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1

*Deterring Mass Atrocity Crimes:
The Cause of Our Era*

Nation-states persist in killing their own citizens. In 2010, Congolese in their millions were still facing death in the cross-fire of continuing civil warfare between the national army and diverse rebel militias, from starvation and disease, and because of violence against women and children. Zimbabwe's ruling Zimbabwe African National Union–Patriotic Front (ZANU-PF) Party and the military and police apparatus of the state were continuing to attack, maim, and kill, in hundreds, members of the Movement for Democratic Change (MDC), their supposed partners in a year-old joint government. The strong arm of the Sudanese state continued to foster inter-ethnic violence in its western (Darfur) and southern reaches, and even in supposedly autonomous South Sudan. Yemenis still kill Yemenis, Thai kill Muslim Thai, Colombians kill Colombians, and throughout the ungoverned space of Somalia clans seek to extirpate each other and Islamist movements seek hegemony through aggression. Innocent civilians and non-combatants are no less at risk than they were in previous years and decades. For them, danger is the default setting.¹

Many of the contemporary intrastate conflicts that embroil the globe may not reach in common parlance the level of mass atrocity crimes. Only recent experiences in the Congo (5? million) and the Sudan (2 million north-south, .3 million in Darfur) fully echo the terrible genocidal losses in Rwanda (.8 million Tutsi) and Cambodia (2 million citizens), Turkey's wiping out of 1.5 million Armenians in 1915–1916, the depredations of Charles Taylor's regime in Liberia and Sierra Leone (1.3 million), Serbian attempts to ethnic cleanse Muslims in Bosnia and Kosovo (8,000 in just one calamitous incident and a total of 200,000 in both territories), the killing of 500,000, mostly Chinese, allegedly communist Indonesians during Sukarno's presidency,

Japan's extirpation of 300,000 Chinese in Nanking, Syria's elimination of 40,000 Sunni Muslims in Hama, the 40,000 "disappearances" in Argentina and Chile, the killing of 150,000 Mayans in Guatemala, or the massive losses during Nazi Germany's horrific Holocaust (6 million Jews).² Nevertheless, it is obvious that rulers or ruling groups in nation-states continue to prey upon inhabitants within their own borders. Globally, the era of ethnic cleansing is not over. Nor are genocide and genocidal-like affronts to human existence confined to twentieth century events, as the Darfurian experience shows and the massacres in the eastern Congo imply. Desperate or despotic rulers continue to kill their fellow countrymen, harm and destroy opponents, target less favored ethnic groups simply because of their ethnicity, attack persons from regions that are unpopular or threatening to the status quo (as in Côte d'Ivoire, Iraq, Syria, Tajikistan, and Uzbekistan), or arouse one kind or class of citizen to attack another for political or nationalistic gain.

These are not new arousals of enmity. Nor do they represent novel approaches to our shared humanity or advances in political and ruler avarice. Even in the pre-Westphalian world, and certainly in post-Westphalian times well before the twentieth century and since, rulers have targeted their enemies by religion, ethnicity, language, and race. Ethnic cleansing is a hoary phenomenon.

Crimes against Humanity Defined

What has and is occurring in the Congo and the Sudan, and what enormities transpired in Cambodia and Rwanda, and in dozens of other places, offends world order and is presumptively wrong according to the United Nations' (UN) Charter, international conventions, and current interpretations of crimes against humanity. But such enormities persist. Despite significant advances since the end of the Cold War, mass atrocity crimes are still not unthinkable; nor has world order created a legal architecture capable of deterring despots and other authoritarian leaders who are among the main perpetrators of contemporary crimes against humanity.

Politicians, diplomats, theologians, and lawyers have long tried to define how wars should be fought. Prohibitions against war-time atrocities can be found in most religious and political traditions. In the modern era the components of international humanitarian law have emerged from the elaborate conclusions of The Hague Conventions of 1899 and 1907, the statute of the Nuremberg Tribunal, the 1948 Genocide Convention, the Geneva Conventions of 1949, the additional protocols to the Geneva Conventions in

1977, the statutes of the International Tribunals for Former Yugoslavia and Rwanda, and, most recently, the Rome Statute of the International Criminal Court (ICC). These critical affirmations of the international regulation of human conduct during war forbid a range of odious behavior: genocide, ethnic cleansing, enumerated other crimes against humanity, and all manner of atrocity crimes, mass or otherwise. But their prohibitions are not necessarily precise, given different interpretive traditions. Collectively, as the contributors to this book attest, they compose an overarching norm that should be sufficient to prevent renewed attacks on civilians or particularized groups. But converting that norm into a series of effective preventive measures is still a work very much in progress, and tentative in its advances.

Genocide and Ethnic Cleansing

Genocide should be the most heinous of war crimes, and the easiest to prevent and prosecute. But whether acts are classified and persecuted as genocidal depends upon a careful parsing of Articles II and III of the 1948 Convention on the Prevention and Punishment of Genocide. Article II describes two elements of the crime of genocide: 1) the *mental element*, meaning the “intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such,” and 2) the *physical element*, including killing members of a group, causing serious bodily or mental harm to members of a group, deliberately inflicting on a group conditions of life calculated to bring about its physical destruction in whole or part, imposing measures intended to prevent births within a group, and forcibly transferring children of one group to another.

A war crime must include both 1 and 2 to be called “genocide.” Article III of the Genocide Convention describes five punishable forms of the crime of genocide: genocide; conspiracy to commit genocide; direct and public incitement to commit genocide; any attempt to commit the act; and complicity in genocidal acts. The Genocide Convention protects national, ethnical, racial, and religious groups, with each group being listed in the Convention. Intent to engage in genocidal acts may be inferred from a pattern of coordinated acts, however difficult to prove. Moreover, intent is construed as being not necessarily the same as motivation. It is the *intent* to commit the acts and the *commission* of the acts that are critical.³

Admittedly, “intent” is difficult to prove. Indeed, the UN’s International Commission of Inquiry on Darfur found it taxing, unlike the lawyers of the Bush administration and the U.S. Congress, to demonstrate “intent” in

Darfur and thus to sustain a probable indictment of genocide. Likewise, if Pol Pot were merely killing fellow Cambodians with little interest in their ancestries, perhaps the horrific killing fields there technically did not breach the Genocide Convention because no specific internal group was being targeted for destruction.

