THE SOCIAL CONTRACT

EDITOR-IN-CHIEF

ALEX MATHER

The Social Contract

Expression Graphics – May 2010

UNIVERSITY OF WESTERN ONTARIO

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PREFACE

On behalf of the Department of Political Science, I would like to congratulate you on publishing the fifth annual issue of *The Social Contract*. This year, Alex Mather (Editor-in-Chief) was responsible for overseeing the production of the journal. He shared this responsibility with several of his colleagues who invested considerable time and effort to ensure that the journal included some of the finest essays submitted by undergraduate students over the past year. Once again, the editorial board, consisting of over a dozen dedicated students, have delivered a wonderful collection. Among the many students who participated in assembling this year's journal were: Alex Ibrahim, Allie Fonarev, Omar Madhany, Don Main, Jess Surtees and Kyle Simpson. Several graduate students lent a hand as well. Peter Scapillato, Chris Harris and Rob Maciel deserve to be recognized.

As with previous issues of *The Social Contract,* the 2010 edition includes essays that speak to a wide range of interesting, timely and policy relevant issues. Among the many provocative papers that have been selected from close to 100 that were submitted for publication, we find essays that explore ethnic identities in war-torn Sudan, and the epidemic of wartime rape. We also can explore several papers related to the United States, including one on institutionalizing space-asset security and a perennial favorite - the US invasion of Iraq. This year's journal also features, in the words of Alex Mather, "a poignant paper on the history of women's rights in Afghanistan and how the current conflict will affect the issue moving forward." You will also notice a new section that Alex has added on Media and Government, which should be of great interest to many readers.

It is gratifying to see students in the Department of Political Science at The University of Western Ontario undertake this important scholarly endeavor and it is thrilling each year to delve into the pages of this journal. In writing about a wide range of domestic and foreign policy issues, you have made an important contribution to our understanding of how and why certain policy decisions were made and what could have been done to address more effectively the issues under consideration. In doing so, you have helped shaped our political discourse.

The Department of Political Science is very proud of the work that the Editorial Board and contributors have undertaken to make *The Social Contract* a first rate publication. As Political Scientists, we are well aware of the commitment and dedication required to assemble, edit and organize the vast resources necessary to prepare a high-quality journal for publication. There is no doubt that your efforts have paid off. My colleagues and I look forward to reading this year's issue of *The Social Contract* and are confident that you will continue to make this journal an important outlet for undergraduate students.

Please accept my congratulations and best wishes on the fifth anniversary of *The Social Contract*.

Donald Abelson
Professor and Chair,
Department of Political Science

LETTER FROM THE EDITOR

The journey I have undertaken from producer to purveyor of essays in my time at the university has been an interesting one. Four years ago, when I first waltzed through the doors of the Natural Science Building's massive lecture hall to take my seat in Professors Long and Westmacott's first-year introduction to Political Science, I realized I was soon to enter the strange world of university essay writing. Not long thereafter, I found myself sifting through page upon page of course syllabus essay writing tips, finally even turning to the trusty old search bar and the World Wide Web to answer the one overarching question with which I was confronted: What does a good Political Science essay look like?

The Social Contract is, in part, an extremely useful answer to this question. Celebrating its fifth anniversary, the journal has continued to grow in popularity and provides students at Western with a forum to have their voices heard, an acknowledgment of their diligence, time and ability in their academic endeavors and a source to which first, and fourth-years, alike, can turn for sterling examples of well-composed undergraduate essays.

We received over one hundred essays for consideration for this year's edition. There were many qualified papers that were not selected for publication. We would like to thank all those who submitted their papers and encourage them to submit their work again next year. As is to be expected, there was a great degree of healthy debate amongst the editorial staff as to which papers should comprise the journal. That being said, there exists universal agreement that those which were ultimately selected contribute to the creation of another outstanding display of Western students' interest, intellect and passion in Political Science. The journal and the quality of the papers which comprise it are a testament to both the students who have composed them and the educators who have enlightened them.

The topics featured in this year's edition span a wide range of issues and the commentary is thought-provoking and insightful. From a striking discussion of the issue of wartime rape, to an informative and interesting exploration of the topic of space-asset security, every year, the *Contract* provides us with examples of the many and varied interests of Western's Political Science students. In addition to these papers, the journal also features a poignant examination of women's rights in Afghanistan and a thoughtful discussion of the rights of children, among others. In addition, a section devoted to Media and Government has been added to the journal this year. We hope you enjoy this year's edition.

The Social Contract is made possible by the energy and devotion of an impressive array of student volunteers. The publishing of this journal is evidence of their time and effort and those who contributed should be proud of their work.

We are also indebted to the Department of Political Science and its continued support of the journal. Special mention must be given to Professor Nigmendra Narain and Professor Abelson. Your intelligence and consideration is a great asset to those of us who have worked on the journal and we owe many thanks to you.

I would like to wish everyone associated with the journal the best in their respective futures and I hope everyone will find this year's edition stimulating, informative, instructive and entertaining.

Regards,
Alex Mather,
Editor-in-Chief

EDITORIAL BOARD

SPECIAL THANKS

University Students' Council (USC)

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Faculty of Social Science

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Professor Donald Abelson

POLITICAL SCIENCE ASSOCIATION (PSA)

The PSA underwent sweeping and vital changes this past year. An extensive re-branding and re-dedication of the club was warmly accepted by all, as evidenced by the increase in membership from fewer than fifty members to nearly two hundred. Led by President Danielle Thé and Vice-President Alex Mather, the PSA assembled an impressive and motivated cadre of passionate Political Science students that navigated the club through these widespread changes. A bevy of new executive positions were created, the club's constitution was re-written and a new dedication to serving students of Political Science at Western was ceremoniously rung in.

The PSA serves as a liaison between the students, faculty and administrators of the Department of Political Science and strives to cultivate and support interest in the field across the student body. The club held a number of events this year, including the wildly successful Prof-Student Social, a trip to New York City, numerous charity-related activities and post-grad and employment work opportunities information sessions, among many others. The PSA website was also launched and will be a valuable tool for PSA members in the year to come, as the new executive team takes control of the club. We encourage all to visit the website at http://www.usc.uwo.ca/clubs/polisci/default.html. We would like to thank all the members who comprised the club this past year of transition and positive change.

Political Science Association

UWO CONSERVATIVES

The UWO Conservatives are the oldest conservative political group on campus. As a campus club, members are able to advocate on behalf of a certain set of principles. These principles are simple and oriented around common sense. Foremost among these ideals is that of limited government. Conservatives believe that the government that governs least, governs best. Conversely, we believe, as Gerald Ford has said, "a government big enough to give you everything you want is a government big enough to take from you everything you have." In a time when some see fit to depend on government to take care of all their basic needs, conservatives hold that an individual can decide what is best for him/herself. We also believe that a person is entitled to their earnings and that if the government is going to tax money away it has to be for a justifiable reason. Holding to this principle ensures low taxes and an environment where the free market, and thus the greatest number of people, can thrive. Essentially, the UWO Conservatives advocate for the maximum in individual liberty, consistent with law and order. With regard to foreign policy, the UWO Conservatives believe that it is in Canada's best interest to develop a robust national defense. War will always remain a last option, but if that option is deemed necessary, we believe it can be pursued. Holding to these principles, those of limited government and a strong national defense, will allow Canadians the greatest opportunity to enjoy the fruits of their labor in this great country. If you agree with these principles, consider joining a network of others who share your views.

Ari Fine, *VP-Policy*
UWO Conservatives

WESTERN LIBERALS

The Western Liberals represent a strong and progressive voice at Western, committed to representing the values of both the Ontario Liberal Party and the Liberal Party of Canada on campus. As the largest political club on campus, the Western Liberals have many active members from various programs and the affiliated colleges. The club enthusiastically engages in debate about the pressing issues of today: the role of the international community in Darfur, the government's response to the economic crisis and the ways in which both the provincial and federal governments can more effectively work towards a more equitable Ontario and Canada. Our club is active both within the Liberal Party and in the London community. The Western Liberals were active participants during the 2008 Federal election and played a role in numerous debates on campus. Other exciting activities this year included visiting Queens Park for the annual Ontario Model Parliament and participating in various events across the province with the Ontario Young Liberals. Every year, the Western Liberals have the pleasure of hosting an array of guest speakers. This year, we heard Glen Pearson, our very own Member of Parliament and critic for international cooperation, and Doug Ferguson, Liberal candidate for London West. On the provincial side, we've been honoured to host Deb Matthews, Member of Provincial Parliament and Minister of Health, and Ontario's Attorney General, Chris Bentley. Membership in any political party is great way to engage in Canadian politics and have your voice heard about policy issues that are important to you. If you believe in fiscally responsible government that works hard to solidify Canada's social safety net, I encourage you to get involved with the Western Liberals.To learn more, please visit our website at www.westernliberals.ca for more information about our club.

Peter Keane, *President*
Western Liberals

WESTERN NEW DEMOCRATS

The Western New Democrats (WND) is a chartered club of the Ontario New Democratic Youth (ONDY). One of its main functions is to represent the interests of Western students and the London community to the party and represent the party on campus. It also works with ONDY and the federal and provincial party to promote social justice and mitigate the negative affects of capitalism. Members of the WND come from all walks of life and take to heart the principles of social justice and the importance of creating an inclusive society. This is why historically the Western New Democrats have been the most active political group on campus. Over the years we have hosted a number of bi-partisan discussion panels, debates, and organized and participated in countless demonstrations on social justice issues such as education, environment, women's rights, human rights, and poverty.

This year was a great year for the WND. We participated in fun tree-planting with Reforest London, enjoyed some beautiful art while raising funds for a London Women's Shelter, discussed issues of poverty, prostitution, and drug use with NDP MP Libby Davies, protested prorogation in Victoria Park and met bimonthly to debate general politics and policy. We also publish our own monthly newsletter, *LEFT*, which is available on campus by the main doors in the University Community Center. If you enjoy activism, writing, or being a policy wonk, consider signing up at our booth next clubs year.

Robin Wing, *Co-Chair*
Western New Democrats

AMNESTY INTERNATIONAL

Amnesty International is a worldwide movement of people who campaign for internationally recognized human rights for all. Globally, we have more than 2.2 million members and subscribers in more than 150 countries and regions and we coordinate this support to act for justice on a wide range of issues. Our mission is defend the United Nations' Universal Declaration of Human Rights through both direct and indirect action. Our supporters are outraged by human rights abuse but inspired by hope for a better world - so we work to improve human rights through campaigning and international solidarity. At Western, we do this through awareness campaigns, as well as Letter Writing. This year we have placed most of our focus on Corporate Social Responsibility, urging companies to amend their practices so that the livelihood of people are not negatively impacted by their practices. In particular, we have been focusing on the lack of standards currently in place for Canadian mining and oil companies operating abroad. We have also focused on the ongoing atrocities (including but not limited to; oil spills, pollution and displacement) within the Niger Delta. Communities in the Niger Delta frequently do not have access to even basic information about the impact the oil industry has on their lives. This lack of information feeds fears and insecurities within communities, contributes to conflict and fundamentally undermines human rights. In light of these facts, we have been trying to educate the public on the current situation and promote the current discussions in Parliament surround Bill C-300. This bill is aimed at ensuring that Canadian Oil and Mining companies adhere to the same standards of practice when operating abroad as they would if they were operating in Canada. On March 25th, an event was held featuring photojournalist Ed Kashi, as well as other noted speakers, as we worked with other clubs in our Night for Peace to raise awareness on this issue and continue with our letter signing initiatives.

Thank you for your concern.

Amnesty International

OXFAM

In today's global society, the problems we face as a community are all interconnected. What Western Oxfam tries to highlight through our various campaigns is that we cannot hope to address, much less solve, complex problems such as entrenched and extreme poverty, environmental degradation and climate change and gender inequality by examining issues in narrow isolation. We, as students, tend to get wrapped up in our stressful lives, but we cannot forget that, around the globe, there are people suffering in the most abject conditions and that we cannot ignore this suffering and the social conditions that produce it. Because poverty and economic stability creates failed states, refugee crises and even international terrorism, our national security can be threatened by social insecurity around the world. Because climate change can produce widespread drought and severe storms which directly threatens populations not only in the global South, but along our own coastal shores, we should be concerned about the decreasing lengths of our winter seasons. Because what we do on an individual level on a daily basis affects every person on the planet, we need to be aware of the global ramifications of our actions and make an effort to reduce our footprint and consider the social consequences of our consumer choices. After all, we are all connected.

Laura Harris, *President*
Western Oxfam Association

STAND WESTERN

STAND Western is a part of a national, youth-based human rights advocacy group, working to mobilize Canadian citizens and politicians to take action against the crisis in Darfur and to make a response an important part of Canadian foreign policy. STAND's advocacy interests have also branched out to include other conflict regions, such as the east of the Democratic Republic of Congo.

The 2009-2010 school year has been a successful one. Along with WUSC and Amnesty International, we hosted a 48-hour refugee simulation outside the University Community Centre in November. Our goal was to raise funds for the ChildLife Network, a London-based education-focussed charity operating in Uganda, and to raise awareness for the plight faced by refugees in IDP camps the world over. We also hosted a well-attended screening of *The Greatest Silence: Rape in the Congo*, which shed light on an incredibly important but often neglected issue.

We very recently kicked off STAND's national *Stand for the Dead* campaign, which aims to engage and inspire Canadians to stand for the life of one Darfuri victim. Students across Canada will proudly wear t-shirts bearing the name of one victim. The goal is that the enormity of genocide be experienced and understood for what it is (www.standforthedead.com).

In addition, STAND Western has expanded its mandate to focus on community initiatives: in partnership with the African Students' Association and the London Public Library, we offer an after-school tutoring and program for elementary and high school students from Newcomer communities. This serviced is offered three times per week, and volunteers are always needed!

STAND Western

THE SOCIAL CONTRACT

CANADIAN POLITICS

Not Yet Fair, Not Yet Equal: Inequities in the Lives of Lesbian, Gay, Bisexual and Transgendered Canadians

By Tyler Chartrand

Accounts of sexual diversity exist throughout history, but only in the past two decades have those of a non-straight sexual orientation become politically active and relevant. The rights claims and attempts made for fairer integration into society made on behalf of this group have become prominent political issues. Canada has been relatively progressive in this area and began various reforms as early as the 1990s. Indeed, it may appear that legislation and court rulings related to same-sex marriage have completely addressed any inequities that may exist for this group. This paper argues that, despite recent developments, lesbian, gay, bisexual, and transgendered Canadians continue to experience inequities based on their sexual orientation. This will be examined with respect to treatment under the law, full participation in Canadian society and perceptions of these Canadians as members of society.

Despite arguing that lesbian, gay, bisexual, and transgendered (LGBT) Canadians experience inequities, this paper does not attempt to cohere with or otherwise prop up the views of the gay rights activist movement. Indeed, homogenizing the views of all 'gay rights activists' or assuming they speak for all LGBT Canadians would be misguided. The case remains, however, that inequities based on sexual diversity exist in Canada. It is important to provide some basis upon which the experience of LGBT Canadians can be determined to be inequitable or otherwise unfair. Although the Canadian Charter of Rights and Freedoms is a legal document, it is also meant to be the expression of Canadian values and can serve as a guide for establishing equity. Article 15(1) of the Charter states:

> Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.[1]

The inclusion of 'sex' in the Charter has since been interpreted as representing sexual orientation; claims for applying the Charter's principles to LGBT Canadians have also been made on other grounds. As an expression of values, the Charter articulates a desire of Canadian society to provide equal treatment to individuals who may experience discrimination. It is on these grounds this paper examines and critiques the gaps in this equality desired in expressions of Canadian values and guaranteed by the Charter.

Despite positive developments, an examination of the treatment of LGBT Canadians under the law reveals many examples of inequity. Legislation and judicial rulings related to same-sex marriage, hate crimes, parenting, and age of consent are among the most relevant displays of inequity. There are a number of positive legal developments in Canada which demonstrate a relative sense of progress which may be deceptive. Janet Hiebert observes that the enactment of the Charter provided a "new venue to pursue social-policy reforms."[2] In 1995, the ruling by the Supreme Court on *Egan v. Canada* set a new precedent for how the Charter could be used. The court found that sexual orientation was "an analogous ground of

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[1] *Canadian Charter of Rights and Freedoms*, Part I of the *Constitutions Act, 1982* being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11. Section 15(1).

[2] Janet Hiebert, "Equality Claims of Lesbians and Gay Men," in *Charter Conflicts: What is Parliament's Role?* (Montreal: McGill-Queen's University Press, 2002), 167.

prohibited discrimination under the Charter."[3] In 1999, the ruling in *M. v. H.* removed any "distinctions between cohabiting same-sex and opposite-sex couples," and precipitated later developments.[4] By David Rayside's analysis, the same-sex marriages performed in Canada by 2003 were the first "in the world without explicit discriminatory limitations."[5] Most significantly, the federal government of Paul Martin's Liberals passed legislation allowing same-sex marriage throughout the country in 2005. All these developments withstood strong prejudices and pragmatic concerns related to the "increased cost" of groups receiving "additional entitlements" they had not previously received.[6] Despite the perseverance of these reforms, there remains significant inequities under the law.

Most relevant is the resistance to same-sex marriage, which ironically is the question most settled upon. Following *M. v. H.*, all levels of government 'scrambled' to react, with the Alberta government most notably redefining spouse to include any "adult interdependent relationships."[7] Rayside suggests this redefinition was made to "avoid the appearance of recognizing lesbian/gay couples" and to undermine LGBT Canadians' 'legitimacy' as couples.[8] Furthermore, Hiebert observes that a full institutional adjustment to the changes introduced in the past decade has not yet occurred. She describes legislation as "incomplete" and argues that "not all jurisdictions have redressed gaps in the benefits accorded to heterosexual and same-sex relationships."[9] At the other end of the spectrum, the more 'open' or 'fluid' relationships of bisexual and transgendered Canadians remain even more unresolved, particularly the 'rights of the transgendered.'[10] Rayside suggests these two groups have been "largely ignored" in debates on diverse sexual relationships and "are likely to encounter even more severe rejection" than gays and lesbians.[11] Hiebert observes it is a common misconception that the question of relationships and marriage are the "most contentious [issues] yet to be resolved" for LGBT equity.[12] However, there are examples outside the scope of relationships that demonstrate inequity under the law.

One such example is the exclusion of sexual orientation as grounds for prosecuting hate crimes. A private members bill was "introduced by openly gay New Democratic MP Svend Robinson" but was not passed despite "support of the Liberal government" at the time.[13] Protection of LGBT Canadians would greatly be improved by clearer indications they can be victims of hate crimes. Equity would also be served by clearly providing for the rights of LGBT parents. Initially, when same-sex marriage reforms were occurring, parental rights for LGBT parents were "strikingly absent."[14] Furthermore, Rayside observes a "great reluctance" in recognizing "two women as 'natural' parents" and even greater reluctance in the case of "two men."[15] Recognition as natural parents entails a great many fundamental parental rights

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3 Claire F. L. Young, "Aging and Retirement are Not Unique to Heterosexuals: Rosenburg v. Canada" in *Law and Sexuality: The Global Arena*, eds. Carl Stychin and Didi Herman (Minneapolis: University of Minnesota Press, 2001), 153.
4 David M. Rayside, *Queer Inclusions, Continental Divisions: Public Recognition of Sexual Diversity in Canada and the United States* (Toronto: University of Toronto Press, 2008), 103.
5 Ibid., 3.
6 Young, 162-3.
7 Rayside, 105.
8 Ibid., 105 and 121.
9 Hiebert, 198.
10 Rayside, 186.
11 Ibid., 121.
12 Hiebert, 198.
13 Rayside, 111.
14 Ibid., 107.
15 Ibid., 186.

that are often threatened due solely to one's sexual orientation. Finally, equity would be served by decriminalizing behaviours often associated with homosexuals. When it raised the age of consent from fourteen to sixteen years-old, the Harper government failed to change the "anomalously high age of consent for anal sex from eighteen years to sixteen."[16] Rayside suggests "there could be little doubt" that this area of the law, twice ruled "unconstitutional," was deliberately not addressed because of its implications for LGBT Canadians.[17] This area of the law is just one of many that ensure inequitable treatment for LGBT Canadians continues under the law.

Despite relevant developments, LGBT Canadians face many barriers to full participation in society that relate less explicitly to the law. The limited political activity, barriers to parenthood and transitioning and the marginalization of bisexual, transgendered, and youth issues are among the most relevant displays of inequity. Some success stories of LGBT Canadians may be deceptive. Canada has a number of gay rights activist organizations and a number of prominent gay politicians. For example, Claire Young notes the large splash the Foundation for Equal Families made when they sought action "against the federal government arguing that the term spouse in 58 pieces of legislation... [discriminated] against lesbians and gay men contrary to section 15 of the Charter."[18] Openly gay and lesbian politicians have been active on LGBT issues at various levels of government, such as Winnipeg mayor Glen Murray[19] or NDP MP Svend Robinson.[20] Politicians such as Scott Brison (Canada's first gay Cabinet minister), Libby Davies (Federal NDP Deputy Leader), and André Boisclair (former PQ leader and the first gay provincial Opposition Leader) demonstrate gay and lesbian politicians can enjoy electoral success.

While examples exist of positive political participation, they are somewhat underwhelming. Canadian's first openly gay politicians did not start their careers as openly gay, but eventually 'came out' after already securing electoral success (Svend Robinson). The difficulty in identifying many prominent politicians indicates an underrepresentation of LGBT Canadians in politics, which is most certainly due in part to barriers to participation based on sexual orientation. These barriers also exist for the activist organizations alluded to above. Compared to the American LGBT activist movement, Canada has significantly less resources directed to LGBT activism.[21] According to Rayside, transgendered Canadians do not even have a comparable national organization that advocates for their interests.[22] Barriers to participation in society do not exist only in the political realm, however.

Inequity in how LGBT Canadians participate in society can also be demonstrated in the workplace. Rayside observes that despite "formally" granting benefits to LGBT families, "many workplaces...are still antithetical" to them and are "unfriendly to discussion" of their issues.[23] These tensions at work likely prevent many LGBT Canadians from enjoying full participation in the domain. Another source of tension is the barriers to parenthood for many LGBT Canadians. A study found that "84 per cent of adoption workers would reject an application from a woman in a stable lesbian relationship," during the 1990s.[24] While attitudes have likely changed in the past decade, there still is evidence of institutional barriers deployed against LGBT parents. In 2004, the federal government passed legislation which "prohibited

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[16] Ibid., 118.
[17] Ibid.
[18] Young, 159.
[19] Rayside, 235.
[20] Young, 159.
[21] Rayside, 61.
[22] Ibid., 60.
[23] Ibid., 122.
[24] Ibid., 186.

payment for surrogacy and for sperm and egg donation."[25] Seemingly innocuous, this legislation "drastically [reduced] the availability of anonymous sperm and…the number of potential surrogate mothers" and thus made 'assisted reproduction' more difficult. Such changes possess significant implications for LGBT Canadians, many of whom for which natural reproduction is not possible. The costs associated with these procedures are prohibitive, as "few provincial jurisdictions fully [cover] the health care costs involved."[26] Compared to lesbians, gay men have significantly fewer options and will incur higher costs, such as those related to surrogacy, if they seek assisted reproduction.[27] The barriers of cost are similar to those who wish to undergo gender transition procedures. Transgendered or transitioning Canadians also face a resistant and discouraging medical community that only perpetuates the problem. Accordingly, "securing supportive and affordable medical procedures for transitioning" is the number one priority of transgendered activists, according to Rayside.[28] Regardless of their agendas, transgendered Canadians and other less 'visible' segments of the LGBT population face even greater marginalization.

As one of these less visible groups, transgendered Canadians have certain unique concerns and sources of discrimination. For every "[prohibition] on discrimination based on…sexual orientation," there are significantly less for "gender identity."[29] It is important to note that some transgendered Canadians may not necessarily be 'gay' and their participation in society is not explicitly protected by sexual orientation reforms. Similarly, bisexual Canadians are not easily served by prevailing activist goals and Rayside describes their organizations as "frail."[30] Finally, the youth 'segment' of LGBT Canadians is overly marginalized; this is perhaps one of the most sensitive areas of LGBT inclusivity. Canadian education systems and youth services must carefully display acceptance of all sexual orientations while avoiding accusations of encouraging such behaviour.

Whether or not sexuality is biological or acquired is outside the scope of this paper, but it is unlikely that knowledge of sexual diversity is a very significant factor in the development of young LGBT Canadians. Indeed, the lack of knowledge and lack of attention paid to their experiences as young gays and lesbians is likely quite detrimental. Rayside observes there is "little concerted action to [confront] bullying and harassment based on sexual diversity…and even less acknowledgement of such difference in the curriculum."[31] Within this debate, there exists a less obvious danger to young LGBT Canadians. Rayside notes the insistence of activists that children exposed to LGBT lifestyles through their parents, educators, or the media "are just as likely to be heterosexual as other children" implicitly suggests this is the more favourable outcome.[32] Even those in favour of LGBT rights may inadvertently end up creating a hostile environment to the sexual development of some youth. This represents just one of the marginalized segments of a population that already faces significant barriers and inequities related to its full participation in society.

Despite increasing acceptance, perceptions of LGBT Canadians as members of society are deeply prejudiced. The results of opinion polling, analysis of homophobic discourse, and how the LGBT movement itself is perceived are among the most relevant displays of this type of inequity. The institutional changes noted in this paper do not necessarily reflect how the rest of Canadian society views LGBT Canadians. Rayside notes that, for many, "prejudice remains

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[25] Ibid., 183-4.
[26] Ibid., 184.
[27] Ibid., 184 and 187.
[28] Ibid.
[29] Ibid., 314.
[30] Ibid., 90.
[31] Ibid., 5.
[32] Ibid., 187.

a disturbing and daily reality."[33] An examination of some favourable trends in opinion polling may underscore this reality. A Gallup poll found acceptance of homosexuals adopting children had rose to "38 per cent in 2000."[34] Similarly, an Environics poll in 2006 showed "strong opposition" to same-sex marriage was "down to 24 per cent."[35] Although trends generally show greater acceptance, some polls demonstrated a reduction in that same acceptance. As the federal government was poised to legalize same-sex marriage throughout the country, "Environics polling showed a drop in support…from 2004 to 2005, down a full 10 per cent to 44 per cent."[36] The results often show favourable trends, but as members of society, some LGBT Canadians may not consider one quarter of Canadians 'strongly opposing' their political ends as progress. There remains a disturbingly high number of Canadians who are opposed or undecided on some very significant equity issues for LGBT Canadians. Not surprisingly, attitudes towards trans-related issues of "gender ambiguity or gender change" are even less accepting.[37] Despite small gains, LGBT Canadians face prejudice and have diminished standing as members of society in the eyes of many Canadians.

Certain religions conservatives remain some of the most prejudiced against LGBT Canadians. Rayside characterizes this group as "more organized than ever, and more intent than ever" on achieving its political goals.[38] Its professed political goals are the denigration of LGBT Canadians. Didi Herman observes that this group has "come to list the fight against gay rights among its foremost political priorities."[39] As early as 1994, the Canadian branch of Focus on the Family featured "at least five front-page stories" in its political magazine *Citizen*.[40] Ten years later, as the federal government announced its intentions for the federal same-sex marriage legislation, this same organization announced a $1.5 million campaign against it, which Rayside notes is an unprecedented amount "by Canadian standards."[41] With a significant amount of resources and explicit energies directed towards opposing the advancement of LGBT rights, the homophobic discourse of religious conservatives is particularly important in understanding public perception. Through her extensive discourse analysis, Herman finds that this group characterizes homosexuality as "a chosen behaviour," and "a developmental deficit," and seeks to "pathologize homosexuality." [42] These politically motivated examinations of LGBT identity serve to undermine its legitimacy as a naturally occurring and harmless trait in some humans. Indeed, the discourse of religious conservatives seeks to characterize LGBT Canadians as something grotesque and dangerous, not unlike other groups once discriminated against. LGBT Canadian's association with "disease, filth, urban degeneration, and child stealing" have been deployed elsewhere in history and have not emerged based on any explicit evidence.[43] Herman finds the "themes of disease and seduction are strongly reminiscent of older, anti-Semitic discourse" and some even of "anticommunist discourse."[44] These characterizations are some of the most glaring examples of prejudice in Canadian society against LGBT Canadians.

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[33] Ibid., 125.
[34] Ibid., 187.
[35] Ibid., 122.
[36] Ibid., 48.
[37] Ibid., 314.
[38] Ibid., 315.
[39] Didi Herman, *The Antigay Agenda: Orthodox Vision and the Christian Right*, (Chicago: University of Chicago Press, 1997), 60.
[40] Ibid., 67.
[41] Rayside, 112.
[42] Herman, 69.
[43] Ibid., 79.
[44] Ibid.

While less overt, there are prejudices within the gay rights movement itself that create inequities for LGBT Canadians. Many portrayals and articulations of LGBT issues revolve around the experience of gay men. This could support the assertion that a "gay male standard is promoted" in much gay rights discourse.[45] This discourse does disservice to lesbians and others who may not have a clear gender identity and reinforces a patriarchal organization of society. Rayside notes examples of "lower-class and racial-minority" LGBT Canadians facing more barriers because homosexuality is popularly associated with "whiteness and middle-class status."[46] These experiences allude to class and race implications present within some LGBT discourse. Furthermore, as demonstrated throughout the paper, "those who cross and challenge gender boundaries" are less prominent in the movement.[47] It appears a certain privilege is accorded to those who "provoke the least public anxieties" and are "white, middle-class, monogamous, and unambiguous in gender."[48] But these 'safe' and 'acceptable' iterations do not reflect sexual diversity's very diverse nature. By promoting only these 'popular' versions of gay men and lesbians, the interests of most LGBT Canadians are actually compromised. Similarly, the advancement of LGBT rights sometimes ignores more important societal questions. In the past two decades LGBT individuals have come to be viewed as a "fixed group of 'others' who need and deserve protection."[49] Hiebert suggests that by understanding their grievances through a rights discourse, society ignores the "problematic gender roles and sexual hierarchies" that deprive these individuals of their rights in the first place. The very societal institutions that repress and punish sexual diversity are embraced by LGBT Canadians in order to achieve incremental reforms. This discomfort with questioning patriarchy, class, race, sexuality, gender, and minority rights within a movement that should seek to question all these things is the most subtle challenge to the equity of LGBT Canadians.

Canada has one of the most progressive records on protecting the rights of its lesbian, gay, bisexual, and transgendered population. But when evaluated accordingly against the spirit of the Canadian Charter of Rights and Freedoms, a number of inequities are demonstrated. Under the law, LGBT Canadians are treated unfairly in their marriages, their capacity to be victims of hate crimes, their rights as parents and their sexual activity. Full participation in society is hindered by underrepresentation in politics, obstacles to becoming parents, obstacles to transitioning and limited recognition for bisexual, transgendered, and young LGBT Canadians. Statistically proven prejudices diminish LGBT Canadians' standing as members in society, both as a result of the discourse of religious conservatives and the gay rights movement itself. While the world may commend Canada for the obstacles it has removed for its LGBT citizens, those who fall victim to the various remaining inequities are likely to conclude their lives are not yet equal.

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[45] Hiebert, 166.
[46] Rayside, 187.
[47] Ibid., 313.
[48] Ibid., 216.
[49] Hiebert, 165.

Agreeing to Disagree: The Canadian Postmodern Experiment

By Ashley Ekelund

A distinct Canadian identity has always been hard to find. Attempts to describe Canadian culture generally involve some type of superficial national symbol such as the CN tower or the Rocky mountains, typical Canadian pastimes such as camping, canoeing, or cottageing, or one of various antagonistic definitions that identify Canadians by saying what we most definitely are not. This pandemic lack of a distinct Canadian culture that has plagued the nation since its very beginning has also resulted in a general tendency on the part of Canadians to agree to disagree. Accordingly, multiculturalism or the acceptance of difference seems to be the one and only thing upon which we can actually all agree. The Canadian constitution and provincial federalism typify this inability to come together as a distinct national whole and Canadian legal history testifies to a continual process of negotiation and reconciliation of differences.

Canada's perpetual lack of absolutes stands in great opposition to our natural human need to generally conceptualize reality and "express a shared meaningful totality".[1] Thus it becomes a continuous struggle on the part of Canadians to use and combine various narratives of identity, whether they be culturally, ideologically, or interest-based, in an attempt to construct some sort of uniformity with which they can identify and perhaps even defend themselves against challenges to that very uniformity which they seek to create. In discussing these narratives of identity formation it is important to recognize the "contingencies of discourse" that limit our ability to generalize, and constrain us to a particular and necessarily biased perspective. We must recognize that social reality is our very own subjective creation and that as individuals we are victim to inherent limitations and prejudice.

In recognition of the perpetually changing nature of identity narratives, this paper will reflect on Canadian identity, or lack thereof, through the lens of postmodernism. By qualifying Canada as an inherently postmodern state, this paper will conceptualize and better understand the primary facets of Canadian identity as well as consider their implications for religion and politics in Canada. It will argue that by agreeing to disagree and thus peacefully coexist alongside others, Canadians have committed themselves to an ongoing process of accommodation and renegotiation in which Canadian culture, values, and identity will be continually remodeled and reformulated to suit the needs of its pluralistic and multicultural society. Instead of structurally conforming to one particular definition, this paper will employ various descriptions of postmodern thought throughout, as each various definition will help to shed light on different areas of a broad and complex Canadian identity.

Indeed it would seem somewhat hypocritical to specifically define postmodernism, as the idea itself represents a rejection of any "single integrative transcendental or hegemonic understanding," but rather the acceptance that "there are [always] multiple decentred discourses".[2] Or in simpler terms, postmodernism is about "how to avoid fixation and keep

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[1] Kieran Keohane, *Symptoms of Canada: an essay on Canadian identity* (Toronto, Canada: University of Toronto Press, 1997), 8.
[2] Harry H. Hiller, "Civil Religion and the Problem of National Unity: the 1995 Quebec Referendum Crisis," in *Rethinking Church, State, and Modernity: Canada between Europe and America*, ed. by David Lyon and Margeurite Van Die (Toronto, Canada: University of Toronto Press, 2000), 166.

the options open".[3] Thus defining the term proves anathema to itself. Interestingly enough, a similar contradiction must be confronted when trying to find a specific Canadian identity. At the very root of Canadian nationalism is the acceptance of difference and the allowance of multiple, co-existing identities. Accordingly, any analysis of Canada as a postmodern state must necessarily "eschew the idea of a single master narrative of Canadian history or common symbols as the basis for a mutual vision".[4] Despite this seeming contradiction, the analysis must begin somewhere.

In order to fully understand postmodernism it is important to first understand what preceded it. The modern state, according to Robert Cooper, is one in which the classical state system remains intact and order is generally kept through a balance of power based on the recognition of internal state interest and sovereignty.[5] Modern culture is typified through key features such as "secular culture, scientific revolution, new methods in philosophy, … and technology," and "a faith in the power of reason and reliable knowledge to generate order, purpose, progress, and efficiency" prevails. Indeed, ideas of freedom, science, rationalization, and differentiation are prioritized even at the cost of fragmentation of communal or personal identity.[6]

Many scholars have argued that by the end of the 20th century, modernism had run its course and a postmodern era has begun. This new era represents criticism and rejection of traditional narratives and recognition that all truths are merely social constructs. According to historian Genevieve Lloyd, there are two unproductive responses to the new crisis of postmodernism; that of return to conventional forms of religious [or cultural] beliefs, or that of despair in an irrevocable sense of loss and incurable fault.[7] Yet a third, more productive alternative to postmodernism also exists and provides a way beyond absolutism or relativism. That alternative takes the form of a "transformative, emancipatory praxis" in which we remain determined to act, to deconstruct and then reconstruct traditional narratives, in an attempt to create a new synthesis of cultural values, or a 'new postbourgeois society'. Following Lloyd's challenge, this paper will not merely mourn the 'lack' of a quantifiable Canadian identity, but rather will come to recognize this lack as a strength in and of itself and thereby reconstruct a new Canadian narrative of postmodernism.

Author Kieran Keohane presents a particularly interesting method of analysis for the complexity of that which is Canada. Recognizing that Canadian identity is primarily realized through "its reflection from otherness," Keohane describes Canada as an "allusive/elusive ideal" which exists only as "symptoms of the real thing" and not as the real thing itself.[8] This 'lack' of true identity can only be understood through the analysis of symptoms of that lack. In an interesting and roundabout way, Keohane comes to the conclusion that there is "a knot of articulations and associated values" that are central to

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[3] William H. Katerberg, "Consumers and Citizens: Religion, Identity and Politics in Canada and the United States," in *Rethinking Church, State, and Modernity: Canada between Europe and America*, ed. by David Lyon and Margeurite Van Die (Toronto, Canada: University of Toronto Press, 2000), 287.

[4] Hiller, "Civil Religion," 166.

[5] Cooper, Robert, *The Breaking of Nations: order and chaos in the Twenty-first Century* (New York: Atlantic Books, 2003), 22.

[6] Roger O'Toole, "Canadian Religion: Heritage and Project," in *Rethinking Church, State, and Modernity: Canada between Europe and America*, ed. by David Lyon and Margeurite Van Die (Toronto, Canada: University of Toronto Press, 2000), 35.

[7] Genevieve Lloyd, *Providence Lost* (Cambridge, Massachusetts: Harvard University Press, 2008), 294.

[8] Keohane, *Symptoms of* Canada, 8 and 17.

Canadian identity and that at the heart of Canada is, in fact, "an enjoyment of the endurance of the lack of particularity, associated with values of tolerance and unpretentiousness".[9]

Let us first unravel the complexity that Keohane manages to create out of a lack of anything at all. Enjoyment - as in pastimes or ways of life, is, for Keohane, a key indicator or representation of identity. For him, Canadian enjoyment is typified in activities to which we can all relate, "dancing at a cool queen street club, unloading a canoe, chopping firewood, buying ice, cottageing, skiing, skating, tobogganing, or hanging out at the campsite".[10] Endurance is also central to Canadian identity and exemplified through things like the long Canadian winters, the Yukon Gold Rush, or the settling of the Prairies. The ability to enjoy and endure this lack of Canadian particularity, to come to terms with the fact that none of us are "positively, essentially" Canadian is then a moral requirement of all Canadians.[11]

Knowing that none of us are positively Canadian, it becomes theoretically impossible to discriminate against those that are not. Although many of us may still remain ambivalent towards the 'other', what predominates is "a morality of compromise and cooperation based on mutual respect".[12] Thus another symptom of the lack becomes all that realistically there is. To accept difference and to not pretend that we are something we know we are not is then a common Canadian characteristic, and the ideal citizen is "the tolerant, unpretentious person, who calmly pursues his or her business without any fanfare and is respectful of others who do likewise".[13] The perfect example of this could be seen in our national hero Wayne Gretzky, who makes a living in endurance activity and despite his world-class fame remains entirely unpretentious.

This lack of common identity and willingness to accept difference is both a characteristic of postmodernism and a vital precept of the moral foundations of Canada. Even the Canadian Confederation of 1867 was fundamentally based on compromise and the ability to agree to disagree, as Canadian politics in the 1860's were full of hatred, conflicts, and suspicions. Unlike the US, Canadians have never shared an inclusive set of ideals or common identity. The constitution-makers of the 1860's "seem to have accepted that unanimity was not to be expected and that disagreement had to be allowed for".[14] The attempt to unify such a vast and multicultural territory proved a long and arduous task, taking 36 delegates and several rival parties seven weeks of negotiation to write the miracle that is our constitution. And as befits any true Canadian, father of confederation Charles Tupper even refused to attend unless the leader of the opposition went as well.[15] Indeed, every voice was to have a seat at the table - a trend that would continue throughout the years to come.

There is a fundamental paradox inherent in both postmodernism and Canada – that is how to unify while remaining plural. According to William Katerberg, the creation of "universalizing institutions and fixed identities seems less possible" in a postmodern world and the challenge is to combine fragmentation and diversity with homogenizing trends.[16] In order to create a nation there must be some form of unifying characteristic, but in a case

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[9] Ibid., 35.
[10] Ibid., 20.
[11] Ibid., 39.
[12] Ibid., 40 and 41.
[13] Ibid., 39.
[14] Hiller, "Civil Religion," 166, and Christopher Moore, *How the Fathers Made a Deal* (Toronto, Canada: Christopher McClelland and Stewart, 1997), xii.
[15] Moore, *How the Fathers*, x.
[16] Katerberg, "Consumers and Citizens," 287.

like Canada where there is no unified cultural identity or nationalism, one is forced to ask what shape that uniformity will take? In Robert Cooper's description of a post-modern world he claims that participants "may or may not agree; they may or may not like each other, but they do belong to the same organization and work together and make deals together over a wide and wonderful range of subjects".[17] Using the European Union as his example, he claims that their "mutual interest as individual states is making the collective system work and maintaining the rule of law".[18]

The fundamental paradox of postmodernism then necessarily requires a fundamental change in interests. The following quote from Robert Cooper's *The Breaking of Nations*, can help us to understand the shift from a modern to a postmodern society:

> Emphasis has shifted from the control of territory and armies to the capacity to join international bodies and to make international agreements. Making peace is as much a part of sovereignty as making war. For the postmodern state, sovereignty is a seat at the table.[19]

If we bring Cooper's analysis down a level from international to national, it proves useful in our understanding of Canadian federalism as representative of a more general Canadian identity. In order to overcome the differences at the provincial and regional levels, Canadian federalism needed to overcome orthodox understandings of the nation as a cultural unity and strive for a more abstract ideal for a multicultural body such as Canada. Instead of associating greatness with cultural homogeneity and military prowess, Canada would be defined by "the acceptance of difference and the creation of a more just society".[20] Thus Canadian federalism came to rely on an unorthodox understanding of nationhood in which multiple identities could ascribe to one political nationality. Samuel LaSelva asserts that in the case of Canada, it wasn't the nation that came first; rather federalism came first thereby creating the nation.[21] Again we see the Canadian ability to agree to disagree as triumphant.

