



HAL
open science

Chicotte

Anne-Charlotte Martineau

► **To cite this version:**

Anne-Charlotte Martineau. Chicotte. Jessie Hohmann; Daniel Joyce. International Law's Objects, Oxford University Press, pp.182-190, 2018, 9780198798200. 10.1093/oso/9780198798200.003.0015 . hal-03325637

HAL Id: hal-03325637

<https://hal.science/hal-03325637v1>

Submitted on 25 Aug 2021

HAL is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

9

Chicotte

Anne-Charlotte Martineau

The first time I encountered the *chicotte* was through language, during a conversation I had in Guinea in 2002. I was then working as a Protection Officer in UNHCR's largest refugee camp of the region. One morning, my assistant informed me that one of the camp's primary school teachers was using the *chicotte* on his pupils. In front of my blank stare, he went on to explain that the *chicotte* refers to a stick, a belt, a cane—in short, any whipping or flogging object. This substantive, I learned, is used throughout Francophone Africa, and there is even a verb—*chicoter*—that transcends national and ethnic borders. I was puzzled: the *chicotte* was a well-known and common word for Africans. How come I had never heard of it before?

This discrepancy is even more intriguing in that the *chicotte* was once familiar to Europeans. From (at least) the last quarter of the nineteenth century, the word designated a hippopotamus-hide whip that Belgian forces used to impose their colonial authority in Africa.¹ At the turn of the twentieth century, the *chicotte* became entangled with an international scandal: European photographers captured the infliction of the *chicotte* in the Congo Free State, and the *Congo Reform Association* used such 'atrocious photographs'² in their campaign against Belgian King Léopold II. Later on, in the interwar period, the whip was once again mentioned in pamphlets and in fiction novels by those who sought to criticize the excesses of colonization.³ However, because the depiction of physical violence was meant to provoke 'chills and tears'⁴ among the liberal bourgeoisie in Europe, these works often displayed more sensationalism and voyeurism than scholarly interest. The novels, in particular, were full of exotic and erotic clichés, the whip symbolizing the white rulers' sexual avidity and masculine virility, while colonized women were depicted as indomitable.⁵

¹ It goes without saying that the Belgians did not have monopoly over physical violence and corporal punishment. The *chicotte* was widely used by colonial forces in the French Congo. The Dutch, German, English, and Portuguese also had recourse to whipping and other means for disciplining bodies in their colonies.

² Sharon Sliwinski, 'The Childhood of Human Rights: The Kodak on the Congo' (2006) 5(3) *Journal of Visual Culture* 333, 334.

³ One of the most influential and controversial pieces of literature produced in the wake of the Congo Free State is Joseph Conrad's *Heart of Darkness* (1899).

⁴ Daniel Bersot, *Sous la chicote. La vie au Congo. Nouvelles congolaises* (Jullien 1909) v.

⁵ See, for instance, Arnaldo Cipolla, *L'Airone. Romanzo dei fiumi equatoriali* (Casa Editrice Vitagliano 1920) 15: 'E l'adorabile corpo che spingeva i sensi dell'amante al di là della voluttà, domandava lo



Fig 9.1 Brooklyn Museum Arts of Africa Collection, Museum Expedition 1922, Robert B. Woodward Memorial Fund. The author writes: ‘I chose this image of the chicotte so as to facilitate the various meanings to be projected onto it. I am not suggesting that this image has no context—obviously, it has one (as the object is displayed in a museum in New York). My point is rather that I opted for an image that would allow for the different legal meanings to be brought to the fore’

Source: Courtesy of The Brooklyn Museum.

