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GENOCIDE AND THE CASE FOR INSTITUTIONAL RESPONSIBILITY: THE UNITED NATIONS AND RWANDA

Meghan C. Fougere

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**GENOCIDE AND THE CASE FOR INSTITUTIONAL RESPONSIBILITY:
THE UNITED NATIONS AND RWANDA**

(Spine Title: Genocide and The Case for Institutional Responsibility)

(Thesis Format: Monograph)

by

Meghan C. Fougère

Graduate Program in Political Science

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the requirements for the degree
Master of Arts.**

**The School of Graduate and Postdoctoral Studies
The University of Western Ontario
London, Ontario, Canada**

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ABSTRACT

Based on the contention that having a clearer understanding of where responsibility lies for mass atrocity is necessarily prior to any hope of preventing it, the overarching goal of this thesis is to explore the notion of the United Nations as a moral agent in world politics with a duty to respond to the crime of genocide. First, it looks to the existing literature on both collective and institutional agency to develop an account of how international institutions – like the United Nations – may coherently be thought of as moral agents, capable of bearing responsibility for their behaviour. Second, building on arguments about its unique capacity and mandate to do so, it establishes that the United Nations can and should be considered the primary bearer of the duty to respond to genocide. Finally, using the case study of the 1994 genocide in Rwanda, this study examines how factors both internal and external to the United Nations may affect its ability to discharge this duty, and therefore our ability to hold the organization responsible if it fails to fulfill it.

Key Words: Genocide, Genocide Prevention, United Nations, Institutional Responsibility, Rwanda, International Law, International Relations, Collective Responsibility, Collective Agency

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~ Meghan Fougere

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INTRODUCTION

Though the country was little more than an afterthought in the popular discourse of international politics until some of the most brutal violence that the world has known erupted within its borders in the spring of 1994, the story of the Rwandan genocide arguably dates back decades, even centuries. When European rule arrived to the continent of Africa in the late nineteenth century, Rwanda's new administrators – initially the Germans – inherited one of the most stratified societies in the Great Lakes region (Waller 222). From the sixteenth century onward Rwanda had been composed of three somewhat distinct cultural groups – a steadily diminishing population of hunters and gatherers known as Twa, a large number of agriculturalists that had arrived from the South known as Hutu and a group of cattle-ranchers known as Tutsi (Waller 222). While the terms 'Hutu' and 'Tutsi' were originally developed as class descriptors and the two groups lived in relative peace for decades, European colonizers quickly "reshaped and

mythologized” them as ethnic identities and the Belgians – who took over Rwanda as a League of Nations mandate following the First World War – eventually established the minority Tutsi as a superior racial class while denying the majority Hutu of all rights (Waller 222). With the two groups’ identities beginning to harden as a result, from this point forward, violence became common in the once peaceful society as Rwanda embarked on a history marked with numerous periods of political and economic turmoil.

Following the installation of a Hutu-dominated government, the subsequent fleeing of thousands of Tutsi to neighbouring countries, independence and an economic crisis brought on by a drop in international commodity prices, the lead up to the genocide was already underway by the late 1980s. In this period, a group of heavily armed ‘refugee warriors’ known as the Rwandan Patriotic Front (RPF) began planning to take back control of Rwanda from a Hutu regime that by the early 1990s had ruled to the violent exclusion of Tutsi for over two decades (Krosiak 166; Straus 24). Formed from the Tutsi diaspora in Uganda, the RPF launched an attack on Rwanda on 1 October 1990, declaring war on the ruling political faction at the time – the *Mouvement Républicain National pour la Démocratie et le Développement* (MRND-D) – which was composed of Hutu hardliners and headed by the now infamous President Juvénal Habyarimana (Tilly 222). The civil war that followed coincided with a second challenge to what was effectively Habyarimana’s one party-rule – demands from the international community for democratization that led to the tying of foreign aid to political reform (Straus 24). Facing a dual challenge to power, the MRND-D began to radicalize.

While on the surface, Habyarimana appeared to acquiesce to the demand for political reform – dissolving one-party rule and forming a coalition government in 1992 –

he covertly led a group of MRND-D elites who, unwilling to have their power eroded, formed a hard-line faction known as the *Coalition pour la Défense de la République* (CDR) (Fein 52). The coalition government entered negotiations for a cease-fire with the RPF, culminating in the *Arusha Peace Agreement* in Tanzania on 4 August 1993, which included provisions to create a broad-based transitional government (BBTG) within which power was to be shared by all parties (Straus 24). Yet, having benefited substantially from the single-party rule of the MRND-D, CDR hardliners were unwilling to share power with the RPF. Headed by a group of extremists known as the *akazu*¹, the CDR quickly began promoting a radical ideology aimed at ‘rallying’ Hutu against the Tutsi ‘enemy’ (Straus 30, 25). Distributing racist propaganda through broadcasts from the country’s *Radio Télévision Libre de Mille Collines* (RTLM)², they sought to instill ethnic nationalism and an existential fear of Tutsi among Hutu civilians (Fein 55; Straus 29). Simultaneously, the army was dramatically expanded and a Hutu paramilitary militia known as the *Interhamwe* was formed, mainly of unemployed youth from the capitol, Kigali (Waller 223). With all of these elements in place by the time the *Arusha Accords* were being finalized, all that was needed to spark genocide was a justification. The trigger came on 6 April 1994 when Habyarimana’s private jet was shot down by missiles on its approach into Kigali (Tilly 3). Despite much confusion about the origins of the

¹ Kinyarwanda for ‘little house,’ the *akazu* were a group of senior military and civilian officials centred around the President’s wife, Agathe Habyarimana (Hintjens 259).

² RTLM’s broadcasts were “coarse, violent and full of anti-Tutsi demonology” that betrayed Tutsi civilians as “traitors and mass murderers.” This was critical to the fostering of the ideological commitment among civilians necessary for the genocide to occur because, in the relatively independent society, it was “the only source of insight into the larger world of public affairs for most Hutu” (Waller 187).

attack, it was quickly blamed on the RPF, presenting the hardliners with a window of opportunity to launch their genocidal plan.

The *Interhamwe* had set up roadblocks throughout Kigali within forty-five minutes of Habyarimana's plane coming down and began checking the identity cards of any civilians attempting to pass through them, killing those unfortunate enough to have cards marking them as ethnic Tutsi (Prunier 223)³. Within hours, the militias were touring the city with pre-distributed lists of Tutsi and moderate Hutu politicians to be executed (Waller 223). RTLM began inciting people to murder Tutsi to "avenge" Habyarimana's death (Prunier 224). A group of extremist Hutu politicians quickly seized power forming a 'crisis committee' to govern the country which then, under the direction of Colonel Théoneste Bagosora, began implementing a well-organized "plan of annihilation" across Rwanda (Prunier 240; Waller 223). The destruction of the 'Tutsi enemy' quickly became the basis for authority in Rwandan society as local actors gained power according to their success in this pursuit (Straus 88). Though state forces initiated the killings, the *Interhamwe* were quickly dispatched to help local leaders across the country incite violence in their own communities (Prunier 243). As Scott Straus explains, all across the country the genocide spread through "a cascade of tipping points" in which "those promoting violence consolidated control... became increasingly violent" and began demanding "conformity from their peers" (91-92). Through this self-perpetuating process the violence took on a momentum of its own.

³ Identity cards were initially introduced by the Belgians in 1933 and distributed based on vague physical characteristics that were believed to be unique to ethnic Hutu and Tutsi, with little consideration for their actual ancestry (Waller 222).

Despite being organized 'from the top down' in this manner, one of the most unique features of the genocide that followed was the intensity of mass participation. Ultimately, it was ordinary Hutu peasants who became the main perpetrators of the genocide, or the *genocidaires* (Prunier 247). For nearly one hundred days, *genocidaires* executed civilians at roadblocks, in home searches or attacks on churches and schools using government-supplied AK-47s and machetes, targeting all Tutsi, especially women and children, as well as many Hutu perceived to be Tutsi sympathizers (Prunier 249; Waller 225)⁴. In addition to the massive death toll that was rapidly accumulating, opportunistic violence became rampant as thousands of 'ordinary' Hutu civilians turned on their Tutsi neighbours in the form of revenge, robbery and extortion (Tilly 141). In addition, rape became a prominent tool of the *genocidaires* as they deliberately impregnated and transmitted HIV to their victims in order to perpetuate the genocide indefinitely (Tilly 141). With an average of five and a half murders every minute – a rate equal to three times that of the Holocaust – corpses began to amass all over the country, filling the streets and rivers and adding the threat of disease to the list of horrors (Waller 225; Prunier 255). By the time the genocide ended when Kigali fell to the RPF on 4 July 1994, over 800,000 Tutsi and 10,000-50,000 Hutu had been slaughtered⁵.

⁴ In addition, many civilians assisted the *Interhamwe* and the other *genocidaires* by looting neighbours homes after they had been killed, or by disposing of bodies as they began to pile up. Though not to diminish the insidious nature of these acts, many of these 'part-time' *genocidaires* were acting under duress, with their own lives threatened if they did not contribute to the Hutu cause (Prunier 243).

⁵ What followed was one of the most acute refugee emergencies in history – over 1,500,000 Hutu fled to join the families of their victims at refugee camps in Zaire, Tanzania and Burundi (Fein 57; Tilly 3). This led to a crisis as the camps became sites for the continuation of the conflict where militias regrouped to launch raids or massacres across the border back into Rwanda (Melvern, *Conspiracy* 247). Consequently, as Helen Fein asserts, the genocide has "fuelled... a regional crisis in the Great Lakes" such that

In the Aftermath of Genocide, a Paradox Emerges

As the above account emphasizes, contrary to the claims of many Western commentators in the early weeks of the massacres that what was happening was a case of tribal bloodletting, the slaughter in Rwanda in 1994 was properly a case of modern genocide, as defined in the 1948 United Nations *Convention on the Prevention and Punishment of the Crime of Genocide*⁶. The massacres were planned by the country's elite, implemented through the machinery of the state and committed with the intent to destroy, in whole or in part, Rwanda's ethnic Tutsi population (*Genocide Convention*, Art. II)⁷. Correspondingly, in accordance with the duty to "undertake to... punish" the crime that is enshrined in the *Convention*, on 8 November 1994, the UN Security Council enacted Resolution 955, authorizing the creation of the International Criminal Tribunal for Rwanda (ICTR) to prosecute those "persons responsible for serious violations of international humanitarian law" during the genocide (par. 7). Though both the ICTR's proceedings and national efforts to prosecute the *genocidaires* were ultimately plagued by questions of legitimacy and procedural difficulties⁸, the very attempt to bring the perpetrators to justice was at least symbolic of the international will at the time to punish

the ethnic conflict that began under colonial rule in Rwanda has now become transnational (58). Thus, far from being an insulated case, the Rwandan genocide stands as evidence that the crime of genocide properly falls under the jurisdiction of the international community as a whole.

⁶ According to the *Genocide Convention* the term 'genocide' refers to a number of different acts committed with "intent to destroy, in whole or in part, a national, ethnical racial or religious group, as such" (Article II).

⁷ This was made official in October 1994 when the Security Council declared that what occurred in Rwanda between 6 April and 5 July 1994 was in fact genocide according to the definition contained within the *Convention*, marking the first time that the UN had "officially identified an instance of genocide" (Waller 225).

⁸ For a good overview of the major difficulties faced by the ICTR and Rwandan domestic courts, see the works by Gerard Prunier and James Waller cited throughout this study.

the crime of genocide – a will carried on in the creation of the International Criminal Court (ICC) after much skepticism that it would never come to be. Paradoxically, however, the case of Rwanda also stands as a prime example of the complete failure on the part of the ‘international community’ to discharge the other obligation laid out for the *Genocide Convention’s* signatories – namely, the duty to undertake to prevent and suppress the crime. Arguably the most unambiguous case of genocide since the Holocaust, many assert that Rwanda was the ‘preventable genocide from which the international community walked away’ (Straus 240). While the genocide may have seemed to erupt spontaneously, the above account, along with many others, suggests that there was enough evidence in the months leading up to the genocide for informed observers to have predicted that violence was likely to occur in Rwanda. Though the actual preventability of the genocide is obviously an issue in need of a much more detailed exploration, it is crucial to understand that the purported failure of various international actors to recognize the likelihood of mass atrocity occurring in Rwanda, and to respond accordingly, may be symptomatic of a much larger problem.

Indeed, as Douglas Simon highlights, “when it comes to assessing the ability of the international system” to prevent or stop the commission of genocide, “a review of the history of the twentieth century is not encouraging” and most analyses of the “willingness and ability to deal with genocide [internationally] are characterized by a depressing state of frustration, cynicism and pessimism” (18). While humanitarian intervention in all forms did become more common following the end of the Cold War, Benjamin Valentino notes that, where mass atrocity is the concern, help has time and again “arrived too late to save many victims,” or has “not [been] furnished with the capabilities and the mandate”

necessary to do so (565). Along with Rwanda, striking examples of this trend abound. Most notable perhaps is the infamous case at Srebrenica, in eastern Bosnia-Herzegovina in July of 1995, when UN peacekeepers stood by idly watching as Bosnian Serb forces entered the 'safe-haven' and murdered an estimated seven thousand men while expelling over twenty thousand women and children (Valentino 565). Similarly, despite much debate on the case at the international level, a brutal civil war and frequent genocidal massacres have ravaged the Sudan for well over a decade now. If massive, unnecessary death tolls are not convincing enough, these cases, considered in light of the pledge made by the great powers in the aftermath of the Holocaust to 'never again' allow genocide to go unabated, suggest that there is a serious, underlying problem that needs addressing.

Ultimately, the apparent reluctance on the part of various international agents to proactively address the threat of genocide raises a number of controversial issues regarding the role of humanitarian intervention, the power of state self-interest at the international level and more generally, the nature and scope of responsibility for moral problems in world politics. At least for this author, one of the most interesting questions to emerge from the literature on this topic asks what the proper role of the United Nations – the very organization set up for the maintenance of global peace and security – is or should be when confronted with cases of genocide and other situations of mass atrocity.

The Question of Institutional Responsibility

In the weeks and months following the genocide in Rwanda, numerous media outlets condemned the UN and its members for their actions and inactions that spring. In the years since, a number of detailed studies have been published which suggest that the UN Security Council and the Department of Peacekeeping Operations (DPKO) in

particular are, to varying degrees, worthy of blame for their failures to respond effectively (or at all) in Rwanda. However, the actual responsibility of the United Nations system is still, now over fifteen years on, quite debatable. For some authors, claims that the UN itself is responsible for failing to at least attempt to halt the massacres in Rwanda may be a case of what David Miller refers to as 'remedial responsibility' – where we see a case of suffering or deprivation that *has* occurred and look to identify a particular agent, or group of agents, to blame for the situation and set it right (*Distributing* 95). While it does not follow from such a view that the UN cannot be considered responsible in this regard, it does highlight the importance of understanding agency when discussing responsibility. It is this issue of agency that much of the literature on the topic of the UN in Rwanda, and institutional responsibility more generally, revolves around. Supporters and critics of the organization alike question whether the United Nations, as an international institution – a collectivity of states – can be said to have the requisite agency and capacity to bear responsibility for such global moral problems.

Many authors have presented accounts of various elements of this claim. However, a study linking the idea of agency with the notion of the United Nations' 'proper' role in international society, at least with respect to genocide prevention, does not yet exist. As such, developing a more comprehensive understanding of 'institutional responsibility' as it relates specifically to the United Nations and the emerging regime surrounding genocide as a crime of international law is the very purpose of this study.

Not only is such a project important for bringing greater closure to the case of Rwanda, it can be argued that it was the very failure to properly understand the roles and responsibilities of the UN and related international actors that allowed the Rwandan

genocide to reach the scale that it did. As Miller explains, in 'bad situations' – of which genocide surely is an example – where we expect that someone should intervene to 'put the bad situation right,' if the duties of various actors are not clearly defined and readily understood by all, there is a great risk that problems of collective action will come into play where each actor will "attempt to hang back in the hope that" some other actor will step in first to deal with the situation (96, 110). In her work on institutional agency – which will serve as a central pillar of this study – Toni Erskine suggests that this problem is particularly acute at the international level. She cautions that while discussions of international relations in the media are "rife with assertions of responsibility on the part of various actors" – as with the UN in Rwanda – "not enough attention is paid to identifying" which actors may qualify as agents or bearers of specific responsibilities and, perhaps even less so, to identifying agents with the appropriate deliberative capacities and executive functions to "allow them to respond to what we understand to be moral imperatives" (*Making* 1-2). Like Miller, Erskine warns that our vague understanding of responsibility leaves open the possibility that when calls for action are heard, entities that are not actually capable of responding may be "burdened with duties that they cannot discharge, while leaving more appropriate actors overlooked," or 'off the hook' (*Making* 4). Andrew Kuper goes so far as to argue that our as-of-yet failure to adequately specify who should bear the obligations to deliver on human rights is one of the underlying reasons why they continue to be systematically violated, time and again, all over the world (ix-x). Thus, there is a very strong case suggesting that if the international community is ever to realize its post-Holocaust promise to 'never-again'

allow the horror of genocide to continue unabated, the specific issue of where responsibility for the prevention of genocide lies is in need of much examination.

A Few Clarifications

It should be noted here that any discussion of responsibility necessarily involves a number of contested terms. First, the term ‘responsibility’ itself can have many different meanings. In terms of how judgments of responsibility may be assigned, we might make *prospective* claims of responsibility regarding how a particular agent “ought to perform given certain conditions,” or, we might make *retrospective* “assessments of a particular event or set of circumstances for which” an agent’s acts of “commission or omission are such that the agent is deemed deserving of praise or blame” (Erskine, *Making* 8). This study will seek to do both, using the case of Rwanda and analysis of the body of international law surrounding the crime of genocide to develop a better understanding of the UN’s actions related to the genocide in 1994 while at the same time using insights from this retrospective account to make prospective claims about the duties of the UN when presented with cases of genocide in future – an unfortunate but likely situation.

Second, an important distinction must be drawn between the potential sources of responsibility claims. As Miller asserts, “few concepts... are more slippery than that of responsibility” (*Distributing* 97) and so a brief overview of the different forms it may take is necessarily prior any discussion of the potential for institutions like the United Nations to be said to be responsible for their actions and inactions. Perhaps the most basic sense in which we understand responsibility is *causal*. For an agent to be considered *causally* responsible for a particular state of affairs requires simply that they played some causal role in its genesis (Miller, *Distributing* 97). Causality may be attributed even

where we do not think the agent responsible should be ascribed any sort of moral blame. The degree of agency required for a finding of causal responsibility is generally thought to be much lower as few assumptions are made about an agent's ability to deliberate or act freely (French, *Morally* 14). *Moral* responsibility, on the other hand, has a more normative dimension as it is commonly thought to be attributable only to specifically "moral" agents (Isaacs, *Individual* 170). Though moral agency will be discussed further in later chapters, what is important here is that it requires, at a basic level, that certain features of an agent make it such that they can be held worthy of praise or blame beyond pure ascriptions of causality for their actions and inactions (Isaacs, *Individual* 170). To hold someone or something morally responsible for a particular situation implies that it or they could have or should have acted differently than they did under the circumstances. Finally, *legal* responsibility may involve elements of both causal and moral responsibility and is found where agents fail to comply with the applicable laws in a given set of circumstances. Our study will focus on the idea of institutional *moral* responsibility, though aspects of causality and legality will be touched on in support of this notion.

