability even within bodies of the same international organisation, especially in such a complex and unique

104 UN Security Council, S/2001/35; A. Boucher and V. Hold, *Targeting Spoilers: The Role of the UN Panels of Experts*, Stimson Centre Report No. 64 (Rev. 1), pp. 15–18, available at www.stimson.org/fopo/panels (accessed 15 September 2009).

105 UN S/Res/1856/2008 (22 December 2008).

106 Grignon, *supra* note 102, p. 69.

107 Coghlan et al, *supra* note 9, p. 44.

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organisation as the UN. Even more importantly, assigning responsibilities should be case-specific, since moral enquiries should always consider the context.

This paper's objective was to examine to what extent the UN was morally responsible in the (mis)management of the refugee camps in the immediate aftermath of the Rwandan genocide and the (mis)management of the violation of territorial integrity and state sovereignty of the DRC by neighbouring countries. In brief, the UN had ample information and early warnings from its own agencies (UNHCR) or ad hoc bodies (Panel of Experts). UN agencies assigned a problem should be located within the decision-making structure and involved in the transformation of decisions into appropriate actions. In these two respects, the UN Security Council failed.

Simply stated, collective international bodies have a moral responsibility; hence, their actions or inactions can be praised or blamed. This has several practical implications, such as whether states or international institutions should apologise for historical injustices, be bearers of international criminal responsibility, be subject to sanctions, and so on.¹⁰⁸ It is absurd to talk about the existence of an 'international society' without having expectations of its central representative, namely the UN. Indeed, it was founded on the slogan 'Never Again'. Thus, the critical stance towards the UN adopted in this analysis is intended as a constructive critique; its primary objective is the more efficient functioning of the UN in the future.

108 I am very grateful to Jeremy Watkins for bringing this point to my attention.