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**Human Rights and Genocide: A Global Historical Perspective**

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The history of human rights and democracy is a major field of activity in which the Faculty of Historical and Cultural Studies at the University of Vienna is engaged. Gerald Stourzh, professor emeritus of modern history and one of the most renowned Austrian historians of his generation, has prominently positioned the history of human rights and democracy at the University of Vienna during nearly three decades of research and teaching. At the same time, his academic achievements in the field have provided profound and lasting incentives internationally. In the annual *Gerald Stourzh Lectures on the History of Human Rights and Democracy* distinguished scholars present new insights in this field and put them up for discussion. The lectures are published at <http://www.univie.ac.at/gerald-stourzh-lectures>.

## **Abstract**

*Defending human rights and preventing genocide are understandably regarded as paramount imperatives of national and international politics. The political and moral achievement of painful learning processes, they are the product of a post-Holocaust and post-totalitarian memory regime of relatively recent origin, although often traced to the Enlightenment, if not Antiquity. The nation-state stands at the centre of their attention as the violator of individual and group rights; activists and NGOs seek to contain Leviathan's excesses. In this lecture, I contextualise the emergence of this "negative politics" (Michael Walzer) in the global system as it has developed since the eighteenth century. The nation-state and its correlate, self-determination, have played a more complex role in generating human rights abuses and mass violence than commonly supposed. Does the nation-state as such require taming or the unequal global system that throws up challenges like environmental disaster and economic exploitation which the language of human rights defence and genocide prevention are ill equipped to discuss?*

## **I. Introduction**

The notions of human rights and genocide are among the keywords of our time: they are enshrined in a United Nations declaration and conventions respectively, they are given teeth in international and domestic laws, and they lend their name to innumerable university programs and centres dedicated to research and teaching on human rights and genocide. There are now also many journals dedicated to their study; I myself edit the *Journal of Genocide Research*. Defending human rights and preventing genocide are accordingly the imperatives of the day, more now, since the end of the Cold War, than in the later 1940s when these declarations and conventions were passed. That is one reason for an annual lecture on the history of human rights and democracy – democracy being another of those keywords.

Who can doubt their centrality in our political and moral imagination in light of Professor Stourzh's farewell lecture in 1997, entitled "Menschenrechte und Genozid"?<sup>1</sup> His lecture highlighted the law as a bulwark of individual freedom against totalitarian-genocidal violence, especially the law's general remit (*Allgemeinheit der Rechte*) and the principle of equality before the law (*Gleichheit an Rechten*), which are innovations of world-historical significance that began with the French Revolution's Declaration of the Rights of Man and Citizen: it is the founding document in the transition of a society in which individual rights are based on social status derived from ascribed group membership on the one hand, to rights based on social contract on the other. Professor Stourzh then traced the various assaults on these principles during the nineteenth and first half of the twentieth century, culminating in the National Socialist apotheosis of *das Volk*, its antisemitic discrimination and subsequent genocide of Jews, Sinti and Roma as members of a legally identifiable and targeted group. His parting message was the danger of ethnicizing law and politics, and to warn against the "return of tribalism" that had led to genocides in the postcolonial world. He mentioned as examples the Nigerian civil war in the late 1960s and the secession of East Pakistan to create Bangladesh in 1971. One could think of many more attacks on universal values in the name of ethnocentrism.

In this lecture, I build on Professor Stourzh's fundamental contribution by likewise taking a historical perspective but adding further global dimensions. As an expert on North America, among many other things, Professor Stourzh had referred to its constitutional traditions. Here I consider another part of the globe to assess the work performed by these modern keywords of human rights and genocide. I begin by recounting the critiques of our political culture's placement of human rights and genocide at the centre of its concerns. Then I follow with a defence of this placement by the proponents of the politics of human rights and genocide prevention. We can then assess the insights and blindnesses of this politics, which is much more contested than commonly supposed.

The blindnesses, I will suggest, can be best observed by considering cases of political struggle to see which keywords are invoked. We will see that while human rights and

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<sup>1</sup> Gerald STOURZH, Menschenrechte und Genozid. In: Heinz SCHÄFFER, Walter BERKA, Harald STOLZLECHNER, Josef WERNDL (eds.), Staat – Verfassung – Verwaltung: Festschrift anlässlich des 65. Geburtstages von Prof. DDR. DDR. h. c. Friedrich Kojas (Vienna 1998) 135-159. Reprinted with an additional first section in: Gerald STOURZH, Spuren einer intellektuellen Reise: Drei Essays (Vienna/Cologne/Weimar 2009) 103-155.

genocide do come up, so do other keywords of modernity, namely self-determination and secession. Human rights and genocide could only become thinkable as problems in a world in which peoples and nations started to become the organising units of state foundations – at least for nationalists – even while the majority of polities remained empires until after the Second World War. Human rights and genocide prevention are ultimately products of the triumph of the nation-state over empire in the international order with the foundation of the United Nations.<sup>2</sup>

Human rights and genocide, then, are not natural categories of analysis but historically produced categories that can change. Their triumph as a story of unalloyed progression from “barbarism” to “civilization” is open to question. Mass violations of human rights and perpetration of genocide have continued unabated since the Universal Human Rights Declaration and Genocide Convention in 1948. Gerald Stourzh mentioned Nigeria and East Pakistan. Given this prevalence of widespread atrocity in revolutionary violence, we need to ask how it is related to the international order of nation-states that was founded with the United Nations in the 1940s and then realised in the replacement of empires with nation-states in the decolonization process between 1947/8—with the independence of Indonesia, India, Pakistan and Israel—and end of the Portuguese empire much later, along with the open sore of Palestine, whose proponents say still awaits decolonization. We also need to ask if and how these keywords help us address another pressing challenge for us all: climate change.