Although the Genocide Convention imposes no right of or duty for nation-states to intervene to end genocidal acts, it does obligate those same nation-states and, by extension, world order (the UN), to take action “to prevent and to suppress acts of genocide.” It is that obligation, Dan Kuwali contends in his chapter, in this volume, that compelled many nation-states to “play down” the scale of the Rwandan killings and to dither over Darfur. Admittedly, he agrees, it can be hard to demonstrate that victims in situations such as in Darfur constitute the cohesive group(s) that the Genocide Convention protects. He urges an evolution of domestic law to expand the terms of the Convention, particularly to include groups defined by political views and economic and social status and not only by ethnicity, etc. “The mass destruction of any human collective . . .” ought to be sufficient, he says.⁴ Because time is always of the essence in cases of unfolding genocide and other mass atrocities, if world order cannot respond effectively and if there is no effective Responsibility to Protect mechanism, Kuwali advocates shifting potential African cases to the African Court of Human and Peoples’ Rights, where a more rapid adjudication of gross human rights violations might be possible.

Ethnic cleansing (as commonly believed to have been perpetrated in Bosnia, Croatia, and Kosovo; in Darfur; and in the Congo) has no accepted legal definition but is widely regarded both as a war crime and a crime against humanity. Large-scale massacres of a group or a classification of individuals constitute ethnic cleansing. So do acts of terror intended to encourage flight, rape when systematically engaged in to alter the ethnic makeup of a group, outright expulsions and even agreed upon population exchanges (as in post-World War I Greece, Turkey, and Bulgaria).⁵ Ethnic cleansing is the elimination of an unwanted group from a society, the use of force to remove people of a certain ethnic or religious group from a section of a territory, and the rendering of an area to be ethnically homogeneous by force or intimidation. Whereas genocide is a legally defined criminal offence, ethnic cleansing is not a self-standing crime, but an expression describing events that might be criminal. Whereas the intent of genocide is to destroy a group, the purpose of ethnic cleansing is to rid an area of a group that is being discriminated against by the state or powerful elements within the state.⁶ In practice,

however, ethnic cleansing efforts may well be or become genocidal or crimes against humanity.

The Rome Statute

The 1998 Rome Statute of the ICC further defines war crimes and crimes against humanity. The Statute says that a “crime against humanity” is any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population: murder; extermination; enslavement; deportation or forcible transfer of a population; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; rape; and sexual slavery. The term “crimes against humanity” has also come to encompass any atrocious war crimes that are committed on a large scale. This is not, however, the original meaning nor the technical one. The term originated in the preamble to the 1907 Hague Convention, which codified the customary law of interstate armed conflict.⁷ This codification was based on existing state practices that derived from those values and principles deemed to constitute the “laws of humanity,” as reflected throughout history in different cultures. Today the ICC, as per the Statute, is interested in war crimes, such as murder, torture, and attacking civilians, “in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.”⁸ Indeed, Kuwali suggests that war crimes must be premeditated and be a result of willful intent, high thresholds when taken together with the requirement to establish their “widespread” and “systematic” nature, as well as the large-scale character of attacks.

As compared to the laws controlling behavior in interstate wars, the protocols of the Rome Statute as they apply strictly to intrastate conflicts are less extensive. They do not cover situations of internal disturbances and tensions such as riots, isolated and sporadic acts of violence, or other acts of a similar limited or sporadic nature. But when protracted armed conflicts take place in the territory of a state between governmental authorities and organized armed groups or between such groups, the provisions of the Statute and the jurisdiction of the ICC fully apply.⁹

At the heart of the concept of war crimes is the idea that an individual can be held responsible for the actions of a country or that nation’s soldiers. Genocide, crimes against humanity, and the mistreatment of civilians or combatants during civil hostilities all fall under the category of war crimes. The body of laws that define war crimes are the Geneva Conventions, a

broader and older area of laws referred to as the Laws and Customs of War, and, in the case of the former Yugoslavia, the statutes of the International Criminal Tribunal in The Hague (ICTY). Article 147 of the Fourth Geneva Convention defines a war crime as “Willful killing, torture or inhuman treatment, including . . . willfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile power, or willfully depriving a protected person of the rights of fair and regular trial . . . [and the] taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.”¹⁰

These legal prohibitions are mostly clear, powerful, and capable theoretically of being employed to prevent or at least reduce state-organized intercommunal carnage. Yet, although these and other key international legal conventions outlaw crimes against humanity; mass atrocity crimes; genocide; and violations of the civil, political, and physical rights of citizens everywhere, few effective mechanisms have been devised to hinder, to prevent, or to halt conflicts within states that are—at the very minimum—atrocity crimes. There are no internationally accepted ways, for example, of enforcing the provisions of the Genocide Convention. The UN Security Council can in theory (but rarely does) authorize preemptive strikes or intervention to halt atrocity crimes under Chapter VII of the UN Charter. But even when it does, it must then wait at the best of times for member states to fund and then supply troops for any intervention—nowadays a laborious and prolonged process with less than invigorating results. So can regional organizations or coalitions of the willing, again in theory, send troops to halt atrocity crimes? The African Union physically intervened in the Comoros and threatened successfully to do so in Guinea, Mauritania, Niger, and Togo, but the larger country cases of Madagascar and Somalia have been and are apparently too tough or insufficiently malleable. The Economic Community of West African States (ECOWAS), led by the Nigerian military, effectively slowed warfare in Liberia and Sierra Leone in the 1990s, but has not otherwise intervened in places such as Côte d’Ivoire. Nor has it considered attempting to act forcibly to moderate the inhumane actions of despotisms such as in Equatorial Guinea.¹¹ The Southern African Development Community (SADC), led by South Africa, was able to enter tiny Lesotho, but SADC has refused in this century to intervene in Zimbabwe’s mayhem even though Zimbabwe is, at the very least, in breach of rulings on land tenure cases by SADC’s own regional court.

Even when it may be obvious to credible observers, local and distant, there are no internationally conclusive agreements on what constitutes an atrocity crime or a breach of international law. When, exactly, are national governments unable or unwilling to protect their citizens? That is, President Ian Khama of Botswana may declare (as he has on several occasions) that President Robert Mugabe's thugs are breaching the human rights of Zimbabwe's citizens in impermissible ways without being able to trigger even a sub-regional agreement that Mugabe's legions have been behaving illegally and need to be stopped.¹² Khama could point to international statutes and to evidence that Zimbabwean human rights organizations have compiled, or to the reports of international bodies such as Amnesty International. He could demonstrate the efficacy of his assertions. But in terms of removing the yoke of despotism from the heads of the people of Zimbabwe, nothing has occurred or will occur.

