So good afternoon everyone. I am delighted to be here today to talk about my research project on a topic called Responsibility to Protect. I would call it R2P from now on and how it has been involved in the framework of the post-electoral crisis that took place in Kenya in 2007 and 2008. Broadly, R2P is slowly becoming the new humanitarian intervention doctrine in international circles notably within the United Nations. I'll explain R2P in more detail later. For the moment, I just want to invite you to stop me at any time of the talk if you have questions or if you need clarifications.
At the end of year 2007 and the beginning of 2008, a violent crisis had shaken Kenya, an African country that was then considered as an island of political and economical stability. Triggered by the opponents of the fraudulent electoral process, the crisis seemed to take place among ethnic lines. It resulted in the death of more than a thousand persons and left 600,000 people displaced. Nonetheless, many commentators said the worse had been prevented. Thanks to intense 41-day mediation process sponsored by the African Union and supported also by the United Nations. More important for my purposes, this situation is also been identified as the first instance of the Responsibility to Protect.
The main objective of this paper is built to show why and how this Kenyan example is important: these are the R2P and its implementation as a norm of action within the practice of international politics. But let me introduce one caveat here. I am not an expert in Kenyan politics. When an anthropologist—when other anthropologists ask me what is my area of study I invariably answer international politics and institutions, always wondering how my research topic could possibly fit in these classical area and divisions. I talk about the Kenyan crisis today because it has been identified as the first R2P situation. I did not undertake an extensive research about Kenya, the 2007-2008 post electoral crises. And its—its root cause is to prepare to this talk. This is mostly a question of method. What is important to me is the way that main R2P advocates framed and describe this situation so it fit within their categories. The information I use for this presentation comes only from actors or organizations that had—I have identified, sorry, as main R2P advocates in the Internationals Fairs. That means I am going to talk about the Kenyan crisis in the terms of those advocates rather than those of the Kenyan people who experience the crisis. Yet, you may have heard different stories from scholarly—scholarly papers or newspapers elsewhere. I would be more--more than happy to hear them during the discussion after, but I want—I want to be sure you understand where I’m coming from. So as I said, the main objective of this paper is to show why and how the post-electoral crisis in Kenya is important, these are the R2P and its implementation, as a norm of action within the practice of international politics.
I will of course draw largely from my ethnographic research on R2P to do so. The main purpose of my work is not to characterize R2P, for instance, by stating that this or that element is relevant or enforceable. Rather, I seek to understand how international politics work through the lens of an ethnographic research on R2P. In a few words by ethnography of R2P, I mean, I trace the processes of formulation and implementation of the notion. This had led to me to do field work in sites of international politics. These have included the Canadian government, UN offices and agencies, university research centers, think tanks and NGOs, non-governmental organizations. I also rely on written data.
In the next few minutes, I’m going to make a short description of R2P. In 1999, in the wake of the failure of the international community in Rwanda and the North Atlantic Treaty Organization Intervention in Kosovo, the NATO’s intervention in Kosovo, the then Secretary-General of the United Nations, Kofi Annan, challenged the international community to address what he called the Sovereignty Intervention Debate. Sovereignty is seen as the core principle in international politics. This means that in the international system, all states are supposedly equal, no matter their size, their wealth, or their military power to sovereignty is attached, the principle of non-intervention meaning that no state has the right to interfere in the domestic affairs of another state. The Sovereignty Intervention Debate is though related to questions of when and how to intervene in the sovereign states when an internal conflict generates mass scale atrocities within population—within its population. Previously, this debate has been called Humanitarian Intervention. In 2000, the government of Canada launched an international commission to respond to Kofi Annan’s challenge.