## **II. Human Rights, Genocide and the Depoliticization of Politics**

### ***The Critique of Human Rights***

Let us begin with critiques of the politics of human rights, humanitarianism and international justice. Much of this critique was written in the wake of the West’s reaction to the September 11 terror attacks of 2001 and the subsequent war on Iraq and Afghanistan, and has been inspired anew by the bombing of Libya in the name of humanitarian intervention in 2011 – that is, the new doctrine of “Responsibility to Protect”. These authors

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<sup>2</sup> Generally for these transitions, see Jane BURBANK, Frederick COOPER, *Empires in World History: Power and the Politics of Difference* (Princeton, NJ/Woodstock 2010).

make a variety of related criticisms, coming, as we will see, from the left wing of the political spectrum.

There is, to begin with, the observation that human rights broke through as a global discourse in the long 1970s – which begins in the late 1960s – rather than with the so-called human rights revolution of the later 1940s, which was to a large extent still-born, because no global movement ensued and because the human rights declaration and genocide convention remained paper tigers with little real effect. The dominant discourse of the 1950s and 1960s was in fact *self-determination* which accompanied the decolonization process. By the 1970s, as Samuel Moyn explains in his book, “The Last Utopia”, disillusionment with postcolonial regimes – think again of the Nigerian civil war and the East Pakistan secession – led to the exhaustion of self-determination and socialism as viable utopias. Human rights filled the vacuum as a post- or even anti-utopian politics that criticized the third world and communist states from a liberal perspective. Moyn can point to plenty of evidence for these propositions, like the explosion of NGOs in this decade, and indeed the rapid expansion of the term “human rights” in political and media discourse, at least in the West.<sup>3</sup>

Before him, Naomi Klein had noted the temporal coincidence of the rise of human right and of neo-liberalism in the 1970s. It was no accident, she explains, because human rights is a non-political movement that is content not only to denounce abuses while not challenging the structures that lead to them; it also presents neo-liberalism as a utopia because the state is viewed as the enemy. In that sense, human rights can be seen a product of a certain stage of capitalism, namely as its handmaiden, by accepting the framework of domestic and international social and political relations, and confining its attention to isolated instances of abuse.<sup>4</sup>

Similar points have been made by other thinkers. Wendy Brown says that human rights is a moralistic discourse – a “politics of rhetoric and gesture” – that does not offer “analytically substantive accounts of the force of injustice of injury”. It is therefore a politics of fatalism: accepting the status quo and hoping the evil will cease – somehow.<sup>5</sup> The French philosopher Alain Badiou goes further, denouncing human rights as outright reactionary:

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<sup>3</sup> Samuel MOYN, *The Last Utopia: Human Rights in History* (Cambridge, Mass./London 2010).

<sup>4</sup> Naomi KLEIN, *The Shock Doctrine: The Rise of Disaster Capitalism* (London/New York 2007).

<sup>5</sup> Wendy BROWN, *Politics Out of History* (Princeton, NJ/Woodstock 2001), 36.

Under the pretext of not accepting evil, we end up making believe that we have, if not the good, at least the best possible state of affairs – even if this best is not so great. The refrain of “human rights” is nothing other than the ideology of modern liberal capitalism: We won’t massacre you, we won’t torture you in caves, so keep quiet and worship the golden calf. As for those who don’t want to worship it, or who don’t believe in our superiority, there’s always the American army and its European minions to make them be quiet.<sup>6</sup>

His compatriot Étienne Balibar agrees: “What you call the ‘predominance of human rights’ is an ideological phenomenon that certainly is of symptomatic value, but is not *enough to change social structures*.”<sup>7</sup> He also relates the inherent conservatism of human rights to a colonial order by effectively racialising entire population groups:

There are even ways of using it that hide the varieties of racism that are now developing, paradoxically by way of a “humanitarian” or “philanthropic” discourse that serves to keep populations or categories of individuals in the condition of recipients of help rather than as bearers of equal rights. Differences or incapacities are presented as essential properties, though they are in fact the result of historical conditions and of relations of domination.<sup>8</sup>

These remarks remind one of Didier Fassin’s notions of “humanitarian reason” that he sees originating in the mid-eighteenth century in the altruistic identification with the suffering of others, in this case the Lisbon earthquake in 1755, the slave trade and, later, the Crimean War from which the Red Cross developed. What were then exceptional experiences and campaigns to end suffering is now daily experience. Hardly a day passes without the news reporting a human disaster occurring somewhere in the world –

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<sup>6</sup> Christoph COX, Molly WHALEN, On Evil: An Interview with Alain Badiou. In: Cabinet Magazine online, no. 5 (2001/02), <<http://www.cabinetmagazine.org/issues/5/alainbadiou.php>> (17 December 2014).

<sup>7</sup> Clément PETITJEAN, “A Racism Without Races”: An Interview with Étienne Balibar, 15 April 2014. In: Verso Books, Blog, online at <<http://www.versobooks.com/blogs/1559-a-racism-without-races-an-interview-with-etienne-balibar>> (17 December 2014) (Emphases added).

<sup>8</sup> PETITJEAN, “A Racism Without Races”.

whether famine, war, or natural calamity – with the consequent mobilisation of humanitarian activism. While such humanitarian mobilisation is admirable in many obvious respects, the psychological payoff is greater for the westerner than the victim, says Fassin. Taking the Haitian earthquake in 2010 as an example, he notes that the media coverage, especially of US and French aid delivery, provided the illusion of a “common human condition” of solidarity but conveniently ignored the fact that both countries hardly admit Haitian asylum seekers, let alone highlight their own imperial relationship to the island.<sup>9</sup> As he put it: “In today’s world, where inequalities have reached a probably unprecedented level, humanitarianism therefore provides the illusion of a global moral community that may still be viable and a solidarity that may have redeeming features.”<sup>10</sup> What is more, no one heard from the Haitian victims themselves – as Balibar noted: humanitarianism posits the non-western sufferer as mute and agentless. Wendy Brown also points out that the subjectivity of the victim is not only regarded as helpless but also as apolitical: they are not co-partners in a collective project of political transformation or even reform.<sup>11</sup>