Such representations have now disappeared from the literary market, except for the Internet where colonial novels are sold as collection objects. By the turn of the twenty-first century, *chicotte* (both as a word and as an object) has become virtually unknown to Europeans. In 2005, the Royal Museum for Central Africa in Tervuren, near Brussels, sponsored the first far-reaching review of Belgium’s colonial past. One of the exhibition rooms was entirely devoted to the *chicotte*. ‘Visitors of the exhibition [were] unmistakably shocked by images of the *chicotte*.’⁶

This memory lapse contrasts greatly with the *chicotte*’s fate in postcolonial Africa. Following their country’s independence in 1960, a number of Congolese artists turned the whip into prime material for representing and remembering the sheer brutality of Belgian colonial rule.⁷ The *chicotte* became a synecdoche for colonial

spasimo della frustata / E le bianche mani di Evans che l’avevano accarezzato, colpivano inesorabili’ (And the adorable body brought the lover’s sensuality beyond pleasure / It asked for the spasm of the lash. And the white hands of Evans who had cherished that body, hit it inexorably).

⁶ INTAL, *Un autre regard sur l’histoire congolaise. Guide alternatif de l’exposition de Tervuren* (2005) 14.

⁷ The whipping of Africans during the Belgian colonial period was a common theme for artists of the Zairian urban popular school (such as the painter Tshibumba Kanda-Matulu). See Bogumil

violence and ‘an icon of racial oppression’.⁸ But this critique did not mean the end of the *chicotte* altogether: the word continued to be used in Francophone Africa to refer to flagellation practices. This linguistic development mirrored the fact that the *chicotte* is still employed by governmental officials and private individuals: policemen, teachers, husbands, and fathers—they all whip. What is more, many Africans believe that the infliction of the *chicotte* has become a legitimate practice, especially in the private realm and at school, so that it is now a part of the ‘African culture’.⁹ In 2009, one of the most popular Congolese songs was entitled *La chicotte à papa*; the singer Koffi Olomidé hit the charts by pushing the meaning of the *chicotte* to refer to the masculine genital organ.

Denial in Europe and re-appropriation in Africa: are these the legacies of the *chicotte*? And what does international law have to do with it? I will answer these questions by looking at the history of the *chicotte* through the lens of the ‘standard of civilization’. I show that the *chicotte* has been perceived, presented, and regulated by international law differently at different times. During the Leopoldian era, the infliction of the *chicotte* became the symbol of a ruthless commercial enterprise that, reformers urged, had to be stopped (Part I). When the Belgian State took over the colonial administration of the Congo, the *chicotte* was turned into a public-law device for ‘civilizing’ native subjects (Part II). More recently, in the postcolonial world, the *chicotte* has come to be seen in international law as a pre-modern artefact that calls for punishment and transformation: international legal standards now class the *chicotte* and the practice of *chicoter* as pre-modern and in need of eradication as non-compliant with human rights and humanitarian law (Part III). This historical account will allow me to make two conclusions: first, that the opposing legacies of the *chicotte* in Europe (denial) and in Africa (re-appropriation) are closely intertwined and, second, that they are reinforced by modern international law.

I

The *chicotte* penetrated the international legal consciousness through one of the most infamous international scandals of the turn of the twentieth century: King Léopold II of Belgium’s rule over the Congo region. The *chicotte* quickly came to symbolize the atrocities and dangers associated with a state’s commercial involvement—a system of ‘legalized robbery enforced by violence’.¹⁰

Jewsiewicki, ‘Collective Memory and its Images: Popular Urban Painting in Zaïre – A Source of “Present Past”’ (1986) 2(2) *History and Anthropology* 389.

⁸ Jean-François Bayart, ‘Hégémonie et coercion en Afrique subsaharienne. La « politique de la chicotte »’ (2008) 2(110) *Politique africaine* 123, 134.

⁹ *ibid* 139. Numerous debates can be found on the Internet on the matter. See, for instance, Vitraulle Mboungou, ‘Pour ou contre la chicotte?’ (*Afrik.com*, 7 February 2006) <<http://www.afrik.com/article9437.html>> accessed 13 August 2018; Olivier Allochem, ‘Editorial: La chicotte à l’école’ (*L’événement précis*, 1 December 2009) <<http://levenementprecis.com/2009/12/01/editorial-la-chicotte-a-l-e2%80%99ecole/>> accessed 13 August 2018.