Intrinsic Sovereignty

Zimbabwe, and other contemporary tyrannies, is, except in very special cases, protected from UN or regional intervention by the Westphalian notion of intrinsic sovereignty. The sanctity of a nation-state's ability to do nearly whatever it wants within its own borders is generally well-accepted internationally.¹³ Indeed, the UN Security Council is often powerless to mobilize any kind of intervening action, sometimes even a verbal one, against countries that harm their own citizens unless the violations of international norms are wildly egregious and (usually) when the state in question (like Guinea) is distinctly small and powerless. If Russia's or China's vote is required in the Security Council to sanction a possible miscreant—a gross violator of UN conventions, say—Russia and China worry about setting precedents. They fear that someday world order will overlook sovereignty and attempt to chasten Russia or China for breaches of international law.

When world order was a somewhat simpler proposition than it is in the twenty-first century—when the tentacles of empire stretched across the globe and public consciences and public opinion could be aroused in powerful capitals by supposed outrages in distant regions—sovereignty was indeed often overlooked or ignored. As Don Hubert reminds us, in his chapter, when the UN Charter was signed in 1945 intervention by one state in the affairs of another, whether for humanitarian reasons or not (and except in self-defense), was deemed illegal except in extraordinary circumstances under Article II. Despite breaches of this prohibition against intervention

by India in East Pakistan (Bangladesh) in 1971, by Vietnam in Cambodia in 1978, and by Tanzania in Uganda in 1979, there were no repercussions and few complaints. In each case the humanitarian justification for the intervention was well understood.

Those “successes” on behalf of world order, but not at the initiative of world order, were followed by the massacres at Srebrenica in Bosnia and the genocide in Rwanda, both testifying officially and dramatically to the failure of world order to respond in a timely and decisive manner to threats to peace within a territory. The UN then decided that it had an obligation to act to protect civilians, which superseded existing principles of peacekeeping and non-interference. There could be “no impartiality in the face of a campaign to exterminate part of a population.”¹⁴

The International Criminal Court and the Tribunals

The Rome Statute of 1998 was a response to the events in Rwanda and Serbia, and an attempt to create a judicial mechanism that would be more enduring and more global in its jurisdiction than the two special *ad hoc* tribunals. As Richard J. Goldstone, distinguished jurist and the chief prosecutor for the Yugoslav special court, writes in his chapter in this volume, when the ICC was officially constituted in 2002 it transformed for all time the way in which perpetrators of war and atrocity crimes would be regarded by world order. (As of early 2010, only 110 nation-states have ratified the Statute and thus put themselves under the ICC.) Foremost, it ended impunity (hitherto almost guaranteed for most post-Nuremberg and post-Tokyo leaders) and provided a broad accountability globally. The ICC could now at least indict egregious offenders, such as Sudanese President Omar al-Bashir, even if it had no policing arm capable of bringing him and others to The Hague, where the ICC sits. Yet it successfully indicted Congolese miscreants and induced several to place themselves before the court. Its ability to indict has also put presumed war criminals such as President Mugabe on notice that they, too, could be indicted. Albeit the ICC has as of late June 2010 jailed no one after a successful prosecution, the court and prosecutorial team’s mere existence has, as Goldstone suggests, significantly curtailed the prospect of impunity.

The ICC’s presence has also enabled victims of atrocity crimes to obtain implicit acknowledgment of their suffering. Truth and Reconciliation commissions (nearly fifty have met or are meeting in a variety of countries), if they are run well and their proceedings are open, provide an even more pronounced capability to acknowledge the suffering of putative victims. But, if

its judgments are forceful and compassionate, the reach and moral authority of a global tribunal, such as the ICC, permits victims even more conclusive forms of psychological redress. “The common factor,” as Goldstone writes, “. . . is to ensure that the truth be exposed for the benefit of the victims and to provide a basis for peace in the future.”¹⁵

The establishment of the ICC can bring fabricated denials of the very existence of war crimes to a halt. Goldstone suggests that the testimony of innumerable witnesses before the Yugoslav tribunal banished the notion forever that war crimes had not proliferated in Bosnia, Croatia, and Kosovo between 1991 and 1994. The Arusha tribunal for Rwanda did the same for the history of genocide in that country. The piling up of details of complicity and atrocity ended forever claims that no genocide had been perpetrated.

“When law is not used,” Goldstone declares, “it stagnates and does not develop.”¹⁶ He says that positive international humanitarian legal principles previously existed, as set out in The Hague and Geneva Conventions. However, those strictures were hardly ever applied before the Yugoslav and Rwandan courts were created and the Rome Statute drafted. The ICC now has the opportunity and the challenge of strengthening and deepening international law through its identification of atrocity crimes and its effective prosecution of war criminals. The Rome Statute has usefully eased prosecutorial limits by refusing to link a war crime necessarily to an “armed conflict.” Severe deprivation of “physical liberty” becomes criminal, too. However, such crimes must be part of widespread and systematic attacks against civilians; further, the Rome Statute requires that “knowledge of the attack” must be present. More broadly, in the special realm of abusive gender crimes, such as rape, sexual assault, and forced prostitution, the ICC can expand international jurisprudence in this area even beyond the advances that the special tribunals have made. The Rome Statute, after all, has declared a host of gender offences, even forced pregnancy, one of the “crimes against humanity.”

The Rome Statute and the functioning of the ICC, together with the acts of the special tribunals and the new “mixed” tribunals for Sierra Leone, Cambodia, Timor Leste, and Lebanon, are intended to deter renewed atrocity crimes globally. Neither Goldstone nor David M. Crane, chief prosecutor of the Sierra Leonean court and the author of another chapter in this book, are persuaded that the ICC and the special courts have as yet necessarily prevented atrocity crimes. Proving the negative is almost impossible.¹⁷ Nevertheless, Goldstone suggests that the loss of impunity and the greater vigilance that has now been created “must” deter the commission of at least some crimes. He detects a moderation of the language of tyrants about prospective

war crimes, and attributes that alteration in the tenor of abuse to the new jurisprudential possibilities posed by the ICC's oversight. That may be so, but Mugabe's rhetoric and behavior has not altered. Nor has that of Presidents Muammar Qaddafi of Libya or Teodoro Obiang Nguema of Equatorial Guinea. Bashir continues as before, as well, albeit with his travels curtailed.