Stephen Hopgood at the School of Oriental and African Studies in London has recently published an impassioned book called “Endtime for Human Rights” that takes these themes further. He is a trenchant critic of what he calls the Global Human Rights Model that is hegemonic in the West: it is driven by Amnesty International and Human Rights Watch in the NGO sector, and at the global institutional level by the United Nations and the International Criminal Court. It focuses on criminal justice rather than social justice; the former entails international law, international courts, and institutions of global government: “Human Rights are a product of the 1%.” Hopgood prefers the civil society actors from and operating in the global South that may hold fast to religious, ethnic and social ideals, such as specific economic and cultural rights that Western NGOs can’t support. He refers to internet hacking, consumer boycotts and the Arab Spring. As he puts it, “[t]he rest of the world’s 99% sees human rights activism as one among many mechanisms to bring about meaningful social change. By their nature,

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<sup>9</sup> Didier FASSIN, *The Predicament of Humanitarianism*. In: *Qui Parle* 22/1 (2013) 36.

<sup>10</sup> FASSIN, *Predicament*, 37.

<sup>11</sup> BROWN, *Politics Out of History*, 456.

[such] human rights are malleable, adaptable, pragmatic and diverse – they are bottom-up democratic norms, rather than top-down authoritarian rules”.<sup>12</sup>

Hopgood calls his book “Endtime for Human Rights” because the conditions of the global liberal order that underpinned the golden age of human rights from 1977 to 2008 have ended. This period coincided with post-cold war American hegemony that is now waning with the emergence of China, India and Brazil – the so-called BRICS. Even then, the United States exempted itself from the application of human rights provisions when it felt it to be necessary.

There is also a class dimension. The United States’ partial abandonment of human rights driven foreign policy – consider the non-intervention in Syria’s civil war – reveals how the global culture of human rights and genocide prevention depended on liberal state power and the middle classes that staff and finance NGOs. Now the BRICS, but also weaker players like Syria, North Korea, Sri Lanka, Sudan, and Israel, are happy to defy human rights norms and censure in the name of *raison d’état*. Many of these countries reject the “Responsibility to Protect” doctrine as rebranded nineteenth century imperialism and similarly reject the Western intervention in Libya in 2011.

Harvard law professor David Kennedy has been making similar arguments for over a decade. His “Dark Side of Virtue” criticizes, among other things, the tendency of humanitarian interventionists to ignore the negative consequences of militarized humanitarianism. What is more, the language of virtue – namely human rights and genocide prevention—is used by states to justify their traditional geopolitical ambitions that are usually violent. The Western intervention in Kosovo in 1999 led to a colonial-like administration there, and Libya is even worse where 50,000 people have been killed since the Western bombing: far more died than the number of people it was meant to protect. If one wants to avoid further wars and instability, it is often best not to intervene, he cautions. Kennedy is also suspicious of the co-operation of human rights and humanitarian work and the military. For example, if military leaders are satisfied that they are abiding by international law, especially regarding the proportionality principle when responding to attacks, then killing civilians is legitimated. Although drones were

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<sup>12</sup> Stephen HOPGOOD, Human Rights: Past Their Sell-By Date. In: Open Democracy, 18 June 2013; Stephen HOPGOOD, The Endtimes of Human Rights (Ithaca, NY 2013). See also Nikita DHAWAN, Coercive Cosmopolitanism and Impossible Solidarities. In: Qui Parle 22/1 (2013) 139–166.

not yet in use when Kennedy wrote his book, the reasoning that justifies their use is what he was talking about.<sup>13</sup>

### ***The Defence of Human Rights***

So much for the leftist critique. How do liberals justify their stance? The most prominent is Judith Shklar, the American political theorist, born in Riga in 1928, who survived the Holocaust to become a famous professor at Harvard University. She proposed the term “the liberalism of fear” as a new foundation for modern liberalism. Its basic intuition, she declared, was that “cruelty is an absolute evil, an offense against God or humanity. It is out of that tradition that the political liberalism of fear arose and continues amid the terror of our time to have relevance”.<sup>14</sup> Because there is much to fear – torture, war, genocide – the task is to engage in what she called “damage control.”<sup>15</sup>

Shklar’s refugee biography spoke loudly here; indeed, before her premature death in 1992, she was planning to write a history of political thought from the perspective of the exile. “For this liberalism,” she declared, “the basic units of political life are not discursive and reflecting persons, nor friends and enemies, nor patriotic soldier-citizens, nor energetic litigants, but the *weak and the powerful*.”<sup>16</sup> She wished to secure “freedom from the abuse of power and intimidation of the defenseless that this difference invites”. To leftist critics, she said that emotions of fear are not inferior to utopian ideals for which one risks one’s life, adding that “it is not at all noble to kill another human being in pursuit of one’s own ‘causes.’”. She had little time for such causes. Consequently, the liberal ideal was not pursuing the *summum bonum* but avoiding the *summum malum*.<sup>17</sup>

One of her students, the equally famous Michael Walzer at the Institute for Advanced Studies in Princeton, took up Shklar’s thought in an essay called “On Negative Politics”, and asked the further question: “On behalf of what are we fearful?”<sup>18</sup> We are

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<sup>13</sup> David KENNEDY, *The Dark Sides of Virtue. Reassessing International Humanitarianism* (Princeton, NJ/Woodstock 2004); David KENNEDY, *Of War and Law* (Princeton, NJ/Woodstock 2006).

<sup>14</sup> Judith N. SHKLAR, *The Liberalism of Fear*. In Nancy L. ROSENBLUM (ed.), *Liberalism and the Moral Life* (Cambridge, Mass./London 1989) 23. See Katrina FORRESTER, *Hope and Memory in the Thought of Judith Shklar*. In: *Modern Intellectual History* 8/3 (2011) 591–620.