¹⁰ Mark Dummett, ‘King Leopold’s Legacy of DR Congo Violence’, *BBC News*, 24 February 2004. To what extent do I also play the game of voyeurism (by presenting the *chicotte* as an object of

The story of the Congo Free State, created in 1884–1885, is well known.¹¹ As soon as Léopold received the endorsement of European powers to administer the Congo region, he built an unprecedented system of wealth extraction and servitude, which was ruthlessly administered by the *Force publique*—a colonial army composed of young Congolese men and a handful of Belgian officers.¹² Public flogging and the severing of the hands of those killed or sometimes simply of recalcitrant workers were common practices against what was deemed to be ‘indiscipline at work’.¹³ This exploitative system became increasingly known in Europe and in the United States, and various measures were taken by philanthropists, diplomats, abolitionist groups, and religious organizations, amounting to what has been called ‘the first humanitarian movement of the 20th century’.¹⁴ In Britain, the journalist and former industrialist Edmund Morel proved to be particularly active in putting forth resolutions in Parliament, in writing books, articles, letters, and in distributing firsthand accounts from Africans and European missionaries.¹⁵ At the same time, Roger Casement, a well-respected British diplomat and former member of the Colonial Service, submitted in 1903 a report to Parliament about his investigations in the Congo State and confirmed the atrocities committed on a mass scale.¹⁶ The *chicotte* was explicitly mentioned as a potentially lethal weapon used in the rubber industry. In the same year, Morel and Casement established the *Congo Reform Association* to draw attention to the Congo Free State’s abuses and to propose an economic programme for African colonies composed of three strands: free trade, free land tenure, and free labour.¹⁷ The *Congo Reform Association* orchestrated debates in the British Parliament; it also called numerous public meetings (the so-called ‘atrocities meetings’¹⁸) and

international law) and therefore of simplification? How can one examine the experience of phenomenal violence without in some ways mitigating it, fetishizing it, or turning it into pornography? I have no easy response to the dilemmas of representing violence.

¹¹ For a particularly dramatic account, see Adam Hochschild, *King Leopold’s Ghost: A Story of Greed, Terror and Heroism* (Houghton Mifflin Company 1998).

¹² *ibid* 135.

¹³ The *chicotte* is still today associated with the *Force publique’s* response to ‘indiscipline at work’. Dibwe Dia Mwembu, ‘Le Congo colonial et postcolonial dans la mémoire populaire’ (2005) 1–2 *La revue nouvelle* 50, 52. The role of the missionaries should also be examined. For an interesting postcolonial take, see Kalala Ngalamulume, ‘Léopold II et les missionnaires. Les circulations contemporaines d’un faux’ (2006) 2(102) *Politique africaine* 128.

¹⁴ Dean Pavlakis, *British Humanitarianism and the Congo Reform Movement, 1896–1913* (Ashgate Publishing 2015).

¹⁵ That Morel was not only moved by humanitarian concerns, but also by economic ones, is well explained by Myron Echenberg, *The British Attitude Towards the Congo Question with Particular Reference to the Work of ED Morel and the Congo Reform Association 1903–1913* (thesis, McGill University, 1964).

¹⁶ Roger Casement, ‘Transmits report on his visit to interior of Congo State and on condition of natives’, in *Accounts and Papers: Sixty-Five Volumes. Colonies and British Possessions—continued. Africa—continued* (Harrison and Sons 1904) 21–81.

¹⁷ Echenberg (n 15).

