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Rule of Law

Political leaders and legal thinkers across the globe have unanimously defended the rule of law as an essential, universal good. In fact, it has become "*the* preeminent legitimating political ideal in the world today" (Tamanaha 2004: 4), as compelling as it is seemingly self-evident: a "ubiquitous and 'natural' formulation" (Rajkovic 2010: 35).

Yet the rule of law eludes any clear definition. Whether the rule of law includes the protection of individual rights or ideals of democracy, whether it is to be understood in strictly formalistic terms (i.e. abiding by written legal rules and limiting law-making power), or whether it refers to the conditions for the fulfillment of humanity's "legitimate aspirations and dignity" (International Commission of Jurists 1959: VII, in Tamanaha 2004: 2) remains open to question. What is clear, however, is that the more the rule of law is invoked (and the more money is spent on its realization worldwide), the more concerns emerge regarding its forms of implementation, especially in contexts of post-conflict and massive humanitarian responses.

Since the early 1990s, humanitarian and "transitional" settings have been underpinned by a lingua franca of combined economic and legal development in the name of the rule of law. International donors started seeing the rule of law (in terms of government accountability and transparency, and the independence of the judiciary) as indispensable for, and inseparable from, economic development and the creation of a "'level playing field' for economic actors" (Channell 2005: 3). The World Bank and the International Monetary Fund imposed the implementation of the rule of law as a condition of financial assistance on recipient countries, and millions have been spent on legal reforms, largely via humanitarian channels, in places such as Kosovo, Rwanda, and Afghanistan. Moreover, a renewed United Nations focus on civilian protection has led humanitarian actors to postulate a strong link between protection and the rule of law, and thus to include access to justice programs geared at displaced and war-affected populations in their postwar reconstruction efforts.

Different reasons have been offered to explain major failures in the implementation of rule of law programs in postwar contexts, ranging from arguments about the hasty transplants of legal rules from one system to another that do not sufficiently take historical and socio-cultural contexts into account; the short-term nature of most law reform and institution building projects; the excessively narrow, legal-technical focus of such projects; and a general lack of attention towards "the actual people and processes rather than the abstract categories of judge, court, civil society, stakeholder, and the like" (Garth and Dezalay 2011: 3).

Others have gone further, proposing outright critiques of the rule of law's *raison d'être*, from Karl Marx's critique of the rule of law as bourgeois ideology at the service of private property to Giorgio Agamben's (2005) claim that the rule of law nowadays increasingly entails its exception. In a similar vein, Ugo Mattei and Laura Nader have argued that the rule of law is an imperial, hegemonic ideology that serves to justify plunder, the "often violent extraction by stronger international political actors victimizing weaker ones" (2008: 2). Such (illegal) plunder is nonetheless legitimized by claiming to advance the rule of law. Rather than being an exception to the rule, it is the "rule" of law that promotes inequality and impunity (Holston 2008). Anthropological and sociological research has also shown how neoliberal governance impacts the way the rule of law works in humanitarian theaters (De Lauri and Billaud 2016). The increasingly managerial, quantitative, technical approach to the rule of law has subordinated its proclaimed ideals of "doing good" to the formal requirements of bureaucratic accountability.

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Safe Haven

The term safe haven is often used interchangeably with "safe area" and "safe zone" (Long 2012; Orchard 2014). While international law does not provide a universally accepted definition of the term, it does provide indications of what criteria should be met for a safe zone to be established (Gilbert and Rüsch 2017). Safe havens are designed to protect those in areas affected by armed conflict from military attack. In particular, the human rights of those in danger should be safeguarded and those within safe havens should be protected from the impact of armed conflict, through access to food and medication as well as education or employment (Yamashita 2017; Gilbert and Rüsch 2017).

While the Geneva Conventions include provisions for safe havens, the modern concept emerged during the 1990s, in response to the human rights violations perpetrated during ethnic conflicts in Eastern Europe and sub-Saharan Africa. Prior to the 1990s, safe havens were established as the result of negotiations between the parties to a conflict and relied on voluntary compliance. They were demilitarized and monitored by neutral observers. Subsequent safe havens were largely created by third parties. They were imposed rather than negotiated and involved military deterrents to protect civilians, with varying degrees of success (Recchia 2018).

There has been considerable debate about the efficacy and desirability of establishing safe havens in humanitarian emergencies. This debate centers on whether such areas are truly safe for the populations within and on the motivations behind their establishment. Few, if any, humanitarian safe havens have been deemed an unequivocal success. Risks associated with the establishment of safe havens by third parties include a shift in the balance of power in the conflict zone owing to the deployment of international military forces to establish and enforce a safe area. In the case of ethnic conflict, those protected by a safe haven are often of one ethnicity. While the establishment of a safe