Political scientist Yael Tamir has conveniently described this alternative sense of a common identity, like in the case of Canada, as a type of 'liberal nationalism'. This liberal nationalism inevitably relies on a sense of pluralism and is, in theory, "the antithesis of racism".[22] In keeping with postmodern revisionism, liberal nationalism is also critical of "liberal neutrality as a panacea for dealing with ethnic, national, and other differences".[23] Also parallel to this is James Tully's insight that "the prevailing normative vocabulary and institutions of the modern state and federalism require revision to accommodate deep diversity".[24]

Such liberal revisionism can be seen at the heart of Canadian federation when one considers its historical context. The 1867 Confederation took place against the backdrop of the American Civil War, which was perceived to be the horrific yet natural symptom of unrestricted federalism.[25] As a result we see the fathers of confederation not entirely willing to give up their link to the Crown as an over-arching authority despite that real power

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[17] Cooper, *Breaking of Nations*, 36.
[18] Ibid., 30.
[19] Ibid., 42.
[20] Samuel V. LaSelva, *The Moral Foundations of Canadian Federalism: paradoxes, achievements, and tragedies of nationhood* (Montreal, Canada: McGill-Queen's University Press, 1996), 7.
[21] LaSelva, *The Moral Foundations*, xii.
[22] Yael Tamir, *Liberal Nationalism* (Princeton, N.J.: Princeton University Press, 1993), 8.
[23] Ibid.
[24] LaSelva, *The Moral Foundations*, 14.
[25] Ibid., 32.

would rest securely in the House of Commons.[26] Here we see the lingering legacies of the modern state within confederation and a hesitancy to place complete trust in new forms of nationality. Such uncertain revisionism can be understood as postmodernism as well, in that it is "an era of transition in which the ideals and institutions of the modern project have not disappeared but have been fundamentally challenged".[27]

A resulting criticism of both Confederation and its liberal nationalism, was the inability of Confederation to provide a "blueprint for the future" or a practical guide to the implementation of this diversity.[28]Having left many of the "potentially tragic choices," such as democracy or constitutional amendment, for future generations to confront, confederation is seen as a "worthless inheritance" that provides no basis on which to build a nation.[29] Unlike American idealism, Webber argues that Canada has no "constitutional theory". Prime Minister Pierre Elliot Trudeau once said, "we change our constitutions like hemlines".

However, using the lens of postmodernism, it is possible to view the Canadian constitution from a very different light. Kevin Christiano describes three hallmark characteristics of a postmodern sensibility, those being: first, a rejection of received rigidities, second, a tendency to combine elements that had heretofore been held in isolation, and third, a concession that grand perspectives may not supply the answers to persistent questions.[30] Our previous discussion of Canadian federalism has already shown a rejection of received rigidities and a tendency to combine separate elements. It could also be argued that the so-called failures of the Canadian constitution represent a lack of trust in grand perspectives. Although some may say the constitution was a failure, it is equally true to say it was a postmodern miracle.

Just as any specific definition of postmodernism proves anathema to itself, so does any explicit version of Canadian identity or values. To set absolutes or pick certain cultural values above others is to marginalize or repress the alternatives. And because Canadian identity rests primarily in antagonistic relation to the other, to silence the other would be to silence parts of oneself.[31] By failing to set any priorities as final or absolute, the Canadian constitution endeavors to achieve ultimate inclusiveness and to create a reality in which virtues of tolerance, accommodation, and fairness can be practically and effectively applied. Thus, leaving Canadians free to constantly "address and readdress issues of justice or injustice" and continually reinvent themselves in reaction to a changing other.

What then becomes the inevitable and necessary product of a Canadian federation based on agreeing to disagree is a constant relationship of mediation and negotiation that continues to exhibit itself even today. Confederation, according to Lord Sankey, can be seen as a "living tree – capable of growth and expansion within its natural limits" and the Canadian identity is "perpetually reconstituted by antagonistic discourse".[32] Indeed, Canadians even develop a "moral fiber by taking responsibility for the daily, hourly negotiation" of ethics, interests, and identity.[33] Consequently, what could be seen as a lack or a failure can also be seen as a strength, with the common goal of acceptance and order

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[26] Moore, *How the Fathers*, 236.
[27] Katerberg, "Consumers and Citizens," 287.
[28] LaSelva, *The Moral Foundations*, 14.
[29] LaSelva, *The Moral Foundations,* 10 and Moore, *How the Fathers*, xi.
[30] Kevin J. Christiano, "Church and State in Institutional Flux: Canada and the United States," in *Rethinking Church, State, and Modernity: Canada between Europe and America*, ed. by David Lyon and Margeurite Van Die (Toronto, Canada: University of Toronto Press, 2000), 69.
[31] Keohane, *Symptoms of Canada*, 8.
[32] LaSelva, *The Moral Foundations*, xii.
[33] Keohane, *Symptoms of Canada*, 9.

becoming even stronger with time. Robert Cooper aptly states that, "in a world where nothing is absolute, permanent or irreversible, the relationships among the postmodern are at least more lasting than any state's [nation's, culture's, or individual's] interest".[34]

In revising traditional discourse and avoiding finals and absolutes, the postmodern or Canadian project is then one of deconstructing hegemony and creating equality for all. Although somewhat abstract and complex, Kieran Keohane provides a valuable description of the postmodern project:

> A hegemonic project of the new Left might be one of not forming a new community, but actively deforming hegemonic projects of imaginary construction; resisting efforts to foist upon the social versions of 'community' invariably based on excluding some Other(s) existing as elements within that very community. The hegemonic task may be one of continuing the practices of preventing the suturing of the social, and subverting the efforts at totalization; preserving the dynamism of radical indeterminability.[35]

So, by moving beyond the traditional hegemonic conceptions of the modern state and avoiding any superficial representations of a distinct and identifiable community, Canada becomes an experiment in postmodern pluralistic unity.

What implications does the Canadian postmodern project have for the role of religion in Canadian politics? What influence can religion have in a pluralistic postmodern society that has agreed to disagree and to constantly renegotiate ideals and absolutes? When considering the role of religion in political life it is important to remember the complexity of identity formations and to avoid mono-causal explanations of abstract influence. As Anthony Appiah points out in "the Ethics of Identity", "we should be careful not to see our worlds as hermetically-sealed or as closed off from one another".[36] Indeed, our conceptions of reality are a complex network of changing relationships between spheres of politics, economics, culture, and religion. Clear cut or black and white answers are rarely possible.

All too often, contemporary secularization theories have attempted a simplistic and mono-causal explanation of religious influence on politics in Canada. These theories have argued that in an increasingly modernized world based on reason and scientific rational, institutionalized religion and religious influence is increasingly pushed into the private sphere and absolved of any significant influence in the public realm. Religion, they say, is losing its importance as public life becomes ordered exclusively on the basis of non-religious practices and values.[37] However, there are also those that question these theories' sense of inevitability and argue that secularization is not a foregone conclusion and that modernization has not always had its anticipated results. As is the case with any discussion of Canadian cultural identity, Canadian religious identity is equally complex.

Indeed, the role of religion in Canadian politics can be seen to reflect much of the Canadian discourse already described. Canadian confederation avoids theoretical absolutes, has no "readily definable philosophical rationale", and is ultimately rooted in a very open-ended sense of pragmatism.[38] While the fathers of confederation may have recognized the importance of religion as a source of public values and a foundation for views of justice and the common good, they were equally committed to ideals of equal citizenship and

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[34] Cooper, *Breaking of Nations*, 44.

[35] Keohane, *Symptoms of Canada*, 30.

[36] Richard Moon, "Introduction: Law and Religious Pluralism in Canada," in *Law and Religious Pluralism in Canada,* ed. by Richard Moon (Vancouver, Canada: UBC Press, 2008), 6.

[37] Moon, *Religious Pluralism*, 6.

[38] LaSelva, *The Moral Foundations*, 13.

multiculturalism, and as Alex Weinrib argues, "the protection of religious freedom in Canada reflects the state's commitment to individual liberty and equality".[39]

The Canadian commitment to equal citizenship and religious pluralism is generally understood "to preclude legal support of the values or practices of one religion over another".[40] This means that constitutionally, Canada cannot favor one religious paradigm over another, but also means that legally, Canada must find a way to allow all religions and religious individuals to live cooperatively and peacefully alongside one another. The resulting practice takes the form of religious accommodation and has become the general view or solution in Canada when religions are impeded or restricted by public law.[41]

While the Canadian constitution was an attempt to create generally applicable and neutral rules that would not discriminate one religion over another, Canadians also realize that those rules will naturally reflect the cultural values of the dominant identity and will likely infringe upon other religious cultures in some way.[42] Thus a legal process of accommodation, representing a relationship of negotiation and mediation, has taken root in Canadian courts that say that a religious practice will be protected under 2.(a) of the Charter if the individual sincerely believes that his or her religious or spiritual beliefs are impeded by public law.[43] Indeed much of the practical implementation of religious freedom and cooperation has been left to the courts to decide on a case to case basis, on issues such as the Kirpan in schools or the Buccah on balconies, resulting in the "ever shifting equilibrium between law and religion in a democracy committed to equal citizenship and religious pluralism".[44]

In considering the Canadian process of religious accommodation, some scholars have questioned what makes religious belief any different from other political or cultural values that would also naturally be impeded in a democratic state yet do not receive the equivalent legal accommodation. In Richard Moon's assessment of religion in Canada he claims that the special protection/ accommodation for religious beliefs and practices, rests in the assumption that the individual is connected or committed to his or her religious values in a way that is fundamentally different from his or her commitment to other views or values.[45] This means that there must be something uniquely special about religious belief that it should warrant such a particular form of accommodation in Canadian politics.

Beyond its historical significance or the fundamental nature of the questions that it answers, what is it that makes religious belief so unique? Richard Moon convincingly argues that it is the "dual character" of religious belief "as both a commitment to certain truths or values and a deeply rooted part of cultural identity" that makes religion worth accommodation.[46] Because religious belief fundamentally shapes an individual's worldview, its restriction or marginalization by lawmakers, is experienced by the individual as a denial of his or her equal worth.[47] Thus religious identity and cultural identity are intrinsically related and the dividing line between public and private becomes blurred, making it increasingly difficult for the state to remain neutral or to truly separate the church from the state.

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[39] Moon, *Religious Pluralism*, 10.
[40] Ibid.
[41] Ibid., 7.
[42] Ibid.
[43] Ibid., 9.
[44] Shauna Van Praagh, "View from the Succah: Religion and Neighbourly Relations," in *Law and Religious Pluralism in Canada,* ed. by Richard Moon (Vancouver, Canada: UBC Press, 2008).
[45] Moon, *Religious Pluralism*, 15.
[46] Ibid.
[47] Ibid.

Again the complexity and abstract nature of Canadian identity formations requires a multi-disciplinary analysis that can transcend the limitations of traditional discourse and create an all-encompassing, inclusive paradigm with which to view Canadian multiculturalism and religious pluralism. As Keohane has stated, we need to avoid the hegemonic practice of ideological articulations of reality and recognize that "all nations are imagined communities, all traditions are invented, … and all history is nothing more than the resubjectification of enjoyment".[48] To reject hegemonic reality, as we know it, such as traditional forms of the nation state, is truly a postmodern feat. However, that rejection does not necessarily mean we must accept the Canadian 'lack' as inevitable and irreversible, give in to that 'irrevocable loss or incurable fault', and live without any understanding of reality whatsoever. Rather it means that we must reform and revise traditional discourse to better suit the abstract postmodern reality in which we live.
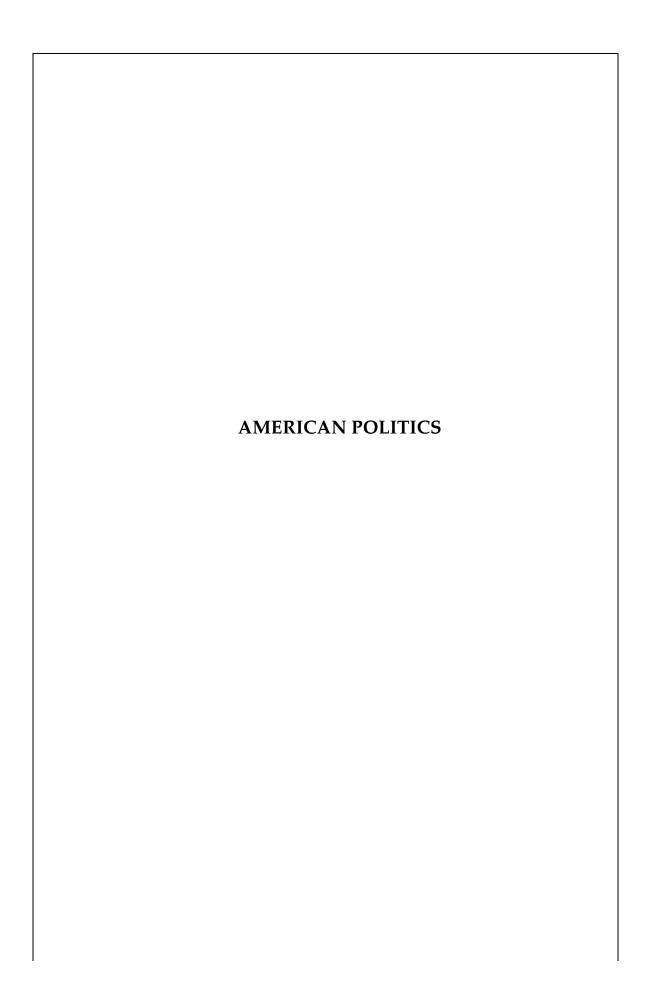
While recognizing its limitations, this paper has proposed the use of a postmodern theoretical lens through which to view Canadian political, cultural, and religious identities as a way to conceptualize the abstract and come to terms with what Keohane calls 'the lack' of a true Canadian identity. In agreeing to disagree and thus peacefully coexist alongside the other, Canadians have committed themselves to an ongoing process of accommodation and renegotiation in which Canadian culture, values, and identity will be continually remodeled and reformulated to suite the needs of its pluralistic and multicultural society. Certainly, Canadians have moved beyond modernity into the postmodern while coming to endure and enjoy the "lack of particularity".[49]

The challenge to Canadian academics is then to keep with Canada's postmodern nature and learn to continually revise and reformulate traditional discourse in order to better understand Canadian identity, even if that means creating something out of nothing. Canadian academics could learn from someone like Haraway who admirably overcame this challenge when she likened the postmodern individual to a mythical creature called a Cyborg. Cyborgs, according to Haraway, "are creatures of social reality as well as creatures of fiction who populate worlds ambiguously natural and crafted". Indeed in the late twentieth century, "our time, a mythic time, we are all chimeras [a fire breathing female animal with a lion's head, a goat's body, and a serpent's tail], theorized or fabricated hybrids." In short, "we are Cyborgs, the Cyborg is our ontology, it gives us our politics".[50] Although Haraway may not have had Canadians in mind when she wrote of the postmodern cyborg, it certainly seems a fitting description of Canadian identity with which to conclude.

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[48] Keohane, *Symptoms of Canada*, 14 and 38.
[49] Ibid., ii.
[50] Ibid., ii.

AMERICAN POLITICS

The United States and the War on Iraq: Bemoaning the Heavy Hand of the Protector

By Kyle Simpson

The purpose of this paper is to evaluate and discuss the American approach to the threats posed by the regime of Saddam Hussein in Iraq, and suggests that while the United States did not receive a mandate from the United Nations (UN) to engage Iraq militarily, the actions of the dictator over the course of his reign combined with the increased concern for international security in the post-9/11 era demanded action from a major global power capable of meeting the challenges posed by Saddam Hussein. Through an examination of the assaults and indiscretions carried out by Saddam towards both his neighbouring states and his own civilians, along with his deception and continued non-compliance with repeated UN Security Council resolutions, it will be argued that diplomatic approaches were exhausted in attempting to address the hostile regime and left the United States with few appropriate alternatives short of war to quell the tyrant. Furthermore, Iraq's position as both a regional and international threat was increasing at the same time as the determination to contain Iraq was deteriorating amongst number of the world's major player's, consequently leaving the United States caught between its fundamental position as a permanent member of the UN Security Council and its own national security concerns and interests.[1]

This essay will begin by reviewing the military incursions against neighbouring states and the assaults on Iraqi civilians committed by Saddam Hussein during his reign which long preceded the attacks of September 11th, 2001, which still presented cause for concern for the United States. It will then turn to an examination of a number of pertinent acts and resolutions passed in the United States in relation to the situation in Iraq, as well as a number of UN Security Council resolutions that were drafted in efforts to contain Iraq after the Gulf War ceasefire in 1991, and later to condemn the country's repeated unwillingness to follow the guidelines and restrictions set out for it in those resolutions. The paper will then shift to a brief discussion of the American engagement in the War on Iraq and its swift liberation and removal of the Saddam Hussein regime, before concluding with a commentary and analysis regarding the decision of the United States to take on its role in Iraq. The overarching argument which this paper seeks to assert is that the American invasion of Iraq and the overthrow of the Saddam Hussein regime was both a justified and necessary response to the past and pending transgressions and threats to international peace and security.

Upon coming to power in 1979, Saddam Hussein wasted little time in asserting himself throughout the region. Just over a year into his reign, and in response to perceived hostility from the new ruler of Iran towards oil producing countries on the Arab side of the Gulf, Saddam invaded Iran and sparked what would become an eight year long war that claimed the lives of an estimated one million people.[2] Hussein, attempting to both capitalize on the revolution which had just occurred in Iran and desiring to send a message to his domestic enemies within Iraq, relied on financial support from other Arab regimes in the Gulf as well as military support from the United States to mount the offensive.[3] Although Saddam had not defeated Iran at the conclusion of the war, in the process he had

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[1] Douglas J. Feith, *War and Decision: Inside the Pentagon at the Dawn of the War on Terrorism*, New York, USA: Harper Collins, 2008: 182.
[2] Ibid., 184.
[3] Michael C. Hudson, "The United States in the Middle East," *International Relations of the Middle East*, Ed. Louise Fawcett. New York, USA: Oxford University Press, 2005: 292.

killed a number of Iraqi Shiite leaders, intimidated a number of domestic enemies, and had deployed nerve gases as chemical weapons against Iran.[4] Towards the end of the war, Saddam also wreaked havoc in the Anfal Campaign against Iraqi Kurdish civilians in the northern region of Iraq, killing upwards of 150,000 people and forcibly relocating others from their villages.[5] In the attacks during this campaign, Saddam utilized a combination of chemical weapons against the Kurdish citizens, including mustard gas, nerve gas, tabun, and VX.[6] It was thus evident to the world at this time that Saddam both held the capabilities for producing weapons of mass destruction (WMD) and was willing to use them, as he displayed against both Iranian soldiers throughout the war as well as domestically against his own Kurdish civilians.

Having been allowed to invade Iran a decade earlier, on August 2, 1990, Saddam invaded and began an occupation of Kuwait that would last for seven months before the United States and coalition forces organized themselves to respond to the situation and removed the Iraqi occupiers.[7] During this time, Iraqi soldiers abused and killed Kuwaiti citizens and destroyed and occupied houses until the American led Operation Desert Storm effectively expelled Saddam's troops back into Iraq; as the Iraqi soldiers retreated, they set fire to upwards of one thousand oil wells and caused an estimated 250 million gallons of oil to be released into the Persian Gulf, leaving Kuwait in a state of ruin.[8] On February 28, 1991, hostilities ended and a ceasefire was agreed upon through various conditions which were to be imposed upon Iraq and embodied in a number of resolutions passed by the UN Security Council, including resolutions 686, 687, and 688.[9] These resolutions demanded that Iraq release prisoners from Kuwait and other countries, renounce all involvement with terrorism and prevent terrorist organizations from operating within Iraq. It demanded that the Saddam regime cease to repress its own civilian population.[10] It was also agreed that Iraq would destroy any of its existing WMD, including all chemical, biological and nuclear weapons and long-range missiles, and stop developing these technologies; furthermore, Iraq was required to verify that they were complying with these weapons demands by adhering to regular inspections by the UN Special Commission on Iraq (UNSCOM) and the International Atomic Energy Agency (IAEA).[11] The success of these demands will be discussed later, but for now it is important to stress that this was the second unprovoked incursion into neighbouring countries by Iraq in a decade, representing two offensives which featured considerably high numbers of deaths as a result of the fighting, particularly due to the deployment of chemical weapons against both soldiers and civilians during the

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[4] Douglas J. Feith, *War and Decision: Inside the Pentagon at the Dawn of the War on Terrorism*, New York, USA: Harper Collins, 2008: 184.
[5] The United States Congress, *Iraq Liberation Act of 1998*, (31 October 1998). 16 March 2009 <http://www.iraqwatch.org/government/US/Legislation/ILA.htm>.
[6] Douglas J. Feith, *War and Decision: Inside the Pentagon at the Dawn of the War on Terrorism*, New York, USA: Harper Collins, 2008: 184.
[7] The United States Congress, *Iraq Liberation Act of 1998*, (31 October 1998). 16 March 2009 <http://www.iraqwatch.org/government/US/Legislation/ILA.htm>.
[8] Douglas J. Feith, *War and Decision: Inside the Pentagon at the Dawn of the War on Terrorism*, New York, USA: Harper Collins, 2008: 185.
[9] The United States Congress, *Iraq Liberation Act of 1998*, (31 October 1998). 16 March 2009 <http://www.iraqwatch.org/government/US/Legislation/ILA.htm>.
[10] George W. Bush, *Remarks at the United Nations General Assembly*, (12 September 2002). 16 March 2009 <http://en.wikisource.org/wiki/President_George_W._Bush's_Remarks_at_the_United_Nations_General_Assembly_12_September_2002>.
[11] Ibid.

Iraq-Iran conflict. Had the coalition created to liberate the Iraqi occupation of Kuwait been given a more broad mandate and been permitted to pursue the retreating Iraqi army and advance towards Baghdad to overthrow the Saddam regime, perhaps the headaches and embarrassments that lay ahead for the international community in their relations with Iraq could have been avoided.[12] However, the ensuing decade would be marked by the attempted containment of Iraq by the UN through resolution demands and economic sanctions, and the subsequent deception and disobedience by Saddam in the face of international pressure.

Shortly after the UN Security Council passed its first resolutions pertaining to Iraq, in an attempt to both provide protection for terrorized Kurdish civilians in northern-Iraq and in order to monitor Saddam's disarmament, the United States along with Britain and France created a 'no-fly zone' over the northern part of Iraq; one year later they established a similar zone in the southern region to provide protection for the Shiites.[13] These 'no-fly zones' would later prove to be a point of conflict, however, as Iraq began routinely firing anti-aircraft artillery and missiles on American and British aircrafts patrolling these areas, further evidence of unprovoked military assaults by the Saddam regime.[14] As the decade wore on, and as postwar discoveries would later support, Saddam continued to support terrorism in defiance of UN Security Council resolutions both directly through the training of foreign and domestic terrorists in Iraqi facilities, and indirectly through financial compensation offered by Saddam for the families of Palestinian suicide bombers.[15] Saddam also strategically delayed and sabotaged the UNSCOM and IAEA from conducting proper inspections for WMD inside Iraq, denying inspectors access to facilities and documents and attempting to conceal both its past and present status with regard to WMD programs.[16] UN inspectors were thus surprised in 1994 when they discovered Iraq's development of nuclear weapons capabilities, and again in 1995, when Saddam Hussein's son-in-law, who had been the head of Iraq's WMD programs, defected from the country and revealed the true nature of the existing programs which the inspectors had missed or were unable to uncover in their assessments.[17] In response to the conditions placed on Iraq after the end of the Gulf War, Saddam decided to destroy its existing stocks of WMD, but sought to covertly maintain the program's infrastructure and capabilities and to hide any evidence of its continued existence under the guise of civilian research.[18]

The economic sanctions which had been imposed on Iraq also did not possess the desired effect and fell apart as soon after their implementation.[19] Saddam had found a way to effectively work around the sanctions by moving oil through neighbouring states and had become active in creating lucrative contracts with companies in countries such as France and Russia, which consequently garnered a certain amount of criticism towards the existing sanctions by those countries involved.[20] The 1996 UN Oil-for-Food Program, which allowed Iraq to resume selling its oil in return for an agreement that the revenues

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[12] Douglas J. Feith, *War and Decision: Inside the Pentagon at the Dawn of the War on Terrorism*, New York, USA: Harper Collins, 2008: 185.
[13] Ibid., 186.
[14] Ibid., 198.
[15] Ibid., 187.
[16] The United States Congress, *Iraq Liberation Act of 1998*, (31 October 1998). 16 March 2009 <http://www.iraqwatch.org/government/US/Legislation/ILA.htm>.
[17] Douglas J. Feith, *War and Decision: Inside the Pentagon at the Dawn of the War on Terrorism*, New York, USA: Harper Collins, 2008: 188.
[18] Ibid., 189.
[19] Ibid., 192.
[20] Ibid.

generated would be placed in a UN-administered account and be used to purchase items deemed appropriate and necessary for the country. This was promptly taken advantage of and ultimately failed due mainly to UN mismanagement.[21] Opponents of the sanctions began to illuminate the fact that the effects were being felt not by the regime for whom they were intended, but rather by the ordinary civilians of Iraq. Consequently, the sanctions had become ineffectual and as a result should be repealed.[22] Problematically, this would represent a victory for the Saddam regime and further retard the policy of containment being pursued in Iraq. Finally, in August of 1998, Iraq officially stopped cooperating entirely with UNSCOM and IAEA inspectors monitoring the status of the WMD in the country, and it became apparent that the two principal approaches to the strategy of containment against Saddam – weapons inspections and economic sanctions – had largely failed.[23] As Douglas Feith succinctly notes in his book *War and Decision*, it became increasingly evident at this time that "Saddam appeared to be wearing down the resolve of the UN and the world at large."[24]

In response to Iraq's decision to cease cooperation with UN inspections, President Clinton signed Public Law 105-235 on August 14, 1998, which declared that the Iraqi regime was in material breach of its international obligations as outlined by the relevant UN Security Council resolutions. It also enabled the President to take appropriate action in order to bring Iraq into compliance with those obligations.[25] Two months later, the United States proceeded further and drafted the Iraq Liberation Act of 1998, which declared that, among other things, "It should be the policy of the United States to seek to remove the Saddam Hussein regime from power in Iraq and to replace it with a democratic government."[26] The Act also asserted that it should be the responsibility of the United States, upon the removal of the Saddam regime from power, to play an active role in supporting the transition in Iraq towards democracy through the provision of humanitarian and democratic assistance.[27] Thus, with the passage of Public Law 105-235 and the Iraq Liberation Act of 1998 into law, from the American perspective, the President of the United States was able to take appropriate action to bring Iraq in line with its UN commitments and thus justified via Congressional support in pursuing regime change in Iraq. The problem, however, lay in the nature of the United States' commitments to the UN as a permanent member of the Security Council and to its international commitments to pursue diplomatic responses in its relations.

At this point it is evident that the United States' concern regarding Iraq was both present and increasing in the final years of President Clinton's second term, and prior to both President George W. Bush's inauguration and the attacks of September 11th, 2001. It was after these attacks, however, that America began to focus more acutely on national security concerns and the sudden position of vulnerability in which the country found itself.[28] As a consequence of this awakening, the government's tolerance for potential danger was reduced and it was forced to reassess all threats to America, both directly

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[21] Ibid.
[22] Ibid., 193.
[23] Ibid., 194.
[24] Ibid.
[25] The United States Congress, *Iraq Liberation Act of 1998*, (31 October 1998). 16 March 2009
<http://www.iraqwatch.org/government/US/Legislation/ILA.htm>.
[26] Ibid.
[27] Ibid.
[28] Douglas J. Feith, *War and Decision: Inside the Pentagon at the Dawn of the War on Terrorism*, New York, USA: Harper Collins, 2008: 183.

connected to the attacks and otherwise.[29] The approach of the Bush administration was thus not limited in scope to the perpetrators of the attacks that assaulted the United States on September 11th, but rather was more broad, encompassing a global war on terrorism that was to focus not only on al Qaeda, but on all terrorists and those who aided and abetted them.[30] Furthermore, although the initial priority for the United States was to be the effort in Afghanistan, the attacks only provided further reasoning for why WMD should be kept out of the hands of terrorists and those capable of supplying terrorists with such technology.[31] Given Saddam's history of supporting terrorism both directly and indirectly, combined with the absence of UN monitoring of Iraq's WMD capabilities for the previous three years, Iraq was invariably a state which posed an immediate and heightened concern for the United States, whether or not Saddam had been involved in the attacks.

On September 12th, 2002, after the initial engagement of Operation Enduring Freedom in Afghanistan had taken place, President George W. Bush gave his annual speech to the UN General Assembly, in which he addressed the situation in Iraq.[32] Speaking to the delegates of the assembly, Bush emphasized that it was the position of the United States that the approach to the issues surrounding Iraq should be diplomatic in nature and that war should be avoided if at all possible.[33] Interestingly, he also was careful to walk a fine line between both encouraging the UN to take on a central role in addressing the problems in Iraq, while simultaneously ensuring that America retained the freedom to act as it felt necessary in response to the threats Iraq posed to both American and international peace and security.[34]

During the speech, however, Bush referred to Iraq as "the one place – the one regime" wherein all of the significant dangers related to terrorism and WMD could be found, and it became evident that Iraq was the United States next major concern in the global war on terror.[35] He also reviewed the numerous transgressions and blatant disregard for the UN Security Council resolutions which had been initially created to contain and monitor Saddam after the ceasefire, and out of which subsequent resolutions were drafted to condemn his continued defiance of prior obligations.[36] From this, one can understand how the conduct of the Iraqi regime posed a threat not only to the authority of the UN, but to international peace and security in general. As a result, President Bush urged the UN to take a proactive approach to the situation and to hold Iraq accountable for its indiscretions.[37]

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[29] Ibid.

[30] National Commission on Terrorist Attacks Upon the United States. *The 9/11 Commission Report*. New York, USA: Norton and Company Ltd., 2004: 334.

[31] Douglas J. Feith, *War and Decision: Inside the Pentagon at the Dawn of the War on Terrorism*, New York, USA: Harper Collins, 2008: 214.

[32] George W. Bush, *Remarks at the United Nations General Assembly*, (12 September 2002). 16 March 2009
<http://en.wikisource.org/wiki/President_George_W._Bush's_Remarks_at_the_United_Nations_Ge neral_Assembly_12_September_2002>.

[33] Douglas J. Feith, *War and Decision: Inside the Pentagon at the Dawn of the War on Terrorism*, New York, USA: Harper Collins, 2008: 304.

[34] Ibid., 309.

[35] George W. Bush, *Remarks at the United Nations General Assembly*, (12 September 2002). 16 March 2009
<http://en.wikisource.org/wiki/President_George_W._Bush's_Remarks_at_the_United_Nations_Ge neral_Assembly_12_September_2002>.

[36] Ibid.

[37] Ibid.

While President Bush had urged UN action and persistence with regard to Iraq in his speech to the UN General Assembly, a month later, the US Congress overwhelmingly passed the Authorization for the Use of Military Force Against Iraq Resolution.[38] The resolution reiterated the grievances lodged against Iraq by the UN as a result of the violations to Security Council resolutions and the threats these actions posed to both American national security and international peace and order.[39] It also acknowledged the Iraq Liberation Act of 1998 and its stated purposes, and reiterated the power of the President under the Constitution to take action in order to prevent international terrorism against the United States.[40] Most importantly, however, it authorized the President to use the armed forces as he considered it necessary and appropriate "in order to defend the national security of the US against the continuing threat posed by Iraq; and enforce all relevant UN Security Council resolutions regarding Iraq."[41] The resolution also states, however, that the ability to use the armed forces was granted under the understanding that this would only occur when it was reasonable to believe that diplomatic means were no longer a viable option in both protecting the national security interests of the United States and in pursuing the enforcement of UN Security Council resolutions.[42] This is an important development because it effectively gave the President the option of engaging the United States Armed Forces against Iraq as soon as it could be reasonably concluded that all other diplomatic avenues had been exhausted; given the fact that Iraq had already been identified as both a threat to American security and in violation of UN Security Council resolutions, it was only a matter of time.

The UN Security Council then met on November 8th to discuss the situation in Iraq. The outcome of this discussion was the seventeenth resolution on Iraq since the Gulf War, Resolution 1441, which was unanimously adopted and provided Saddam with a final opportunity to cooperate with new inspection and disarmament obligations in order to avert potential war.[43] Despite its denouncing rhetoric and its declaration to 'ensure full and immediate compliance,' the resolution again failed to specify any consequences for Iraq beyond the need to hold another Security Council meeting should Saddam fail to comply.[44] The resolution also inadvertently distorted the media focus and public discourse surrounding the issue so as to make it seem as though the existence of WMD was the sole concern with the Iraqi dictatorship, neglecting wider concerns such as the need for regime change based on Saddam's history of aggression towards his neighbours, the human rights violations towards his people and repeated disrespect for the UN international authority.[45] Further complicating matters, after the resolution Iraq agreed to allow inspectors to re-enter the country and the country was required to prepare a weapons declaration for the UN Monitoring Verification and Inspection Commission (UNMOVIC), the weapons declaration which was produced. However, it was determined to be, in the opinion of

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[38] The United States Congress, *Authorization for the Use of Military Force Against Iraq Resolution of 2002*, (16 October 2002). 16 March 2009 <http://www.c-span.org/Content/PDF/hjres114.pdf>.

[39] Ibid.
[40] Ibid.
[41] Ibid.
[42] Ibid.
[43] The United Nations Security Council, *Resolution 1441*, (8 November 2002). 16 March 2009 <http://un.org/Docs/scres/2002/sc2002.htm>.
[44] Douglas J. Feith, *War and Decision: Inside the Pentagon at the Dawn of the War on Terrorism*, New York, USA: Harper Collins, 2008: 315.
[45] Ibid., 336.

UNMOVIC head Hans Blix, unsatisfactory.[46] It was concluded that the Iraqi information that was forwarded failed to provide sufficient detail to be deemed acceptable; as a result, Iraq was seen yet again to have breached the conditions of the UN Security Council.[47]

This new development put the United States in a difficult position, and as Undersecretary of Defense Policy Douglas Feith points out in his book *War and Decision*, "In the months from December 2002 to March 2003, the United States diplomatic position was eroding rather than gaining strength."[48] The situation in Iraq was not improving, and the UN Security Council continued to be handcuffed by its permanent members who were content to continue to pursue diplomacy as a means for dealing with Iraq. In his State of the Union Address on January 28th, 2003, President Bush stated that the United States had repeatedly urged the UN to step up and fulfill its Charter and stand behind the obligations and condemnations it had issued towards Iraq.[49] Put more simply, the United States was requesting that the UN serve its purpose as an international authority and follow through on its demands. It became quite evident, however, that the United States was no longer prepared to stand by as UN Security Council resolutions continued to be disobeyed and ignored by a tyrant. As Bush stated, "the course of [the United States] does not depend on the decisions of others. Whatever action is required, whenever action is necessary, I will defend the freedom and security of the American people."[50] Containment was no longer a viable option, and a week after President Bush's State of the Union Address, the Security Council met and Secretary of State Colin Powell presented the American case for the need to take military action in response to the continued threat posed by Saddam Hussein.[51] The presentation proved ineffective, however, and the United States did not receive a UN mandate for a military invasion of Iraq.

In response to the continued Iraqi threat and the unwillingness of the UN to enforce obligations set out in numerous Security Council resolutions spanning a decade, the United States decided that diplomacy had failed and proceeded to form a coalition of the willing to rid Iraq of the WMD programs within the country, liberate the Iraqi people from dictator Saddam Hussein, and uphold the resolutions drafted by the UN Security Council. On March 19th, 2003, Operation Iraqi Freedom began with an air strike, followed by the invasion of Iraq.[52] Less than a month later, on April 9th, Baghdad was liberated and, a week later, the Coalition Provisional Authority was established under the direction of General Tommy Franks to act as an interim government, representing regime change in Iraq.[53] Then, on May 1st, 2003, President Bush declared an end to major combat operations in Iraq, just over two months after they had officially begun.[54] This by no means marked the end of the American presence in Iraq, however, and the struggle to support the transition to democracy continues today.

Many critics argue that the military engagement of Iraq for the purpose of overthrowing Saddam was unnecessary and that the dictator had never posed the imminent

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[46] Ibid., 338.
[47] Ibid., 339
[48] Ibid., 356.
[49] George W. Bush, *State of the Union Address*, (28 January 2003). 16 March 2009
<http://www.vlib.us/amdocs/texts/bush012003.html>.
[50] Ibid.
[51] The United Nations Security Council. *Iraq-Kuwait*, (5 February 2003). 16 March 2009
<http://www.un.org/Depts/dhl/resguide/scact2003.htm>.
[52] Randall Hoven, "Iraq and Its Lessons," *American Thinker* (28 December 2008). 16 March2009
<http://www.americanthinker.com/2008/12/iraq_and_its_lessons.html>.
[53] Ibid.
[54] Ibid.

threat to the United States that the public were made to believe he had.[55] These same critics draw on the lack of substantial evidence for the presence of WMD stockpiles in Iraq when liberating forces and inspectors were able to thoroughly investigate the country, and still turned up nothing.[56] Moreover, they argue that the concern regarding Saddam was a product of the manipulation and trickery executed by a group of 'neocons' attempting to spread worry and anxiety and to push their own agenda.[57] But these arguments, like many others waged in denouncement of the War in Iraq, miss the mark. The American led War in Iraq is not strictly owing to oil interests, nor is it simply part of the global crusade against terrorism, nor America's desire to spread democracy throughout the world

More important, however, were the considerations made by the United States with regard to the repeated violations of UN Security Council resolutions and the conscious disregard for international authority by the Iraq regime, combined with the horrendous human rights violations that were a hallmark of Saddam's reign which resulted in the ongoing plight of the citizens of Iraq. The world had been waiting on Saddam Hussein to comply with the UN Security Council resolutions for twelve years, and the question that was begging to be asked, and which America effectively answered was, when is enough, enough? The UN response in dealing with Saddam Hussein held greater implications than just those immediately related to Iraq and potentially held the promise of setting a precedent for how the organization would deal with repeat aggressors and international threats to peace and security in the future.[58]

President Bush was cognizant of the importance of the enforcement of UN Security Council resolutions for the integrity of the organization and recognized, as Douglas Feith notes, that "any means short of war would be worthless unless Security Council members were willing to enforce them – through war if necessary." Consequently, Bush made the difficult decision to act on behalf of both the United States and the UN, seeking to uphold the resolutions passed by the Security Council when others would not, by engaging Iraq militarily without a UN mandate. The American position is concisely described by academic Fouad Ajami in his article, *Iraq and Arabs' Future* when he states, "It is the fate of great powers that provide order to do so against the background of a world that takes the protection while it bemoans the heavy hand of the protector."[59] The United States War in Iraq was no exception to this rule.
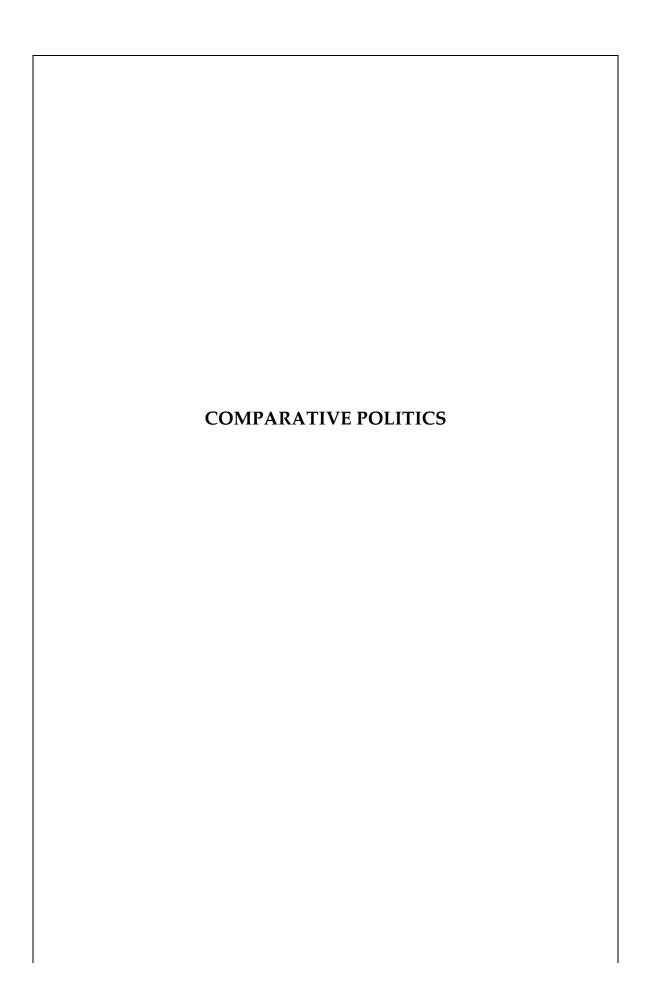
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[55] Douglas J. Feith, *War and Decision: Inside the Pentagon at the Dawn of the War on Terrorism*, New York, USA: Harper Collins, 2008: 183.
[56] Ibid.
[57] Ibid.
[58] Ibid., 200.
[59] Fouad Ajami, "Iraq and the Arabs' Future," *Foreign Affairs* 82 Vol. 1 (2003): 17-18.