The commission was called the International Commission for Intervention and State Sovereignty. Twelve commissioners from different countries constituted the commission. They were renowned academics, diplomats, policy makers, and army officers. Their report was made public in December 2001 entitled Responsibility to Protect. This report is the first milestone of the R2P concept. Briefly, the main underpinning of R2P is that sovereignty should bring about a responsibility to protect the population under one state's jurisdiction. If by its action of passivity, a state does not meet this responsibility, the international community has the right to--has the right according to R2P to intervene in various ways in the international affairs of the state. The range of possibilities is wide from diplomatic talks to economic sanctions and military force. Between the launch of the Responsibility to Protect Report and the Kenyan post-electoral crisis in 2007 and 2008, R2P had become a widely accepted norm of action in international politics even though an intervention in the sovereign state is still controversial. The Kenyan crisis had been identified as the first R2P instance. Yet, there are empirical evidences that this statement is inaccurate. The importance of the Kenyan crisis example is to find in the need for successful model so the R2P idea can be deeply ingrained in the practice of international politics. My aim is therefore to show how the post-electoral Kenyan crisis example is important besides the R2P and its implementation as a norm of action within the practice of international politics. My presentation is divided in three parts. First, I will tell how the Kenyan crisis and its root causes had been described. Second, I will point out how these descriptions made the crisis fits into R2P criteria and how the crisis had been resolved. I will conclude by explaining how the Pacific Resolution of the post-electoral crisis in Kenya has become a milestone for the practice of the R2P idea.
On December 27, 2007 Kenyan people went to the polls in record numbers, the old election process was qualified as smooth and free of violent confrontations. At the presidential polls, the two leading candidates are Raila Odinga of the Orange Democratic Movement and the former president Mwai Kibaki of the Party of National Unity. Two days later, the parliamentary results became available and the former ruling party of National Unity suffered from major losses in parliament. The announcement of the presidential results came on December 30 in the middle of protest caused by rumor of rigging. Human Rights Watch reports, "In the closing hours of the tabulation process, a lead over 1 million votes for opposition candidate Raila Odinga evaporated under a pack and highly irregular proceedings and was transformed into razor thin margin victory for Mr. Kibaki. The result was also entirely odd with the Orange Democratic Movement's successes in the parliamentary vote in which ODM won 99 seats to PNU's 43." One of the documents I used to prepare this talk is a Human Rights Watch document entitled Ballots to Bullets: Organized Political Violence in Kenya's Crisis of Governance. As I explained earlier, I used documents that come only from actors or organizations that I have identified as principal R2P advocates in the international affairs.
Human Rights Watch is one of the world's leading non-governmental organizations and a founding member of the International Coalition for the responsibility to protect. This coalition brings together a number of NGOs and think tanks willing to advocate strongly for R2P. The ICR2P is the hub of R2P civil society networks. It is located a few blocks away from the United Nations' headquarters in New York City. One of the main references available on the coalition's website for describing post-electoral crisis in Kenya is this Ballots to Bullets document I will refer to in the next few minutes. One of the strong statements Human Rights Watch made in that document is that the 2007 Kenyan elections were hijacked. The rigging of the elections is seen as the trigger for the violence that followed. However, the others--the Human Rights Watch report acknowledged and document deeper root causes that seemed to show that the bloodshed is not only a spontaneous reaction to an unjust electoral process. The three root causes identified are land grievances, the constitution, and decades of impunity linked to ethnic violence. The land taken by the British settlers in the colonial area was not given back to the dispersed people descendant after independence in 1963. Rather, the first government sold it mostly to the people of the Kikuyu ethnic group, Kenya's first president was also a member of the Kikuyu. After the 2002 election, the Kibaki government tried to fulfill a reform promise and brought together a commission to address this question. However, the report was found to be too controversial and the Kibaki government had never implemented the recommendations. In their narration, the authors of the Human Rights Watch document noted that--that Kibaki is also part of the Kikuyu group, the same group that had been privileged for land--for land possession after independence.
The second root cause identified by Human Rights Watch is the Kenyan constitution. The country is governed according to a colonial area constitution characterized by the centralization of powers. This means, the central government and the president possess overwhelming powers while parliamentary scrutiny and judicial independence are weak. According to Human Rights Watch, other ethnic groups that never came to power tend to promote another kind of constitution, a type of federalism based on semi-autonomous regions delimited by ethnicity. The debate between the proponents of these two types of constitution has resurfaced cyclically since independence. And these debates have often been accompanied by ethnic violence. When Kibaki came into power in 2002, he promised a new constitution but the government in power watered down the project and therefore the opposition never ratified it. The constitutional debate came back to the floor during the 2007 election. The third root cause identified by Human Rights Watch is the case of impunity linked to ethnic violence. That is identified as being part of the Kenyan political environment especially in the '90s. This root causes merges with the land grievances and the constitutional debate and give rise to profound feeling of injustice. The weight of root causes of the post-electoral violence had been presented allows the authors to highlight a deep ethnic division in the country.