The Sierra Leonean Special Court was created in 2002 not by the UN, as were the Yugoslav and Rwandan special tribunals, but by a treaty agreement between the UN Security Council and the Government of Sierra Leone. It was the world's first hybrid international war crimes accountability mechanism, with jurisdiction over atrocities that were committed against Sierra Leoneans during the country's recently concluded ten-year civil war and with mixed local and international judges and prosecutors. Crane was responsible for prosecuting those who were most culpable for crimes against humanity, i.e., those who had attacked civilians in a widespread and systematic manner and knowingly understood the broader context in which their acts were committed. Systematic meant that the crime occurred as part of a "preconceived" plan or policy.

Before he could prosecute effectively, even in the aftermath of the clear carnage of the Sierra Leonean civil war, Crane believed that he could best discharge his duties if he took testimony informally on the ground from victims and witnesses. He toured towns and villages for four months, gathering a deep sense of Sierra Leone's trauma. Victims, in turn, obtained a sense that they would not be forgotten. Their suffering was acknowledged, even before the tribunal heard cases. Crane came away from his immersion in the countryside conversations with an appreciation of the magnitude of the overall atrocity and the anguish of the survivors. He touched, smelled, and tasted it all. "When drafting indictments, I only had to close my eyes to relive the perpetration of the crimes . . .," he writes.¹⁸

Crane avers that prosecutors in situations similar to Sierra Leone must understand the political and diplomatic context in which their mixed courts operate. Whom to indict was a key question in Sierra Leone since not all offenders could be brought before a court, which had funding for only a few years. Thus, Crane chose to indict former President Charles Taylor of Liberia, who then hunkered down in eastern Nigeria, for his grand part in funding and sponsoring the Sierra Leonean mayhem, and chose not to indict similarly Presidents Blasé Compaore of Burkina Faso and Muammar Qaddafi of Libya, whom Crane believed were equally culpable. He also brought the senior leaders of the warring factions to book. In early 2010, the Special Court largely has ended its work after a number of successful prosecutions

and imprisonments. But the trial of Taylor, moved to The Hague for security reasons, continues with a spirited battle between the prosecutors and the defense. Again, whether his trial and the imprisonments in Sierra Leone have effectively prevented future crimes may never be known. But, at the very least, the suffering of victims and the suffering of one country has been acknowledged.

The Responsibility to Protect Norm

Indictments and prosecutions serve a critical purpose in the battle to curb war crimes and limit the proliferation of atrocity crimes. But there are not enough courts, judges, prosecutors, and funds to cope with every conceivable atrocity amid civil war. Furthermore, courts act after the fact. There has long been a need to create an effective method of preventing unfolding genocides and ethnic cleansing operations in their early stages, or at least ending them before massive loss of life has occurred. A Canadian-sponsored international commission, which Hubert helped to staff, set in motion, in 2001, a broad international consideration of how best to keep civilian populations safe within individual nation-states, i.e., safe from their governments and safe within civil wars. Gareth Evans, former foreign minister of Australia; Lloyd Axworthy, the serving foreign minister of Canada; and several other members of the commission successfully proposed that world order and each nation-state had a “responsibility to protect” its citizens from grievous harm.¹⁹ Their physical safety was a charge that overcame the doctrines of sovereignty. That responsibility was greater than and more appropriate given the circumstances of genocide and repeated massacres than an older, but little used and not generally accepted, right of “humanitarian intervention.” The commission contemplated, indeed advocated, military intervention in aid of the “responsibility to protect,” but only when and if mass killings were actual or imminent. Violence within a state that shocks “the conscience of mankind” could well trigger military intervention. (Kuwali calls this provision an “extremely high bar.”) More precisely, the commission said that large-scale loss of life, whether or not with genocidal intent, or large-scale ethnic cleansing provided “just cause” for outside military action. How large “large-scale” had to be was not defined.²⁰

The deliberations of the commission built, in part, on a fresh wave of rethinking about the sovereignty obstacle. Francis Deng and Sadako Ogata had already articulated that sovereignty carried responsibility not only to fend off potential outside interferers but also to have a positive responsibility

for the welfare of all of a nation-state's citizens—not just for a clan, an ethnic entity, or some other particular group.²¹ Then UN Secretary-General Kofi Annan had also addressed this problem, attempting in 1999 to redefine states as being entities responsible for serving their peoples “and not vice versa.” He emphasized a “consciousness of human rights” that strengthened the rights of individuals within states. The aim of the UN Charter, he reminded UN members, was to protect individual human beings, “not to protect those who abuse them.”²²

From the point of view of the member states, particularly some of the key members of the Security Council, this attempt to reinterpret sovereignty seemed more pious than serious. Sovereignty—the inalienable, time-tested “right” of nation-states to control everything and everyone within national boundaries without outside “interference”—remained a bulwark against possibly well-meaning but conceivably sanctimonious busybodies concerned more with the rights of individuals (as Annan) than with the prerogatives of tyrannical, authoritarian, and quasi-democratic regimes. The power to govern well or badly within the confines of a state in practice has continued to trump the protection of individuals or groups at risk within the state.

This sadly is so despite the UN World Summit's acceptance in 2005 of the norm of “responsibility to protect” (R2P). This surprising embrace of the norm proposed by the commission in 2001 came more because of an avalanche of deaths in the Congo and Darfur than because of any norm cascade.²³ The R2P norm, as agreed upon in the 2005 World Summit Outcome Document, enshrines the obligation of world order and individual states to protect groups in harm's way within hitherto mostly sacrosanct national borders. That is, it impels world order first to do everything possible to prevent nation-states from targeting populations, not specifically religious, linguistic, racial, and ethnic communities, for attack; to deter such attacks; and to act decisively to rescue those who are attacked.²⁴ The norm, as ratified in 2005, imposes on “each state” the responsibility to protect its own populations specifically (and only) from genocide, war crimes, ethnic cleansing, and crimes against humanity (without defining those well-established principles of international law). This responsibility further entails the prevention of such crimes, “including their incitement.” The heads of state and government, meeting in 2005, authorized the establishment of an early warning capability for preventing atrocities and committed themselves to helping states to build capacity to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. In a penultimate phrase, they also promised to assist those under stress before crises and conflicts break out.²⁵

Evans argues that the problems in the world that R2P was invented to solve are narrowly focused. In attempting to avert future Bosnias, Rwandas, and Cambodias, Evans suggests that R2P is not about general conflict or dampening human rights violations. Nor is it meant to address human security issues writ large. It is “not about solving all the world’s problems.” The special cases that merit R2P attention, he says, are no more than ten or fifteen in number at any one time. They appear in the countries where mass atrocity crimes are “clearly being committed, here and now; those where such crimes seem to be . . . about to be committed . . . and also . . . where there seems a serious risk that such crimes will be committed in the foreseeable future unless effective preventive action is taken. . . .”²⁶