COMPARATIVE POLITICS

Constructing Panama: The Canal, the Cold War, Noriega and 'Just Cause'

By Sean Acklin Grant

The United States has had a vested interest in the domestic politics and stability of the Isthmus of Panama for over one hundred years. The history of the Republic of Panama itself is laced with intrigue and episodes of American manipulation, even owing its creation to one of the earliest and most audacious displays of U.S. interventionism in Latin America at the turn of the 20th century. Through the Cold War, the precedent set by the employ of 'gunship diplomacy' in constructing the independence of Panama from Colombia became a model for the use of American economic and military might to control and shape the political development of Latin America. It is fitting then, that the year in which the Cold War was coming to a close, 1989, should be the same year that the U.S. would once again bring its overwhelming military strength to bear on the isthmus.

This essay will explain the interaction of domestic and foreign influences in Panama's developmental history since the American construction of the Canal and leading up to the massive military engagement of the U.S. in Panama during operation 'Just Cause.' As the relationship between the military regime of General Manuel Noriega and Washington began to deteriorate in the late 1980s, the threat of domestic instability jeopardized American interests in Panama.[1] The position held by Panama as a long-standing ally and virtual protectorate of America since the construction of the Panama Canal in the early 20th century attached a broader significance to the possibility of severed relations. The United States would lose a strong foothold in the gateway to Latin America and suffer the consequences of a weakened geostrategic advantage. Given the ongoing 'War on Drugs,' of which Panama was a central objective and the Cold War program of anticommunist intervention in Latin America, a diluted position in Panama would also have greatly compromised the regional security interests of the U.S.[2] Further, the internationally perceived decline of global communism might have been overshadowed by the parallel perception of weakness in the informal American empire if a radical dictator were allowed to undermine U.S. control in Panama. A massive, highly visible military campaign to remove Noriega and restore order was, within this context, the only way to ensure American interests in the region and maintain the image of U.S. vitality.

The development of these circumstances is not explicable solely within the context of Noriega's regime, however. Panama has had a relationship with the United States unique from the experiences of other nations in Latin America. As a strategic crossroads of trade and communication Panama became a focal point of American influence in the region from the moment in 1903 when American and Panamanian elites made a compact to build the Canal.

GUNSHIP INDEPENDENCE

At the beginning of the 20th century, naval power was central to a nation's domestic security and international strength in much the same way that air dominance rose to importance during World War II. The Monroe Doctrine in the 19th century had established Latin America as an American protectorate and undercut the potential for colonial reengagement in the Western hemisphere by European powers. In constructing the

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[1] John Weeks and Phil Gunson, *Panama: Made in the USA* (London: Latin America Bureau, 1991), 65.
[2] Frederick Kempe, *Divorcing the Dictator: America's Bungled Affair With Noriega* (New York: Putnam, 1990), 75.

infrastructure through which the U.S. would administrate its new 'informal empire,' naval accessibility thus became key to regional security and the attainment of American interests in Latin America.[3]   The United States under President Teddy Roosevelt, therefore, set about taking over the failed French effort to link the Atlantic and Pacific Oceans via a canal through the narrow isthmus connecting Central and South America.

When negotiations to lease the territory fell through with the Colombian government, of which present day Panama was a part, Roosevelt engaged in one of the boldest American interventions to date. He assured the leaders of the Panamanian independence movement that the United States Navy would support their ambitions to separate from Colombia in exchange for heavy concessions to the American canal building effort.[4]   With several U.S. gunships anchored off the coast of Panama the central Colombian government was obliged to grant independence. The Canal construction moved forward as planned. Roosevelt later recalled,

> By far the most important action I took in foreign affairs during the time I was President related to the Panama Canal. We gave to the people of Panama self-government, and freed them from subjection to alien oppressors.[5]

This perception is ironic in considering that from the time that this new Republic of Panama was established, its development has been inexorably linked to the ambitions of the United States.   These ambitions were at first realized through control over the Panamanian political and economic oligarchs who had emerged as an elite class based on the commercial importance of Panama during the Spanish colonial era.[6]   However, as an emerging nationalist movement later calling itself the Panameñistas challenged these elites for allowing the subversion of Panama's sovereignty by American interests in the Canal and the region, the U.S. was forced to take various pragmatic and often ugly means of maintaining its influence.

DEVELOPING NATIONALISM

Close collaboration between successive Panamanian governments and the U.S. gave rise to a sentiment of mistrust towards America. The people of Panama felt that the sovereignty ostensibly gained from their independence movement had been quickly eroded by the intractable presence of the U.S.[7]   As this narrative of oppression emerged; a resistance formed which had numerous permutations throughout the early 20th century. The Cocoa Grove riots of 1912, towards the end of the construction process, were an early indicator of this anti-American atmosphere. Where the drunken festivities of U.S. soldiers during the 4th of July celebrations in Panama City touched off fighting with the National Police, the incident escalated into rioting when the locals responded in kind.[8]

By the late 1920s a massive trade deficit with the United States and a growing economic downturn in Panama had exacerbated general frustrations with the ruling

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[3] Russel Crandall, *Gunboat Democracy: US Interventions in the Dominican Republic, Grenada, and Panama* (Lantham: Rowman & Littlefield Publishers, 2006), 176.

[4] Michael L. Conniff, *Panama and the United States: The Forced Alliance* (Athens: University of Georgia Press, 2001), 68.

[5] Peter M. Sánchez, *Panama Lost? U.S. Hegemony, Democracy, and the Canal* (Gainesville: University Press of Florida, 2007), 50.

[6] *ibid*, 41.

[7] Conniff, 105.

[8] Julie Greene, *The Canal Builders: Making America's Empire at the Panama Canal* (New York: Penguin Press, 2009), 304.

oligarchy and their consistent acquiescence to American interests over those of the people.[9] Two community leaders in particular, the Arias brothers, Arnulfo and Harmodio, were central to the ultimately radical expression of these dissatisfactions. Having been educated abroad in the United States, they perceived the corruption and hypocrisy of the Panamanian elites as an intolerable submission to foreign authority and set about leading the emerging nationalist group Acción Comunal to stage Panama's first coup d'état in 1931. Open elections followed in 1932 and Harmodio, who had become acting President, was officially elected. The Panameñistas were supplemented, meanwhile, by the changing nature of the Guardia Nacional, which had replaced the National Police. The oligarchs and the United States, both of whom had taken active roles in regulating the Police during the Canal project, began losing control over the institution and its autonomy increased as it became an instrument of the nationalist movement under the new denomination, National Guard.[10] It also adopted a more militarized structure and recruited officers with formal military training.

Harmodio's brother Arnulfo was elected President in 1940 and adopted an extreme reform agenda. By 1941 his anti-American rhetoric and obstinate refusal of U.S. security interests were perceived as a grave threat to the security of the Canal, circumstances which could not be allowed to persist given the attractiveness of control in the region to the emerging Nazi threat. The opportunity to support a domestic coup arose when Arias attempted to create a National Secret Police and Guardia leader José Remón conspired to remove him from power aided by U.S. intelligence.[11] Arias' replacement, Ricardo de la Guardia, quickly conceded to American demands for increased militarization in Panama. Following the war Arias was once more elected in 1949 and again deposed in a coup for attempting to suspend the constitution of Panama and reinitiate his Secret Police. This pattern is significant in that it represents the growing power of non-civilian institutions, most notably the Guardia. As the military grew in power they gradually subsumed the civilian government; where the United States' interests were aligned with those of the Guardia they supported this shift away from the democratic model and towards military autocracy.[12]

DICTATORSHIP

Arias assumed the Presidency for a third time in 1968; without acceding to the interests of the traditional oligarchy, the Guardia Nacional, and the United States. However, he was removed from power by a military coup this time after only ten days. Despite the periodic insertion of a figurehead President, the commander of the Guardia, Omar Torrijos, became the de facto leader of the country following the 1968 coup and from this point forward.[13] Manuel Noriega assumed the post of Chief of Military Intelligence and acted as Torrijos' right-hand man. The coup of 1968 marked the end of civilian government until after the U.S. invasion in 1989.

Torrijos satisfied the traditional oligarchy with their loss of political leadership by increasing their economic capacities: he passed banking reform that "made Panama the Switzerland of Latin America."[14] Intense secrecy in banking attracted all forms of money laundering as Panama became a tax haven for corporations and a shelter for the profits of

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[9] Sánchez, 93-94.
[10] *ibid*, 99.
[11] Conniff, 93.
[12] Sanchez, 143.
[13] John Dinges, *Our Man In Panama: The Shrewd Rise and Brutal Fall of Manuel Noriega* (New York: Times Books/Random House, 1991), 43.
[14] Kempe, 74.

illicit activities, most notably drug trafficking. Its proximity to the cocaine production hub of Colombia worsened both the appearance and incidence of corruption. The United States, meanwhile, initially supported the banking reform as a development strategy. With the accession of President Nixon in 1968, however, the 'War on Drugs' became a national obsession to rival the anticommunist agenda that was central to U.S. foreign policy in Latin America through the 1950s and 60s.[15] Torrijo and Noriega as his point man became targets of American intelligence agencies, during which time various strategies were considered from legal prosecution to misinformation campaigns, and even assassination.[16]

While the populist Torrijo attempted to create a Panamanian welfare system and renegotiate the rights of ownership to the Canal, Noriega played the pragmatist in working with the U.S. anti-drug and anti-communist efforts, enforcing the dictatorial elements of the Panamanian Junta, and cultivating favours.[17] He simultaneously coordinated with Colombian drug cartels and leftist movements in the region, such that by the time he seized power in 1983 he had acquired a reputation as a brilliant and Machiavellian criminal operator, willing to play all sides against each other for his own gain.

NORIEGA

General Noriega has had a long and controversial relationship with the Unites States. A pragmatic and shrewd military man, he was able for decades to manipulate various factions with regional interests to achieve his own ends. He cooperated with the American security apparatus, most notably having been an official, paid CIA contact during much of U.S. involvement in the politics of the region from the late 1960s onward.[18] His anticommunist rhetoric earned him the support of the United States when it sought to undercut Soviet influence in Latin America through the containment of socialist movements. Similarly, his complicity in drug trafficking during the late 1960s was overlooked when he conducted an ostensible show of rooting out drug producers and smugglers.[19]

These machinations were carried out within the context of intense regional intrigue, however; Noriega conversely engaged with the Colombian drug cartels, most notably the Medellin Cartel headed by Pablo Escobar that American intelligence agencies sought to eliminate.[20] Panama acted as both a financial shelter for the profits of these illicit ventures and a central hub for the export and smuggling of drugs from the rest of Latin America to the United States where the majority of the industry's consumer base existed.[21] He maintained American support under the guise of an ally in the 'War on Drugs' while concurrently enriching himself and the Panamanian Junta with drug profits.

The anticommunist interventions of the United States continued in Latin America during the phase of détente through the 1970s. From financial support of counterrevolutionary dictators to the staging of coups where a national leader listed towards socialist tendencies, the American security apparatus continued the policy of containment as a means of both undercutting Soviet influence and maintaining a direct influence over the politics and economy of Latin America. Noriega similarly manipulated this agenda by ostensibly maintaining support towards the Sandanista National Liberation Front, a socialist party in nearby Nicaragua, as Torrijos' chief of operations for

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[15] *ibid*, 74-75.
[16] Dinges, 64.
[17] Kempe, 81.
[18] Sanchez, 161.
[19] Dinges, 128.
[20] *ibid*, 133.
[21] Kempe, 77.

Panamanian assistance of the guerrillas.[22] He simultaneously acted as an intermediary for clandestine American support of the brutal opposition to the Sandanistas, the Contras.[23]

Hugo Spadafora, a native Panamanian doctor, had been a famous guerrilla fighter in Guinea-Bissau and attained a level of heroic celebrity based on his book detailing his experiences. He had returned to Panama in opposition to Torrijos' regime but eventually acceded to the cause based on Torrijos' attractive leftist populism, becoming health minister. Very early on Spadafora became a vocal opponent of Noriega; in 1976 he had formed a group of Panamanian guerrillas to assist the cause of the Sandanistas in their fight against the authoritarianism of Anastasio Somoza. Upon later hearing of Noriega's complicity in the American support of Contra death squads, Spadafora became a vocal opponent of the regime once more. He accused Noriega of trafficking arms and drugs, and of using a secret intelligence base to blackmail Panamanian and foreign nationals. The rivalry troubled Torrijos, who upon meeting with Spadafora in 1981 received a dire warning: "Omar," he said, "You have to be very careful with Noriega… Noriega is controlling you. Noriega is involved with drugs. Noriega is trafficking in arms. Noriega is going to kill you."[24]

Within the year, a mysterious plane crash blamed variously on the United States by some and on Noriega by others had killed Torrijos. Spadafora, convinced of Noriega's guilt, railed against the new dictator when he assumed Torrijos' position in 1983 following a power struggle. He continually voiced his dissent for Noriega's repressive policies and involvement in illegal arms and drug trade, publicly denouncing his illicit activities:

> … it is cause for national shame that an international trafficker is travelling around the world as our representative… Noriega is the main person responsible for the pressure, the intrigues, the deals, and the schemes – in a word, the corruption – which impedes democracy in this country.[25]

In 1985 Spadafora was found stuffed in a U.S. mailbag near the Costa Rican border, decapitated and badly tortured. To many, Noriega's complicity in the murder was evident. It sparked a national outrage and Spadafora became a martyr for the anti-Noriega cause in Panama; several coup attempts following the incident prompted Noriega to remove the last vestiges of constitutional rule and declare himself the 'maximum leader' of Panama in 1989. Meanwhile the American security establishment overlooked his oppressive tactics and even the fraudulent nature of the Barletta Presidential election where Arnulfo Arias, then 83 years old, was again blocked from victory by military intervention under Noriega's order.[26]

THE MACHO ROADBLOCK

Fearing another coup, Noriega had surrounded his headquarters in Panama city with a loyal guard of recruits from the *Macho del Monte* or 'macho men of the mountains,' guerilla fighters who had trained in jungle combat with the Cubans.[27] When four American marines inadvertently ended up stopped at a roadblock set up by these guards on their way back to the American-controlled Canal Zone on the evening of December 16, 1989, they were viewed with intense suspicion. According to the marines, the keyed-up 'macho men'

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[22] *ibid*, 127.
[23] Sanchez, 163.
[24] Kempe, 128.
[25] *ibid*, 130.
[26] Frederick Kempe, "The Panama Debacle," in *Conflict Resolution and Democratization in Panama*: *Implications for U.S. Policy*, ed. Eva Loser (Washington, D.C: Center for Strategic and International Studies, 1992), 6.
[27] Kempe, *Divorcing the Dictator*, 8.

began shouting threats and Captain Richard Haddad, who was driving, "put the pedal to the metal to get the hell out of there," driving straight through the barricade.[28] Noriega's men opened fire on the car, injuring Haddad and killing Lieutenant Robert Paz, a passenger. The guards manning the roadblock evicted an American couple who had witnessed the episode from their vehicle, severely beating the man and threatening his wife with sexual abuse.

President George Bush Sr. recounted these events on December 20th in an address to the nation:

> Last Friday, Noriega declared his military dictatorship to be in a state of war with the US, and publicly threatened the lives of Americans in Panama. The very next day, forces under his command shot and killed an unarmed American serviceman, wounded another, arrested and brutally beat a third American serviceman, and then brutally interrogated his wife… That was enough.[29]

Declaring his intent to send United States army personnel and invade Panama, the President cited four causes of action: to safeguard the lives of US citizens; to defend democracy in Panama; to combat drug trafficking; and to protect the integrity of the 1977 Panama Canal Treaties.[30] It is not the purpose of this essay to refute or undermine the causes for invasion, or conversely to defend the incidents of violence that sparked the action. The deterioration of U.S.-Panama relations that ultimately culminated in outright invasion can instead be seen in the context of the history between these two nations as early as the ascent of a military junta and the subversion of popular democracy. In this sense the United States had allowed the seeds of declining legitimacy for both American and Panamanian governments in the region to be sewn by its involvement, or conversely ignorance, during the rise of militarism. It had supported Noriega to this point based on the achievement of short-term goals, most notably his complicity in the secret U.S. war against the Sandanistas, which had protected him from repercussions within the American intelligence community.

'JUST CAUSE'

The constitution of Panama does not allow the extradition of its citizens. By reacting to the violence of Noriega's troops with an invasion the United States had very little substantive basis in international law.[31] The legacy of unilateralism in Latin America was well established by this point, however; incidences of U.S.-supported coups abound throughout the history of Latin America in the 20th century in such cases as Chile and Guatemala. The ultimate goal of Operation 'Just Cause,' however, was highly specific given its sweeping mandate and overwhelming displays of force: to capture and deport Noriega for trial in the United States. "It would be the largest U.S. invasion ever to be targeted so exclusively at one man."[32] Deteriorating domestic stability and growing authoritarian repression under Noriega following the Spadafora murder began to threaten both American lives in the region and the security of U.S. assets in the Canal Zone. American courts in Florida had brought drug trafficking cases against Noriega personally for his complicity with the Colombian cartels. Upon the outbreak of violence with

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[28] *ibid*, 8.
[29] Weeks and Gunson, 12.
[30] *ibid*, 12.
[31] Weeks and Gunson, 12.
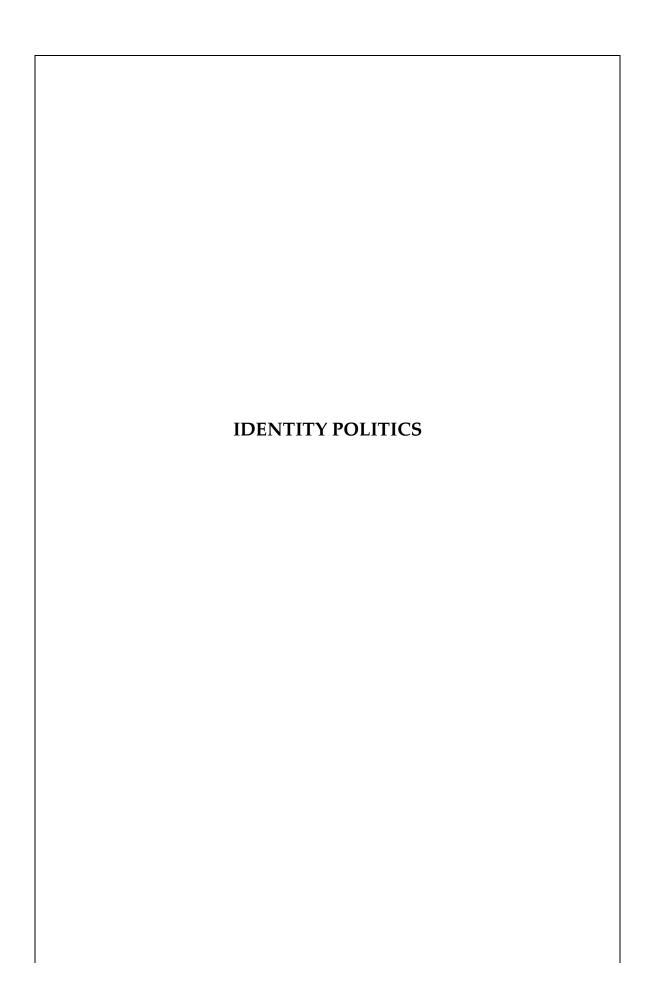[32] Kempe, *Divorcing the Dictator*, 9.

Noriega's guard, the United States moved forward an invasion that had already been planned for January 1, 1990.[33]

The invasion was preordained by a variety of factors discussed in this essay. First, the United States had a long-standing vested interest in assuring the security of their hold on the Canal Zone, which according to the Carter-Torrijos treaties was not set to expire for another ten years. Second, the negative public perceptions within America of U.S. ties to Noriega were undermining the interests of the security apparatus; his evident involvement with illicit trafficking was becoming too high profile. Further, though the degrading relationship between the Noriega regime and the United States was central to the decision to invade, overarching ideological tensions between the U.S. and Soviet Union during the period of 1945 until 1990 also played a role in forming the American reaction.

Despite the symbolic fall of the Berlin Wall in 1989, the curtain of secrecy surrounding the domestic politics of the U.S.S.R. had largely prevented outside observers from seeing the internal divisiveness that led to its collapse in 1990. Thus during the 1980s the perception of a bipolar power distribution was still very much alive in the international consciousness and the foreign policy of the United States. However, the clandestine intervention of earlier years was also giving way to a more outwardly acceptable form of U.S. entrenchment in the region with the rise of development aid programs legitimized internationally through institutions such as the International Monetary Fund and the World Bank. It became a growing international liability to have public ties to a dictator and as the United States modeled itself as a force for democratization and economic liberalization the unstable Noriega regime presented more of a risk than an asset.

The invasion itself was massively successful by traditional American standards: it succeeded in removing Noriega from power with minimal U.S. casualties. The issue now, however, concerns the viability of a Panamanian government operating under a legitimacy constructed by foreigners. As had been evident throughout the history of Panama since the original United States intervention of 1903, the sublimation of Panamanian interests to achieve U.S. interests can be seen in terms of undermining the tenuous steps towards democracy that a post-invasion America was attempting to promote. Where foreigners collaborated too closely with the oligarchy, a nationalist movement arose to challenge them. As nationalism gave way to militarism, the United States turned a blind eye to the rise of dictatorship. When that dictatorship contradicted the interests of the United States it once again reinitiated the legacy of military intervention to remove Noriega. The development of paramount concern within a post-Cold War world system in Panama is the potential for a legitimate democracy to be constructed on the same foundations of foreign involvement as had failed so spectacularly in the past.

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[33] Weeks and Gunson, 15.

IDENTITY POLITICS

Thinly Veiled: A Literature Survey on the History of Women's Rights in Afghanistan and the Debate on How to Move Forward

By Bayly Guslits

In Afghanistan, women's rights have not progressed linearly, but rather have vacillated between total oppression and near-equality, depending on the forces in power. Women's constitutional rights, while sometimes strong on paper, have been difficult to enforce at the ground level. This is especially true in rural areas, both because of longstanding traditions and the fear that extremists may regain power at any moment. Recent scholarship favors the argument that successful reconstruction of Afghanistan can only occur when women and Afghan culture are incorporated in reforms with an emphasis on education, health and safety. This paper will summarize various positions on the history of Afghan women and how academics propose to improve the current status of women. It will demonstrate that the dichotomies between rural and urban Afghan women, and between the legislative rights of women and their actual situation paint divergent pictures of the conditions and influence how they are addressed.

When Islam first emerged about 1400 years ago, it was a revolutionary force for empowering women. Islam provided opportunities for women, such as education, in a period and region that predominantly viewed the birth of a female child as a disgrace.[1] Sanaa Nadim explains that there were many important female figures in the *Qur'an* and Islamic law (*Shari'a*) gave women the right to refuse marriage or seek divorce from abusive husbands.[2] According to Nadim, the restriction of the rights of Afghan women has been the result of deliberate misinterpretation of the text by rulers with corrupt agendas.

Some Afghan rulers, however, have chosen to use *Shari'a* to improve the lives of women. From 1880-1901, Amir Abd al Rahman Khan issued a series of legislative reforms, based on *Shari'a*, which included rulings forbidding child marriages and forced marriages, as well as divorce rights for women and inheritance rights for widows.[3] King Amanullah (1919-1929) began an "extensive reform program" advancing the rights of women, which included public awareness campaigns and legislative reforms, however he was forced to abdicate by conservative opponents.[4] Carol Riphenburg claims that in the following years, all of the advancements for women's rights since the 19th century were undone, with the next wave of reforms not occurring until the 1960s. Arline Lederman disagrees, however, and argues that from the 1930s to the 1970s men and women were in fact equal in the view of the regime of Muhammad Zahir Shah, but that there was a "lag" between legislation and its enactment in society.[5] Lederman explains that this is not a phenomenon exclusive to Afghanistan, given that the implementation of reforms takes time.

In the early 1960s, the *loya jirga* (representative council of leaders), which included female delegates, deliberated over the formation of a new constitution and debated

[1]Sanaa Nadim, *Women and Equality in Islam*, in *Women For Afghan Women*, ed. Sunita Mehta (New York: Palgrave Macmillan, 2002), 37

[2]Ibid., 38.

[3]Carol J. Riphenburg, "Post-Taliban Afghanistan: Changed Outlook for Women," *Asian Survey* 44.3 (2004): 410, *JSTOR*, www.jstor.org

[4]Ibid., 410.

[5]Arline Lederman, *The Zan of Afghanistan: A 35-Year Perspective on Women in Afghanistan*, in *Women For Afghan Women*, ed. Sunita Mehta (New York: Palgrave Macmillan, 2002), 48.

women's rights at length, resulting in Afghan women being given the right to vote.[6] Fahima Vorgetts attributes the progress for women's rights in the 1964 constitution to the fact that it called for a democratic process and, while it recognized Islam as the sacred religion of Afghanistan, it declared that "the secular legal system would take precedence over *Shari'a*."[7] The republican government of President Muhammad Daoud from 1973 to 1978 raised the legislative rights of women to an unprecedented level with the enactment of such provisions as a "conclusive matrimonial code" in 1977.[8] By 1977, women also comprised 15% of Afghanistan's highest legislative body.[9]

Under the subsequent communist and Revolutionary Council regimes from 1978-1989, Afghan women became increasingly visible in the workforce. In Kabul, women comprised 70% of the schoolteachers, 50% of the civil service, and 40% of the doctors.[10] Lederman points out, however, that although this high rate of female employment existed in Kabul, this was not the case for rural populations, which tended still to be primarily male-dominant. Elaheh Rostami-Povey, an expert on gender issues in Iran and Afghanistan, adds that only a minority of women enjoyed meaningful employment because the emancipatory process favored urban areas and specific ethnicities and classes.[11] Lederman also argues that the Soviet invasion in 1979 and subsequent violent conflict further disenfranchised rural women. Similarly, Riphenburg says that under the communists, the weak state and lack of economic development "resulted in inequality and a low status for women" for the rural majority of the country.[12]

Two million Afghans died in the fight against the Soviet invasion and millions more were displaced by the civil war in the early 1990s. Healthcare and educational institutions were decimated by the violence. Orphans, widows and refugees were rendered helpless to the seven warring sects of the *Mujahidin*, which were all vying for control of the country. According to Riphenburg, these competing forces attempted to assert their dominance by claiming to be the most religious faction. They believed the most visible and effective means of asserting control was through violence and rulings to control the status and mobility of women.[13] The civil war raged on until 1996 when the Taliban emerged as the dominant force.

At the beginning of the Taliban regime, some Afghans were hopeful that they would restore order and stability to the country by disarming the militant factions. Rostami-Povey believes that the Taliban imposed "relative peace and security" because they were able to disarm the population and control the production of opium.[14] She points out, however, that the Taliban's rule resulted in the restriction of employment and education for women, especially in the cities. Sally Armstrong explains that many Afghans were "willing to sacrifice the human rights of women and girls to gain peace."[15] The Taliban also instituted *al-Amr bi-al-ma.ruf wa-al-nahy an almunkar* (the promotion of virtue and prevention of vice), which limited the mobility of women by forcing them to wear the *chadari* (or *burqa*)

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[6]Ibid., 49.

[7]Fahima Vorgetts, *A Vision of Justice, Equality, and Peace*, in *Women For Afghan Women*, ed. Sunita Mehta (New York: Palgrave Macmillan, 2002), 95.

[8]Riphenburg, 411.

[9]Lederman, 47.

[10]Ibid., 47.

[11]Elaheh Rostami-Povey, *Afghan Women: Identity and Invasion* (New York: Zed Books, 2007),11.

[12]Riphenburg, 402.

[13]Ibid., 411.

[14]Rostami-Povey, 23-24.

[15]Sally Armstrong, *Veiled Threat: The Hidden Power of the Women of Afghanistan* (Toronto: Penguin, 2002), 8.

and always be accompanied by a male relative when in public (*mahram*).[16] Education of girls was restricted and the education of boys greatly decreased because the majority of schoolteachers were female and no longer allowed to work. The resilient women of Afghanistan found several ways to subvert these restrictions, such as hiring men to act as their *mahram* or founding underground schools and social organizations. The presence of such networks during the civil war and Taliban eras is a testament to the power of Afghan women. These networks, while dangerous, are a crucial element in the empowerment of women and in the development of a strong civil society.[17]

The Taliban justified restrictions to women's mobility and education by claiming that these initiatives would facilitate the reconstruction of the country and would protect women. In a report from spring 2001, the Taliban explained that, during the Soviet and civil war periods, women were frequently violated by gunmen and warlords; thus, the requirements of *chadari* and *mahram* would allow women to leave their homes safely, without fear of being kidnapped or raped.[18] The Taliban asserted that the *chadari* is a fundamental Islamic principle and meant to protect women's honor, dignity and safety. In contrast, according to other interpretations, while the Qur'an specifies modesty in both male and female dress, it does not require women's faces to be covered.[19]

This report also says that the Taliban encouraged women to remain in their homes not to restrict their rights, but rather to help "revive the Afghan family and household" which they believe was destroyed by the communists.[20] The report assured the people of Afghanistan that the Taliban government considers education for men and women to be a pillar of Islam; however, it recognized that it would take time and resources to restore these institutions after the devastation of war and subsequent "brain-drain" of the educated members of the country.[21] Ultimately, the document claims that the Islamic Emirate of Afghanistan was committed to improving the economic and social status of women.

The argument commonly made against these policies is that the thin veil of the *chadari* erected a wall of silence in the Taliban's assertion of power. Women's visible bruises and fear were kept out of sight by the flowing fabric. Armstrong points out that, while the Taliban used religion and honor to impose rules on women allegedly for their own safety, the religious police would brutally beat women for minor violations. For instance, a newlywed woman still sporting polished nails from her wedding was severely beaten and had her fingertips cut off by the religious police.[22] Armstrong also points out that the Taliban instituted restrictions on male dress as well, and any man found breaking these rules, such as wearing western attire or being clean-shaven, would be physically disciplined.

Under the Taliban, the availability of healthcare for women was greatly diminished by the policies dictating that women could not travel without a male relative, that male doctors could not see or touch a woman's body and that female doctors were no longer permitted to

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[16]Rose L. Lindgren, "When Foreign Intervention is Justified: Women Under the Taliban," *The Humanist* 62.4 (2002): 21, *Scholar's Portal*, scholarsportal.info.

[17]Njoki Njoroge Njehu, "Women and Sustainable Development: A Case Study of the Green Belt Movement of Kenya," *Population and Environment* 18.2 (1996): 220, *JSTOR*, www.jstor.org.

[18] Islam Awareness, "The Taliban and Women: Lifting the Veil of Propaganda," edited version of a Taliban report acquired by Jamiat ul Ulema, 18 June 2001, http://www.islamawareness.net/Asia/ Afghanistan/ woman.html (accessed December 18, 2009).

[19]Lederman, 51.

[20]Islam Awareness.

[21]Ibid.

[22]Armstrong, 4.

work. There was only one gynecologist in southern Afghanistan, and he was not permitted to do internal examinations or provide family planning services.[23] The lack of medical care for women has led to Afghanistan's placement among the highest in the world for maternal death rates and infant mortality.

Most academics agree that the United States government utilized the plight of Afghan women as part of their justification for invading the country and toppling the Taliban. They disagree, however, on whether improving human rights was a true incentive for the intervention by Western forces and, if so, if it was it the best method. In the early days of the US-led war in Afghanistan, the American media focused its attention on the tragedy of Afghan women forced to wear the *chadari*. Ellen McLarney explains that the documentary, *Beneath the Veil*, was strategically broadcast on the BBC and CNN to gain popular approval in the West for intervening in Afghanistan in the name of women's rights.[24] The pierce was shown on October 6, 2001, coinciding with the release of the US State Department's "Report on the Taliban's War Against Women."[25] Nesrine Malik agrees that the West turned the *chadari* into the symbol of the Taliban oppression, citing examples such as the November 17, 2001 address to the nation by First Lady Laura Bush dedicated to the "the plight of women in Afghanistan and their inability to wear nail varnish or high heels" and Cherie Blair's comment that "nothing more symbolizes the oppression of women than the *burqa*."[26] Rostami-Povey argues that the suffering of Afghan women was a mere front for the strategic agenda of the US, and Malik agrees "victimized women became to Afghanistan what weapons of mass destruction were to Iraq."[27]

In contrast, Angela King and Sima Wali explain that the post-September 11 attention on Afghanistan has brought the plight of the country's women to the international agenda after it had been ignored for decades.[28] Riffat Hassan similarly believes that the military intervention of Western forces has led to the liberation of Afghan women and that, without these actions, "Afghan women […] would have continued to live and die in horrific conditions under Taliban rule."[29] However, Rostami-Povey and several others contend that, in fact, even after the fall of the Taliban and establishment of a new government, women of Afghanistan are still facing patriarchal oppression, a lack of personal and economic security, and on top of that, "their culture [is] under attack from an alien regime."[30] Riphenburg clarifies that the consequences of the removal of the Taliban and subsequent government headed by Hamid Karzai have been mixed for women, especially when comparing rural and urban areas. For example, in Kabul women shed the *chadari*, returned to school and are now able to obtain driver's licenses and can seek meaningful employment—but, this has not been the case for the 80% of women who live in rural locales.[31] Supporters of the US-led intervention point to the advances in women's rights, such as the guarantee for female delegates to 25% of the seats in the Afghan parliament.

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[23]Riphenburg, 414.

[24]Ellen McLarney, "The Burqa in Vogue: Fashioning Afghanistan," *Journal of Middle East Women's Studies* 5.9 (2009): 3, *Scholar's Portal*, scholarsportal.info

[25]Ibid., 3.

[26]Nesrine Malik, "The Great Betrayal," *New Statesman* 138.4962 (2009): 27, *Scholar's Portal*, scholarsportal.info.

[27]Ibid., 27.

[28]Sima Wali, *Afghanistan: Truth and Mythology*, in *Women For Afghan Women*, ed. Sunita Mehta (New York: Palgrave Macmillan, 2002), 8.

[29]Riffat Hassan, *Muslim Women's Rights*, in *Women For Afghan Women*, ed. Sunita Mehta (New York: Palgrave Macmillan, 2002), 137.

[30]Rostami-Povey, 1.

[31]Riphenburg, 401.

However, some authors, such as Rostami-Povey, argue that the female members of parliament face intimidation and violence and are largely silenced in the government.[32] Humaira Namati, a senator from the Afghan upper house of parliament, says that in terms of women's rights, Karzai is worse than the Taliban.[33] Malik agrees, citing the example of the August 20, 2009 bill the Afghan President passed legalizing marital rape.[34]

Rostami-Povey warns that the failure of the new democratic regime is increasing popular support for rebel factions and the Taliban insurrection.[35] She also believes that the men in power in Afghanistan now are the former human rights abusers from the civil war and Taliban eras and therefore cannot be entrusted with the responsibility to enforce the law and protect women's rights.[36] Similarly, Weeda Mansoor and the members of the Revolutionary Association of the Women of Afghanistan (RAWA) remain critical of US strategy of supporting the Northern Alliance, which they argue is just as extreme as the Taliban, and the "newest incarnation of the *Jehadi* fighter" making a "mockery of democracy, women's rights, and human rights values."[37]

Recent literature has been highly critical of the form that the reconstruction of Afghanistan is assuming, especially in regards to the rights of women and the ignorance of Westerners towards Afghan culture. Ellen McLarney explains that it was expected in the West that Afghan women would take off their veils and immediately become consumers in the global capitalist economy.[38] While this occurred to some extent in Kabul, many women continued to wear the *chadari* for safety purposes in regions dominated by the ongoing insurrections. King believes that the *chadari* has been the focus when discussing Afghan women's rights because it is a visible form of gendered division; however, the women of Afghanistan consider other forms of discrimination to be much more pressing, such as healthcare, education, and employment.[39]

Rosemarie Skaine believes that the successful, long-term reconstruction of Afghanistan cannot occur by imposing reforms without mechanisms on the ground to ensure their enforcement.[40] Rostami-Povey, Fahima Vorgetts, and Sima Wali agree that emphasis must be placed on strengthening civil society at grass-roots levels by investing in social programs, healthcare and education for boys and girls. Throughout the civil war and Taliban eras, despite ethnic tensions, Afghan women of diverse groups worked together to strengthen their communities and form secret underground schools.[41] The women of Afghanistan are extremely resilient and capable of empowering one another. These authors are also adamant that the rebuilding of the country must be based on Afghan ideas and Afghan culture and implemented by the people of Afghanistan. Otherwise, it will be rejected as Western imperialism and will only fuel further conflict.[42]

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[32]Rostami-Povey, 2.

[33]Malik, 28.

[34]Ibid., 28.

[35]Rostami-Povey, 2.

[36]Ibid., 2-3.

[37]Weeda Mansoor, *The Mission of RAWA*, in *Women For Afghan Women*, ed. Sunita Mehta (New York: Palgrave Macmillan, 2002), 76.

[38]McLarney, 5.

[39]Angela E. V. King, *United Nations and Afghanistan*, in *Women For Afghan Women*, ed. Sunita Mehta (New York: Palgrave Macmillan, 2002), 152.

[40]Rosemarie Skaine, *Women of Afghanistan in the Post-Taliban Era* (Jefferson: McFarland & Company, Inc., 2008), 45.

[41]Rostami-Povey, 6.

[42]Skaine, 154.

Confronting Conventional Wisdom: Wartime Rape and International Security

By Jessica Martin

I. Introduction

It has probably become more dangerous to be a woman than a soldier in an armed conflict.[1]

International security discourse traditionally views wartime rape as a natural by-product of armed conflict, collateral damage so to speak. In the past century it has proliferated, affecting women in every region of the globe. Here are several staggering examples to provide perspective on how endemic wartime rape has become. The war for independence in Bangladesh saw the rape of approximately 200,000 women by Pakistani troops in just nine months.[2] Throughout the Bosnian war, 20,000-50,000 women were raped.[3] During the one hundred days of the Rwandan genocide between 250,000-500,000 women were raped.[4] Since 1998, it is estimated that 200,000 women have been raped in eastern Democratic Republic of Congo (DRC).[5] These statistics represent estimates of the *number of women* raped – not the *number of times* they were raped. Therefore, the amount of devastation is not fully captured.

Wartime rape is one of the most overlooked and ignored aspects of armed conflict. The neglect is caused by the limitations of conventional international security discourse. The consequences of wartime rape speak volumes as to why it should be considered an extremely destructive (yet effective) weapon. When practiced on a widespread and systematic scale, wartime rapes are genocidal in nature, although they may not be intended as such. The proliferation of wartime rape is caused by various factors, the most significant of which is how individuals are shaped by events and ideologies. Numerous recommendations have been proposed to address wartime rape. The most practical are prosecutions and the support of grassroots organizations.

Before a discussion on wartime rape can proceed, a definition of rape is required. There is no universally recognized definition of rape in international law. Proposed definitions vary between and within the International Criminal Tribunals for the Former Yugoslavia (ICTY) and Rwanda (ICTR). The strongest definition comes from the Jean-Paul Akayesu Judgment at the ICTR. The court defined rape as "a physical invasion of

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[1] Major General Patrick Cammaert, former division commander of the United Nations Organization Mission in the Democratic Republic of Congo, quoted in Anne-Marie de Brouwer and Sandra Ka Hon Chu, "The Roots of Sexual Violence in Rwanda," in *The Men Who Killed Me*, ed. Anne-Marie de Brouwer and Sandra Ka Hon Chu (Vancouver: Douglas and McIntyre, 2009), 9.

[2] Ibid., 24; Malaika Rajandran, "Sexual Violence and International Law," *Refugee Survey Quarterly* 23, no.4 (2004), 60; Jonathan Gottschall, "Explaining Wartime Rape," *The Journal of Sex Research* 41, no.2 (2004), 132.

[3] Lene Hansen, "Gender, Nation, Rape," *International Feminist Journal of Politics* 3, no.1 (2001), 56; de Brouwer, and Ka Hon Chu, "The Roots...," 25.

[4] Anne-Marie de Brouwer and Sandra Ka Hon Chu, "Introduction," in *The Men Who Killed Me*, ed. Anne-Marie de Brouwer and Sandra Ka Hon Chu (Vancouver: Douglas and McIntyre, 2009), 3; H. Patricia Hynes, "On the Battlefield of Women's Bodies: An Overview of the Harm of War to Women," *Women's Studies International Forum* 27 (2004), 436.

[5] George Lerner, "Rape a Weapon of War in Congo, Activists say," *CNN*, October 17, 2009, http://www.cnn.com/2009/WORLD/africa/10/16/amanpour.congo.rape.documentary/index.html (accessed 16 November 2009).

a sexual nature, committed on a person under circumstances which are coercive."[6] Often criticized as too broad, the strength of this definition is its inclusive nature. Acts such as forced rape (where civilian men and women are forced to rape other civilians), rape with foreign objects, sexual slavery and forced prostitution are included. When the term 'wartime rape' is employed, it is in reference to any of the above acts committed during an armed conflict.[7]

II. Problem Definition

The view of wartime rape as an unavoidable aspect of warfare has led to its acceptance as an international norm. As a result, it receives little if any international condemnation despite ample knowledge of its existence.[8] The main question lurking behind this general acceptance is *why*?

