

Deferred reciprocity: ransoming and the ethics of compensatory justice¹

Abstract. Non-state transnational actors have always played a central role in Sahelian economic structures and geopolitical arrangements not least because of their capacity to constitute sources of authority and sustenance outside and across state structures. Recently, subversive battalions (qatiba) have resorted to kidnapping, raiding and ransoming as a means to a social justice with a redistributive dimension. One can draw a parallel with authority structures associated with 19th Century privateers and buccaneers, and more recently with pirates operating in the Indian Ocean. The parallel economy of ransoming emerges in a context of critical disruptions of traditional economic and mobility frameworks in the Sahel, the aggressive scramble for resources, and the displacement of the global war on terror in the Sahel. On the one hand, the Sahel has been subjected to different forms of intervention, ranging from attempts by national governments and non-governmental organisations and institutions to regulate, 'develop' and extend governance to the outlying peripheries of urban centres, to touristic ventures, various programmes and initiatives seeking to stabilise the region against a threat of 'somalisation' (TransSahara Counterterrorism Partnership (TSCTP), AFRICOM). On the other hand, the enlargement of extractive enclaves such as French mining giant Areva, in collusion with Sahelian governments, has further expanded zones of exclusion against traditional forms of exchange and interaction. In this context, old forms of resistance to systematic attempts at governance, control and ordering re-emerge in non-conventional forms including smuggling, raids and kidnappings. In a post-9/11 order, external interventions under the guise of development, governance and securitisation have but exacerbated precarious economic and political conditions in the Sahelian-Saharan region. This paper draws on discussions on high sea piracy and international law in an attempt to articulate an understanding of ransoming practices in the Sahel through a theory of social justice. Its objective is three-pronged. First, it examines the legitimisation processes used by subversive groups, both ideological and religious. Secondly, it is concerned with the ethics of ransoming as a form of prosperity endeavour without morality. Thirdly, the parallel economy of smuggling in its recent history denotes an oscillating process between *cooperation* and *subversion* as two aspects of the same strategy of engagement between formal authorities and insubordinate groups in a context of scarcity. The paper argues that non-conventional forms of ransoming and criminal predation in the Sahel are not dissimilar to state practices and those of multinational corporations in so far as these divest ordinary citizens of their ability to become subjects outside the colluding forces of capital, state power and external interventions.

Introduction

The post 9/11 security governance discourse has come to acquire a normative dimension in the way it has astutely imposed an understanding of development as security or of security as a prerequisite to the practice of development. This conjoining of development and security arose concurrently with the common sense that underdevelopment breeds terror while development orients the attention of the potential pool of 'jihadists' toward more productive activities. This understanding of the motivation of 'local' non-normativity and the determination to eradicate it as part of the control and containment of the 'terror threat' has led to questionable policy choices. More worrisome is the use of the language of liberal humanitarianism as justification for violence against those who would engage in raiding, ransom and similar acts or pose any threat to Western interests, including the disruption of mining and other economic activities. The result is that the global war on terror (GWOt) has taken the flair of operations in 'ungoverned' zones, which is a policy recycled from the era of colonial conquests. On the one hand, the rights discourse has come to justify aggressive interventionism even whilst it affirms a mission to protect the rights of populations subject to intervention. The implementation of human rights becomes problematic in that it actually *reproduces rights violation* in the very modalities of a do-good perspective; it has thus led to collateral dispossession of various sorts. Dissident groups in Africa and elsewhere have responded to this discourse and practice through acts of sabotage and subversion or through the 'expropriation' of western assets and resources.

This paper is concerned with the political economy —rather than the politics—of hostage-taking in the Sahel. It is set against the backdrop of, on the one hand, US and Western anti-terror activities and, on the other, longstanding conflicts between Sahelian governments and populations affected by mineral extractions and yet denied the benefits of foreign direct investment. In this environment, hostage-taking, raiding, razzia, piracy and ransoming are first understood by sympathetic compatriots and observers as a form of compensatory tax. Second, these practices amount to economic, but also political responses to the very condition of privation sustained by the combination of neo-colonialism,

¹ This is a draft. Please do not cite.

capitalism, securitized development and liberal humanitarianism as many modes of interventions in the Sahel. In any case, hostage-taking intensifies in the context of a submerged war between subversive groups on the one hand, Sahelian states and ‘international’ forces on the other. The antagonisms between these two opposing groups have historically been understood in terms defined by states and ‘international’ forces such as transnational corporations. Whatever its justifications, this normative stand obscures important dimensions of not only the extant political economy of the region but also the ethical predicates of *razzia* and ransoming. The lessons that might be learned from such perspectives are too valuable to be ignored. The first aim of this paper is therefore to examine the ethics of legitimization of militant groups through redistributive justice arguments. Secondly, both capitalist expansionism and the extractive industry are seen to constitute a permanent aggression to Sahelian populations, their resources, their forms of life and culture. The second aim is therefore to assess the extent of external interventions in the Sahel and how these are made complex by a global drive to order, to regular and to govern mobility and lifestyles.

This essay employs two approaches. The first one consists of an examination of the ethics of ransoming as political violence. The second approach looks at the political economy of ransoming. An important point of discussion at the intersection of these two concerns is arguably the relationship between the *ethical* and the *redistributive*. This relationship becomes particularly salient in their geopolitical dimension and in the unprecedented manner in which the economics of resource extraction (i.e. extortion), International Law and Human rights have become imbricated.

These particulars are in no way intended as a justification of terrorist violence or illegitimate modes of appropriation; they are rather meant to underscore the limits of common analyses of the nature of violence, the legitimacy of its use, the condition of its production and its justification in the name of human rights. They are also meant to problematise and show the limits of traditional categories for thinking about the liberal paradigm of law, property, rights, and states in the midst of dissident formulations that do not quite fit in common categories. Three case studies are intended to highlight the points above by demonstrating the combined effects of the acute imbrications of the economics of extraction and the expansion of the war on terror in resources rich regions. The first case examines the far-reaching repercussions of the extension of the logic of the GWOt on Sahelian terrain, particularly the way in which it reinforces a fiction of permanent crisis created and maintained through discourses and humanitarian ad-hockery which has opened the door to many human rights violations. Secondly, the Dakar rally example is meant to highlight the effects of the most ‘benign’ touristic and sporty incursions in a region deemed to need more ‘international exposure’. Thirdly, the *Kiobel v. Royal Dutch Petroleum Co* (Shell) is examined as an instance of impunity of corporations—under international human rights law—for crimes that have dire repercussions for the livelihood of affected communities.

Raiding Economy: A Framework

Ransoming, raiding, *razzia*, buccaneering, piracy and similar practices belong to an economic register characterised by the seizing of property of others through rapid and often violent means. It is a practice that is rife in both ‘legal’ and ‘illegal’ spheres, involving both ‘legal’ and ‘illegal’ actors. It is a practice common to the corporate world as much as the history of slavery, colonial conquest and contemporary insurgency strategies. In West and North West Africa, supplies in slaves destined for the TransSaharan and the TranAtlantic trades were maintained through raiding systems that instilled much fear amongst targeted populations. During colonial conquests, a common argument was one of ‘adaptation’ to the ‘barbaric’ practices of nomadic African populations. The French in particular believed that the only way to crush the resistance of desertic populations was to undermine their very capacity to fight by launching surprise and deadly attacks against them. In the formation of capital in the modern world generally, expropriation has historically been a key factor and strategy. Expropriation and raiding applied not only to the new world but also those parts of world

characterised by economies of extraction, more specifically political usurpation, resources exploitation and the trading in human beings in Africa and in the colonies. It is a practice that has never ceased but has only taken different forms whilst acquiring a degree of legality under a free trade system. The expansionism of mercantilist capital was underpinned by mutually supportive relations between capital and state power. Two aspects are here of interest to me. The first aspect relates to capitalist ventures pertaining to resource extraction. In the 16-18th Century, companies of privateers were constituted as public/private ventures co-commissioned by states and princes. Privateers stationed at colonial peripheries or in the environs of powerful empires and states. They swept the Pacific, Atlantic and Indian oceans using letters of commission and *letters de marque* provided by princes, transferring allegiances according to the geopolitical context.² Their modus operandi oscillated between collaboration and subversion, their unconventional tactics giving them sufficient resources to threaten the colonies and the trades of empires. At the same time, piracy and privateering were often considered just and honourable ‘trades’, especially when they contributed to state enrichment and imperial consolidation. In fact, someone like Hobbes makes little distinction between states and buccaneers in the way in which companies of buccaneers were constituted through a covenant with the view of making profit out of their ventures. In fact, it does not require a great stretch of imagination to see “England’s relentless acts of colonial appropriation are acts of piracy. In other words, they are illegitimate acts of violence, which are legitimized through political and nationalistic propaganda.”³ In the Mediterranean Sea in particular, there was no discernible line between piracy, privateering and trading for that matter.⁴ Equally, there is nothing controversial in seeing similarities between the corrupt business practices of 17th to 19th centuries European, especially British merchants and global public/private enterprises in Africa, Asia and the New World, the acquisition of colonies, the expropriation of indigenous lands and resources, and the enslavement of peoples, with the unconventional activities of pirates.⁵