¹⁸ Such meetings are described, for instance, in Amalia Ribí Forclaz, *Humanitarian Imperialism. The Politics of Anti-Slavery Activism, 1880–1940* (OUP 2015) 38.

enlisted support abroad, mostly in the United States but also in France and in Belgium.¹⁹

Yielding to international pressure, King Léopold sent an Independent Commission of Inquiry to the Congo in 1905. Contrary to his wishes, the Commission returned to Brussels with evidence vindicating Casement's claims in his report and supporting the accusations of the *Congo Reform Association*.²⁰ Criticism against Léopold's reign grew stronger.²¹ What I want to highlight is that throughout these years, stories involving the *chicotte* accompanied the global campaign lodged against the Leopoldian rule; its image provided a sense of horror and outrage, and helped to denounce the Congo Free State's brutal nature. The *chicotte* appeared as the antithesis of international law's civilizing mission: 'it is a terrible torture, which leaves the victim flayed and fainting',²² wrote Arthur Conan Doyle in 1909. This practice of whipping had little to do with what had been agreed to at the Berlin Conference: after all, the signatories of the 1885 Berlin Act had promised to 'watch over the conservation of the indigenous populations and the amelioration of their moral and material conditions of existence, and to strive for the suppression of slavery'.²³ But for all the critiques and denunciations, the colonizing enterprise of the Congo Basin was, in and of itself, never questioned. The *chicotte* came to exemplify the misgovernment of Léopold and to justify its abolition; the point was to put an end to the King's personal enrichment through slavery-like practices, and to find another 'humanitarian administrator'²⁴ of the region. The natives still needed paternalistic guidance, but not of the Congo Free State variety.

II

Initially, the new government of the re-named Belgian Congo continued to use forced labour to harvest rubber, while making minor legal and regulatory changes

¹⁹ In the United States, the Congo Reform Association set up a branch, whose vice-president was Mark Twain. His book *King Leopold's Soliloquy* was published 1905, in which he details the atrocities being committed in the Congo Free State in the form of a political satire, seen through the eyes of Leopold himself.

²⁰ Most observers had expected the Commission to issue another piece of Léopold's propaganda. That said, even if the Commission concurred with many of Casement's claims and confirmed the necessity of reforms, it suggested that Léopold II himself could make reforms to protect the native peoples from excessive taxation and forced labour. See 'Rapport au Roi Souverain', *Bulletin officiel de l'Etat indépendant du Congo* (Hayez 1905).

²¹ Critiques in Belgium were also voiced against Léopold. Lawyer Félicien Cattier's *Étude sur la situation de l'État Indépendant du Congo*, critical of Leopoldian rule, was published in 1906. For a Catholic-based critique published the same year, see Arthur Vermeersch, *La Question Congolaise*. Other critics included Stanislas Lefranc, *Le régime congolais. Opinion d'un magistrat sur le Congo* (fascicule 1 et 2 1908); Emile Vandervelde, *Les derniers jours de l'État du Congo, journal de voyage* (La Société Nouvelle 1909).

²² Arthur Conan Doyle, *The Crime of the Congo* (Hutchinson 1909) 88. Doyle, the creator of fictional detective Sherlock Holmes, was also involved in the *Congo Reform Association*.

²³ Art 6, 'General Act of the Conference of Berlin Concerning the Congo' (1909) 3(1) American Journal of International Law 7.

²⁴ *Colonialism in the Congo: Conquest, Conflict, and Commerce* (Watson Institute for International Studies, Brown University 2005) 11. See also Joseph Delpech and Antoine Margaggi, 'Le transfert à la Belgique de l'Etat indépendant du Congo' (1911) 18 *Revue générale de droit international public* 105.

that had already been proposed by Léopold. Over the years, however, the Belgian state did introduce many reforms, including the establishment of a public administration to operate in what was referred to as a 'model colony'.²⁵ Through this public administration, the infliction of the *chicotte* became regulated as a disciplinary device by colonial law.²⁶

It goes without saying that the Belgian ordering of the Congo relied upon a strong nexus between authority and violence. Public whipping was among the mechanisms by which colonial prestige and domination was maintained.²⁷ Yet, the colonial authorities took great care in presenting themselves as different from the Leopoldian rule. Private parties could no longer use the *chicotte*, at least in theory, to enforce labour discipline. As of the year 1926, whipping could no longer be administered to women, children, the elderly, and the sick.²⁸ The maximum strikes allowed, originally set at one hundred, was reduced to twelve in 1913, to eight in 1933, to four in 1951, until it was finally abolished in 1959—that is to say, one year before independence.²⁹