Discussions of international security are essentially limited to realist discourse. States are the primary actors, national interests are the chief concern and weapons are the "subjects of strategic paradigms."[9] Consequently, analysts cannot see the human cost of state actions. Consideration of the lethal consequences of state actions on human life is seen as illegitimate.[10] Therefore, wartime rape is relegated to the realm of "individual risk," separate and distinct from collective security and outside of the political realm.[11] The major problem with conventional discourse is its utter ignorance of the interconnected nature of individual and collective security. Yes, rape is a crime perpetrated against individuals. However, it has significant implications for the victim's community. During armed conflict, "a raped woman's body is evidence of an assault on her people."[12] The rape of enemy women is then a way to defeat the enemy.[13] The use of wartime rape is directly connected to how armed forces engage in warfare. Rape is a tactic used to further military objectives. Therefore, it is directly connected to international security and violations of it.

Historically speaking, rape has been used to pursue numerous strategic ends. The most frequent is the control of enemy populations. Wartime rapes dehumanize, demoralize and humiliate the victim group. Therefore, it is a tool of power and control used to terrorize populations and ensure their compliance.[14] While an exception to the norm, it is worth noting that the rape of civilians may cause their communities to act on

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[6] Chile Eboe-Osuji, "Rape as Genocide: Some Questions Arising," *Journal of Genocide Research* 9, no.2 (2007), 252-253.

[7] As research in this area is in the early stages of development, there is a lack of information on male victims. Consequently, this paper will focus on female victims. The term 'women' and 'woman' will be used in reference to all female victims, although some are young girls.

[8] Katrina Lee Koo, "Confronting a Disciplinary Blindness: Women, War and Rape in the International Politics of Security," *Australian Journal of Political Science* 37, no.2 (2002), 529, 530; Stephen Lewis, "Forward," in *The Men Who Killed Me*, ed. Anne-Marie de Brouwer and Sandra Ka Hon Chu (Vancouver: Douglas and McIntyre, 2009), 2.

[9] Carol Cohn, "Sex and Death in the Rational World of Defense Intellectuals," *Signs* 12, no.4 (1987), 711; Lee Koo, 531.

[10] Cohn, 711-712.

[11] Ibid., 696, 703, 711-712; Lee Koo, 531; Hansen, 61, 65.

[12] Debra B. Bergoffen, "From Genocide to Justice: Women's Bodies as a Legal Writing Pad," *Feminist Studies* 32, no.1 (2006), 24; Hansen, 60.

[13] Spyros A. Sofos, "Inter-ethnic Violence and Gendered Constructions of Ethnicity in Former Yugoslavia," *Social Identities* 2, no.1 (1996), 85; Bulent Diken and Carsten Bagge Laustsen, "Becoming Abject: Rape as a Weapon of War," *Body and Society* 11, no.1 (2005), 116.

[14] Christoph Schiessl, "An Element of Genocide: Rape, Total War, and International Law in the Twentieth Century," *Journal of Genocide Research* 4, no.2 (2002), 197-200, 208.

feelings of hatred and vengefulness towards the perpetrators.[15] These rare instances have led military planners to recognize that rape can harm their larger strategic interests. For example, Japanese military commanders in Korea and China found that the rape of civilian women by their troops made it more difficult to subdue the populations. To remove the rapes from the public eye, Japanese commanders implemented the "comfort women" system of forced prostitution.[16]

A disturbing trend that has emerged in the past twenty years is the use of rape in attempts to destroy populations. Once armed forces assert control over populations, rape, and fear of it, has been used to cause the mass-exodus of populations during campaigns of ethnic cleansing.[17] The wars in Bosnia and Darfur are perfect examples of this scenario. Rape has also been employed in the commission of genocide. This was undoubtedly the case during the Rwandan genocide as well as the previously mentioned campaigns against populations in Bosnia and Darfur.[18]

III. Possible Consequences

The most compelling evidence supporting the claim that wartime rape is a security concern is the consequences it has on the targeted population. There is considerable variation in the extent and brutality of rapes from conflict to conflict. For example, during the conflicts in Haiti, El Salvador, and Sri Lanka rapes were committed on a very limited scale.[19] Under current international laws these rapes constitute war crimes. In other conflicts, such as those in Bosnia, Rwanda and Darfur, the rapes are much more widespread and systematic.[20] These rapes not only constitute war crimes but crimes against humanity as well. The variation in the extensiveness of wartime rape means that its consequences will differ between cases. While variations make it difficult to generalize about the impacts of wartime rapes, several observations can be made.

In the case of intrastate conflicts, all wartime rapes contribute to the disruption of societal relationships. Pre-conflict bonds of trust are stressed or broken depending on the nature of the conflict and rapes.[21] The result is the creation or enhancement of divisions within and/or between groups.[22] The Bosnian case is an excellent example. Both victims and perpetrators have found it difficult to face each other since the conflict.[23] The often-fractured structure of society after experiences with wartime rape has the potential to inhibit the rebuilding process, which impacts the durability of all peace agreements.

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[15] Gottschall, 132.

[16] Ibid., 132.

[17] Lee Koo, 528; John Hagan, Wenona Rymond-Richmond, and Patricia Parker, "The Criminology of Genocide: The Death and Rape of Darfur," *Criminology* 43, no.3 (2005), 552; Rajandran, 68; Beverly Allen, *Rape Warfare: The Hidden Genocide in Bosnia-Herzegovina and Croatia* (Minneapolis: University of Minnesota Press, 1996), 73.

[18] For more information on the use of rape during these three conflicts please see Allen and Anne-Marie de Brouwer and Sandra Ka Hon Chu ed. *The Men Who Killed Me* (Vancouver: Douglas and McIntyre, 2009) and Hagan, Rymond-Richmond, and Parker in their entirety.

[19] de Brouwer, and Ka Hon Chu, "The Roots…," 24; Elisabeth Jean Wood, "Variation in Sexual Violence during War," *Politics and Society* 34, no.3 (2006), 313-314, 316-317.

[20] Wood, 311-313; de Brouwer, and Ka Hon Chu, "Introduction," 3; Rajandran in its entirety.

[21] The destruction of societal bonds will vary according to whether or not it was an ethnic conflict and how extensive and brutal the rapes were.

[22] Diken, and Laustsen, 112, 114.

[23] Ibid., 112.

The fracturing of relationships often extends to the international sphere after interstate conflicts. The perpetration of wartime rape has the potential to disrupt international relations between victim and perpetrating states. The relations between China and Japan are case in point. Both the "Rape of Nanking" and the issue of "comfort women" plagued relations between these two states for over five decades, until the Japanese government acknowledged the wrongs that its troops committed.[24]

The consequences of wartime rape can also be genocidal in nature. This is not to argue that all wartime rapes should be considered instances of prosecutorial genocide. That finding would require a demonstration of *genocidal intent*, something that is not present in all conflicts. It is to argue that the consequences of wartime rapes are inherently genocidal in nature, regardless of the existence of genocidal intent. For an act to be considered genocidal in nature it must conform to both Raphael Lemkin's original conception of genocide as well as the United Nation's Convention on the Prevention and Punishment of the Crime of Genocide (the Convention). Lemkin defines genocide as

> "A coordinated plan of different actions aiming at the destruction of essential foundations of life of different groups…The objectives of such a plan would be the disintegration of the political and social institutions of culture, language, national feelings, religion and the economic existence of national groups and the destruction of personal security, liberty, health, dignity and even lives of the individuals belonging to such groups."[25]

Acts that are genocidal in nature should be seen as involving the "social death" of groups, not necessarily their physical annihilation.[26] Therefore, consequences of wartime rape conform to Lemkin's definition. The consequences of wartime rape also conform to several of the actions that constitute genocide as per the Convention. The Convention defines genocide as:

"Any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

> (a) Killing members of the group;
> (b) Causing serious bodily or mental harm to members of the group;
> (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
> (d) Imposing measures intended to prevent births within the group;
> (e) Forcibly transferring children of the group to another group."[27]

Rape, a physical invasion of the body, is undoubtedly a form of physical harm. Internal injuries caused by rape are common, however the extent will vary according to how young the victim is, how many times she is raped, and whether or not foreign objects were used. Typical injuries include tearing, bleeding, inflammation and infections. Where wartime rapes are especially brutal (such as those in eastern DRC), gynecologic fistula (a tear in the wall between a woman's vagina and bladder and/or

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[24] Lee Koo, 533. A copy of the Japanese Prime Minister's statement to surviving comfort women in 2001 can be viewed at Ministry of Foreign Affairs of Japan, *Letter from Prime Minister Junichiro Koizumi to the Former Comfort Women*, 2001, http://www.mofa.go.jp/policy/women/fund/pmletter.html (accessed 3 December 2009).

[25] Bergoffen, 21.

[26] Ibid. Bergoffen derives the term 'social death' from her analysis of Claudia Card's work.

[27] J. Paul Martin, ed., *25+ Human Rights Documents* (New York: Center for the Study of Human Rights, Columbia University, 2005), 34.

rectum) and other traumatic genital injuries are the norm.[28] When left untreated, these injuries severely diminish the victim's ability to lead a normal life and often contribute to her death.[29] More often than not wartime rapes are accompanied by physical abuse. These abuses include beatings, mutilations, and amputations that leave victims disfigured and maimed and constitute another form of physical harm.[30] The long-term health problems that emerge from both internal and external injuries include chronic migraines, back aches, stomach pains, genital pain and bleeding as well as complications due to any infections or surgeries.[31]

Wartime rapes also contribute to the spread of sexually transmitted infections (STIs) and diseases (STDs), the most common of which are syphilis, gonorrhea, and Chlamydia.[32] STIs increase the likelihood that the victim will develop Pelvic Inflammatory Disease, which can cause blindness, cancer and death.[33] Wartime rapes also raise concern over the spread of HIV/AIDS. It is estimated that seventy percent of wartime rape survivors in Rwanda are now HIV positive.[34] The spread of such ailments means that the devastation of wartime rape will be long term, fatal and will possibly affect future generations.[35]

In addition to physical harm, wartime rapes cause extensive psychological trauma. The vast majority of victims suffer from some form of Post-Traumatic Stress Disorder (PTSD).[36] PTSD is an "anxiety disorder associated with serious traumatic events."[37] It has numerous characteristics: the most serious include survivor guilt, reliving the trauma and a "lack of involvement with reality."[38] Members of the victim's community also suffer from wartime rape-induced PTSD as they are often forced to watch the rape occur.[39] The severity of PTSD and traumatization in general will vary from conflict to conflict as well as between individuals within a conflict. Its severity and prevalence within a society will directly impact the society's ability to move forward and rebuild after the conflict.

An interesting psychological effect of wartime rape is the self-hate that many victims experience. Likely related to the survivor guilt typical of PTSD, self-hate should be considered a unique form of depression that may lead to suicidal tendencies. After

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[28] For further information on the life-changing consequences of these injuries please see Ahuka Ona Longombe, Kasereka Masumbuko Claude, and Joseph Ruminjoc, "Fistula and Traumatic Genital Injury from Sexual Violence in a Conflict Setting in Eastern Congo: Case Studies," *Reproductive Health Matters* 16, no.31 (2008).

[29] Rajandran, 66, 67.

[30] Ibid., 66.

[31] Adela Mukamusonera, "Untitled," in *The Men Who Killed Me*, ed. Anne-Marie de Brouwer and Sandra Ka Hon Chu (Vancouver: Douglas and McIntyre, 2009), 62; Pascasie Mukasakindi, "Untitled," in *The Men Who Killed Me*, ed. Anne-Marie de Brouwer and Sandra Ka Hon Chu (Vancouver: Douglas and McIntyre, 2009), 76; Longombe, Claude, and Ruminjoc, 134-6, 139.

[32] Doctors Without Borders, *Democratic Republic of Congo: Rape as a Weapon in North Kivu*, July 19, 2006, http://doctorswithoutborders.org/news/article.cfm?id=1836 (accessed 16 November 2009).

[33] Rajandran, 67

[34] de Brouwer, and Ka Hon Chu, "Introduction," 4-5.

[35] For an overview on the long-term effects of the spread of HIV/AIDS please see Sherrie L. Russell-Brown, "Rape as an Act of Genocide," *Berkeley Journal of International Law* 21, no.350 (2003), 354.

[36] Rajandran, 67.

[37] Princeton University, "PTSD," *WordNet*, http://wordnetweb.princeton.edu/perl/webwn?s=ptsd (accessed 2 December 2009).

[38] Ibid.

[39] Bergoffen, 26.

being raped, victims often consider themselves "dirty" and morally inferior beings.[40] An excellent example of self-hate can be drawn from the testimony of a Rwandan rape victim: "I hated myself and considered myself less than a human being. I thought that those who had died were in a better position than I."[41]

Another layer of mental harm induced by wartime rape is the stigmatization surrounding victims. In peace or war, rape victims are devalued by their societies.[42] Devaluation inevitably impacts the way victims interact with their community as well as how they perceive themselves. Depending on the characteristics of the victim's society, the consequences of stigmatization can range from marginalization to outright rejection by their community.[43] When combined with PTSD and self-hate, stigmatization places undue stress on the mental health of victims and increases the chances of complete mental deterioration.[44]

An additional genocidal consequence of wartime rape is the prevention of births within the victim's community. The stigmatization that accompanies rape can result in the ostracization of victims from their community.[45] Unmarried victims have a particularly difficult time as they are considered "spoiled" and no longer marriage material.[46] The status of victims as "undesirable" combined with non-acceptance by their community reduces the likelihood that they will be able to reproduce *within* their group. If victims are accepted by their community, the damage to their reproductive systems often render them infertile or unable to carry a child to full term.[47] Therefore, wartime rape acts as a deterrent to the reproduction of the victim's group.[48]

IV. Probable Causes

Research into the causes of wartime rape has received increasing attention in the past two decades. The result is an increasingly clear picture of why rape is perpetrated during war. This paper is not arguing that all of the following factors must be present in order for wartime rape to occur. It is arguing that wartime rape occurs more frequently when any combination of these factors is present. Numerous arguments have been proposed to explain why individuals rape during wars with or without orders to do so.

The causal factor cited by conventional discourse is the idea that wartime rape is an inevitable, genetically predetermined reflex. Simply put, boys will be boys. According

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[40] Diken, and Laustsen, 113.

[41] Jeanette Uwimana, "Untitled," in *The Men Who Killed Me*, ed. Anne-Marie de Brouwer and Sandra Ka Hon Chu (Vancouver: Douglas and McIntyre, 2009), 52.

[42] Allen, 36, 79.

[43] Schiessl, 201; Rajandran, 65, 67; Allen, 96; Diken, and Laustsen, 113.

[44] Rajandran, 67.

[45] Erin Patrick, "Intent to Destroy: The Genocidal Impact of Forced Migration in Darfur, Sudan," *Journal of Refugee Studies* 18, no.4 (2005), 419.

[46] Amnesty International, *Sudan, Darfur: Rape as a Weapon of War: Sexual violence and its consequences*. July 18, 2004, http://www.amnesty.org/en/library/asset/AFR54/076/2004/en/f4562ac2-d5b4-11dd-bb241fb85fe8fa05/afr540762004en_cover.pdf (accessed 24 February 2009), 18; Allen, 96; Diken, and Laustsen, 113, 117.

[47] Rajandran, 65, 69.

[48] The term deterrent in reference to the reproduction of groups is drawn from Himani Bannerji, "Demography and Democracy: Reflections on Violence Against Women in Genocide or Ethnic Cleansing," *Resources for Feminist Research* 30, no.3/4 (2003), 104. For information on pregnancies that result from rape and the status of the resultant children please see R. Charli Carpenter, "Surfacing Children: Limitations of Genocidal Rape Discourse," *Human Rights Quarterly* 22 (2000) in its entirety.

to conventional theory, wartime rape occurs because the societal restraints that control instincts for sexual aggression are removed during conflicts.[49] The fact that the majority of victims are "women at the ages of peak physical attractiveness" is used as evidence to prove that wartime rape is sexually motivated.[50] Despite the validity of this argument, the conventional theory has a serious flaw. If wartime rape is genetically predetermined, all men in war environments should rape. However, this could not be further from the truth. As the 'possible consequences' section of this paper highlights, there is substantial variation in the extent and brutality of wartime rapes. Therefore, while having a valid point, this theory should not be taken as the best explanation of wartime rape.

A more compelling explanation is the relationship of personality traits to sexual aggression. Men who participate in wartime rape have been found to share several personality traits. Most notably, they have low self-esteem and adopt sexist attitudes and behaviours to empower themselves.[51] Directly related to this lack of self-esteem is a lack of empathy. An absence of empathy causes men to dehumanize others in attempts to boost their own self-esteem.[52] Sexuality is then a means to express strength, control and dominance. Therefore, rape is used to compensate for underlying feelings of inadequacy and powerlessness and to build self-esteem.[53]

Men who lack self-esteem are more likely to participate in group activities due to their fear of rejection. Therefore, group dynamics are one of the most influential determinants of wartime rape.[54] Group solidarity is paramount. Failure to comply may involve punishment, ostracism or death.[55] Pressures for conformity can override any constraints individuals may have about engaging in certain behaviours – like rape. During wars, rapes are viewed as group activities that provide opportunities for members to prove themselves to others in the group. Wartime rape may also be part of the initiation process into armed forces, after which perpetrators become full members.[56]

Group mentality is accompanied by a sense of anonymity that is heightened in war environments. Perpetrators feel immune from prosecution and punishment as anonymity reduces the possibility of detection.[57] A recent survey asked 'normal' men if they would rape in "the hypothetical condition they wouldn't get caught."[58] Frighteningly, a substantial portion answered in the affirmative.[59] Thus, anonymity increases the likelihood wartime rapes will be committed.

The prevailing ideology within the aggressing group directly impacts the likelihood of wartime rape. Whether nationalist, religious or racial, all wartime ideologies demand loyalties and promote a contrast between 'us' and 'them.' The resulting dichotomy has unlimited potential to cause "extreme xenophobia and bigotry."[60] 'We' are seen as being superior, 'they' are dehumanized to the extent that 'they' are subhuman, making it easy

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[49] Gottschall, 133.

[50] Gottschall, 134.

[51] Nicola Henry, Tony Ward, and Matt Hirshberg, "A Multifactoral Model of Wartime Rape," *Aggression and Violent Behavior* 9 (2004), 546.

[52] Ibid., 539.

[53] Ibid., 539-541, 546.

[54] Ibid., 542, 551.

[55] Ibid.; Diken, and Laustsen, 112; Allen, 97.

[56] Diken, and Laustsen, 112; Schiessl, 203. Please see Henry, Ward, and Hirshberg, 556-558 for a case study on a Serbian perpetrator of wartime rape.

[57] Henry, Ward, and Hirshberg, 548.

[58] Ibid., 542.

[59] Ibid.

[60] Ibid., 555. Also see Henry, Ward, and Hirshberg, 546, 548; Lee Koo, 530.

for 'us' to overcome empathy and perpetrate heinous crimes against 'them.'[61] The extent to which the 'other' is dehumanized will impact not only the probability of wartime rape, but also the level of brutality. The more subhuman the 'other' is perceived as being, the more brutal the rapes are likely to be.

The most overlooked causal factor of wartime rape is the acceptance of interpersonal violence within the perpetrating society. Interpersonal violence refers to the degree that force and coercion are viewed as legitimate ways to gain compliance.[62] High levels of acceptance are typical of societies that have violent histories. Rape is the sexual manifestation of interpersonal violence. Where acceptance levels are high, an increased incidence of rape is likely.[63] Therefore, the level of acceptance of interpersonal violence within the perpetrating society can explain the variation in the number of rapes as well as their brutality from conflict to conflict.

V. Policy Options and Recommendations

Unfortunately there is no tangible proactive approach to prevent the occurrence of wartime rape. Instead, the international community is left with reactive options that address wartime rape after the fact. The most commonly proposed and utilized option is the prosecution of offenders. The goal of prosecutions is to decrease and eventually eliminate the impunity surrounding wartime rape. Addressing impunity should be a priority as decreasing impunity challenges the acceptance of wartime rape as an international norm. Great strides have been made in this area since the establishment of the ICTY and ICTR. Both tribunals have established precedents that can and should be applied to future cases. The ICTY affirmed the right to sexual self-determination as a fundamental human right in its February 22, 2001 conviction of three Bosnian Serb soldiers for crimes against humanity based solely on their perpetration of rape.[64] The Akayesu Judgment at the ICTR is especially significant. The Judgment concluded that, due to its consequences, rape should be considered a tool of genocide. In fact, the judges argued that rape is one of the worst ways in which genocide can be committed.[65] These two courts have demonstrated that leaders who formulate policies and those who perpetrate rape are not immune from prosecution. Thus, the impunity surrounding wartime rape has begun to be challenged by members of the international community.[66]

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[61] Henry, Ward, and Hirshberg, 548, 554, 555.

[62] Henry, Ward, and Hirshberg, 554.

[63] Ibid., 545. During peacetime, high levels of interpersonal violence are linked to high incidence of rape. Contemporary South Africa is an excellent example. Please see Megan Lindow, "South Africa's Rape Crisis: 1 in 4 Men Say They've Done It," *Time* June 20, 2009, http://www.time.com/time/world/article/0,8599,1906000,00.html (accessed 16 November 2009) for further information. When levels of interpersonal violence are high, there is also an increased probability the rapes will be committed during war. The current situation in eastern Democratic Republic of Congo is an excellent illustration of this theory. For more information on this case please see Doctors Without Borders and Lerner in their entirety.

[64] For more information on the importance of this decision please see Bergoffen in its entirety.

[65] Eboe-Osuji, 251; Russell-Brown, 352, 371.

[66] In the past several years there has been an increasing trend towards prosecution of individuals for their roles in wartime rapes. Currently three men are facing charges involving sexual slavery and rape at the International Criminal Court. For more information on these cases please see International Criminal Court, *Cases*, http://www.icc-cpi.int/Menus/ICC/Situations+and+Cases/Cases/ (accessed 29 November 2009). Domestic courts have also stepped up and begun charging individuals for their actions in conflicts, even if the conflict did not take place within the prosecuting state. Canada has recently arrested another man for the crimes he committed (including wartime rape) during the Rwandan genocide. Please see

Despite the benefits of prosecutions, there are several major problems with the pursuit of this option. First, the costs: trials are extremely expensive, especially at the international level. The budget of the ICTY for 2008-2009 is $342,332,300.[67] The ICTR budget for the same time period is $267,356,200.[68] These significant costs lead to questions about whether or not trials are the most effective way to spend such significant amounts of money. The second problem with prosecutions is the question of who to hold responsible. Should the courts try individuals responsible for issuing orders? Or individuals who had knowledge about the rapes yet took no preventative action? Or the individuals who perpetrated the rapes? Lastly, trials place emphasis on the actions of perpetrators, not the needs of victims. The long-term effects of testifying are chronically ignored.[69] In providing testimony, victims have to relive extremely traumatic events. The danger is that participation in trials will amount to a 'second rape.'[70] Such a consequence is likely to be detrimental to the victim's mental health.[71] The implication is that prosecutions make us feel better as passive observers and provide few advantages for the victims.

A more cost effective and less traumatic way to establish responsibility for wartime rape is to pursue judgment instead of retribution.[72] Unlike trials, this restorative practice provides a forum for offenders to publicly take responsibility for their actions in exchange for amnesty or a reduced punishment. While this option is without a doubt unacceptable in certain situations, it is much more practical for the 'small fries,' of whom there are too many to prosecute. Public acknowledgement of individual guilt can act as a powerful brand. The perpetrator will forever be branded a rapist, a label that will dramatically change the individual's ability to participate in armed forces, civilian

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Edmund Kagire, "Canada Charges Another Genocide Suspect," *AllAfrica.com*, November 25, 2009, http://allafrica.com/stories/200911250006.html (accessed 29 November 2009) for more details. Germany has followed Canada's lead and arrested two men for atrocities (including wartime rape) committed in the Democratic Republic of Congo. More information can be found in United Nations, "Leaders of Rebel Militia Arrested for Atrocities Committed in DR Congo,"*AllAfrica.com*, November 19, 2009, http://allafrica.com/stories/200911191060.html (accessed 29 November 2009). This past week, a Dutch court found a man guilty of genocide and crimes against humanity including rape. For more information please see Edmund Kagire, "Belgium Sentences Genocidaire to 30 years," *AllAfrica.com*, December 3, 2009, http://allafrica.com/stories/200912030049.html (accessed 3 December 2009).

[67] United Nations International Criminal Tribunal for the Former Yugoslavia, *About the ICTY*, http://www.icty.org/sid/325 (accessed 16 November 2009).

[68] United Nations International Criminal Tribunal for Rwanda *General Information,* http://www.ictr.org/ENGLISH/geninfo/index.htm (accessed 16 November 2009).

[69] Rose Lindsey, "From Atrocity to Data: Historiographies of Rape in Former Yugoslavia and the Gendering of Genocide," *Patterns of Prejudice* 36, no.4 (2002), 75.

[70] Information regarding the impact of testifying at the ICTR can be found in Anne-Marie de Brouwer and Sandra Ka Hon Chu, "Life After 'Death,'" *The Men Who Killed Me,* ed. Anne-Marie de Brouwer and Sandra Ka Hon Chu (Vancouver: Douglas and McIntyre, 2009), 154-155. Although based on peacetime rapes in a Western society, Rebecca Campbell et al., "Preventing the "Second Rape:" Rape Survivors' Experiences with Community Service Providers," *Journal of Interpersonal Violence* 16, no.12 (2001) provides an effective overview of secondary traumatization experienced by rape victims.

[71] Health care professionals worry about the effects of providing testimony without accessible support systems. Allen, 94; Campbell et al., 1241; Rebecca Campbell, "The Psychological Impact of Rape Victims' Experiences with the Legal, Medical, and Mental Health Systems," *American Psychologist* 63, no.8 (2008), 705.

[72] Allen, 109.

governance and their community.[73] The benefit for victims is there is no investigative poking and prodding. Victims participate *on their own terms*. It allows victims who are willing to talk about the rape to do so. Victims who are uncomfortable discussing the rape but are willing to discuss its consequences can also participate. More importantly, these forums allow victims to remain silent yet have the perpetrators accept responsibility for their actions. Therefore, the likelihood of secondary traumatization is greatly reduced.

Perhaps the most practical option to address wartime rape is the development of grassroots organizations designed to support victims. These organizations, such as the Solace Ministries in Rwanda, focus on helping victims heal. Victims receive emotional, psychological, financial and medical support.[74] The multidimensional support provides victims with a sense of belonging that helps them rebuild their self-worth and reestablish themselves in post-conflict society.[75] Not only do grassroots organizations directly benefit victims, they also strengthen the community. They work to reunite families and communities in order to repair damage done to societal relationships.[76] In their attempts to repair societal relationships, grassroots organizations promote respect for women's rights. In this sense, grassroots organizations work to reestablish trust and build social capital. By educating the community and repairing relationships, grassroots organizations also increase awareness of and respect for human rights. Over time, the hope is an increase in the respect for human rights will decrease the acceptance of interpersonal violence and, therefore, the prevalence of rape. Thus, grassroots organizations work to minimize the long-term consequences of wartime rape on victims and their communities.

VI. Conclusion

Policies that approach wartime rape should be holistic in nature so that both perpetrators and victims are addressed. The goal should be the reduction of impunity as well as the long-term consequences of wartime rape. The hope is that the reduction of impunity and the level of societal devastation will cause wartime rape to become a less viable and effective option for armed forces in the future. If implemented, these policies will work to address the underlying causal factors of wartime rape within the affected societies. Perpetrators can no longer base their actions on a sense of anonymity and impunity. With the spread of human rights, the extreme dehumanization that characterized relations between adversaries should begin to dwindle, so too should the acceptance of interpersonal violence.

To pursue these policies, conventional discourse needs to be revamped so that it can address all actions that contribute to insecurity. Analysts need to consider the ways in which attacks on individuals are also attacks on their groups. The human cost of state actions should be considered a legitimate security concern. Wartime rape will then receive the recognition and attention that it deserves.

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[73] Ibid., 110.
[74] de Brouwer, and Ka Hon Chu, "Introduction," 3.
[75] de Brouwer, and Ka Hon Chu, "Life After 'Death,'" 152. For testimony about how these organizations assist victims please see Pascasie Mukasakindi, "Untitled," in *The Men Who Killed Me,* ed. Anne-Marie de Brouwer and Sandra Ka Hon Chu (Vancouver: Douglas and McIntyre, 2009), 77 and Marie Odette Kayitesi, "Untitled," in *The Men Who Killed Me,* ed. Anne-Marie de Brouwer and Sandra Ka Hon Chu (Vancouver: Douglas and McIntyre, 2009), 40.
[76] Allen, 108.

INTERNATIONAL RELATIONS

Social Constructivism and Stalin: Ideas, Beliefs and the Emergence of the Cold War

By Brad King

> *Marshal Stalin remarked that it was not so difficult to keep unity in time of war since there was a joint aim to defeat the common enemy which was clear to everyone. He said the difficult task came after the war when diverse interests tended to divide the allies.*
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> -Iosif Stalin, The Crimea Conference, February 1945.
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> *If to do were as easy as to know what were good to do, chapels had been churches and poor men's cottages princes' palaces.*
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> -Portia, *The Merchant of Venice*, Act I Scene ii.[1]

Like Athens and Sparta, Carthage and Rome, perhaps both the USSR and United States were drawn into a state of antagonism as superpowers 'inevitably' are. Indeed, as foreseen by one infamous contemporary observer, the Cold War was inescapable; a confrontation predestined by a global political structure defined by "two Great Powers" driven by the "laws of both history and geography".[2] While a structural realist approach is compelling, this essay rejects the *a priori* assumption that the anarchical nature of global politics necessarily fosters a system of self-help.[3] The opening of Russian archives has invited a new era of historical inquiry; one in which scholars may better understand the potentially determinative role of sub-state factors.

Iosif Stalin; the very name epitomizes the complexity of Soviet diplomacy. To quote George Kennan, Koba's physical features "gave him the aspect of an old battle-scarred tiger. [...] His words were few. [...] An unforewarned visitor would never have guessed what depths of calculation, ambition, love of power, jealousy, cruelty and sly vindictiveness lurked behind this unpretentious façade."[4] At the outset, this paper will contextualize the Stalinist era. Operating from the individual level of analysis,[5] it will then

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[1] I. Stalin quoted in C.E. Bohlen, "Minutes: Tripartite Dinner Meeting," 8 February 1945, Crimea, in United States Department of State (Herein US DoS), *Foreign Relations of the United States*: *Conferences at Malta and Crimea, 1945*(herein *FRUS: Crimea*), (Washington D.C.: US Government Printing Office (herein US GPO), 1955) p. 798; W. Shakespeare, *The Merchant of Venice* (Oxford: Oxford University Press, 2008).

[2] A. Hitler, *The Testament of Adolf Hitler: The Hitler Bormann Documents*, ed., F. Genoud, translated from the German by R.H. Stevens (London: Cassell, 1962) p. 107;

[3] A materialist systemic level analysis is adopted by scholars of neorealist persuasion. The seminal work in this theory is undoubtedly K.N. Waltz, *Theory of International Politics*, (Reading, Massachusetts: Addison-Wesley, 1979), see also J. Mearsheimer, "Back to the Future: Instability in Europe after the Cold War, in S. Lynn-Jones, ed., *The Cold War and After: Prospects for peace* (Cambridge, Massachusetts: MIT Press,) pp. 141-92. Notably, a structural realist framework was advanced by J.L. Gaddis, *The Long Peace: Inquiries into the History of the Cold War* (New York: Oxford University Press, 1987) pp. 221-2.

[4] G.F. Kennan, *Memoirs:1925-1950* (Boston: Atlantic-Little, Brown, 1967) p. 279.

[5] The levels of analysis approach was initially formulated at K. Waltz, *Man, the state, and war; a theoretical analysis* (New York, Columbia University Press, 1959) p.12; From a theoretical level, this essay's position that Stalin greatly impacted Soviet policy is supported by an analytical model provided in scholar F. Greenstein's *Personality an Politics*. Vis-à-vis Koba's case, the "likelihood of [Stalin's] impact varies with (1) the degree to which [Stalin's] actions took place in an environment which admits of restructuring; (2) the location of [Koba] in the environment; (3) [Stalin's] peculiar strengths and weaknesses." As General Secretary, Stalin occupied the locus of authority in the Soviet political environment. To be sure, this environment itself admitted of restructuring as defined by Greenstein. While the USSR did not suffer from political instability, no domestic force checked Stalin's authority. By 1929, Stalin had satisfied Greenstein's model and dominated Soviet policy. Cf. F.I. Greenstein "The Impact of Personality on Politics: An Attempt to Clear Away Underbrush," *The American Political Science Review*, 61, no. 3 (September 1967), pp. 633-4.

scrutinize Koba's "distinctive beliefs, principles and attitudes" to discover the "orientation for [Soviet] behaviour and policy."[6]

Adopting a social constructivist approach, this paper holds that "anarchy is what states make of it". It will frame the global political environment as intersubjective; a social structure defined by ideas and beliefs rather than material clout. This essay accepts the axiomatic statement "that the material world is indeterminate and is interpreted within a larger context of meaning. Ideas...define the meaning of material power."[7] Vis-à-vis historiographical paradigms, this treatise is inclined to the balanced post-revisionist branch of Cold War scholarship. It will depict this conflict's emergence as the mutually constructed result of historical interaction between nation-states and elite (mis)understanding.[8]

Throughout, this analysis will elucidate three interrelated causal factors that transformed the dynamic structure of global politics into one of Cold War.[9]Specifically, Koba's subjective conception of the global political environment will be explored. This paper will underscore the socially contingent tensions created by the unique significance which Stalin ascribed to particular regions. Secondly, this essay will highlight Koba's inability to order exogenously perceived Soviet interests on a coherent, palatable utility scale. Finally, it will demonstrate that conflicting hermeneutic understandings of both deed and rhetoric emerged from interactions among pertinent national leaders.[10] This essay will contend that these themes collectively influenced the Cold War's emergence.

In Russia, the year 1917 was shaped by profound socio-political dislocation. As domestic farmers struggled to subsist, Saint Petersburg's Fabergé crafted eggs of gemstone and gold. It would be a year of revolution. Amidst both the First World War and economic decline, autocrat Tsar Nicholas II abdicated the Imperial throne.[11] Under the leadership of

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[6] Tannenwald, "Ideas and Explanation: Advancing the Theoretical Agenda," p. 15.

[7] A. Wendt, "Anarchy is what states make of it: the social construction of power politics," _International Organization_, 46, no. 2 (March 1992); N. Tannenwald, "Ideas and Explanation: Advancing the Theoretical Agenda," _Journal of Cold War Studies_, 7, no. 2, (Spring 2005) p. 19; This paper must give credit to R. Jackson and G. Sørensen's _Introduction to International Relations: Theories and approaches_, 3rd. ed., (New Yrok: Oxford University Press, 2007). Chapter 6 on Social Constructivism (pp. 161-78) provided an invaluable primer and guide for further reading.

[8]The orthodox, revisionist and post-revisionist groupings of Cold War scholarship was first iterated in J.L. Gaddis, "The Emerging Post-Revisionist Synthesis on the Origins of the Cold War," _Diplomatic History_, 7, no. 3, pp. 171-90; On this approach, see: Wendt, "Anarchy is what states make of it: the social construction of power politics," pp. 404-5.

[9] This element of this paper's theoretical approach is underpinned by A. Giddens' theory of structuration. While formulated in a sociological context, this paper holds that Giddens' premises may be extrapolated to an international relations context. For this essay's purposes, national policy should be understood to occur within the context of a pre-existing global political structure. This structure is governed by a uniquely distinct set of norms. In this context, all policy must be viewed within the context of the international and domestic norms in which it is undertaken. However, the crux of this theory is that the structure of global politics is malleable; norms are finite, exogenous, forged, maintained and altered by action and interaction. The full argument is found at, A. Giddens, _The constitution of society: outline of the theory of structuration_, 1st pbk. ed (Berkeley: University of California Press, 1986) pp. 1-37. A sufficient restatement for the purposes of this analysis is found at pp. 25-6.

[10]This social constructivist approach builds on M. Weber's sociological formulation of _Verstehen_. This methodology for examining social phenomena holds that actors understand existential perceptions of social action both internally and subjectively. During this interpretive process, a meaning is assigned to social action so that an actor may achieve understanding: "subjective understanding is the specific characteristic of sociological knowledge" Quoting M. Weber, _Economy and society: an outline of interpretive sociology_, ed. by G. Roth and C. Wittich (Los Angeles: University of California Press, 1978) p. 15.

[11] For an analysis of the late Imperial era economy emphasizing on monetary, reserve and agricultural policy see: V. Barnett, _The revolutionary Russian economy, 1890-1940: ideas, debates and alternatives_ (New York: Routledge, 2004) pp. 31/50-2; P.M. Kennedy's _The rise and fall of the great powers: economic change and military_

V.I. Lenin, the Russian Bolshevik party, a militarized cadre of fervent communists, seized domestic power.[12] Above sheer force of arms, the utopian tenor of Marxist-Leninist notions including "from each according to [their] ability, to each according to [their] needs" were heartily received by exhausted Russian farmers.[13] No matter that this land was never "on the eve of a bourgeois revolution"; a situation that Karl Marx had theorized was "bound to be carried out under more advanced conditions of European civilisation...."[14]

As the lone "revolutionary-democratic dictatorship of the proletariat and the peasantry" on a hostile world stage, history had bestowed Lenin with a daunting task.[15] Whilst external interests sought to stifle bolshevism in its cradle; terror and "war communism" became justified policies.[16] In a larger historical sense, ideological differences were understood to have placed Soviet leadership at odds with the capitalist world. "As long as capitalism and socialism exist, we cannot live in peace" proclaimed Lenin. "[A] funeral dirge will be sung either over the Soviet Republic or over world capitalism."[17] Yet to argue that the Bolshevik leader was the sole actor expounding a comprehensive *Weltanschauung* is the fallacious reasoning of orthodoxy.

In 1917, President Woodrow Wilson declared a "state of war between the United States and the Imperial German Government". As American ships crossed the Atlantic, the President supported " the removal, so far as possible, of all economic barriers" and democracy as vehicles for world peace.[18] Equally crusading, both messianic Wilsonianism and Marxism-Leninism were construed to possess an exceptional *qua* universalistic character. In scholar John Lewis Gaddis' view, this brief historical interaction created a "*symbolic* basis for conflict between communism and capitalism".[19] After WWI, Washington receded into isolationism, unwilling to go 'abroad in search of monsters to destroy'.[20] Similarly, Lenin emerged victorious from civil war and called for 'peaceful

conflict from 1500 to 2000 (New York: Vintage Books, 1989) pp. 232-41 also offers a strong treatment of this period.

[12] G.S. Barass, *The Great Cold War* (Stanford: Stanford University Press, 2009) p. 16.

[13] K. Marx, "Critique of the Gotha Program," in K. Marx and F. Engels, *Basic writings on politics and philosophy*, L.S. Feuer, ed., (New York: Doubleday, 1959) p. 199.

[14] K. Marx and F. Engels, *The Communist Manifesto* (New York: Penguin, 2002) p. 258.

[15] V.I. Lenin, "The Revolutionary-Democratic Dictatorship of the Proletariat and the Peasantry," 12 April 1905 in V.I. Lenin, *Collected Work*s, <u>VIII</u> (Moscow: Foreign Languages Publishing House, <u>1962</u>) pp. 293-303.

[16] This primary phraseology is found at V.I. Lenin, "The Tax in Kind," April 1921, *Selected Works*, in *A Documentary history of Communism in Russia: from Lenin to Gorbachev,* 3rd ed., translated from the Russian by R.V. Daniels, ed., (Hanover, New Hampshire: University Press of New England, 1993) p. 113. For a concise discussion of this subject matter emphasizing V.I. Lenin's "Decree on Nationalization of Large Scale Industry," see: Id., p. 81.

[17] Regarding the December 1922 coming into being of the USSR, the Union was initially composed of four republics; Belorussia, Russia, the former Transcaucasian Soviet Federated Socialist Republic and Ukraine. It was legitimized by a treaty of Union; each constituent republic retained a theoretical right to succession and a measure of sovereignty in the form of both a national constitution and flag, see: A. Ball, "Building a new state and society: NEP 1921–1928," in *The Cambridge History of Russia*, Volume III, *The Twentieth Century*, p. 175; Quoting V.I. Lenin, "Speech to Moscow Party Nuclei Secretaries," (26 Nov. 1920), in *Selected Works*, vol. VI (International Publishers, New York: 1943) p. 297.

[18] See: W. Wilson "Proclamation 1364 - Declaring That a State of War Exists Between the United States and Germany," 6 April 1917, Washington D.C. *The American Presidency Project: University of California, Santa Barbara* <http://www.presidency.ucsb.edu/ws/index.php?pid=598> and Wilson, "Address to a Joint Session of Congress on the Conditions of Peace," 8 January 1918, Washington D.C. *The American Presidency Project: University of California, Santa Barbara* <http://www.presidency.ucsb.edu/ws/index.php?pid=65405> respectively.