<sup>15</sup> SHKLAR, *The Liberalism of Fear*, 27.

<sup>16</sup> SHKLAR, *The Liberalism of Fear*, 27 (emphasis added).

<sup>17</sup> SHKLAR, *The Liberalism of Fear*, 32.

<sup>18</sup> Michael WALZER, *On Negative Politics*. In Bernard YACK (ed.), *Liberalism Without Illusions: Essays on Liberal Theory and the Political Vision of Judith N. Shklar* (Chicago/London 1996) 17.

defending our way of life, he answered. And because revolutionary terrorism is worse than a hierarchical society, negative politics means we must defend even unequal societies. Within liberal societies, this politics makes space for what he called the “liberalism of hope”,<sup>19</sup> although this was a vaguely formulated ideal. He wrote: “When we defend the bulwarks [or our way of life], [...] we are committing ourselves to an ongoing engagement and pattern of activity”. What he is trying to say is that institutions are precious and fragile human accomplishments that protect us from violent caprice [*Willkür*] and can enable human flourishing.<sup>20</sup>

Reading Shklar, Walzer and also her former student Michael Ignatieff,<sup>21</sup> bears out the leftist criticisms with remarkable accuracy. These authors are anti-utopian, they accept the domestic and global status quo, and they speak from a Western subject position of the exile or refugee who has reached safety in North America, the most powerful country – some say empire – in world history. This experience naturally tends to a certain caution, indeed conservatism. Walzer, let us recall, concedes that the liberalism of fear – or what he calls negative politics – defends hierarchical regimes from terroristic revolutionaries. Fair enough, the remedy of revolutionary terrorism can be worse than the illness it is meant to cure. But others may call such regimes unjust, exploitative, or oppressive. Missing in these liberals is curiosity or concern about why such revolutionaries exist at all. Consistent with the criticism from Wendy Brown, these liberals lack sociological imagination. They are uninterested in the structural reasons for violent political resistance, which for them seems to happen of its own accord or because the world is populated by terrorists who must be kept at bay and certainly out of power.

Ironically, these liberals’ remembrance of suffering – the “never again” genocide prevention refrain – severely limits the field of political possibilities for resisting injustice and tyranny in order to defend human rights and prevent genocide. Their understandable and justified critique of totalitarian violence does not offer much for those who are vulnerable to other types of violence, especially indigenous people who are not refugees or in exile, but oppressed in their native lands – namely those in the global South. If one claims to be a victim of an ongoing genocide, it makes little sense to appeal to these ideas of professors safely ensconced in Princeton or Cambridge, Massachusetts. It will be

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<sup>19</sup> WALZER, On Negative Politics, 21.

<sup>20</sup> WALZER, On Negative Politics, 19.

<sup>21</sup> Michael IGNATIEFF, Human Rights as Politics and Idolatry (Princeton, NJ/Woodstock 2003) 173.

too late when the Global Human Rights Model of the International Criminal Court comes into play. Indeed, can the Global Human Rights Model even recognize this oppression for what it is?

Let us explore these questions by considering three episodes in Nigerian history. We will see now that the Global Human Rights Model and its practices of intervention and rescue have little to do with the apparent origin of human rights in the French revolution, which was, among other things, an elite and then popular uprising against tyranny in the name of self-determination and national liberation.<sup>22</sup>

### III. Nigeria, Genocide and Resistance

The three episodes that we briefly consider are, first, the Nigeria-Biafra civil war between 1967 and 1970, then the Niger River Delta protest movements that began in the 1990s, and, finally, very briefly, the current Boko Haram crisis. Let us ask ourselves whether human rights or self-determination is the operative discourse in these struggles.

#### ***Biafra***

On 30 May 1967, Chukwuemeka Odumegwu Ojukwu, the military governor of the Eastern Region of Nigeria, declared the independence of a new Republic of Biafra. This was the second attempted secession in postcolonial Africa – the first being Katanga in the Congo in 1960 – but it was no less dramatic. No sooner had Ojukwu issued the declaration than Federal Nigerian forces invaded Biafran-held territory and a bloody 30-month war ensued. When it ended in early 1970, over a million lives were lost, mostly Biafran civilians who starved during the Nigerian blockade. The troubling iconic image of the starving African child stems from this humanitarian disaster, likewise the famous NGO, Médecins Sans Frontières.<sup>23</sup> The conflict was a global event, as an international debate raged about whether genocide was taking place and whether the United Nations or a

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<sup>22</sup> Robert MEISTER, *After Evil: A Politics of Human Rights* (New York/Chichester 2011) 8.

<sup>23</sup> Marie-Luce DESGRANDCHAMPS, Revenir sur le mythe fondateur de Médecins Sans Frontières: les relations entre les médecins français et le CICR pendant la guerre du Biafra (1967-1970). In: *Relations internationales*, no. 146 (2011/12) 95–108.

great power should intervene to save lives. Like the concurrent Vietnam War, the conflict featured in magazines and television, and the human suffering stimulated civil society mobilization for food relief and humanitarian intervention, especially in Germany, France, Israel, the United States and Great Britain, whose government was supporting the Nigerian state.