The Plan

As suggested above, the overarching purpose of this project is to explore the notion of the United Nations as a moral agent in world politics with a duty to respond to the crime of genocide. With the above clarifications about the nature of responsibility claims in mind, we will proceed toward this end in three main sections. First, we will look to the existing literature on both collective and institutional agency in an attempt to developing an understanding of how international institutions, like the UN, may meaningfully be considered moral agents in international relations, capable of bearing

responsibility for their behaviour. Second, we will turn to question whether, if found to be a moral agent, the United Nations may be said to have both the capacity and a mandate, relative to other international actors, to respond to genocide. If it can be shown that the United Nations bears a special duty to act as a sort of first responder to mass atrocity, then it follows that its responsibility should be magnified if it does not act accordingly. Finally, we will return to our case study to apply the insights derived from the first two sections to examine what the actual responsibility of the United Nations may be understood to be for the events in Rwanda back in 1994. These three elements taken together, the main goal of this project is to develop a better understanding of the United Nations' potential moral agency, its obligations with respect to genocide prevention and the factors both internal and external to it that may limit our ability to hold the organization accountable if it fails to fulfill these.

“Identifying moral agents in international politics, and asking what kind of entity can coherently be described as such, is prior to any useful discussion of how duties might be assigned or praise and blame apportioned” (Erskine, Making 8)

CHAPTER 1: INSTITUTIONS AS MORAL AGENTS

To highlight that a role has been constructed for the United Nations that it has failed to fulfill in practice – as will be done in later chapters – is one thing; to attribute moral responsibility to the organization for its failings in this regard is quite another. In the eyes of many of its critics and supporters alike, the United Nations, as an international organization that is a collective of different entities, is simply not considered the kind of actor capable of bearing responsibility for the actions and omissions so often attributed to it. As such, exploring the very notion of the UN as a potential moral agent is necessarily prior to any discussion of the organization’s role in genocide prevention. Fortunately for this purpose, almost directly as a result of events like the genocide in Rwanda calling into question the ‘responsibilities’ of various actors in international relations (IR), a body of literature has begun to emerge that questions how agency operates internationally and addresses the topic of institutional responsibility directly. Building on this literature, the goal of this chapter trace the theoretical roots of the concept of institutional moral

responsibility through a critical account of how responsibility has traditionally been conceived of in IR theory, international law and philosophy more generally. Ultimately, it will be argued that there is an important manner in which the United Nations *can* be considered a moral agent capable of bearing responsibility for its behaviour, thereby laying the groundwork for the account of the organization's role in the prevention and suppression of genocide to be advanced in this study.

This chapter will proceed in two main sections. First, beginning with an overview of the traditional understanding of responsibility from both philosophical and legal perspectives, it will be argued that contemporary moral problems, like genocide, simply cannot be adequately addressed without taking into consideration the responsibility of different actors not typically considered to be moral agents. Second, in an attempt to move beyond the problems associated with the traditional understanding of responsibility – namely, its strict adherence to the doctrine of individualism – a model of institutional moral agency will be outlined that builds upon debates about collective responsibility as well as the work of several influential theorists spearheading research on the concepts of collective and institutional responsibility.

The Traditional Understanding of Responsibility: Features and Limitations

Agency and Individualism

To begin, it is important to recognize that the notion of the United Nations as an entity capable of bearing moral responsibility runs strongly counter to the manner in which we tend to think about the concept at both the domestic and international level. For many traditional theorists of responsibility, the concept of moral responsibility – in its attempt to look beyond pure causality to find reasons why an actor may be worthy of

blame or praise for its behaviour – has become powerfully associated with the notion of agency. Though ‘agency’ is itself a contested term, the basic assumption of most theories of responsibility in this regard is that an actor can only be deserving of moral praise or blame for *voluntary* acts of omission and commission (May, *Sharing* 16). As such, our conventional practices of apportioning moral responsibility often require the existence of a prior degree of freedom or autonomy on the part of the agents in question (Mathieson 245; Hutchens 18; Hay 96). More specifically, we tend to look for agents with the capacity to form a perspective, plan and think through potential courses of action, and act on the basis of these deliberations (Isaacs, *Collective* 59; Mathieson 243). Essentially, taking each of these elements into consideration, both existing theory and conventional wisdom suggest that an entity must be a free agent capable of intentional, voluntary behaviour in order to be properly considered the subject of moral responsibility claims.

The problem for theorists thinking about the concept of institutional responsibility is that, in making responsibility contingent upon agency in this manner, most conventional theories of it have developed a rather narrow view of what kinds of agents are capable of bearing moral responsibility. Crucially, the dominant tendency has been to think of moral responsibility as something only attributable to individual human beings (Green 118). In many ways a product of the ‘paradigm of individualism’ inherited by contemporary Western liberal philosophy from the Enlightenment (French, *Types* 35), this priority given to the individual in responsibility theory has led some to the conclusion, alluded to above, that collectives such as the United Nations simply are not the sort of entities capable of bearing moral responsibility.

Further challenging the understanding of responsibility to be advanced in this study is the reality that conventional accounts not only limit the potential pool of subjects to individuals, but also restrict the kinds of responsibilities that can be borne by them. Outlining what he refers to as the 'restrictive' conception of responsibility, Michael Green argues that most theories emphasize the importance of 'special obligations' to family, friends, co-workers or fellow citizens while limiting duties owed to strangers (119). Moreover, our understanding of responsibility tends to focus on negative duties, "those that prohibit doing specific things" over positive duties, which call for preventive action or the provision of benefits to others (Green 119). Together with the focus on individualism, these qualifications produce a limited understanding of responsibility that has the potential to seriously restrict debates about the proper role of the United Nations internationally and the notion of humanitarian intervention implicit in this study.

Individualism and International Law: The Nuremberg Legacy

Not solely an issue of concern to philosophers, the paradigm of individualism associated with moral responsibility theory is also reflected in many contemporary legal practices of apportioning blame and responsibility. As another product of the liberal tradition, modern Western legal systems have been constructed around the assumption that the individual should be the "central unit of analysis for the purposes of sanctioning violations" of law (Drumbl 5). What is even more important for this study is that the focus on the individual as the primary unit of analysis where accountability is concerned has steadily become central to the contemporary international legal regime surrounding mass atrocity as well.

Individualism has not always been the overarching theme around which international law is organized. On the contrary, until relatively recently it has been thought to govern exclusively the relationship between states, viewing individual states as the only proper subjects of responsibility for “breaches of [international] law and the customs of war” (Wladimiroff 106). This initial statism was presumably a product of the field’s early association with the discourse of international relations given that, for most traditional IR theorists, the understanding of individual moral agency outlined above is assumed to apply, unproblematically, to states above all other actors at the international level (Erskine, *Making* 3). Moreover, from the specifically Realist belief in IR theory that individual states are unitary actors, early formulations of international law held that states alone were capable of being imputed with the responsibility for “certain wrongs committed by [their] agents or organs” (Wladimiroff 106). With this view held partially to guarantee the impunity of individual sovereign heads of state, the very notion of holding individuals accountable for such violations was for some time considered “anathema to the entire exercise” of international law (Abrams and Ratner 4). It was not until the tragic reality of this system – namely, that it provided “little solace for citizens who were oppressed by their own government” (Morrison 211) – began to be challenged by early international human rights activists that the principle of sovereign impunity came to be questioned.

While the state continues to be considered the most, if not the only relevant agent in much of traditional International Relations theory – a point that will be returned to in chapter two – the development of early mechanisms of human rights protection has prompted a gradual shift in the focus of international law surrounding accountability for

war crimes from states to individuals – state officials in particular – and their role in these crimes (Abrams and Ratner 3; Wladimiroff 106). Yet, it was only with the trials of Nazi criminals at Nuremberg in the aftermath of the Second World War that a paradigm shift truly began to occur.

For many political and legal theorists, the Nuremberg tribunals stand, in the words of Jason Abrams and Steven Ratner, as a ‘watershed for the development of the principle of accountability for human rights abuses’ (6). Though the creation of the International Military Tribunal (IMT) in 1945 was partially the result of “growing changes in international law” that were occurring in the inter-war period (Bass 150), it is important to remember that punishing the “major war criminals of the European Axis countries” for ‘Crimes Against the Peace’ and other war crimes was the primary goal of the Nuremberg prosecutors (Art. 6a-b)¹. Yet, the decisions reached at Nuremberg between 1945 and 1946 are first and foremost remembered for the manner in which they challenged the status quo of impunity for state officials committing gross violations of human rights. By rejecting the notion that sovereignty or ‘superior orders’ may be used by a state’s officials as a defense for what were recognized by the *Charter of the International Military Tribunal*, for the first time in the history of international law, as ‘Crimes Against Humanity,’ the tribunals allowed for the possibility that heads of state may be held responsible for atrocities committed by them, or in their name (Abrams and Ratner 6; IMT Charter Art. 6c, 7; Rosenberg 1550). With this marking a major break from the past practice of imputing the state itself with responsibility for the wrongdoings of its agents,

¹ As Gary Bass cautions, it is often forgotten that the trials at Nuremberg were not an inevitable product of the Holocaust but were only made possible because of the “unswerving political will” of the victorious Allies, the United States in particular, to punish German officials for their instigation of the war (150).

the trials at Nuremberg essentially opened international law up to the possibility of individual responsibility for such mass violations of human rights as genocide (Morrison 212), which was then not yet considered a crime under international law.

It should be noted here that in the decades since Nuremberg, many commentators have cautioned that the IMT alone did not cause the structural changes in the practice of international law so often attributed to it. Rather, as Michael Biddis argues, the progress that can be directly attributed to Nuremberg has in fact been “more evident at the level of principle than of practice” (50). In the years immediately following the trials, the legacy created by the IMT Charter’s recognition of crimes against humanity led to the simultaneous adoption of the *Genocide Convention* and the *Universal Declaration of Human Rights* (1948) by the international community not long after the founding of the United Nations. Aside from these and other statements of the international will to protect human rights, little progress was seen in the actual practice of holding individuals to account for these crimes until a wave of international efforts to punish the perpetrators of mass atrocity occurred following the end of the Cold War, in the aftermath of such events as the genocide in Rwanda². Regardless, it remains that – whether directly or indirectly – the IMT at Nuremberg made it such that “from a time when individuals were barely subjects of international law” (Abrams and Ratner 9), everyone from individual government official to regular citizen is now considered a possible bearer of responsibility for the kinds of violations of human rights of interest to this study.

² Little progress was made in any area governing human rights during the Cold War as most states, the U.S. and the Soviet Union in particular, used the tension between them as “an excuse for international inaction” in this and a number of other areas (Simon 20).

What is more, not only *can* they be held accountable for such breaches of international law, individualism has now become the overarching theme of most mechanisms of accountability for mass atrocity. As Mark Drumbl's recent study on contemporary international practices of punishment for atrocity crimes suggests, the adherence to individualism in international human rights law – the body of law most relevant to any question of responsibility associated with genocide – has almost become dogmatic (5). What is more, according to Drumbl's reading of the contemporary practice of international criminal law, the manner in which violations of human rights have been dealt with from Nuremberg on can be considered a near direct "transplant of the structure, rules and methodologies of ordinary criminal process and punishment" found in Western, liberal-democratic societies (23). Along with the "construction of the individual as the central unit of action," he notes that "accountability determinations proceed through adversarial third-party adjudication, conducted in judicialized settings" mimicking those used at the domestic level for ordinary criminal procedures (5). As such, regardless of the exceptional nature of genocide or other mass atrocity crimes, the methods used at the international level to apportion responsibility for these phenomena are really no different from those used domestically for what are arguably lesser crimes.

The Limits of Individualism

We are at a point then now where it seems that, regardless of the statism upon which international law more generally was founded, individualism *has* become the dominant organizing principal of international human rights law. According to Drumbl's research, there seems to be "little, if any, questioning [among legal scholars] of the suitability of" transplanting this and other characteristics of Western legal systems up to

the international level for the purpose of addressing mass atrocity (7). Problematically, this uncritical acceptance of legalistic, individual-centred modalities of justice as the appropriate response to genocide and other crimes against humanity simply seems to be fundamentally ignorant of crucial aspects of the nature of these phenomena.

Specifically, the narrow focus on the individual as the sole bearer of accountability seems to be at odds with the necessarily collective elements of the types of conduct that international human rights law deals with. As we learned from Hannah Arendt's reporting on the trial of Adolf Eichmann following the Holocaust as well as several other detailed studies on the collective nature of atrocity crimes³, phenomena like genocide simply cannot reach the 'epidemic levels' that have become all too familiar in the past few decades without the direct or indirect participation of mass populations – of everyday 'ordinary' citizens not 'normally' thought to be violent, let alone capable of committing mass atrocity (Drumbl 26; Isaacs, *Individual* 167). Moreover, most of these accounts suggest that understanding the truly collective nature of atrocity crimes requires that we go beyond simply looking at the aggregate product of "all individual actions" in these situations (Drumbl 202). Far from being merely a crime with numerous individual perpetrators, genocide and certain other mass violations of human rights are phenomena that cannot occur without much deeper collective elements at work.

What is more, the collective features of crimes like genocide are diverse in nature – a reality described quite well by what Drumbl refers to as the 'complicity cascade'

³ See works such as: Browning, Christopher. *Ordinary Men: Reserve Police Battalion 101 and the Final Solution in Poland*. New York: Harper Perennial, 1993; Waller, James. *Becoming Evil: How Ordinary People Commit Genocide and Mass Killing*. Oxford; New York: Oxford University Press, 2002. Second Edition; and Tilly, Charles. *The Politics of Collective Violence*. Cambridge: Cambridge University Press, 2003.

associated with mass atrocity. According to Drumbl, while many atrocities begin based on the 'devious' intentions of 'conflict entrepreneurs,' how the community surrounding these opportunists responds has proven to be the ultimate determining factor of whether and to what scale violence will subsequently erupt (202). In his own words:

“[i]f community members... look past attempts to habituate them into violence and hatred, then the conflict entrepreneur remains marginal... [whereas i]f community members... identify with violence and hatred, then the wheels of atrocity are set in motion...” (202).

Once this tipping point has been reached, the complicity cascade comes in to play as some members of the community become leaders of the violence and killers themselves, while others 'merely' benefit from the violence or simply “draw their blinds and look away,” in effect allowing the violence to continue unabated (Drumbl 25). Crucially, while these groups clearly represent “descending levels of moral blameworthiness for atrocity,” they are each necessary but arguably not sufficient for violence to escalate to the level commonly associated with crimes like genocide (Drumbl 25).

For some commentators on this topic, the role that Drumbl's last group, the seemingly innocent bystanders play in the escalation to mass atrocity is one of the most intriguing and important aspects of the collective nature of crimes like genocide.⁴

⁴ Though not necessarily relevant to the overall argument of this study, it is interesting to note yet another communal element of atrocity crimes that is identified by both Hannah Arendt and Mark Drumbl, among many others – namely, the reality that in societies undergoing periods of mass atrocity, it is the perpetrators who are considered 'ordinary' or 'normal.' In societies where violence and discrimination have become normalized, or even legalized as in Nazi Germany, “participating in atrocity is not deviant behavior... even less deviant” is the behaviour of mid-level organizers or benefiting bystanders (Drumbl 26). As Arendt notes when coming to her infamous conclusions about the 'banality of evil,' the guilt of rank-and-file officials like Eichmann ultimately stems from

Interestingly, it is at this point in the discussion that we may return to the topic of institutional responsibility as many commentators in the aftermath of Rwanda in particular categorized the United Nations as an external *bystander* to the genocide, with some going so far as to suggest that it was complicit in the violence. Though Drumbl's own work is more concerned specifically with how to bring various individuals *not* deserving of full criminal responsibility into the process of apportioning blame for mass atrocity, he too acknowledges that our understanding of complicity may need to include collective actors like corporations and international institutions because of the influence that these entities can have in conflict societies (204). While the actual involvement of the United Nations in this regard during the genocide in Rwanda will be debated in the final chapter of this study, it is enough to suggest for now that there is an important manner in which organizations like the UN may also serve to either mitigate or exacerbate mass atrocity.

Ultimately, it is this very diverse set of communal elements to mass atrocity that make the strict adherence to individualism associated with the current system of apportioning responsibility for these crimes extremely problematic. The difficulty arises from the fact that the traditional, liberal-individualistic way of thinking about responsibility – both morally and legally – outlined above simply fails to capture the full range of actors who, acting both separately and together, may be said to directly or indirectly contribute to the collectivization of violence necessary for genocide to occur (Drumbl 37). Essentially, though many different individuals and groups may ultimately

their obedience to societal norms during the commission of mass atrocity and not from deviance or a necessarily violent disposition (*Eichmann* 94, 99). This normative backwardness poses yet another serious obstacle to those wishing to defend the use of Western, individualistic modalities of justice to deal with atrocity crimes.

be responsible for atrocity, only a slight few even have the potential to be found to be so under international criminal law (Drumbl 197)⁵. Consequently – in Mark Drumbl’s own words – the current system of apportioning blame and distributing sanctions at the international level barely “skims the surface of the dynamic and diverse sources of mass atrocity” (37). As such, it seems logical to suggest that what is needed is a much broader, more inclusive understanding of where accountability lies for such heinous crimes as genocide – one that must address the question of whether or not different collective groups may be considered agents capable of bearing responsibilities in this regard. Crucially, by creating the potential to affix costs to those individuals and groups that simply allow violence to continue unabated it may be that such a ‘complete attribution of responsibility’ (Green 119) is the answer to the question of how to achieve more forward looking goals about the prevention or deterrence of genocide and other gross violations of international human rights.