[19] This analysis is shared by Barass, p. 17; J.L. Gaddis, *The Cold War: A New History* (herein *The Cold War*) (New York: Penguin Press, 2005) p. 7; quoting J.L. Gaddis, *We Now Know* (New York: Oxford University Press, 1997) p. 6

[20] As a corollary of this policy the collective security apparatus embodied within The Treaty of Versailles fell by the wayside. For the intended mandate, see: "Treaty of Peace with Germany (Treaty of Versailles)," 28 June 1919,

coexistence'.[21] Illustrative of a larger trend, both Lenin and Stalin would prove wholly capable of *realpolitik*.

Throughout the 1920's, important changes occurred within the Bolshevik *nomenklatura*. Infirm of body, Lenin dictated what would be his last testament. In a scathing assessment, the Bolshevik leader maintained: "Comrade Stalin, having become Secretary-General, has unlimited authority concentrated in his hands, and I am not sure whether he will always be capable of using that authority with sufficient caution." Despite Lenin's contrary intention, this message remained unheard until after his death. It was first read aloud in a closed meeting of the Central Committee. Fatally underestimating '*tovarishch kartotekov*', leading Bolsheviks forgave and extended a rope to Stalin. They anticipated a leadership struggle with not him, but Leon Trotsky. Years later they would hang by it; the judgment of a show trial orchestrated by Stalin.[22] By the decade's conclusion, it was Koba who had monopolized authority and begun construction of a "cult of the individual".[23] During the subsequent period of High Stalinism (1929-53), Koba's conception of socialism dictated the Party line.

In contrast to pure Marxist theory, Stalin held that socialism should first be constructed in one country. A 'powerful' industrialized Soviet Union would hedge against capitalist subversion.[24] No Shakespearean Prince of Denmark on the world stage; this "struggle in the work of construction, [was] also of international significance". Koba viewed the USSR as "the principal lever for expanding the international revolutionary movement."[25] However, Stalin adopted a relatively isolationist course throughout much of the *inter-bellum* period. For the capitalist world, it was a period of Great Depression and authoritarianism; in 1933 both Franklin Roosevelt and Adolf Hitler came to power. As the once improbable prospect of war again descended upon Europe, Koba had already achieved the 'impossible'. At terrible human cost, Stalin's Five-Year economic plans saw both the forced collectivization of domestic agriculture and rapid industrialization.[26]

Rheims, in US DoS, *Treaties and Other International Agreements of the United States of America 1776-1949: Multilateral 1918-1930*, Vol. II, compiled by C.I. Bevans (Washington, D.C.: US GPO, 1969) pp.48-58.

[21] Although a discussion of the Civil War period falls beyond the scope of this paper, cf. D.J. Raleigh, "The Russian civil war, 1917–1922," in *The Cambridge History of Russia*, Volume III, *The Twentieth Century*, pp. 140-67;On the subject of peaceful co-existence, Lenin wrote that this policy was "desirable also for us, as one of the means of attracting into Russia, during the period of the coexistence side by side of socialist and capitalist states, the technical help of the countries which are more advanced in this respect." V.I. Lenin, "Open Letter to the American Workers," in V.I. Lenin, *On the United States of America*, compiled by C. Leiteizen, translated by the Institute of Marxism-Leninism, Central Committee of the C.P.S.U. (Moscow: Progress Publishers, 1967) p. 415.

[22] R. Overy, *The Dictators: Hitler's Germany and Stalin's Russia* (New York: W.W. Norton, 2004) pp. 1-2.

[23] On Stalin's monopolization of power see: V. Mastny, "Soviet Plans for Postwar Europe (Herien Soviet Plans)," in A. Vasori and E. Calandri, eds., *The Failure of Peace in Europe, 1943-48* (New York: Palgrave, 2002) p 60; Also outlined at Overy pp. 22-30; On the "cult of the individual", see: N. Khrushchev, "Secret Speech Delivered by First Party Secretary at the Twentieth Party Congress of the Communist Party of the Soviet Union," 25 February 1956, in W. Safire, ed., *Lend me Your Ears: Great Speeches in History*, 2nd ed., (New York: Norton, 1997) p. 886.

[24] As Stalin famously argued: "One feature of the history of old Russia was the continual beatings she suffered because of her backwardness.… We are fifty or a hundred years behind the advanced countries. We must make good this distance in ten years. Either we do it, or we shall be crushed." For the full text of this address, see: I. Stalin, "Speech Delivered at the First All-Union Conference of Leading Personnel of Socialist Industry," 4 February 1931, in *Works,* Vol. XIII (Foreign Languages Publishing House: Moscow, 1954) pp. 31-44. Vis-à-vis Stalin's support of this doctrine, see also: R. Sakwa, *Soviet Politics in Perspective*, 2nd ed., (New York: Routledge, 1998) p. 256

[25] I. Stalin, *Political Report of the Central Committee: the Fourteenth Congress of the CPSU*, 18 December 1925, in I. Stalin, *Works*, Vol. VII (Moscow: Foreign Languages Publishing House, 1954) p. 303.

[26] There is a significant degree of variance in figures projecting the USSR's economic growth during the Great Depression. From 1929-40, CPSU figures projected average growth rates in excess of 16.8-21 percent. More conservative external estimates have placed this figure at roughly one half of official indicators. Cf. Barnett, pp. 103-4, Overy; p. 398 citing R.W. Davies, M. Harrison and G.G. Wheatcroft, eds., *The Economic Transformation of*

For scholars of orthodox persuasion, Stalin's foreign policy during this period may be explained within the rigid constraints of ideology. Marxist-Leninist to the core; Stalin envisioned the emergence of a mutually exhaustive conflict between the Third Reich, France and Britain. Koba remarked in 1934 that " again, as in 1914, the parties of bellicose imperialism, the parties of war and revenge are coming to the foreground. Quite clearly things are heading for a new war."[27] Polarizing rhetoric indeed; yet post-revisionists recognize that a far more subtle complexity characterized inter-European relations. Throughout the 1930's, Stalin engaged in numerous measures that qualified both an anti-fascist position and interest in the establishment of a Soviet-British-French *entente*.[28] For Koba, a perceived lack of Western reciprocation would be epitomized in the 1938 Munich agreement. When British leader Neville Chamberlain returned "from Germany to Downing Street", the Prime Minister proclaimed "peace for our time." Hollow words to Stalin's ears: "England and France have rejected the policy of collective security" argued Koba. "The policy of non-intervention reveals an eagerness...not to hinder Germany, say, from enmeshing herself in European affairs, from embroiling herself in a war with the Soviet Union...."[29]

As London and Paris let slip the dogs of war; Stalin drew upon the lessons of the Iron Chancellor. In August 1939, the Molotov-Ribbentrop pact was reached; Nazi and Soviet leadership consented "to desist from any act of violence, any aggressive action, and any attack on each other". However, the treaty contained numerous clauses that were "treated by both parties as strictly secret." Soon thereafter, the *Wehrmacht* invaded Poland, obligating both France and Britain to declare war.[30] In accordance with this pact, Soviet forces marched on Eastern Poland.[31] To be sure, this event stoked international

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the Soviet Union, (New York: Cambridge University Press, 1994) pp. 36-7/292. On the human elements of this process, Cf. Overy, p. 39-43, H. Kuromiya, *Stalin* (New York: Pearson, 2005) pp. 74-133.

[27] I. Stalin, *Problems of Leninism* (Moscow, 1947) pp. 460-1 quoted in Overy, p. 441.

[28] The seminal treatment on this period is: A.J.P. Taylor, *The Origins of the Second World War* (Middlesex: Penguin Books, 1961); From April 1922 onwards, the Soviet Union and Weimar Germany had benefitted from mutual cooperation under the Treaty of Rapallo. It was not until Hitler's ascension that this relationship collapsed. Cf. G. Roberts, *The Soviet Union and the Origins of the Second World War: Russo-German Relations and the Road to war, 1922-1941*(London: MacMillan Press, 1995) pp. 2-3. This paper also holds Soviet involvement in the Spanish Civil War was principally anti-fascist in character. Cf. D. Kowalsky, *Stalin and the Spanish Civil War*, (New York: Columbia University Press, 2004) pp. 11- 22.

[29] N. Chamberlain, quoted in *The Times*, 1 October 1938; I. Stalin, "Report to the Eighteenth Party Congress," 10 March 1939 in I. Stalin, *Leninism: Selected Writings by Joseph Stalin* (New York: International Publishers, 1942) p. 440.

[30]*Treaty of Non-Aggression between Germany and the Union of Soviet Socialist Republics*, 23 August 1939, Moscow, <http://www.fordham.edu/halsall/mod/1939pact.html> Text Article 1, Secret Additional Protocol Article IV; It should be noted that on 13 April 1941 Soviet and Japanese leadership concluded a Neutrality Pact. These nation-states bound "themselves to maintain peaceful and amicable relations...and mutually to respect the territorial integrity and inviolability of the other contracting side." In an agreement that would have important implications during the conflict both powers also agreed that "[i]n the event that one of the contracting sides becomes the object of military operations by one or several third powers, the other contracting side will observe neutrality for the duration of the entire conflict." See: V. Molotov, I. Matsuoka and Y.Tatekawa, *Neutrality Pact between the Union of Soviet Socialist Republics and Japan*, 13 April 1941, Moscow, printed in B.N. Slavinskiĭ, *The Japanese-Soviet neutrality pact : a diplomatic history: 1941-1945*, translated from the Russian by G. Jukes (New York: RoutledgeCurzon, 2004) p. 55, This work also offers a well researched treatment of Soviet-Japanese relations during this period. On the British War obligation Cf. "Agreement of Mutual Assistance between the United Kingdom and Poland," 25 August 1939, London in *The British war blue book: Miscellaneous no. 9 (1939)* (New York, Farrar & Rinehart,1939) pp. 49-52

[31]Among the clandestine protocols that governed "the event of a territorial and political rearrangement of the areas belonging to the Polish state, the spheres of influence of Germany and the USSR shall be bounded approximately by the line of the rivers Narev, Vistula and San." *Treaty of Non-Aggression between Germany and the Union of Soviet Socialist Republics*, 23 August 1939, Moscow, <http://www.fordham.edu/halsall/ mod/1939pact.html>

apprehension. Via radio broadcast, then First Lord of the Admiralty Winston Churchill addressed a concerned British nation. "I cannot forecast to you the action of Russia. It is a riddle, wrapped in a mystery, inside an enigma; but perhaps there is a key" deduced Churchill. "That key is Russian national interest."[32] A staunch realist, this unique *Verstehen* of Stalin's decision was grounded in a belief that "statesmen think and act in terms of interest defined as power".[33] Perhaps this interpreted understanding of Koba *qua* a prudent rational actor motivated the later Prime Minister to engage in the infamous percentages agreement.[34]

By the summer of 1940, the *Wehrmacht* had employed *blitzkrieg* tactics and quickly expelled Western resistance. Flown from the Eiffel tower, the Swastika cast an ominous shadow over *La Ville-Lumière*. It soon became clear that Stalin had inaccurately assessed this force. "How could they allow Hitler to defeat them, to crush them?" Koba asked leading communist Nikita Khrushchev.[35] As evidence mounted that the pact would not hold, Stalin adamantly maintained that such sentiment was misguided. "Germany is busy up to its neck with the war in the West...I am certain that Hitler will not risk a second front by attacking the Soviet Union."[36] Despite this rational calculation, the *Führer* broke the alliance on 22 June 1941; a *volte-face* that powerfully reinforced Stalin's theretofore Machiavellian interpretation of global politics.[37]

As Nazi forces pushed east and the prospect of defeat loomed over both London and Moscow, two partners of circumstance forged a cooperative relationship.[38] This alliance reached a level of historical grandeur in December 1941 when, in the aftermath of "a date

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Secret Additional Protocol Article II; Following a series of military engagements, the USSR incorporated the Baltic nation-states and portions of Finnish territory, Cf. Sakwa, p. 257; Overy, p. 485.

[32] Churchill noted: "We could have wished that the Russian armies should be standing on their present line as friends and allies of Poland instead of invaders. But that the Russian armies should stand on this line was clearly necessary for the safety of Russia against the Nazi Menace." W. Churchill, quoted in Roberts, *Stalin's Wars*, p. 38.

[33] H.J. Morgenthau, *Politics Among Nations*, 3rd ed., (New York: Knopf, 1966) p. 5.

[34] See infra., footnote 5.

[35] Sakwa, p. 257; I. Stalin quoted in Overy, p. 486.

[36] On evidence, Cf. C. Andrew, and V. Mitrokhin, *The Mitrokhin Archive: The KGB in Europe and the West*. (New York: Penguin, 1999) pp. 120-4; I. Stalin quoted in G.K. Zhukov, *Vospominaniia i razmyshleniia* (The Memoirs of Marshal Zhukov), 2nd ed., (Moskva: Novosty, 1995) II, pp. 383-4.

[37] In *The Prince*, Niccolò Machiavelli penned that: "a prudent prince cannot and should not keep his word when to do so would go against his interest, or when the reasons that make him pledge it no longer apply. Doubtless if all men were good, this rule would be bad; but since they are a sad lot, and keep no faith with you, you in your turn are under no obligation to keep it with them...." See: N. Machiavelli, *The Prince*, translated from the Italian by R.M. Adams, (New York: Norton, 1977) p.49. Numerous biographers have noted the significance of *The Prince* on Koba's thinking. Cf. R. Service, *Stalin: a Biography*, (Cambridge, Massachusetts: Harvard University Press, 2005) pp. 324-3 "He read Machiavelli's *The Prince* and annotated his own copy of it." Also Overy, p. 10; Upset by this *coup*, it was not until 3 July that Stalin called on the Soviet "brothers and sisters" to repel this advance. Quoted at Barass, p. 21

[38] Churchill famously quipped "If Hitler invaded Hell, I would make at least a favourable reference to the Devil...." The wartime leader had no trouble finding a common ground with Koba who likely held similar notions. See: W. Churchill, *The Second World War*, Vol. III, *The Grand Alliance* (Boston: Houghton Mifflin, 1950) p. 370; Manichean thinking and Hadean metaphors featured prominently in both London and Washington. As depicted by John Lewis Gaddis, Roosevelt frequently cited the Balkan proverb "My children, it is permitted you in time of grave danger to walk with the devil until you have crossed the bridge." See: F.D. Roosevelt quoted in J.L. Gaddis, *Strategies of Containment: A Critical Appraisal of American National Security Policy during the Cold War (herein Strategies of Containment)*, rev. and exp. ed., (New York: Oxford University Press, 2005) p. 3; A thorough discussion of the ability of British and American leadership to distinguish between communist ideologies is found at: J. Herf, "If Hitler Invaded Hell: Distinguishing between Nazism and Communism during World War II, the Cold War and since the Fall of European Communism," in H. Dubiel and G. Motzkin, eds., *The Lesser Evil: Moral approaches to genocide* (London: Routledge, 2004) pp. 182-95.

which will live in infamy" Washington declared war on Nazi Germany.[39] Throughout the Great Patriotic War, external aid and military hardware poured into Moscow. However, the dangerous eventuality that either side could reach a unilateral agreement with the Third Reich poisoned a purely cooperative environment.[40] As the conflict raged into its fourth year, a meeting of Foreign Ministers[41] was convened in Moscow. In their effort to set an agenda for a summit of the wartime leaders (Big Three), Anglo-American representatives suggested a plethora of topics. In stark contrast, Soviet Foreign Minister Vyacheslav Molotov offered a single proposal; that the respective heads of state be prepared to formulate "measures to shorten the war against its allies in Europe."[42]

Although the conference was perceived to be a diplomatic success, Koba suspiciously noted the comparatively meager Anglo-American war effort.[43] To compound this emerging tension, a cooperative approach had not materialized in regions that were unilaterally 'liberated'. Whether owing to conceptions of geography or high politics, Churchill and Roosevelt had limited Soviet participation in both the 1943 surrender and subsequent administration of Italy.[44] Little heed was given to Stalin's 22 August proposal "to set up a military-political commission of representatives of the three countries…for consideration of problems related to negotiations with various governments falling away from Germany."

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[39] F.D. Roosevelt, "Address to Congress Asking that a State of War be Declared between the United States and Japan," 8 December 1941, Washington D.C. in *The public papers and addresses of Franklin D. Roosevelt-1941* (New York: Harper, 1950) p. 514

[40] Washington alone provided 150 billion dollars worth of equipment in 2007 figures for Soviet use. On Anglo-American aid, Cf. Barass, p. 23; Gaddis, *The Cold War*, p. 19. For the intra-alliance suspicions, see: Barass, p. 24; Gaddis, *The Cold War*, p. 18-9; Sakwa, p. 259. This interpretation is supported by then American Secretary of State Cordell Hull. Recording a conversation with the Soviet Leader at the Moscow Conference, Hull transcribed: "Mr. Stalin […] proceeded on his own initiative to elaborate in the most sarcastic terms about those who have been circulating reports in the past to the effect that the Soviet Union and Germany might agree on peace terms. He wound up his repeated sarcasm by ridiculing all phases of the matter in unequivocal terms with the idea of effectively disposing of that report." See: C. Hull, Memorandum of Conversation by the Secretary of State, Moscow, 30 October 1943 in US DoS, *Foreign Relations of the United States: Diplomatic Papers, 1943*, Vol. I, *General* (Washington D.C.: US GPO, 1963) p. 687.

[41] Vyacheslav Molotov attended for Moscow: Foreign Secretary Anthony Eden and Secretary of State Cordell Hull represented London and Washington respectively. The Conference occurred from 19-30 October.

[42] On the meetings, see: C. Hull, A. Eden and V. Molotov, "Anglo-Soviet-American Communiqué on the Conference in Moscow of the Three Foreign Secretaries," October 1943, Moscow, in US DoS, *FRUS: Diplomatic Papers, 1943*, Vol. I, *General* (Washington D.C.: US GPO, 1963) p. 741; Regaring "measures to shorten…" cf. *Moskovskaya konferentsiya Ministrov inostrannykh del SSSR, SShA i Velikobritanii* (Moscow: Politizdat, 1984), Doc. 10, quoted in G. Roberts, "Stalin at the Teheran, Crimea, and Potsdam Conferences, (Herein Stalin at the Conferences)" *Journal of Cold War Studies*, 9, no. 4, (Fall 2007): p. 8; Vis-à-vis a secondary desption of the general thrust of the conference, C. Kennedy-Pipe, *Russia and the World: 1917-1991* (New York: Oxford University Press, 1998) p. 61.

[43] As Koba commented in a November 1943 speech: "The victory of the allied countries over our common enemy approaches, and, despite the efforts of the enemy, relations between the allies and the military cooperation of their armies are not weakening but strengthening and consolidating. In this regard the historic decisions of the Moscow Conference . . . are eloquent testimony. . . ." I. Stalin, *O Velikoi Otechestvennoi voine Sovetskogo Soyuza* (Moscow: Politizdat, 1946), pp. 108–109 quoted in Roberts, "Stalin at the Conferences," p. 10; On Stalin's prolonged suspicion of the war effort, Gaddis, *The Cold War*, p. 19; Kennedy-Pipe, p. 64.

[44] From that period until April 1945, Soviet Commanders were informed that the Eastern front may have alone remained hot. In an illustration of the meagre trust and relief that had been fostered by the Anglo-American war effort it, was that April Stalin first ordered the construction of defensive military installations in Middle Europe. Cf. Gaddis, *The Cold War*, p.19-20; Gaddis, *Strategies of Containment*, p. 12 citing V. Mastny, *Russia's Road to the Cold War: Diplomacy, Strategy, and the Politics of Communism, 1941-1945* (New York: Columbia University Press, 1979) p. 270-1.

Koba understood this policy to have rendered him "a third party looking passively on"; a dangerous precedent indeed.[45]

When the Big Three gathered in Teheran that winter,[46] "a breathtaking gulf" existed in Soviet and American intelligence. Prior to the summit, espionage networks had supplied Koba with a comprehensive understanding of Roosevelt's aims. That is not to say that the Soviet leader negotiated carelessly. "History has spoiled us," claimed Stalin at their first meeting. "She's given us very great power and very great opportunities [...] Let's begin our work."[47] Throughout negotiations, both Roosevelt and Koba adopted the parlance of generalities when discussing territorial matters. No objection met the latter's assertion that there was "no need to speak at the present time about any Soviet desires, but when the time comes, we will speak."[48] In this vein, Stalin ensured Western consent for what was subjectively perceived as a Soviet "right to establish friendly governments in neighbouring countries."[49]

At the summit, Roosevelt first broached the esoteric subject of German dismemberment; Stalin immediately expressed a preference for such a policy.[50] Where the American leader explicitly supported the division of this territory into five regions, Churchill favoured the forced separation of Germany and the historical Prussian state alone.[51] When Stalin enunciated a preference for the former approach, Churchill queried whether Koba wished to see all of Europe fragmented. Perhaps not sensing this barb's subtle acidity, Stalin concisely reiterated: "not Europe, but Germany."[52] Shortly thereafter, Koba's secretaries compiled a document that summarized the Conference's discussions. Personally annotated and corrected by the Soviet leader; this summary provides critical insight into Koba's stance on this matter. "Comrade Stalin positively favoured Roosevelt's

[45] I. Stalin, *Stalin's correspondence*, doc. 174 p. 149 quoted in G. Roberts, *Stalin's Wars*, p. 174-5; Gaddis brilliantly notes the irony of Stalin's position. This proposal was put forth "quite without regard to the fact that his own policies had left the British to fight Germany alone for a year, so that they were hardly in a position to comply." *We Now Know*, p. 15.

[46] This conference occurred from 28 November–1 December 1943; G. Roberts, "Stalin at the Teheran, Crimea, and Potsdam Conferences, (Herein Stalin at the Conferences)" *Journal of Cold War Studies*, 9, no. 4, (Fall 2007) p. 8

[47] Andrew and Mitrokhin, p. 146; I. Stalin quoted in Montefiore, p. 413.

[48] I. Stalin quoted in C.E. Bohlen, "Minutes: Tripartite Dinner Meeting," 29 November 1943, Teheran, in US DoS, *Foreign Relations of the United States*: *The Conferences at Cairo and Teheran, 1943* (herein *FRUS:Teheran*) (Washington D.C.: US GPO, 1961) p. 555.

[49] Gaddis, *The Cold War*, p. 10; Andrew and Mitrokhin, p. 148. It should be noted that Stalin and Roosevelt reached an accord on a number of subjects. For example, during the Conference Roosevelt and Stalin had privately discussed forging a cooperative world order. One organizational model positively received by Stalin placed the United States, Soviet Union, Britain and China at the head of a new United Nations organization. As "Four Policemen", this collective would have responded multilaterally to international security threats. F.D. Roosevelt quoted in C.E. Bohlen, "Roosevelt-Stalin Meeting." 29 November 1943, 2:45 P.M. Teheran, in US DoS, *FRUS:Teheran*, p. 530; Vis-à-vis Stalin's sentiments see id. p. 532.

[50] "Dos'e materialov Tegeranskoi konferentsii," L. 98. *Tegeranskaya konferentsiya,* p. 148, cited in Roberts, "Stalin at the Conferences," pp. 17-8; C.E. Bohlen, "Minutes: Tripartite Dinner Meeting," 1 December 1943, 6 P.M, Teheran, in US DoS, *FRUS*: *Teheran, 1943*, p 600.

[51] Ibid., pp. 600-2.; Teheran, "Record of a Conversation at the Soviet Embassy, Teheran, on 1st December 1943," in the National Archives of the United Kingdom at PREM3/161, p. 19 quoted in Roberts "Stalin at the Conferences," p. 18

[52] I. Stalin quoted in "Dos'e materialov Tegeranskoi konferentsii," L. 99-100 cited at Roberts, "Stalin at the Conferences," p. 18; Also recorded at Bohlen, "Minutes: Tripartite Dinner Meeting," 1 December 1943, 6 P.M, Teheran; Similar British minutes are found at "Record of a Conversation at the Soviet Embassy," p. 19, cited at Roberts, "Stalin at the Conferences," p. 18.

plan but without predetermining the number of states into which Germany is to be split."[53] Stalin's rigidity in this matter would have major implications.

In the larger War effort, Allied forces moved ever closer to victory. Following the success of the 6 June 1944 Normandy Landings, the Red Army swept into Eastern Europe.[54] With the Red Army gaining ground by the day, Churchill arrived in Moscow for bilateral meetings with Stalin. The month was October and in the Prime Minister's view, the "moment was apt for business".[55] Here, the two leaders forged the percentages agreement.[56] While the mechanics governing implementation remained unclear, both Churchill and Stalin felt that a cooperative post-war environment was contingent on the establishment of clear regions of hegemony.[57] This would be difficult, as the Prime Minister prophetically noted: the "Americans including the President would be shocked by the division of Europe into spheres of influence."[58] Nonetheless, both leaders tacitly acted on this agreement the following winter. Whilst British forces stationed abroad in Greece subdued a domestic communist uprising, Stalin recognized London's regional preponderance. "I advised not starting this fighting in Greece" explained Koba. "They were evidently counted on the Red Army's coming down to the Aegean. We cannot do that."[59]

In matters of high politics, the unique significance that Stalin ascribed to particular regions became increasingly important. For those European nation-states untouched by the percentages deal, Stalin's policy would soon prove to be far from monolithic and perhaps not teleological. [60] To be sure, the potential for independence in regions Koba viewed as *sine qua non* for Soviet security was negligible. Yet both Roosevelt and Churchill's unique perceptions of the Red Army's wartime efforts left them implicitly predisposed to acquiesce to a *de facto* Soviet security sphere.[61] Influenced by the Big Three's discursive interactions, Stalin may have also accepted emergence of proximate nation-states that were

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[53] "Izlozhenie otdel'nykh voprosov obsuzhdavshikhsya na konferentsii v Tegerane"" in *Rossiiskii Gosudarstvennyi Arkhiv Sotsial'no-Politicheskoi Istorii,* 558, Op. 11, D. 234, Ll. 99– 104 quoted in Roberts, "Stalin at the Conferences," p. 20.

[54] Kennedy-Pipe, *Russia and the World: 1917-1991*, p. 66-71; Roberts, *Stalin's Wars*, p. 192.

[55] See supra., footnote 5.

[56] At Churchill and Stalin's October 1944 meeting in Moscow, the former consented to preponderant Soviet influence in 'Rumania' (90/10) and Bulgaria (75/25). Stalin accepted British hegemony over Greece (90 /10). Influence over both Yugoslavia and Hungary was to be apportioned evenly (50/50). W. Churchill, *The Second World War*, Vol. VI, *Triumph and tragedy* (Boston: Houghton Mifflin, 1953) p. 227.

[57] This point is brilliantly illustrated in V. O. Pechatnov, *The Big Three After World War II: New Documents on Soviet Thinking about Post-War Relations with the United States and Great Britain*, (Cold War international History Project Working Paper no. 13, 1995). This analysis examines grand strategic models individually formulated by three top Soviet diplomats from early 1944 to the summer of 1945. Their prescriptions offer a glimpse into the central themes of Stalin's thinking. Each concluded that cooperation was both possible and nin the Soviet interest, though contingent on the establishment of clear spheres of security.

[58] W. Churchill quoted in S.S. Montefiore, *Stalin: The Court of the Red Tsar* (London: Weidenfield & Nicholson, 2003) p. 421.

[59] Dunbabin, p. 87; I. Stalin quoted in *The Diary of Georgi Dimitrov 1939-1949,* (New Haven Connecticut: Yale University Press, 2003) cited in Roberts, *Stalin's War, p. 345.*

[60] One particularly notable case study is Hungary. Until the later intensification of the Cold War, the Hungarian Communist Party largely acted as a legitimate organization. Cf. Mastny, "Soviet Plans," p. 68; M. Molnár, *From Béla Kun to János Kádár: seventy years of Hungarian communism*, translated for the Hungarian by A.J. Pomerans (New York: St. Martin's Press, 1990) p. 99; C. Gati, "From liberation to revolution: 1945-1956," in *A History of Hungary*, ed. by P.F. Sugar, P. Hanák and T. Frank. (Bloomington, Indiana: Indiana University Press, 1990) Gati, p 370; R.J. Crampton, *Eastern Europe in the twentieth century and after*, 2nd ed. (New York: Routledge, 1997) p. 222.

[61] Specifically, both consented to Stalin's territorial seizures to this point (the Baltic nation-states and Bukovina region of Romania). Roosevelt also informed Koba that two years would be the limit that American troops would remain deployed in Europe post-conflict. Cf. C.E. Bohlen, "Minutes: Second Plenary Meeting," 5 February 1945, Crimea, in US DoS, *FRUS: Crimea,* p. 617.

pliable though internally democratic.[62] Nonetheless, the ambiguity that characterized the exogenous *Verstehen* of Stalin's motives fostered elite misunderstanding.

As the Big Three gathered at Crimea,[63] it became readily apparent that the Polish case offered a model to gauge prospects for future cooperation. Although this republic fell within the perceived Soviet military orbit, Russo(Soviet)-Polish relations had long been characterized by a chequered history.[64] As recorded by American Secretary of State James Byrnes, Stalin framed this issue in terms of security. "Twice in the last thirty years our enemies, the Germans, have passed through this corridor. It is in Russia's interest that Poland should be … in a position to shut the door of this corridor by her own force…."[65] Perhaps holding irreconcilably divergent interests,[66] the wartime leaders addressed this matter in an ambiguously worded joint agreement.

In their *Declaration on Liberated Europe,* the Big Three "pledged to the earliest possible establishment through free elections of governments responsive to the will of the people". Vis-à-vis Polish matters, the communiqué called for governmental reorganization "on a broader democratic basis with the inclusion of democratic leaders from Poland itself and from Poles abroad."[67] However, Stalin's counterparts shared a "fundamentally different " understanding of this political model than that maintained by Marxist-Leninst theory.[68] At the 1936 promulgation of the Soviet Constitution, Koba contended: "Democracy in capitalist countries…[is] for the strong, democracy for the propertied minority."[69] In this

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[62] To be sure, primary research reveals such amoral geopolitical calculation competed with a darker ideological modus Although the Red Army remained engaged in heavy fighting in early 1945, Koba espoused that: "[t]he war shall soon be over. We shall recover in fifteen or twenty years, and then we'll have another go at it." Stalin quoted in Djilas, pp. 114-5. In an early 1945 conversation with Bulgarian communist leader Georgi Dimitrov, Koba stated: "The crisis of capitalism is evident in the division of the capitalists into two factions—one fascist, the other democratic. The alliance between ourselves and the democratic faction of the capitalists succeeds because the latter had an interest in preventing Hitler's domination[…] At present we are with one faction against the other, but in the future we shall be against this faction of the capitalists as well." I. Stalin quoted in G. Roberts, "Stalin and Soviet Foreign Policy, in M.P. Leffler and D.S. Painter, eds., *Origins of the Cold War: An International History*, 2nd ed.,(New York: Routledge, 2005) p.51.

[63] The summit took place from 4–11February 1945; Roberts, p. 20.

[64] For a concise depiction of pertinent historical issues, cf. Barass, p. 29. This complex relationship took on important dimensions during the *bellum* period. In the aftermath of the 1943 Katyn crisis when Stalin and the Polish-government in exile broke off relations. For a strong treatment on this subject, see: A.M. Cienciala, N.S. Lebedeva and W. Materski, *Katyn: a crime without punishment* , documents translated by M. Schwartz, A.M. Cienciala and M.A. Kipp (New Haven, Connecticut: Yale University Press, 2008).

[65] I. Stalin quoted in J.F. Byrnes, *Speaking Frankly* (New York: Harper, 1947), pp. 31-2. The general thrust of this comment is recorded in American minutes from the meeting. C.E. Bohlen, "Minutes: Third Plenary Meeting," 6 February 1945, 4 PM, Crimea in US DoS, *FRUS: Crimea*, p. 669.

[66] Across the Atlantic, Roosevelt had revceived a strong domestic mandate to support the Poles. Polish-Americans formed a sizable component of both the populous at large and the 'New Deal' coalition that had brought Roosevelt to power. Churchill felt a similar sympathy for the Polish cause. While the Polish government had remained exiled in Britain, their people had committed en mass to the allied effort. Poles also played a leading role in deciphering coded German military communiqués; Barass, p. 30, Vis-à-vis Roosevelt's domestic considerations, see also: C.E. Bohlen, "Minutes: Sixth Plenary Meeting," 9 February 1945, 4 PM, Crimea in US DoS, *FRUS: Crimea*, p. 848.

[67] W. Churchill, F.D. Roosevelt and J. Stalin, "Communiqué Issued at the End of the Crimea Conference," in US DoS, *FRUS: Crimea*, pp. 972-3.

[68] As Lenin argued: "History knows of bourgeois democracy which takes the place of feudalism, and of proletarian democracy which takes the place of bourgeois democracy." V.I. Lenin, *The Proletarian Revolution and the Renegade Kautsky*, October 1918 (Peking: Foreign Languages Press, 1965) pp. 30/19 respectively ; As Lenin also penned: "There is, therefore, absolutely *no* contradiction in principle between Soviet (*that is*, socialist) democracy and the exercise of dictatorial powers by individuals." V.I. Lenin, "The Immediate Tasks of Soviet Government," in R.C. Tucker, ed., *The Lenin Anthology* (New York: Norton, 1975) p. 454.

[69] I. Stalin, "Speech On the Draft Constitution of the USSR," 25 November 1936 in I. Stalin *Problems of Leninism* (Moscow, 1948) p. 557 quoted in Overy, p. 58.

vein that Stalin informed Molotov that " we can implement it in our own way later. The heart of the matter is the correlation of forces."[70]

At Crimea, numerous important accords were reached. Germany was to be divided into multiple occupational zones but jointly governed.[71] Furthermore, all agreed on a base figure of twenty billion dollars for *Deutsch* reparations. While harsh, Stalin felt that this policy would both hedge against German resurgence provide the necessary capital to rebuild Soviet industry.[72] Finally, in exchange for a commitment to engage in the Pacific, it was accepted that Stalin would ultimately claim territory "violated by the treacherous attack of Japan in 1904" and the Kurile Islands.[73] Yet as difficult territorial decisions were deliberately postponed, misunderstanding was fostered. As Byrnes presciently noted in a 31 October speech, it would become increasingly difficult "to distinguish between a fair and reasonable definition of legitimate influence on the part of a great power…and the illegitimate extension of such interest in the direction of domination and absolute control."[74] To read between the proverbial lines, percentages agreementesque thought and the *Declaration on Liberated Europe* would inevitably collide.

On 12 April, an important change in *Dramatis Personæ* occurred; President Roosevelt passed away leaving Harry Truman to assume the Oval Office. Largely ignorant of Roosevelt's dealings with Stalin, Truman was vested with a daunting task indeed.[75] In this environment, Koba seized the diplomatic lead and dispatched Molotov to Washington. Not all would go cordially. Truman's misgivings that Koba would pursue ideological and security interests at the expense of cooperation stoked apprehension. On 23 April amidst a heated exchange with Molotov, the President bluntly expressed a desire for Stalin to "live up to [his] Yalta Agreement as to Poland." In a letter dispatched the following day, Stalin illustrated that significant bilateral misunderstanding had emerged. "To put it plainly," Koba penned, "you want me to renounce the interests of the security of the Soviet Union; but I cannot proceed against the interests of my country."[76] Truman was coming to feel that Stalin's aims were neither coherent nor palatable vis-à-vis perceived American interests.

Later that month, Hitler finally faced the Reich's collapse; the *Führer* chose suicide. Shortly thereafter, German High Command surrendered "unconditionally to the Supreme Commander, Allied Expeditionary Force and simultaneously to the Soviet High Command".[77] In Stalin's view, the Red Army had undoubtedly made the largest contribution to victory in the Great Patriotic War. Twenty-seven million Soviets had lost their lives in the conflict. As one contemporary observer recalled, it was "both the most

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[70] I. Stalin quoted in Gaddis, *The Cold War*, p. 21

[71] Anticipating the departure of American forces, France would assume a zone carved exclusively from the Anglo-American occupational territory; Gaddis, *The Cold War*, p. 22.

[72] Kennedy-Pipe, p. 72-3.

[73] Quoting "Draft of Marshal Stalin's Political Conditions for Russia's Entry in the War Against Japan," in US DoS, *FRUS: Crimea*, p. 896. This agreement was initially reached verbally, Cf. C.E. Bohlen,   "Roosevelt-Stalin Meeting," 8 February 1945, 3:30 PM, Crimea, in in US DoS, *FRUS: Crimea*, p. 768.

[74] This quotation is in fact from a memorandum, much of which was incorporated into Byrnes' speech. Cf. Dunbabin, pp. 89-90.

[75] Kennedy-Pipe, p. 76; Gaddis, *Strategies of Containment*, p. 14; "Boys if you ever pray, pray for me now" Truman asked the domestic press corps following Roosevelt's death. H.S. Truman quoted in "U.S. Closes Ranks under Truman," *Newsweek*, 23 April 1945, XXV.

[76] On Truman's encounter with Molotov, see: H.S. Truman, *Memoirs of Harry S. Truman*, Vol. I, *Year of decisions* (Garden City, New York: Doubleday, 1955) pp. 79-82; I. Stalin, "J.V. Stalin to H. Truman," 24 April 1945 in *Correspondence Between Stalin, Roosevelt, Truman, Churchill and Attlee*, Compiled by Ministry of Foreign Affairs of the USSR, reprinted from the 1957 ed., (Honolulu: University Press of the Pacific, 2001) p. 220.

[77] Overy, p. 99; quoting Article 1, "Military Surrender by Germany," 7 May 1945, Rheims, in United States Department of State , *Treaties and Other International Agreements of the United States of America 1776-1949: Multilateral 1931-1945*, Vol. 3, compiled by C.I. Bevans (Washington, D.C.: US GPO, 1969) p.1123.

fearful and the proudest memory of the Russian people.[78] While entitled to the largest share of the 'spoils of war', domestic industry had been heavily damaged. In this environment, Stalin likely sought peaceful coexistence.[79]

Just as Roosevelt and Churchill had relied on Koba to defeat the *Führer*, Stalin sought Anglo-American acquiescence in matters of territory and economic aid.[80] Yet tensions increased following the Washington's May suspension of the Lend-Lease assistance program.[81] In an effort to restore bilateral goodwill, Truman dispatched Roosevelt adviser Harry Hopkins to Moscow. In subsequent meetings, Stalin was privately informed that Washington held no objection in principle to Koba's interest in a 'friendly' Polish regime. Proceeding from this premise, it was determined that the Polish government would be reorganized to include non-communist elements.[82] To be sure, Stalin recognized that the Grand Alliance retained compatible perceived interests. However, throughout these meetings Koba decried perceived British efforts towards the restoration of a territorial *cordon sanitaire*.[83] Clearly, the unique significance with which Stalin ascribed to particular regions fostered socially contingent tensions. Nonetheless, Truman remained optimistic following Hopkins' return. "[T]he Russians are just as anxious to get along with us as we are with them", the President declared.[84]

The Grand Alliance's conference at Potsdam would be the last major wartime summit.[85] As interpreter for both Roosevelt and Truman, American C.E. Bohlen had gauged the changing dispositions at each of the major summits. " Everyone was outwardly friendly" Bohlen observed, but there was a "certain reserve on both sides that symbolized basic mistrust."[86] On the second day of proceedings, Stalin reiterated a promise for Soviet assistance in the Pacific; news that was heartily received. "I've gotten what I came for" Truman wrote his spouse; "Stalin goes to war August 15 with no strings on it."[87] In this

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[78] In human terms, 80 percent of Nazi military losses had occurred on the eastern front. Soviet losses amounted to ninety times greater than their American allies. Statistics provided by Barass, p. 32 and Gaddis, *The Cold War*, p. 9; quotation at Gaddis, p. 9.

[79] Gaddis, *The Cold War*, p. 11. Mastny, "Soviet Plans," p. 70; Montefiore, *Stalin: The Court of the Red Tsar*, pp. 428-9.

[80] Gaddis, *The Cold War*, p. 11-2; As Molotov recounted "[i]t was to our advantage to preserve the [Grand] alliance," this relationship was then an essential condition in the achievement of Stalin's security interest. V. Molotov, 7 August 1975 quoted in F. Chuev, *Sto sorok besed s Molotovym* (Hundred and Forty Conversations with Molotov) (Moscow: Terra, 1991 p. 76 cited in Mastny, "Soviet Plans," p. 68.

[81] Although a discussion of Lend-Lease falls beyond the scope of this paper, a pertinent and relatively recent discussion is found at: A.L. Weeks, *Russia's Life-Saver: Lend-Lease Aid to the USSR in World War II* (New York: Lexington Press, 2004); On Soviet recognition of the scope of this program, see: A. Mikoyan, "Report from Mikoyan to Stalin and Molotov on Lend-Lease shipments from the United States between 1 October 1941 and 1 May 1944," 21 May 1944, *Cold War International History Project,* <http://www.wilsoncenter.org/ index.cfm?topic_id=1409&fuseaction=va2.document&identifier=5034E916-96B6-175C-99843A8B8A699961 &sort=Collection&item=Cold War Origins>

[82] R.H. Donaldson and J.L. Nogee, *The Foreign Policy of Russia: Changing Systems, enduring interests,* 4th ed., (London: M.E. Sharpe, 2009) p. 63; In July, the Polish government received Anglo-American recognition. M. Trachtenberg "The United States and Eastern Europe in 1945: A Reassessment,"*Journal of Cold War Studies*, 10, No. 4, p. 98.

[83] Kennedy-Pipe, p. 82.

[84] H.S. Truman, "The President's News Conference," 13 June 1945 , Washington D.C. in *The public messages, speeches, and statements of the president, April 12 to December 31, 1945*, (Washington D.C.: US GPO) p. 123.