Back in the metropolis, Belgians liked to refer to their colony as *notre Congo* or *onze Kongo*.³⁰ This was indicative of their paternalistic sentiment, of their hope to civilize 'their' natives by introducing social engineering and other novel disciplinary forms.³¹ But could the expansion of civilization really be reconciled with the maintenance of colonial brutality?³² To soften that contradiction, legalized violence became justified on the grounds that it was both exceptional and temporary. It was exceptional, because the colonized constituted a menacing mass without the social restructuring and civilizing ideals of liberal colonialism. It was temporary, because the Congolese would eventually become civilized and this evolution would render the use of the *chicotte* obsolete.³³ Physical pain was to be administered by

²⁵ Guy Vanthemsche, 'The Historiography of Belgian Colonialism in the Congo' in Csaba Levai (ed), *Europe and the World in European Historiography* (Pisa UP 2006) 89.

²⁶ Colonial law carefully ordered the details of public performances, determining the exact number of whips to be exacted, how blows should strike the victim, and which parts of the body could be exposed: Florence Bernault, 'The Shadow of Rule: Colonial Power and Modern Punishment in Africa', in Frank Dikötter and Jan Brown (eds), *Cultures of Confinement: A History of Prison in Africa, Asia, and Latin America* (Cornell UP 2007) 81.

²⁷ That the *chicotte* was part of an intense policy of taming political, economic and cultural resistance to white domination was still the case in 1945. The writer Paul Lomami-Tshibamba wrote a controversial piece in the newspaper *La Voix du Congolais* entitled: 'Quelle sera notre place dans le monde de demain?' ('what will be our place in tomorrow's world?'). By his own account, the publication resulted for him in 'countless legal sittings, accompanied by endless lashes'. David van Reybrouck, *Congo. Une histoire* (Acte Sud 2012) 284.

²⁸ Mwembu (n 13) 134.

²⁹ Marie-Bénédicté Dembour, 'La chicote comme symbole du colonialisme belge?' (1992) 26(2) Canadian Journal of African Studies 205, 207.

³⁰ For a critical study of such terminology, see the review by Pierre Halen, '« Notre Congo / Onze Kongo ». La propagande coloniale belge: fragments pour une étude critique' (2001) 20 *Textyles* 137.

³¹ This is what Nathaniel Berman has called 'liberal colonialism': Nathaniel Berman, *Passion and Ambivalence. Colonialism, Nationalism, and International Law* (Martinus Nijhoff 2011) 411.

³² This is the main question raised by Anupama Rao and Steven Pierce, 'Discipline and the Other Body. Humanitarianism, Violence and the Colonial Exception', in Anupama Rao and Steven Pierce (eds), *Discipline and the Other Body. Correction, Corporeality, Colonialism* (Duke 2006) 4.

³³ Mwembu (n 13) 134.

distinguishing between good ('evolved'³⁴) natives and bad ('primitive') ones. The latter needed to be disciplined by being whipped in front of their peers because 'imprisonment did not seem to affect them'.³⁵ Belgian agents also projected themselves as having humanized what had been a 'traditional'³⁶ practice—whipping in and of itself did not disappear, but its practice was supposedly more human. To summarize, the Belgians conceived and imposed the *chicotte* as a hybrid sentence 'borrowing from African and Western punitive regimes in which measure, regulation and predictability would function as the imprint of white penal civilisation on local physical hubris'.³⁷

My point is that once the Congo was turned into a Belgian colony, the *chicotte* came to be perceived as an instrument for 'civilizing' native subjects; it would trigger 'submission and consideration'.³⁸ Whipping was justified as a modernized (or hybrid) form of bodily retribution that would replace traditional mutilation, stoning, or death.³⁹ Equally important is the fact that colonial law excluded the *chicotte* in labour-related activities: this measure would dissociate the 'civilizing' usage from the stigma attached to the previous era, and transform the *chicotte* into a public-law device. Nonetheless, the *chicotte's* continued presence in Congolese industries meant that public regulation and private practice coalesced in favour of the whites: 'On the eve of independence in 1960, 95 percent of the economic assets of the Belgian Congo were in the hands of the 110,000 whites who lived there (about one percent of the population)'.⁴⁰