Closer to our times in recent years, corporate raiding has also become common occurrence particularly since the end of the 1990s and the early 2000s. Corporate takeovers created a predatory system in which professional predators acted in collusion with regulatory agencies, shareholders of target companies, the judiciary, and government bodies such as the police and inspection agencies, in enabling big corporations to buy out or to eat up smaller ones. In Russia in particular, loosely organised and more established groups were responsible for systematic and criminal seizures of property at the end of the 1990s. Legal loopholes were either created or exploited and they enabled corporate blackmail, hostile takeovers, asset expropriation.⁶ The declining importance of corporate raiding in the recent past is less a result of tighter regulation than the diminishing attractiveness of takeovers.

The heterogeneous contexts that produce a variety of raiding practices might provide little in the way of a common basis to a common practice but they certainly point to possible paths to subversive readings of liberal politics as regards notions of property, law, rights and legitimacy.

² Peter Hayes (2013). “Pirates, Privateers and the Contract Theories of Hobbes and Locke”, p. 466. in the 17th Century, pirates who achieved the status of privateers were celebrated and honoured; a famous example is Henry Morgan whose brutal exploits were rewarded with an a knighthood in addition to an appointment, by Charles II, as lieutenant-governor of Jamaica in 1674; see D. Pope (1977). *The Buccaneer King: The Biography of Sir Henry Morgan 1635-1688*. New York.

³ Robert G. Dryden (2001) “John Gray’s Polly: Unmasking Pirates and Fortune Hunters in the West Indies” *Eighteenth-Century Studies*, 34(4): 543

⁴ J. L. Anderson (1995) “Piracy and World History: An Economic Perspective on Maritime Predation”, *Journal of World History*, 6(2): 186

⁵ Dryden “John Gray’s Polly” 2001: 542

⁶ A. Kireev. (2008). “Raiding and the Market for Corporate Control”, *Problems of Economic Transition*, 50(8): 29-35.

Raiding in the Sahel: A Brief History

Historically, the Sahel is a zone of fluid circulation and exchange. No single authority ever held sway over its territories and populations. Mobility was articulated around seasonal migrations, transhumance, trade and the maintenance of extended social networks. Sahelian life is informed by a subsistence model organised around livestock herding, pastoralist transhumance, trade and agriculture. The economic activities are made to adapt to a particular environment (desertic, drought-prone, extreme seasonal variability, precariousness). Complex economic, political, social and cultural linkages have been central to strategies of survival under harsh environmental and climatic conditions since the Middle Ages and certainly since the Islamic conquests of North and North-West Africa. Animal husbandry (goats, camels, sheep) complemented agricultural production around oases and the two provided a basis for trade and other forms of exchange. There were alliances between sedentary and nomadic populations in the form of patron-client relations that fed into processes of differentiation and hierarchy amongst very diverse populations. Given a permanent experience of extreme environmental uncertainty, Sahelians have devised “a highly flexible social system and an elaborate set of both individual and collective-based survival strategies”⁷ informed by three principles: an ethics of solidarity, mechanisms of resource management systems and the possibility of migration. These enabled diversification and redistribution of livestock within networks of allies and kin, irrigation, grazing, and storage systems. Alliances are at the heart of the moral economy thus constituted through social security networks.⁸ At the heart of this carefully crafted cohabitation model was the *dina*. The latter provided a framework for resources rationalisation in the form of the “coordinated management of land and land improvement techniques, systems of grazing reserves, deferment schemes of grazing, and water and fishing development.”⁹ It is an institution that organised equitable access to collective resources (water, grazing land), a means of integrating neighbours and stranger kin, notably captive populations. Its ethics presumably favoured captors’ values and political design but it nonetheless “brought order and a functional economy to a region prone to drought, limited resources, and conflict over resources.”¹⁰ The institution of *dina* thus served three crucial functions, to do with (1) the organisation of production, distribution and consumption (2) a frame for the articulation of solidarity, entitlements and privileges and (3) a source of ideas of justice and ethics to guide the above. To understand therefore the *dina* then merely as a tribute making and territorial control system would be to miss its fundamental normative principles.¹¹ Organised by a *wadi*, the *dina* fostered an idea of sharing, of mutual respect, its subversion was often offset by recourse to raiding practices. It was in no way the most equitable or the most stable collective system for it was vulnerable to social change. It constituted however a significant elaboration and an appropriate form that sustained lives and communities before the intrusion of modernisation projects under colonial and postcolonial frameworks. The destruction of the *dina* inevitably affected the distribution of socio-political power through relative disempowerment, compromised the ability of Sahelians to engage in livelihood-enhancing cultural values and practices and caused impoverishment and destitution.¹² Mass decimation of cattle put a brutal end to transhumance following the unprecedented droughts of the 1970s—1980s and subsequent ecological disaster and famine. The acute vulnerability of nomadic populations during this period was not lost on Sahelian states and the international community (of development and disaster relief) for residents were made dependent on food aid and required to return

⁷ Dylan Hendrickson et al. (1998) “The Changing Nature of Conflict and Famine Vulnerability: The Case of Livestock Raiding in Turkana District, Kenya,” *Disasters*, 22(3): 187

⁸ Heendrickson et al. ‘The Changing Nature’. 1998:187

⁹ Siba Grovogui (2010) “Your Blues Ain’t My Blues. How “International Security” Breeds Conflicts in Africa”, In Peyi Soyinka-Airewele and Rita Kiki Edozie, *Reframing Contemporary Africa. Politics, Economic, and Culture in the Global Era*. Washington: CQ Press, p 187

¹⁰ Grovogui “Your Blues” 2010: 186

¹¹ Some scholars conceive of the *dina* as a form of contract between transhumant herding Fulani and sedentary farming communities

¹² Todd A. Crane (2010) “Of Models and Meanings: Cultural Resilience in Social–Ecological Systems”, *Ecology and Society* 15(4): 27

to their 'official' village of residence if they were to receive their ration. Even after the withdrawal of food aid following the return of rain, Fulani herders were forced to sedentarise and adopt agriculture, something many of them find debasing and self-devaluing in addition to being a source of identity confusion.¹³

In the context above, raiding has always been a central regulatory mechanism that establishes a form of dynamic equity whenever asymmetrical power relations endangered the sustainability of life for Sahelian communities. Its primary role is livelihood-enhancing; its secondary function is a competition regulation through redistribution of power. Up to the 19th Century, raids were a cause as much as a means to resolving conflicts between nomadic and sedentary populations. They thus served to maintain political stability in a context of economic precariousness and political competition, but also to stem attempts at direct governance, ordering, control, and exclusion from zones of commerce, exchange and interactions. Throughout the history of the Sahel, raiding provided a framework for intercommunal confrontations, the means of reproduction for an extractive economy based on the accumulation of people, and the terms of state formation. It therefore regulated access to collective resources whilst sanctioning practices of social justice. In that sense, razzias were at once foundational to state formation (the Sokoto caliphate being one example), and to the disruption of centralisation processes. In fact, the same groups that lent a hand to state builders were equally capable of undermining state authority; the requirement for autonomy often superseded the need to build collaboration.