[85] This gathering was held from 17 July-2 August 1945; Roberts, p. 28.

[86] C.E. Bohlen quoted in V. Berezhkov, *History in the Making: Memoirs of World War II Diplomacy*, (Moscow: Progress Publishes, 1983) p. 458 cited in Roberts, *Stalin`s Wars*, p. 273.

[87] I.Stalin in "Truman-Stalin Meeting," 17 July 1945, Potsdam, in *FRUS: Diplomatic Papers, The Conference of Berlin(The Potsdam Conference)1945*,Volume II (Washington D.C.: US GPO, 1960) p.45; quoting H.S. Truman, "Letter: 18 July 1945", Berlin in *Dear Bess: the letters from Harry to Bess Truman, 1910-1959,R.H*

environment, European matters were effectively papered over.[88] Soon thereafter, Truman ambiguously informed Stalin that Washington had produced "a new weapon of unusual destructive force." However, the President was taken aback by the lack of surprise expressed by the Soviet leader. As Truman recalled, Stalin coolly remarked that he "was glad to hear it and hoped we would make 'good use of it against the Japanese.'"[89] Little wonder; since 1941, Stalin had received intelligence from clandestine sources detailing this effort.[90]

Twice in early August, Washington employed atomic bombs in war efforts against Imperial Japan.[91] To be sure, these events greatly disturbed Stalin's geopolitical calculations. In conversation with Soviet scientists following the first attack, Koba ominously reflected: "Hiroshima has shaken the whole world. The balance has been destroyed."[92] Mistrust festered in the aftermath of Japan's unconditional surrender; Truman blocked Soviet representation in the post-war affairs of *Nippon*.[93] Soon thereafter, ministerial negotiations began in September at London. With a clear mandate, representatives sought to draft agreeable peace treaties with Germany's erstwhile allies. Yet with Japan's abrupt capitulation, the perceived unifying factor of war had been lost.

At the Council's inaugural meeting in London, Stalin sought recognition of the pro-Soviet governments of Eastern Europe. However, Stalin's allies were now unwilling to see their perceived interests mitigated.[94] Stalin's approach to link Anglo-American interest in Italy with Soviet interest in Eastern Europe gave little freedom to Molotov. "The Allies could sign a peace treaty with Italy without us. So what? Then we have a precedent."[95] Under Koba's order, Molotov remained obdurate only to see the conference fail on procedural technicality. All was not lost however, as a tripartite conference was held at year's end in Moscow. In exchange for recognition of both Bulgaria and Romania, Stalin expressed a willingness to include non-communists ministers and hold subsequent free and fair elections. It was also accepted that the Soviet Union would serve a consultative role in

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[88] On the matter of reparations, it was agreed that reparations would be extracted by each power from their zone of occupation. On this and other European issuesCf. Dunbabin, p. 100-1.

[89] For Truman's depiction of this scene including "a new weapon of…" Cf. Truman, *Memoirs of Harry S. Truman*, Vol. I, *Year of decisions* p. 458. It should be noted that the insecure Truman had a penchant to both elaborate and falsify in recalling his relations with Soviet policymakers. Interestingly, a starkly contrasting recollection is provided in the account of British Foreign Secretary Anthony Eden. In the Conservative politician's view, Stalin simply replied with a nod and "thank you." A. Eden, *The reckoning; the memoirs of Anthony Eden* (Boston, Houghton Mifflin Co., 1965)p. 635.

[90] Specifically, on 25 September 1941 British double agent John Cairncross supplied Moscow with "the contents of a most secret report…on the development of uranium atomic energy to produce explosive material which was submitted…to the [British] War Cabinet." *Voprossi Istorii Estestvoznania i Tekhniki* (1992), no. 3 quoted in Andrew and Mitrokhin, p. 150; For an intelligence centric depiction of both Soviet and American efforts effort towards the development of a non-conventional weapon see Ibid., pp. 150-5.

[91] These attacks were performed targeted the cities of Hiroshima (6 August) and Nagasaki (9 August) respectively; Donaldson and Nogee, p. 63

[92] I. Stalin quoted in Montefiore, *Stalin: The Court of the Red Tsar*, p.445.

[93] Gaddis, *The Cold War*, p. 26.

[94] Dunbabin, p. 102.

[95] I. Stalin quoted in *Archive of Foreign Policy of the Russian Federation* , fond 6, opis 7, papka 43, delo 678, listy 70 cited in V.O Pechatnov, *The Allies are Pressing on you to Break your Will…: Foreign Policy Correspondence Between Stalin and Molotov And Other Politburo Members, September 1945-December 1946*, (Cold War International History Project Working Paper No. 26) p. 2; This paper's treatment of the London and Moscow Conferences is drawn from this source.

Japan. [96] Although these accords were largely token, they represented potential gateway towards future cooperation. However, it was not be.

At Moscow Secretary Byrnes had acted as a plenipotentiary without legitimate mandate. Truman resented the Secretary's 'horse trading' and Washington's foreign policy apparatus splintered. Upon returning from Moscow, this confrontation of Secretary and President came to a head as Truman bluntly declared, "I'm tired of babying the Soviets."[97] Throughout 1946, the President viewed Soviet actions in both Turkey and Iran as threatening.[98] Perhaps Truman no longer viewed Stalin as a cooperative international partner. Above elite misunderstanding, a major impetus for a cooling of Soviet-American relations occurred on 9 February 1946.

On this date, Stalin delivered a major election speech in Moscow.[99] One attendant, American chargé George Kennan noted Koba's claim that WWII "was the inevitable result of the development of the world economic and political forces on the basis of modern monopoly capitalism."[100] Kennan, a leading Soviet policy analyst, had long viewed Stalin's actions from a hawkish paradigm. From this speech, Kennan deduced that regardless of American cooperation, Moscow would act to expedite the collapse of capitalism; Stalin had no interest in reciprocal concessions. These ideas were given life in the *Long Telegram*. Here, Kennan depicted the Kremlin as "a political force committed fanatically to the belief that with US there can be no permanent *modus vivendi*...."[101] This analysis proceeded from an important assumption *viz.* that Soviet policy would be forever driven by an uncompromising Marxist-Leninist imperative. In retrospect, Kennan's analysis strongly reflected Koba's inability to order perceived Soviet interests on an externally coherent utility scale.

Vis-à-vis Stalin's address, ideology was not the sole focus. The General Secretary also spoke positively of the cooperative efforts of "the anti-fascist coalition of the Soviet Union, the United States of America, Great Britain…[which] played a decisive part in defeating the armed forces of the Axis states."[102] The subsequent domestic tenor of this speech also hinted that socialist expansionism was a peripheral aim. Nonetheless, a hawkish hermeneutic understanding of Stalin's rhetoric emerged from this discursive interaction. The effects of this potential misunderstanding were amplified as Kennan's report came to have a profound influence on American policy. Soon thereafter, clandestine intelligence secured a of this telegram copy for Stalin. Koba then dispatched Ambassador Nikolai Novikov to Washington with a similar mandate.[103] In an analytical tone analogous to that

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[96] In the Soviet view, not all was lost. Molotov penned that the Minister's "managed to each decisions on a number of important European and Far Eastern issues and to sustain development of cooperation among the three countries that developed during the war." V. Molotov quoted in Pechatnov, p. 14.

[97] Truman, *Memoirs of Harry S. Truman*, pp. 492-3.

[98] Dunbabin, pp. 106/113-117; Kennedy-Pipe, 86-7.

[99] While not an election speech in the liberal democratic sense (there would be only one candidate running for a governmental position), these events were used as platforms for disseminating information. Soviet election speeches were employed to defend the party stance, reinforce trust in leading figures and express future party policy.

[100] I. Stalin, "Speech Delivered by J. V. Stalin at a Meeting of Voters of the Stalin Electoral District, Moscow," Moscow, 9 February 1946, in I. Stalin, *Speeches Delivered at Meetings of Voters of the Stalin Electoral District, Moscow* (Moscow: Foreign Languages Publishing House, 1950) p. 22.

[101] G.F. Kennan, "The Chargé in the Soviet Union (Kennan) to the Secretary of State," Moscow, 22 February 1946, in US DoS, *FRUS 1946: Eastern Europe, the Soviet Union*, Vol. VI (Washington D.C.: US Government Printing Office, 1969) p. 706.

[102] I. Stalin, "Speech Delivered by J. V. Stalin at a Meeting of Voters of the Stalin Electoral District, Moscow," p. 24.

[103] Gaddis, *The Cold War*, p. 29-30; In Gaddis' view, the 'long telegram' contained "ideas of such force and persuasiveness that they immediately change[d] [American] foreign policy." *Strategies of Containment*, p. 18.

adopted by Kennan, Novikov observed a marked "decline in the influence on foreign policy of those who follow Roosevelt's course for cooperation among peace-loving countries."[104]

Amidst this shift, Britain, once thought to be a major player in shaping the post-conflict order, now confronted severe economic difficulties. In February 1947, Truman was informed that London possessed inadequate resources to economically support its perceived interests in Greece and Turkey.[105] Operating within the perceived constraints of a bipolarized international order, the President acted decisively. Within a month, Truman espoused that it would "be the policy of the United States to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures."[106] At a policy level, Kennan now refined his argument and contended that "the main element of any United States policy toward the Soviet Union must be that of long-term, patient but firm and vigilant containment of Russian expansive tendencies."[107] The threat environment that was the Cold War had been socially constructed.
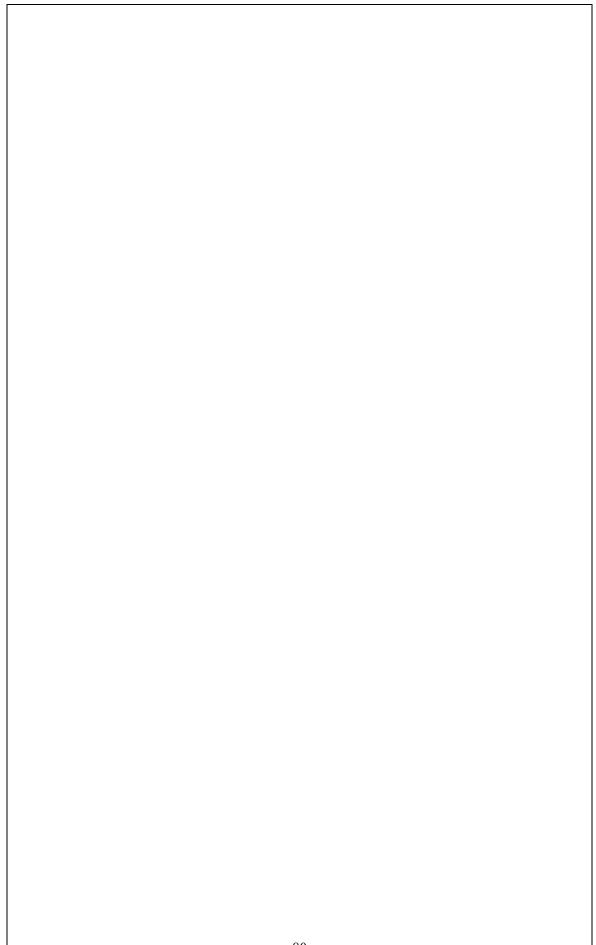
Throughout the Second World War, the Big Three maintained a cooperative environment owing to subjectively perceived necessity. For unique reasons of security and ideology, victory was necessary. When the guns fell silent, this anti-fascist coalition was forced to confront their differences. Leaders both old and new struggled, albeit unsuccessfully, to foster an intersubjective equilibrium grounded in compatible perceived interests. Perhaps an approach grounded in perceived spheres of influence which, while not ideal to all, could have mitigated the emergence of superpower rivalry. Similarly, a collective security apparatus that embraced principles was not to be. At breakneck speed, hermeneutic threats, tensions and contradictions both real and imagined were socially constructed. Yet as the light of history better illuminates the 'riddle, wrapped in a mystery' that is Iosif Stalin's diplomacy, the pertinence of social constructivism becomes quite clear. By grasping the historical interactions and misperceptions that forged Stalin's *Weltanshauung*, post-revisionists may better appreciate that no leader alone bears the mantle of expansionism in this co-authored tale of *Triumph and Tragedy*.

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[104] N. Novikov, "The Novikov Report," 27 September 1946, Washington D.C. in R.B. Levering et al, *Debating the origins of the Cold War: American and Russian perspectives* (Lanham, Maryland: Rowman & Littlefield Publishers, 2002) p. 161.

[105] Dunbabin, p. 129.

[106] H.S. Truman, "*Special* Message before a Joint Session of Congress on Greece and Turkey," 12 March 1947, Washington D.C. in *The public messages, speeches, and statements of the president, January 1 to December 31, 1947*, (Washington, D.C.: US GPO, 1963) pp. 178-9.

[107] G.F. Kennan qua 'X'. "The Sources of Soviet Conduct," *Foreign Affairs*. 25, no 4 (July 1947) p. 575.

Institutionalizing Space-Asset Security

By Bradley Lattanzi

Satellite technologies have become both intrinsically woven into the everyday lives of individuals and essential to the development and prosperity of nations. Satellites currently facilitate a broad range of global activities, including international telecommunications, international business transactions, global scientific research and weather monitoring, as well as national security and international military capabilities. However, with the development of anti-satellite (ASAT) technologies, the rise of potentially threatening space-faring nations, and inadequate international legislation, satellites are susceptible to a burgeoning range of threats. Recent ASAT demonstrations conducted by the U.S. and China highlight this reality. As a result, questions concerning the vulnerability of space-based assets and the future of outer space as either a peaceful forum for international cooperation or the newest international battlefield have come to occupy modern international security discourse. This paper will begin by addressing the vital importance of satellite technologies and examining a host of vulnerabilities. The following sections will then highlight a number of negative implications and potential causes of this problem. Finally, this paper will outline three major policy options and ultimately advocate the institutionalization of modernized international regulations, which effectively ban the use of ASAT technologies.

I. Problem Definition

Satellites are paradoxical in nature. On the one hand they represent the technological advancements and power of a nation. On the other hand, however, satellites may also serve as vulnerable, and thus attractive, targets for aggressors to exploit. This dilemma is best understood as a combination of an increasing dependence on satellite technologies and a mounting sense of vulnerability to attacks. In a 2009 report on space security and ASAT weapons, Krepon and Black outline the role of satellites in telecommunications.[1] They note that satellites "enable [international] financial markets and investors to make transactions quickly and securely".[2] The resulting capital mobility provides the basis for international "delivery and tracking devices".[3] Intelsat, a leading firm in the satellite industry and creator of "the first commercial global satellite communications system", notes that satellites also provide users with fast and reliable access to the Internet and the use of mobile phones from anywhere in the world.[4] Satellites also support advanced global scientific studies. They enable researchers to monitor earthquake and volcano activities, observe and predict weather patterns, including hurricane, cyclone and tornado events, and even track the spread of various diseases.[5]

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[1] Michael Krepon and Samuel Black, *Space Security or Anti-Satellite Weapons? A Space Security Project,* The Henry L. Stimson Centre, 2008,
<http://www.stimson.org/space/pdf/Stimson_Space_Booklet_2009.pdf>.
[2] Krepon and Black, 12.
[3] This is crucial for a globalized production process, just in time delivery, and global supply chains. A disruption to these services would produce adverse economic effects for a variety of actors, ranging from private firms and individuals to government agencies. See: Krepon and Black, 12.
[4] Intelsat, "History From Telecommunications Inception Through Today," 2009,
<http://www.intelsat.com/about-us/history/>.
[5] Also, NASA's Nimbus 7 satellite was used to helped track ozone depletion over the South Pole, monitor the effects of logging operations in New Guinea over a number of years, and assess flooding and damages resulting from the 2004 tsunami in South East Asia. See: Krepon, 9-10.

The Global Positioning System (GPS) is perhaps the greatest advantage of satellite technologies. As Krepon and Black note, GPS enables "precise marine vessel navigation" and can be used to monitor other vital infrastructures such as railways and pipelines.[6] Additionally, these capabilities allow organizations such as national coast guards and the Red Cross to conduct quick and effective search and rescue operations in remote areas.[7] Also, GPS technologies are needed to coordinate vital air traffic control signals, a necessary service that facilitates high volumes of air travel for individuals, business and governments.

Another GPS application forms part of a state's national defense and international military capabilities. As noted by Krepon and Black, satellites minimize soldier and civilian casualties in a number of ways. For instance, they allow for "early warning of threatening troop build-ups and missile launches".[8] Additionally, satellites provide geographical information for the safe travel of soldiers through dangerous or remote areas such as trackless deserts in the Middle East.[9] In a 2007 report on anti-satellite capabilities published by the Brookings Institute, Senior Fellow Michael O'Hanlon notes that, the US "regularly relies" on satellite reconnaissance capabilities "that can spot [terrestrial-based] targets from orbit".[10] He goes on to further note that, satellites are also used "to pass information from sensors to shooters" and "to guide bombs to their targets".[11] These capabilities enable the US military to plan, organize, and conduct precise offensive attacks on enemy forces. In more ways than one satellites have come to symbolize the power and prowess of a nation. They require a significant amount of resources to design, develop, launch and maintain. Consider, for instance, the approximate costs of a GPS satellite, which experts place around $45 million (USD) .[12]

Despite these benefits, a considerable weakness lies in depending on these technologies. To be sure, satellites are susceptible to a wide variety of interference and attacks[13]. In a 2002 article published by the Center for Nonproliferation Studies, McDougall and Baines identify three basic components of such programs.[14] One is the ground segment, which consists of "telemetry, tracking and control" and communications stations.[15] Second, are the actual space-based assets themselves.[16] Third, radio links "carry

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[6] Krepon and Black, 9.

[7] James Careless, "The Backbone for the American Red Cross. Satellite Today," 2003, <http://www.satellitetoday.com/via/features/Satellite-The-Backbone-For-The-American-Red-Cross_131.html>.

[8] Krepon and Black, 8-12.

[9] Krepon and Black, 8.

[10] Michael O'Hanlon, "Beijing's Dangerous Missile Mistake," *Brookings Institute,* 2007, <http://www.brookings.edu/articles/2007/0205defense_ohanlon.aspx>.

[11] Ibid.

[12] Costs of other satellites are much higher; weather satellites are in the neighborhood of $450m, while spy satellites can range anywhere from one to ten billion dollars. In addition to these figures, deployment and launch costs could add an additional $10m to $150m per satellite. For more information see: Krepon and Black, 12.

[13] To fully appreciate these vulnerabilities one must have a general understanding of the components of a satellite program.

[14] Robert McDougall is Director of the Non-Proliferation, Arms Control and Disarmament Division, DFAIT Canada. Phillip Baines, a senior-level aerospace engineer, presently holds the position of policy advisor in space verification and arms control, DFAIT Canada.

[15] Robert McDougall and Phillip Baines, "Military Approaches to Space Vulnerability: Seven Questions," in *Future Security in Space: Commercial, Military, and Arms Control Trade-Offs,* rev. ed., ed. James Clay Moltz (Monterey, California: Center for Nonproliferation Studies, Monterey Institute of International Studies, 2002), 11.

commands, communication traffic, signals, telemetry and data".[17] While the ground segment and launch facilities are susceptible to conventional military attacks, radio links, on the other hand, are also susceptible to interference from "electronic transmissions" that may jam, spoof, or hack signals.[18] Finally, satellites themselves are susceptible to a range of threats. These include: transatmospheric attacks (eg. conducted by enemy space aircraft), missile interceptors, terrestrial-based direct-energy weapons (eg. lasers), and space-based threats, such as mines, trajectory-altering devices, debris clouds, and electromagnetic pulses (EMPs).[19]

According to a 2007 report published by the Council on Foreign Relations, an ASAT weapon includes anything that "destroys or interferes with satellites, impeding a nation's ability to collect intelligence".[20] It is important to note that ASAT technologies are not entirely new. Indeed, by the early 1980s both the US and the Soviet Union had each conducted a number of ASAT tests.[21] Two recent ASAT tests have highlighted satellite vulnerabilities. The first, which was conducted by China in January 2007, successfully destroyed one of its aging weather satellites that orbited the Earth at over five hundred miles.[22] The test, which was a first for China, came after nearly a quarter of a century without any ASAT demonstrations.[23] The international community immediately perceived this as a blatant showcase of a growing Chinese power in space, and as a threat to all space-based assets.[24] One of the reasons the test was so threatening was that it created a significant amount of orbital debris.[25]

The following year witnessed yet another ASAT test, this time conducted by the US. Krepon notes that Washington claimed this was a preventative measure to destroy a defunct spy satellite before it could crash-land on Earth and release toxic hydrazine gases from its unused fuel.[26] This excuse, however, seems shaky – especially considering that China demonstrated its own ASAT capabilities thirteen months earlier. One interesting point about the US test is that it was conducted from a Navy AEGIS warship, using a

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[16] Namely, artificial satellites with payloads and platforms. A 'payload' conducts the communications mission by receiving and transmitting information, while the functions of a 'platform', or 'bus', include power generation, altitude control, and propulsion. See: McDougall and Baines, 11.

[17] McDougall and Baines, 11.

[18] McDougall and Baines, 11.

[19] Ibid.

[20] These can be air, land, or sea-based. See: Carin Zissis, "China's Anti-Satellite Test," Council on Foreign Relations, 2007, <http://www.cfr.org/publication/12684/>.

[21] This evidences the fact that ASAT capabilities quickly became of high strategic value as the US and USSR competed for space dominance during the Cold War. See: Zissis, "China's Anti-Satellite Test".

[22] Marc Kaufman and Dafna Linzer, *China Criticized for Anti-Satellite Missile Test: Destruction of an Aging Satellite Illustrates Vulnerability of U.S. Space Assets,* <http://www.washingtonpost.com/wpdyn/content/article/2007/01/18/AR2007011801029_pf.html>.

[23] William Broad and David Sanger, "China Tests Anti-Satellite Weapon, Unnerving US," *New York Times,* January 18, 2007, Asia Pacific section, <http://www.nytimes.com/2007/01/18/world/asia/18cnd-china.html?_r=1>.

[24] Michael Krepon, *After the ASAT Tests,* Henry L. Stimson Center, 2008, <http://www.stimson.org/pub.cfm?ID=586>.

[25] Orbital debris will be discussed in considerable detail in the following section.

[26] Krepon, "After the ASAT Tests".

Standard Missile-3.[27] This highlights the versatility of US ASAT capabilities, and raises serious concerns over the potential weaponization of outer space.

II. Possible Consequences

There are dire consequences associated with allowing satellite insecurities to continue unchecked, creating an increased sense of volatility for all space-based assets.[28] The 2007 and 2008 tests have reminded the international community that ASAT capabilities are not only feasible but also produce potentially deadly results. Many believe that the spread of this technology will likely lead to an arms race in space, further exacerbating preexisting insecurities.

As Harvard astronomer Jonathan McDowell told the New York Times: the Chinese test was "the first real escalation in the weaponization of space that we've seen in 20 years… end[ing] a long period of restraint".[29] One of the reasons that the US discontinued ASAT testing after 1985 was because previous methods, which by current standards were crude and inexpensive, were known to create significant clouds of orbital debris.[30] Orbital debris, which NASA's Orbital Debris Program Office defines as any non-functioning man-made object in space, is capable of traveling at extremely high speeds and thus can have potentially fatal effects upon impact with space-based assets.[31] Although larger pieces of debris are typically more dangerous, even smaller pieces are no laughing matter.[32] As Krepon and Black note, the debris from the 1985 US ASAT test took 19 years to burn up in Earth's atmosphere.[33] They also note that China's 2007 test created an estimated "two million debris fragments", 40,000 of which are classified as lethal and likely to remain in orbit for over a century.[34] In other words, China's 2007 test created "the worst-ever man-made debris field in space".[35] Worst of all, orbital debris indiscriminately risks all space activities –from enemy satellites to a nation's own spacecraft.[36]

Reports indicate that although the 2008 US test did not create significant debris, it helped cause other negative implications. First, the convenient timing of the US test implies that it was an offensive reaction to the 2007 Chinese test. As such, the US may be criticized by having set a poor international precedent that is not conducive to peaceful uses of outer space. In the eyes of other international actors, both tests were viewed as offensive strategies that attempted to establish or reaffirm a presence in space.[37] Additionally, as Hsu and Bryner note, the US test may serve to both legitimize China's 2007 demonstration and

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[27] Note: SM-3 is not a weapon designed specifically for satellite missions. See: Jeremy Hsu and Jeanna Bryner, *Space Arms Race Heats Up Overnight*, <http://www.space.com/news/080221-asat-aftermath.html>.

[28] These include everything from spy satellites to spacecraft on peaceful missions such as moon travel, or trips to the international space station.

[29] William Broad and D. Sanger, "China Tests Anti-Satellite Weapon, Unnerving US".

[30] Krepon and Black, 16.

[31] NASA Orbital Debris Program Office, "Orbital Debris Education Package," <http://www.orbitaldebris.jsc.nasa.gov/library/EducationPackage.pdf>, 4.

[32] In fact, while small to medium-sized pieces of debris (under 10cm) can be detected in space, they are nearly impossible to constantly track. See: Krepon and Black, 16-17.

[33] Krepon and Black, 16.

[34] Ibid.

[35] Krepon and Black, 16.

[36] A prime example of this occurred on March 12, 2009 when a piece of debris (approx. five inches in size), which had broken off a 1993 GPS satellite, nearly collided with the International Space Station. See: Krepon and Black, 16.

[37] Hsu and Bryner, "Space Race Heats Up Overnight".

potentially provide justification for other nations (eg. Iran and India) to conduct their own tests.[38]

As evident from the recent Chinese and US tests, the ASAT capabilities of one nation-state may provide both incentives and a justification for others to develop equivalent, or superior, technologies. This action-reaction scenario embodies the essence of an arms race. A potential arms race in space is perhaps the most serious implication resulting from satellite vulnerabilities. This scenario would likely produce a number of consequences. First, an arms race in space would challenge US space dominance. Although the US currently enjoys a commanding position, it is important to note that this lead may not last forever, especially considering the rapid development of China's current space program.[39]Additionally, space faring nations (particularly the US) stand to lose the greatest if space becomes a hostile battlefield. In other words, it is in the best interest of the US to promote the safest environment in order to protect its space-based assets.

Second, an arms race in space may have negative implications for the growing satellite industry. If space-asset vulnerabilities increase further, this may dissuade business from investing in the development and advancement of a booming industry. Third, widespread ASAT capabilities will require the academics, policy-makers, diplomats, and politicians of the future to wrestle with issues of proliferation, akin to the contemporary struggle with nuclear proliferation. As such, it may be fruitful to implement international preventative measures such as banning ASAT technologies now. Fourth, considering their vital importance, satellites may become increasingly attractive targets for aggressors to exploit. This attractiveness may offer incentives for rogue states, or even terrorist organizations, to develop ASAT capabilities. As McDougall and Baines note, terrestrial-based ASAT attacks may be an option for "states with a developed medium- or intermediate-range ballistic missile (IRBM) capability, even without satellite experience".[40] As well, McDougall and Baines posit that even non-state actors (eg. terrorist groups incapable of launching IRBMs), may be able to interfere with satellite radio links via electronic transmissions.[41] In other words, the diversity of satellite vulnerabilities would allow for a greater, or more rapid, spread of ASAT threats in the event of an arms race in space.

Finally, the most serious implication, which would likely result from a volatile arms race, includes the loss of vital satellite capabilities. This would, inter alia, disrupt global financial markets, mobile telecommunications, and remote internet access, seriously impede global scientific studies and force military operations to cope without vital technologies such as GPS mapping and navigation abilities, and GPS guided weaponry. In other words, as William Martel notes, with the disruption of satellite capabilities "we could be propelled back to the nineteenth century".[42]

III. Probable Causes

Contributing to this dilemma are various systemic characteristics, including the rise of space-faring nations besides the US, and inadequate international legislation, which fails to restrict the development and usage of ASAT technologies. It is a known fact that the US is currently the world's leading 'space-power'. Krepon and Black note that current US activities in outer space cost approximately $40 billion per year, which equates to over

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[38] Ibid.
[39] McDougall and Baines, 14.
[40] Examples of such states include Iran, Pakistan, and North Korea. See: McDougall and Baines, 13.
[41] McDougall and Baines, 14.
[42] William Martel, former member of the US Air Force Scientific Advisory Board, is a professor of international security at the Fletcher School of Law and Diplomacy. See: Zissis, "China's Anti-Satellite Test".

"two-thirds of all global space expenditures".[43] In fact, according to a 2006 report published by the Union of Concerned Scientists, the US owns over 400 of the total 800 satellites in orbit, while Russia and China own 89 and 35 satellites, respectively.[44] Other statistics, however, showcase the impressive growth of China's space sector in recent years.[45] For instance, it is now known that ground-based lasers are a part of China's ASAT arsenal. This was confirmed by a 2006 demonstration that blinded a US spy satellite, orbiting above Chinese territory.[46] While the demonstration was said to have caused no "material damage [to the] satellite's [long-term] ability to collect information" the proven ability to temporarily 'blind' high-orbit spy satellites is certainly a valuable asset in restricting an adversary's access to timely information, particularly during time of war.[47]

China also poses an indirect threat to space-based assets. This threat involves assisting potentially hostile nations in developing their own satellite technologies. As James Lewis notes in a 2009 CSIS fact sheet, Iran's 2009 satellite launch was made possible by "significant help from Russia, North Korea, and China.[48] Tehran's newly acquired "Omid" satellite, which is capable of both military and non-military applications, was launched using a Shafir-2 Rocket.[49] Political motivations for such collaborative efforts are likely rooted in an attempt to counter US hegemony in space by practicing informal strategic defense arrangements that represent regional interests outside of the West.

Much has changed since the original US-USSR space race; the world has witnessed new space-faring actors, technologies and threats. However, it is interesting to note that despite this restructuring, international space laws have for the most part remained relatively unchanged since their inception in the latter half of the twentieth century.[50] Consider, for instance, the 1967 'Outer Space Treaty', which came into force prior to China's first satellite launch in 1970, human space mission in 2003, and ASAT tests in 2006 and 2007.[51] As Jingye notes, this treaty "only prohibits the deployment of weapons of mass destruction (WMD) in outer space, but not other weapons".[52] However, the recent prevalence and severity of ASAT capabilities that do not use WMD reveal a loophole, or

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[43] Krepon and Black, 14.

[44] Union of Concerned Scientists, "Ensuring Space Security," 2006, <http://www.ucsusa.org/assets/documents/nwgs/satellites.pdf>.

[45] See: Krepon and Black, 24.

[46] Reuters, "China Jamming Test Sparks U.S. Concerns," *USA Today,* May 10, 2006, Technology section, <http://www.usatoday.com/tech/news/2006-10-05-satellite-laser_x.htm>.

[47] Ibid.

[48] James Lewis is director of the Technology and Public Policy Program at the Center for Strategic and International Studies. See: James A. Lewis, "The Iranian Satellite Launch," *Center for Strategic & International Studies,* 2009, <http://csis.org/files/media/csis/pubs/090205_cq_lewis_iran.pdf>.

[49] James A. Lewis, "The Iranian Satellite Launch".

[50] Currently there are 5 major UN treaties and principles on space law. These are: the 1967 'Outer Space Treaty', the 1968 'Rescue Agreement', the 1972 'Liability Convention', the 1976 'Registration Convention', and the 1984 'Moon Agreement'. See: United Nations Office for Outer Space Affairs, "Treaties and Principles on Space Law," 2008, <http://www.oosa.unvienna.org/oosa/SpaceLaw/treaties.html>.

[51] Krepon and Black, 15.

[52] Cheng Jingye is deputy director of the Arms Control Department of China's Ministry of Foreign Affairs. See: Cheng Jingye, "Treaties As An Approach to Reducing Space Vulnerabilities," in *Future Security in Space: Commercial, Military, and Arms Control Trade-Off,* rev. ed., James Clay Moltz (Monterey, California: Center for Nonproliferation Studies, Monterey Institute of International Studies, 2002), 48. <http://cns.miis.edu/opapers/op10/op10.pdf>.

limitation, in this treaty. In other words, the chosen language does not restrict ASAT weapons that are not classified as WMD, notwithstanding their lethality.[53]

US opposition to updating the 1967 Outer Space Treaty presents a significant barrier to the widespread success of appeasing satellite vulnerabilities. In fact, as a 2007 report on Chinese ASAT capabilities published by the Council on Foreign Relations highlights, Beijing's step in joining Moscow's "longtime efforts to convince the US to sign a treaty banning the deployment of weapons in space" has been a failure.[54] Instead, the US remains stubbornly insistent upon defining independent space policies, namely the 2006 National Space Policy (NSP).[55] The top priority defined in the 2006 NSP is to:

> Strengthen the nation's space leadership and ensure that space capabilities are available in time to further U.S. national security, homeland security, and foreign policy objectives… and enable unhindered U.S. operations in and through space to defend our interests there.[56]

In other words, US justifications for opposing further restrictions on the uses of space are based largely on the desire to maintain national autonomy in all military decisions. While this may characterize a typical US response to power-related issues, it is a serious hindrance to international space law because without the consent of the world's dominant space power whatever agreements are reached are likely to be of little significance.

IV. Policy Options and Recommendations

There are at least three basic types of responses to growing insecurities of space-based assets. The first takes a defensive approach by attempting to reduce the severity of ASAT attacks. One example of this approach is "hardening or shielding", which may include using "rapid-acting shutters" on satellites to defend vital components from "debris or intense illumination".[57] Another example is creating "large networked constellations of satellites with a distributed architecture… so that destruction of one or even several satellites does not take down the entire system".[58] However, this option does not target the actual source of ASAT threats, instead it only attempts to reduce the destructive effects.[59]

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[53] One response to this dilemma may involve expanding the definition of WMD to include other satellite threats such as lasers, radio signals, and so on. However, this approach seems ineffective since lasers can also be used for peaceful purposes, and surely because radio signals are not WMDs.

[54] However, there is something odd about Beijing's seemingly clandestine intent behind attempting, on the one hand, to champion international legal prohibitions on ASAT weapons, while developing and testing such threatening technologies on the other. Some have suggested that recent Chinese tests have been part of a broader strategy to coerce the US into diplomatic negotiations. For more information see: Zissis, "China's Anti-Satellite Test".

[55] Laura Grego, "Weaponizing Space: Is Current U.S. Policy Protecting Our Security?" *Nuclear Weapons and Global Security,* 2007.
<http://www.ucsusa.org/nuclear_weapons_and_global_security/space_weapons/policy_issues/ucs-testimony-by-laura-grego.html>.

[56] Grego notes that this is a change from the Clinton administration's 1996 NSP, which placed top priority on robotic exploration of space in order to expand knowledge about the Earth. See: Grego, "Weaponizing Space: Is Current U.S. Policy Protecting Our Security?"

[57] McDougall and Baines, 12.

[58] Ibid.

[59] The diversity of satellite components and their associated types of vulnerabilities serve to frustrate the effectiveness of this approach… However, while this option fails to provide a primary solution to the problem, it may still present a worthwhile investment as a compliment to one of the following options.

The second option involves the hotly debated topic of weaponizing outer space.[60] This approach attempts to deter ASAT attacks through the development and use of 'defensive' anti-ASAT technologies, including space-based lasers (SBL) and space-based kinetic energy weapons.[61] These technologies, however, may also be used as offensive ASAT weapons themselves.[62] This duality seriously discredits the attractiveness of space weapons as a long-term solution to appease satellite vulnerabilities. In fact, many have argued that steps toward the weaponization of space may provide incentives for various nations to participate in an arms race in space, further exacerbating existing vulnerabilities.[63]

While the obvious intended benefit of weaponization is to cement US supremacy in space, McDougall and Baines highlight an important limitation. They argue that "the first use of new strategic technology" generally provides others with: incentive to "acquire the same capabilities or an adequate asymmetrical response"; "a clear demonstration of what is technologically possible"; and "a licit (defense-shared or commercial) or illicit (espionage-mediated) source of that technology".[64] In other words, while this may offer short-term reprieve for American satellite vulnerabilities, it does not seem plausible as a long-term solution for all space-based assets. Other complications, as outlined by US Secretary of Defense, Robert Gates in a speech on recommendations for the 2010 defense budget, include "significant affordability and technology problems".[65]

The final option under review follows a diplomatic, or legal-rational approach to appeasing satellite vulnerabilities. This paper advocates the use of rational choice institutionalism in developing a viable and effective long-term solution. Rational choice institutionalist theory explains that "the institutional context and rules and norms [of the system] determine the outcome", while "actors (i.e. national governments, and supranational institutions) pursue strategies to safeguard their interests".[66] Applying this theory to the satellite dilemma presents two options: to amend existing international legislation, or to create a new (legally-binding) international agreement prohibiting any ASAT attacks. For either of these options to be successful, new legislation must carefully utilize broad, sweeping language that anticipates the further development of ASAT technologies and the potential emergence of new threats.[67] In doing so, it must explicitly

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[60] Space has long been 'militarized', meaning used for military objectives (eg. reconnaissance missions, GPS, etc.) but weapons have yet to be deployed from space during time of crises. See: Krepon and Black, 4.

[61] Ivan Safranchuk, "The Link Between Missile Defense and Space Weaponization," *International Network of Engineers and Scientists Against Proliferation, 2002*. <http://www.inesap.org/sites/default/files/inesap_old/bulletin20/bul20art05.htm>.

[62] Ibid.

[63] Michael O'Hanlon, "A Space Weapons Race is Not the Answer for America," *Brookings Institute*, 2007, <http://www.brookings.edu/opinions/2007/0122defense_ohanlon.aspx>.

[64] Additionally, they note this pattern has been observed with other technologies, eg. nuclear and thermonuclear weapons, long-range missiles of all kinds, and spy satellites. See: McDougall and Baines, 14.

[65] Unlike his predecessor, Donald Rumsfeld, who is still a strong advocate of this option, Gates has supported a reduction in Missile Defense Agency spending by $1.4 billion. This highlights significant challenges (eg. feasibility) with the anti-ASAT capabilities themselves. See: US Department of Defense. "Defense Budget Recommendation Statement (Arlington, VA), 2009, <http://www.defense.gov/speeches/speech.aspx?speechid=1341>.

[66] Amy Verdun, "Why EMU happened: a survey of theoretical explanations," *Before and Beyond EMU: Historical Lessons and Future Prospects,* ed. Patrick M. Crowley (New York: Routledge, 2002), 88.

[67] Jingye highlights limitations to the 1967 Outer Space Treaty that result from both narrow language and a failure to anticipate modern offensive ASAT technologies. See: Jingye, 48.

prohibit, as Jingye makes clear, the "threat or use of force against space assets".[68] This ensures that all ASAT attacks, despite the types of weapons used, where and how they are deployed, or even who deploys them, are prohibited. Such regulations would present an effective tentative blueprint for a legally binding international agreement that will both alleviate international concerns over satellite vulnerabilities by explicitly restricting attacks on space-based assets and prevent the weaponization of space.

This approach emphasizes the importance of preventing both the spread of ASAT technologies and the potential weaponization of space. As Jingye notes, failure to prevent these outcomes will result in challenges of "space weapons proliferation, space arms control and regulation, and disarmament, as is now the case with nuclear weapons".[69] In addition to securing a safe environment for space-based assets, the institutional approach also promotes international cooperation and transparency between space-faring nations. Strong institutional relationships may produce fruitful results in promoting the peaceful exploration of space and also in effectively deterring rogue states and non-state actors from exploiting space-based asset vulnerabilities.

Perhaps the greatest obstacle in implementing more restrictive international agreements on space-related activities is gaining support from major space-faring nations. As ongoing Chinese and Russian attempts have shown, gaining the approval and support of the US in restricting ASAT activities is an arduous task.[70] Unsurprisingly, Washington has shown continuous aversion toward limiting offensive policy options by submitting to restrictive international regulations. Despite these difficulties, however, space-powers (namely the US, Russia, and China) each have enough resources invested in their own space programs to provide incentives to secure investments the best way possible.[71] If properly addressed and aligned, these interests may provide the basis of cooperation on such an agreement.

As Lloyd Axworthy has suggested in a 2002 article published by the INESAP, this difficult situation may present a unique opportunity for Canadian actors. An Ottawa-led approach would garner benefits both for Canada and for the international community. For instance, in applying the experience gained from the successful Ottawa Landmine Treaty, Canada can facilitate the international cooperation necessary for an agreement on banning ASAT activities and preventing the weaponization of space. Gaining US support might also be easier with a "space focused Ottawa Process", by utilizing close ties between Ottawa and Washington.[72] Additionally, as Axworthy notes, with support from allies and other space-faring nations, civil society interests, and American civil and commercial interests, it will be quite "difficult for Washington to sustain a boycott of the treaty".[73] Furthermore, the Ottawa Process may influence US support by offering:

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[68] Jingye, 49.

[69] Jingye, 48.

[70] Bates Gill and Martin Kleiber, "China's Space Odyssey: What the Anti-Satellite Test Reveals About Decision-Making in Beijing," *Foreign Affairs* 86, no. 3 (May/June, 2007), <http://www.foreignaffairs.com/articles/62602/bates-gill-and-martin-kleiber/chinas-space-odyssey-what-the-antisatellite-test-reveals-about-d>.

[71] As Jingye notes, "space powers themselves are likely to become the biggest victims" in the absence of a legal-rational framework that restricts ASAT activities. See: Jingye, 48.

[72] Lloyd Axworthy and Merav Datan, "Prevention of an Arms Race in Outer Space," *International Network of Engineers and Scientists Against Proliferation,* 2002, <http://www.inesap.org/sites/default/files/inesap_old/bulletin20/bul20art01.htm>.