III

Congolese and Belgian delegates negotiated the future of the Congo and its institutional reforms at a Roundtable Conference in early 1960. The Belgians reluctantly agreed to set 30 June as the date for independence. The Congolese insisted upon complete independence, but acquiesced that high-ranking Belgian administrative officers would remain in place during a transition period, including in the *Force publique*. The first elections brought Patrice Lumumba to power as Prime Minister. But on 4 July, a few days after the official proclamation of independence, certain units of the new Congolese army—the heir of the *Force publique*—mutinied for higher pay and better promotion opportunities.⁴¹ Lumumba tried to respond to

³⁴ For an interesting study of 'les évolués' ('the Evolved'), see Daniel Tödt, 'Les Noirs perfectionnés. Cultural Embourgeoisement in Belgian Congo during the 1940s and 1950s', *Working Papers des Sonderforschungsbereiches*, n° 4/2012. Mwembu notes that in 1937, a *circulaire* excluded from whipping high-ranking officers of the *Force publique*, legal chiefs, and native members of the Catholic clergy. Mwembu (n 13) 136.

³⁵ In short, in the colonizers' minds, monitoring beating had a greater reformatory potential than imprisonment. Dembour (n 29) 210. For a similar observation, see Bernault (n 26) 82–3.

³⁶ For the classic critique of the colonial concept of tradition, see Eric Hobsbawm and Terence Ranger (eds), *The Invention of Tradition* (CUP 1983).

³⁷ Bernault (n 26) 81.

³⁸ Van Reybrouck (n 27) 284.

³⁹ Bernault (n 26) 81.

⁴⁰ *Colonialism in the Congo* (n 24) 42.

⁴¹ The Belgian commander of the *Force publique*, General Janssens, had obstructed these demands for months. The disturbances worsened after his provocative statement to the new Congolese army

their demands, but the violence led to an evacuation of foreigners and the arrival of Belgian paratroopers. The Congolese government, fearful of Belgian occupation, asked the UN for military and administrative assistance.

International lawyers are familiar with the rest of the story, including the ways in which the UN ended up privileging entrenched colonial interests and weakening the position of Lumumba.⁴² Another consequence of UN intervention is that the reform initially sought by the *Force publique* never took place. Under Mobutu, the use of the *chicotte* by the armed forces remained unchanged. In the subsequent (failed or not) *coup d'état*, the *chicotte* became an instrument of political control and cleansing.⁴³ And whipping is still very much present in the war that began in the early 1990s in the eastern part of the country and that continues to this day. In 2010, the UN High Commissioner for Human Rights released a 500-page-long report on the 'indescribable' atrocities committed in the Congo from 1993 to 2003, 'when tens of thousands of people were killed, and numerous others raped and mutilated by both armed Congolese group and foreign military forces'.⁴⁴ The Congolese army, among others, is said to have imposed methods of punishment 'that were tantamount to cruel, inhuman and degrading treatment, in particular public flogging and punishment with the *chicotte*, a leather-thonged whipping device'.⁴⁵

It should be noted that it is not only through the lens of international humanitarian law that the *chicotte* has re-entered the ambit of international law. UNICEF has also denounced teachers' use of the *chicotte* in western and central African schools as a violation of children's rights: 'corporal and degrading punishment is widespread in most countries of the region'.⁴⁶ Such punishment encompasses the use of sticks, whips, or belts, and these practices are not confined to schools. Physical violence against children, so we are told, 'is linked to socio-cultural traditions, political agendas, the weaknesses of education systems, community practices, and to global macroeconomics'.⁴⁷ Nowhere is there a mention of colonial history, legacy, and responsibility.