It must be understood here that none of the above criticisms or the arguments to follow are meant to suggest that we should move away from or abandon individualism in international criminal law. One of the main concerns of many collective responsibility skeptics is that claims of this nature may only serve to exonerate those individuals who actually partake in the planning and execution of mass atrocity. As Hannah Arendt cautions, “where all are guilty, no one is” (*Responsibility* 21). Yet, these concerns have

⁵ It should be noted that several developments have occurred post-Nuremberg for dealing with those perpetrators not themselves involved in committing atrocities but who “are in a superior position to, and are able to control the behaviour of” those individuals who are (Wladimiroff 110). While recognizing the importance of this ‘command’ responsibility has been a necessary step in the right direction toward a more complete understanding of responsibility for atrocity crimes, it still fails to capture the full range of actors of concern to this study.

more to do with discussions of collective *guilt* rather than collective *responsibility*⁶. Though it is becoming ever more apparent that they are not the only actors with a contributory role to play in contemporary mass atrocity and as such should not be the sole bearers of responsibility for these crimes, it remains that the individual leaders and perpetrators of genocide and ethnic cleansing are still the *most* deserving of responsibility in these situations – a reality upheld by the findings of the ICTR, other international atrocity tribunals and the early workings of the International Criminal Court (ICC). Yet, this does not mean that other actors may not be *morally* responsible for their actions and inactions related to atrocity crimes and thus deserving of some sort of penalty or sanction, whether criminal or not. Furthermore, it is important to remember, as alluded to above, that it was this very concern with ensuring that the actual perpetrators of atrocity crimes receive their just desserts that gave rise to individualism as the dominant response to mass atrocity. Coupling these considerations with the risks of ‘collectivizing guilt’ and ‘victor’s justice’ so commonly cited with reference to the results of the Treaty of Versailles⁷, it becomes clear that what is needed is not the abandonment of individualism but a more comprehensive understanding of responsibility that addresses the collective elements of atrocity without exculpating the actual perpetrators of these crimes.

⁶ Arendt argues that while there is “such a thing as responsibility for things one has not done” – i.e. a genocide that one has not *actively* participated in – “there is no such thing as being or feeling guilty for things that happened without oneself actively participating in them” as guilt is something ‘strictly personal,’ that singles out based on actions, not simply ‘intentions’ (*Responsibility* 147).

⁷ As Drumbl notes, many collective responsibility skeptics ‘properly remind us’ that punishments and damages assigned to groups in their entirety “ultimately pass through and be borne by all group members, regardless of how much hurt” they caused or suffered themselves – a reality that can lead to “cycles of further violence” in post-conflict societies (201).

The Case for Institutions as Moral Agents

As mentioned earlier, some skeptics claim that collectives simply do not have the degree of agency necessary to be considered morally responsible agents, which, by traditional standards, would mean that they cannot reasonably be brought into the matrix of responsibility for atrocity crimes. Based on the intuitive sense of what constitutes a moral agent – itself a product of the history of individualism that was the subject of the first half of this chapter – this seems to be a reasonable claim. However, returning to the features of agency outlined above suggests that this common perception may be without foundation. Remembering that agency is typically assumed to require that an entity have the capacity to form a perspective, think through and decide on potential courses of action and finally, to act on the basis of these deliberations, Toni Erskine argues that while individual human beings will always be “paradigmatic moral agents,” there is nothing about these defining features that necessarily “preclude[s] certain collectives from also qualifying” (*Locating* 701). Significantly, this notion that some collectivities may in and of themselves be intentional agents does have philosophical roots in a relatively new body of literature on collective action theory.

Thinking About Collective Responsibility

As Daniela Kroslak explains in her own work on responsibility for the Rwandan genocide, the idea that a collective actor may be held responsible in the context of genocide was raised at the Nuremberg trials regarding the role of bystanders, “the church and the actions of the Allies during the Holocaust” (162-3). However, it was not until several decades after Nuremberg that theorists began to really engage with the concept of collective responsibility and a body of literature on the topic has steadily developed since.

When looking at this literature, it quickly becomes apparent that most theorists on this topic fall somewhere on a continuum between what can be referred to as 'individualists' and 'corporatists.' The variation between both ends of the spectrum relates to the degree to which theorists think that collective entities themselves may be said to exhibit the defining features of agency. For individualists, any sense of agency that a collective may display necessarily depends upon that of its individual members or component parts. Conversely, for those more in line with the substantive or corporatist perspective, the structure of certain collective entities may make it such that the collective itself can be said to be an individual, intentional actor. A closer examination of what each perspective entails, the variations between them, and the implications that each has for thinking about collective responsibility is necessary before moving on to an analysis of how international institutions may factor into this complex discussion.

Looking first to the individualists, theorists from this camp maintain that any answer to the question of where responsibility for phenomena like genocide may be located, even at the global level, must make reference to individual human beings (Erskine, *Locating* 701; Isaacs, *Collective* 61). Believing that individuals should *only* be responsible for "what they themselves intentionally bring about," these theorists share the concern that ascriptions of collective responsibility run the risk of either punishing individual group members for what they have not done, or, failing to hold accountable those individuals who are actually to blame for a particular situation (Hoffman and May 4-5). According to H.D. Lewis – writing in the same period as Hannah Arendt – the problem is that if "responsibility is literally shared, it becomes very hard to maintain that there are any proper moral distinctions to be drawn between one course of action and

another” (17). From this, these theorists appeal to our intuitive sense of agency to suggest that we should trace all seemingly collective actions back to the intentions of individual group members (Green 118). Thus, for individualists, all statements about collective responsibility are ultimately just a form of shorthand for talking about the aggregate product of the individual actions within a given collective (Erskine, *Locating* 701). With their existence and ability to act entirely dependent on what are thought to be completely independent, individual intentions in this manner, there can – for individualists – be no real sense in which collectives may be said to have the features of agency necessary to be held accountable for their behaviour.

As this brief overview of the perspective suggests, the individualist sense of collective responsibility is, in Tracy Isaacs’ words, “not really collective at all” (*Collective* 62). It is not surprising that it is from this theoretical camp that most skeptics of institutional responsibility originate. Specifically, individualists would argue that international institutions, as collectives of states and other entities, simply “lack [the] ontological independence” necessary to themselves be considered moral agents in world politics (Erskine, *Making* 4). Relating this to the UN in particular, an individualist is likely to contend that speaking of the organization’s collective responsibility is really just another way of talking about the responsibilities or obligations of either its member states – states being the equivalent to individual human beings in much of IR theory – or, the individual representatives that make up the bureaucracy of the organization. As such, being little more than an attempt by traditional theorists to appease those calling for recognition of collective moral agency, the individualist approach to collective responsibility fails to move us beyond the problems associated with individualism in

international law, and responsibility theory more generally, identified by authors like Mark Drumbl.

Again, it must be understood that efforts to diversify the matrix of responsibility for atrocity crimes do not require that we abandon the focus on the individual that is of such concern to this group of theorists. Yet, any sort of *strict* adherence to individualism in collective responsibility theory seems ignorant of the reality, alluded to earlier, that in certain situations, a “group of people [may be] structured in such a way that action can occur that could not occur if the [group’s] members were acting outside” of the group (May, *Collective* 213). Moving along the collective responsibility continuum, we begin to see theorists who acknowledge and embrace this fact.

In particular, both Tracy Isaacs and Michael Bratman present accounts of collective responsibility that are “not so completely individualist” as to dismiss the importance of social dynamics in collectivities, yet “not so substantive as to claim that collectives are fully independent moral agents” (Isaacs, *Collective* 62). The key feature of both of these theorists’ accounts is the notion of intentional action. Looking back to the requirement that an entity must be able to form and act on its own perspective to be considered a moral agent, these authors contend that there is a very real yet immeasurable process through which collective intentions, based on shared perspectives, may be formed. In most cases of collective action, they argue, not “only is the participation of individual” group members usually intentional but each individual intention, taken together, tends to highlight “a joint goal around which the group members” interests converge (Isaacs, *Collective* 173). With each individual member acting in aid of this joint goal, individual intentions begin to mesh and become interdependent (Bratman 2). What

Bratman calls “relations of rational mutual responsiveness” to expectations inevitably develop and individual group members begin to act for the group, rather than simply for themselves (2). Crucially, differentiating Bratman and Isaacs from the individualists, both argue that the shared intentions that result from this process are characterized by a sense of irreducibility that would not be present “were collective intentions simply aggregates of the intentions of individuals” (Isaacs, *Collective* 67). In other words, more than a mere aggregate, the collective becomes an intentional agent in its own right and can be considered as a singular entity. With each of the members of the collective acting in pursuit of a joint goal, the collective itself may gain the capacity to act on its intentions (Isaacs, *Collective* 67), and thus, may ultimately be considered a target of moral responsibility according to the traditional understanding of the term.

It is important to recognize however that for theorists like Isaacs and Bratman, this sense of collective agency and responsibility is necessarily bounded. As these authors believe that a given collective’s capacity for intentional action depends “in important ways on the intentions and actions of individuals,” they contend that collective entities may only properly be understood as “dependent moral agents” (Isaacs, *Collective* 62). This suggestion that the agency of institutions and other collective actors may be contingent upon that of their constituent parts has interesting implications for those hoping to widen the range of actors capable of bearing responsibility for mass atrocity. With regard to the potential to hold the United Nations to account for its actions and inactions in response to genocide, the shared intention approach seems to suggest that we must look at the interaction between the structure of the organization and its member states. This notion that the structure of a collectivity may affect its agency is key.

However, given that Isaacs herself emphasizes that the point of her project is to better understand how individual responsibility operates within collective contexts⁸, the shared intentions approach to collective responsibility may be more appropriate for determining how to bring the kinds of complicit bystanders discussed by Drumbl into the process of apportioning blame for atrocity crimes. Instead, given the interesting implications of the notion that a collective's agency may be powerfully affected by its structure, a better understanding of the corporatist approach to collective responsibility may be more useful for launching a discussion of specifically institutional responsibility.

Finally, perhaps the best model for describing the potential agency of international institutions like the UN comes from the corporatist, or what Isaacs refers to as the 'substantive' approach to collective responsibility. The most important theorist in this camp is Peter French, whose work on corporations as 'moral persons' is a starting point for both theorists and critics of collective moral responsibility across a wide range of subject areas. Like Isaacs, French argues that collective entities may be considered moral persons to "the extent that they have the capacity to act on the basis of intentions" (Isaacs, *Collective* 61). Moreover, he too attempts "make the collectivity an entity capable of bearing moral responsibility over and above the sum of" that of its individual members (French, *Morally* 14). The distinguishing feature of his work is that he believes

⁸ Believing that "if we focus too narrowly on individuals... we risk giving a distorted account of what the individuals do and what they take themselves to be doing" (*Individual* 170), Tracy Isaacs' work on collective responsibility is motivated by a desire to help illuminate what individual responsibility for mass atrocity really entails. Specifically, she thinks that better understanding how individual intentions interact during the commission of atrocity crimes helps to reveal more "morally significant information about the" nature of the crimes themselves (172).

that *some* collectives can develop this sense of agency independent of their individual constituents if they are structured appropriately.

Specifically, French posits that a collective entity must exhibit the defining characteristics of what he calls a “conglomerate” in order to qualify as an independent moral agent in this manner. First, he argues that collective moral agents must have clearly defined internal decision-making structures through which corporate intentions may be formed and acted upon (French, *Types* 45). While similar to the sort of collective intentionality described by Isaacs and Bratman, corporate intentions derived in this manner seem to represent something much more concrete given that they are a product of regulated decision-making procedures rather than a vague notion of interdependence and spillover effects. Second, French contends that to be moral agents, conglomerates must be organized such that “a change in the specific persons” or other constituent parts of a given collective “does not entail a corresponding change in the identity of” the collective as a whole (French, *Types* 44-5). This point is crucial because if a collective can maintain its identity over time, through changes in its internal composition, then it is much more likely to itself have the capacity to form a perspective, deliberate and act accordingly as required of the conventional understanding of responsibility as it relates to agency.

While for French, corporations are considered the paradigmatic collective moral agents⁹, the model that he puts forth seems to provide the best description of how international institutions like the United Nations may be brought into the debate about collective responsibility for atrocity crimes. It must be understood here that an important part of French’s project is to distinguish corporations and other ‘conglomerates’ from less

⁹ See his piece on ‘The Corporation as a Moral Person.’ *American Philosophical Quarterly* 16.3 (1979): 207-215.

structured collectivities (Isaacs, *Collective* 61). He is very careful to insist that collectivities lacking “the highly structured character of corporations” – particularly those without clear decision-making procedures and “organizational features that outline the roles of individuals within the collective” – simply cannot be considered intentional agents in their own right (Isaacs, *Collectives* 61). Yet, as the above overview of the literature on collective responsibility – particularly the accounts put forth by Isaacs and Bratman – suggests there may be important ways in which other, less structured collective entities might exercise different forms and degrees of agency. As such, it seems – as Larry May suggests – that “agency admits of degrees” with regard to the notion of collective responsibility (*Collective* 226). It may be that individualist, shared intention and corporatist or substantive approaches to collective responsibility should be thought of as simply applying to different levels of analysis or kinds of collectivities entirely. By emphasizing the diversity of actors that may be capable of bearing moral responsibility, each of these perspectives lends theoretical support to the effort to broaden our understanding responsibility for atrocity crimes. However, as the focus of this study is specifically on the UN’s role in addressing crimes like genocide, the remainder of this chapter will attempt to build on these insights about collectives to develop a more detailed account of institutional responsibility.

Institutions and Moral Agency

Before launching into a discussion of how institutions may be considered collective moral agents according to the theories outlined above, at least one more clarification is necessary – specifically, how the term ‘institution’ should be understood. Yet another notoriously ‘slippery’ concept, particularly in the field of International

Relations, the word 'institution' tends to refer to "some sort of establishment of relative permanence of a distinctly social sort" (Keohane 382). As such, it can be used to describe everything from well-established norms and practices to formal organizations (Erskine, *Making* 5). The United Nations, as a highly structured Intergovernmental Organization (IGO), falls under the latter category of institutions and as such, it is this sense of the term that will be used throughout the remainder of this study.

According to Toni Erskine, it is precisely "institutions in the sense of formal organizations" that *can* "conceivably be considered agents" capable of bearing responsibility for their behaviour (*Making* 5). Initially writing on the topic in the specific context of "where blame lies for the genocide in Rwanda," Erskine has developed a "model of institutional moral agency" that builds upon French's work on corporations (*Blood* 22). Like French, Erskine posits that the first criterion that an institution must meet to be considered a moral agent is that, quite simply, its very existence must entail something "more than the sum of its constituents" – it must have its own, albeit 'corporate,' identity (*Blood* 25). Second, the institution must have a relatively sophisticated sense of internal organization and a set of formal decision-making procedures within it such that it may have the capacity to deliberate and "arrive at a pre-determined goal" toward which it can direct action (Erskine, *Blood* 25). Third, adding to French's corporate model, Erskine suggests that to qualify as a moral agent, an institution must have some form of "executive function linked to" its decision-making capacity so that it can effectively "translate decisions into action" (*Blood* 25). Finally, sharing French's contention that moral agents must "have an identity over time," she adds that an institution must be "self-asserting" and conceive of itself as possessing agency in order to

qualify as a member of the 'moral community' (*Blood* 26). In sum, very much in line with Peter French's corporatist understanding of collective responsibility, Erskine's model requires that institutions exhibit four key characteristics in order to be considered agents capable of bearing moral responsibility claims:

- a) a corporate identity;
- b) an internal decision making structure;
- c) an executive function;
- d) and an understanding of themselves as such.

While "both supporters and critics of the [United Nations] certainly believe that it possesses" (Lang 183) the capacity for agency, a closer examination of whether it counts as an institutional moral agent according to this model is needed.

As Erskine herself notes, the United Nations is a particularly "hard case" when it comes to applying the criteria outlined in her model of institutional moral agency, "in part because of the structure of the organization itself" (*Blood* 27). Although, as Howard Adelman asserts, the United Nations is often thought to be the "archetypal collective actor in international affairs," its potential for agency is complicated by the reality that it has always been – and will always be - a very "complex constellation" of different actors operating at numerous levels of analysis (9-10). Set up in 1945 by just two hundred and sixty representatives of what was then only fifty-one member states, the United Nations is now, quite arguably, the only 'truly global organization' that has ever existed (Baehr and Gordenker 27; Hanhimäki 5). With one hundred and ninety-two member states as of 2008 and the proliferation of numerous sub-committees and specialized agencies, the organization has become a very complex association of various units and subunits

(Hanhimäki 5). With decisions made by vote of the members of the organization's five principal organs – the General Assembly, Security Council, Economic and Social Council, International Court of Justice and the Secretariat¹⁰ (Hanhimäki 10, 27) – it is easy to see why so many critics maintain that the UN simply cannot be thought of as a unified, intentional agent¹¹. Yet, as Erskine contends, while the complexity of the UN system makes it difficult to test the organization against her criteria for institutional moral agency, doing so is not impossible so long as 'careful consideration' is given to "the relationships between these different parts and... the functions of the associations that they together constitute" (*Blood* 27). Though she is cautious to emphasize that all of the features of agency must be met for an institution to qualify (*Blood* 29), her own work coupled with a brief overview of the functions of its principal organs suggests that there is a meaningful manner in which the United Nations can be considered a moral agent.

Looking first to the principle that to 'count' as a moral agent an institution must have a unified identity that persists over time, it seems at first glance that the fact of the UN's extensive expansion since its founding may straight away deny the organization of moral agency. Yet, it is telling that, aside from an enlargement to the Security Council and the Economic and Social Council, the organization's founding document, the *Charter*

¹⁰ Initially, there were six principal organs but the Trusteeship Council became obsolete "with the completion of the decolonization process it oversaw" (Hanhimäki 27).

¹¹ As has been emphasized throughout this study, the UN is an extremely complex creature. Exploring the potential agency of all of its elements – as separate units of analysis and as part of the broader collective – would be far too massive a project to undertake within the confines of this study and may in the end prove impossible. Rather, given the overarching goal of this study our focus will be on those parts of the UN most relevant to the organization's ability to respond to mass atrocity, which happen to be some of those very same principal organs that are at the heart of the United Nations system – namely, the General Assembly, Secretariat and the notoriously controversial Security Council.

of the United Nations, “has remained formally unchanged” throughout its history and continues to provide the defining “legal, institutional framework for the organization” (Baehr and Gordenker 19). Furthermore, having persisted through frequent challenges to its very purpose by events as diverse as the Cold War and the genocide in Rwanda, it is clear that the organization exists both “prior to the crises to which it is charged with responding,” and independent of any such responses (Erskine, *Blood* 31). Similarly, while the organization’s functions have broadened along with the proliferation of new organs and agencies within it, it must be understood that the diverse functions of each unit within the United Nations system are not only complementary, but often are only meaningful and effective within the broader context of the organization as a whole (Erskine, *Blood* 32). Though much has been made of the inefficiencies of this system¹², it remains that, at least in theory, the “administrative, deliberative and executive tasks” of the United Nations are divided within the system in such a way that it may be said to take on a corporate identity that is independent of any one particular element of it (Erskine, *Blood* 32) – thereby exhibiting the first characteristic of Toni Erskine’s model for institutional moral agency.

Turning next to the question of whether or not the United Nations thinks of itself as having a corporate identity, it seems that, again, the fact of the organization’s breadth and internal diversity stands as a major impediment to its ability to meet Erskine’s criteria for institutional moral agency. The ‘interesting problem’ for the case of the United

¹² Suggesting that the “complexity of the UN is both its strength and its weakness,” Jussi Hanhimäki writes of the ‘bureaucratic conundrums’ that result from ‘turf battles’ among the different agencies and organs of the United Nations – ‘duplication of services’ is a commonly cited problem as is a preference for assigning UN staff to posts according to national quotas rather than actual skill sets (48).