As Hubert points out, the UN’s 2005 text was purposely vague. It did not give priority to the effective protection of civilian populations as opposed to the right of non-intervention. The precise obligations of the UN were undefined. The thresholds for action were left hanging, especially because ethnic cleansing had and still has no legal definition. “No guidelines are set out to govern the potential use of force” in situations that might meet the presumed thresholds.²⁷ Naturally, too, the text was silent on possible remedies if and when a permanent member vetoed a Security Council decision to intervene to protect human life. Hubert reminds us that intense lobbying was necessary even to obtain the limited language agreed upon in paragraphs 138 and 139 in 2005. Waxman contends, however, that although no new legal obligations flowed from the 2005 Outcome Document, it shaped “the normative terrain of intervention” by powerfully rejecting the argument that sovereignty shielded leaders and regimes from international concern. For the UN and world order, the two paragraphs in the Outcome Document emphasized “a responsibility to act” and a “momentum for action.”²⁸

In 2009, as three important chapters in this book delineate, UN Secretary-General Ban Ki-moon undertook to make operational the 2005 articulation of international responsibility to protect norms. That is, UN Secretary-General Ban Ki-moon committed his office, and a special preparatory task force led and staffed by one of this book’s contributors, to help the Assembly and the UN Secretariat to fulfill the 2005 mandate. The hope of many proponents was that the member states would agree to set out under what circumstances and how the UN could take note of a pending crisis, seek to prevent and then to remediate it, and—if necessary—mobilize the UN under Chapters VI, VII, and VIII to intervene to protect peoples at risk. The three previously mentioned chapters in this book suggest exactly why the original desire to extend the principles of the norm into actions capable of being

taken by the UN and member states individually and collectively came to naught. What transpired instead of modalities that could be acted upon in today's Congo and elsewhere was a coming together of different national actors wishing to make the norms work with those concerned at a potential diminution of sovereign rights. Sufficient consensus was achieved between those concerned to preserve sovereignty and those more concerned to protect persons to enable the norm to survive in a hortatory rather than in an operational state for a few years more.

Indeed, Edward C. Luck, the UN secretary-general's special adviser for R2P, suggests in his chapter in this book that R2P may never achieve the status of a "binding" legal norm.²⁹ But that deficiency may not prevent the emerging norm from being effective in curbing the behavior of states and armed groups. R2P's "relevance and power derive from its capacity to help to spur political will for implementing widely accepted and long codified international standards."³⁰ From Luck's optimistic perspective, R2P is or will shortly become the standard by which the behavior of states and non-state actors is judged. Thus, Luck believes, even if R2P never becomes a legal norm, it will condition the conduct of states, especially those nations that prey upon their own peoples. Implicitly, Luck argues that R2P is already a widely accepted informal norm, thus having achieved at least some of the goals of its creators. The Stanley Foundation's assessment of R2P progress in early 2010 was equally affirmative: "Support for the concept remains strong."³¹ Claire Applegarth and Andrew Block, in their chapter in this volume, somewhat disagree, calling R2P "an unfulfilled promise."³²

As his chapter hints, Luck and Secretary-General Ban Ki-Moon worked diligently and in a disciplined, constrained, and consistent manner throughout 2008 and 2009 to prevent the emerging norm and its implications from being stretched to cover a broad, rather than a narrow, range of global issues. A narrow application was better, and more productive in strengthening a political acceptance for the norm among members suspicious of its possible broad reach. Evans told the UN in 2009 that "if we are to be really serious about ending mass atrocity crimes once and for all" intervention must be an option. But such intervention need not imply the dispatch of a military force. It could mean diplomatic persuasion, high-level mediation, threats of international prosecution, arms embargoes, targeted sanctions, and the jamming of hate radio stations.³³ In that manner the norm was usefully employed by former Secretary-General Annan and others in Kenya, where thousands were killed in post-electoral combat; influential jaw-boning and intense mediation substituted in that case for outside military intervention.

But Evans and others were pleased that the R2P norm was not invoked in response to the nevertheless callous actions of the Burmese military junta in the wake of Cyclone Nargis' destruction of millions of homes and lives in 2008. Luck (and Evans) prefer a narrow construction of the norm for fear that a broader application would make the norm unusable and incoherent, and its application haphazard.

The use of military might to prevent nation-states from harming their own populations is widely opposed by some members of the General Assembly. Luck and the proponents of a robust R2P within the permanent five members (P5) of the Security Council, as Applegarth and Block's chapter explains, failed in the 2009 discussions at the UN to overcome the widespread worry that R2P contingencies would automatically occasion coercive measures from outside, strong states against weak states. To these skeptics, "humanitarian intervention" was anathema because it supposedly betokened renewed imperialism and major power infringement on the prerogatives of weak states.

Burma, Cuba, Nicaragua, North Korea, the Sudan, Venezuela, and Zimbabwe led the charge against R2P. Russia and China were largely supportive of the status quo, and were not stridently opposed to a more robust R2P initiative. India was a little more favorable than it had been in the 2005 debates, as were Vietnam and Egypt. A number of other Southeast Asian nation-states expressed themselves as hesitant, if less than supportive. Many of the strongest supporters of R2P in 2009, as opposed to in 2005, were African nations: Benin, Botswana, Cameroon, the Gambia, Ghana, Kenya, Lesotho, Mali, Nigeria, South Africa (a recent convert), Rwanda, Sierra Leone, Swaziland, and Tanzania. Most members of the Organization of American States, including Canada and, finally, the United States, were favorable. So were members of the European Union, Australia, New Zealand, Japan, Jordan, Morocco, and Qatar. Applegarth and Block reckon that ninety-four nations backed R2P positively in the 2009 General Assembly debate. There was a possible momentum; certainly those in favor were more numerous than those implacably opposed. Nevertheless, Applegarth and Block argue that it was less the antagonism to R2P from members of the Non-Aligned Movement and the G-77 that prevented the implementation of a R2P apparatus in 2009 than it was "the disinterest and disorganization of the norm's supporters."³⁴ Friends and backers of R2P could have done much more.