[73] Ibid.

technology sharing and commercial incentives for countries abiding by rules prohibiting the aggressive or offensive uses of space and loss of trade for enterprises belonging to countries that are not party to the agreement.[74]

Simultaneously, this approach could also reestablish Canada's role as a Middle Power by affording a stronger presence in contemporary international security initiatives.

V. Conclusions

The possibility of an arms race developing in outer space is both realistic and likely to result if little or nothing is done to resolve satellite vulnerabilities. As has been proven throughout this paper, the only effective long-term solution to this challenge is institutionalizing an appropriate international code of conduct that explicitly prohibits any ASAT activities. Although there have been significant challenges faced by current Russian and Chinese attempts, an 'Ottawa-led' initiative may be highly valuable in garnering support from the US, the world's leading space-power. It is important to note that the increasing dependence on satellite technologies is unlikely to be reversed in the near future. As such, satellites have played, and will continue to play, a significant role in the lives of individuals, business, and governments of the future. With this in mind, it seems wise to prevent the weaponization of space now, to avoid future struggles of proliferation.

[74] Ibid.

Government Involvement in the Darfur Conflict: Polarized Ethnic Identities and Genocide

By Jessica Martin

Instability, violent conflict and death have plagued the history of Sudan since independence in 1956. In the six decades since, the people of Sudan have endured three civil wars: the first between North and South from 1956-1972; the second, between the same two parties, began in 1983 and ended with a peace agreement in 2005; and the third, in the region of Darfur, began in 2003 and continues today. These three conflicts have caused three million deaths and the toll continues to rise.[1] The ongoing conflict in Darfur has been the focus of substantial attention from the international community. Debates have centered on two main issues: is it an ethnic conflict and should it be classified as genocide? While tracing ethnicity in Darfur is an extremely difficult and complex process, the result of such analysis is the conclusion that it is indeed an ethnic conflict. Determining whether or not the situation should be considered genocide is an equally complicated process. Despite the complexities involved, when the situation in Darfur is analyzed in its entirety, it is evident that the government is pursuing a multifaceted, systematic campaign directed against the African population with the goal of eliminating it from Darfurian society. Therefore, the current state of affairs in Darfur should be viewed as genocide according to the United Nations (UN) Convention on the Prevention and Punishment of the Crime of Genocide.

Tracing the Formation Polarized Ethnic Identities

In order to determine whether or not a conflict is an ethnic conflict and should be considered genocide, one must first establish a working definition of ethnicity. In definitional terms, ethnicity is a chameleon. In its original form, it describes a group with common descent.[2] However, in the contemporary era the term has been employed to describe various different group relationships. For the purposes of this essay, ethnicity will be defined as a presumed identity built around a subjective standard of perception and self-perception.[3] Not only is this an accurate definition, it has been accepted and utilized by international legal institutions. The International Criminal Tribunal for Rwanda made use of the above definition to establish that the massacres committed during the spring of 1994 were committed against an ethnic group and thus qualify as genocide. The consensus surrounding ethnicity is that a group may be considered an ethnic group without consciously considering themselves as such. Instead, they are identified as being members of a distinct group by an outside body – be it another ethnic group, state or international actor.[4] In the vast majority of cases, ethnic groups identify themselves by knowing "what they are not before they know what they are."[5] It will be shown that this is the case in Darfur.

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[1] Leo Kuper, *Genocide: Its Political Use in the Twentieth Century* (New Haven: Yale University press, 1981), p. 69; Randolph Martin, "Sudan's Perfect War," *Foreign Affairs* 81, no.2 (2002), 111; Mathilde K. Van Haren, "The Report of the Commission of Inquiry on Darfur and *Genocidal Intent* – A Critical Analysis," *Netherlands International Law Review* LIII, no.2 (2006), 209.

[2] Walker Connor, "Terminological Chaos ('A Nation is a Nation, Is a State, Is an Ethnic Group, Is a …')" in *Ethnonationalism: The Quest for Understanding*, ed. Walker Connor (Princeton, 1993), 100.

[3] Conner, 102; Van Haren, 234.

[4] Ibid.

[5] Conner, 103.

In Darfur, the existence of polarized ethnic identities is a very recent phenomenon. During the pre-colonial era identities were formed along tribal lines and were quite fluid as intermarriage and assimilation was common and individuals often shifted between groups.[6] During the post-colonial period, ethnicity in Darfur was used administratively to solve disagreements and grant titles to land.[7] However, during this time, ethnic identity was considered by Darfurians to mean their tribal identity, not Arab or African but Fur, Masalit, Baggara, Rizeigat and so on.[8] Ethnic identity continued to be extremely fluid during this time. For example, a Fur farmer might acquire a large number of cattle and become Baggara. Within a few generations, his descendents would be able to claim an authentic Baggara pedigree. The same could occur in the other direction. A Baggara nomad may settle, begin farming and become Fur.[9] Any disputes arising between groups were resolved peacefully through traditional conferences and cooperation.[10]

Perceptions of ethnic identity and the means of resolving disputes changed dramatically following the droughts in the 1970s and mid-1980s.[11] The droughts and desertification that accompanied them forced large numbers of people from Northern Darfur to seek refuge in Western and Southern Darfur,[12] where resources were more abundant but by no means plentiful. At first these displaced people got along well with their hosts as they were, by tradition, obliged to follow the customary laws of the dominant group.[13] Ethnicity continued to be fluid at first, with settlers shifting to assume the identity of their hosts and the hosts themselves adopting settler identities.[14] In the mid-1980s relations between tribes changed dramatically as ethnic boundaries began to harden and become polarized.

The formation of polarized ethnic identities can be attributed to two major factors. First, the 1980s saw the arrival and growth of an ideology of Arab cultural and racial supremacy among the displaced and struggling tribes. Within a short period of time the ideology came to have an incredibly strong hold on the region.[15] It can be said to have come from two separate yet interconnected sources. The government of Sudan has, since independence, professed a doctrine of fundamentalist religious ideology and Arab supremacy. This doctrine began to spread throughout the struggling population of Darfur due to the increasing involvement of the government in their affairs.[16]

The other source of this budding ideology is the Gaddafi regime in Libya, one of the Sudanese government's closest allies. Throughout the 1980s and early 1990s the Libyan

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[6] Molly J. Miller, "The Crisis in Darfur," *Mediterranean Quarterly* 18, no.4 (Fall 2007), 114; Heather J. Sharkey, "Arab Identity and Ideology in Sudan: The Politics of Language, Ethnicity, and Race," *African Affairs* 107, no.426 (2008), 23.

[7] Miller, 122.

[8] Mahgoub El-Tigani Mahmoud, "Inside Darfur: Ethnic Genocide by a Governance Crisis," *Comparative Studies of South Asia, Africa and the Middle East* 24, no.2 (2004), 3.

[9] Ibid.; Alex De Waal, "Who are the Darfurians? Arab and African Identities, Violence and External Engagement," *African Affairs* 104, no.415 (2005), 194; M. W. Daly, *Darfur's Sorrow: A History of Destruction and Genocide* (New York: Cambridge University Press, 2007), 216.

[10] Mahmoud, 4

[11] For more information regarding the droughts and their consequences on the population please see Daly, 215-235.

[12] The current names of provinces in Darfur are used throughout the essay in order to avoid any possible confusion as to where events occur.

[13] De Waal, 193.

[14] Ibid., 194.

[15] Miller, 122.

[16] Ibid., 116; Mahmoud, 3.

regime actually sent Libyan Arabs to settle on land in Darfur. The ideology of the regime accompanied them and found new adherents among the struggling tribes.[17] By the late 1980s, Libyan propaganda found in Darfur actually counted the ways in which the "rights of 'Arabs' had been trampled by the 'African' regime in Chad and the 'blacks' of Darfur."[18] The infusion of an ideology of Arab supremacy for both sources brought with it a disturbing racial element in which non-Arabs were considered inferior beings.[19] As a result, segments of the Darfurian population began to identify themselves as Arabs, distinct from the non-Arab population. Increasingly, non-Arabs began to recognize themselves as such and placed themselves in opposition to Arabs.[20] This process of identity formation is key to the creation of opposing ethnic identities. Thus, the spread of this ideology marked the beginning of the polarization of ethnic identities in Darfur.

The increasing dominance of the ideology of Arab supremacy in the region contributed to and was reinforced by the second factor, increasingly violent conflict over scarce resources. By the beginning of the 1980s the influx of populations fleeing the drought caused overgrazing and increased pressures on water and food supplies in Western and Southern Darfur.[21] Farmers indigenous to the area began enclosing their fields and pastures to protect them from damage at the hands of the new arrivals and their herds. This new practice further restricted the access of newcomers to land as well as resources and, as a consequence, heightened tensions between the two groups.[22] The resulting conflict assumed an ethnic dimension due to the adherence of many newcomers to Arabism and its implicit ethnic hierarchy.[23] These two factors combined to form the roots of the conflict and polarized ethnicities that are seen in Darfur today.

Instead of remaining neutral in the conflict (as it had for decades) and striving to find a peaceful solution, the government began to arm the emerging Arab population. This shift in approach created the forces of what is now known as the Janjaweed.[24] Motivations for this move were twofold. After renewed war with the South in 1983, the government began arming tribes whom they considered to be Arab to aid in the fight against the Sudanese People's Liberation Army/Movement (SPLA/M) in the South.[25] As a result, the members of these selected groups increasingly began to identify themselves as Arabs and espouse an ideology based on Arab superiority and supremacy. These groups came to be known as the *muraheleen*.[26] By the late 1980s the *muraheleen* began to target groups in Darfur to compensate for the suffering they endured due to drought and desertification.[27]

The second motivation for the government's arming of the Arab population can be found in the ideology of Arab supremacy to which it and Libya adhere. The goal of this ideology is for the region to evolve into a unified Arab state. To accomplish this, the ideology espouses the idea that Arabs should be armed and financed so that they can aid in the forced removal and destruction of populations incompatible with the goal.[28] Since the

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[17] Miller, 125.
[18] Daly, 216.
[19] Sharkey, 42.
[20] Mika Vehnamaki, "Darfur Scorched: Looming Genocide in Western Sudan." *Journal of Genocide Research* 8, no.1 (2006), 64; De Waal, 194.
[21] Daly, 216.
[22] Ibid., 217.
[23] Ibid.
[24] Ibid., 246; Mahmoud, 4.
[25] Miller, 118.
[26] Vehnamaki, 64.
[27] Ibid., 64.
[28] Miller, 119; Mahmoud, 6.

only way to gain access to resources and the right to use land in Darfur was to remove its original inhabitants and occupy it, this objective was easily transferred to the situation.[29] The emerging relationship between the government and Darfurian Arabs can then be said to be symbiotic in that it furthered government policy for the region and provided Arabs with increased access to scarce resources. The major implication of the increasing government involvement in the region was an upsurge in polarization and violent conflict between the armed Arabs and the non-Arab population.

In order to defend themselves, the non-Arab tribes – mainly Fur, Masalit and Zaghawa – formed self-defense groups.[30] These groups were not unified but operated independently, protecting the interests and safety of their own tribes. Out of the disputes over resources, a full-scale ethnic conflict emerged between the Fur and Abbala Arabs, lasting from 1987-1989.[31] This conflict is crucial in the study of ethnic identity formation in Darfur, as well as studies concerning the current conflict, as it marks the first time that warring factions identified themselves as Arabs and Africans as well as the first official reference to Arab groups as Janjaweed.[32] Leaders who did not consider themselves to be Arab now readily identified themselves as African, an identity that would have been considered alien during the preceding decades.[33] Whole communities followed suit, insisting on the African label in order to distinguish themselves from those who threatened them. The adoption of Africanism by those who did not identify themselves as Arab was a reaction to the spread of Arabism within the Darfurian population.[34] As a result, the African population built its self-perception of ethnic identity by knowing what it is not before knowing what it is.

Another reason that the conflicts between these groups are important for the study of the current situation in Darfur is the fact that, during these conflicts, the Janjaweed perfected the methods of assault that are used today. During attacks on groups considered to be African, Arab militias burned houses, shot fleeing occupants and destroyed crops.[35] These attacks intensified in the early 1990s and coincided with the increasing use of the terms *abids* (slaves) and *zurq* (blacks) in reference to Fur, Masalit and Zaghawa during attacks but also in general reference to the population.[36] The use of these terms undoubtedly contributed to the formation of polarized ethnic identities in Darfur.

Formation of Armed Rebel Groups and the Beginning of Rebellion

Due to the increasing intensity of ethnic conflict combined with the growing role of the government in it, the African self-defense forces began to transform into an organized rebel group. The transformation process began when the Fur self-defense group created the Darfur Liberation Front (DLF). This movement was not driven by Fur nationalism but protection of the community from the Janjaweed.[37] Soon after its creation in 2001, Masalit and Zaghawa self-defense forces joined DLF to create an alliance against the Janjaweed.[38]

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[29] Daly, 217.

[30] Vehnamaki, 64.

[31] De Waal, 194.

[32] Vehnamaki, 64-65.

[33] De Waal, 192.

[34] Sharkey, 27.

[35] Daly, 263.

[36] Ibid., 265. It is important to note that the use of these terms is intimately linked to the slave trade that dominated Sudan during the period until Anglo-Egyptian Condominium established itself. For further information on the connection of ethnic identity formation to the slave trade see Sharkey, 27-9.

[37] Vehnamaki, 65; Daly, 276.

[38] Daly, 278.

The group changed its name to the Sudan Liberation Army/Movement (SLA/M), likely after contact with the main Southern rebel group, the SPLA/M.[39] The political aims of this movement are incredibly similar to those of the SPLA/M. Both groups call for economic development, increased representation in the central administration, the devolution of power, secularism, the creation of a "New Sudan" and invite the participation of all aggrieved people.[40] Since the group's formation, it has split into two major factions but continues to be a major player in the continuing conflict.[41]

A second rebel group dominated by Zaghawa also emerged in 2001.[42] This group, called the Justice and Equality Movement (JEM), is intimately connected to Hasan al-Turabi, the father of the ruling National Islamist Front (NIF) who has since distanced himself from the ruling regime.[43] It was created by veteran Islamists dissatisfied with the governing regime and its treatment of Darfur. Unlike the SLA/M, this group came into existence with the sole purpose of waging a struggle against the regime, not for the protection of the community.[44] JEM, like SLA/M, calls for the socioeconomic and political development of Darfur, regional empowerment and invites the participation of all Darfurians.[45] The two groups differ on the connection between religion and the state. Whereas SLA/M calls for secularism, JEM supports the idea of an Islamic state.[46] This point of difference created a gap that the government could easily exploit to weaken the rebel movement.[47] Since the split of SLA/M, JEM has become the central rebel group in Darfur.[48] The emergence of these rebel groups drastically changed the dynamic of the conflict in Darfur from one over scarce resources to one demanding substantial changes in the governance of the region.

As mentioned, the presence of the Janjaweed in Darfur was one of the primary motivations behind the creation of the SLA. It is also the force that rebels most often come up against. The vast majority of Janjaweed members are adherents to the Arab supremist ideology espoused by the government.[49] Its membership consists of individuals from many different Arab tribes including Julul, Mahamit, Regat, Rezigat, Miseriya, and Turjum.[50] Interestingly, the Janjaweed also includes a large number of criminals who were released from jail so that they could lead and commit atrocities.[51] Recently, especially since the beginning of armed rebellion in 2003, the Sudanese government has actively recruited Arabs from outside Sudan to fight in Darfur. As a result, there are now considerable

[39] Ibid., 280; De Waal, 200.
[40] Daly, 272, 280; Vehnamaki, 67, 72; De Waal, 200.
[41] Daly, 300, 314.
[42] Vehnamaki, 67.
[43] Miller, 119; Mahmoud, 5.
[44] Mahmoud, 6.
[45] Van Haren, 208; Vehnamaki, 67; Daly, 277; Erin Patrick, "Intent to Destroy: The Genocidal Impact of Forced Migration in Darfur, Sudan," *Journal of Refugee Studies* 18, no.4 (2005), 411.
[46] Daly, 277.
[47] Ibid., 281, 298.
[48] International Humanitarian News and Analysis, *Sudan: NGO Expulsion to Hit Darfur's Displaced*, March 9, 2009, http://allafrica.com/stories/200903090960.html; (accessed 11 March 2009).
[49] Sharkey, 38.
[50] Vehnamaki, 65; Brian Steidle with Gretchen Steidle Wallace, *The Devil Came on Horseback: Bearing Witness to Genocide in Darfur* (New York: Public Affairs, 2007), 207; Human Rights Watch, *Darfur Documents Confirm Government Policy of Militia Support,* December 2, 2008, http://www.hrw.org/sites/default/files/reports/072004 darfur.pdf; (accessed 12 February 2009). 8.
[51] Vehnamaki, 65.

numbers of Chadian Arabs and fighters from Mauritania within the rank and file of the Janjaweed.[52]

The Popular Defense Forces (PDF) supports the Janjaweed in its activities against the African population. The PDF was created by the government in the early 1980s as a government-led militia to aid in the war against the South as well as to balance and potentially replace the Sudanese Army in Darfur.[53] It is composed mainly of Baggara tribesmen, although members of all Arab groups are recruited into its ranks. Non-Arabs who answer government calls for recruitment are turned away.[54] The PDF operates under the control of the army and is perceived as legitimate by the ruling elite.[55] In the contemporary conflict, the PDF supplies the Janjaweed with weapons, base camps, and fights alongside them during attacks.[56] As a result of their interconnected nature, many academics consider the Janjaweed to be part of the PDF and distinction between the two unnecessary.[57] In fact, the only discernable difference between the two groups is that the government denies any connection to the Janjaweed while perceiving the PDF as legitimate.[58]

The government's distinction between the two forces should be viewed as a sham. Numerous documents have surfaced proving that the governing regime is intimately involved with the Janjaweed, from granting provisions to ordering provincial officials to support their activities and not to interfere with their operations.[59] Strong evidence indicating that the government provides the Janjaweed with material support, including communication equipment, arms, ammunition, food, vehicles and, reportedly, housing.[60] In light of all of this evidence, there is no question as to whether the Janjaweed is an integral part of the government's approach to solving ethnic conflict in Darfur. Therefore, government claims of non-involvement should be taken with a grain of salt. Due to the interrelated nature of the PDF and Janjaweed, the term Janjaweed will be used for the remainder of this paper to denote all government-sponsored militia activity in the current conflict.

The SLA/M and JEM formed an alliance in 2003 to attack government positions within Darfur after attempts at peaceful negotiations failed. After they successfully took Tinay, a town with a military garrison, President Omar al-Bashir refused to negotiate and unleashed the military in addition to the already functioning Janjaweed forces in the region.[61] The government, despite its denials, immediately started coordinating military and militia efforts. A special task force was created to plan attacks and military advisors were appointed to assist the Janjaweed.[62] Ground attacks were now coordinated with air strikes. When government troops and Janjaweed attack together, it is clear that the Janjaweed

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[52] Amnesty International. *Sudan, Darfur: Rape as a Weapon of War: Sexual violence and its consequences*. July 18, 2004, http://www.amnesty.org/en/library/asset/AF R54/076/2004/en/f4562ac2-d5b4-11dd-bb241fb85fe8fa05/afr540762004en_cover .pdf; (access 24 February 2009), 23; Vehnamaki, 62.

[53] Mahmoud, 5; Daly, 249.

[54] Ibid.

[55] Mahmoud, 5; Vehnamaki, 70.

[56] Steidle, 163.

[57] De Waal, 191; Daly, 163.

[58] Steidle, 163.

[59] Daly, 285. For more detailed analysis please see Human Rights Watch, *Darfur Documents*…. in its entirety.

[60] Daly, 282; Human Rights Watch, *Darfur Documents*…, 7; Vehnamaki, 65.

[61] Van Haren, 208; Daly, 281.

[62] Human Rights Watch, *Darfur Documents*…, 3; Daly, 282.

obeys orders given by military intelligence officers.[63] Musa Hilal, the man the government released from prison and appointed the leader of the Janjaweed, has confirmed that the Janjaweed receives orders directly from central government officials.[64] Therefore, the activities of the military and Janjaweed are coordinated and united against the Darfurian African population and should be considered inseparable.

Government Response to Conflict: Genocide

The response of the Sudanese government to ethnic conflict and armed rebellion in Darfur should be considered genocide. Numerous international organizations, including human rights bodies as well as (most notably) the UN, have shied away from describing the situation in Darfur as genocide. Instead, they maintain that the government is committing war crimes and crimes against humanity.[65] There is no doubt that war crimes and crimes against humanity have and continue to be committed in Darfur. However, when viewed together in reference to the precedents established at the International Criminal Tribunals for Rwanda and the Former Yugoslavia (ICTR and ICTY), these crimes undoubtedly constitute genocide.

In order for events to be considered genocide in international law, they must satisfy the definition of the UN Convention on the Prevention and Punishment of the Crime of Genocide. The Convention defines genocide as:

"Any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group."[66]

For genocide to occur, only one of the five above actions must be committed against the population of a protected group. The actions of the government and its militias in Darfur without a doubt qualify as genocide under the Convention as they are directed against an ethnic group and correspond to three out of five of the actions listed in the Convention.

First, the actions of the military and Janjaweed clearly include killing members of a protected group. As previously established, the conflict in Darfur is ethnic in nature and has been directed against the Darfurian African population. The intentional targeting of this group is evident by the fact that the military and Janjaweed have refrained from targeting Arab villages.[67] Many of these villages in close proximity to targeted African villages are left unscathed by attacks.[68] Therefore, it is apparent that the destructive attacks are directed solely towards the African population of Darfur.

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[63] Miller, 121; Steidle, 164.

[64] Human Rights Watch, *Darfur: Militia Leader Implicates Khartoum*. March 1, 2005, http://www.hrw. org/en/news/2005/03/02/darfur-militia-leader-implicates-khartoum; (accessed 12 February 2009).

[65] David Luban, "Calling Genocide by Its Rightful Name: Lemkin's Word, Darfur, and the UN Report," *Chicago Journal of International Law* 7, no.1 (Summer 2006), 316.

[66] J. Paul Martin, ed., *25+ Human Rights Documents* (New York: Center for the Study of Human Rights, Columbia University, 2005), 34.

[67] Luban, 315.

[68] Vehnamaki, 67.

The attacks on villages are designed in a way to inflict casualties on members of the group. This is evident in the types of weapons used during aerial attacks. Government forces roll barrels filled with explosives and shrapnel out of transport planes onto villages. Helicopter gunships launch rockets and use heavy machine gun fire during attacks.[69] Anti-personnel missiles have also been utilized.[70] These missiles contain *flechettes*, which are tiny razor-sharp nails with fins on them that are released from canisters mid-air and cover an area of several hundred meters.[71] This "kill radius" is extremely lethal when the weapons are deployed over populated areas. In fact, they would only be used in such an area to kill or maim the population.[72]

After the airstrikes, the Janjaweed and, increasingly, government forces surround villages and move in – destroying anything left standing. These ground troops have been known to use 120 mm mortars during the initial phases of their attacks.[73] These highly destructive weapons are powerful enough to blow massive holes in the ground and would, without a doubt, ensure the deaths and injuries of people in the vicinity.[74] The use of such indiscriminate and destructive weapons illustrates the intent to destroy the targeted African population in whole or in part.

Often the primary target during the attacks, once the ground troops move in, is the male population. Many men and young boys are killed outright during attacks. However, many are led off never to be seen again and are presumed to have been executed.[75] The remainder of the population is forced to flee and is denied the ability to return.[76] Selectively killing young men and forcibly expelling the remainder of the population should be considered a means to destroy the group in whole or in part. In Darfur, a traditional, male-dominated society, African men and boys of farming and military age should be thought of as representing a significant portion of society.[77] There has been an international precedent establishing this connection. During the Kristic case at the ICTY, it was agreed that the execution of the men of Srebrenica and the forced relocation of women and children constituted an act of genocide.[78] Therefore, the actions of the military and Janjaweed during attacks represents the destruction of a considerable part of the African population and should, therefore, be considered an act of genocide.

The second category of the Convention that the actions of the government and its militias correspond to is the inflection of serious bodily or mental harm on members of a protected group. Aside from the physical injuries individuals may suffer due to the weapons used during attacks, for example bullet or shrapnel wounds,[79] the military and Janjaweed commit widespread and systematic rape against African women and girls. The African female population is constantly at risk of being raped. During attacks, Janjaweed and government forces commit multiple violent rapes and have been known to abduct

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[69] Daly, 283.

[70] Steidle, 58.

[71] Ibid.; Amnesty International, *Israel: Stop Using Flechettes in Gaza*, April 28, 2003, http://www.hrw.org/en/news/2003/04/28/israel-stop-using-flechettes-gaza; (accessed 8 March 2009)

[72] Steidle, 59.

[73] Ibid, 73.

[74] Ibid.,

[75] Daly, 283.

[76] Ibid., 284; Vehnamaki, 69; Patrick, 413.

[77] Patrick, 418.

[78] Van Haren, 226; Luban, 314.

[79] Vehnamaki, 69; Human Rights Watch, *Darfur: 'Scorched Earth' Tactics Warrant UN Sanctions*. May 18, 2008, http://www.hrw.org/en/news/2008/05/18/darfur-scorched-earth-tactics-warrant-un-sanctions; (accessed 12 February 2009).

African women and girls who are then used as sex slaves for a period of time then killed or released.[80] Women who managed to flee during attacks are often hunted down by the military and Janjaweed and raped during their flight.[81] Rape committed by military, Janjaweed and police is also a common occurrence at IDP camps.[82]

Rape victims have to endure not only the physical consequences of rapes – injuries, possible diseases and forced pregnancies – but also their psychological impact. Darfur is a devout Muslim society; in this context rapes are particularly salient and invasive.[83] In many cases rapes – including gang rapes – occur out in the open, in front of loved ones and the rest of the community.[84] Clearly this tactic is meant to humiliate the women and girls as well as their communities who can do nothing to protect them.[85] Victims are often ostracized from society, disowned by their families and divorced by their husbands.[86] Unmarried women have a particularly difficult time after being raped as they are considered "spoiled" and no longer marriage material. This renders them extremely socially and economically vulnerable.[87] Therefore, the widespread and systematic rapes committed in Darfur unquestionably result in the infliction of serious bodily and mental harm.

The connection between mass rape and genocide was firmly entrenched in international law during the ICTR. The Chamber of the court came to the decision that acts of sexual violence constitute serious bodily or mental harm when committed on a widespread scale against members of an identifiable group with the intent to destroy, in whole or in part, said group.[88] In the case of Darfur, rapes undoubtedly meet the requirements needed to be considered genocide. First, the rapes are committed against members of a group protected under the Convention. Second, the rapes are unquestionably widespread, touching members of nearly every attacked village.[89] Lastly, and most importantly, rape constitutes an attempt to destroy the African population in whole or in part. In Darfur, all major groups – African and Arab – are patrilineal. They pass on group membership to their children through their father's side. The perpetration of rape is a means of identity destruction.[90] Therefore, the widespread and systematic rapes that are occurring in Darfur are an assault on the integrity of the targeted group as a whole and constitute an act of genocide.

The last category of actions committed by the Sudanese military and Janjaweed that constitute genocide according to the Convention is the infliction of conditions of life on a

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[80] Daly, 283; Human Rights Watch, *Darfur: Militia….*

[81] Human Rights Watch, *Darfur: Women Raped Even After Seeking Refuge*. April 11, 2008, http://www. hrw.org/en/news/2005/04/11/darfur-women-raped-even-after-seeking-refuge; (accessed 12 February 2009); Van Haren, 208

[82] Human Rights Watch, *Darfur: Women….*; Human Rights Watch, *Darfur: Urgent Measures Needed to Address Sexual Violence*. August 22, 2007, http://www.hrw.org/en/news/2007/08/22/darfur-urgent-measures-needed-address-sexual-violence; (accessed 12 February 2009); Human Rights Watch, *Darfur: No Redress for Rape*. April 2, 2008, http://www.hrw.org/en/news/2008 /04/06/darfur-no-redress-rape; (accessed 12 February 2009); Van Haren, 208; Steidle, 64.

[83] De Waal, 199

[84] Amnesty International, *Sudan…*, 11, 12.

[85] Ibid., 11.

[86] Patrick, 419.

[87] Amnesty International, *Sudan…*, 18.

[88] Ibid., 28.

[89] Human Rights Watch, *Darfur: Women…*; Human Rights Watch, *Darfur: No Redress…*; De Waal, 199.

[90] De Waal, 199.

group calculated to bring about its destruction in whole or in part. In Darfur, this is the primary means through which the government and its forces pursue their genocidal policies. It manifests in two major ways. The first is the destruction of habitat during and after attacks on target villages. The ground forces systematically burn housing, clinics, schools, farming supplies and food storages that were left standing after the aerial assault. This can only be described as a "scorched earth" policy that deprives villagers of their means for survival.[91] In addition to completely destroying the land, the military and Janjaweed poison the scarce water supply by throwing dead bodies into wells.[92] The main objective of the attacks is the forced removal of the surviving African population from their homes.[93] Survivors are displaced to areas where cultivation is virtually impossible and are denied the right to return home.[94] These actions have made Darfur virtually uninhabitable for the African population.[95] The denial of a basic necessity for human survival certainly creates conditions of life that will result in the deaths of many of those affected. Therefore, this action should be considered a means to ensure the destruction of the targeted population in whole or in part and a tool of genocide.

The second way in which the military and Janjaweed inflict conditions of life on the African population designed to bring about its demise is the denial of access to humanitarian aid. The government has continually placed needless restrictions on the activity of non-governmental organizations (NGOs) that are trying to aid the displaced and desperate population. The government has perfected a strategy of stalling tactics to inhibit the operations of NGOs. These include travel permits, fuel permits, customs delay of vehicles and the redundant testing of pharmaceuticals.[96] Aid has also been confiscated, fed to animals and impounded after being found to be "genetically modified."[97] The Sudanese government pursued similar policies during the war with the South, contributing to the deaths of approximately two million Southerners.[98] The ruling regime is without a doubt aware that such conditions will lead to the death of a large segment of the population.[99] Intentional starvation and the diseases it causes should be viewed as another instrument of genocide as it will result in the destruction, in whole or in part, of the African population.[100]

Concern over access to those in need has increased recently after the International Criminal Court issued an arrest warrant for President al-Bashir for war crimes and crimes against humanity. Immediately following the announcement of the warrant, the government expelled thirteen NGOs operating in Darfur who aid an estimated five million people.[101] On 16 March 2009, President al-Bashir demanded that all international NGOs to leave Sudan by the end of the calendar year in order to allow for the 'Sudanization' of aid in Darfur.[102] This is an extremely alarming development given the regime's track record in providing

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[91] Van Haren, 208, 225; Vehnamaki, 68; Patrick, 413; Steidle, 192.
[92] Van Haren, 227; Patrick, 413; Daly, 283.
[93] Daly, 284.
[94] Vehnamaki, 69; Patrick, 413.
[95] Van Haren, 227.
[96] Daly, 286.
[97] Ibid.
[98] Martin, 111.
[99] Daly, 255-6, 286; Patrick, 419.
[100] Vehnamaki, 69.
[101] UN News, *UN relief chief voices concern over Sudan Leader's Call for 'Sudanization' of Aid*, March, 16, 2009, http://www0.un.org/apps/news/story.asp?NewsID=30201&Cr=darfur&Cr1=; (accessed 18 March 2009).
[102] UN News.

aid to those in need.[103] At the end of 2008, 65% of those in need of aid were beyond the reach of NGOs.[104] This figure will only increase after the removal of NGOs from the region, causing further deterioration of an already critical situation and putting more people at risk. In other words, it is another way to destroy the African population, in whole or in part.

It is clear from this analysis that the actions committed by the military and militias are genocidal in nature. However, this finding alone is not enough to conclude that the situation in Darfur does constitute genocide. For that to occur, genocidal intent must be established. To determine genocidal intent, it must be demonstrated that the actions are committed in the pursuit of the desire to destroy the targeted group in whole or in part.[105] It is possible to construe genocidal intent in several ways, as established in international law. First, the ICTR and ICTY ruled that it is possible to deduce the genocidal intent of an action from the context of other acts repeatedly directed at the same group regardless of whether or not the actions are committed by the same individuals.[106] In the case of Darfur, the simultaneous commission of multiple heinous offenses can infer genocidal intent. For example, the genocidal intent of rape can be gathered from the context of mass killings, displacement and the removal of the means for survival of the African population. The genocidal intent of the denial of aid or the selective killing of the male population can be ascertained in much the same fashion.

The second method of establishing genocidal intent accepted by international legal institutions is the general political doctrine that gave rise to the actions.[107] This is where the ideology of Arab supremacy enters the arena of genocidal intent. As discussed in an earlier section, this extremist ideology is well established both within the ruling regime and within Darfur itself. The ideology espoused by the regime and adherents in Darfur, advocates the forced removal and or destruction of incompatible populations from disputed areas.[108] This is nothing new in Sudanese history as a similar view was expressed during the successive civil wars with the South.[109] In the context of the history of the ideology in Sudan, the current situation in Darfur should be seen as part of a "historic continuum in which successive Arab governments have sought to entirely destroy black Africans."[110] Arab supremism is used to defend the heinous actions of the military and Janjaweed in Darfur.[111] Therefore, the ideology expressed by the regime encourages the perpetration of genocide and should be viewed as evidence of genocidal intent.

The third and final means to establish genocidal intent as accepted by international law is the consideration of racially motivated comments made by perpetrators during attacks.[112] In Darfur, racially motivated statements made by perpetrators are an extremely frequent occurrence. As previously mentioned, Darfurian Arabs have used the words *abid* and *zurq* to describe the African population since the formulation of opposing ethnic

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[103] Food has been used as a weapon throughout Sudanese history and has been perfected by the current regime. Evidence of this trend can be found in Daly, 255-256; Patrick, 419.

[104] Human Rights Watch, *Rhetoric vs. Reality: The Situation in Darfur*. December 2, 2008, http://www.hrw. org/sites/default/files/related_material/darfur1208.pdf; (accessed 12 February 2009), 13.

[105] Van Haren, 214, 216.

[106] Ibid., 222.

[107] Van Haren, 222.

[108] Miller, 199.

[109] Sharkey, 21; Mahmoud, 13.

[110] Mahmoud, 13.

[111] Daly, 245.

[112] Van Haren, 223.

identities.[113] The use of these terms has continued during the current conflict and has expanded to include references to extermination, for example, the phrase "You, the black women, we will exterminate you, you have no god."[114] Survivors have reported the use of other degrading statements during attacks since the beginning of the conflict. Sayings such as "There is no place here for the Negros anymore"[115] and "You black, you have spoilt the country! We are here to burn you…we will kill your husbands and sons and we will sleep with you"[116] are illustrative of the genocidal intent of the perpetrators.

Conclusion

The international community and its accompanying organizations, notably the UN, should declare the ongoing conflict in Darfur genocide. The events currently being witnessed in Darfur have their roots in government involvement in preexisting conflicts over scarce resources. This involvement had the effect of increasing the ethnic awareness of the population and aiding in the creation of polarized ethnic identities. During the initial phases of involvement, the government armed Arab militias that now compose the rank and file of the Janjaweed. Genocide emerged as the government's tool of choice to eliminate ethnic conflict after African rebel groups united to attack government positions within the region.
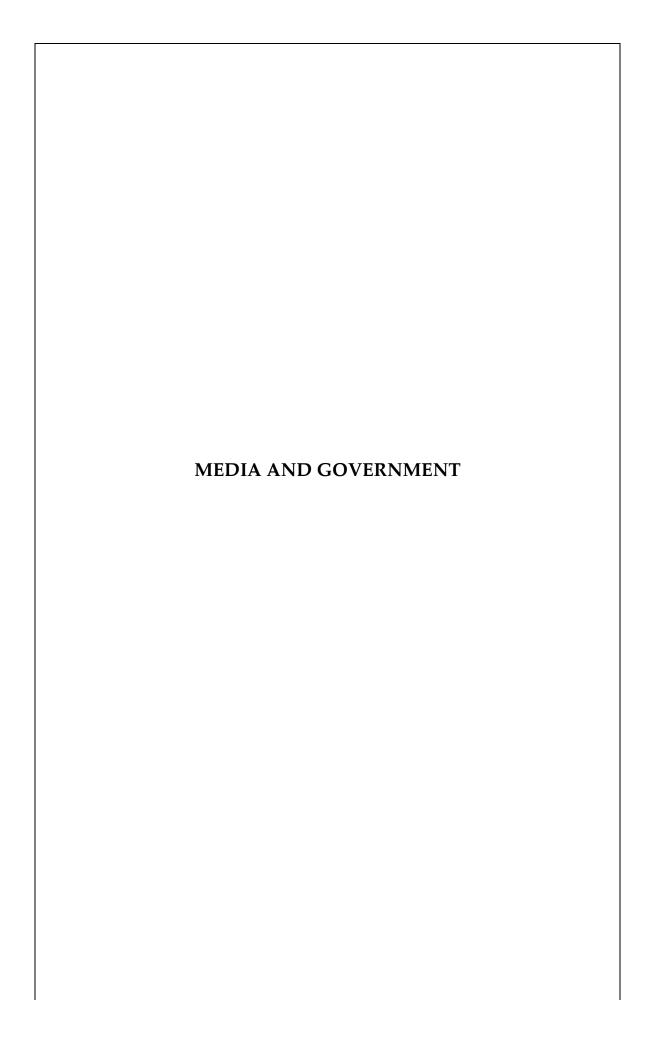
Debate over the application of the term genocide to the situation in Darfur does have merit – improper use of the term has the potential to weaken its significance. However, when the continuous cycle of war crimes and crimes against humanity directed at a group afforded protection under the Convention on the Prevention and Punishment of the Crime of Genocide is combined with strong evidence of the intent to destroy the group in whole or in part, one cannot help but come to the conclusion that genocide is occurring. Evidence supporting the finding of genocide can be gathered from the methods employed by government forces and their accompanying militias against the Darfurian African population. When analyzed with international legal precedents produced by the International Criminal Tribunals for Rwanda and the Former Yugoslavia in mind, the situation in Darfur clearly demonstrates genocidal intent. Therefore, there is no choice but to declare the current conditions in Darfur genocide.

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[113] Daly, 265; Sharkey, 27-9.
[114] Amnesty International, *Sudan…*, 3.
[115] Ibid., 22.
[116] Ibid., 23.

MEDIA AND GOVERNMENT

Lights, Camera, Communication! The Effects of Mass Media on Election Campaigns

By Alex Mather

> A popular government without popular information or the means of acquiring it, is but a prologue to a farce or a tragedy or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own governors, must arm themselves with the power knowledge gives.[1]
>
> James Madison

Politics is communication and information is its lifeblood. There is no other time in politics when information is placed at such a premium, by a myriad of stakeholders, than during political campaigns and there is no more integral forum for communicating this information than the media. The goal of political campaigns is to present the individual who is most likely to succeed as leader—the man or woman most likely to lead a government that avoids farce or tragedy. The goal of those who work on a campaign is to cultivate and control as much information as possible. The mass media owns a near perfect monopoly on the control and dissemination of information, especially at times as politically vital as election campaigns. Those who seek electoral success have no choice but to adapt to and embrace the all-powerful medium.

This paper examines the intrinsic and inexorable effect of the mass media on election campaigns. The products of this relationship are of crucial importance to those seeking political office, members of the mass media and the public alike. In the exploration of this dynamic, this paper answers two vitally important questions: 1) Are campaigns important in deciding election outcomes? This is of course fundamental to the usefulness of the study of the effects of media on campaigns insofar as gaining an understanding of the relevance this relationship holds to the greater polity; and 2) How exactly does media affect campaigning?

In addition, outlined are the various effects of the different types of media and how they differ in both their importance and influence. Finally, this paper addresses the impact of new media and how this and other developments will affect the conversation moving forward.

Before the analysis, a few points of clarification must be made, regarding what this essay does and does not address. The focus is on *national* political campaigns for the highest political office in a given country. District, state, or provincial elections and campaigns, for example, are marked by very different processes and thus the effects on them are different. This paper also focuses only on the effects of media on election campaigns in democratic political systems with freedom of the press. Needless to say, the discussion featured in this essay would be drastically different and much less brief if such a subject were explored.

Campaigns, in their most rudimentary form, are processes of communication. The public is, in aggregate, devoid of any lasting or significant interest in politics on a day-to-day basis. As such, campaigning is a progression of political education of the public, tailored to fit the specific characteristics and policies that a particular candidate hopes to embody or enact. Simply, a candidate's goal during an election campaign is to communicate with voters in such a way that he or she gains sufficient support so as to win their vote.

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[1] J. Nichols and R. McChesney, *Tragedy and Farce* (New York: New Press, 2005), p. 1.

But, as John Deardourff notes, "the problem of the political communicator, the candidate and his staff, is to somehow communicate effectively. By communicating effectively, I mean communication that influences the vote of that voter. That's what a political campaign is about."[2] Pollsters and campaign staffers spend countless time and treasure deciphering what type of message voters want to hear from their leaders. They collect extensive information on citizens' concerns, their perceptions of leaders and candidates and the characteristics and attributes they think their political leaders should possess.[3] Due to the varied nature of the hopes, desires and demands of a typical electorate, however, said information is rarely reflected in specific policy outlines during a campaign.