Furthermore, the International Peace Institute had drawn important links between poverty and ethnicity in a paper called *A Choice for Peace, The Story of 41 Days of Mediation in Kenya*. I would like to highlight here the importance of this institute. IPI, International Peace Institute, is a think tank based across the street of the United Nations' headquarters in New York City.
Edward Luck, the IPI's Vice-President for Research and Program is also the special adviser for the Secretary-General on issues related on the R2P. In an interview, I conducted with him last December in New York City. Dr. Luck explained that his role as special adviser is divided in three tasks. One, he has to develop the concept outside of R2P which is basically a work of definition, what R2P is, what R2P isn't. Second, you have to advocate for the notion to the United Nations' member states so they support it. And three, he has to work on the institutionalization of R2P within the UN system. This means to work on the implementation of structures as for example, the creation of an office dedicated to R2P within the UN bureaucracy. This is an important detail. For the moment, the special adviser to the Secretary-General on issues related to the R2P, a very long title, is a part time position. In other words, the work I have described a few minutes ago is done with no salary. And Luck--and Luck works also at the International Peace Institute and is a professor on leave at Columbia University. And the special adviser position receives no supports such as civil servants or office space. No UN money has yet been put in R2P. The only support Edward Luck has for the moment is his close collaboration with the Office of the Special Adviser for the Prevention of Genocide. Yet, Dr. Luck's work as a special adviser is intermingled with his work at the International Peace Institute which was furthermore a dedicated--which has, sorry, furthermore a dedicated research program for R2P. For all these reasons, I consider IPI as a very important organization for the advocacy of R2P and I use their paper to prepare--to prepare this talk, I'm sorry.
I was saying that the International Peace Institute also placed ethnicity in the heart of the crisis by drawing important links between poverty and ethnicity in Kenya. In the paper, it reads, "control of resources and control of government are perceived as going hand in hand and given that government has traditionally been controlled by one ethnic group, the Kikuyu, to the detriment of the others, poverty is often linked with ethnicity. Resentment runs high over land ownership and land use and is aggravated further by levels of unemployment especially among the youth. Violence was conducted, therefore, primarily along ethnic lines motivated by the endemic sense of marginalization." It would be too long to explain in detail the escalation of violence that occurred just after the announcement of the president showed results. Broadly, when Kibaki was officially declared winner of the election, a tax against the Kikuyu people began. Within a week, many Kikuyu living outside the--the customary territories were driven away from their homes. And most of them flew south toward their traditional territories with brutal stories that exacerbated tensions. Some Kikuyu local leaders organized a self defense force. Reprisal attacks from the Kikuyu militias targeted the Lou and the Kalenjin as well as other groups who were then perceived to support the opposition. These attacks set the stage for escalation of violence. Ethnic tensions are reported to be very high. Furthermore, Human Rights Watch makes clear in narrative that recalls the reports of their Rwandan conflict that the violent encounters were organized by local leaders. If many commentators like Edward Luck, the special adviser to the Secretary-General on issues related on R2P identified the post-electoral crisis and its resolution as the first R2P situation nobody to my knowledge explain on what ground.
In September 2005, the R2P was unanimously agreed upon as a principle in the framework—in the framework of a United Nation Summit at the level of heads of states and governments. This kind of summit lends great importance to the discussions held and to the decisions taken. They really need all the heads of member states which means, presidents, prime ministers, chancellors, et cetera. Instead of the ambassadors who usually sit at—in the UN General Assembly. The assent for R2P is found at the paragraph 138 and 139 of the 2005 Summit Outcome Document. At the 2005 Summit, four crimes were identified as situations where R2P could be—can be involved in order to justify an intrusion in the internal affairs of a sovereign state.