The razzia was a profitable incursion into an enemy or rival community motivated by a desire to capture horses, camels, goats, goods, sometimes women. It was based on a principle of reciprocity. The hostile group was justified in marauding perpetrators of razzias. Loss of human lives was less frequent in relatively well established razzia economies. From a banal point of view then, raiding operated as an invitation to enter in an exchange relationship framed by two requirements; it was to be (1) *normal and necessary* and it was to (2) *equitable*: normal depending on mutual understanding of rules and equitable where provision is made for 'retaliation' and reciprocation. In contrast to a total war whereby the aim is to destroy the enemy, precolonial modes of confrontation were premised upon the idea that the survival of the adversary and rival communities was the responsibility of rivals. The razzia equally played a social function as a rite of passage for young men. The razzia was also meant to initiate an exchange relationship between two or many parties where it did not exist. In that sense, it was never a senseless, irrational model of brutality. Loss of life was in fact rare and excesses of brutality were compensated on the basis of rules agreed upon amongst groups participating in specific raiding systems. In its contemporary forms however, raiding operates in a context of unilateralism, the rules are subverted and possibilities for 'retaliation' or reciprocation equally limited. The advent of jihad altered both the logic and orientation of the razzia model for it made use of the latter in the expansion of Islam in North Africa and the Sahel.

With the advent of Islam, the raiding economy was unarguably made more complex; an established system of exchange provided a context and justification for the Islamic idea and practice of the jihād.¹⁴ The small community of emigrants that followed Muhammad to Madina in 622 committed to a policy of razzia given limited agricultural and trading opportunities. Historical accounts of Islam during this period are often descriptions of expeditions¹⁵ whose justifications point to the persecution of first Muslims by Meccans. Three points are here important. Firstly, the idea of the Islamic jihād has very specific historical conditions; it developed "out of the circumstances in which Muslims found themselves in their Arabian environment."¹⁶ Raids were, for the nascent Muslim community

¹³ *ibid*

¹⁴ W. Watt Montgomery (1976) "Islamic Conceptions of the Holy War," In Thomas P. Murphy (ed), *The Holy War*. Columbus: Ohio State University, p. 142

¹⁵ Explicit permissions from the Quran are found in the distinction between "those who believed and emigrated and strove with goods and person in the way of God" (the Emigrants) and "those who gave shelter and support" (Madinans) in 8.72/3 and 74/5

¹⁶ Montgomery "Islamic Conceptions" 1976: 145

(who were themselves nomads who had engaged in the practice in the past), both a defence against hostility or a form of attack as best defence. Secondly, Islam was a subversive belief system that emerged in a conservative society; opponents of Muhammad's community placed the latter in a position whereby they had to fight for their survival. Thirdly, the political economy of jihād shows its material bases and the very contingent/conjectural context of its expansion. The combination of raid/jihād was important in the constitution of the idea of an Islamic federation, as it had previously been to the constitution of clans for alliances. In fact, "it was the almost fortuitous linking of the Islamic religion with the Arab conceptions of *razzia* and the federation that led to the expansion of the Islamic community."¹⁷ The conception of 'protected minorities' (*ahl adh-dhimma*)—first Jews, Christians and Zoroastrians, then Buddhists and Hindus—served as much a technique of management of diversity as the possibility for the levying of a protection tax called *jizya*. Once Islam had asserted itself in Arabia, military expeditions were sent in the direction of Syria; "these expeditions were essentially large-scale *razzias* [that] provided an outlet for the excess energy of former nomads, who could not be allowed to attack other members of the federation."¹⁸ However, a strictly political-economic reading of raiding in Islam risks reducing the basis for legitimacy to a purely material question. In reality, Islam never had a centralising power, nor was it meant to. Moreover, there was a powerful imaginary that animated converts and which informed their understanding of raids, both defensive and preemptive, as necessary in the preservation of an Islamic state and its expansion. This moral backdrop cannot be underestimated.

Sahelian Berbers joined the political expansion of Islam at first as a way of gaining the right to partake in expeditions for plunder. In Chad, *razzia* was practiced as much as an expedition of jihad as a social exercise. The newly converted Tuareg were themselves a minority that faced the imperative of accommodate and integration of many minority others. If Islamic ideology gave justification and legitimacy for raiding, it also provided a framework and guidelines as to how one was to treat religious others. In fact, Islam injected *morality* into a historical practice of raid for once a community was conquered, it had to be treated in just manner. Muslim leaders were required to create the conditions for social harmony and the redistribution of resources. The point of all this is to say that traditional raiding—whether pre or post Islamic—was subject to specific principles. These relate to the prohibition of raiding against allies and members of the same federation, and more importantly to the fact that raiding could not take place in the impossibility of 'retaliation' or redress. The *requirement for reciprocity* was thus inbuilt in the *razzia* system.

Raiding without reciprocity: dissident violence and competing legitimacies

Starting in the 1840s, The French heavily resorted to, and relied on raids in their Algerian 'campaigns'. In fact, they instrumentalised an indigenous tool of political stability in order to reduce the costs of military expansion in the arid and hostile North African environment, and to loot for supplies for their troops and for operations of punishment against recalcitrant groups. The French further adopted the *razzia* as the main method of warfare under Thomas Bugeaud (1840) and subsequent commanders. Elevated to something akin to a doctrine, the practice of raiding was given parliamentary sanction by Paris up to the time when news of the atrocities committed by French armies reached metropolitan liberal circles.¹⁹ Raiding methods accounted for the success of French armies following countless setbacks. Both in 19th C Algeria and 20th C Morocco, raids were

¹⁷ Montgomery "Islamic Conceptions" 1976: 146

¹⁸ Montgomoery, p. 147. In all this, jihād was never a marker of 'a predilection for fighting' for it recovered various meaning the most widely accepted of all is 'to strive in the way of God'. Presumably, the famous choice between 'Islam or the sword' given to pagans seems to have rarely applied outside Arabia.

¹⁹ Thomas Rid (2009). "Razzia: A Turning Point in Modern Strategy", *Terrorism and Political Violence*, 21(4): 620

responsible for the subjection of nomadic groups even though colonial successes were always temporary. In both territories, booty was used as barter and leverage in pressurising Sahelian groups to surrender. In instrumentalising the pre-existing raiding system and in subverting its rules, the French turned a mode of economic and social stability into a ‘ruthless operational practice,’²⁰ in fact, a practice of freedom into an instrument of domination. Then and now, the logic behind raiding was the same. In the 19th C, it was used to conquer and ‘pacify’ and in the 21st C to enable the unbridled expansion of capital in a context of economic warfare. Two issues arise out of French distortion of the rules of raiding. Firstly, there was no compensation or provision for reparation. Secondly, the use of raiding in an asymmetrical war reduced its targets to sub-humans who could not be recognised a right of reciprocity. It was therefore not surprising that dissidence against colonial presence and the subsequent postcolonial state took on rather violent turns.

In fact, the increasingly destructive forms of violence produced by dissident and subversive groups in the Sahel merely mirrors the extreme violence unleashed by states themselves, but also their external sponsors particularly in a context of a global war on terror (GWOt). US-trained Malian and Nigerian militaries have been found responsible of grave acts of violence and gross violations of human rights against civilian populations where they were seriously challenged by dissidents Tuareg groups. The Nigerien army in particular—the infamous FAN (Forces Armées Nigeriennes), is a patent recidivist in human rights violations.²¹ It has been openly accused of genocide.²² However, genocidal practices and war crimes are not the preserve of armies operating in a context of impunity. MNCs have equally been found engaging in acts of violence and violations of human rights. French giant AREVA²³ has in many instances been linked to human rights violations through direct support in the form of material resources, intelligence and technical assistance to both the Nigerien military or the Tuareg rebels depending on the balance of forces.²⁴ The distinction therefore between legal/legitimate and illegal/illegitimate forms of violence becomes almost aberrant. However, in places like the Sahel, MNCs-induced disasters and genocidal practices receive scant to no media-attention.

In the 21st Century, raids have taken predatory forms across the Sahel. On one hand, they have targeted individuals who for various reasons are seen as direct or indirect participants in the political economy of exploitation. The monopolistic exploitation of uranium by Areva is seen as consolidating a lease in perpetuity by a former colonial power over a former colony. In fact, in a configuration whereby small states (i.e weak) are so to speak co-opted by powerful multinational corporations, AREVA becomes the quintessential example of a local instantiation of a global drive for privatization and neoliberal permissiveness. Multinationals like Areva define governments’ economic policy frameworks, they finance ruling parties’ electoral campaigns, they maintain their own security apparatus and have been complicit in the overthrowing of many an African government. The point of this discussion is the following. The legitimacy of *government by extortion* and the legality of *economics by extortion* both come under question in a legally complex public/private ‘partnership’ such as the Areva/Nigerien government relationship. From a historical point of view, and in parallel to this phenomenon, the self-administration of justice is nothing exceptional: the process of expropriation through abductions and ransoming of Areva employees by dissident groups merely becomes a continuation of pre-existing trading and exchange patterns between northern and southern zones. Ransoming and smuggling practices in the Sahel, like piracy off the Atlantic coast in the 17th Century, emerge out of the distortion or the disruption of normal trading patterns and the stifling of

²⁰ Rid “Razzia” 2009: 622

²¹ In February 2008, Malian military forces were accused, along with the American forces in their company, of looting and ransacking the city of Tin Zaouatene in northern Timbuktu

²² Niger: Amnesty International submission to the UN Universal Periodic Review,” UPR Working Group, January 2011 [last accessed November 1, 2013]
http://lib.ohchr.org/HRBodies/UPR/Documents/Session10/NE/AI_AmnestyInternational_eng.pdf.