Nation's, Erskine notes, is that the opinions of its own members – both states and individual staff members – tend to vary on an issue-by-issue basis. For example, in the immediate aftermath of the Rwandan genocide, Kofi Annan, then Secretary-General of the United Nations infamously stated that the UN could not be blamed because it was nothing more than the sum of its parts (Erskine, *Blood* 31). Yet, on many other occasions, Annan has suggested quite the opposite. Again with regard to Rwanda, Annan has argued that the failure to prevent and suppress the genocide was a failure of the United Nations as a whole (A/1999/1257). Erskine's response to this problem is to suggest that because the various members and organs of the UN system often do think of it as a unified entity, the requirement that the United Nations must think of itself as an agent is fulfilled to enough of a degree to allow the organization to be considered an institutional moral agent (*Blood* 31). Coupling this with the reality that the Charter of the United Nations, by which the entire organization defines itself, speaks of the UN as a unified entity suggests that there is an important manner in which the organization is self-asserting.

Moving on to what is perhaps the most important element in Erskine's model, it is quite clear that the United Nations does have a relatively highly structured set of internal decision-making procedures. This function is more or less divided between the General Assembly and the Security Council, which are both fed information by the Secretariat and each have their own procedures for deliberation and decision-making. With all one hundred and ninety-two members of the United Nations holding a seat and a vote in its proceedings, and with an agenda that covers almost every issue of international concern, it may be said that the General Assembly is the main deliberative body in the UN system as it arguably represents the interests of the organization as a whole (Baehr and

Gordenker 23; Hanhimäki 33). Functioning much like a national parliament¹³, decisions in the General Assembly are reached by a two-thirds majority of votes on key issues (for example, budgetary concerns) while all others are by a simple majority (Hanhimäki 35). Upon reaching a decision, the Assembly can only issue recommendations for action that are not binding on member states – instead, the power to issue binding decisions is held by the Security Council. Holding the primary responsibility to maintain peace and security – the overarching purpose of the UN as a whole – the Security Council is the most central organ of the UN decision-making structure (Hanhimäki 30). Decisions in the Council require a majority of nine out of fifteen of its members, though a two-tiered membership structure gives veto power to the Council's 'Permanent Five' members – The US, Great Britain, France, China and Russia (Hanhimäki 32). While the Council's actual capacity to enforce its decisions is widely disputed – a point that will be returned to below – it does have the ability, together with the General Assembly, to guide policy for the United Nations as a whole (Erskine, *Blood* 30) – thereby fulfilling Erskine's requirement that institutional agents have a clear decision-making capacity.

Finally, and equally as important for Erskine, is the issue of whether or not the United Nations has the executive capacity to effectively translate decisions into action. To reiterate, the only decisions that are binding on member states within the UN system are those made by the Security Council. As such it is this body that can be said to house the executive function of the organization as a whole. In exercising this capacity, the Security Council has at its disposal a diverse set of policy tools that it can use to persuade

¹³ The General Assembly has a President, several Vice Presidents and is divided along regional lines instead of political party lines. Moreover, much of the real work of the Assembly takes place within issue-specific or region-specific working groups (Hanhimäki 35).

member states to cooperate with its recommendations that range from the use of economic sanctions or the dispatching of peacekeeping forces to the use of armed force in extreme circumstances (Erskine, *Blood* 30). However, the actual implementation of these measures depends almost entirely on the political will of member states. Though the UN Charter explicitly requires that all member states must “accept and carry out the decisions of the Security Council” (Art. 25) and “make available... [their] armed forces, assistance and facilities” to this end (Art. 43)¹⁴, little needs to be said of the fact that this compliance is dependent on the national interests of individual states, or that little can be done to enforce it, particularly with regard to the veto-wielding permanent five members of the Council. Thus, even though the proper procedures for implementing decisions made by the United Nations are in place, the organization’s actual capacity to do so may be, and often is, severely hampered by the interests, or lack thereof, of its individual members.

While the reality that the executive function of the United Nations is dependent upon the interests of its individual constituents seems to directly challenge our ability to think of the UN as an actor in its own right, Erskine herself suggests that this need not be the case. Here, it is crucial to understand that her model does not require potential agents to ‘straightforwardly’ meet each of the four criteria that she lays out, as not even individuals can strictly live up to these features of agency (*Blood* 31). So, though state self-interest often does make decision-making and effective action difficult, if not impossible, for the United Nations, this does not necessarily detract from the

¹⁴ Initially, it was envisioned that the United Nations would have its own standing military force, “directed by the military commanders of the permanent members,” that would be at the “beck and call of the Security Council” to help implement its recommendations. Yet, this idea was put on hold with the onset of the Cold War and has yet to be realized (Baehr and Gordenker 65).

organization's sense of agency though it definitely affects what kinds of duties it can discharge and thus what we can reasonably hold it responsible for (Erskine, *Blood* 31) – a question that we will return to in the final chapter of this study. Ultimately, then, while the link between the UN's deliberative and executive capacities may be very tenuous, the fact is that the United Nations does possess the “organizational structure and procedures that allow it to arrive at a decision and execute actions accordingly” (Erskine, *Blood* 30-32) and thus *can* be considered an institutional moral agent. Therefore, though the notion runs counter to our traditional way of understanding responsibility, there is an important manner in which we can coherently speak of the United Nations as the kind of entity capable of bearing responsibility for its behaviour.

“The issue is how to identify one particular agent, or group of agents, as having a particular responsibility... For unless we can do this, there is a danger that the suffering or deprivation will continue unabated, even though everyone agrees that it is morally intolerable...” (Miller 95)

CHAPTER 2: INSTITUTIONS AS BEARERS OF DUTY

As it has been shown that the structure of the United Nations is such that we can consider it to be a moral agent – at least according to Toni Erskine’s model – it now makes sense to say that we can assign duties to the organization and hold it responsible if it fails to fulfill them. More specific to the topic of this study, we now have a theoretical foundation upon which to base the claim that the UN should be held responsible for its actions and inactions during the genocide in Rwanda, and for genocide prevention more generally. However, to say that the UN is the kind of entity that can, in theory, be held responsible for its failure to effectively respond to crises is not to say that it necessarily should be. Though it may go without saying, in order to retroactively assign responsibility for an actor’s behaviour – particularly where acts of *omission* are at issue – it must be the case that there was some expectation or obligation upon them to act differently than they did in the first place. Crucially, what is yet to be addressed in this

study is the question of what the actual role and related duties of the United Nations might be with respect to the crime of genocide. To do so requires that we look at two related themes: the *capacity* of the UN to undertake measures in response to genocide and its *mandate* to do so, particularly relative to other international actors. Essentially, now that we have established that the United Nations can be thought of as a moral agent, we need to examine whether it is the most *appropriate* agent for responding to the 'ethical imperatives' of genocide prevention before blaming it for not acting as such. The goal of this chapter is to do just that – develop an account of what the UN's role is, or should be, in dealing with genocide based on insights about its capacity and mandate relative to other international actors. If it turns out that the United Nations does have a unique role to play in responding to genocide and other atrocity crimes then we can and should hold it accountable if it fails to discharge its associated duties.

As with the previous one, this chapter will proceed in two main sections. First, following a discussion of the relationship between responsibility and capacity, a range of different international actors – from individuals, to states, to intergovernmental organizations like the UN – will be looked at in an attempt to determine which of these has the greatest potential, at least in theory, to effectively respond to phenomena as complex as genocide. Second, based on the contention that we cannot rely on capacity alone to assign duties and apportion blame in these situations, we will turn to look at how a mandate to act – whether explicit or implicit – may magnify a given agent's responsibility *once* their capacity to do so has been established. More specifically, drawing from a number of diverse sources, the discussion will focus on exploring what

the role of the United Nations is actually understood to be when it comes to preventing and responding to mass atrocity, genocide in particular.

Responsibility and the Question of Capacity

What we have been discussing thus far has largely been a capacity-based understanding of responsibility given that – as discussed at length in chapter one – the concept of agency is so closely related to the capacity for intentional action. Authors such as David Miller, however, take the relationship between capacity and responsibility a step further by suggesting that we need to think about assigning duties “according to the capacity of each agent to discharge them” (Miller 102). Speaking specifically about what he refers to as ‘remedial responsibility’ – which is the responsibility to ‘put bad situations right’ – David Miller claims that the rationale for such an understanding of how to apportion responsibility is ‘obvious enough’ (102). On the one hand, it would be wrong to blame an individual or collective actor for their behaviour if, according to their capabilities, they could not have acted otherwise. On the other, in Miller’s words, “if we want bad situations put right, we should give the responsibility to those who are best placed to do the remedying” (102). In our terms, if we want to fulfill the post-Holocaust pledge to ‘never again’ allow the scourge of genocide to go unabated, we should assign the duty to ‘undertake to prevent and suppress’ the crime to whichever actor is most capable of doing so. Though Miller ultimately rejects this strictly capacity based understanding of responsibility in favour of a more “pluralist approach to distributing” obligations (110)¹, his emphasis on the intuitive nature of assigning duties according to

¹ Again noting that he is specifically talking about remedial responsibility, Miller develops a two-level understanding of responsibility. The position that he puts forth holds that “we need to distinguish between *immediate* responsibility for relieving harm and

capabilities suggests that the relationship between agency, capacity and responsibility is worthy of closer examination. Thus, we will begin our discussion of what the UN's proper role is with respect to genocide by looking at the capacity of the organization, as a moral agent relative to other international actors, to take measures to address the crime.

One very important clarification is necessary before we launch into an exploration of the capacity to respond to genocide and other mass human rights violations. Any discussion of genocide prevention, and the ethical imperatives that the crime elicits, necessarily edges the question of what the most effective methods of responding to the phenomena may be and the topic of humanitarian intervention. Though debates about these contentious issues no doubt have serious implications for how we think about divvying up responsibility for mass atrocity, in the pages to follow, we will not be talking about humanitarian intervention or specific approaches to prevention, *per se*. Addressing these complex and controversial issues is simply not within the scope of this limited project². Rather, throughout the discussion to follow, the notion of a 'capacity' for responding to genocide should be understood in the most basic sense.

Fortunately, there are certain features that are shared among theories of how to deal with mass atrocity that can help guide us in coming up with a base understanding of what doing so may require of a moral agent. Looking first to the capacity to prevent genocide, it is important to note that most commentators on the topic believe that the

suffering from *final* responsibility" because "where people are in distress or in danger of further injury, we need to identify the agents best placed to help them in the short term" even though ultimately, it "may not be these agents who should bear the costs of such action in the long term" (Miller 109).

² For a good overview of the main points of debate surrounding humanitarian intervention in particular, see: Moore, Jonathan. *Hard Choices: Moral Dilemmas in International Relations*. Lanham, MD: Roman and Littlefield, 1998.

phenomenon is not inevitable – it often is preventable. As Helen Fein argues, genocide may actually prove to be a “prime target for prevention” precisely because it “is a man-made, not a natural, disaster” (42). With human motivations so central to the outbreak of conflict, it is believed that if the appropriate measures are put in place early enough in the lead up to genocide, the “calculus of costs and benefits” of the would-be perpetrators may actually be altered so as to make genocidal violence a less viable option for them (Fein 42)³. The key to developing such early preventative measures effectively, many argue, is to have reliable information about the context in which they are being implemented (Fein 46). While prevention should be thought of as a long-term process in this manner, the importance of information also becomes apparent where early efforts have failed or been non-existent and genocide is likely to occur. Looking at what is required for prevention efforts to be effective at this stage, few would disagree that in order to stave off violence one must at least be able to predict, to some degree, that it is likely to occur in the first place. Though it may ultimately be impossible to accurately predict genocide, authors such as Barbara Harff have done great work toward developing a catalog of pre-conditions that make genocide more likely in a given society⁴. While there is, of course, no single model of genocide, the existence of these identifiable pre-conditions – together with the importance of early prevention efforts – suggests that, to be effective, an

³ The issue of what kinds of measures may be effective for preventing genocide in the long-term is itself the subject of great debate. Most commonly, discussions revolve around the role of democratization, economic development and global interdependence in helping to eliminate the political and socio-economic pre-conditions for genocide identified in Harff’s work (Harff 72).

⁴ Through her use of comparative analysis, Harff identifies six such factors: political upheaval, the existence of prior genocides, the prevalence of exclusionary ideologies, autocratic rule, the existence of ethnic and religious cleavages and international interdependence (66-67).

intervening moral agent must at least have some capacity to gather information about and critically analyze the risk-factors for genocide in a given society (Dorn, Matloff and Matthews 9; Fein 46). In other words, it seems that one of the most basic features of the capacity to prevent genocide is the need for an intelligence capability that feeds into an early warning system for at risk societies.

Turning now to the capacity to halt genocide, it goes without saying that, when prevention has failed and genocide is underway, the response of the international community should be decided upon quickly in order to save as many lives as possible (Dorn, Matloff and Matthews 9). This in turn requires that decisions be backed by sufficient political will in order to ensure that whatever measures are chosen in response may be implemented quickly and effectively (Dorn, Matloff and Matthews 9). As such, it seems that what is required of an agent to successfully respond to genocide is, at the absolute minimum, an efficient decision-making apparatus that is tied to a strong executive function – one similar to that required by the corporatist model of collective responsibility discussed in the preceding chapter. Moreover, the necessity of reliable intelligence comes in again at this stage as it is becoming increasingly more accepted that, to be effective, responses to violence as complex as that associated with genocide must be sensitive to the context in which they are being implemented.

In sum, it seems that in order to be able to ever prevent or effectively respond to genocide, a moral agent should – at a minimum – have both a strong intelligence-gathering capability and the ability to act quickly and decisively while garnering support for these endeavors.

Comparing Capabilities

Although, again, these characteristics represent the simplest possible understanding of what might be required of an agent to effectively prevent or mitigate genocide, they do provide a foundation upon which we can begin to assess the relevant capacities of different kinds of international actors in this regard. As they are considered to have the greatest potential agency of all of the categories of actors dealt with in this study, it makes sense to begin our discussion of capacity by looking at individuals.

In several important ways, understanding individual capacity for action is absolutely necessary to any strategy for combating genocide. Given that it is ultimately individual human beings who are the perpetrators of the crime, every individual, in theory, has the ability to contribute to prevention efforts simply by refusing to participate in genocidal violence. The question of how to persuade and empower individuals to resist the whirlwind of peer pressure to take up arms in the lead up to genocide should therefore be one of the central tenets of any strategy for preventing or later intervening to suppress it. However, despite this vital role as the *targets* of prevention, to say that individuals are the most appropriate actors to bear the duty to prevent and suppress genocide would be ignorant of the complexity of the phenomenon.

As discussed at length in the preceding chapter, it is relatively undisputed that genocide is an extremely complex crime involving diverse categories of actors with varying levels of culpability. As authors like Charles Tilly emphasize, it is also a crime that is inherently political in that it typically “depends on the collusion of government officials,” both domestic and foreign, and because the motivations of perpetrators at all

levels on the 'complicity cascade' are often opportunistic in nature (26, 136-142)⁵. With these and other complex elements at work in the context of mass atrocity, it seems obvious that although individuals may be understood to have the responsibility to shun genocidal violence, no individual alone could ever be expected to effectively confront and respond to it. Essentially, just as it is highly doubtful that an individual acting alone could ever commit genocide (Isaacs, *Individual* 167), the likelihood that a single human being could have the power and resources necessary to halt, or even prevent, a phenomenon as systemic and complex as genocide seems slim. Looking to the specific capabilities listed above, though individuals may have the potential to act very decisively, they are not likely, acting independently, to have the intelligence capacity to gather all of the information necessary to formulate an effective response (Green 123). Consequently, if the responsibility for responding to genocide was assigned to individuals alone, it is likely that many vital aspects of the phenomenon would be left unaddressed. Ultimately then, although they are paradigmatic moral agents, the power of individuals – acting *as individuals* – to prevent or respond to genocide is necessary but not sufficient to effectively achieve these goals.

One might reasonably counter here that individuals acting together, in some sort of collectivity, may be able to garner the resources and intelligence necessary to respond to genocide. Yet, without any sort of formal structure, it is likely that the collective would lack the coordination to decide upon and implement a response with the efficiency

⁵ The nature of genocidal violence is itself a very complex and contested topic – one that cannot be adequately addressed within this study. For great discussions of the vital role that politics, opportunism and other social dynamics play in constructing the context within which genocide occurs, see such works as James Waller's *Becoming Evil: How Ordinary People Commit Genocide and Mass Killing*. Oxford; New York: Oxford University Press, 2002, and the volume by Charles Tilly cited above.

necessary to save lives. So, if individuals on their own lack the power and resources necessary to deal with genocide and, acting together, may lack the coordination required to achieve this goal, we need to look elsewhere to find the most appropriate agent to bear the duties and obligations associated with genocide prevention.

As Michael Green's work on responsibility suggests, we may be able to get beyond this problem by looking to the capacity of institutional moral agents. Understanding institutional agency in much the same way that Toni Erskine does, Green contends that, free of some of the limitations of individual agency, most institutional actors share a number of characteristics that make them better able to act on 'large-scale global problems' – of which genocide is certainly an example – than individuals are (124). In particular, he argues that institutions tend to have a greater intelligence gathering capacity because they often have "multiple sources of information available" to them, a "division of labor to gather and process it," and "special officers whose job it is to look out for particular problems" (124). As such, institutions are typically better situated than individuals to collect intelligence from the ground about the likelihood or nature of genocide in a given society and, thus, should be better able to develop and implement measures to respond to the crime more effectively. Moreover, institutional agents may have greater power at their disposal to respond to problems like genocide once they have decided upon a course of action. Not only do they have the ability, at least in theory, to utilize the various capabilities and resources of all of their constitutive elements, they can respond to large-scale global problems in a way that individuals cannot as they typically have the ability to alter mass behavior by implementing rules or issuing sanctions (Green 124) – a feature that will no doubt prove essential to addressing

genocide given the strong communal elements of the crime discussed earlier. Finally, he argues that only institutional agents, as collective entities, have the potential to spread the often-high moral, political and financial costs of responding to global problems across their membership (124). While Green is careful to emphasize that he does not “mean to imply that institutional agents are perfect or even that they are better than individuals” (124), these three features, taken together, suggest that in our search for an agent capable of bearing the primary duty to prevent and suppress mass atrocity, institutional agents must be our focus.

From here, there are a number of institutional actors that we may look at in the realm of international relations to determine which of them might be the best suited for this role. Still focusing on capacity alone, both sovereign states and intergovernmental organizations – especially the United Nations – seem like prime candidates. States in particular exhibit the institutional features highlighted by Green quite clearly. Widely thought of as institutional moral agents in the sense understood by both Green and Erskine⁶, perhaps the most obvious characteristic of state capacity to respond to genocide is that, like individuals, nearly all states may be said to have some form of decision-making capability, exercised through the various elements of their governing structures.

