CHAPTER 9

Responsibility to Protect or Obligation to Prevent

Whose Responsibility?

Introduction

The Santa Clara County decision led to the development of a monster. Corporations have no conscience and feel no pain. They possess superhuman strengths and abilities, allowing them to remain in existence indefinitely, continually growing and exponentially increasing the power and wealth they possess. Like Doctor Frankenstein, the Court and Government are now controlled by the creation which they breathed life into a century ago. 

Thoennes 2005: 204–205

The time has now come raise an important question basic to our understanding of protest movements. Is there a “case” for collective obligations? It seems that every issue we considered involves large numbers of human beings harmed or exposed to grave risks of harm, including physical attacks individually, but most often to collective harms involving whole communities or even regions, such as the Arctic. The common thread uniting all these harms is that those who benefit from the hazardous activities are legal persons and the natural persons who direct them and decide on the activities to be pursued.

Both legal persons and their activities are sanctioned and supported by political alliances and the governments of those nations, whose aim is to expand their power and their sphere of control.

Here we encounter the first aspect of the Frankenstein “monster” that is totally unlike the monster of old: that fictional creation was not part of a deliberate political plan, supported by the local bureaucracies and intended to increase the power and control exercised by the government of Britain. Yet today’s counterparts, our “monsters,” are allies and co-conspirators of the countries who want to expand their controlling powers and their economic capacities by various means other than the outright colonization of other countries. These “monsters” have global reach and global power; thus it would seem that any form of legislative restraint that might embody the “collective duty” we all have to protect and respect the rights of all humanity, ought to be international rather than domestic.
Yet, it must be acknowledged, those instruments, international covenants, declarations and resolutions, do exist and—if not explicit—they are at least such that they could fit a regime of control and restraints, as was noted in each chapter’s discussion of the issues.

What does not exist, however, is the political will to eliminate the inappropriate power granted to certain nations and geographical configurations. No UN resolution can withstand the veto of the United States, when a specific form of victimization represents a clear indictment of their own illegal practices or of those of their friends and allies.

The UN Declaration of Human Rights (1948) starts with the words “we, the people...” and it should express the will and the rights of all peoples, not only the rights of the people whose defense pleases the hegemonic power and advances its interest. Thus, once again, the most difficult question arises: how can the collectivity express its wishes, let alone discharge its obligations to the victims of so many and varied legal activities?

If, as Philippe Sands argues, we live in a “lawless world” (Sands 2006), and if “plunder” (Mattei and Nader 2008) is the main characteristic of globalization, how can even the citizens of so-called democratic countries and of an effectively unresponsive union of nations succeed to impose the controls (on legal persons) they desperately need in order to survive?

Before attempting an answer to that question, we’ll attempt to isolate the instruments that might be used to that effect, despite their present weaknesses and failures, after a brief review of the argument of the previous chapters.

The Argument of the Previous Chapters: Victims in a Lawless World

Chapter 6 set out the boundaries of the second part of the second part of this work: the victims to be discussed are not the victims of intimate or sexual violence, or of any other form of violence that is already codified as illegal. The greatest contrast between legally defined victims of crimes and those described in this chapter is the question of both their numbers and of the current attitudes towards them: almost everyone in the world is now suffering or is at the risk of suffering from various forms of environmental harms primarily, but not exclusively from the consequences of climate change.

As well, there are multiple hazards as we become, increasingly, a chemical society, and the chemical substances and products we consider indispensable are not checked for safety by an independent source, and the effects of multiple exposures, are not even part of the required tests. I have termed the results of these “regulator” breaches “ecocrimes” (Westra 2004), and I have argued