How and why did the war occur at all? Very briefly, the British had conquered the region in the late nineteenth century and in 1914 united northern and southern protectorates into what is known as Nigeria. It contained hundreds of different peoples but three so-called mega-tribes, the Hausa-Fulani in the north, who are Muslim, the Yoruba in the west, and the Igbo in the south east, who were receptive to British missionary activity and became largely Christian. The British institutionalized these differences in their administration of the country, especially in the north, where they did not interfere with traditional Muslim elite governance.<sup>24</sup> Independence was granted to Nigeria in 1960 but did not produce stability, with rivalry between the regions for control of the state, and resentment against Igbo traders who settled in the north. Two coups in 1966 led to three waves of massacres, killing tens of thousands of Igbo in the north, as northern elites attempted to break a perceived Igbo domination after the first coup. Two million surviving Igbo fled back to the Igbo heartland in the east. When negotiations for a renewed federation broke down, the Eastern Region military governor Ojukwu decided to secede and declare the Republic of Biafra.<sup>25</sup>

The political language the Igbo-dominated Biafran leaders used to make their case tell us whether their political imagination was fired by international and individual human rights or national liberation. From the outset, they argued in terms of safety – indeed of avoiding more genocide – and of self-determination.<sup>26</sup> International human rights rhetoric, directed against the state, was not apparent. Consider the declaration of independence from May 1967. Here are the relevant articles:

AWARE that you can no longer be protected in your lives and in your property by any Government based outside Eastern Nigeria;

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<sup>24</sup> Toyin FALOLA, Matthew M. HEATON, *A History of Nigeria* (Cambridge/New York 2008).

<sup>25</sup> Michael GOULD, *The Biafran War: The Struggle for Modern Nigeria* (London 2012); *Journal of Genocide Research* 16/2-3 (2014): Special Issue. *The Nigeria-Biafra War, 1967-1970: Postcolonial Conflict and the Question of Genocide*, ed. by Lasse HEERTEN, A. Dirk MOSES.

<sup>26</sup> Brad SIMPSON, *The Biafran Secession and the Limits of Self-Determination*. In: *Journal of Genocide Research* 16/2-3 (2014) 337–354.

BELIEVING that you are born free and have certain inalienable rights which can best be preserved by yourselves;  
 UNWILLING to be unfree partners in any association of a political or economic nature.<sup>27</sup>

The short declaration was accompanied by a longer proclamation that contained the Biafran reasoning. In this proclamation, self-determination and the atrocities are central. Some examples:

- IN VIEW of the fact that the desire on the part of the minority groups for self-determination is the active force behind the demand for the creation of more states and since in the context of present-day Nigeria minorities are defined by reference to tribe, [Biafra] AFFIRMS its belief that the best hope for a satisfactory solution to the problems of Nigeria lies in the recognition and preservation of the separate identity of the various tribal or linguistic groupings and their right to develop each along its own line and at its own pace accordingly.
- Two facts emerge from [the pogroms and refugee crisis]. The widespread nature of the massacre and its periodicity [...] show firstly, that they were premeditated and planned, and secondly, that Eastern Nigerians are no longer wanted as equal partners in the Federation of Nigeria.
- [...] Men and women in the Region, incensed by the treatment meted out to them by an unrepentant Lagos and the North, called for the, [sic] *declaration of Eastern Nigeria as a sovereign independent state*.<sup>28</sup>

The Biafran leaders sought a sovereign independent state like the French revolutionaries of 1789 as the vehicle to realize what the declaration called “certain inalienable rights”.

This implication is fleshed out by the neo-Biafran movement that is active today. A lively Igbo diaspora, especially in the United States, has even established an “embassy” of a self-proclaimed Biafran government-in-exile in Washington, D.C. Its statements mirror many of the arguments of a popular youth militia in Nigeria, called MASSOB, “Movement for the Actualisation of the Sovereign State of Biafra”. Quotations from a

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<sup>27</sup> Proclamation of the Republic of Biafra 1967, online at <[http://www.biafraland.com/biafra\\_proclamation.htm](http://www.biafraland.com/biafra_proclamation.htm)> (17 December 2014).

<sup>28</sup> Proclamation of the Republic of Biafra 1967 (emphases added).

“Recommittal to the Declaration of Biafra Independence 30 May 2007”, on the fortieth anniversary, reveal that the salient motivation is self-determination against a perceived foreign occupier in the name of collective safety and destiny.

NOW, THEREFORE, WE, THE PEOPLE AND NATION OF BIAFRA, DO  
DECLARE THAT:

- (i) We re-affirm the original declaration of the Independence of Biafra
- (ii) We are taking charge of our own collective Destiny as an Independent Sovereign Nation of Biafra
- (iii) We undertake the actualizing of Independent Biafra as a natural task to claim a Natural right
- (iv) We know that the Law and Rules of civil Humanity are on our side: Self Determination is an inalienable Natural right; it is recognized in the United Nations Charter; we exercise this right to actualize Independent Biafra.<sup>29</sup>

That the right being actualized here is the right of self-determination is confirmed by the so-called Biafran government in exile’s further declaration in August 2007. It said

There comes a time in the life of a people when their physical survival; their dignity, fundamental human rights, and indeed the very essence of their being endowed on them by their creator and guaranteed under natural and international laws supersede all temporary comfort, and demand unre-served and unmitigated action in defense of these God-given rights. For the peoples of Biafra, that time is now.

[...]

In reaffirming the independence of Biafra, the Peoples and Nation of Biafra [...] we exercise a Natural right, a political right and a right supported by the United Nations Organization Charter and international laws—the right of Self-Determination. The peoples of Biafra are taking this action in certain realization that only the effective exercise of Self- Determination by the peoples and Nation of Biafra will end the state of occupation, subjugation, and persecution by Nigeria.<sup>30</sup>

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<sup>29</sup> Recommittal to the Declaration of Biafra Independence, 30 May 2007, online at <<http://www.biafraland.com/ProvisionalGovHdr.htm>> (17 December 2014).

<sup>30</sup> Biafra Government in Exile: A Declaration, 28 August 2007, online at

The persistence of national liberation rhetoric from the heyday of decolonization campaigns in the 1950s and 1960s to the present day is striking. Rights are posited as collective rather than individual, and a state is supposed to protect the collective from genocide.