²³ AREVA is one of the largest uranium producers in the world and one of the rare ones involved in the whole uranium commodity chain from mining, to enrichment, from nuclear plant construction and operation

²⁴ See Glen Wheelan et al. (2009) “Human Rights, Transnational Corporations and Embedded Liberalism: What Chance Consensus?,” *Journal of Business Ethics*, 87(2): 367-383.

‘legitimate’ economic activities.²⁵ In fact, sporadic increases in piracy activities are by and large linked to the overall economic context, particularly to diminishing opportunities and limited outlets for affected communities.

Further, if terrorism in the Sahel was but a fabrication of the GWoT, its enduring rhetoric has acquired an autonomous reality best exemplified by the physical extension of the ‘Sahelian front’, the latter encompasses ‘the Atlantic and Indian Oceans...linked by a geographical zone of conflict from Mauritania in the West, across Mali, Niger, Chad, Sudan and Ethiopia to Somalia in the East’. From its epicentre in Mali and Niger, the new terror front has unknown political and military ‘ramifications for Algeria, Libya, Chad, Mauritania and Nigeria, not to mention the hegemonic interests of France, China and the USA’.²⁶ One of the unintended consequences of state repression in Mali, Niger and Alger has been the constitution of a Tuareg front strong of alliances between the MNJ and their Malian counterpart, the MNLA (National Movement for the Liberation of Azawad) rebellion. In this context, terrorism and Islamic fundamentalism as discrete categories become convenient fictions that allow many forms of political violence against Tuareg militants. Added to this are instances of misinformation deliberately fabricated by Western and Sahelian governments in order to justify repression.

Two elements were important here and their practice has historically informed the relationship between the state and those groups that operate outside state boundaries. These are the notion of *vital space* and the idea of *reciprocity*. In the Sahel, subversive groups were more susceptible to cooperate with the state when and where the latter did not encroach upon their vital space. During the expansion of the Songhai and Mali empires, nomadic groups availed themselves to the service of imperial expansion. Whilst rejecting all forms of sedentarisation, they made it a point to partake in distributive systems in place. This entailed that precolonial empires and postcolonial states made provision for the preservation of their vital space and lifestyle. In return for their service, the state turned a blind eye to the trafficking of drugs, smuggling and other ‘illegal’ activities. In fact, drug trafficking and smuggling (cigarettes, electronics, medicine, people) have become the most dominant form of economic activity in the Sahel alongside the abduction industry. Beyond the issue of the illegal or criminal nature of the traffic of drugs and other prohibited substances, the proliferation of unconventional trades partly results from the exclusion, under local manifestations of the new political economy, of nomadic groups from ‘legal’ channels and frameworks.²⁷ Drugs and smuggling have thus replaced the trade in gold, salt, hides, etc; these products have merely become a substitute. From an international law perspective, the nomadic populations turned transnational bandits would be, just like pirates, and in William McNeil’s characterisation, macro-parasites that dwell on the hard work of others.²⁸ In international maritime law and in the literature on piracy more generally, the latter is discussed as a form of predation and use of indiscriminate violence in the taking of *the property of*

²⁵ A similar situation obtained in the late seventeenth and early eighteenth centuries in the Indian ocean where external opportunistic actors took advantage of fragile polities in order to attack merchant vessels. The Portuguese in particular had superior naval power and they invested it into a crusading and mercantilistic mission. They sought control of the eastern seas, thus severely curtailing the activities of the Muslims operating from the Indian Coast; the latter inevitably turned into “an armed trade diaspora that made little distinction between the legitimacy of trade and plunder after a century of maritime guerilla warfare.” Phillip D. Curtin (1984). *Cross-Cultural Trade in World History*. Cambridge: CUP, p. 147

²⁶ Keenan, 2008: 450. Keenan offers a detailed examination of the stake and roles of the various states, non-state, MNCs and other actors involved in the political economy of resources extraction and violence in the Sahel under the government of the GWoT

²⁷ This argument explains rather than justifies the extensive nature of the ‘illegal’ economy in the Sahel

²⁸ William H McNeil (1977). *Plagues and Peoples*. New York: Doubleday.

others. The legalist perspective is predominant and it points to a view of piracy as *expropriation*. However, both the good actor/bad actor syndrome and references to *hard work* and *property* obfuscate the need to interrogate different understandings of property, ownership and the public good. In the particular case of the Sahel, I propose to look at kidnapping and ransoming as instances of unconventional and disruptive economic practices that constitute expressions of conflicting understandings of *rights* between expansionist/extractive practices and local economic forms. Against the legalist perspective, raiding finds self-legitimizing resources in the very act of disruption of the legitimacy of dominant rights discourse. It does so not through an appeal to a transcendent legal(ist) logic but through a corrective redistribution of power capable of preserving spaces of freedom.

At the periphery of states: between cooperation and subversion

If the global political economy had begun impinging upon local processes in Sahel since the 15th Century, its effects were to be intensified through colonial operations in the 19th Century. Revolts against Western imperialism resulted in the constitution of secessionist groups with strong political grievances. In the 19th Century, raids were central in the establishment of states (Niger, Chad) as a way of restoring equalities in a context of inequality. During the colonial period, *razzias* became a means of disruption of colonial administration; they were a great source of concern for the latter. In fact, an attempt to curb raids in the Sahel led to the establishment of military-style indirect administration in Northern Mali. Zealous chiefs were recruited by French colonial authorities to rule on their behalf; they relied predominantly on militia structures to police, repress and contain dissident populations. In the Adrar region for instance, the French relied on the Ifoghas, one of the most prominent Tuareg groups and the future leaders of the Tuareg dissidence in Mali (MNLA). As French auxiliaries, the Ifoghas did more than just police the region; they fiercely combated the perpetrators of raids. At the same time, they managed to buttress their political predominance through greater access to material resources, weapons and transportation means. Nomadism—and relative marginalisation—as lifestyle was a choice for political autonomy or a political response to political oppression.

At any rate, Sahelian populations at the periphery of centres of political power have always come in contact with the state—or what amounts to the state—under conditions of violence and repression. In this context, groups have emerged, that have mirrored state violence at the point of contact with the latter. Not that the state in the Sahel is more repressive than elsewhere. James Scott shows how, in the context of South East Asia, groups whose cultural practices and life forms are incompatible with centralised forms of authority have rebelled against state attempts to ‘develop’ and govern them.²⁹ The state as an institution is inherently repressive in that it tends to abuse its prerogatives over the means of violence. But the recognition of the state’s primacy in the use of violence does not, and should not mean that the latter cannot not be accorded the absence of judgment, in other words not to be subjected to ethics. The history of the Sahel-Saharan desert is in fact a history in which the conditions of *subject* and *state* are constantly (re)negotiated given an absentee state that only manifests itself in violent spurts, and populations that have learned to govern themselves without a central(ised) authority.³⁰ Dissident groups could at once enter into alliances with central authorities and fight them. In times of dissidence or war against central governments, *razzias* were always a source of, and a means to restore social justice and political stability.

²⁹ James Scott (2009). *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia*. New Haven: Yale University Press.

³⁰ State’s absence in the constitution of Tuareg social security system compromised its legitimacy in serious ways; the postcolonial state, like the colonial state, was an external institution that merely encroached upon tuareg *vital space* without regard for carefully crafted social stability. In fact, one could argue that the transition from colonial to postcolonial made little difference for Sahelian populations inured to state neglect and violence. The state was thus essentially an illegitimate institution.....