What is thus far missing, even among the champions of R2P, are national offices dedicated to advancing R2P. Too many country capitals regard R2P as primarily a UN issue in New York. There is little preparation within nations

for the next atrocity-provoked crisis. There is little mainstreaming of R2P into home country institutions. Indeed, there is abundant lip service to the moral norm of R2P, but little advance planning or effective political will to ready even the norm's supporters for future crises and possible preventive actions. At the UN, a joint office for R2P and genocide prevention is being contemplated, but had not been created in early 2010. Secretary-General Ban Ki-moon has called for a system-wide UN effort with predictive and preventive abilities in mind, but the embrace of R2P, even in the Secretariat of the UN, remains tentative.

Evans, Luck, and other articulators of the R2P concept have always preferred that any of its remedies be pursued within the multilateral framework of the Security Council or regional organizations, and in accordance with the provisions of the UN Charter, in a timely and decisive manner "should peaceful means be inadequate and national authorities . . . manifestly [fail] to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity."³⁵ In practice, R2P would mean (and means) a heightened awareness of injurious state actions that could lead to war crimes, ethnic cleansing, and so on; an attempt on the part of UN officials to call perpetrators to account; an investigation by or on behalf of the Security Council; a declaration of findings leading to mediation, high-level personal intervention, and the possibility of sanctions. Luck also points out that the sense of R2P could encompass peacekeeping deployments and Chapter VII enforcement missions to help nation-states being attacked by insurgents committing R2P crimes. If these multiple preventive and responsive options under R2P fail to halt a nation-state's attacks on its own populations, and other good faith initiatives are exhausted, then R2P could lead to interference by the forces of world order, as anticipated in the 2001 Commission report. But, to date, we have no illustrative examples of such actions and many political big power battles to win within the Security Council before there could be clear-sighted and robust responses to an unfolding tragedy somewhere within the confines of a distant nation-state.

The Military Option

Sarah Sewall, in her contribution to this volume, is less timid about sending troops to deter ongoing mass atrocity crimes. She argues that "the United States and the international community should proactively respond to the outbreak of widespread civilian massacres with military force as well as other tools of national and international power."³⁶ By focusing on non-militant

or non-forceful methods of preventing mayhem, world order risks contributing to “operational paralysis.” A tougher initial response may have more preventive heft than the modalities now presumed under R2P. Sewall indeed fears that “in an effort to make R2P sound benign” and acceptable to anxious members, “great powers are remaining silent about armed intervention.”³⁷

“Prevention *alone*,” Sewall avers, “is an ineffective strategy.”³⁸ She argues sensibly that only strong, early interference can effectively prevent the escalation of state-directed violence against disadvantaged citizens. Acting early is obviously better than acting after ethnic cleansing has been completed. The costs of acting too late, or of not acting at all, are always higher than the costs of acting—as the 2005 Outcome Document says—in a timely and decisive manner.

Sewall is also impatient with multilateralism. Under its natural umbrella, state sovereignty almost always vetoes the necessary humanitarian response. Thus, only a few nations have land and air capabilities sufficient to mount a rapid response to atrocities. Had the United States intervened robustly in Rwanda in 1994 (the UN was incapable of acting speedily), the lives of many hundreds of thousands would have been spared. An effective prevention strategy must therefore include a sound military option even though no nation, not even the United States, is presently ready institutionally (nor is the UN) rapidly to undertake on a large enough scale (thinking Rwanda or the Sudan) what a small force of British paratroopers did in Sierra Leone in 2000 or the larger ECOWAS forces accomplished in Liberia in 1990 and Sierra Leone in 1997. Sewall notes the lack of preparedness within the U.S. armed forces for the types of intervention that would be required to staunch on-going mass atrocities. The prevention of atrocities is not the same as counter-insurgency warfare.

Obtaining Early Warning Information

When and if the responsibility to protect norm becomes a robust instrument of world order, with the UN Security Council as the arbiter and wielder of the instrument, world order will require early warning capabilities. It will want an alert system to trigger first responders. It will also want a mechanism or a series of interlocking modalities capable of alarming the forces of world order about the dangers to citizens within a nation-state, and to the reality that those citizens are suddenly (or over a longer term) at risk, and in need of protection against war crimes, atrocities, ethnic cleansing, and genocide. Beyond raising the alarm, which is relatively easy, world order also needs to

ensure a response. News of the Cambodian killings was not obscure for too long, the massacres in Darfur came to the attention of the world with relative speed, and the depredations in the eastern Congo are largely reported in real time. Before the Rwandan genocide erupted there was ample warning, but reasonably reliable premonitions and information went unheeded.³⁹ Three chapters in this book offer innovative approaches to the systematic gathering of intelligence about severe threats to the persons and groups needing protection within targeted countries.

Drawing on social network theory, Sarah E. Kreps suggests that new technological innovations can provide critical and timely information about impending human crises. The ubiquity of mobile phones, and the ease of text messaging, has already in very different contexts amplified and expanded protests against authoritarian actions. Text messaging can alert insiders and outsiders to harmful regime actions, as in Teheran, Manila, Beijing and many other tense cities. Even in beleaguered Somalia, text messaging provides warnings and mobilizes dissenters. In Kenya in 2008, it probably contributed to waves of destruction and killings, and, later, to calming messages of peace. Kreps recognizes as well that mobile telephone technology, including built-in cameras, allows citizen observers to become citizen journalists capable of reporting on violent incidents (rapes, riots, and forced displacements) and incipient war crimes. As Jennifer Leaning's chapter also elaborates, these decentralized and possibly uncoordinated outpourings can be organized usefully, graphed, and mapped to provide concrete information in real time that is more valuable and greater than the scattered contents themselves. The mobile phone has already demonstrated its vast capability as a vital early warning tool.⁴⁰

Overhead surveillance has long provided another method of appreciating and interpreting unfolding events on the ground. As Leaning reminds us, old-fashioned aerial photography was helpful in accumulating intelligence about the location and extent of janjaweed depredations in Darfur. So was satellite imagery showing destroyed villages and population displacements. Now the availability in many circumstances of unmanned aerial vehicles, such as drones, permits more intensive observation and photography from the air; today's drones can hover for hours and can use infrared, as well as other forms of photographic technology, video, and radar, to provide almost instantaneous reporting of suspicious behavior and dangerous events. Fortunately, unmanned aircraft are less costly to build and operate than many larger fixed-wing aircraft. They can also be down-sized to maximize their utility and reduce their intrusiveness. Mechanical butterflies may soon sweep

in and out of target zones to offer critical observations capable of alerting the UN and interested governments of unfolding threats to peace and order.