Those four crimes are genocide, war crimes, crimes against humanity, and ethnic cleansing. These put a great attention on the ethnic violence. Genocide is defined in the convention under prevention and punishment of crime of genocide as "Acts committed with intent to destroy in whole or in part a national, ethnical, racial or religious group." Ethnic cleansing designates the action taken as, for example, the displacement of populations for the establishment of an ethnically [inaudible] land. Furthermore, the definition of what constitutes a crime against humanity is inscribed in the Nuremberg Charter and was later formatted with the subsequent international lot developments relating to the other criminal tribunals for the former Yugoslavia and Rwanda, conflicts where ethnicity played important roles. Given the seemingly ethnic nature and the scale of the violence committed in Kenya after the 2007 election, one can conclude that R2P could be invoked. Yet, the statement made by the R2P advocates is problematic. The problem is not to say that the post-electoral crisis in Kenya is an R2P situation. As I showed, it can fit the R2P criteria. The problem is to say that this is the first one. There is indeed empirical evidence that other situations occurring before the Kenyan crisis could have been identified as R2P situation especially conflicts in Darfur and the Democratic Republic of Congo. This leads me to think that the post-electoral crisis in Kenya had been identified as the first R2P situation by R2P advocates not because it fits into the criteria because regional and international reactions seems to have prevented the aggravation of the conflict and could resolve it. A successful instance is always a powerful rhetorical argument to advance an idea. My analysis is also strengthened by the fact that the Kenyan crisis had been identified as R2P situation after the settlement.
It took only a few days for the African Union, the AU to take official notice of the Kenyan crisis. The then AU Chairman and Ghanaian President John Kufuor wrote to Kofi Annan to ask him to take the role of the African Unions' special adviser and chief mediator. Annan was not the Secretary-General of the UN anymore. According to the International Peace Institute, Annan has years of mediation experience and is "An internationally renowned figure with moral authority and strong political reputation." Furthermore, Annan's role in the emergence and growing importance of R2P in international politics has to be pointed out here. As I said, Secretary-General Annan pushed the idea for developing new mechanism of intervention when mass scale atrocities were committed within a state. Since the launch of the International Commission for Intervention in State Sovereignty's report and the birth of R2P, he had always been a strong advocate of the idea. All of this in spite--all of this in spite of the fact that as a lot of people told me while I was doing my fieldwork in New York City and Ottawa. It was not politically expedient to promote humanitarian intervention at the end of the '90s. My understanding is that the choice of Kofi Annan as chief mediator of the Kenyan crisis along with his mediator skills and international prestige is also a symbolic move to push the R2P debate forward. I affirmed this because the African Union is the regional organization that has taken the biggest step to implement R2P principles even if R2P per se is not directly involved. The AU was created in 2002 as a successor of organization of the African Unity. Traditionally, in the practice of international politics as I mentioned earlier, there is a strong opposition against interference in domestic affairs of a sovereignty state.
For obvious reasons, this principle has been fiercely guarded by most of the post colonial nations including the vast majority of African states. Nevertheless, the African Union changed their approach and took the so-called non-indifference approach instead of the noninterference approach. Indeed, the African Union put the following the principle at the core of its constitutive act, "The right of the union to intervene in a member State pursuant to a decision of the assembly in respect of great circumstances namely, war crimes, genocide, and crimes against humanity."
The International Peace Institute related the mediation process in a very ethnographical--ethnographic fashion in its document titled A Choice for Peace. "A mediation process is never a need in there or simple process. What is important is to understand that in Kenya this settlement had been reached through the creation of a coalition government."
And the creation of the position of a Prime Minister. The latter is in charge of coordinating and supervising the functions and affairs of the government. IPI explains the characteristic of a coalition government. Coalitions are an exceptional form of democracy for the specific purpose of dealing with the crisis. The principle of [inaudible] proportionalities applied in terms of personage and allocation of responsibility. There is need for trust and readiness to cooperate." That settlement has for consequences a larger sharing of powers in the government and is said to have contributed to the ease of the tensions on the ground. Since the 2005 summit, R2P advocates continue their work. Among other things, they took a preventive turn. Prevention is politically more acceptable, is less expensive, and does not usually imply the use of military force. Such force is always controversial in the practice of international politics. And nowadays, a lot of energy and resources are now deployed within the UN system for the creation of mass atrocity early warning mechanisms. Furthermore, regional organizations such as the African Union are now seen as being important players and to make sure mass scale atrocities are not committed again.
The main objective of this paper was to show why and how the post-electoral Kenyan crisis example is important besides the R2P and its implementation as a norm of action within the practice of international politics. I started with the simple observation that to designate the Kenyan post-electoral crisis as the first R2P instance was in partly inaccurate. Now, the importance of the Kenyan crisis example is to find in the need for successful model so that R2P idea can be deeply ingrained in the practice of international politics. A first successful R2P instance is more likely to serve the aims of the R2P advocates than a first failed one. The Kenyan crisis has been rhetorically identified as the first milestone for the practice of R2P so the idea can continue its route. Thank you.