In Algeria for instance, the French relied upon local recruits to carry the physically demanding raids. The horsemen of the *goum* were notorious for their mastery of a hit-and-run type of raid that left communities 'bewildered'. The same recruits were also likely to turn against the French if the terms of collaboration were no longer favourable to them. Nomadic groups have thus always operated with, on the margin of, or outside state structures and jurisdiction. The state was at once a convenient ally and the ultimate enemy. For if the state has a way of deploying its ideological, political and material resources in its claim of jurisdiction over the territorial confines of the formal state, Tuareg fighters also view themselves as integral owners and guardians of the territories and zones from which they are being excluded. Legitimacy becomes at this point an overriding concern that dictates, as much as a resource that permits a recovery of rights through various means. In effect, throughout the history of state formation in the Sahara and the Sahel, violence was never the monopoly of the state. On the other hand, contrary to common beliefs, *razzias* were not the exclusive preserve of those that felt excluded or marginalised by central states. However, historically, *razzias* were never arbitrary, random acts of violence devoid of any rational logic. They were subjects to rules of conduct and restitution and these were well understood by groups that participated in the system. But all of this has unarguably disappeared under neoliberal dispensation. Both AREVA (as a raiding entity) and AQMI are involved in the same raiding economy under different rules devoid of reciprocity, long-term social investment and ultimately humanity. Neither AREVA nor AQMI retribute what they expropriate. When the rules of engagement are distorted in this manner, the question of *morality* is posed in specific ways.

The regulation of *razzias* has indeed changed : the securitarian drive has become more intense and its logic more pervasive, the state has become more and more repressive, the forces of intervention have become more powerful; interventions are designed to monitor the mobility as much as regiment the lifestyle of nomadic populations. The securitisation logic behind the external support of Sahelian states to fight their 'terrorists' merely reinforces a need to control territorial boundaries and state capacity to monitor its populations. For in the Sahel as elsewhere, *terrorism* has become a blanket term used in a deliberately vague and dangerous manner that legitimates the elimination of enemies and adversaries; the related use of *security* merely reasserts a narrow and antiquated understanding of the state. The new U.S. Global Peace Operations Initiative (GPOI) for instance funds military and security training and it has a broader goal of "increase[ing] Africa's counter-terrorism capabilities, prevent the creation of terrorist safe havens and, coincidentally, secure future energy and resources".³¹ Under the Trans-Sahara Counter Terrorism Partnership (TSCTP), the U.S. Special Operations Forces (SOF) run joint military exercises with Malian, Nigerian and other Sahelian armies participating in the program; military training and equipment are also provided, intelligence shared, zones of intervention delineated whilst groups opposed to their national governments are delegitimatised, labelled 'terrorists' and rendered liable for punishment, repression, torture and summary murder.

It is therefore not surprising that under such circumstances, raids in the form of abductions and ransoming have become more costly and murderous. However, their violence merely mirrors the violence unleashed by intervening powers in the name of GWoT and produced in equal measure in land grabbing battles involving MNCs, state-funded ventures from the Middle East, private individuals and foundations. The overall effects, on the extent of precariousness and the erosion of the capacity of Sahelians to cope with crisis, famine, desertification and environmental disasters have lead to a unique kind of insecurity only experienced by populations, such as the Tuareg and other excluded groups, abandoned by states and left with little resources from pre-existing social institutions. In historical and contemporary forms of raiding, elements of continuity and discontinuity are apparent in the techniques employed (military and GPS technology, satellite phones, techniques of mapping and mobility etc); these modulate in turn rationalising and legitimating discourses in significant manners. If the political economic argument remains prevalent, the justification of raiding as an imminent response to total militarisation also becomes compelling.

³¹ Alice Hills (2006) "Trojan Horses? USAID, Counterterrorism and Africa's Police", *Third World Quarterly*, 27(4): 629-643.

To develop, to democratise and to free or three ways of operationalizing uncertainty

In the 19th Century Sahel, French colonial authorities introduced new land tenure systems to enable cash crop production, raise household taxes and sedentarise transhumant populations. Efforts to tie Fulani herders to specific territorial boundaries, in other words to regulate their mobility, govern them and tax them were met with tremendous resistance for sedentarisation was enforced at the expense of herders and nomadic life.³² The pursuit of development further placed constraints on territorial use and mobility through the creation of ‘borders’. Pacification from a French point of view meant crushing resistance, alternate use of co-optation and collaboration, and ultimately a divide and rule policy that profoundly strained relations between communities.³³ The introduction of liberal formulations and models of property disrupted previous arrangements around the utilisation of land and scarce resources, new land tenure systems equally stripped nomadic populations of their rights of access to land particularly during drought periods. The subsequent disintegration of local systems of solidarity (for instance the *dina*) compromised the possibility of reconstituting viable social security nets. Their resilience to uncertainty was severally put to test by the brutal “introduction of extreme instability into their lives and more aberrant forms of uncertainty”³⁴ which rendered their life-forms even more uncertain and precarious and “for which they can [no longer] plan”.³⁵ This situation was exacerbated by successive nationalisation and privatisation of fodder, wells and land which severely interfered with a complex network of pastoral, grazing and agricultural routes; the new policies however mostly benefited national elites including the leadership of the Tuareg rebellion who is known to instrumentalise the conflict for rents.³⁶

Under the colonial system, external intervention was framed as a modernisation project best exemplified by the ideology of *development*. Development became the excuse and the condition under which nomadic populations were forcefully brought into the fold of sedentarised (i.e stabilised) statehood both as objects of its regulatory control and the recipients of its repressive governance. In the 1990s, *democratisation* motivated and defined the contours of intervention although when the Algerian *Front Islamique du Salut* (FIS) won elections, international support for constitutional transformation eventually turned them into internal enemies to the Algerian state and led to over two decades of bloody rebellion that inevitably internationalised through affiliation with Al Qaeda. The Al-Qaeda reference has inexorably prompted all sorts of phantasmagorical accounts about the global expansion of terror in the Sahel. But Al Qaeda in North West Africa has a very specific origin in political repression, economic marginalisation and the continued debilitation of the social, economic and cultural resources for individual and collective realisation. The Islamist insurgency commanded by the Groupe Salafiste pour la Predication et le Combat/ Group for Preaching and Combat (GSPC) did not spring out of a desire to spread Sharia law or as a crusade against non-believers. A 1992 Military Coup put an end to Algeria’s first democratic experiment. The Islamist party of FIS was repressed, a state of emergency declared which was to last 19 years and it justified the temporary suspension of civil law; the reliance of law enforcement strategies over parliamentary and institutional procedures consolidated a security state steeped in secrecy.³⁷ The GSPC (formerly FIS) was born out of a very geopolitical analysis along the following lines: the global political economy is configured in a way that enables the West to exploit Sahelian resources and amass wealth whilst giving them unbridled access to Sahelian space and institutions. Western support for the repression of

³² H. van Dijk et al. (2004). “Pathways to mitigate climate variability and climate change in Mali: the districts of Douentza and Koutiala compared” In AJ Dietz, R. Ruben, and J. Verhagen (eds.,). *The Impact of Climate Change on Drylands with a Focus on West Africa*. Kluwer, Dordrecht, Netherlands, pp. 173-206.

³³ Grovogui, 2010: 186

³⁴ Hendrickson et al., ‘The Changing Nature’ 1998: 187

³⁵ Hendrickson et al., ‘The Changing Nature’ 1998 : 187

³⁶ Grovogui, “Your Blues” 2010: 188

³⁷ Laurence Ammour (2012) “Regional Security Cooperation in the Maghreb and Sahel: Algeria’s Pivotal Ambivalence” *Africa Security Review*, 18: 5-6

democratically elected Islamist party was very much seen as part of the same logic of holding Sahelian resources, populations, institutions and spaces under control.