Satellites, high-orbit, low-orbit, and high- and low-resolution, have well-demonstrated their value—at least in clear weather and absent heavy tree cover on the ground—as key overhead surveillance tools. Various kinds of commercial satellites, Kreps reminds us, are already being used to document the scale and spread of human rights abuses. By comparing before and after images—especially the erasure of villages, for example, and the burning of crops—the possibility of ethnic cleansing can be noticed and preventive action taken. Satellites and infrared sensors can compare light signatures (signifying power usages) before and after to detect the onset of ethnic cleansing or other potential war crimes. A normalized vegetation index can be employed through overhead means to show dramatic deforestation and other potential indicators of harm to target populations. The mass displacement of Tutsi during the Rwandan genocide would have been discernible by abrupt alterations in vegetation cover.

Employing these many different technologies conveys visual clues about events on the ground that might merit close attention, possibly even official preventive efforts. They assist, especially if statistical methods and other sophisticated aggregational approaches are utilized to obtain clues sufficient to anticipate the onset of mass atrocities and conceivably less catastrophic war crimes. But the knowledge that incipient killing fields and potential atrocity crime scenes are being watched from on high may also have even greater value by inhibiting assaults by despots and their associates. If they know that they are being watched and know that anything obtained by surveillance can be supplied to the ICC, tyrants may stay the worst of their mailed fists. Even closed junta-run societies such as Burma may not want to be embarrassed by satellite-collected data or other visual proof of atrocities. All of these technologies are to some extent intrusive and, implicitly, conceivable breaches of sovereignty. But they are too valuable in the battle against crimes against humanity to discard.

Information obtained in these and more traditional ways permits knowledgeable experts to discern patterns and to notice deviations from pre-existing patterns. As Leaning reminds us, John Snow ended a cholera epidemic in nineteenth century Britain when he mapped places of death in London and thus zeroed-in on the likely fount of contamination. In the 1990s, William Bratton and John Timoney employed similar techniques and more powerful probabilistic tools to curb crime in New York City.⁴¹ Now we can use evidence of unusual population movements and the removal of

villages, the proliferation of animal carcasses, or some other equally indicative repetitive pattern, to arouse appropriate concern and early warning. Realities on the ground only become important when they are noticed, and their out-of-the-ordinary patterning is revealed.

Anticipating where and when the next episode of ethnic cleansing will occur, and suggesting which countries might harbor the potential for, or which unfolding situations might lead to, genocide demands close attention to unfolding patterns, satellite images, and so on by dedicated teams at the UN and regional bodies, officials from the P5, and by well-respected and dedicated international NGOs such as the International Crisis Group, International Alert, Amnesty International, and Human Rights Watch. If and when a R2P mission is fully incorporated in the UN system, the collection and examination of much of this early warning information can be overseen there, and alarms issued. But, even when there is such a R2P office, much of the non- or at least low-tech indications of potential atrocity crimes will come from NGOs and civil society personnel on the ground in targeted countries, from regular journalists as well as citizen journalists, from foreign diplomats, and from a close examination of day-to-day occurrences on the ground.

Frank Chalk's chapter further argues that the monitoring of local mass media can positively "predict" the coming of mass atrocities. Arguing from classic studies of propaganda in Nazi Germany, Chalk reminds us that Joseph Goebbels consciously prepared Germans for policy departures through regular news releases and commentaries. If Europeans or Americans had paid attention to German domestic radio broadcasts, Hitler's intention to annihilate Jews would have been obvious. In the case of Rwanda, the messages of hate for Tutsi that Radio Television Libre des Mille Collines (RTLM) disseminated, especially in Kinyarwanda (and not necessarily in French), were tellingly indicative of the plans that the ruling Hutu and their allies had prepared. RTLM's messages "facilitated the genocide, contributed to the authoritativeness of the leaders' orders to kill, and gave important early clues as to the intentions and thinking within the paranoid world of the genocidaires."⁴² Indeed, Canadian General Roméo Dallaire, head of a UN peacekeeping force in Kigali, begged to jam RTLM before the genocide began but was refused permission. At the time, Washington and London may have been less aware than necessary of the messages of hate spewing out of the Hutu-sponsored RTLM; they were inconsistently monitoring broadcasts in Kinyarwanda, and mostly listening to RTLM programs in French.

Most developing world citizens obtain their news and information from radio, and most developing world countries control their main radio outlets. Media monitoring of countries at risk, or tense countries, should be taken seriously. Chalk argues that attention should be paid particularly to obvious hate propaganda; omissions of key matters from news reports; intensifying governmental dictating of broadcast and news content; and reports about persons eliminated on the basis of ethnicity, race, religion, and political affiliation. Each of these factors foreshadowed the coming of atrocities in the Soviet Union, Nazi Germany, Sukarno's Indonesia, East Pakistan, Burundi, Cambodia, Rwanda, and Côte d'Ivoire. Unfortunately, as Chalk says, there is limited capacity today in the P5 and elsewhere for such a monitoring effort. Cost-cutting efforts have largely destroyed the once-vaunted broadcast monitoring capabilities of the United States and Britain, and newer techniques have not replaced them.

Conclusion

It should be evident from this and successive chapters in this book that the work of preventing mass atrocity crimes is very much in embryo. The norm of R2P, as much in the general atmosphere as it might be, has not yet achieved anything similar to a tipping point of acceptance or a cascade toward universal applicability. Too many nation-states still embrace sovereignty instead of protection for innocent civilians. Too many others are indifferent or hesitant. Hence, ethnic, religious, linguistic, and political groups remain as much at risk as they have been for decades. The force of international law against all manner of atrocity crimes applies, as the Rome Statute mandates, but the ICC has not yet extended its reach far enough or decisively enough to stay the hand of those despots or warlords in selected countries who continue to abuse their own peoples and perpetrate what clearly are war crimes—but are crimes difficult to indict or prosecute. Freshly sensitized to the recurrence of mass atrocities, and with ample early warning of such crimes against humanity available through older means or new technologies, the citizens of the world and the forces of world order will notice the next wave of ethnic cleansing, the next incipient genocide, and the commission of war crimes. But will world order be able to act in a timely and robust manner? That is the key question of our era. Easy answers are not forthcoming. The peoples of the globe remain very much at risk.

Notes

1. The writing of this chapter greatly benefited from the constructive comments of David M. Crane, Richard J. Goldstone, Dan Kuwali, Jennifer Leaning, and Edward C. Luck.