"The most striking feature of candidates' rhetoric is its extreme vagueness. Candidates are skilled at appearing to say much while actually saying little."[4] Referring back to Madison's words, it is indeed the public's ignorance on which politicians, both hopeful and incumbent, seek to capitalize. An uninformed voter is an adaptable voter and it is they who are most susceptible to campaign rhetoric.

It is at this crucial point of communication that the mass media enters the equation, acting as the critical instrument of implementation for campaign information. The campaign has been described as "the contest waged by the parties and their leaders to determine the issues around which the national (i.e., media) campaign will revolve."[5] The mass media, as an entity, is entirely fascinated with election campaigns, a reality that is clearly reflected in their blanket coverage of these events. Every word of every speech given on the campaign trail is intensely scrutinized, the candor of each politician during a leaders' debate carefully examined and candidates' conduct during surprise events which crop up during campaigns are pored over by countless political news panels, all in an effort undertaken by every news service to provide the most timely election coverage.

Recent trends in politics and campaigning, it is argued, are only fueling the media's proverbial fire. Campaigns and the media coverage of such are becoming increasingly important due to changes in the public's behaviour. First, with the increasingly less partisan nature of politics, more and more voters remain undecided until much closer to election day. This means that political campaigns play a much more significant role in helping individuals decide which candidate they will support during the campaign. Second, there is evidence to suggest a much greater degree of fluctuation in support for a particular candidate during the campaign.

The third aspect promotes a self-fulfilling prophecy in terms of media coverage of election campaigns and their nature of co-dependence. As elections become more media oriented as a result of the aforementioned trends, they generate much greater amounts of information that can be used by voters as they decide how to vote.[6]

These are trends that undoubtedly have a direct influence on the election of political leaders and the role that the media plays in this process. As Mancini and Swanson note, these are developments that are common to countless different countries:

> Around the world, many of the recent changes in election campaigning share
> common themes despite great differences in the political cultures, histories,
> and institutions of the countries in which they have occurred. Increasingly,

[2] R. Joslyn, *Mass Media and Elections* (Massachusetts: Addison-Wesley, 1984), p. 18.

[3] *Ibid.*, p. 21.

[4] B. Page, *Choices and Echoes in Presidential Elections* (Chicago: Univ. of Chicago Press, 1978), p. 152.

[5] R. Johnston, H. Brady, et al, *Letting the People Decide* (Montreal: McGill-Queen's Univ. Press, 1992), p. 112.

[6] T. Holbrook, *Do Campaigns Matter?* (Thousand Oaks: Sage, 1996), p. 12.

we find such common practices as candidates selected in part for the appealing image they project on television, technical experts advising candidates on strategies and voters' sentiments, media professionals hired to produce compelling campaign materials, and mass media moving to center stage in campaigns.[7]

These and other developments contribute to an increase in both media presence and influence in election campaigns. This is a relationship that shows no signs of abating. Commenting on the inextricable link between media, communication, politics and campaigning, some have explained the symbiotic link by use of a simple yet instructive analogy: "Bullets are impotent absent the gun, which functions as the tool for their disbursement. So it is with political communication."[8]

The power of the media in election campaigns simply cannot be overstated. Similarly, the most basic role of the media as a purveyor of information is also its most important. The innumerable ways in which the media has grown to affect political campaigns and elections saw their seeds sewn in this reality. "The role of the media has moved increasingly from being merely a channel of communication to being a major actor in the campaigning process, as it selects the persons and issues to be covered and as it shapes its portrayal of leaders."[9]

This should, of course, come as no surprise, given that an informed electorate is impossible without information, and information is the business of the media.[10] "After all, most citizens depend on the media for most of their information about election campaigns and most citizens consider this coverage to be credible, trustworthy, and unbiased."[11] Furthermore, the presentation of campaign news coverage inherently conveys legitimacy, thus lending further credence to the concept of the media as the ultimate arbiter of campaign information.

More important, however, is the manner in which the media decides who and what is newsworthy on the campaign trail and the impact this has on the course of an election. The fundamental aspect that ultimately drives media content is the success of the news outlet from a financial standpoint. State-owned or subsidized media institutions aside, media companies are owned and operated for the purpose of turning a profit. While there may exist, at least to some degree, some notion of the vast importance that they hold in the realm of politics and information and an associative altruistic intention to provide a fair and unbiased account of news, the media is entirely dependent on ratings, reach and popular influence.

"Television news is not primarily informative, but narrative. It is governed not by a political bias but by a melodramatic one."[12] The news, especially television news, is presented in a way that is meant for not only informing, but indeed entertaining. John Roberts, Dan Cafferty, Lou Dobbs, Bill O'Reilly, Tucker Carlson and co. are hired not because they represent a network's most fruitful attempts at achieving the best possible forum of information, but because of their sincere efforts to attain ratings success. These individuals are able to capture the theatre of politics and the melodrama of an election

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[7] P. Mancini and D. Swanson, "Politics, Media, and Modern Democracy: Intro.", in *Politics, Media, and Modern Democracy*, ed. Swanson and Mancini (Westport: Praeger, 1996), p. 2.

[8] M. Pfau, J. Houston and S. Semmler, *Mediating the Vote* (Plymouth: Rowman and Littlefield, 2007), p. 7.

[9] Mancini and Swanson, p. 11.

[10] L. Kaid and C. Jones, "United States of America", in *The Media and Elections*, ed. B. Lange and D. Ward (New Jersey: Lawrence Erlbaum, 2004), p. 25.

[11] Joslyn ,p. 163.

[12] *Ibid.*, p. 99.

campaign and the confrontational and competitive nature of an election race, and they ignite discussion, debate and controversy amongst the public.

Not only do these and other media figures present the news, but it is the media companies and producers for whom they work that decide *which* candidates, campaign stories and developments and which illegitimate children are privy to the fickle and penetrating eye of the national media during an election race. Shifting focus from a candidate's stance on budget deficits or education reform to unintelligent questions surrounding whether or not they were in fact citizens of the country for which they are running for office, or whether or not they are practitioners of Islam is the regular business of media outlets during campaigns. It makes for good television, better fodder for national debate, and almost always portends a fiery denial on the campaign trail. As former journalist and White House Press Secretary Bill Moyers said,

> We tend to concentrate not on those issues that are likely to affect the governing of the country for the next four years, but upon the men who are contending with each other for the nomination. There is a lot of short-term emphasis on personalities, who's ahead, who's behind; and a lot of that is insignificant for the big story.[13]

This has obvious and profound consequences for candidates during election campaigns. The image of a politician that is cultivated via the media is of utmost importance in their chances of winning electoral support. Image is paramount in campaign politics and the media is the avenue for the portrayal, and ultimately either the acceptance or rejection of perception. Furthermore, once a candidate's image is entrenched in the national conscience, it can become very difficult to alter. "Thus, if the candidate is able to bring about the establishment of a positive image early in the game, it functions as a buffer to the onslaughts of the opposition. Conversely, an early image could become an albatross for the candidate if the inertia it creates helps to preserve something negative."[14]

Closely linked to this dynamic is the role that television, online video, and other aspects of media play in the personalization of candidates. Very often, voters' decisions are highly influenced not by the political resume of a candidate, nor their stance on particular issues or policies, but on their personality. The mass media fosters this demand and politicians have responded in kind. During Barack Obama's 2008 Presidential campaign, the public gained a seemingly intimate peek into the life of a visionary – from MTV-style glances into the Obamas' Chicago home, to CNN interviews conducted from Washington, D.C. burger joints, the delivery of Obama's personality was carefully orchestrated by his campaigners, and made possible by the media. Despite receiving millions of dollars in income from book sales and degrees from Harvard and Columbia, Obama was presented to America (and the world) as an easy-going everyman who drank beer and played basketball. Portrayed was a man that could go out and have a beer with the guys, then step into the White House Situation Room and manage a nuclear crisis.

From the Kennedy-Nixon debates during the 1960 U.S. Presidential Election, to the rousing Reagan-Mulroney rendition of *Irish Eyes Are Smiling*, from Clinton and his saxophone to Obama and his golf swing, to be portrayed as personable has been a prerequisite to campaign and, eventually, electoral success. This dynamic is both aided and enabled by the media.

The previously mentioned examples owe their delivery to only one aspect of mass media – visual – but there are in fact many other methods by which campaign information

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[13] *Ibid.*, p. 119.

[14] G. Garramone, "Candidate Image Formation", in *New Perspectives on Political Advertising* ed. L. Kaid, D. Nimmo and K. Sanders (Carbondale: Southern Illinois Univ. Press, 1986), p. 234.

is disseminated and distributed in the media. In terms of media delivery of visual content, there is television, video/DVD, online video, social networking websites (Facebook, MySpace), podcasts/webcasts and more. These methods allow for the entire sensory experience in terms of information reception.

Beyond these methods, also included are internet blogs, newspapers, magazines and other traditional print media, radio, social update services (Twitter), instant messaging services (MSN Messenger, BlackBerry Messenger) and numerous new media forums that are still in their infancy. While all of these sources purvey information, some differ greatly in style and/or format and convey different types of information in vastly different manners. Candidates can take advantage of this versatility, and some have demonstrated the ability to manage the pros and cons of the different forms of media to their benefit.

Speaking to the effects of television, as it was in its infancy in terms of political campaigning and marketing (in the 1970s), former President Gerald Ford said, "The President's campaign must be television oriented. We must change the perception of literally millions of voters, and this can only be done through the mass media with the principal emphasis on television."[15] Similar conclusions have recently been made by contemporary political candidates, with the advent of newer forms of technology and as they continue to change the face of information delivery and election politicking.

For candidates, part of the art of adapting to new forms of media and their importance is understanding how the various methods can play to strengths or highlight weaknesses. The campaigning of Ronald Reagan in 1980 serves as a sterling example to the success of this. Drawing on his background as a Hollywood actor, Reagan embodied the presidential mold, emoting confidence and interpersonal skills requisite of a U.S. Head of State.

"Reagan was a master of the new style of televised, political discourse, communicating through the medium with an intimate and conversational nature, a feat that was accomplished by his use of 'short, sharp, and thematic' rhetoric."[16] It turned out that 'U.S. President' was the role of Reagan's life, one to which his personality and mastery of the media was eminently suited. In some cases, it would appear that it is better to *appear* presidential, as presented to the public, than to *be* presidential and unable to communicate that to the public. These perceptions are created through, and often by, the mass media.

A common criticism of the emergence of sources such as Twitter, Facebook or the 'blogosphere' into the vernacular and use of the mass media during political campaigns is their nonacademic and unverifiable nature. This worry, however, has not curbed their prevalence, nor has it reduced their efficacy. Once a piece of information is out in the public sphere, regardless of its relevance or veracity, it has the potential to have a profound influence on the perception of a leader amongst the public and can dramatically influence an election campaign. As Descartes said, "there is nothing imaginable so strange or so little credible that it has not been maintained by one philosopher or the other."[17] In this age of instant political commentary, the mass public has been thrust into the role of philosopher, free to pontificate, judge and expound, for all to witness.

The degree to which political candidates are able to both identify and capitalize on the appropriate media forum for their skills and particular campaigns has an inextricable effect on their electability. The rise of new media presents a new and intriguing aspect to this

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[15] Joslyn, p. 57.

[16] Pfau, Houston and Semmler, p. 21.

[17] L. Shyles, "The Televised Political Spot Advertisement", in *New Perspectives on Political Advertising* ed. L. Kaid, D. Nimmo and K. Sanders (Carbondale: Southern Illinois Univ. Press, 1986), p. 107.

dynamic. Politicians who are currently in power were among the first to witness both the effects and the potential of new media in electoral politics.

New media can be loosely defined as the rise in communication and media technology following the popularization of the Internet and World Wide Web. It refers to technology such as online blogs and forums, social networking and updating websites, broadband and streaming online video content, and so on. When Anderson Cooper 'Twitters' from his mobile device in response to Barack Obama's most recent podcast on his Facebook page, the audience finds itself immersed in and surrounded by information, broadcast to them via various aspects of new media.

For clarification, the concepts of 'new media' and 'old media' are not mutually exclusive. Importantly, they exist simultaneously and congruently. "It is tempting to accept the proposition that because they are 'old,' the old media have been developed at some point in time and to not change thereafter. Of course, this is untrue. Each of these old media is constantly evolving over time."[18]

It is the very nature of new media that it lends itself to political campaigns and the indelible necessity to retain control of a candidate's image. "The ability for new media to more closely resemble the attributed of interpersonal communication suggests the possibility of altering the way communication typically flows."[19] The imperative relevance of relaying a candidate's interpersonal skills, as previously discussed, is a feature of the personalization power of new media.

New media is intimately attuned to the immediacy of political campaigns, concerned primarily with the information of NOW.[20] It empowers the public with an immediate conception of minute-by-minute developments and fosters the sensationalism upon which the mass media thrives – this all far beyond the locus of control of any one candidate or even an army of campaign staffers.

Those either physically present on, or logistically connected via the media and technology to the campaign trail now not only witness news in a more timely fashion than their predecessors, but there are now more things to do with it: "View. File, Edit. Reply. Forward. Save. The Internet makes social communication extensible as a series of discrete options. That results in a profusion of choices."[21] Such a proliferation of communicative options creates an environment in which political candidates and their campaigns must be intuitively attuned to the power of the mass media, and especially new media.

What was the impetus for this wide scale change that features broad implications on a number of different aspects of politics and communication? Although this is a complex question whose answer is continuing to evolve, two significant factors to are cost considerations and the increasing trend of vertical integration amongst media conglomerates.

> The fragmentation of the television audience, the high cost of television/radio/print advertising, and modern society's saturation of sound and images are key trends driving changes in political media. In response to these changes, more than ever before, campaigns must focus on how to reach

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[18] M. Stafford and R. Faber, "Defining, Understanding, and Measuring New Media Advertising", in *Advertising, Promotion, and New Media* ed. M. Stafford and R. Faber (New York: M.E. Sharpe, 2005), p. 4.

[19] R. Faber and M. Stafford, "The Future of Consumer Decision Making in the Age of New Media", in *Advertising, Promotion, and New Media* ed. M. Stafford and R. Faber (New York: M.E. Sharpe, 2005), p. 354.

[20] A. Siegel, *Politics and the Media in Canada* (Toronto: McGraw-Hill Ryerson, 1996), p. 19.

[21] M. Cornfield, "Rewiring the Conventions (Again)", in *Rewiring Politics* ed. C. Panagopoulos (Baton Rouge: Louisiana St. Press, 2007), p. 137.

the people they want, and somehow grab their attention—at the lowest cost possible. There are a host of new media techniques and strategies already in place and on the horizon that will vastly change the way political media campaigns are run.[22]

The second important development involves the recent acquisition trends of media conglomerates. The media industry has experienced a period of ownership consolidation (vertical integration), which has resulted in corporations with substantial and varied resources at their disposal. "Part of this change involves the economic health of major news organizations, and the discovery that campaign news can make money."[23] These media conglomerates are now armed with both the ability and the financial resources to send reporters to cover campaigns, and those reporters are now armed with the weapons of new media.

This paper examined two important questions that have direct relevance on candidates seeking political office. First, are campaigns important in deciding election outcomes. Given the vital importance of elections, the existence of an information-starved public, and politicians and campaign managers eager to expound information and portray a carefully crafted image of a candidate, the question can be most readily answered with a resounding 'yes.'

Second, this paper examined the nature by which the media affects campaigning and the impact this has on society. For nearly innumerable reasons, it is not too declarative to say that the media has a profound effect on nearly every facet of political campaigning.

Also examined were the various types of media and how they differ in relevance to political campaigns, as well as the implications of this phenomenon. These observations are of critical importance to political candidates as they decipher the ways in which they must both present and control information about themselves. Finally, the rise of new media was discussed, illuminating the manner in which its advances will change the nature by which information is exchanged between the public and the candidate.

Research and understanding of the effects of mass media on elections and campaigning is of vital importance for a number of different stakeholders. For those who wish to gain votes, the consequence of failing to grasp the realities and the changing nature of the influence of media on their communication tactics will almost assuredly be electoral failure. Media companies are forced to stay at the cutting edge of social and technological trends so they are able to both respond to and be situated at, the forefront of changes that will alter the landscape of their businesses.

But the most crucial impact is borne by the public. "The pervasiveness of the mass media and their virtual monopoly over the presentation of many kinds of information must suggest that what these media say and how they say it has enormous social and political consequences."[24] In any discussion of inalienable democratic rights, freedom of speech and freedom of the press are common, due to a near-universal recognition of the vast power held by the media. Similarly, fair and free elections are of utmost importance to the democratic process. The fact that these two fundamental aspects of democracy are so closely intertwined exponentially increases the magnitude of the discussion.

"The media have a crucial role in covering the political process and in shaping and contributing to the formation of public opinion, as expressed most importantly in the time

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[22] P. Fenn, "The New Media in Political Campaigns" in *Routledge Handbook of Political Management* (Routledge: New York, 2009), p. 126.
[23] Joslyn, p. 8.
[24] J. Zaller, "The Statistical Power of Election Studies" in *The Future of Election Studies* ed. M. Franklin and C. Wlezien (Oxford: Pergamon, 2002), p. 162.
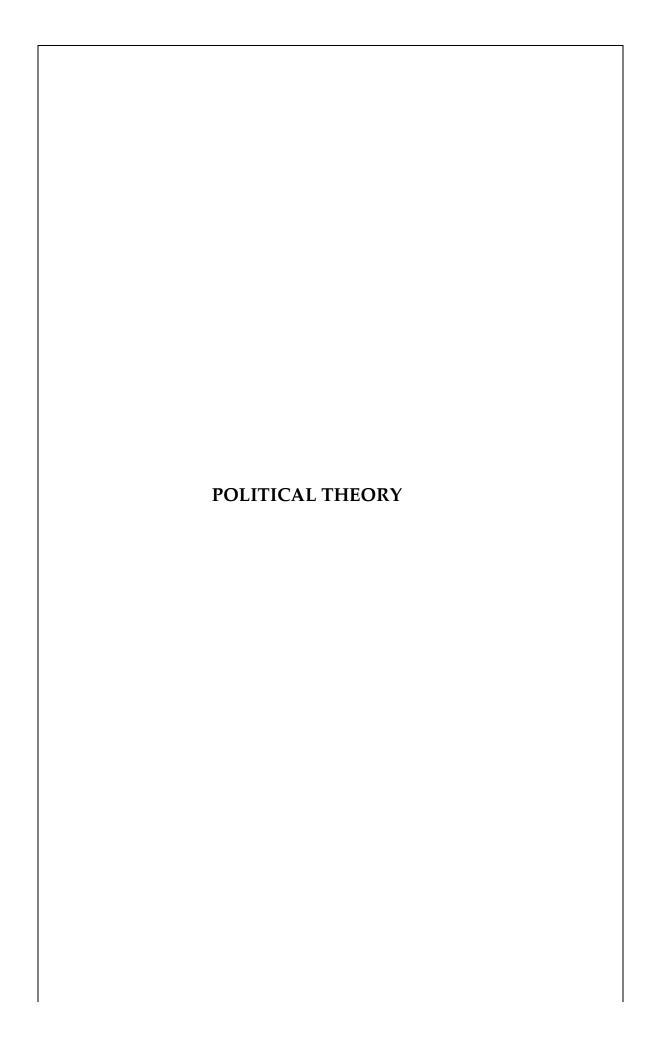
of campaigning before elections and during elections themselves."[25] And, as illustrated in this paper, information is the currency traded at an inconceivably high price by the mass media, with the public serving as the willing and eager buyer.

> Normatively speaking, consent from ignorance can never be genuine, no more so than conversion by the sword. Pragmatically speaking, an ignorant citizenry is dangerously unready when the time comes for choice, the key citizen choice being an election.[26]

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[25] B. Lange, "Media and Elections", in *The Media and Elections*, ed. B. Lange and D. Ward (New Jersey: Lawrence Erlbaum, 2004), p. 209.
[26] R. Joslyn, "Political Advertising and the Meaning of Elections" in *New Perspectives on Political Advertising* ed. L. Kaid, D. Nimmo and K. Sanders (Carbondale: Southern Illinois Univ. Press, 1986), p. 139.

POLITICAL THEORY

Raising Rights with our Children

By Jess Surtees

Harry Brighouse argues against many of the rights recently granted to children within the UN Convention on the Rights of the Child (CRC) on the basis of competency and development of thought. Dividing rights into two categories, welfare and agency rights, he concludes that while children should be granted welfare rights, they do not have any fundamental agency rights. However, such claims regarding the lack of competency of children are thrown into question with evidence which suggests that children have the capacity to be more competent decision makers than previously thought. To demonstrate this, I will refer to Dan W. Brock's study on children's competency regarding medical therapy/treatment decisions. Further arguments will be made in favour of children's agency rights (i.e. Article 13, 14 and 15 of the CRC) in response to Brighouse's claims against them; particular emphasis will be placed upon Rebecca Raby's discussion of school codes of conduct, their emphasis upon welfare and protective rights and the negative effects these pose to children. Throughout, I will engage with Francis Shrag's argument that children must necessarily be involved in rights discourses and the democratic process in an egalitarian state. I similarly conclude that to exclude children from the discourse of human rights is not only unjust but, in contrast to Brighouse's conclusion, detrimental to the future interests and agency of children.

Our current conception and articulation of rights comes from the discourse of liberalism, which strongly rejects paternalism, or guardianship, "rule by the ablest and best informed" (Shrag 365). However, much of the early discourse of liberalism excluded children as the obvious exception to the anti-paternalism rule. Citing adults as more capable and competent decision makers than children, liberalism has traditionally excluded children from the discussion of rights. Indeed, many adults who were denied rights (i.e. slaves and women) were initially compared to children; this was based on the notion that a child could not make the proper decisions with the same thoughtful consideration as an adult.

Harry Brighouse rejects much of what he calls the 'adult-centred', patriarchal assumptions regarding the rights of children (Brighouse 32, 36). He argues that certain rights should be granted to children, such as the universal welfare rights of proper shelter and subsistence (pertaining to immediate well-being) (38). However, he deems it inappropriate to grant agency rights, particularly cultural rights (i.e. freedom of religion, association, etc.) making the strong statement that children fundamentally "do not have those [agency] rights" (32). He cites agency rights as representing the overarching right to choose. One must have self-awareness to decide which decisions to make; most fundamental to agency rights, however, is authorship (38). Stating that children "are not, and can be publicly shown not to be, competent choosers, and so are not yet capable of assessing how to act on matters concerning their own well-being or that of others," (38) Brighouse makes clear that children are not competent decision makers and thus should not be burdened by the weight of agency rights.

Many share Brighouse's perception of children's competency—indeed it could be safely perceived to be simply common knowledge. Children, or at least young children, as Brighouse notes, are "profoundly dependent on others for their well-being," (40) and are thus dependent upon the responsible decisions of others (and vulnerable to the irresponsible decisions of others). However, Brighouse also notes that children have the capacity to break this dependence as they are continuously approaching adulthood, stressing that there is not one particular moment whereupon a child fully makes the transition into adulthood. This makes his argument problematic, as 'child' is left undefined. More problematic,

however, is the assumption of children's incompetence itself; while children are certainly dependent upon their caregivers, dependency is neither negative, nor does it rule out the possibility for a child to make a competent decision.

Dan W. Brock[1] analyzes competence within the context of healthcare decision-making, the capacities needed for such competence and whether or not children can live up to such requirements. Brock outlines three elements that, combined, lead to competent health care decision-making: "capacities for communication and understanding of information; capacities for reasoning and deliberation; capacity to have and apply a set of values or conception of the good" (Brock 186). These three capacities are outlined largely within the context of what is legally presumed as adults' capacities for competent decision-making: to understand the meaning of the suggestions and outcomes given by doctors; the ability to weigh the outcomes given; and finally, the capacity to assign the weight of the outcomes given in relation to one's sense of self, which often takes into account one's future interests (187). Like Brighouse, Brock notes that infants are not born with these three capacities but rather develop them as they mature throughout their childhood and adolescent years (187). The decision-making incompetence that is assumed of children would therefore seem correct. However, Brock cites results from several child developmental studies and theory which indicate that the assumptions of children's decision-making incompetence are worth revisiting.

An important element of our decision-making competency is our ability to think abstractly and to use reason both inductively and deductively in a process that could be considered mental multi-tasking. In developmental psychology this is referred to as the 'formal operations stage of cognitive development', which begins to occur between the ages of 11-13; it is also by this time that a child's ability of self-reflection is rather well-developed (Brock 189). With this information, along with details from other studies, Brock observes that "children by the ages of 14 or 15 usually have developed the various capacities necessary for competence in health care decision-making to a level roughly comparable to that attained by most adults" (190). However, there is also a sufficient amount of data displaying that children between the ages of 9-13 are equally competent (196). Brighouse, drawing upon primarily theory and common knowledge, claims that children lack conception of the good and that they are ill-informed—both generally, as well as about themselves specifically (Brighouse 42-3). However, in light of the evidence cited by Brock, such claims should be revised.

The studies cited by Brock indicate that children do, at the very least, have a right to be included within healthcare decision-making processes that involve their well-being—which suggests something greater than the basic welfare right to simply *access* medical treatment. Brock's discussion of decision-making competency does suggest that even young children can display a higher level of competency than is often assumed. This is not meant to suggest that there is a concrete empirical measure of competency overall. However, Brock suggests that we should endeavor to remove our own assumptions when attempting to measure a child's competency: "Only by examining the process of children's reasoning can others determine whether and where children's choices may fail to secure their *own* aims and values, as opposed to fail to secure *another's* conception of what is best for them [*emphasis added*]" (Brock 192). Francis Shrag notes that even among adults there appears to be "many incompatible standards for assessing moral competence," (Shrag 372) but even so this does not immediately suggest that all children be deemed morally competent.

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[1] Dan W. Brock is a professor of Philosophy and Biomedical Ethics at Harvard University in the Department of Global Health and Social Medicine.

Regardless of competency, however, as Brock notes, the inclusion of all children in the decision-making process regarding their treatment respects their dignity even in light of their "limited decision-making capacities" (Brock 198). Indeed it is the support of human dignity that is ultimately the goal of liberal egalitarianism and thus rights[2]. Though I maintain that the support of human dignity is best upheld through agency rights, these are nevertheless strongly connected to welfare rights.

Adults argue over issues of competency amongst themselves but this does not detract from their rights bearing status. Shrag notes that to discuss competency within the context of the legitimacy to bear rights is problematic: "Setting the bar that high may well exclude not only the young but a large portion of adults as well" (Shrag 367). Shrag elaborates on this point when summarizing Charles Beitz's theory of democracy, which stresses three primary citizen interests. Beitz's first citizen interest involves the recognition of persons—as Shrag aptly observes, some individuals may be more capable or rational than others but democratic rights are not assigned based upon such differentiations (367). Indeed, our democratic rights do not distinguish between the weak or strong, the intelligent or dim-witted, rich or poor but rather are designed to level such vast differences on the basis of shared personhood so that the ruled may also rule. This connects to the second interest in equitable treatment; if I were not granted full personhood not only would this differentiate me from others within my polity but my interests also would not receive equitable status (367). Shrag observes that, with the exception of infants and the very young, children generally and adolescents in particular are unjustly excluded from such status: "I think it is just as clear that young people would assert that their interests could not be considered secure in a polity that excluded them from participation" (368). To Beitz's third point on the deliberative responsibility of citizens (which is expressed primarily through voting), Shrag makes the argument that children cannot be excluded, particularly in light of their unique interests (368). Indeed even young children, although not directly included, can be and should be represented within the democratic enterprise.

Brighouse would no doubt be quite frustrated by this point, as he strongly asserts that children are in a state of developing their interests and as such do not yet have concrete interests that can be upheld by rights (Brighouse 46). Shrag makes the utilitarian argument that 'the will of the people' is identified in the democratic process and such a process is thereby inherently flawed "if a group of citizens with distinctive preferences were to be deprived of the franchise" (Shrag 368). However, Brighouse states that adults have different preferences, as they are *informed* preferences; meanwhile, children's preferences may be influenced by their parents, by peers, etc. and are thus *uninformed*, or rather not fully autonomous (Brighouse 50). Although most decisions are made by weighing many (or at least some) strong, external pressures, the case can certainly be made that adults have a greater ability to remove their own point of view from that of others and thus be less inclined to succumb to those external pressures. Children are ultimately in the care of one or several adults, all of whom have the power to sway a child's point of view—however, these adults also have the power to represent their children. So we may ask whether there is in fact any need to involve children within the democratic process and ask, as Brighouse does, whether providing children with agency rights actually allows them to exercise genuine agency.

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[2] For further mention of the importance of human dignity as it pertains directly to rights, review the Universal Declaration of Human Rights, adopted and proclaimed by the United Nations General Assembly (1948). Additionally, John Stuart Mill's "On Liberty" (ed. Alan Ryan, Penguin Books, 2006) provides further theoretical insight into human dignity as a foundation of rights.

Brighouse, although quite against the provision of agency rights (such as freedom of expression), acknowledges the fact that "in order to get immediate enjoyment and fulfillment they [children] need to be able to express themselves" (Brighouse 41). He also notes that for children to develop fully to gain autonomy over their life they must be given an increasing amount of independence as they age (43). It makes sense that both self-expression and growing independence are needed for children to develop into autonomous, successful adults. However, Brighouse does not believe that these two vital elements of growth should be translated into rights. Excluding these 'agency' rights from children's rights gives full discretion to parents (and to other adults with some level of control over a child) and this in fact greatly restricts many children. While Brighouse repeatedly cites predominantly positive images of parents, it is unfortunately the case that many children are victims of abuse (whether physical, emotional or psychological) or otherwise have their needs/wants ignored by those who care for them. Such cases are far more easily ignored or difficult to combat when the upholding of the child's rights are not of primary or even secondary concern in relation to the rights and freedoms of his parent(s)/caregiver(s).

Brighouse discusses other agency rights, which are stated in CRC, such as the child's right to their own culture. I argue that such a right is as vital to a child's safety and well-being as much, if not more, as that of an adult's. Brighouse succinctly sums up the right to one's culture, "It means that the government may not interfere with her cultural practices (as long as they do no harm to non-consenting others)" (47). The protection one has against one's government implies to Brighouse that such a right is meant for an adult, capable of making elaborate, carefully balanced decisions. However, protection *against* one's government is equally important to a child as the protection they receive *by* their government.

It should be noted that the CRC's wording for cultural rights does not outline that a child must experience their culture and, therefore, does not bind the parents into passing down that culture. It is simply that a child of a minority or indigenous group "shall not be *denied* [emphasis added] the right, in community with other members of his or her group, to enjoy his or her own culture, to profess or practice his or her own religion, or to use his or her own language." (Brighouse 37) The context of this right and its potential application can be best exemplified in the case of residential schools in Canada, where Aboriginal children were forcefully taken from their homes and placed into religious boarding schools—the intent being to 'civilize' them. This involved stripping the children of their language and spiritual practices, which has since had a significantly negative impact upon Canadian Aboriginals. Segregated schools in the United States, which separated Black children from White children (the implicit yet clear statement being that Black children were inferior) are among equally resonant examples of children being forcefully removed from, or made to be ashamed of their cultural background. In these cases, it was the acting governments that institutionalized such educational reforms, with the paternalistic notion that it was best for the children.

In the case of residential schools especially, the children enrolled were subject to abuse and torment—this not only limited their future autonomy but also the autonomy of their children, as extreme abuse is often cyclical when there is no other means for resolution. Although, as Brighouse notes, a child may still be developing their sense of what their own culture is, the point of having such a right—as is the case with adults—is to limit the power of the state as well as to give the individual the opportunity to develop and/or change their identity. By limiting this power, a child is protected from the potential injustices that stem from prejudices against the culture/ethnicity/religion into which that

child was born[3]. As such, Brighouse is correct to state that children may choose a different cultural path later in life, thus making the culture into which they are born not fully 'theirs' (Brighouse 47). He also makes note of the fact that "for some of us it is vital for our long-term well-being that we be able to throw off some of the unchosen parts of our identities," (50) but how are we to do this if we are denied the right?

Rights are not simply a matter of protection but of choice and, moreover, living with the consequences and responsibilities those choices entail (Brighouse 45). Shrag similarly acknowledges the responsibilities that come with rights, and recognizes the potential imbalances between rights and responsibilities given to children. He outlines three primary concerns that could justify excluding children from citizenship rights: a child's exercising of citizenship rights may indeed be unjust to their adult counterparts (such as further impositions upon income-earners, as children earn no income); there are particular responsibilities that go along with citizenship rights which seem unjust to burden children with (i.e. military service); by allowing children citizenship rights we may be entitling them to make other independent, life-altering choices (Shrag 373). Shrag dismisses the first two claims rather swiftly, noting that the elderly and infirm are also not income earners and certain groups (such as women in the United States) are excluded from military conscription but each are nevertheless bearers of citizenship rights (373).

The third concern is trickier and certainly more legitimate as we do not want to limit a child's future autonomy; and surely a child's future would be limited significantly were she to not be entitled to choose to marry and bear children. It is easy to see how such decisions could greatly impact others (i.e. the newborn, the welfare and education systems, etc.). However, Shrag is quick to note that such sentiments bear the "spirit, if not the letter, of guardianship," (374) and may lead us to question even the current age of emancipation. Shrag concludes that while concerns regarding children's citizenship rights are legitimate and should be considered, they are not outweighed by the greater concern that all children under the age of 18 are left without any protection whatsoever (374). We may deem it unreasonable to allow children citizenship rights on the basis that it is clearly irresponsible to leave such large life-decisions in their hands; but it is equally, if not more irresponsible, to leave such large life-decisions in the hands of not simply their guardians but the majority of citizenry.

Shrag agrees with Brighouse's argument that the future autonomy of children must be protected and furthermore agrees that education is of utmost importance in order to foster that autonomy (374-5). It is this emphasis upon education and future autonomy that also distinguishes them. Brighouse maintains that while an adult is charged with exercising their own welfare rights, "in the case of children's welfare rights, the designated right-exercising agent is someone other than the bearer of the right" (Brighouse 45). Shrag observes that this structure of rights bearers and executors is problematic. He questions Brighouse's presumption that children lack specific interests, citing education as one of the primary interests of children that distinguishes them from adults (Shrag 374). Using James Button's study regarding various school bond and tax referenda in Florida (during the 1980s) and Paul Peterson's comparison between spending on the elderly versus spending on children (1975-1990) Shrag clearly illustrates that it is frequently the case that children's basic right to education is hardly democratically represented (375).

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[3] Recent global events have demonstrated just how vital it is that children be explicitly protected from prejudices against their birth culture/religion/ethnicity. This is evidenced in *Canada (Justice) v. Khadr* (2008 Supreme Court of Canada 28); Khadr—imprisoned in Guantanamo Bay, Cuba, in 2002 at the age of 15—is currently appealing murder and other-terrorism charges laid against him on the grounds of torture and a lack of evidence to support the claims.

Brighouse holds that although children's education is vital to the full development of their future agency, this is not sufficient grounds for children to claim agency rights, particularly that of freedom of expression: "Their [children's] ability to learn requires that they have space to give expression to thoughts and ideas, which is a prerequisite for developing the skills of rational reflection and enquiry, but in doing so they are not, to use a useful metaphor, 'expressing themselves'" (Brighouse 51). Such a claim is problematic for two primary reasons, namely its applicability to adults and its actual impact upon children. To explain the first, more theoretical reason, I will use myself as an example. Once I attained the age of suffrage, I was completing my high school career and voted based upon my interests and concerns at the time (primarily that of freezing tuition costs). However, as I have progressed through my continuing education, my interests, political affiliations and overall outlook on the political process have shifted and expanded. Due to the rapid and extensive development of my political interests—which will no doubt continue to shift fundamentally—could it be argued that the first time (or even the subsequent three times) I voted was not an act of self expression? Currently, the Canadian legal system does not think so and I am inclined to agree, as part of my freedom of expression is to have the capacity to change my opinions and outlooks and even outright contradict in the present what I stated in the past. The second reason why I contest Brighouse's claim requires further analysis of education policies and their effects upon the children enrolled.

Sociologists Rebecca Raby and Johanna van Vliet acknowledge that the CRC, "which stresses the right of young people to state their views and have them heard," (Vliet and Raby 250) contradicts (North American) normative representations of children. They make a similar argument with regard to sex education, as I made above with respect to the shifts in voting behaviour. When children are idealized as innocent and adolescents as irrational (pertaining to sexual identity in particular), it threatens their access to rights—even though they are thinking, sexual beings, their sexual expression is limited based on the threat that their desires can pose, not only in their present but in their future (249-50). However, Vliet and Raby frame these images as further reason to support children's and adolescent's rights to sexual education (which also pertains to free expression):

> If adolescents are becoming more sexual, they are shaping the meaning of sexuality in their lives and have a right to both present and future sexual health and sexual pleasure as components of this process. If they are beset by hormonal influences and likely to take risks, it is particularly negligent to deprive them of avenues towards safer sexual practices (250).

Essentially, if we deny children and adolescents expression—particularly knowledge of sexual expression—then we in fact threaten their future agency and health, as well as their present and future ability and comfort to seek knowledge regarding their bodies. The debates centred on sexual education remain heated and the counterpoints are not entirely without merit. Moreover, it could be argued that sexual education is but one aspect of education; while Brighouse may indeed be in favour of sexual education (as is suggested by his open approach to sexual orientation) this may indeed still fit under his classification of welfare rights. This would be accurate insofar as it is unclear how much children can express and how much say they could potentially have over their education.

Raby gives some insight into the question of how far the rights of the child go in her broader analysis of education, in which she outlines the distinction between *passive* and *active* rights (essentially Brighouse's welfare and agency rights). There is a strong clash between the caretaker and liberation approaches to raising and offering citizenship to children and this tension, as Raby notes, is reflected in high school codes of conduct (Raby 328). The reasoning behind the caretaker approach, as outlined above in Brighouse's arguments, nevertheless insist that a child's development must allow her to exercise the

self-determination that will allow her to become an adult, democratic citizen. Raby compares this insistence with high school codes of conduct, which largely follow the caretaker model. She qualifies her findings by stating that by emphasizing obedience order can be established; however, many of the rules enforcing codes of conduct emphasize irrational obedience. She states, "Overwhelmingly rules, are presented as non-negotiable, often unexplained and negative, which suggests that students are not capable of self-discipline or self-regulation," (333) which is problematic for the caretaking model as it becomes unclear as to when children will actually be able to exercise agency.

While some schools emphasized the correlation between rights and responsibilities, this was often framed to support obedience rather than to foster the intricacies of citizenship; the issue Raby has with such a connection is that it has been shown to negatively relate to youth's sense of community and responsibility (336). Contemporary youth are less inclined to show one-way respect and in several sociological studies have stated the preference for "reciprocal 'human respect'" (Raby 337) which places value upon mutual, nascent respect. By contrast, some schools explicitly outline that students must remain respectful while being disciplined and the vast majority do not contain any avenues for appeal—and those that do acknowledge formal appeals do not actively seek to inform their students of such (337, 341). These rules contradict the caretaking position as evidenced by the strikingly low sense of empowerment in relation to those in power[4]. The few schools that provided positive rules and supported student awareness of those rules showed greater evidence of active citizenship, self-discipline and self-determination among their students (342). It is clear that self-discipline and determination are vital not only to the future agency of children once they become adults but to their present likelihood of completing their education.

It makes sense that children should be allowed to speak on behalf of their interests, particularly with regard to education but in practice this can be seen as more difficult and certainly less ideal. While Shrag argues for a significant lowering of the age of suffrage, he does acknowledge that there are certainly some children to whom such a right cannot be logically extended. I agree that "it is clearly ludicrous to include very young children in the [democratic] franchise," (Shrag 376) and Brighouse argues similarly that a child's cognitive capacities decrease, while their dependence increases, the younger they are. However, I contend, as does Shrag, that the children who are not able to represent themselves should receive further representation from others—including older children (Shrag 376). I also contend that such representation requires that all children be given full human rights, to adequately portray what their interests are and to communicate to governments a sense of the broad issues directly involving children that cannot be ignored.

I have considered the rights of the child and weighed the arguments of Brighouse and Shrag in relation to these rights. Additionally, by focusing upon two key institutions, education and health care, I have further considered children's agency (abilities and choices) and welfare (basic needs). Children's competency in both areas is surprising and suggests that our current definition of 'child' is much too broad. Moreover, children's current involvement in their own education indicates that by focusing primarily upon their

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[4] The case, *Safford Unified School District v. Redding*, provides insight into the difficulties children face when attempting to challenge authorities. In 2003, 13-year-old Savana Redding was strip-searched on the presumption that she was hiding prescription-strength ibuprofen in her undergarments. The questionable actions of police officers and her middle school's assistant principal, as well as the court dialogues, are evidence of the assumptions that children must be obedient, even when facing groundless and extreme disciplinary action. For further information review The New York Times (U.S. section, April 21, 2009).

welfare, this vital institution in fact dulls children's abilities to practice agency, thus limiting their future agency. It has also been observed that by providing children with human rights (including agency rights) children's welfare is further protected, particularly in cases of abuse. Therefore, I argue that Brighouse's logical conclusion that children are deserving of welfare rights cannot stand alone, as it is clear that without agency rights, children's welfare rights are not fully protected and remain far too limited. I conclude that children's interests, particularly those regarding education, be further considered within the democratic process. Indeed, as Shrag notes, children must be considered if we are to maintain an egalitarian democratic practice. We may perceive children to be vulnerable and they are, as long as their ability to practice agency remains at the discretion of others.

Expression Graphics

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UNIVERSITY OF WESTERN ONTARIO

THE SOCIAL CONTRACT