⁶ As mentioned earlier in this study, there is a strong tendency in both IR theory and our common way of thinking to assume that states *are* intentional agents in their own right. In support of this, Toni Erskine uses her own model of institutional moral agency to argue that states may properly be thought of as such. States, by definition, have an identity that is distinct from their ‘constitutive parts,’ that is irreducible to its members or any particular government and that persists over time (*Assigning* 27). They usually have some understanding of themselves as intentional agents enshrined in a constitution or founding document (*Assigning* 27). All states have some sort of ability “deliberate and arrive at a unified course of action” – whether done collectively or by a ruling elite (*Assigning* 27). Finally, one of the main functions of government is to use executive capacity to translate these decisions into action.

Unlike individuals, however, they often have stronger intelligence gathering capabilities. Not only do some states have government agencies devoted to collecting intelligence specifically related to the likelihood of conflict erupting abroad, most of them have embassies all over the world that are staffed with officials able to relay information back home about realities on the ground in societies potentially headed toward genocide. As such, it may be that certain states, as structured collectives of individuals with very different skill sets, have a much greater capacity than any one individual to identify situations that may lead to genocide, allowing for early prevention efforts to be initiated. Where early identification and prevention efforts have failed, states may still be better able to respond to genocide, once underway, as most have some form of military capacity to intervene or the ability to sanction a foreign government that is complicit in genocide by cutting off trade or diplomatic relations. Finally, states may be the actor best situated to spread the high costs of responding to mass atrocity, at least financially, because most have some capacity to collect funds from their citizens through taxation. While, of course, not all states exhibit these capabilities perfectly⁷, this cursory overview of their capacity certainly lends credence to Green's argument that institutional agents are better positioned to address the crime of genocide than individuals are.

Before declaring states to be the type of agent most capable of addressing genocide, it should be understood that many of these capabilities are enjoyed by the United Nations as well. Just as states can gather information about the likelihood of genocide in a given society, the UN has multiple sources of information available to it

⁷ Erskine uses a distinction once drawn by Justice Robert Jackson between 'states' with 'positive sovereignty' and 'quasi-states' to highlight that not all states may be considered moral agents "in a position to exercise their agency" (*Assigning* 26-34).

and a complex internal structure through which to process and analyze intelligence. The most important organ of the UN system in this regard is the Secretariat. While the Secretariat's role is very multifaceted as it serves all of the other principal organs of the UN family⁸, important for our purposes is that it is the main administrative body in the United Nations (Hanhimäki 36). With worldwide offices, over nine thousand permanent staff – many in the field – and a plethora of 'special officers' with specific mandates to seek out information on a wide range of topics (Baehr and Gordenker 29), the existence of the Secretariat makes it such that the United Nations may have an intelligence gathering capacity even greater than most states. Looking to the power and resources that the UN has to implement its initiatives, though it does not have its own military, condemnation by the organization carries a certain degree of moral force in world politics that has the potential to alter behaviour. Moreover, the organization has great potential, again in theory, to utilize the capabilities and resources of all of its diverse constitutive elements. Finally, it too can 'spread the costs' of action across its membership. While its system for collecting financial dues from member states may be severely flawed, the UN does have the unique potential to orchestrate actions that utilize the different elements of its highly specialized division of labour only to the extent that each of them can afford to contribute. Crucially, it is in these three respects that the breadth and the complexity of the United Nations system may ultimately bolster, rather than hinder the organization's

⁸ Headed by the Secretary-General, the Secretariat is arguable the most important organ of the UN family as far as the functioning of the organization is concerned. Its role ranges from coordinating "public advocacy of various UN causes" to the "day-to-day administration of its various economic and social programs" to "crisis diplomacy" to "overseeing the work of UN peacekeeping forces in the trouble spots of the world" (Hanhimäki 36).

capacity to act. As such, it seems as though the United Nations – again in theory – may be equally as well situated as individual states to respond to genocide.

The Limitations of the Capabilities Approach

What this basic overview of the capabilities of these two forms of institutional agent ultimately highlights is that looking at capacity alone is not sufficient for determining the most appropriate actor to bear the duty to respond to genocide. Though thinking about apportioning responsibility in this manner certainly helps to narrow our field of actors to focus on institutional agents, to the exclusion of individuals, it fails to provide us with a strong enough basis upon which to distinguish between states and other institutional agents, like the UN, for the purpose of assigning duties and obligation. Essentially, though having the capacity to execute a particular duty is certainly prior to an agent's ability to bear any responsibility for failing to do so, distributing obligations on the basis of capacity alone still leaves us in a situation where no single institutional moral agent can be identified as having the primary duty to respond to genocide.

Not only can we not yet distinguish between the duties of the United Nations and those exclusive to its individual member states, but focusing on capacity alone may also leave too many other institutional agents 'on the table,' which could have two very different, potentially dangerous implications for genocide prevention efforts. On the one hand, as already suggested, where no single actor can be identified as having a special duty to respond to a particular crisis, it becomes all the more likely that no one will – which is arguably what happened in the Rwandan case. On the other, it leaves open the possibility that any actor may intervene if they have the capacity to do so. Though some would argue here that it does not matter who responds so long as an agent with the

necessary capabilities to do so steps in, a quick glance at the literature on the emerging market for private military firms suggests that such an unregulated approach to dealing with mass atrocity raises a number of serious ethical, political and legal concerns⁹. Moreover, if the capacity to respond to genocide is all that a given actor needs to warrant their doing so, abuse might result as different international actors could simply work to increase their capacity – for example, by increasing military expenditures – to justify their involvement in a society that may be associated with mass atrocity. This is particularly problematic given the need for sensitivity about the context in which prevention or suppression efforts are to be implemented. Some actors with the capacity to intervene may actually serve to aggravate the situation if they were to do so on their own¹⁰. Essentially, as Green asserts, when trying to determine which international actors should bear the burden of responding to such complex, global moral problems as genocide, ‘can’ does not necessarily imply ‘ought’ (129). Together, these concerns highlight the problem of a ‘selectivity of response’ by self-interested intentional agents that is commonly cited in debates about humanitarian intervention. Essentially, because states in particular are typically thought to be “motivated solely by what they judge to be their national interest” (Wheeler and Bellamy 558), there is a great risk that these and other actors may use their capacity to justify intervention abroad when they have an

⁹ For a good overview of the main issues surrounding the use of private military firms (PMFs) in conflict situations see Singer, P.W. ‘Outsourcing War.’ *Foreign Affairs* 84.2 (2005): 119-132.

¹⁰ For example, were a genocide to take place in Israel, it seems reasonable to suggest that sending in a strictly German or Muslim intervening force might only aggravate the situation.

interest in doing so, or conversely, attempt to mask or even actively diminish it in order to shirk any responsibility to intervene where their self-interest dictates otherwise¹¹.

Regardless of the consequences, positive or negative, that such a strategic use of the capacity principle might have on efforts to prevent mass atrocity, the concerns cited above suggest that focusing on capabilities alone to determine which actors should bear the responsibility to respond to genocide could be very problematic. Ultimately then, given that the power to act must be prior to any ascription of blame for failing to do so, understanding a given agent's capacity to respond to genocide seems necessary but not sufficient for assigning this vital obligation. What is needed then, as Miller suggests, is a way to somehow connect the "simple physical ability" to act with a special responsibility to do so (103). In other words, we must search for a capable actor with a specific mandate to respond to genocide. If we can find an actor that has both the capacity to respond to genocide and a special obligation to do so, then we may rightfully expect that if violence does erupt, they should bear the primary responsibility to act quickly and decisively to save lives and we may later hold them accountable if they fail to do so.

The Significance of Mandates

A key element left out of our discussion of what the UN's obligations are with respect to genocide thus far is the matter of how a given actor's role or function in society may affect the degree to which we can hold them accountable for certain actions and

¹¹ Not simply a concern in theory, it is important to understand that the problem of selectivity is widespread in the realm of humanitarianism. With Rwanda standing as a prime example, Simon Douglas argues that, quite simply, "the propensity of nation-states to base their foreign policy decisions on the acquisition of power, protection of sovereignty, and the preservation of national self-interest *has* consistently prevented meaningful action in the face of egregious violations of human rights, especially in connection" with genocide (emphasis added, 18).

omissions. Exploring this topic is crucial for the purpose of our discussion because, as Larry May emphasizes, we tend to assume that “the roles that people have in society and the... expectations attached to” them set limits on their ability to accept certain duties and obligations, and later responsibility if they fail to fulfill these (*Collective* 226). In other words, as Anthony Lang understands it, the practice of blaming must involve a sort of social element in that it must take into consideration the roles that are imposed on moral agents, as well as the expectations that they impose upon themselves (187, 189). According to Michael Green, exploring this relationship may be even more vital when talking about institutional agents given that we typically “create and maintain institutions for specific purposes” (130). Thus, as the legitimacy of their actions is usually tied to their respective functions (Green 130), it remains that we must explore what right or authority different institutional actors – with the capability to act – may be said to have to respond to genocide before we can declare any of them to be the most appropriate bearer of an obligation to do so. Speaking of the United Nations in particular, Howard Adelman argues that if a given agent can be shown to have a unique mandate to undertake to prevent or suppress genocide, then not only can we rightfully expect that they should be the first to act once violence seems likely or is underway but we can judge them ‘especially harshly’ if they fail to do so (14). With these considerations in mind, the remainder of this chapter will be devoted to exploring the respective roles, whether real or perceived, of different actors as they relate to genocide prevention, with a special focus on the UN’s mandate in this regard.

Comparing Roles and Responsibilities

Although we have already discounted individuals as possible bearers of the duty to respond to genocide because of their apparent lack of capacity to do so independently, it is worth noting that the conventional understanding of responsibility also inhibits the possibility that they may be thought of as such. It is important here to remember the distinction that our 'commonsense' way of thinking about morality draws between the importance of negative and positive duties. With the traditional focus of individual responsibility theory being on negative duties – or those that prohibit doing certain things to others – over the more preventative form of positive duties – which we are thought to bear only in “very clearly defined, exceptional cases” – it seems that to ascribe a duty or obligation to an individual to undertake proactive measures to respond to genocide would be very difficult (Green 119). Moreover, in light of the traditional belief that an individual's responsibilities to family, friends, citizens or even colleagues are greater than those they may have to “anonymous others” or “distant strangers,” the notion that any one person may be *expected* to commit their own resources to genocide prevention abroad seems even more unlikely (Green 119). Essentially, though an individual may of course decide for themselves to get involved in proactive efforts to prevent mass atrocity, the conventional way that we understand duties and obligations prohibits us from holding them responsible if they fail to do so. Therefore, while we may rightly suggest that every individual has an obligation to at least shun genocidal violence by refusing to participate in it themselves, both the capacity principle and the traditional understanding of responsibility make it such that individuals alone cannot be considered legitimate bearers of any duty to prevent or suppress genocide.

Turning now to our institutional agents, it seems that the traditional way of thinking about the role of states in international society also precludes any potential mandate they may have that would allow us to think of them as bearing a specific duty to respond to genocide. The main stumbling block to their potential agency in this regard is the paradoxical manner in which the state's relationship with morality is commonly understood. Returning to Erskine's work for a moment here, she points out that although states are commonly thought to be *the* legitimate intentional agents in world politics, there is a strong proclivity – at least in traditional IR theory – to deny them of any external obligations (*Locating* 702). Especially in Realist work on the role of the state, she argues, the tendency has been to maintain that states alone control the monopoly on agency at the international level while simultaneously insisting that they should not, indeed cannot, be expected to bear any specifically moral burdens – *such as* a duty to undertake measures in response to genocide. While the reasons for this peculiar understanding of state agency are many, one of the strongest is the high-cost of intervening abroad that came into play in our earlier discussion of capacity. In a state-level version of the 'special obligations' associated with the restrictive conception of individual responsibility, some theorists argue that state leaders have no "moral right" to 'shed the blood' of their own citizens in the hopes of helping those elsewhere in the world (Wheeler and Bellamy 558). As Nicholas Wheeler and Alex Bellamy note, this too is based on a central tenet of Realist IR theory – namely, the strict adherence to state sovereignty above all else (558). Essentially, it is believed that human rights abuses within a given state, though unacceptable, are "the [exclusive] responsibility of that state's citizens and its political leaders" (Wheeler and Bellamy 558). Taking all of these

factors into consideration, it seems that – at least according to traditional IR theory – states cannot be obliged to respond to genocide *outside* of their own borders.

This contention is reflected in the *Genocide Convention*, which may be said to represent the clearest statement of international opinion on the role of the state with regard to prevention and punishment¹². The most basic declaration of state obligations under the *Convention* is found in Article I, which declares that the Contracting Parties “confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and punish.” From here, though the purpose of the *Convention* is aimed at prevention *and* punishment, the essence of its provisions – at least with regard to the obligations of its state signatories – deal quite exclusively with punishment of the crime (Schabas, *The 4*). Specifically, the *Convention* requires that its Contracting Parties first, “undertake to enact” an offence of genocide in their respective criminal codes and, second, implement measures to ensure that there are “effective penalties for persons found guilty of” it (Art. IV-VII). While prevention and punishment are certainly “intimately related” in that “prompt and appropriate punishment” of criminal behaviour is commonly thought to prevent future offences from occurring, there is little else in terms of prevention that is required of states by the

¹² To say that the *Convention* represents the definitive statement of international obligations with respect to genocide would be incorrect. As William Schabas notes, “fifty years after its adoption, it had slightly fewer than 130 State parties,” which is a “rather unimpressive statistic when compared with the other major human rights treaties of the United Nations system” (*Genocide 3*). Even more problematic for our purposes is that, as Schabas argues, this apparent lack of support for the *Convention* is a product of a general unease among states with the obligations that the treaty imposes on them (*Genocide 3*). However, as it remains that the *Genocide Convention* is one of the *only* documents that we have codifying the obligations of various international actors, it is the one that we must rely on in our search for an agent with a specific mandate to respond to genocide. It is notable, however, that the text of *Convention* was adopted verbatim by the drafters of the Charter of the International Criminal Court (ICC) into its genocide provisions.

Convention, indeed, there is little else required of them at all (Schabas, *Genocide* 447). Thus, while states, like individuals, may have a vital role to play in prevention as they are ultimately responsible for ensuring that genocide does not occur within their own borders – and if it does, for ensuring that it is effectively punished¹³ – there is little basis to suggest that they may have a special mandate to address the crime should it occur elsewhere in the world. Indeed, both traditional IR theory and international law mitigate against this possibility as unilateral intervention by one state in the affairs of another is widely considered to be illegal under the relevant instruments of international law (Wheeler 1). Crucially, the very opposite is true of the United Nations.

Contrary to both individuals and states, for whom any obligations relating to genocide prevention seem to be either somehow secondary or something they cannot feasibly bear at all, many authors argue that the UN's very existence is closely linked to genocide prevention and the ethical imperatives that genocide elicits. In a very general sense, this seems obvious. Constructed in the aftermath of both a major war and mass atrocity committed at the hands of a powerful state, the very purpose of the United Nations was, and still is, to ensure the maintenance of peace and security – two goals that genocide certainly frustrates. Taking this contention a step further, Howard Adelman argues that both critics and supporters of the organization think that the UN has been given the “ultimate authority for preventing and mitigating genocide” (14). Not solely a

¹³ While most high profile genocide trials that have occurred since the *Genocide Convention* was adopted have taken place at the international level, it should be noted that the primary duty for punishing the crime is given to states. Only where trial by the state ‘in which the act was committed’ is not possible are cases meant to be referred up some form of ‘international penal tribunal’ (Art. VI). In reality, most genocide cases today are dealt with in both jurisdictions.

matter of opinion, this notion that the UN may bear the primary obligation to respond to genocide receives strong support from a number of sources.

Perhaps most importantly, there are definite legal underpinnings to the UN's supposed authority with regard to preventing and mitigating genocide. While it may have been originally intended that the UN's only purpose would be to moderate disputes between sovereign states, it is very significant here to note that – in one of the most basic statements that exists regarding the purpose of the United Nations – the second clause of the Preamble to the organization's own founding charter assigns it the responsibility to uphold the 'fundamental rights' meant to be shared by all human beings (Adelman 14). What is more, Paul Bartrop and Samuel Totten argue that there is a great deal of evidence throughout the UN *Charter* suggesting that the organization "is a body that is mandated" to intervene, not only in situations where there are breaches of the peace or acts of aggression by states, but also in both threatened and actual cases of genocide occurring within the sovereign territory of any one of its member states (113). Along with Adelman, they point specifically to Chapters V through VIII of the *Charter*, which deal with the scope and authority of the Security Council, to argue that through the operation of this principal organ, the UN itself gains the ultimate authority and duty to act in cases where genocide is found to be occurring (Adelman 14; Bartrop and Totten 113). This contention finds even greater support in the *Genocide Convention*. Indeed, one of the most interesting aspects of the *Convention* for our purposes is the fact that the only real reference to prevention contained within it specifically acknowledges the important role of the UN in this respect. Article VIII indicates that when genocide is found to be likely or already under way, any of the Contracting Parties "may call upon the competent

organs of the United Nations to take actions” that it “considers appropriate... for the prevention and suppression” of the crime. Essentially, though the *Genocide Convention* itself is ultimately meant to be a declaration of the duties of states with regard to genocide, this provision effectively passes the obligation to respond to the crime up to the relevant organs of the United Nations that we have already discussed – the Security Council in particular. Taken together, the existence of each of these legal statements of the UN’s role in preventing genocide and other violations of our fundamental human rights suggests that the UN does have an express mandate to take on this very obligation.

It can be expected that most Realists would counter here that the “political mandate” of the UN is much more narrow than the above evidence suggests (Adelman 14). Citing Article 2.7 of the UN *Charter*, which expressly prohibits intervention by the organization in “matters that are essentially within the jurisdiction of any state,” some would argue that the UN’s role cannot extend beyond maintaining peace and security by acting to prevent aggression *between* its member states and that it should never, in any circumstance, “intervene in the domestic affairs” of one of its member states (Adelman 14). However, as Adelman argues, this view is becoming increasingly less tenable for a number of reasons. Perhaps the strongest is that, while the notion of a duty to intervene in cases of genocide does directly contradict the traditional norm of respect for state sovereignty, many contemporary legal theorists have argued that the prohibition of genocide has reached the status of a *jus cogens* principle of international law – a peremptory norm from which absolutely no derogation may be permitted (van Shaack 2262). If this is true – and the ever growing body of literature surrounding humanitarian intervention increasingly suggests that it is – then not even the presumed sanctity of state

sovereignty can stand as a legitimate barrier to intervention by the United Nations in cases where genocide is found to be imminent or occurring (Adelman 14; van Shaack 2262). The second piece of evidence that Adelman highlights to support this claim is the fact that it is increasingly reflected in the practice of international relations. “Overwhelmingly,” he argues, the international community *has* determined that genocide is *not* “a matter exclusively within the jurisdiction of a state” (14). As much as intervention in cases like Rwanda has persistently come much too late – often as a result of debates about when state sovereignty may legitimately be breached – Adelman claims that the international community has not yet rejected intervention where “it was clearly and unequivocally determined that genocide was underway” (14)¹⁴. Essentially, even if we accept that the founding purpose of the United Nations explicitly excludes the possibility that the organization should intervene in cases of genocide, international legal norms and practices have evolved over time to such a degree that this can no longer be the case. For those still not convinced, it is telling that these twin arguments about the changing precedent and practice of international law and international relations are reflected elsewhere as well.