Humanitarian Benevolence and the Political Economy of Violence

In the global drive to enfold extractive enclaves into controllable zones, the twin imperative of productivity and security dictate taming ungoverned populations so that their resources can be safely exploited. Post 9/11, the language of *human rights* provides the most potent point of entry for new forms of interventionism. These heavily rely on necessary fictions, in particular a myth of institutional vacuum that contends that nomadic Sahelians are backward, belligerent, primitive and irrational populations with no prior experience of organised social structures. In fact, security experts would have us believe that we live in an increasingly insecure, uncertain and fragilised world as long as autonomous groups are not subjected to formal government. As Duffield and others have remarked however, the insecurity in question is partially artificial and it is forged by the requirements of new forms of interventionisms in need of humanitarian justification.³⁸ In our political cartography, we do not conceive of the Sahel as having real structural problems other than the violence of terrorism and the devastation of episodic famines. Nor are we capable of conceiving of Sahelians as particularly attached to their land and resources. In these cartographies, AQMI and MNLA fighters may appear as pillaging bands that spread terror in the Sahel. In reality, there are giving signals that we are yet to understand properly. In fact, we have neither the proper lenses nor the appropriate methodology to understand these signals. These signals are directed both at the state and a generic/vague ‘international community’ for behind the Malian or the Nigerien states are AREVA and the military forces of France and the U.S. What is therefore missing in our analytical contraption is a capacity to scrutinise their arguments from an internal logic, possibly from their viewpoint. Yet the structure and the logic of dissidence from Sahelian non-state actors mirror another key element that is missing in our analysis; that is the extent of the disarticulation of familiar life forms under global dispensation. There are two aspects to this. Firstly, neoliberalism has fundamentally reformed the (action of) state whilst reconstituting *liberalism* itself. Secondly and as a consequence, a problem of justice is posed in the widening *divergence* of the actions and motivations of political versus economic actors. The end of the social, provident state—before it was even fully deployed—has had drastic consequences for the possibility of a state that is not just repressive but attends to the needs of local populations. The role of the state has in effect been reduced to that of an apparatus of management of contingencies and crises.

In this context, the Global War on Terror (GWOt) is an overarching campaign that rests on, and feeds into an un-nuanced villains/good guys rhetoric that obfuscates the problematic nature of state violence, widespread misinformation, and the extent to which states and MNCs are willing to go in order to lay their hands on strategic resources. The GWOt rhetoric permeates the ‘transformational diplomacy’ turn in US Foreign Policy³⁹ that subsumes development aid in the war on terror. This is most apparent in the partial merger between USAID and the US State Department whilst the Army, the Marines and the Navy have also become aid providers. In this new configuration, the Sahel has become, following Afghanistan and Pakistan, America’s most important laboratory to test how the fight against terror could provide a framework for just about every form of diplomatic, political, economic and military engagement with Sahelian states. Inaugurated by the Pan-Sahelian Initiative (PSI), this experiment was expanded in scale and content to include 9 Sahelian countries under a TransSahara Counterterrorism Partnership (TSCTP) that maintains Special Forces operatives on stand-by in the region. Support provided include the training of local militaries in anti-terrorist combat, the provision of military equipment and security sector reform (SSR), the strengthening of law enforcement infrastructure, etc, a frame broad enough to justify direct military interventions. For many, ‘transformational diplomacy’ is nothing but a further stage in the ‘long war’⁴⁰ in expanding the

³⁸ Marc Duffield (2011) “Total War as Environmental Terror: Linking Liberalism, resilience and the Bunker”, *South Atlantic Quarterly*, 111: 770-779.

³⁹ Van de Walle 2010; Patrick 2007; Donnely 2007; Myers 2008; Wyler 2008; Hills 2006

⁴⁰ Hills “Trojan Horses?” 2006: 629-30

remit of USAID to include reform in the security sector, thus making it a quasi-security agency.⁴¹ The transformation of USAID into a civilian branch of the militarisation and securitisation of American diplomacy in the Sahel and elsewhere in Africa is particularly problematic. In the past decade, development practice has moved from an idea of improving the economic and social conditions (developing) of people to regulating their movement and mobility (security governance). On one hand, the GWoT inflected a decidedly ‘philanthropic’ turn to liberal humanitarianism; it further created analytical confusion between the normative values of democracy, good governance, and transparency and the repressive measures promoted under its wake. On another, the problem with the total security and total war thinking behind the GWoT is that it creates an artificial world in which the promotion of an all-securitarian posture is such that the actions of the US, NATO are not so dissimilar from those of ‘terrorists’. Having said this however, I want to stress that the mimetic dynamic between dissident groups and states is limited to the extra-legal character of their activity: from the perspective of Walter Benjamin’s ‘critique of violence’, both states and dissident groups equally operate in liminal zone as regards the frame of legality even as the actions of both are endowed with a potential of legitimacy.⁴²

At any rate, it is not surprising that development aid has now come to be seen by local populations as as pernicious as military support. Aid has gone from an intrusive practice that partly seeks to regiment local life in an attempt to ‘stabilise’ it to a means of consolidating the repressive capacity of the state. The securitisation of aid further alienates local populations in reinforcing the coercive nature of governance. This development/security nexus in fact undermines the normative values of liberal democracy and freedom in the name of which policies are implemented; it further breeds extremism, anti-American sentiment as well as resistance against the state. Now, the politicisation of development aid in the pursuit of US national security and geostrategic interests is arguably nothing new. PSI’s predecessor, the International Criminal Investigative Training Assistance Program (ICITAP) which ran programs in Liberia, Rwanda, Somalia and South Africa either partially funded or worked closely with USAID.⁴³ ICITAP was preceded by the Office of Public Safety (OPS) set up by President Kennedy in 1962. OPS was an ideological project disguised in the language of ‘institutional building’ and capacity-building for civilian police through ‘training, technical assistance and equipment’. In reality, the OPS was to be involved in illegal activities involving the training of paramilitary forces in Central America, the provision of equipment used in torture and repression in a drive to build covert intelligence networks under a CIA director. Although the project was housed in USAID, its activities were deployed in tandem with CIA personnel. Knowledge about OPS caused an uproar big enough for the program to be shut down in 1974 by Congress.⁴⁴ Police assistance was subsequently banned under Section 660 of the Foreign Assistance Act. The point of all this is to stress the deeply problematic, flawed and counterproductive nature of US engagement in the Sahel, given historical precedents elsewhere. This engagement is primarily driven by a desire to ‘capacitate’ African governments to fight a terrorism partially created by a threat-driven foreign policy and secondly by a desire to protect US national interests at all costs.

A second example I want to explore is an apparently benign enterprise that has also sought to bring ‘development’ in the Sahel through greater ‘international exposure’. There is a common argument that violence lowers the value proposition of the region in terms of touristic attraction, but the apparent innocuousness of the tourism industry has partially obfuscated its intrusive effects on the lives of Sahelians. The notion that tourism will bring economic development and needed global exposure becomes a justification for how Sahelians can be regulated, governed, ordered and *modernised* for their own good. The Paris-Dakar Rally is a good example of how the pursuit of recreational sport and other categories of fun and entertainment is part of ‘softer’ forms of interventionism that have had their toll on Sahelian lives and normative outlook. The Dakar Rally is the biggest off-the-road rally in the world. It has been organised since 1979. Its original route included Paris as a departure point and

⁴¹ Hills “Trojan Horses” 2006: 630

⁴² I owe this insight to Benjamin Meiches

⁴³ Perl “Terrorism, the Future” 2001

⁴⁴ Hills “Trojan Horses” 2006: 631; Dickinson 2001

Dakar as an arrival point but the itinerary has changed over the years. The rally raid has however been responsible for stunting plant growth, the destruction of livestock on its course soil, erosion and eventually desertification amongst other impacts. The rally has also claimed many deaths from racers, many spectators particularly children, have also been victims of vehicles going off track or overspeeding through small villages.

From the viewpoint of its organisers, the rally was meant to bring economic development in the form of roads, foreign currencies, more touristic opportunities—an argument that has never been properly tested—greater international ‘exposure’ for the region, and eventually better integration into ‘global circuits’. But many observers had different ideas. Even the Vatican invited itself in the debate in characterising the sporting event as a “vulgar display of power and wealth in places where men continue to die from hunger and thirst.”⁴⁵ Frustrations and anger caused by controversies around the rally came to a head in 2008. Accusations came out from everywhere, with activist groups such as CAVAD (Group for the Dakar rally raid anonymous victims) calling for legal measures against the physical, social and cultural disruptions caused by the race. For CAVAD in particular, the rally uses North West Africa as a playground for westerners racing through the ‘wilderness’ in pursuit of high sensations with their sophisticated vehicles at the expense of populations whose concerns are far removed from such trivialities. This is of course a common theme in the critique of European modernity and its tendency to construct and primitivise cultural others for the enjoyment of Europe. As such, the rally was seen to constitute a “*neocolonialist provocation with a huge waste of money and energy*”.⁴⁶ The plundering of energy resources, the ecological aggression done to the zone traversed by the race, the deaths that line its course etc are as many manifestations of damage caused by the race. There is also the symbolical dimension in both the cultural alienation that is produced in this presumably positive ‘international exposure’ and the requirements placed on local populations and governments (required to deploy their security forces to protect race participants) that they adapt—and not the other way around—and that they mobilise their energies in favour of this unique civilisational encounter. It is clear that the main winners in all this are the corporate logos that sponsor the different cars, trucks and motorcycles. In 2008, following threats of violence by dissident groups in the Sahel, the rally was moved to Latin America. On Christmas Eve of the previous year, a French family of four on holiday had been killed in Mauritania. The group that claimed responsibility for the act fustigated the imperial nature of the race, calling the Mauritanian government—which supported the race—a collaborator of ‘crusaders, apostates and infidels’.