### ***River Delta Peoples: The Ogoni and Ijaw***

These lofty ideals concealed other independence strivings even in the late 1960s. For, while Igbo are the dominant group in the Eastern Region, they are not the only one. In the coastal Niger River Delta region live many other small indigenous groups who felt oppressed by Igbo domination and preferred protection by incorporation in a federated Nigeria. Many of them supported the Nigerian state during the civil war of 1967-1970 for which they were punished by Igbo forces. The salience of the Niger River Delta region is that it is home to the country's major source of income: oil and gas, which were discovered in the late 1950s, just before independence. Biafra was economically viable only if it included the Delta, and Nigeria could not permit Biafra to secede because it would rob Nigeria of its own economic viability.

The oil boom of the 1970s enriched the victorious Nigerian military government, which only relinquished power in 1999. This boom has come at the expense of the Delta peoples who have developed their own autonomy and independence movements, also with violent consequences. In the late 1950s, they had told the British that they wanted a state of their own but they were ignored. The Nigerian state duly created smaller states to spite the Biafrans in 1967 but cleverly changed the laws about oil revenues. No longer would they be evenly shared between the states and the federal government; they would go directly to the federal level.<sup>31</sup> Hardly any investment was made there; the region is consequently underdeveloped although sitting on the country's natural resources. The oil industry, dominated by Shell and Chevron, brought no local benefits; on the contrary. It employs few people and prefers outsiders. Even worse, it destroys the environment by polluting the earth, water and the air.

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<<http://www.biafraland.com/ProvisionalGovHdr.htm>> (17 December 2014).

<sup>31</sup> Ike OKONTA, Oronto DOUGLAS, *Where Vultures Feast: Shell, Human Rights, and Oil in the Niger Delta* (London/New York 2003), and Ike OKONTA, *When Citizens Revolt: Nigerian Elites, Big Oil and the Ogoni Struggle for Self-Determination* (Trenton, NJ 2010).

As might be expected, local people protested. Mindful of the Biafra example, the Ogoni people, who number only 800,000 in a population of nearly 170 million in Nigeria, did not advocate secession but autonomy. The protest leader in the first half of the 1990s was Ken Saro-Wiwa who in 1990 presented an Ogoni Bill of Rights to the people of Nigeria and the international community. The bill demanded guarantees of:

- (a) Political control of Ogoni affairs by Ogoni people.
- (b) The right to the control and use of a fair proportion of Ogoni economic resources for Ogoni development.
- (c) Adequate and direct representation as of right in all Nigerian national institutions.
- (d) The use and development of Ogoni Languages in Ogoni territory.
- (e) The full development of Ogoni Culture.
- (f) The right to religious freedom.
- (g) The right to protect the Ogoni environment and ecology from further degradation.<sup>32</sup>

Saro-Wiwa admired the example of Gandhi's non-violent protest and made him the philosopher of his Movement for the Survival of the Ogoni People (MOSOP). Like the Biafrans before, he invoked genocide as a real threat rather than human rights. His small 1992 book, "Genocide in Nigeria", makes the challenges the Ogoni faced clear:

Today, twenty-two years after [the civil war], the wasteland remains – barren and useless, another reminder of the road to the extinction of the Ogoni people charted by the greed and racism of Shell and the complicity of the Federal Government of Nigeria.

The most notorious action of both companies [Shell and Chevron] has been the flaring of gas, sometimes in the middle of villages. ... Additionally, oil has poisoned the mudbanks which were formerly the home of mudskippers, clams, crabs and periwinkles. These rich sources of protein for the Ogoni people no longer exist.

[...] Similarly, the pollution of water courses, streams and creeks by oil spillage has led to the death of another source of protein – fish.

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<sup>32</sup> Ogoni Bill of Rights. Presented to the Government and People of Nigeria, November 1990. In: Association of Nigerian Scholars for Dialogue, Documents, online at <<http://www.waado.org/nigerdelta/RightsDeclaration/Ogoni.html>> (17 December 2014).

Ken Saro-Wiwa mentions other violations and concludes: “The result of the foregoing has been the total destruction of Ogoni life, human, social, cultural and economic [...] What Shell and Chevron have done to Ogoni people, land, streams, creeks and the atmosphere amount to genocide. The soul of the Ogoni people is dying and I am witness to the fact.”<sup>33</sup>

The Ogoni regard themselves as victims of internal colonization after their lands were incorporated into a larger polity by the British in 1901. Despite – or because – of the successful non-violent protest that was attracting international attention, the military government executed Saro-Wiwa and others on trumped up charges in 1995.<sup>34</sup>

If the government thought its judicial murder would stamp out protest, it only made things worse for the state and the oil companies. Members of the largest group in the region, the Ijaw, now mobilized, observing that matters had not improved under civilian government after 1999. Elections were rigged as rival candidates were intimidated by gangs of thugs. In 2006, they established the Movement for the Emancipation of the Niger Delta (MEND) which certainly does not believe in non-violence, a policy that got Saro-Wiwa nowhere. MEND’s demands are similar to MOSOP’s, but its tactics are different: attacking oil installations and their personnel, kidnapping oil workers for ransom, stealing oil, robbing banks, and even bombing government offices. Its campaign was so destructively successful that in 2008 the Nigerian government tried to make peace by amnestying MEND members and establishing a Niger Delta Affairs ministry to develop the region; even so, the violence goes on. MEND leaders say they will fight “until we win total freedom for our people”.<sup>35</sup> Given the violent nature of their tactics, the emancipatory project is hard to separate from a criminal one, but the political rhetoric of indigenous liberation is striking all the same. Ironically, Ijaw groups and the Biafran MASSOB have put aside their differences from the civil war to struggle against the common enemy: the corrupt Nigerian state that lives off the south’s oil revenues.<sup>36</sup>

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<sup>33</sup> Ken SARO-WIWA, *Genocide in Nigeria: The Ogoni Tragedy* (London/Lagos 1992) 80–83.

<sup>34</sup> FALOLA, HEATON, *A History of Nigeria*, 232.