One of the most intriguing facets of the claim that the United Nations should bear the primary duty to respond to genocide is that there is a very important manner in which the actors that comprise the UN system seem to have mutually accepted and adopted this role for the organization. A selection of reports related to the topic of genocide, from both different time periods and different organs of the UN system, offers some interesting

¹⁴ The ongoing debate about whether or not genocide is in fact occurring in Darfur, and whether more forceful intervention is justified as a result, could ultimately provide a very strong counter-example to Adelman’s claim here.

insights in this regard. Nearing the end of the Cold War, reports coming from the Commission on Human rights suggested that, at that point in time, the role of the UN in genocide prevention was thought to be one mainly of coordination – to act as a sort of ‘watchdog’ collecting information from its member states and specialized agencies in search of early warning signs that genocide might occur somewhere in the world (E/CN.4/Sub.2/1985/6). Later, following the genocide in Rwanda, the UN’s own perception of this role shifted. In a 1999 report given to the Security Council detailing the findings of an inquiry into the actions and inactions of the United Nations during the massacres, it was concluded that the entire UN system failed to take appropriate measures to prevent and suppress what was clearly genocide underway in Rwanda (A/1999/1257). While this in itself suggests that the UN believes that it has a vital role to play in responding to genocide, the report crucially concludes that the Security Council in particular has a *duty* to ‘take the lead’ in coordinating the international community’s response to future cases of genocide and other mass atrocities (A/1999/1257). Finally, in the wake of debates surrounding the emerging norm of a ‘Responsibility to Protect’ (R2P) in international relations, reports coming from the General Assembly suggested that there is now even greater support for the notion of the UN as a purposive actor with a primary role to play in dealing with genocide (A/59/565; A/59/2005). With each of these examples in mind, it seems that the United Nations has gone through a process of what Lang refers to as “internal role creation” (184-185) to construct *itself* as having a certain duty or obligation to undertake to prevent and mitigate genocide.

Finally, the notion that the United Nations bears the primary responsibility for responding to genocide is steadily becoming widely accepted in both common practice

and popular discourse on the topic. As suggested above, the reality is that people often do look to the organization as a primary sanctioning or condemning authority when the question of humanitarian intervention is up for debate, with states and other parties bringing cases to the General Assembly and Security Council to authorize action. At a more superficial level, the perception that the United Nations has specific moral duties and may be blamed if it fails to discharge them is consistently evident in both the statements of policy-makers and the political rhetoric espoused by Western media outlets (Erskine, *Making* 11). More specific to the issue of intervention to prevent or mitigate genocide, a scan of international headlines from the aftermath of the 1994 massacres in Rwanda reveals numerous claims of “Rwandan blood on the UN’s hands” as a result of its failure to stop the genocide while it was underway (Melvern 19) – a claim that will be returned to in chapter three. Similar assertions of the UN’s responsibility for its actions and inactions were heard following the fall of Srebrenica in 1995 (Lang 184), the ethnic cleansings that occurred throughout the Balkans around the same period (Weiss et al. lii) and now with respect to the crisis in Darfur (Piiparinen 367). While statements of this nature may be inherently biased, Lang suggests that the existence of this discourse does contribute significantly to the construction of the United Nations as a purposeful agent with a vital responsibility to respond to genocide and other situations of mass atrocity.

This appeal to public opinion and the role of the media provides perhaps the least convincing argument in support of the United Nations’ responsibility for mitigating genocide, as both sources are often thought to be inherently subjective and neither may appreciate the complexity of this claim. However, the existence of the common perception that the UN *does* inhabit this role, at the very least, creates the *expectation* that

it should be a sort of first responder to genocide. This is particularly important where apportioning responsibility is concerned given that, as already discussed in the introduction to this study, if we expect the UN to respond when humanitarian crises erupt and they fail to do so, it may be less likely that any other actor might step in to fill the void in enough time for the response to be effective and save lives. With this burden on their shoulders, if the United Nations and its principal organs do fail in their shared obligation to undertake to prevent and mitigate genocide, it should be judged especially harshly and held accountable as a result.

Ultimately then, not only does the United Nations possess the agency necessary to be assigned duties and apportioned blame, it seems that it may also be the most capable and appropriate actor for bearing the specific responsibility to act in response to the crime of genocide. Of course, this is not to say that it should be considered the only international actor with any responsibility to address the crime. As already mentioned, both individuals and states have their own special obligation to shun the use of genocidal violence within their own societies. Moreover, given the severe complexity of the phenomenon that has been emphasized throughout this study, the best chance we have of effectively addressing the crime is likely to require that actors at all levels of analysis engage in efforts to prevent genocide, and later halt it where prevention efforts have failed. This is especially true given the reality that big international institutions like the United Nations tend to be cumbersome beasts, with their complex organizational and deliberative structures often hampering their ability to act swiftly – an issue what will come under careful scrutiny in the chapter to follow. However, it must be remembered here that the breadth and complexity of the United Nations is both its weakness and its

strength. As such, it may be that the need for a multilayer approach to dealing with mass atrocity may actually serve to bolster the claim that the United Nations has a vital role to play in this respect as it has the unique potential to act as a coordinating body for response efforts, utilizing the elements that comprise it to formulate the best response possible to meet the specific needs of individual cases of genocide and mass atrocity.

Ultimately, with the requisite agency, the greatest capacity, the strongest mandate and common expectations upon it to undertake to prevent and mitigate genocide, the United Nations can and should be considered the primary bearer of this duty and may be held responsible accordingly if it fails to discharge it.

“The question is not only whether the UN is responsible, but on what level and to what degree in relation to the capacities it possesses at each level...” (Adelman 15)

CHAPTER 3: THE UNITED NATIONS IN RWANDA

Having established that there *is* a meaningful, coherent manner in which we can consider the United Nations to be an intentional moral agent, capable of bearing obligations and later responsibility for its behaviour in world politics, we must now acknowledge a critical reality that has been left unaddressed thus far. Any discussion of the United Nations’ global role would be incomplete if it did not attempt to tackle the massive amounts of criticism that have been lobbed at the organization for its persistent failure – maybe even inability – to exercise whatever agency it may be said to have. Unfortunately, critiques of this nature are not without good foundation and acknowledging this harsh reality may seem to be fundamentally at odds with the argument being advanced throughout this study. Yet, it should be understood that what has been defended thus far is the claim that the *structure* and *purpose* of the United Nations is such that it can rightfully be considered an institutional agent capable of

bearing the duty to respond to genocide – a claim that is both complex and controversial but, in the end, quite modest. Nothing in this argument suggests that there are not any barriers to the organization’s ability to exercise this agency. Indeed, many of the theorists that we have addressed so far are very careful to emphasize that there may be serious restrictions on the duties that institutional agents like the UN may reasonably be expected to discharge¹. Nearly all of them, however, contend that these limitations do not necessarily nullify the organization’s agency but, rather, should be thought of as factors to be taken into account when retroactively determining the actual responsibility of the UN in a particular case (Adelman 15; Erskine, *Blood* 38; Green 129; Lang 183). Developing a better understanding of this relationship is vital to the project at hand as even Erskine acknowledges that it would be “incoherent” with the theory of responsibility developed throughout her work, and this study, “to blame *either* an individual human being or an institutional moral agent for abrogating duties that he, she or it” was unable to discharge (*Blood* 38). As such, in order to fully comprehend the organization’s responsibility as it relates to genocide, we must examine the degree to which we can realistically expect the UN to act to prevent or mitigate the crime given the international context that both shapes and constrains its agency in this regard.

Lessons from the Rwandan Tragedy

Crucially, our case study of the Rwandan genocide provides an excellent opportunity to explore how the United Nations’ responsibility for genocide prevention and suppression may be aggravated or mitigated by factors that are arguably beyond its

¹ A reality that is ultimately true of all actors given that, as Colin Hay explains, any agent’s ability to realise different goals will always be ‘set’ to some degree by the context in which they are situated (117).

control. While, as already suggested, there are many examples of where the UN has failed to fulfill its role as the first responder for mass atrocity across the globe that could be used for this purpose – at least one of which is ongoing – Rwanda is the best choice for a case study of these issues for at least two reasons. First, the academic interest and related body of literature on all aspects of the Rwandan genocide that has developed in the fifteen years since the tragedy has been immense, rivaling that of the Holocaust. Specifically, much valuable research has been done on the respective roles that both the United Nations and its most influential member states had during the crisis. Second, the behaviour of these actors – the United Nations in particular – during the crisis in Rwanda represents perhaps the clearest, most grave example that we have to date of a near complete failure to respond to what was an unambiguous case of genocide. Together, these two features make it such that there is a wealth of valuable information available about Rwanda upon which we can base our analysis of how different factors may have affected the UN's ability to fulfill its obligation to undertake to prevent and suppress genocide in the spring of 1994. Ultimately, the goal of this chapter is to use the insights derived from a detailed analysis of the international response to Rwanda to help determine what the final responsibility of the United Nations should be for addressing this and other cases of mass atrocity.

Before we begin our analysis of how various factors may have limited the organization's ability to act in the Rwandan case, we must first develop an understanding of what the United Nations' role was during the crisis. To do so, a framework through which to examine the complex issues that surround the topic is necessary. Here, the work of Daniela Krosiak may prove very useful as she argues that especially where acts of

omission are of concern – as is the case with Rwanda – responsibility should be assessed in relation to three themes: knowledge, involvement and capability (*The Role 3*). Though Krosiak's work deals specifically with France's role in the genocide, these same themes provide a useful structure for evaluating the responsibility of the UN for its share in the Rwandan tragedy. As such, assessing the UN's knowledge of the genocide, its actual involvement, or lack thereof, during the crucial months leading up to and during the crisis and the question of what it could have been expected to do otherwise in Rwanda – given certain limitations on its ability to act – will be the focus of the remainder of this project.

Knowledge

To begin, it must be remembered here that one of the prerequisite, minimal conditions that we set for an actor to be considered capable of preventing genocide was that they must have sufficient knowledge that it is likely to occur or already underway. Thus, the first issue that we must address in our attempt to understand the UN's ultimate responsibility for the Rwandan crisis is the question of whether or not it had enough information available to it to trigger the duty to respond. With this in mind, it is straightaway telling that in the Rwandan case – as emphasized in our initial discussion of it – “there had been plenty of warnings of the bloodshed to come” (Lebor 165). What is more, the international community was well aware of them.

Looking first to the years prior to the genocide, it is crucial to note that since 1994, a consensus has emerged that there was enough evidence coming in from the field in this ‘early warning period’ for the United Nations – the Secretariat and the Security Council in particular – to have had sufficient knowledge to predict that violence akin to genocide was highly likely to occur in Rwanda. Well documented in a July 2000 report

by the former Organization of African Unity (OAU), a number of events are identifiable in the four-year period leading up to the genocide that show an escalating degree of knowledge on the part of the international community regarding the nature of the violence in Rwanda. Most notable are a series of pogroms of growing severity directed at Tutsi civilians that began after the first RPF attack on Rwanda in October of 1990 (Krosiak, *The Responsibility* 168). In light of an increased prevalence of racist propaganda in the government-controlled media during this period, many authors point to these massacres as foreshadowing of the preparation for genocide. Along with several other early indicators, these not-so-sporadic attacks were brought to the attention of the United Nations in January of 1993 when an International Commission of Inquiry conducted an investigation into the massacres (OAU 9.5). The findings of the commission were at least alarming enough to those within the organization at that time that they prompted a further investigation by the UN's Special Rapporteur on Summary, Arbitrary and Extrajudicial Execution, Waly Bacre Ndiaye, in August of the same year. In a report given to what was then the UN Commission on Human Rights, Ndiaye concluded that, as the victims of the pogroms had been "targeted solely because of their... [Tutsi ethnicity] and for no other objective reason," the massacres "seem[ed] to fulfill the" definition of genocide contained in the *Genocide Convention* (E/CN.4/1994/7/Add.1) – thereby marking the first time the term genocide was used in connection with Rwanda. In his report, Ndiaye stressed the need for action and recommended a series of preventative steps that could be taken to ensure that the violence would not escalate to full-blown genocide (Lebor 166). Crucially, however, the Ndiaye report went largely ignored until it resurfaced after the slaughter had already ended as a

crucial piece of evidence suggesting that the United Nations *should* have been triggered to act much earlier than it was.

The most significant piece of evidence regarding the UN's knowledge of the impending violence from 1993 onward stems from the fact that they already had a presence – albeit a weak one – on the ground in this period. Deployed in late 1993, the *United Nations' Assistance Mission for Rwanda* (UNAMIR) under Canadian General Roméo Dallaire, was intended to monitor the ceasefire called for by the *Arusha Accords* that had been signed earlier that year (Lebor 166). Despite the fact that the mission was utterly lacking in “well trained troops and materiel,” as well as vital intelligence data from the moment it was dispatched, Dallaire was able to gather ample evidence suggesting that the escalating violence was not simply overflow from the recently halted civil war (A/1999/1257). By the time that Dallaire arrived, Rwanda was already in a “deep, multifaceted, escalating crisis” (Straus 30). Plane-loads of arms were landing in the country, grenades and AK-47s were quickly becoming readily available on the black market and huge quantities of machetes were being imported from China – none of which was occurring with any real degree of secrecy². The racist overtones of government-controlled broadcasts from RTLM had turned exterminationist as the hardliners of Hutu Power began promoting the notion that all Tutsi were ‘cockroaches’ that “were plotting the wholesale slaughter of Hutu innocents,” which, according to James Waller, “generated in many Hutu a passionate, ideological commitment that their lives were menaced from inside and outside Rwanda by Tutsi infiltrators” (187). As the broadcasts were on public radio and their effects on Rwandan society were palpable to Dallaire and

² Indeed, many of the arms shipments were coming from prominent members of the United Nations, France in particular (Lebor 167).

his troops, there was little question at the time that the violence was escalating as Ndiaye had warned it would if the appropriate measures were not taken.

What is even more revealing of the UN's knowledge at that point in the crisis is that the Department of Peacekeeping Operations – the branch of the Secretariat charged with planning, organizing and managing UN peacekeeping missions – had explicit evidence that something akin to genocide was being planned by the leaders of the Rwandan government. Dallaire had sent a coded cable to Maurice Baril, then head of the military division of the DPKO, on 11 January 1994 telling him of an informant that he had cultivated from within Hutu Power referred to as 'Jean-Pierre.' The supposed Chief Trainer for the *Interhamwe* – the civilian forces that were to carry out much of the genocide – Jean-Pierre confided in Dallaire that he believed there was a more sinister purpose for the militia as he had been “ordered to have the cells under his command make lists of Tutsis” in their respective jurisdictions, purportedly to be executed (Dallaire 142). Jean-Pierre had also explained that not only were arms being siphoned into the black-market but the army had also recently transferred large shipments of weapons to the *Interhamwe*, and he offered to show Dallaire where they were stockpiled (Dallaire 143). Finally, emphasizing that “time was of the essence,” he warned that the leadership of Hutu Power planned to kill ten of Dallaire's Belgian UNAMIR troops to prompt the Security Council to withdraw the mission from Rwanda (Dallaire 144). While the reliability of the source may have been questionable at the time, it is crucial to note here that the situation did unfold exactly as Jean-Pierre had suggested (Fein 53). Now referred to as the ‘genocide fax,’ the information contained in Dallaire's cable should have

suggested to those on the receiving end at the United Nations that, at the very least, widespread massacres and violations of human rights were imminent.

Finally, immediately following the April 6 assassination of President Habyarimana, the United Nations quickly received evidence suggesting that the rapidly escalating violence was genocidal in nature. Here it is important to remember that the radio station RTLM played a vital role in perpetuating the genocide – the station’s incitement to kill Tutsis all over the country meant that the genocide was essentially ‘broadcast over the radio’ (Melvern, *A People Betrayed* 227)³. Moreover, from April 8 onward – just two days after the official genocide began – the international media began covering “eyewitness accounts describing the widespread targeting of Tutsi” that was underway (Power 93). Officially, this information entered the UN system via twice-daily reports made by Dallaire to the DPKO, in which he often stressed that civilians were being murdered en masse for no reason other than their supposed ethnicity (Barnett 108). Moreover, the reports were careful to emphasize that the people carrying out the massacres were not “ordinary combatants in a civil war” (Power 93). Thus, if it was not clear that genocide was to occur in the weeks leading up to 6 April, the UN certainly had sufficient knowledge to make this determination early on once the killing was underway.

As the OAU report concludes, even if it could not have been determined, beyond question, at the time that genocide was occurring in Rwanda, the “catastrophe was [clearly] of so great a magnitude that it should” have triggered the United Nations to respond (9.16). Thus, it may be said that the organization’s knowledge in the period

³ Quite literally, ‘progress’ reports went out over RTLM detailing the slaughter and, as lists of Tutsis prepared by *Interhamwe* had already been distributed by the time Habyarimana’s plane went down, Hutu civilians were incited to assist the effort by murdering specific Tutsi neighbours, colleagues and even family members (Prunier 224).

leading up to and during the crisis was such that it could have predicted that genocide was extremely likely to occur in Rwanda and therefore should have implemented measures – up to and including organizing an international intervention – to discharge its duty to undertake to prevent the crime.

Involvement

Having now established that the United Nations had the knowledge necessary to comprehend the gravity of the situation in Rwanda, we must turn to examine evidence of how the organization responded to the information it was receiving as the crisis escalated. Though the “failure of the United Nations to prevent, and subsequently stop the genocide in Rwanda” is often attributed to the UN as a whole (A/1999/1257), in order to fully comprehend the organization’s involvement in the crisis requires that we narrow our field of analysis to look specifically at “the parts of the UN system that had a responsibility for information, deliberation, decision-making and implementation” related to Rwanda at the time (Adelman 10). While, again, the Security Council is the most authoritative organ of the UN with the ability to sanction intervention, it is crucial to note that the DPKO – as a subsidiary organ of the Secretariat – has both the ‘capacity and the mandate to keep the Security Council informed’ about missions that are underway (Adelman 22). In the case of Rwanda specifically, the staff of the DPKO had the responsibility to act as a liaison between Dallaire and the Council, relaying critical information regarding the violence as it became known so that the deliberative and executive functions of the organization could respond accordingly – a duty that the DPKO, on many occasions, seems to have fundamentally neglected. As such it is to the actions of the Secretariat, the DPKO in

particular, that we will turn to next in our attempt to develop an understanding of the responsibility of the United Nations for the genocide in Rwanda.