So the rally is a physical and symbolic raid that triggers reactive raids (kidnappings etc). The extent of the brutal intrusion of a capitalist entertainment industry and the ritualised violence of (interventions) is lost in discussions about the economic worth/weight of the event. The tamed violence that is unleashed yet controlled in this dangerous sports event is a requirement of acquiescence and acceptance on populations whose life styles, modes of production and reproduction may not be in accord with the ‘modernisation’ project benevolently designed for them. The economic justification is hardly different from the pacification discourse that provided an alibi to the imperial campaigns. This is problematic on many levels.

Human Rights and the (il)legitimacies of violence

In the past decade, different groups have been involved in hostage-taking and ransoming practices in the Sahel. Hostages are never a primary target of hostage-takers, they are merely a means to an end—that is, if we are to take at face value the pronouncements of hostage-taking groups. For their target is less Westerners than Western powers, particularly France and America for their ‘crimes’ against Sahelian populations and in retaliation for their active involvement in the Sahel. Their justification for kidnapping and the use of violence is couched in terms of justice and its restoration. The violence of kidnapping and the consequent payment of ransom money would thus constitute compensatory taxation levied on state and corporate crimes. If the use of ‘taxation’ is often rejected, references to

⁴⁵ Brooke, James (1988-03-13). "Dangerous Paris-Dakar race is endangered". The New York Times. p. 8.

⁴⁶ In Josepha Laroche (2013) “The Dakar Rally Raid 2013, A Globalised Sporting Trespass’ *Chaos International* , 83

ransom-taking as ‘tribute’—as “unrequited, systematic exactions effected by force or threat of force”⁴⁷ nonetheless prompt questions about the nature of harm that warrants such exactions. Equally, the distinction of different expressions of piracy in the context of maritime banditry: *parasitic* (contingent upon volumes of seaborne trade and economic resources of targeted littoral populations), *episodic* occasioned by sudden disruptions in the normal trading circuits) or *intrinsic* (as an inbuilt taxation strategy in the trading patterns of particular societies)⁴⁸ may provide insights on its probable causes but falls short of providing a satisfactory explanatory framework in so far as its purposes are concerned. Sahelian combatants for instance include in their appraisal of Western criminals every westerner as a direct or indirect beneficiary of their governments’ crimes. In the same manner in which Somali pirates denounce ‘corporate maritime terrorism’⁴⁹ as the chief cause of their resort to piracy, Sahelian groups point to the harms of corporate ‘extractive terrorism’ perpetrated by Western companies, and the ‘terrorism’ of America and France, in collusion with Sahelian governments. In this social justice framework, the redistribution is as much as about a redistribution of harm than it is about the transfer ransom monies as war spoils. The logic behind this framework may seem rather simplistic but it warrants more scrutiny and attention than has so far been accorded to the claims of ‘terrorists’ roaming in the Sahel. *In fact, their claims have little legibility in the framework of rights as traditionally understood in liberal humanitarianist tradition.* Attempts to understand the worldview of Sahelian militants are easily evacuated as mysterious and impenetrable and thus resistant to all forms of intellectual inquiry. Kidnapping and other acts of violence frequently resorted to by AQMI belong to a register of practice that is associated with a war context/condition. AQMI itself understands its endeavour in the Sahel as a commitment in an open war that pits them against ‘the enemies of Islam’. In this fuzzy war, both the objects and the agents of violence constantly shift locations.

A difficulty arises here in the sense that a definition of ‘enemy’ that is extended to every beneficiary of the ‘unjust’ war under question risks making every ‘western citizen’ liable for violence on behalf of western governments and corporations. Through this logic, AQMI and other Sahelian combatant groups have created for themselves a new moral principle in the just war framework, that is the right to correct injustice through unjust acts. Kidnapping as practiced by AQMI specifically targets Western citizens (those at least whose governments do pay ransoms) as indirect participants in an extractive system (an economic war) in which they would be the silent or tolerant supporters and patrons of governments and corporations engaged in acts of economic crime. According to this logic, Western citizens are part of the extractive scheme of the property rights of those whose natural resources are being plundered. Some even go further in contending that economic crimes are committed by Western governments and corporations in order *to preserve a certain lifestyle*. In this extractive economy, neoliberal capitalism not only promotes the appropriation of the property of Sahelian, it also reworks their subjectivities, their rights, their needs, under the guise of humanitarianism. This is a perspective heavily guided by a view of human rights geared towards the protection of property. Such understanding of rights has little to do with the reality and the basic condition of Sahelians for it disrupts their survival strategies.

In their justificatory claims, both AQMI and MNLA militants develop a framework that taps into the ethical and the theological registers; they equally dabble in the register of buccaneer language. In AQMI’s internal theology, hostages are treated like ‘war prisoners’ (*asra el harb*) ; their liberation is therefore subject to conditions that are informed by Islamic law in war. From their own logic—that of an irregular just war order—AQMI militants would be recognized a status of non-state actors that (1) exercise a right of responsibility and (2) seek a restoration of order according to their understanding of it. One major snag in this framework is the difficulty to recognizing a homogenous course of action, or common disposition of actors involved. Fragmentation however works for AQMI for no institutional unity is needed to carry their subversive project. The qatiba merely organises the logistics of plunder and redistribution of war proceeds. If the Just War literature, the claim to a just cause

⁴⁷ Anderson “Piracy” 1995: 178

⁴⁸ Anderson “Piracy” 1995: 181

⁴⁹ Awe T. Weldemichael (2012) “Maritime Corporate Terrorism in the Western Indian Ocean: Illegal Fishing, Waste Dumping and Piracy in the Twenty-First-Century Somalia,” *Journal of the Indian Ocean Region* 8(2): 6

“entails the right to self-defense, preemption, defense of a friendly nation, or the prevention of a humanitarian disaster”, these criteria have undergone an alteration in view of the changing nature of wars, its actors and stakes. Thus the criteria of a just cause are different for irregular non-state actors for they may encompass “exploitation, subjugation or attempted annihilation”⁵⁰ as many forms of aggression that would justify retaliation and insurgent action—recognised in international law.

In the increasing military training programmes and support provided by America to Sahelian states, in the avowedly securitarian approach to conflict resolution in Northern Mali by the Malian government and numerous strategies meant to secure control over natural resources, many Sahelians see patterns of the restoration of a past imperial order. Sahelian states were prompt to embrace American anti-terrorist programmes in the Sahel either by perceived necessity to contain the terror threat or by felt necessity to support policy requests from an important ally. The Sahel-Saharan region is a region rich in natural resources, most of which are awaiting effective exploitation. The attribution of exploitation rights and licenses to foreign firms remains a prerogative that Sahelian governments use however without consultation with their populations on how they might benefit from these.

Legitimation is articulated in both a positive and a negative sense. AQMI militants contest the logic of those who are combating through American, European and African governments—also seen as carrying the will of western powers on the ground. Their legitimacy would be derived from their commitment to restoring the means of mobility and security disrupted by state and external intrusion. *Azawad* in fact means ‘land of transhumance’, political claims over its creation are therefore an attempt to restore fluid zones of mobility and circulation in the Sahel/Sahara. Their claim casts a negative light on a restrictive just war theory. The distributive justice argument is a prescriptive model that justifies restorative violence upon perpetrators of injustice. It is not surprising that such an understanding of rights should emerge in opposition to a human rights regime that is seen to support the increasing expansionism of neoliberal capital. For this human rights regime is geared towards the protection of those rights understood by Marx as “rights of property owner, enforcing law of his interest, law of wealth, under the mask of equal rights for all”.

However, to read raiding as unequivocally a form of political resistance against relative deprivation and stifling governance in a context of overdetermining forces of global capitalism risks papering over the structural dynamics that enfold forms of resistance to capitalism into capitalist logics. Specifically, the political economy of raiding is closely fashioned by the variations of the extractive industry on the one hand, and militarist capitalism on the other, so much so that seemingly autonomous features of raiding-as-resistance have in fact undergone a process of rewriting and recoding by dominant capitalist trends.