The fact that whipping (whether done by African armed forces or by school-teachers) now violates humanitarian and/or human rights law allows for international institutions to reach deep into domestic jurisdictions. In the two previously mentioned reports, the UN agencies involved have required the intervention of a plethora of international, regional, and to a lesser extent local actors, and the setting

('after independence equals before independence'). See Guy Vanthemsche, *Belgium and the Congo 1885-1980* (CUP 2012) 94.

⁴² Anne Orford, *International Authority and the Responsibility to Protect* (CUP 2011) 69–87.

⁴³ Bayart (n 8) 146.

⁴⁴ *Report of the Mapping Exercise Documenting the Most Serious Violations of Human Rights and International Humanitarian Law Committed Within the Territory of the Democratic Republic of the Congo Between March 1993 and June 2003*, Office of the United Nations High Commissioner for Human Rights, 2010.

⁴⁵ The report adds: 'Many civilians died from internal bleeding when their stomachs were whipped'. *ibid* 148.

⁴⁶ *Too Often ... silence. A Report on School-Based Violence in West and Central Africa*, UNICEF, Plan West Africa, Save the Children Sweden, 2010, 4.

⁴⁷ *ibid* 5.

up of new legal mechanisms.⁴⁸ Their aim is not only to remedy the specific violations but also—and more importantly—to modify the ‘deeply rooted socio-cultural factors’⁴⁹ that induce violence and to reform ‘both the legal sector and the security forces’⁵⁰ of the Congo.

* * *

This discussion of the *chicotte* and its use shows that there was never a clear-cut *standard* of civilization applied to the Congo population; rather, the *language* of civilization allowed for the marking out of differences that seemed palpable and needed not be subjected to a detailed articulation.⁵¹ Under the language of civilization, thus, the *chicotte* was a useful instrument for subjugating Africans while Europeans could satisfy themselves with the ‘moral power of the law’.⁵² But what is the situation today? International law is no longer being dressed as a project of civilization—‘indeed that 19th century word is routinely exorcised from the field’.⁵³ The discipline has created its own temporality, with a clear divide between the past (colonization) and the present (humanitarianism). Instead of being seen and addressed as a colonial legacy, the *chicotte* has been subsumed under the project for the protection of human rights and the humanization of warfare. This project calls for far-reaching interventions under the lead of the UN and in the name of protecting people against atrocities. In other words, the *chicotte* is no longer seen as a scandalous object contrary to the civilizing mission (as under Léopold’s rule) or as a regulatable device for civilizing natives (as under the Belgian rule); its practice now constitutes a violation of human rights law and international humanitarian law that calls for large-scale reforms in former colonies. But for the last 150 years, a constant has remained: the *chicotte* has always come to justify external interventions in the name of greater good.

⁴⁸ In the case of school-based violence, the report mentions the need for a ‘holistic’ or ‘multi-level’ approach to reform the entire education system; it would involve the participation of governments, donors and Bretton Woods agencies, NGOs, schools, and local communities (at 50). In the case of the Congo, the United Nations High Commissioner for Human Rights stresses the inability of the Congolese justice system to deal adequately with such crimes, and defends a ‘holistic approach’ (at 22) that would include the setting up of a mixed or hybrid tribunal, a truth and reconciliation commission, and a reparations commission (or a compensation fund).

⁴⁹ *Report on School-Based Violence* (n 46) 5.

⁵⁰ *Report of the Mapping Exercise* (n 45) 31.

⁵¹ On the indeterminacy of the standard of civilization, see Gerrit Gong, *The Standard of ‘Civilisation’ in International Society* (Clarendon Press 1984).

⁵² Martti Koskenniemi, ‘Histories of International Law: Dealing with Eurocentrism’ (2011) 19 *Rechtsgeschichte* 152, 159.

⁵³ ‘[I]nternational law now appears as a modernist project, a state-building project, a project for economic and technological development, for human rights protection, for conserving national resources and seeing to global security’: *ibid.*