One of the earliest apparent failures of the DPKO came with the initial deployment of the peacekeeping mission to Rwanda. As alluded to above, UNAMIR entered the field grossly under-prepared. Dallaire lacked basic information about the situation he was being sent into⁴, troop-contributing nations handed over their soldiers to him with little to no equipment or basic supplies of their own and fewer troops were deployed than field assessments suggested would be minimally required for UNAMIR to be at all effective (A/1999/1257). In this condition, UNAMIR was ill-equipped to even fulfill its original mandate to “ensure security, monitor ceasefires and demilitarized zones, clear mines and help coordinate relief supplies” for victims of the civil war, let alone to deal with the bloodbath that it was swiftly thrust into (Lebor 166). It has come to light in the years since the genocide that these inadequacies resulted from the fact that the DPKO had never provided the Security Council – which authorized the mission – with important background information on Rwanda, nor did it inform the Council of the finding of the Ndiaye report that genocide was highly likely to occur (Adelman 17). Consequently, supposedly unaware of the escalating violence in Rwanda, not only did the Security Council not outfit UNAMIR with the resources necessary to keep the peace as tensions escalated, but they gave the mission a weak mandate “suitable only for the most benign environment” (Melvern, *Conspiracy* 254). Crucially, authors such as Linda

⁴ To say that Dallaire was ill-informed of the situation in Rwanda is an understatement. According to Samantha Power, prior to his arrival in Rwanda, “the sum total of Dallaire’s intelligence data... consisted of” a copy of the *Arusha Accords*, a road map of Kigali, and an encyclopedia summary of Rwandan history that he had taken out of a public library himself (86).

Melvern contend that this weak support for UNAMIR sent a clear signal to the Rwandan government and the broader international community that the United Nations was not prepared or committed to any sort of meaningful involvement in Rwanda (*Conspiracy* 254). Thus, the failure of the Secretariat to fulfill its mandate to properly inform the Council on the situation in Rwanda may have doomed the UN's ability to prevent and later halt the genocide from the earliest stages of the crisis.

Perhaps the most critical failure on the part of the Secretariat in particular relates to the manner in which the DPKO responded to Dallaire's now infamous genocide fax. Based on the information that he received from Jean-Pierre, Dallaire included a plan in his 11 January cable to raid the stockpiles of arms that were soon to be distributed to the *Interhamwe*. Following very little discussion on the content of Dallaire's cable, a number of top DPKO officials – including Baril and Iqbal Riza, deputy to Kofi Annan who was then head of the department – decided to “order Dallaire to... [cancel] his plan for seizing weapons caches” (Barnett 79). With no consideration of the changing realities on the ground in Rwanda that Dallaire was continuously informing them of, they defended their decision on the basis that, as a Chapter VI peacekeeping rather than Chapter VII peace ‘enforcement mission,’ UNAMIR's mandate prohibited any actions that might make the mission seem partial to the RPF (Barnett 83). As such, Dallaire's attempt to prevent what he understood to be an imminent threat was thwarted before the Security Council even had the option of acting on the information received from his informant. Not only was the information from the cable not passed along to the Security Council, but Baril and Riza even failed to share it with the United Nations' Secretary-General at the time, Boutros-Boutros Ghali (Lebor 170). While it is certainly reasonable to suggest, as

members of the DPKO later argued in defense of their behaviour, that the Security Council cannot be expected to “weigh-in on all aspects of a peacekeeping operation,” it is more reasonable to assume that “information received by a United Nations mission that plans are being made to exterminate a group of people” would be significant enough to be brought to the Council’s attention (Barnett 84). Though we can never know how the Security Council may have reacted to the information in the genocide fax, it is crucial to note that many analysts now argue that had Dallaire gone ahead with the raids on Hutu Power’s weapons caches, at the very least, the genocide would not have occurred on the scale that it did (Lebor 169). This early dereliction of duty on the part of DPKO officials is particularly troubling as it set the tone for how they would behave once the violence was underway.

After the genocide began, a discrepancy quickly emerged between the information that Dallaire was communicating in his twice-daily reports to the DPKO, and the information that the Secretariat, in turn, reported to the Security Council (Barnett 109). While Dallaire provided detailed reports of the violence and the nature of it, the Secretariat’s briefings to the Council provided only a partial picture of the reality on the ground (Adelman 23). There were two vital pieces of information in particular that the Secretariat failed to pass along. The first critical omission was that civilians were being targeted for no reason other than ethnicity. The Secretariat’s early reports to the Council instead oscillated between suggesting that the “violence was spontaneous, erupting from long-standing [tribal] tensions” (Barnett 109) or that “the situation was just an extension of the civil war” that was the subject of the *Arusha Accords* (Lebor 172). The second critical omission was the failure to inform the Council that Dallaire was pleading for

reinforcements and a broader interpretation of his mandate in order to increase UNAMIR's presence in the country (Barnett 109). Taken together, these omissions proved critical when it came time for the Council to vote on the future of the United Nations' role in Rwanda. Whether strategic omission or blind negligence – a question that will be returned to shortly – the Secretariat's failure to “turn over critical information” meant that when the issue of withdrawal was raised by Belgium and the United States following the murder of ten Belgian peacekeepers two days after the genocide began – just as Dallaire's informant had warned – the Council deliberated on the question of UNAMIR's future through a lens of ethnic civil war, not of genocide (Barnett 167). As a result, in what Holly Burkhalter refers to as “the single most important decision made with respect to Rwanda,” the Security Council voted to downsize Dallaire's force from the already too few 2,500 soldiers that he had to a meager 270 (44). Again, the fact that in the face of overwhelming evidence of genocidal violence the international community was willing to scale back its presence in Rwanda sent a signal to the organizers of the genocide that they need not fear an intervention (Melvern, *Conspiracy* 235)⁵. Ultimately, taking each of these omissions and their results into consideration, it seems that by neglecting to fully inform the Security Council of the realities on the ground in the months leading up to and during the genocide in Rwanda we can, at the very least, conclude that the UN Secretariat was derelict in fulfilling its portion of the United Nations' duty to respond to genocide.

⁵ Ultimately, the Security Council did ultimately authorize the creation of a stronger intervention force with a broader mandate on 17 May 1994, but its deployment was delayed numerous times and it finally arrived in Rwanda long after the RPF had taken Kigali and the genocide had ended (A/1999/1257).

Lastly, it must be understood that although the DPKO did not properly relay information from Dallaire to the Security Council, this is not to say that the Council is without fault of its own. Indeed, a great deal of evidence has emerged in the aftermath of the genocide indicating that several key members of the Security Council were already well aware of the escalating situation in Rwanda – often finding out about critical developments even before Dallaire – yet they too failed to share this information with the rest of the Council (Adelman 20). France and the U.S. in particular both received intelligence about the nature of the violence in Rwanda from their own personnel on the ground, at least up until the genocide began and both governments staged evacuations of their respective nationals (Krosiak, *The Responsibility* 168; Power 93). Moreover, as Adelman contends, once the genocide was underway there were enough obvious discrepancies between the information being received from the DPKO, from other diplomatic sources and various international media outlets to have at least prompted the rest of the Council to raise serious questions about the critical issues that they were voting on (Adelman 20)⁶. On a final note, it is interesting to point out that one of the most questionable aspects of the Council's behaviour throughout the entire crisis relates to the fact that at the time, the Rwandan government actually had a representative in one of the non-permanent seats on the Security Council. Despite the fact that this effectively gave the Rwandan leaders responsible for organizing the genocide the “right both to vote on and to take part in procedural decisions about the United Nations' response to the slaughter” – a right that they at times used to present significant obstacles to Council

⁶ It should be noted that some of the representatives of non-permanent members of the Security Council at the time did exert considerable effort to get the realities of the crisis in Rwanda on the Council's agenda (see Wheeler 225-6).

deliberation – no member of the Security Council even raised the question as to whether or not this was appropriate (Lebor 172). While again, we cannot know if the Council would have acted differently if any of its members had been more forthcoming with information, it remains that, at the very least, it may be said to have failed in its duty to openly deliberate on the question of how to effectively deal with the violence in Rwanda.

In the end, as almost a direct result of the behaviour of the relevant elements of the Secretariat and the Security Council, the United Nations' response to tragedy in Rwanda was entirely inappropriate for dealing with the reality of the situation. UNAMIR was grossly under-prepared to fulfill even its original, weak mandate and this fact did not change when the Security Council voted on its future after the genocide began. Indeed, at this critical point in the crisis the international community, working through the United Nations, actually chose to withdraw most of its presence in Rwanda. As these vital decisions sent a signal of almost tacit consent to both the *genocidaires* and their victims, it can be said that in Rwanda the actions of the United Nations not only failed utterly to fulfill its prescribed duty to prevent and suppress the crime of genocide, but actually may have served to aggravate the crisis.

Capability

Lastly, in order to assign responsibility to the United Nations for its failure to discharge the duty to respond to genocide, it must be shown that they had the ability to fulfill this obligation in the first place. Specifically, we need to look at the issue of what *could* have been done that might have either prevented the genocide, or helped to suppress the violence once it was already underway. In other words, the question remains as to “how, when and whether” the United Nations and the international actors that

comprise it “could have been effective if they had intervened in Rwanda” (Straus 239). Crucially, much valuable work has been done on this very topic in the decade and a half since the genocide that suggests that there were a number of measures that the United Nations, the DPKO and Security Council in particular, could have taken – up to and including humanitarian intervention – that could have significantly altered the outcome in Rwanda in the months leading up to and during the genocide.

In reference to the early warning phase in particular, many sources suggest that it “would have been relatively easy to stop” the genocide from happening had any number of measures been taken prior to the start of the slaughter on the 6 April 1994 (OAU 10.1). As emphasized in a 1998 report from the Carnegie Commission on Preventing Deadly Conflict, it is crucial to understand here that the violence in Rwanda – as in most cases – “began as a result of choice” – a critical point given that choices *can* be influenced (Fiel par. 8). Recognition of this simple fact opens up the possibility that prevention, no matter how difficult, *was* possible. Indeed, as Walter Dorn, Jonathan Matloff and Jennifer Matthews argue in their work on the preventability of the tragedy, it is often forgotten that the hardliners in the Rwandan government were not destined to prevail (41). In fact, according to Scott Straus, an intervention early on, or any support from the international community for that matter, could “have strengthened the hand of moderates who sought to prevent mass violence” in the country and could possibly have prevented Hutu Power from gaining the strength and influence in Rwandan society that proved crucial to the ‘success’ of the genocide (241). Moreover, both Straus and Dorn et al. argue that aside from attempting to thwart the rise of hardliners in the Rwandan government, a number of concrete measures could have been taken to ‘short circuit’ “some of the dynamics driving

the violence” in Rwanda in the period leading up to the genocide (Dorn et al. 42; Straus 241). Specifically, the powerful states within the United Nations could have attempted to silence RTLM, which would have helped dismantle the networks and tools that would later be crucial to the success of the genocide (Dorn et al. 42). More generally, a stronger international presence – which would have required a larger, more capable UNAMIR – could have relaxed the feeling of insecurity in Rwandan society at the time, making it less likely that the mass population could so easily be swept up into the violence once the genocide began (Straus 241). At the very least, even if these kinds of measures could not have prevented the genocide entirely, their effective implementation might have made it such that the United Nations would have been more prepared – both on the ground and in the mindset of DPKO and Security Council officials – to respond more quickly effectively to the genocide once it was underway.

Many analysts agree that even if prevention were not possible, a quick and decisive international intervention to suppress the killings once they began would likely have altered the outcome of the crisis significantly (Fiel par. 9; OAU 10.0; Straus 239). Dallaire repeatedly insisted during the crisis that the mere presence of reinforcements could have stopped the bloodbath as the general rule in Rwanda at that time was that civilians were safe if they were under UN protection (Barnett 109). Dallaire has since maintained that with a force of 5,000 properly trained and equipped peacekeepers deployed between 7 April and 21 April 1994, and a Chapter VII ‘peace enforcement’ mandate – which could have been granted had the Security Council agreed that the genocide represented a threat to international peace and security – “UNAMIR could have prevented most of the killings” (OAU 10.9). Not only would meaningful intervention

have eliminated the security-based rationale that the perpetrators used to incite Hutu civilians to kill their neighbours (Straus 214), the fact that with a meager force of just five hundred troops in the end, UNAMIR managed to save an estimated 20,000-25,000 lives at protected sites around the capitol city of Kigali suggests that a stronger intervention force *would* have prevented many of the killings by its presence alone (OAU 10.9). At the very least, had any of these actions been ordered by the United Nations, it is likely that the violence could have been quelled before it spread beyond Kigali.

Diplomacy, radio-jamming, Dallaire's planned raids on the *Interhamwe's* weapons caches, reinforcing UNAMIR with either more troops or an appropriate mandate and full-blown humanitarian intervention are just a few examples of the options that the UN had available to it to respond to the crisis in Rwanda. Yet, few of these were even suggested by the DPKO or Security Council at the time. Instead, as already mentioned, the UN essentially chose to withdraw from Rwanda, standing idly by as "major international actors evacuated their nationals, drew down the peacekeeping force, and blocked efforts for a more robust international response" (Straus 240). Not simply a case of searching for an actor to blame in the aftermath of atrocity, Adelman argues that the "failures of omission and commission, of misinformation and disinformation, of absence of analysis and presence of unquestioned assumptions" were "so pervasive and voluminous as to indicate a systemic pattern" of negligence on the part of those actors comprising the UN system (16)⁷. Thus, it seems that there is quite a sufficient basis upon which to claim that the United Nations – the Secretariat and Security Council in

⁷ It should be noted here that the Security Council did eventually authorize a more powerfully mandated peacekeeping body, UNAMIR II, though it was not deployed until after most of the violence had subsided. Simultaneously, France sent in its own troops shortly after the genocide ended, purportedly to aid in refugee assistance efforts.

particular – bears both some causal and moral responsibility for the 1994 Rwandan genocide (Barnett 168). Despite having the knowledge necessary to make a determination that genocide was either likely or occurring as well as the capacity to act to prevent or mitigate the violence, the United Nations failed to discharge the duty placed on it to act as a first responder to the genocide.

Factors Affecting the United Nation's Ability to Act

Despite the almost overwhelming evidence suggesting that the United Nations did not behave as it should have during the Rwandan crisis, we are still not yet at a point where we can attribute responsibility to the organization for its critical failures in this regard. As emphasized above, both supporters and critics of the United Nations contend that a number of different factors constrain its agency to such a degree that it simply cannot be expected to act on the kinds of ethical obligations that we so often ascribe to it. If this is so, and it can be shown that these factors were at work during the Rwandan crisis, then it would be wrong to blame the organization for failing to discharge the duty to respond to genocide in that particular case. As such, in order to conclude our discussion of the organization's responsibility for the Rwandan genocide – and the topic of responsibility for genocide prevention more generally – we must turn to examine the degree to which factors both internal and external to the United Nations may have impeded its ability to act in the months leading up to and during that spring of 1994.

Ignorance

In the aftermath of the genocide, DPKO staff and Security Council representatives were the first to offer up excuses for both their behaviour and that of the UN bodies that they worked for. Early on, many argued that they simply could not have predicted that

genocidal violence was going to erupt in Rwanda. More specifically, while the warnings of the Ndiaye report and the information received from UNAMIR might now seem like unambiguous evidence of a genocide foretold, many from within the organization have argued that the connection between the warning signs and the genocide to come only seems obvious with the advantage of hindsight (Barnett 80). They emphasize that it must be understood that during the crisis, any information received regarding Rwanda was “almost instinctively connected... to a possible return of the civil war” that had plagued the country since 1990 (Barnett 156). This explanation seems reasonable. Given the obvious time constraints on decision-making and the reality that the war had been an issue on the UN’s agenda for some time, it is easy to see how the members of the Secretariat and Security Council may have jumped to the conclusion that the violence in Rwanda was a product of renewed civil war tensions, not the lead up to genocide (Barnett 116). However, the excuse of ignorance has become increasingly less tenable in the years since the genocide as more evidence has surfaced suggesting that UN officials knew that what was occurring in Rwanda was something qualitatively different from the civil war.

The Importance of Context

Many UN officials have since admitted that – based on the information available to them – they *should* have known that genocide was likely to occur, or, at the very least, made the determination that it was underway in Rwanda much sooner after 6 April than they ultimately did. Moreover, many argue that had they done so, they would have responded much differently as the crisis escalated (Barnett 80). Yet, nearly all of the officials who had a role to play in UN decision-making related to Rwanda have insisted that although their behaviour may have been objectively wrong, neither they nor the

organization as a whole should be held accountable given a number of different constraints on their ability to act at the time (Barnett 155). Most commonly, they have stressed the importance of understanding their actions in light of the context within which they were operating in those crucial months (Barnett 80). Specifically, many have pointed to the bureaucratic culture of the United Nations, skepticism about the effectiveness of multilateral peacekeeping missions and the sovereign interests overshadowing decision-making within the UN at the time as critical factors that lessen the responsibility of the organization for its failures in Rwanda. Crucially, much work has been done on how each of these issues may have inhibited the UN's ability to act back in 1994 that suggests that there is a strong case for excusing the organization of some of the blame that has been ascribed to it in the decade and a half since the genocide. With this in mind, a more careful examination of how the United Nations interacts with these internal and external constraints on its agency will be the focus of the remainder of this chapter.

The Influence of Bureaucratic Culture. Quite commonly, both defenders and critics of the United Nations point to the organization's complex structure to either excuse or condemn its failure to act quickly and decisively in response to humanitarian emergencies – both in the Rwandan case and more generally. As Adam Lebor argues in his work on the UN in Rwanda, the problem is that bureaucratically structured organizations, like the United Nations, have a strong tendency toward stasis – the very antithesis of what is required to effectively respond to crisis situations (169). Oddly enough, this is in part a product of some of the very features of the United Nations' unique form of agency that prompted us to consider it the most appropriate actor for preventing genocide in the first place. Essentially, although the UN's complexity is

precisely what allows it to access and process information to a greater degree than is potentially achievable by its individual member states, it is at the same time “not always conducive to the effective transfer of information,” and in fact, may often inhibit it entirely (Erskine, *Blood* 37). Like most bureaucracies, the United Nations attempts to cope with this complex structure through the use of “rules, routines and standard operating procedures designed to trigger... standard and predictable responses” (Barnett 116). This produces a high degree of regulation within the organization that, while “precisely what bureaucracies are supposed to exhibit,” makes effective, efficient decision-making in complicated crisis situations quite difficult, if not impossible (Barnett 116).