2. These numbers are derived from diverse standard sources and accord well with received wisdom except in the case of Sierra Leone, where the number comes from David M. Crane, in his chapter in this book. For the broader but critical question of what such numbers mean, and how they are amassed, see the important explanations and debate in Michael Spagat, Andrew Mack, Tara Cooper, and Joakim Kreutz, "Estimating War Deaths: An Arena of Contestation," *Journal of Conflict Resolution*, LIII (2009), 934–950; Ziad Obermeyer, Christopher J. L. Murray, and Emmanuela Gakidou, "Fifty Years of Violent War Deaths from Vietnam to Bosnia: Analysis of Data from the World Health Survey Programme," *British Medical Journal* (2008), available at www.bmj.com/cgi/content/full/bmj.a137 (accessed 25 February 2010); Bethany Lacina, Nils Petter Gleditsch, and Bruce Russett, "The Declining Risk of Death in Battle," *International Studies Quarterly*, I (2006), 673–680. The first article questions the number of estimated deaths in the Congo. See also E. Cameron, Michael Spagat, and Madelyn Hicks, "Tracking Civilian Casualties in Combat Zones using Civilian Battle Damage Assessment Ratios," *British Army Review*, CXLVII (2009), 87–93. For the number of civil war deaths in Sierra Leone and Liberia, Julia Mensah's thorough literature search produced a series of reputable estimates for Sierra Leone ranging from 120,000 to 500,000. For Liberia, she found much smaller numbers.

3. See www.preventgenocide.org/genocide/officialtext (accessed 15 February 2010).

4. Dan Kuwali, "Old Crimes, New Paradigms: Preventing Mass Atrocity Crimes," chapter 2 in this volume, 37.

5. See Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All* (Washington, D.C., 2008), 13.

6. See Robert M. Hayden, "Schindler's Fate: Genocide, Ethnic Cleansing, and Population Transfers," *Slavic Review*, LV (1996), 731–734.

7. See M. Cherif Bassiouni, "Crimes against Humanity," Crimes of War Guide, available at www.crimesofwar.org/ (accessed 15 February 2010).

8. See www.aegitrust.org/war-crimes (accessed 15 February 2010).

9. See www.aegitrust.org/War-crimes/what-are-war-crimes.html (accessed 15 February 2010).

10. See <http://news.bbc.co.uk/2/hi/europe/1420133.stm> (accessed 15 February 2010).

11. For Equatorial Guinea, see John R. Heilbrunn, "Equatorial Guinea and Togo: What Price Repression?" in Robert I. Rotberg (ed.), *Worst of the Worst: Dealing with Repressive and Rogue Nations* (Washington, D.C., 2007), 223–249.

12. Seretse Ian Khama, "State of the Nation Address," *Tautona Times* (13 November 2009), 27.

13. See Stephen D. Krasner, *Power, the State, and Sovereignty: Essays on International Relations* (New York, 2009), pp. 179–210; Hurst Hannum, *Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights* (Philadelphia, 1990), 14–26; Edward C. Luck, "Sovereignty, Choice, and the Responsibility to Protect," *Global Responsibility to Protect*, I (2009), 10–21.

14. United Nations, *The Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda*, UN Doc. S/1999/1257 (New York, 1999), 50.

15. Richard J. Goldstone, "The Role of the International Criminal Court," chapter 3 in this volume, 60.

16. *Ibid.*, 62.

17. Admittedly, innovative researchers could interview a succession of presumed perpetrators to discover whether their future actions would now be inhibited by the putative "long-arm" of the ICC.

18. David M. Crane, "Understanding Crimes against Humanity in West Africa: Giving the People What They Want," chapter 4 in this volume, 77.

19. For Evans's account of the commission and the development of the R2P concept, see his *Responsibility to Protect*, 38–48.

20. The Report of the International Commission on Intervention and State Sovereignty was published as *The Responsibility to Protect* (Ottawa, 2001), 31–32.

21. Deng, *Sovereignty as Responsibility: Conflict Management in Africa* (Washington, D.C., 1996). See also the commentary in Evans, *Responsibility to Protect*, 36.

22. Kofi Annan, "Two Concepts of Sovereignty," address to the 54th Session of the General Assembly, New York, New York, 18 September 1999.

23. For the cascade concept, see Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization*, LII (1998), 887–917.

24. For the history and evolution of the Responsibility to Protect norm, see the authoritative account of Evans, one of its inventors and first articulators: Evans, *Responsibility to Protect*, 38–54. See also the chapter by Edward C. Luck, "Building a Norm: The Responsibility to Protect Experience," chapter 6 in this volume, p. 112.

25. For the 2005 text, see Matthew C. Waxman, *Intervention to Stop Genocide and Mass Atrocities* (New York, 2009), 10.

26. Gareth Evans, "Implementing the Responsibility to Protect: The Need to Build on the 2005 Consensus," speech to the UN General Assembly, New York, New York, 23 July 2009, available at www.gevans.org/speeches (accessed 15 February 2010).

27. Don Hubert, "The Responsibility to Protect: Preventing and Halting Crimes against Humanity," chapter 5 in this volume, 95–96.

28. Waxman, *Intervention*, 10.

29. Luck, "Building a Norm," 109.

30. Ibid.
31. Stanley Foundation Policy Memo, 21 January 2010.
32. Claire Applegarth and Andrew Block, "Acting against Atrocities: A Strategy for Supporters of R2P," chapter 7 in this volume, 128.
33. Evans, "Implementing the Responsibility to Protect."
34. Applegarth and Block, "Acting against Atrocities," 129.
35. UN General Assembly, Sixtieth Session, *2005 World Summit Outcome*, UN Doc. A/60/L.1, 2005, para. 139.
36. Sarah Sewall, "From Prevention to Response: Using Military Force to Oppose Mass Atrocities," chapter 8 in this volume, 160.
37. Ibid., 162.
38. Ibid.
39. See Alison L. Des Forges, "Making Noise Effectively: Lessons from the Rwandan Catastrophe," in Robert I. Rotberg (ed.), *Vigilance and Vengeance: NGOs Preventing Ethnic Conflict in Divided Societies* (Washington, D.C., 1996), 213–234. See also Rotberg, "Conclusions: NGOs, Early Warning, Early Action, and Preventive Diplomacy," in his *Vigilance and Vengeance*, 263–268.
40. See also Anand Giridharadas, "Africa's Gift to Silicon Valley: How to Track a Crisis," *New York Times* (12 March 2010).
41. See William Bratton, "Crime by the Numbers," *New York Times* (17 February 2010).
42. Frank Chalk, "Monitoring African Governments' Domestic Media to Predict and Prevent Mass Atrocities: Opportunities and Obstacles," chapter 11 in this volume.