<sup>35</sup> Ike OKONTA, *Bombs, Insurgents, and Nigeria’s Golden Jubilee*, 28 October 2010, online at <<http://www.opensocietyfoundations.org/voices/bombs-insurgents-and-nigeria-s-golden-jubilee>> (17 December 2014).

<sup>36</sup> Kathryn NWAJIAKU-DAHOU, *Heroes and Villains: Ijaw Nationalist Narratives of the Nigerian Civil War*. In: *Africa Development* 34/1 (2009) 47–68.

## ***Boko Haram***

The intense interest in this group's kidnapping of over 200 schoolgirls in April 2014 obscures the fact that it has been the subject of security attention since 2009 when Boko Haram's insurrectionary and violent attacks on the state and northern civilians in Nigeria increased. Boko Haram's name is not in fact "Western education is forbidden" but "People Committed to the Propagation of the Prophet's Teachings and Jihad".<sup>37</sup> While western education is indeed one of their targets, the main one is the secular Nigerian state and northern Muslim leaders who have failed to institute Sharia law as one of them had promised in 2003. Why this desire at all? Commentators have pointed to the tradition of Islamic education in the north, which, as mentioned above, was spared Christian missionary schools under the British; they point to the incredible poverty of the northern eastern states in which some 70 percent of people are classed as poor; they point to the environmental degradation that is ruining agriculture; to the more or less eight million youths who study in Koranic schools; and perhaps most significantly to the utterly corrupt state and the Nigerian? political class that enriches itself on oil receipts, dispenses power via patronage networks and locks others out of power.<sup>38</sup> Perhaps not surprisingly, there have been Islamist uprisings already in the 1970s and 1980s that condemned corrupt Muslim rulers and that cost thousands of lives. Boko Haram now aims to establish an Islamic state in the north that would cure these ills by instituting sharia law, in order to contain, above all, corruption of all kinds, as they see it. Put in terms of historical imagination: the purpose is to return to pre-colonial, uncorrupted days when sharia law governed.

During the 2000s, Boko Haram tried to create a state within a state by providing welfare to locals, intimidating those who sent their children to secular schools, and hoping that local rulers would institute such reforms themselves. When this did not occur, they took to attacking police stations, and in 2009 engaged in an armed confrontation in which their leader, Mohammed Yusuf, was captured and killed while in police custody. The violent escalation since then is a symptom that the group believes the violent over-

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<sup>37</sup> Abimbola ADESOJI, The Boko Haram Uprising and Islamic Revivalism in Nigeria. In: *Africa Spectrum* 45/2 (2010) 95–108.

<sup>38</sup> Ike OKONTA, Nigeria's Poverty-Powered Insurgency. In: *Open Syndicate*, 30 April 2013, online at <<http://www.project-syndicate.org/commentary/boko-haram-s-strengthening-position-in-nigeria-by-ike-okonta>> (17 December 2014).

throw of the entire order to be the only possible strategy, motivated in large part also by vengeance, resulting in large-scale criminality and seemingly indiscriminate violence against Nigerians, both Christian and Muslim, in the northeast. Boko Haram clearly is a terrorist organization. Its attacks on schools apparently began when other targets became better defended and it needed to pressgang recruits, a tactic also seen in other African conflicts. In Borno State in north eastern Nigeria alone, Boko Haram attacks had destroyed nearly 900 classrooms by August 2013. Intriguingly, their attacks on Christians led MEND, far in the south, to threaten reprisals against Mosques and Islamic clerics there.<sup>39</sup>

Noteworthy is the parallel with our other cases on one point: the appeal to pre-colonial independence and de facto invocation of self-determination. Let us not forget other colonial parallels: violent resistance to colonial conquest had wracked the region between 1897 and 1906, revolutionary Mahdists comprising “radical clerics, disgruntled peasants and fugitive slaves” attacked not only the British but also the Muslim aristocracy who collaborated with them.<sup>40</sup>

#### **IV. Conclusion**

What do these Nigerian cases teach us about human rights and genocide in a global historical perspective?

*First*, the claims of genocide levelled by the Biafrans in the 1960s and by the Ogoni in the 1990s, while gaining initial international attention, did not provoke serious considerations of intervention. Why that is the case has to do, I think, with the dominance of the Holocaust paradigm in the conventional thinking about genocide: for a genocide to be recognized as genocide it needs to resemble the Holocaust in key respects.<sup>41</sup>

*Second*, an environmental catastrophe caused by western corporations as they exploit natural resources, backed by a weak state dependent on the rents these corpora-

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<sup>39</sup> INTERNATIONAL CRISIS GROUP, *Curbing Violence in Nigeria (II): The Boko Haram Insurgency*. In: *Africa Report*, no. 216 (3 April 2014) 40–41.

<sup>40</sup> Paul E. LOVEJOY, J. S. HOGENDORN, *Revolutionary Mahdism and Resistance to Colonial Rule in the Sokoto Caliphate, 1905-6*. In: *Journal of African History* 31/2 (1990) 217–244.