With these issues in mind, it has been argued that responsibility cannot be attributed to either individual actors within the UN or the principal organs themselves without “placing their decisions and actions in the context” of this bureaucratic culture (Lang 186). For example, Michael Barnett argues that in attempting to assign responsibility for the apparent failure of the DPKO to respond to Dallaire’s genocide cable as we expect it should have, the information conveyed in it must be “read as it was read then,” in the context of a bureaucracy that had primed its personnel to respond to crises with caution and through the lens of civil war diplomacy and the overarching principle of non-intervention (80). Iqbal Riza himself has since argued that given the confines of its own role within the UN system, the DPKO simply could not have authorized UNAMIR to raid stockpiles of weapons in Rwanda without the procedural prudence necessary to ensure that there was substance to the warnings of Dallaire’s informant (par. 7). Ultimately, what each of these appeals to bureaucratic complexity are

suggesting is that there may be internal features of the United Nations that severely inhibit its ability to discharge the duty to respond to genocide.

The Ghost of Somalia. While the restriction that the bureaucratic culture within the United Nations system poses on the organization's ability to respond to humanitarian crises is more systemic, a number of apologists for the UN argue that there were also 'extenuating circumstances,' specific to the time period within which the Rwandan crisis took place, that help to explain and perhaps even justify the organization's failure to act in Rwanda (Barnett 80). Specifically, nearly all accounts of the UN's actions in the months leading up to and during the genocide emphasize the grave effect that a recent peacekeeping catastrophe in Somalia had on the political will of the international community to support humanitarian intervention at the time.

In the fall of 1993, following initial mission success, the *United Nations' Operation in Somalia* (UNOSOM) began to overstep its mandate by taking proactive measures to search out and kill those that they saw as opponents to the peace process (Barnett 163). The mission ended in disaster when the United States lost eighteen of its soldiers after two of its own helicopters were shot down during a planned raid on weapons stockpiles at warlord Muhammed Farah Aideed's headquarters (Lebor 50; Riza par. 3)⁸. With the U.S. forced by public opinion to withdraw after footage was released "of a Jubilant Somali crowd dragging the bound corpse of an American Soldier through the streets," the mission quickly collapsed (Lebor 51). Crucially, as many blamed the mission-creep that effectively led to the deaths of the U.S. soldiers – and later the

⁸ Another twenty-four Pakistani soldiers were killed just three months prior under similar circumstances (Riza, par. 3).

complete failure of the mission – on the “UN’s unbridled ambition” (Barnett 163), by the spring of 1994 the United Nations faced some of the strongest criticism in its history.

It is crucial to note here that with the genocide beginning just six months after the disaster in Mogadishu, many of the top officials in the Secretariat responsible for information gathering and decision-making related to Rwanda were the very same people who took much of the blame for Somalia. As such, they were all too familiar with the “price of risky action” in humanitarian affairs, particularly when doing so from within the complex and often inefficient structure of the UN system (Barnett 85). They claim to have believed, perhaps quite rightly, that the “debacle in Somalia left little likelihood that the Security Council would [ever] authorize a robust pre-emptive intervention in Rwanda” (Lebor 170). Worse, they feared that if a trigger-happy Security Council did decide to act, recent history suggested that there was a good chance that it would authorize a stronger intervention force for Rwanda without actually having the resources necessary to implement it successfully (Barnett 163). If this were to occur, they feared that Rwanda could potentially lead to another failure like Somalia, which, at that point, could have been fatal for the future of United Nations peacekeeping, and their careers.

With this in mind, authors such as Adelman have argued that the failure of the DPKO to pass along vital information regarding the nature of violence in Rwanda as the crisis escalated was, in fact, less a failure and more a strategic omission on the part of a Secretariat staff that did not want to raise the possibility of humanitarian intervention in Rwanda to the Security Council. Indeed, a powerful line of argumentation has emerged in the years since the genocide that suggests that members of the Secretariat may have purposefully distorted the information that they were receiving from Dallaire when they

passed it up to the Security Council for consideration (Adelman 23). By providing the Council with a partial picture of the situation on the ground, purposefully omitting certain options for action from consideration and at times overloading “reports with irrelevant and distracting detail,” the Secretariat hoped to keep humanitarian intervention off the Council’s agenda as a possible option for responding to the escalating crisis in Rwanda (Adelman 23). In other words, in an almost utilitarian manner, DPKO staff claim to have believed at the time that by withholding information from the Security Council and denying Dallaire’s requests for reinforcements, without any Council deliberation on the issue, they were protecting the future of United Nations peacekeeping. Ultimately then, on top of the internal constraints placed on the UN by its own bureaucratic structure, it seems that there is a strong case suggesting that outside skepticism about the organization’s role in international relations also had a limiting influence on its ability to discharge the duty to respond to genocide.

Sovereign Interests. If the UN Secretariat staff did honestly fear that the Security Council – if allowed to deliberate on the issue – might have responded to the Rwandan crisis by authorizing a mission without any financial, military or diplomatic means to support it, it was not without foundation. Indeed, one of the most commonly cited constraints on the UN’s ability to exercise whatever agency it may have is the fundamental reality that the United Nations is, and always will be, “an intergovernmental organization in which the key decisions are made by governments representing [sovereign] states” (Weiss et al. lii). Not only is the organization’s vital capacity to deliberate therefore inherently tied to the will of its individual member states – particularly the veto-wielding members of the Security Council – but the executive

capacity of the UN to implement many of its decisions depends quite heavily on the economic and diplomatic resources of these same states (Weiss et al. liii). From this, potentially the most damaging criticism that has been thrown at the organization – as far as its ability to exercise agency is concerned – is that it is nothing more than an anemic, ineffective mechanism through which the most powerful states in the international system may choose to realize their self-interested goals (Lefever 18). While much of this study has been devoted to establishing that the UN is, indeed, *something* more than the sum of its parts, this broad point about the organization's dependence on the will of its member states to act may prove to be a critical final piece to our discussion of the UN's responsibility for genocide prevention in Rwanda, and more generally.

As Adelman acknowledges, one of the main factors mitigating the United Nations' responsibility for its actions during the Rwandan crisis may be that it simply "did not have the adequate tools to prevent or mitigate the genocide" (15). While, as already discussed above, there were a number of measures that the UN could have taken in response to the genocide, it must be understood that the implementation of nearly all of them would have relied on the will of the organization's individual member states to do so – the permanent five Council members in particular. Problematically for those in favor of intervention in Rwanda, it is highly likely that *had* the DPKO not been derelict in its duty to pass the information it was receiving from Dallaire in the field up to the Security Council for deliberation, precious little still would have been done to save Rwandans. As already noted at the very outset of this study, Rwanda was of little economic or strategic interest to the members of the Security Council at the time (Straus 17). Coupling this reality with what Barnett refers to as the 'bad aftertaste' of Somalia meant that there was

“virtually no interest in intervention” on the part of any of the UN’s major contributors (Barnett 102). Thus, it is likely that a proposed intervention would have been vetoed by one of the permanent five members of the Security Council or, perhaps worse still as the staff of the DPKO had worried, an intervention would have been authorized but would likely have been lacking in nearly all of the resources necessary for it to be successful.

More specifically, it should be noted that the interests of both France and the United States would likely have overshadowed any calls for intervention from within the DPKO or even the Security Council itself. Indeed, as Samantha Power notes, the U.S. in particular had actively tried – with a great degree of success – to halt discussions on intervention when the topic finally arose by refusing to use the word ‘genocide’ in connection with the violence in Rwanda, based on the belief that if they called it as such, they would have faced pressure from the American public to intervene (84). Attempting to convince other member states that there was nothing that could be done to stop the ‘civil war,’ the United States, according to Barnett, argued that “enough was enough and that the UN should ‘cut its losses’ and save its resources for a more worthy operation” (Barnett 95)⁹. France too went above and beyond merely failing to contribute to prevention and suppression efforts by both discouraging talks of intervention and actively supporting Habyarimana’s regime – as it had for years – at least up until the genocide began (Krosiak, *The Role* 155). In this context, it seems that there is an even greater case for suggesting that the responsibility of the United Nations for the Rwandan genocide may not really be that substantial after all.

⁹ Some even argue there that the U.S.’s response was particularly harsh in Rwanda because – as it had no strategic interest in the country – it thought that it could use it as a scapegoat to send a message to any party thinking about engaging in mass atrocity for political ends that peacekeeping by the UN was a right and not a privilege (Barnett 95).

Mitigating Accountability?

Taken together, each of these factors suggests that there is a strong case for limiting the degree of responsibility ascribed to the United Nations for its obvious failure to act in Rwanda. In the end, however, though the actions and inactions of the UN in the months leading up to and during the crisis must be understood within this context, none of these factors should be thought to completely absolve the organization of any responsibility for its behaviour during the crisis.

It must be understood that just as a finding of complicity on the part of the UN in the Rwandan genocide does not exclude the possibility of other agents being held responsible. To say that the organization's individual member states may bear a great degree of responsibility of their own for the failure of the international community to respond to Rwanda does not mean that the UN does not have a share in this as well. Indeed, Adelman is very careful to argue that allowing for the responsibility of member states like the U.S. and France for their own negligence should not "lessen the failures and responsibility of the UN" as a whole (25). Going back to the argument of chapter two for a moment, it is overridingly important to remember here that the United Nations has been established as having a special obligation to act as a sort of first responder to mass atrocity in the world. In many ways, as already discussed, it has this duty precisely because individual sovereign states cannot be expected to undertake to prevent or mitigate genocide on their own unless their individual national interests dictate that they should. More importantly, individual states are prohibited from intervening on their own – outside of a United Nations' sanctioned mission – by international law (Wheeler 1). Essentially, regardless of whatever external and internal constraints there may be on the

organization's ability to exercise its agency, the United Nations still stands as the primary bearer of the duty to respond to genocide. So long as discharging this duty is not shown to be literally impossible, it should bear at least some responsibility when it fails to do so.

And impossible it was not, at least not in the Rwandan case. Despite all of the very powerful restrictions on its ability to exercise agency, it can still be shown that there were a number of steps that the UN *could* have taken that would have, if nothing more, allowed it to absolve itself of responsibility for the failure to intervene in Rwanda. One such example looks back to the DPKO's treatment of information that it was receiving from Dallaire in the field. Even if it is true that the Secretariat staff deliberately attempted to avoid any entanglement in Rwanda for fear that it might result in the demise of UN peacekeeping, explanations of this nature ignore one very crucial reality— the role of the Secretariat is not to deliberate on major issues in peacekeeping operations, but to pass the relevant information on to the Security Council for its consideration, *regardless* of what the Council might be expected to do with it (Lebor 170). In other words, their role is to provide the Security Council – the main deliberative organ of the UN and centre of its claim to agency – with enough information to deliberate issues of peace and security, *not* to manipulate it, if even for a perceived higher purpose. Thus, at the very least, despite their reasons for doing so, members of the UN Secretariat and the DPKO in particular may be said to have neglected their portion of the duty to respond to genocide.

There may be some extreme cases where it is justifiable to say that the UN simply cannot discharge its duty to undertake to prevent or mitigate genocide. As Erskine explains, this could potentially occur if one of the permanent five Security Council members decided to use its veto power to block any action by the United Nations to

respond to a particular situation of mass atrocity (*Blood* 38). In the Rwandan case, however, because of the critical omissions of a number of key elements that comprise the UN system – including portions of the Security Council itself – the question of intervention never openly made it on to the Council’s agenda until it was too late. Ultimately, then, though there may have been a number of constraints on the organization’s ability to exercise its agency in the Rwandan case, doing so was not impossible. Having the requisite agency, capacity, mandate and expectations upon it to bear the duty to respond to genocide, the United Nations’ should therefore be held accountable, to some degree, for its failure to discharge this duty in the Rwandan case.

CONCLUSIONS

It is important to reiterate here that nothing in the above discussion is meant to suggest that the United Nations should be considered the sole bearer of responsibility for the failure to either prevent or later halt genocide in Rwanda. Far from it, it may ultimately be that the UN can be assigned very little responsibility if it fails to act in situations of mass atrocity as we expect it should given the factors, both internal and external to it, that may limit its ability to do so. What *has* been shown is that there is a very strong case suggesting that our understanding of responsibility for genocide and other crimes against humanity must be expanded to include collective agents, like the United Nations, with a vital role to play in prevention.

As it stands right now – as the work of Mark Drumbl illustrates – our current system of apportioning blame and responsibility for mass atrocity at the international level just barely ‘skims the surface’ when it comes to addressing the “dynamic and

diverse sources” that contribute to mass atrocity (37). From the focus of traditional responsibility theory on the concept of agency, the current body of international law and practice – especially that surrounding genocide – is narrowly centred on the notion that individual human beings, alone, are to be held accountable for these kinds of crimes.

Problematically, this way of thinking about responsibility is quite at odds with the necessarily collective elements of atrocity crimes. Far from being merely a crime with numerous individual perpetrators, genocide in particular is a phenomenon that cannot occur without much deeper collective elements at work. As our account of the United Nations’ role in the Rwandan genocide dramatically highlights, collective actors may play a vital role in creating the culture of acquiescence that allows mass atrocity crimes to occur. Similarly, efforts to prevent genocide may prove futile without support from collective entities at the international level. As such, it can be said that the traditional understanding of responsibility simply fails to capture the full range of actors who, acting both separately and together, may be said to contribute to mass atrocity. Thus, it is logical to suggest that a much broader, more inclusive understanding of where accountability lies for such heinous crimes as genocide is needed, if preventing them is ever to be possible.

There is an especially compelling case suggesting that the responsibility of the United Nations in particular with respect to genocide prevention is in need of much clarification if this goal is ever to be met. Problematic for this purpose is the reality that both supporters and critics of the United Nations argue that, as an international organization that is a collective of different entities, the UN is simply not the kind of actor capable of bearing responsibility.

Yet, as emphasized in the work of Toni Erskine, it has been shown above that there is nothing about the defining features of agency upon which the traditional understanding of responsibility is built that necessarily precludes collective entities from also qualifying as moral agents (*Locating* 701). Indeed, with roots in corporatist versions of collective responsibility theory, it may be argued that the United Nations exhibits the defining features of agency quite clearly – it has a corporate identity independent of any one of its particular constitutive elements, an understanding of itself as a unified entity, a complex internal decision-making structure and the executive capacity, at least in theory, to translate its decisions into actions. As such, at least according to Erskine's model, it seems that there *is* an important manner in which we can coherently think of the United Nations as being the kind of entity capable of bearing responsibility for its behaviour.

If the United Nations can rightfully be considered a moral agent, then it makes sense to say that we can assign duties to the organization and hold it responsible if it fails to fulfill them. This is crucial as it has also been shown that the United Nations may be the most capable and appropriate actor for bearing the specific obligations associated with the duty to prevent and mitigate genocide. Though, for reasons described above, both individuals and states cannot be expected to act, in and of themselves, to prevent or suppress genocide – beyond simply shunning the use of genocidal violence themselves – the very opposite is true of the United Nations. As a specifically *institutional* moral agent, it may be said to have a greater capacity than individuals to respond to genocide and other instances of mass atrocity. Unlike sovereign states, the United Nations has an explicit mandate to undertake international response efforts in these situations. Taken together, its unique capacity and mandate makes it such that the organization may be said

to have a special duty above all other actors – international or domestic – to undertake to prevent and mitigate genocide.

This duty, rooted in international law, common practice and the ways that we often speak about the United Nations, has created the expectation that the organization can and should act as a sort of first responder to potential and actual cases of genocide all over the world. As such, it is the organization that other actors automatically turn to for guidance when humanitarian crises erupt. This simply reality that cannot be over-emphasized. With such a primary role in organizing responses to mass atrocity, the UN should – according to Howard Adelman, and this author – be judged especially harshly if it fails to live up to its obligations in this regard.

Fail it has, at least in the Rwandan case. It has been shown that, despite having the knowledge necessary to make a determination that genocide was either likely or occurring as well as the capacity to act to prevent or mitigate the violence, the relevant organs of the United Nations system stood idly by as over eight hundred thousand innocent civilians were murdered with weapons that the organization had the opportunity to seize months earlier. What is more, through a series of strategic omissions, they effectively chose to withdraw their presence from the country – despite it having been shown on numerous occasions that the mere presence of UNAMIR troops saved many lives. On the grounds that having knowledge that genocide is underway “and still not acting [to stop it] means granting acceptance of it,” some authors go so far as to suggest that the UN’s negligence with respect to Rwanda, particularly that of the DPKO, amounted to the complicity of the organization in the genocide (Vetlesen 522, 529) – an act punishable under Article III of the *Genocide Convention*.

Crucially, however, as our case study of the UN's actions and inactions during the Rwandan genocide has also shown, there are a number of factors both internal and external to the organization that may inhibit its ability to discharge the duty to respond to genocide and thus must be taken into consideration when retroactively determining the responsibility of the United Nations' in this regard. With a heavily bureaucratized structure that makes it difficult for the organization to respond quickly and effectively in crisis situations and external factors that severely constrain its ability to translate decisions into actions, it may be that the UN's responsibility for Rwanda, and many other situations where its behaviour has been questionable, may be lessened accordingly.

Ultimately, however, while the organization's ability to act must be understood in light of this context, it is the contention of this author that in a given situation of mass atrocity, so long as action is not literally impossible, the gravity of the results are such that if the United Nations fails to discharge its duty to respond to genocide it is worthy of blame to some degree. Essentially, the reality is that – despite very real limitations on its ability to act – the United Nations is structured as a moral agent and has been given the primary duty to respond to genocide and other mass atrocity crimes, a role that it often embraces. As such, the organization is widely turned to for guidance and action when humanitarian crises erupt. So long as this is the case, if the United Nations fails to at least attempt to discharge its duty to prevent and suppress genocide, it should be held accountable accordingly.

Ultimately, what all of this suggests is that the role of collective agents like the United Nations in both preventing and exacerbating atrocity crimes is quite significant. Thus, as we continue to move forward with the project of ending impunity for gross

violations of human rights, bringing collective agents like the United Nations into the matrix of responsibility for atrocity crimes will prove absolutely necessary.

This final point illuminates at least two important and intriguing areas of further research in this field. First, where it can be shown that the UN has truly failed to discharge its duty to respond to genocide – as in the Rwandan case – the notion that it can and should bear responsibility as a result implies that it should be subject to some sort of sanction or punishment. While doing so may ultimately prove impossible – or even counter-productive – the question of how to deal with institutions like the UN when they fail to act as we expect they should is one worthy of great consideration. Second, and perhaps more importantly, rather than suggesting that it is an anemic institution destined to become obsolete, the reality that there exists strong constraints on the United Nations' ability to exercise whatever agency it may have stands as a call to "think harder about how to enable the UN to fulfill the roles that we continue to give it" (Lang 201). In other words, we must begin to think critically about how to empower the UN to fulfill the all-important duties ascribed to it – a question already being taken up by a number of theorists addressed in this study¹. Thus, while this study has illuminated the pressing need to bring actors like the United Nations into the matrix of responsibility for atrocity crimes, it ultimately serves as a call to think more carefully about the issue of just how to go about doing this.

¹ See Adelman's 'Blaming the United Nations' p. 26; Bartrop and Totten's 'The United Nations and Genocide' pp. 121-123; Erskine's 'Blood on the UN's Hands?' pp. 38-42; and Green's 'Institutional Responsibility for Moral Problems' p. 128.

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