Human Rights and Corporate Reason

In 2002, in *Kiobel v. Royal Dutch Petroleum*, Esther Kiobel evoked the U.S. Alien Tort Statute (ATS) which has been in the books for the past 200 years. However, the U.S. Supreme Court decided on June 2013 (1) that the victims of the gross human rights violations alleged in this case were not entitled to relief under the ATS and that (2) more broadly that the ATS does not apply to human rights violations *committed in other countries*. The law is one of the rare instruments that could have allowed holding serious human rights violators—including businesses—accountable. The African Charter on Human and Peoples Rights is another instrument that has similar ambitions especially in its desire to try economic crimes linked to the illegal and harmful exploitation of natural resources but it remains an idea that is yet to be properly operationalized. The decision not only further undermines an American human rights record already heavily marred by egregious practices ranging from torture, illegal detention in the context of the GWOt but it also severely compromises the capacity for states

⁵⁰ Patricia Schneider and Matthias Winkler (2013) “The Robin Hood Narrative: A Discussion of Empirical and Ethical Legitimizations of Somali Pirates” *Ocean Development and International Law*, 44(2): 194

and individuals to hold private companies responsible for violation of human rights.⁵¹ The US Supreme Court decision further entrenches a propensity for discrimination, asymmetrical legal adjudication and a refusal to recognize a *right of reciprocity* for non-US citizens. In fact, the ATCA has historically been used in bringing gross human rights violators accountable to their American victims in American courts, regardless of the place where the violations take place. The presumption against extraterritoriality bears down on the understanding and the future of international human rights law in two important ways. Firstly, the aspiration for universality, crucial in the elaboration and the development of international law, implies that perpetrators might be able to escape national jurisdictions but that they can be brought to book by third parties. Secondly, recently in humanitarian law, there is consensus on the idea that the cloak of sovereignty should not come in the way of remedy, compensation and accountability with regards to human rights violations particularly where states are themselves violators or complicit in acts of violation. Both provisions were however called into question in the recent ruling. What has become increasingly clear, in this instance, and in the heated debates that surrounded the BP spillover case⁵² in which reparations were granted with alacrity, is that the politicization of international law on the one hand, the interference of the judiciary with foreign policy and in the protection of capital impede the possibility for victims' access to just justice whilst again demonstrating that its current formulations of juridical personhood are antiquated for corporations' economic, political and even military activities often produce greater influence on, and often have far reaching repercussions for the lives of countless communities. Yet, customary human rights cannot be used to hold them to account because they are not juridical entities. This was precisely the line of defense adopted by Royal Dutch Petroleum against Kiobel. Shell's lawyers argued firstly that customary international law itself provides the provisions by which it can be assessed *whether conduct violates the law of nations where non-state actors are alleged to have committed the wrong in question*. Second, they contended that *no norm has ever existed between nations which can be invoked to impose liability upon corporate actors*. This is not the place to elaborate on the many implications of the Kiobel ruling but it is important to note the contradictions around the territoriality argument for instance with regards to high sea piracy and crimes committed outside U.S. soil against either American nationals or interests.⁵³ Crucially for my argument, the lack

⁵¹ The alleged particulars of the case—Kiobel Case US Supreme Court Review of Alien Tort Claims Act 133 S.Ct. 1659 (2013)—are the following. The plaintiff, Esther Kiobel, filed a case for herself and on behalf of her late husband, Dr. Barinem Kiobel, along with 10 other Nigerians against the Royal Dutch Shell Petroleum Co. (and by extension its subsidiaries: Shell Transport and Trading Co) for aiding and abetting the Nigerian military dictatorship in violation of international customary law (property destruction; forced exile; extrajudicial killing; and violation of the rights to life, liberty, security, and association). They claimed that Shell was accomplice in the military regime's murder and torture of opponents of oil extraction in the Ogoni region of the Niger Delta between 1992 and 1995. For commentaries on the implications of the Kiobel case for international human rights, see for instance

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⁵³ The term Barbary was commonly used to refer to the Maghreb, or the part of North Africa that lies to the West of Egypt, including past of the Atlantic Coast. The Atlantic States, particularly the US and the UK, condemned the activities of the city states of Tunis, Tripoli, Algiers, and Salé (Sala) as acts of piracy partly motivated by mercantilist protectionism partly exacted out of hostility towards Islam even though the piracy in question was inbuilt in the economic structures of these states given the exclusion of their shipping from 'legal' trade and from European ports. Conflicts between the Barbary States and the Atlantic states came to a head in an early 19th C over a Tribute dispute (paid for safe passage). U.S. naval forces were dispatched several times to Tripoli, then Algiers, Tunis and Tripoli again in 1815 in what became the most important instance of American naval war expedition in history.

Britain adopted the American strategy by sending the Royal Navy with the help of the Dutch to bombard Algiers in 1816 in order to put a stop to Maghribi interference with naval commerce, enduring conflicts and slavery. Corsairs attacks against American ships only subsided following these expeditions but did not entirely stop. See Anderson "Piracy" 1995: 187-90

of legal accountability of MNCs, particularly in extractive zones such as the Niger Delta,⁵⁴ the Sahel etc encourages the proliferation of MNCs that behave not unlike chartered companies under colonial and imperial reasons.⁵⁵ Another contradiction arises from the fact that MNCs can and do seek legal settlement of investment disputes against states for instance before the International Centre on the Settlement of Investment Disputes (ICSID) whereas the latter are essentially unable to hold them accountable over environmental pollution and damage and human rights violations. In all this, the very status of violence itself has changed; it has become both an eminent *mode of interaction* and a fully-fledged *idiom* of its own that takes the cloak of human rights and conventionalised economic practices. The production of this form of violence is made possible by a juridico-economic system that differentiates ownership of resources from access to, and rights over resources; this process is underlaid by a teleological order/government. Ultimately, the structural inequalities between transnational corporations and local communities are lost in the legal arguments.

Conclusion

The examination of different forms of raiding in colonial strategies of conquest, in the corporate world, in contemporary resources extraction and in the ransoming industry in the Sahel is not meant to establish a parallel between the violence of ‘formal actors’ versus that of ‘dissident groups’ or non-state actors. Nor is it meant to justify ‘compensatory’ violence. However, in many contexts, the functions of raiding straddle over the restorative and the redistributive in a way that constitutes its ethical backbone. Motivation is arguably an epistemological question which is difficult to disentangle from the particular ways in which the violence of exclusion, repression or exploitation is experienced by specific populations. However, Sahelian groups’ justification for resorting to retaliative measures against their states and western interests has to do with the disappearing of their vital space, and the weaning of their capacity to assume a dignified life under severe conditions of scarcity. The subversion of traditional means of substance and productive systems, the oppressive policing of northern/desertic areas considered by the central government as an outlying zone only good for exploitation and repression, the intrusive nature of external interventionism and subsequent encroachment on indigenous modes of governance, the environmental damage and destruction of livelihoods—all amount to different forms of aggression. Their action ultimately depends on contingent local circumstances; the real damage is inflicted by the irresistible forces of capitalist expansion of which conglomerates are an embodiment of the material and symbolic excess violence.

According to this justification, the ethics of restorative violence should extend to instances of economic crimes; the relationship that ensues between the moral right of justice and the obligation of justice remains nonetheless unresolved. The questions that should concern any serious critique of the current model would need to be ‘what is security’? Who is security for? for what is disappearing—for ordinary Sahelians caught up in the multi-layered violence of the state, of internal and external actors—is a space of life, a vital space, in the pursuit of subjectivities, rights and values.

On the other hand, if corporations have unarguably become the most competent and successful raiders of the 21st Century, international human rights law as currently formulated is alarmingly inadequate and limited for it ignores structural inequalities between corporations and vulnerable communities and between states and non-state actors.

⁵⁴ The Niger Delta is an ecologically fragile and one of the most fragile coastal wetlands in the world. Oil spills and pollution have been responsible for water contamination in addition to destroying fishing, farming livelihoods, its aquatic life and its marine resources and environment

⁵⁵ There is in fact a precedent to *Kiobel* which was disregarded by the Supreme Court in its deliberations: a 1795 ruling of William Bradford, Attorney General under George Washington took into account extraterritoriality in stating that Americans were liable for crime of plunder committed in Sierra Leone

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