<sup>41</sup> On this point, see A. Dirk MOSES, *Revisiting a Founding Assumption of Genocide Studies*. In: *Genocide Studies and Prevention* 6/3 (2011) 287–300.

tions pay, certainly does not fit the genocide-Holocaust paradigm. That the Niger River Delta catastrophe was not to be regarded as criminal is predictable when we consider that the settler colonial states like Australia, Canada, the United States, and South American states were founded in similar circumstances: by land theft, resource exploitation, and massacre of indigenous people when they resisted. International law is largely western law, and has always enabled colonial expansion even if some excesses were criticized every now and then.<sup>42</sup> Our paradigm of criminality – that of the Global Human Rights Model criticized by Hopgood – cannot incorporate what Rob Nixon calls “Slow Violence and the Environmentalism of the Poor”.<sup>43</sup>

*Third*, it is mistaken to suggest that self-determination was replaced by human rights discourse in the 1970s. This may be the case in the West, it is not the case in the global South where dreams of national liberation persist: in Palestine and in Western Sahara, for instance; wherever there is occupation, exile, and exploitation.<sup>44</sup> It is vain hope to think that people enduring such circumstances will relinquish dreams of collective redemption because they may not seem realistic or because they are not particularly admirable. In the case of Boko Haram, they are terroristic. They exist to compensate for present suffering and offer hope for the future. Let us not forget that such themes saturate European national mythology. Nabucco’s Chorus of the Hebrew slaves is a popular refrain in Europe. For many, like Giuseppe Mazzini long ago, national liberation and self-determination are the vehicles for their human rights to be realised and their survival to be guaranteed. It is not *against* the state as such that they seek protection – at least not their own – but *with* their own state.<sup>45</sup>

*Fourth and finally*, this articulation of human freedom – control of time by controlling a state – is no more an answer to our predicament than the Global Human Rights Model. Even the liberation movements mentioned here want to establish states; state formation may be part of the problem, not the solution, in two ways. In the first

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<sup>42</sup> A. Dirk MOSES, *Besatzung, Kolonialherrschaft und Widerstand: Das Völkerrecht und die Legitimierung von Terror*. In: *Peripherie: Zeitschrift für Politik und Ökonomie in der Dritten Welt* 29/116 (2009) 399–424.

<sup>43</sup> Rob NIXON, *Slow Violence and the Environmentalism of the Poor* (Cambridge, Mass./London 2011).

<sup>44</sup> Rana B. KHOURY, *Western Sahara and Palestine: A Comparative Study of Colonialisms, Occupations, and Nationalisms*. In: *New Middle Eastern Studies* 1 (2011) 1–20, online at <<http://www.brismes.ac.uk/nmes/archives/321>> (17 December 2014).

<sup>45</sup> Mark MAZOWER, *Governing the World: The History of an Idea, 1815 to the Present* (New York/London 2012), ch. 2; Karma NABULSI, *Traditions of War: Occupation, Resistance, and the Law* (Oxford/New York 1999); MOYN, *The Last Utopia*.

place, imposing the European model of the homogenous nation-state on ethnically diverse regions was catastrophic in Europe let alone in the global South. In retrospect, mass violence in Nigeria, Indonesia, India and elsewhere was a predictable outcome of nation-building after independence. Seen in *longue durée*, it is no coincidence that the concentration of genocidal violence over the past two hundred years of human history accompanied the concentrated efforts at state formation around the world. As Philipp Ther puts it, the nation-state has a dark side.<sup>46</sup> Even secessionist projects like Biafra would need to deal with their own minorities with their own desires of independence. The political logic of sovereignty and development makes the resistance of those sub-regions against the exploitation of their resources by the penetration of the state virtually inevitable. It is often forgotten that large swaths of India are currently ungovernable due to the Naxalite Maoist insurgency. Or that Bangladesh provoked an insurgency in Chittagong when it sought to impose settlers in tribal areas and tap its resources without local consent.<sup>47</sup>

Secondly, even new post-colonial states are not challenging a competitive international system of states that drives its members, on pain of extinction, to exploit its natural resources – in collaboration with the Shells and Chevrans – at the expense of social division and environmental degradation. A class of successful rich enjoys the benefits of a globalized economy in India and Nigeria at the expense of those who are missing out, many of whom then seek compensation in nihilistic cults like Boko Haram or, as mentioned above, violent social justice movements like the Maoist insurgency in India. Social polarization is all too evident. Where the dispossessed seek to secede from the nation in their own autonomous regions, the rich secede in gated communities, safe from the dispossessed.<sup>48</sup> Meanwhile, the state attempts to crush these insurgencies, violating as many human rights as the insurgents in the process.

Recently, Dipesh Chakrabarty has pointed out that the language of anti-colonialism and anti-imperialism, which is understandably hegemonic in the global

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<sup>46</sup> Philipp THER, *The Dark Side of Nation States: Ethnic Cleansing in Modern Europe (War and Genocide 19)*, New York/Oxford 2014). More generally, see the work of Mark LEVENE, *Genocide in the Age of the Nation State*, 2 vols. (London/New York 2005).

<sup>47</sup> Sumantra BOSE, *Transforming India: Challenges to the World's Largest Democracy* (Cambridge, Mass./London 2013) 165–223; Mark LEVENE, *The Chittagong Hill Tracts: A Case Study in the Political Economy of "Creeping" Genocide*. In: *Third World Quarterly* 20/2 (1999) 339–369.

<sup>48</sup> Pankaj MISHRA, *From the Ruins of Empire: The Revolt Against the West and the Remaking of Asia* (London 2012) 309–310; Vijay PRASHAD, *The Darker Nations: A People's History of the Third World* (New York 2007).

South, is deaf to the demands of the environment; this kind of humanism is uninterested in global warming. The problem is that the environment's priorities are not human justice. The keyword of democracy gets in the way of species-wide consciousness because democratically elected leaders work in the interest of their voters rather than global environment, let alone global justice.<sup>49</sup> To conclude with a question: If human rights and genocide were the keywords for the second half of the twentieth century, can they retain their relevance for the first half of the twenty-first century by gesturing to threats not only to individuals and groups but to the human species as a whole? The German criminologist, Herbert Jäger, coined the term *Makrokriminalität* in 1989 to refer to the mass state violence associated with totalitarian regimes of the past century. Can the term be appropriated for the challenges we face today?<sup>50</sup>

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<sup>49</sup> Dipesh CHAKRABARTY, The Climate of History: Four Theses. In: *Critical Inquiry* 35 (2009) 197–222.

<sup>50</sup> Herbert JÄGER, *Makrokriminalität: Studien zur Kriminologie kollektiver Gewalt* (Frankfurt am Main 1989).